

IN THE HIGH COURT OF JUDICATURE ANDHRA PRADESH AT
HYDERABAD

W.P.No.11543 of 1999

Between:

'Sakti' Voluntary Social Organisation
working for the upliftment of tribals,
Rampachodavaram, E.O. District, rep: by its
Director P. Sivaramakrishna ... Petitioner

And

The State of Andhra Pradesh,
rep: by the Chief Secretary,
Secretariat, Hyderabad and others ... Respondents

COUNTER AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS 3 AND 4

I, M.A. Roshan, Son of M.A. Khuddus, aged 52 years, Occ:Service, residing at Jangareddygudem, W.G. district, having temporarily come down to Hyderabad do hereby solemnly and sincerely affirm and state on oath as follows:

1. I am working as Sub-Divisional Police Officer at Jangareddygudem Sub-Division of West Godavari district since 22.6.2000 and I am swearing to this Counter Affidavit on behalf of Respondents 3 and 4 basing on the records. At present the post of Deputy Superintendent of Police, Task Force, is not in existence at Jangareddygudem Sub-Division and I am now in charge of the said Sub-Division.

2. I have read the affidavit filed in support of the above Writ Petition and deny all the material allegation made therein, except those that are specifically admitted hereunder and the Petitioner is put to strict proof of the allegations made therein.

3. I submit that the contention of the Petitioner in para-2 of the affidavit that it campaigns for the rights of the tribals in a peaceful and legal way is not correct. In fact, the Petitioner Society is concentrated more in the land grabbing agitation. They used to instigate the tribals of the agency villages to grab the patta lands of the non-tribals by way of creating terror in their minds by attacking them with the bows and arrows etc.

4. In reply to the allegations made in para-3 of the affidavit, I submit that the contention of the Petitioner that the orders passed by this Hon'ble Court in W.P.No.14516/97 dated 28.7.97 are not implemented is not correct. The allegation that the Police have been terrorising the tribals under the guise of protecting the lands of non-tribals and spreading disinformation regarding the activities of the Petitioner Society is not correct and hereby denied. It is submitted that originally the tribals and non-tribals were living together in the Scheduled Area with peace. During the year 1994, the Petitioner Society entered into the Agency villages and started instigating the tribals to fight against the non-tribals to grab their patta lands by way of creating terror in their minds by attacking them with bows and arrows which are said to be their traditional weapons. The leaders of the Petitioner Society had led the tribals of the Agency villages of W.G. District to destroy the standing crops of cashew nuts, mango and coconut gardens of non-tribals and also threatened them not to graze their cattle in their own patta lands. The tribals including the leaders of the Petitioner Society are involved in several criminal cases like murders; attempt to commit murders, riotings, criminal trespass, mischief, arson etc at Jeelugumilli, Buttaigudem, Polavaram, Koyyalagudem, Gopalapuram Police Station limits. In fact, the tribals who are most law abiding citizens of Agency Area, have become law breakers at the instance of the Petitioner Society. Further while participating in the Land Grabbing agitation, the tribals under the leadership of the Petitioner Society used to gather in large number, armed with bows and arrows, knives and sticks, attacking the non-tribals by trespassing into their patta lands. When the non-tribals victims approached the concerned Police, protection was arranged

for their lives and standing crops by consulting the revenue authorities. The officials of the Revenue and Police authorities never tried to terrorise the innocent tribals in the Agency villages and never spread any disinformation regarding the activities of the Petitioner Society as alleged.

