

**IN THE HIGH COURT OF DELHI AT NEW DELHI**  
**Civil Contempt Petition No. 537 of 2001**

**IN**

**CIVIL WRIT PETITION NO. 886 OF 2000**

IN THE MATTER OF:

1. People's Union for Civil Liberties  
 through its General Secretary  
 81, Sahayoga Apartments  
 Mayur Vihar,  
 Phase - 1  
 New Delhi.
  
  2. Committee for Citizenship rights of the Chakmas of Arunachal Pradesh through  
 its President  
 Ashok Buddha Vihar,  
 Old Power House Road,  
 Rajghat,  
 New Delhi – 110 002
- .....Petitioners

VERSUS

1. Sh. Gyali Taji  
 Electoral Registration Officer/Extra Assistant Commissioner  
 Balijan  
 District Papumpare  
 Arunachal Pradesh
  
2. Shri D. Reba  
 Assistant Electoral Registration Officer/Circle Officer  
 P. O. Diyun  
 Dist. Changlang  
 Arunachal Pradesh
  
3. Sh. P. N. Thungun  
 Then Electoral Registration Officer/Extra Assistant Commissioner  
 P. O. Miao  
 District Changlang  
 Presently posted as Roing, P. O. Roing,

Distt Debang Vally,  
Arunachal Pradesh

4. Shri R. K. Sharma  
Electoral Registration Officer/Extra Assistant Commissioner  
P. O. Bordunsa  
District Changlang  
Arunachal Pradesh
5. Shri Y. D. Tongshi  
Then District Electoral Officer/Deputy Commissioner  
P. O. Changlang  
District Changlang  
Presently posted as Deputy Commissioner,  
Tezu, P. O. Tezu,  
Distt. Lohit,  
Arunachal Pradesh
6. Sh. Jay Prakash  
Chief Electoral Officer  
State Election Commission of Arunachal Pradesh  
C-Sector, Itanagar  
Arunachal Pradesh

.....Contemnors

PETITIONERS

THROUGH:

PRASHANT BHUSHAN  
COUNSEL FOR THE PETITIONERS  
301 NEW LAWYERS CHAMBERS  
SUPREME COURT OF INDIA  
NEW DELHI

CIVIL CONTEMPT PETITION UNDER SECTION 11 & 12 OF THE CONTEMPT OF  
COURT ACT, 1971

TO

The Hon'ble Chief Justice  
and his companion Justice of the High Court of India

Most Respectfully Showeth,

That the petitioner are filing the present contempt petition aggrieved by the willful and deliberate omission on the part of Contemner Nos. 1 to 6 to comply with the judgment/order of the Hon'ble Delhi High Court in Civil Writ Petition No. 886 of 2000 delivered on dated 28. 9. 2000 whereby the Contemnors were directed to include in the electoral roils the name of such Chakmas and Hajongs who produced sufficient material to show that they are citizens of India.

That the facts and circumstances giving rise to present Contempt Petition are being narrated here as under:

1. That the Petitioner No. 1 is an Organisation founded by Late Sh. Jay Prakash Narayanan and Justice V. M. Tharkunde to safeguard the Civil Liberties, human and democratic rights of the citizens of this country. During the last 26 years of its existence it had taken up and successfully agitated in and out of Courts various such said causes on behalf of the peoples of this country.
2. That the Petitioner No. 2 is an Organisation found in 1991 floated with the specific objective of ensuring to the eligible Chakmas and Hajongs primarily based in Arunachal Pradesh their most sacred right in a republic being the right to citizenship. The Petitioner No. 2 has also on behalf of natural born Chakmas and Hajongs been representing/agitating with the authorities including the Contemnors herein for ensuring to said citizens their primarily right to franchise in a democracy and which also forms the subject matter to the previous Writ Petition in this court.
3. That before narrating the facts of Contempt of Court Petition it is essential and necessary to refer to the facts in brief of the previous Writ Petition No. 886 of 2000 leading to passing of the order dated 28. 9. 2000;
  - i) In 1964, approximately, 35, 000 Chakmas and Hajongs were displaced by the large scale communal disturbance in the then East Pakistan (Now Bangladesh) and were forced to migrate to India and by the

middle of July 1964, at least 1, 40, 000 persons belonging to various communities namely Hindu, Buddhist etc. including the above mentioned 35, 000 Chakmas and Hajongs had migrated to Assam but the then Assam Govt. expressed its inability to settle such a large population of the migrants in the state and therefore requesting their shifting.

