

Case Number: 26/2/79
NATIONAL HUMAN RIGHTS COMMISSION
SARDAR PATEL BHAWAN
NEW DELHI

Dated 06th August. 1998

To
Shri Subimal Bikash Chakma
Ashok Buddha Vihar, Old Power
House Road, Rajghat,
New Delhi, - 10002
Ref: Your complaint dated 12/12/97

Regarding: Your complaint referred to above has been registered as case No. 26/2/97-98 and the commission, upon consideration of your complaint has passed the following order:-

“The Commission received a petition from the Committee for Citizenship Rights of the Chakmas of Arunachal Pradesh, New Delhi through its President, Shri Subimal Bikash Chakma alleging the denial of franchise rights to approximately 35,000 Chakmas and Hajongs in the Lok Sabha Elections held earlier this year. It has sought directions from the Commission to the Ministry of Home Affairs, Government of India, to issue notification declaring that those Chakmas and Hajongs who are born between 1964 and 1st July, 1986 were citizens of India by birth under the Indian Citizenship Act, 1955 and are accordingly eligible for enrolment in the voters list. It is further prayed that the applications of Chakmas for Citizenship be directed to be processed in accordance with the terms of the Supreme Court’s pronouncement.

The Commission issued notices to the Chief Secretary, Arunachal Pradesh and Union Home secretary calling for reports in the matter. The reports received from the Ministry of Home affairs, Government of India and the Government of Arunachal Pradesh refer to the pronouncement of the Supreme Court on the Writ Petition (Civil) No. 720 of 1995 (filed by the National Human Rights Commission) and to the following directions issued by the Supreme Court.

“(i) the first respondent i.e. the State of Arunachal Pradesh, shall ensure that the life and personal liberty of each and every Chakma residing within the State shall be protected and any attempt to forcibly evict or drive them out of the State by organized groups, such as the AAPSU, shall be repelled, if necessary by requisitioning the services of para-military or police force, and if additional forces are considered necessary to carry out this direction, the first respondent will request the second respondent, the Union of India, to provide such additional

force, and the second respondent shall provide such additional force as is necessary to protect the lives and liberty of the Chakmas;

(ii) except in accordance with law, the Chakmas shall not be evicted from their homes and shall not be denied domestic life and comfort therein:

(iii) the quit notices and ultimatums issued by the APPSU and any other group which tantamount to threats to the life and liberty of each and every Chakma should be dealt with by the first respondent in accordance with law:

(iv) the application made for registration as citizen of India by the Chakma or Chakmas under Section 5 of the Act, shall be entered in the register maintained for the purpose and shall be forwarded by the collector or the DC who receive them under the relevant rules, with or without enquiry as the case may be, to the Central Government for its consideration in accordance with law; even returned applications from the concerned persons shall be processed and forwarded to the Central Government for consideration;

(v) while the application of any individual Chakma is pending consideration, the first respondent shall not evict or remove the concerned person from his occupation on the ground that he is not a citizen of India until the competent authority has taken a decision in that behalf; and

(vi) the first respondent will pay to the petitioner cost of this petition which we quantify at Rs. 10,000/- within six weeks from today by depositing the same in the office of the NHRC, New Delhi.”

Regarding the processing of citizenship application, the Government of Arunachal Pradesh has pointed out as under:

“It is stated that if at all any notification in this regard has to be issued, this has to be done by the Central Government and the State Government is not competent to amend any Central Act or rules framed there under.

Regarding the processing of citizenship application, it is reiterated that the State Government has never been against granting of citizenship rights to the Chakmas and Hajongs but the State Government has been repeatedly requesting the Central Government for removal/dispersal of refugees by following due process if law. The State Government is also bound by the Supreme Court Verdict for removal of Chakmas and Hajongs in accordance with due process of law and without any coercive measures. It is also reiterated that the State Government has always made necessary effort to provide basic amenities to Chakma and Hajong refugees and there has been no denial of any basic amenities on this account. It has also been reiterated that the law and order situation has been peaceful and there have

been no complaint by the Chakmas or Hajongs of any threat to their lives and property.”

The report from the Ministry of Home Affairs, however, brings out that as a follow-up of Supreme Court direction, the Home Ministry advised the government of Arunachal Pradesh to ensure compliance with the Supreme Court’s directions and some applications for grant of citizenship received from the Chakmas in Arunachal Pradesh by the Ministry were forwarded to the Government of Arunachal Pradesh but the report from the State Government is still awaited. It is also pointed out that as per the provisions of the Citizenship Act 1995, every person born in India on or after 26 January 1950 and before 1st July 1987 are citizens of India by birth and therefore are eligible for inclusion in the Electoral Rolls. It is also stated that a proposal to amend the Citizenship Rules so as to provide a time limit within which the State Government will be bound to send a report is under consideration of the Government. The report also says that the Ministry proposes to deal with the applications of the Chakmas from Arunachal Pradesh as per the proposed amendment to the Citizenship Rules and unless the Chakmas are first granted citizenship, they cannot be included in the Electoral Rolls.

On a consideration of the reports of the Ministry of Home Affairs and the State Government of Arunachal Pradesh and more particularly the fact that both the Union and State Governments have assured that they are taking action in compliance with the Supreme Court directions contained in the Judgment dated 09th January, 1996 in the matter, the Commission is of the view that no further action is called for in the matter. The Petitioners, if still left with some grievance in the matter, would be free to work out their remedies in accordance with law before the Country. With these observations the case is closed.”