5. In reply to para.5 of the affidavit, I submit that the Police never committed any atrocities against the tribals of Agency villages or never supported the non-tribals for continuing atrocities against the tribals. During the year 1997, the tribals of the agency villages under the leadership of the Petitioner Society, used to attack non-tribals while they were cultivating their patta lands and several complaints were lodged by the non-tribals in the Police Stations of Buttaigudem and Jeelugumilli of Jangareddygudem Circle and Polavaram, Gopalapuram, Koyyalagudem of Polavaram Circle against the supporters of the Petitioner Society for their highhanded behaviour. The Petitioner Society used to gather hundreds of tribals to attack the non-tribals and to grab their patta lands. Whenever the Police tried to arrange protection to the person and properties of the non-tribals and arrested the workers of the Petitioner Society, the tribals used to attack the Police with bows and arrows. Whenever the Police arrested (the leaders of the Petitioner Society, the tribals used to kidnap the Government Officials and Police Officials (Constables) for releasing their leaders. In those circumstances the Police used to arrange pickets at troublesome areas of agency villages to meet the law and order problem in connection with the land grabbing agitation. The Police also conducted patrolling in agency villages to control the unlawful activities of the Petitioner Society. Further taking advantage of movements of Police in the tribal villages, the supporters of the Petitioner Society involved in several criminal cases like kidnapping, murder, criminal trespass and riotings and levelled false allegations against the Police in the Special Court constituted under the S.C. & ST. (Prevention of Atrocities) Act, 1989 (hereinafter referred to as SC & ST. Act) and the same were endorsed to Jeelugumilli P.S. for registering cases against the Police. In pursuance of the directions of this Hon'ble Court, with regard to the incidents said to have been occurred on 20.3.97, 21.3.97 and 22.3.97 in Cr.Nos.31/97 to 37/97 of Jeelugumilli Police Station under the provisions of the SC & ST Act were registered and investigated by the then Inspector of Police, Jangareddygudem Circle and they were referred as raised on 8.6.97 as the contents of the endorsed petitions are not proved. On the other hand, in pursuance of the directions of (his Hon'ble Court in Cr.Nos. 18/98 to 26/98 under SC & ST Act besides provisions of IPC have been registered at Jeelugumilli P.S. on 26.2.98 against Sri Brahma Reddy, the then Deputy Superintendent of Police. The then S.D.P.O., Jangareddygudem Sub-Division took up investigation into these cases. He visited the scene of offence, but none of the Complainants or witnesses were traced by him. Since then the S.D.P.O., who took up investigation into those cases had visited the scene of offence several times during their regime and none of the complainant or witnesses were traced by them to finalize those cases. After I assumed charge as S.D.P.O., Jangareddygudem Sub-Division, I took up investigation and visited the scene of offence, but none of the witnesses or complainants are available at the scene of offence. But on 20.1.2001, I secured the presence of one of the Complainants in Cr.No. 19/98 under Section 3(1)(x) of the S.C. & ST. (PA) Act, 1989 and Sections 324, 379 read with 34 IPC of Jeelugumilli P.S. and when examined he denied the knowledge of the offence. Another complainant in this case is yet to be traced and he has to be examined and necessary further action has to be taken. In these circumstances, these cases could not be finalised in compliance with the orders of this Hon'ble Court. The allegation of the Petitioner Society that the Police have increased their strength in the Agency area villages to terrorise the innocent tribals and to protect the interests of the non-tribals at the instance of the local political leaders who have the support of a Cabinet Minister is not correct. So far as 140 Acres of Nersugudem village, Jeelugumilli Mandal is concerned, it is submitted that one Ganapathi Acharyulu and 8 others of Nersugudem village filed W.P.No.31171/97 in this Hon'ble Court seeking a direction to the respondents therein to forward the file relating to amendment of Regulation 1/70 along with an annexure including the report of the Tribal Advisory Council to the Hon'ble Governor to forward the same to the Government of India to make a Legislation in the light of Schedule V of the Constitution of India. The said Writ Petition was disposed of by this Hon'ble Court on 17.2.99 directing the respondents therein not to evict the Petitioners therein from their respective lands without recourse to due process of law. The Petitioners therein also filed a Contempt Case in C.C.No.789/99 for not implementing the orders passed by this Hon'ble Court in W.P.No.31171/97 dated

17.2.99. The said Contempt Case is pending. In view of the orders passed by this Hon'ble Court in the said Writ Petition, though pattas were granted in favour of the tribals in respect of 140 acres of land, the land could not be delivered to them.

6. I submit that the contents of paras 6 and 7 relate to the provisions of S.C. & ST. (PA) Act, 1989 and the rules made there under and as such they need not be traversed.

7. The allegation of the Petitioner Society in para 8 of the affidavit that the Police instead of maintaining neutrality expected of them and going strictly according to law have been biased in favour of the non-tribals and terrorising the innocent tribals is not correct. In fact the tribals under the leadership of the workers of the petitioner society never made any peaceful agitations. They used to arm with bows and arrows, knives and sticks and used to attack non-tribals in a violent fashion. In that connection number of criminal cases were also registered against the concerned accused and in most of the cases N.B.Ws are pending against the tribals before various Courts.

In reply to para 8(a) of the affidavit, I submit that the Police never visited the hamlets of Panduvarigudem and Pathacheemalavarigudem in Jeelugumilli Mandal on 20.3.97 and as such the question of the Police taking away forcibly the valuables of the tribals under the guise of arresting the tribals wanted in connection with certain cases does not arise and the same has no basis.

In respect of the allegations in Para 8(b) of the affidavit, I submit that on 30.6.97, the leaders of the Petitioner society sent a word to one Simhadri Gopal Rao of P. Rajavaram and instructed him to attend for negotiations with their leaders arranged at the fields of above said non-tribal. On that day, the said Simhadri Gopal Rao along with his family members and neighbouring ryots visited his fields and found gathering of hundreds of tribals in his patta lands and they were destroying paddy seedlings therein and when the said Simhadri Gopal Rao requested them not to destroy the paddy seedlings, some altercation took place between him and the tribals and all of a sudden one Madakam Gangaraju has shot an arrow against the said Simhadri Gopala Rao and it pierced his chest. The other tribals also attacked with bows and arrows, knives and sticks and he died instantaneously. In the above incident some of the non-tribal ryots of the neighboring villages who visited there also sustained injuries at the hands of tribals. In this connection, a case in Cr.No.42/97 under Sections 143,147,148, 447,307, 302, 109,114,324 read with 149 IPC and Section 7(1) of Criminal Amendment Act, 1932 of Jeelugumilli Police Station was registered. It is relevant to mention here that in the above said crime, Sri Dr. P. Sivaramakrishna, Director of the Petitioner Society is the Accused No.1. in the said crime, the accused were arrested at P. Ankampalem road centre. Hence the allegation that the Police raided the tribal villages Panduvarigudem, Sirivarigudem and Cheemalavarigudem to arrest the accused in the above said crime and indiscriminately beat the tribals and sent many tribals including women to the Central Prison, Rajahmundry is not correct.