- ii) That thereafter consultations were held between the then NEFA administration, Govt. of Assam and Ministry of Rehabilitation, Govt. of India for settlement of the 35, 000 Chakmas and Hajongs in NEFA which is the present day Arunachal Pradesh.
- iii) That such Chakmas and Hajongs are now settle in Arunachal Pradesh for the last three and half decades and have raised their families in the said state. Children born to such migrated Chakmas and Hajongs between 26. 1. 1950 and 1. 7. 1987 in India become citizens of India by virtue of their being born in India in accordance with provisions of Section 3 of the Citizenship Act, 1955.
- iv) That despite their being a statutory application cast on the Election Commission to register the names of such natural born Chakmas and Hajongs citizens in the Electoral Rolls, the Election Commission had illegally, malafidely and capriciously failed/refused/omitted to do so thereby denying Chakma and Hajong citizens of their valuable voting rights.
- v) That when the repeated request and representation of the Petitioner No. 2 to State Election Commission failed to elicit any remedial response and the Election Commission of India has also failed in fulfilling its statutory duty and turned a blind eye to the entire episode of refusal to register the names of the Chakmas and Hajongs the Petitioners were constrained to file a writ petition bearing No. 886 of 2000 before this Hon'ble Court seeking the following reliefs:
  - a. direct the Respondents to immediately commence a special revision of electoral rolls for enlistment of the names of all the eligible Chakma and Hajong citizens born in India between 1964 and 1. 7. 1987 in the electoral rolls of the State of Arunachal Pradesh in accordance with the due process of law in a time bound manner;
  - b. direct the Respondents to enquire into omissions/commissions/refusal on the part of the officers/persons responsible for non-inclusion of the name of eligible Chakma

and Hajong citizens in the electoral rolls and to take appropriate penal/departamental proceedings against such indicted officials/persons.

A copy of the Writ Petition is being annexed as Annexure A.

- vi) That notice was issued to the Respondents in the above said Writ Petition and the Writ Petition was finally disposed of by an order dated 28. 9. 2000. The Hon'ble High Court in para 3 of the judgment recorded the contention of the Election Commission that if a person produced material in support of his being citizen of India, the same will be considered by the Commission and a decision thereon shall be taken as to whether the claim is correct or not. Based on this the Hon'ble Court was pleased to direct the Respondents therein that

'Obviously if a person claims to be citizen of India, for the purpose of inclusion of his/her name in the electoral rolls material to substantiate the claim of citizenship has to be produced. Learned Counsel for the commission stated that if such material is produced, obviously the same shall be considered and the decision shall be taken as to whether claim of citizenship is correct or not. The claim obviously is relatable for the purpose of inclusion in the electoral rolls. So far the State Election commissions role is concerned, it has also to be established that for the purpose of inclusion in the electoral roll, the applicant has to satisfy the requirement of residence or such other conditions as may be stipulated in law. Therefore, in case, any person who claims inclusion in the Electoral Rolls, produces material to that effect, same shall be considered by the Commission and, or the State Commission as the case may be. It goes without saying that decision in this regard would be taken within a reasonable time.

The Hon'ble High Court therefore vide the said order dated 28. 09. 2000 was therefore pleased to direct the Election Commission of India as well as the State Election Commission through their respective officers to include the names of all the persons who are able to substantiate their claims for inclusion in electoral rolls with some evidence to be entered in the electoral rolls of the State within a reasonable period of time. A copy of this order dated 28. 09. 2000 is being annexed as Annexure B.

6. That given the past experience of interference and non-cooperative attitude adopted by the State Government i.e. Respondent No. 4 of previous Writ Petition in the enrollment of eligible Chakma and Hajong citizens into the Electoral Rolls, the Petitioner No. 2 has given representation to Election Commission of India on

3. 11. 2000 for issuance of necessary direction for implementation of the judgment of this Hon'ble Court dated 28. 09. 2000 to Contemnor No. 5 and 6. The Petitioner No. 2 has also sought for supply of claims application that is form No. 6 to make adequately available for the Chakmas and Hajongs. A copy of this representation was also sent to the Contemnor No. 5 and 6. Copy of such representation is annexed hereto as Annexure C.
7. That thereafter the Election Commission announced the Schedule of revision of electoral roll of India and 2<sup>nd</sup> November to 30<sup>th</sup> November 2000 was fixed as the period of submission of Claim applications for inclusion of names in the Voters' List. On approaching the Electoral Registration Office the Chakmas and Hajongs were denied claims applications form, which are provided by the government for making an application for inclusion of names in electoral rolls. As a result of this denial the eligible Chakma and Hajong voters had to print claims and forms themselves.
8. That the contemnors had created number of impediments in the way of the eligible Chakma and Hajong applicants to even submit their forms. This is clear from an instance where a delegation consisting of 7 persons went to submit Claims Application on at the Contemnor No. 1 Office, but the Contemnor No. 1 refused in writing to accept the claims applications. A copy of the letter dated 28. 11. 2000 by the contemnor No. 1 refusing to accept the applications form for inclusion of the names is being annexed hereto as Annexure D. Thereafter the Chakma people rushed to District Electoral Officer in Naharlagun which is about a days journey from the Chakma inhabited area. The applicants were able to reach office of the District Electoral Officer only on November 30, 2000 who was on leave that day. The other officials present there refused to accept the form. That such deliberate omission on the part of the contemnors even to accept the claim forms of the eligible Chakmas and Hajongs will amount to contempt of the orders of this Hon'ble Court for which the Contemnors are liable to be punished.
9. That in pursuance of the Delhi High Court judgment the Chakmas and Hajongs had also given a representation to Contemnor No. 4 on 13. 11. 2000 and submitted Claim Applications numbering 33 accompanied with zerox copies of documents viz. Birth Certificates, Educational Institute Certificates and Refugee Identity Cards issued by the Government of Arunachal Pradesh to prove their age and place of permanent residences. Copies of such individual applications with complete documentation as illustrative examples are being annexed hereto as Annexure E (colly). Copies of some of the application forms field by Petitioner No. 2 collectively on behalf of the eligible applicants duly received by the Contemnors with their typed copies are also being annexed hereto as Annexure F (Colly).

10. That subsequently the applicants were informed by the election commission Officials that enclosure of documents at the time of submission of forms was not necessary and the same could be produced during the process of hearing. It was in pursuance of such direction of the election officers that the applicants started submitting their applications without sustaining documents as they were asked to produce these documents at a larger stage at the time of personal hearing.
11. That by the end of November 2000 around 500 Claims Applications were been submitted at Contemnor No. 4 office and around 1200 Claims Applications have been submitted at Contemnor No. 4 Subordinate Office i.e. Assistant Electoral Registration Office at Diyun. Although, the Contemnor No. 4 has conducted hearing of 500 applications directly submitted at his Office but the 1200 applicants who submitted their applications at his Subordinate Officers Office were neither called for hearing nor any intimations were made to these applicants. During the process of hearing of 500 applicants, documents namely birth Certificates, Educational Institute Certificates and Refugee Identity Cards etc. have been produced to prove their age and place of permanent residence and Contemnor No. 4 never pointed out any mistake/lapses, if any, in the claims applications at any stage.
12. That a delegation of a Petitioner No. 2 has also went to submit Claim applications on 15. 11. 2000 at the Office of Contemnor No. 3 but the Contemnor No. 3 sought time to accept the same as according to him no direction has been issued with regard to the acceptance of the claims applications of the Chakmas and Hajongs from the higher authorities by him. So, Contemnor No. 2 asked the delegation to come the next day and accordingly on the next day i.e. 16. 11. 2000 claims applications of the Chakmas and Hajongs were accepted and by 30. 11. 2000 around 600 Claims Applications had been submitted with him.
13. That in all more than 2000 claim applications were filed by the eligible Chakmas and Hajongs in November 2000. Such applicants had all the documents to prove their Indian Nationality and in many cases the photocopies of the requisite documents were annexed to the claim application. Such material was also adduced by the applicants before the officials at the time of personal hearing wherever one was granted by the election officials. It is also of essence to be added here that at no stage were the applicants ever intimated about the inadequacy of the documents on their part to prove their claim to the voting rights.
14. That the above facts make it clear that during the stage of submission of claim forms itself, the contemnors have spared no effort to harass and prevent the Chakma and Hajong people from applying for registration of their names in complete and willful disobedience of the orders of this Hon'ble Court dated 28. 9.

2000. It is clear from the fact that even the forms for applying for inclusion of names were not provided to the applicants and the same were got printed by the applicants themselves. The deliberate attempt on the part of the contemnors to ensure that the persons belonging to Chakma and Hajong tribes are not able to apply is further clear from the fact that as per rules the Election Commission is required to set up a Polling Booth at every two kilometers to facilitate the voters to register easily but no such Polling Booths were set up around the places where Chakmas and Hajong tribes stayed and the Chakmas and Hajongs making applications were made to travel long distances. Further, also the Election Commission at the time of scrutiny of the applications, is required to give a personal hearing to the applicants and explain whether the documents are in order or not. But in this case, no effective personal hearing of any kind was given to the applicants and they were not informed whether the documents are in order or not and if there are any deficiencies in the forms. In certain Polling Booths a lip services to this requirement was given and though the applicants were called for personal hearing but despite the production of all the relevant and essential documents by the applicants proving their Indian Citizenship their names were not included in the electoral list. The applicants were instead told that even if they produce bona fide documents, then also their claims for inclusion in electoral rolls will be rejected. The above mentioned behavior on the part of the contemnors clearly shows that they were acting with a premeditated mind not to include the names of the eligible Chakmas and Hajongs in the voter list even before the applications were actually submitted.

15. That the Petitioner No. 2 had informed the concerned officials of all the difficulties being faced by the Chakmas and Hajongs in getting their names registered in the electoral rolls. The Petitioner No. 2 has taken up the matter by a written representation to Election Commission of India on 1. 3. 2001 for issuance of necessary direction to Contemnor No. 5 and 6 for inclusion of Chakma and Hajong citizens of Arunachal Pradesh. The same representation is annexed hereto as Annexure G. Further as late as on 15. 1. 2000 a delegation of Petitioner No. 2 organisation met the Contemnor No. 5 and discussed various issues including stoppage of issuance of birth certificates to Chakmas and Hajongs immediately after Delhi High Court order and the issue of inclusion of names of the Chakmas and Hajongs in voters list but the Contemnor No. 5 failed to remedy the grievances of the Petitioners. The Petitioner No. 2 also brought to the notice of the contemnor impediments being created for the Chakmas and Hajongs for meeting the procedural requirements for inclusion of their names in electoral rolls. A copy of this representation was sent to the Contemnor No. 5 and 6 by Registered Post with A/D. A copy of the written representation dated 15. 1. 2000 is being annexed as Annexure H.
16. That the electoral rolls prepared pursuant to the said revision in November 2000 were finally published in January 2001. It came as a shocking surprise to the

Chakma and Hajong persons who had applied for inclusion of their names in the electoral rolls pursuant to the orders of this Hon'ble Court that not even the name of a single person out of more than 2000 who have applied for inclusion, was entered in the revised electoral rolls. It is of essence to be mentioned here that at no stage, any of the applicants were informed of any reason whatsoever as to why their names are not being included in the electoral rolls. The Contemnors have deliberately and in willful violation of the orders of this Hon'ble Court, failed to register even a single Chakma and Hajong citizens in the revised electoral rolls despite the applicants having documents to conclusively prove that they were citizens of India.

17. That thereafter also repeated oral requests for inclusion of the name of the Chakmas and Hajongs who have submitted their names for inclusion in the electoral rolls were rejected by the respective electoral officers on the ground that they have received no instructions for inclusion of the names of the Chakmas and Hajongs from the higher authorities. Aggrieved by this finally a representation/complaint dated 20. 03. 2001 was made by the Petitioner No. 2 to the Contemnor no. 5 and 6. It was requested vide the representation that necessary directions be issued to the Electoral officials to facilitate the process for enrolment of the names of the Chakmas and Hajongs in the electoral rolls who had submitted their claim applications. That subsequent representation dated 8. 8. 2001 were also made by the Petitioner No. 2 to the contemnors 3 and 4 seeking directions for inclusion of their names in the electoral rolls but all such representations went unresponded. Reminders were also sent by Petitioner No. 2 to Contemnor No. 5 on 20. 8. 2001 by Registered Post A/D complaining against Contemnor No. 3 and 4 for their unnecessary and unjustified delay in enrolling the Chakma and Hajongs applicants who had applied for enlistment in November 2000 in the Electoral Rolls. On 20. 8. 2001 another reminder was sent to the Contemnor No. 6 for issuance of direction for early disposal of more than 2000 claim applications of Chakmas and Hajongs which are pending at the Office of Contemnor No. 2 and 4. That the Petitioner No. 2 has drawn the notice of Election Commission of India again on 20. 8. 2001 through a written representation sent by Registered Post A/D about the non-compliance of the Delhi High Court judgment by its nominated/designated authorities in the state of Arunachal Pradesh. Copies of such representations are collectively being annexed hereto as Annexure 1 (Colly).
18. That despite such repeated and persistent reminders the contemnors had failed to take any action for inclusion of the names of the eligible Chakmas and Hajongs in the voters list in complete and open defiance of this Hon'ble Courts order dated 28. 9. 2000. That such conduct to interfere and obstruct with the submission of the applications and subsequent omissions on the part of the contemnors to include the names of the eligible Chakmas/Hajongs voters in the voters list, has rendered them liable to be punished for the contempt of this Hon'ble Court's orders.

19. That the Contemnor No. 1 to 6 are the persons who at the relevant time were holding official positions and were responsible for the implementation of this Hon'ble Courts order dated 28. 9. 2000. The contemnors no. 1 to 6 are a statutory authorities nominated/designated by the Election Commission of India in consultation with the respective State Government to supervise the preparation, revision and correction of all the Electoral Rolls subject to the Superintendence, the direction and control of the Election Commission of India. The Constitution and powers of Contemnor No. 1 to 6 are set down vide Section 13A of the Representation of People Act, 1950. That the Contemnor No. 1 to 4 are simultaneously holding the post of Extra-Assistant Commissioner in different Sub-Division of the Government of Arunachal Pradesh and Respondent No. 4 is holding the Post of Deputy Commissioner in the District of Changlang, Government of Arunachal Pradesh.
20. That the Contemnor Nos. 1 to 4 have deliberately and willfully flouted the orders of this Hon'ble Court dated 28. 9. 2000 by failing to register the names of the eligible Chakma and Hajong citizens in the revised electoral rolls of the State. Instead, impediments were created by them to ensure that the applicants were not able to even submit their applications in time for inclusion of their names in the electoral rolls. Once the applicants were able to submit their applications for inclusion of their names, such claims were summarily rejected and the applicants were never informed the reasons as to why their names were not included in the electoral rolls.
21. The Contemnor No. 5 and 6 as appellate authorities have also rendered themselves liable to be dealt with in accordance with the law of contempt for their utter failure to exercise their powers towards the implementation of the judgment of this Hon'ble Court. The Contemnors No. 5 and 6 have totally turned a blind eye toward the entire episode of violation of the Courts order by the Contemnors No. 1 to 4 despite repeated notices/ representations to them for issuance of necessary directions to Contemnors 1 to 4. The total silence and contemptuous conduct of Contemnors No. 5 and 6 not only gave free hands to violators of law but also has the tendency of undermining the orders of this Hon'ble Court and hence have rendered themselves liable for being proceeded for contempt of this Hon'ble Courts orders.
22. That the Petitioner No. 2 has on numerous occasions both in written/personal representations has consistently drawn the notice of contemnors about their deliberate and willful violation of the Court order, but the contemnors had failed to take any remedial action which ultimately resulted in refusal/denial/omission to register even a single eligible Chakma and Hajong citizens in the revised Electoral Rolls. This deliberate omission on the part of the Contemnors to implement in letter and spirit the orders of this Hon'ble Court dated 28. 9. 2000 despite repeated

representations will be a case of contempt on the part of the contemnors for which they are liable to be punished.

23. That the Respondents No. 1 to 6, therefore, at the relevant time, were responsible for the implementation of the orders of this Hon'ble Court but had deliberately and willfully omitted to implement the same and therefore liable to be punished for contempt.
24. That the Petitioners have not filed any other similar Petition in this Hon'ble Court or in any other Court in the country.

It is therefore, in these circumstances that the Petitioners most respectfully pray that this Hon'ble Court may be pleased to:

### **PRAYER**

- a) punish the Respondents No. 1 to 6 for contempt of the orders of this Hon'ble Court dated 28. 9. 2000 passed in Civil Writ Petition No. 886 of 2000 titled PUCL and Anr. Vs. Election Commission and Others,
- b) Direct contemnors and election officials to implement the orders of this Hon'ble Court dated 28. 9. 2000 passed in CWP No. 886 of 2000 by directing special electoral revisions of the electoral rolls for inclusion of the names of eligible Chakmas and Hajongs in the States of Arunachal Pradesh in the electoral rolls, specifically in areas inhabited by Chakmas and Hajongs namely 49 Bordumsa-Diyun Assembly Constituency and 50 Miao (57) Assembly Constituency in District Changlang, and Chowkham Assembly Constituency in Dist. Lohit and 14, Doimukh Assembly Constituency in District Pampumpare; and
- c) Pass any other or further order/s as this Hon'ble Court may deem fit and proper.

### PETITIONERS

DRAWN BY:  
SANJEEV K. KAPOOR

NEW DELHI

THROUGH:  
PRASHANT BHUSHAN  
COUNSEL FOR THE PETITIONERS  
301 NEW LAWYERS' CHAMBERS  
SUPREME COURT OF INDIA