In reply to para 8 (c) of the affidavit, I submit that during the period 24.4.99 to 19.6.99 a total number of 36 accused tribals were arrested by the S.I. of Police, Jeelugumilli P.S. in connection with Cr.No. 84/98 under Sections 147, 148,447,307,506 (2) read with 149 IPC and Section 25(1) of Indian Arms Act, and Section 7(1) of Criminal Law Amendment Act, 1932 of Jeelugumilli P.S. and sent for Judicial custody. During the same period a total number of 22 accused were arrested by the Inspector of Police, Jangareddigudem Circle in Cr.No.25/99 under Sections 147,148,307,302 read with 149 IPC and Section 25 of I.A.Act of T. Narasapuram P.S. and sent for Judicial custody in fact none of the above accused were beaten by the Police at the time of their arrest. Hence the allegation of the Petitioner in this connection is not correct and without any basis.

In respect of para 8(c)(i) of the affidavit, I submit that one Modiyam Sankura Rao, Son of Venkateswra Rao, Koya of Tapaswivarigudem of Jeelugumilli Mandal was arrested in connection with Cr No 64/98 of Jeelugumilli P.S., on 25.4.99 and sent for judicial remand. He participated in the above offence on 13.7.98 along with other members of the Petitioner Society.

In reply to para 8 c (ii) of the affidavit, I submit one like Suryachandram, Son of Dulappa of Panduvarigudem was arrested in Cr.No.64/98 of Jeelugumilli P.S. on 26.4.99 and sent for judicial remand. At the time of arrest one Hero Puch bearing No. AP 5 D 6090 and one Andhra Bank Pass book No. 16471 were seized as his personal property and the same was noted in the Prisoners Search Register and the same were handed over to him after his release from the judicial custody on 3-7-99. Hence, the allegation that the said person was taken away by the Police when he was attending the 10th day ceremony of one Naram Gangulu is not correct and hereby denied.

In reply to para 8 C (iii) of the affidavit, I submit that the Police have not raided the gatherings of the tribals at Tapasivarigudem on 25.4.99 and it is also not correct to state that the Police have taken away food material and one transistor radio of Modiyam Nageswara Rao. The said allegation is pressed into service only for the purpose of this case.

In reply to para 8 c(iv) of the affidavit, I submit that the Police did not visit Vankavarigudem on 25.4.99. Hence the allegation made therein is totally false.

In reply to para 8 c (v) of the affidavit, I submit that on 28.4.99 the Police did not visit Sirivarigudem village and they have not taken away cashew nut belonging to Madakam Somaraju. On 30.4.99 one Tellam Yerraiiah was arrested by the S.I. of Police, Jeelugumilli P.S., at Laxmipuram hamlet of Darbhagudem (V) along with 2 other accused in connection with Cr.No.60/98 under Sections 147,148, 447,506(2) IPC., Section 26 of I. A Act and Section 7(1) of Criminal Law Amendment Act, 1932 of Jeelugumilli P.S. and sent for judicial remand. It is not true to say that the said Tellam Yerralah was taken away by the Police from Patha Cheemalavarigudem village on 26.4.99.

In reply to para 8 (c) (vi) of the affidavit, I submit that on 26.4.99 the S.I. of Police, Jeelugumilli P.S. has arrested the accused Madivi Gangaraju @ Gangulu and Samithi Laxmana Rao, near the Elementary School at Barrinkatepadu Village and sent for judicial remand in Cr.No.64/98 of Jeelugumilli P.S. The allegation that the Police beat one Pandam Jogiraju and others is not correct. The Police have not arrested the above said Pandam Jogiraju as he was not involved in any of the cases at Jeelugumilli P.S.

In reply to para 8(c)(vii) of the affidavit, I submit that the Police have not raided Kannappagudem, Mallappagudem, Bochuletikoyagudem of T. Narasapuram village and Mandal. The Circle Inspector of Police, Jangareddigudem Circle has arrested 22 accused tribals on 24.4.99 in the fields of Kannappagudem in connection with Crime No.25/09 under Sections 147, 148, 307,302 read with 149 IPC and Section 25 of I.A Act of T. Narasapuram P.S. and sent them for judicial custody.

Hence I submit that there is no truth in the allegations made by the Petitioner Society in para 8 of the affidavit and the same are pressed into service only for the purpose of tills Writ Petition.

8. I submit that none of the Police Officials including the then Deputy Superintendent of Police threatened the tribals as alleged by the Petitioner. The said Tellam Krishnaveni is an active member of the Petitioner Society and she used to instigate the tribals for attacking non-tribals and to grab their patta lands. She is involved in several criminal cases under Jeelugumilli Police Station jurisdiction. Tellam Yerralah who is the husband of Tellam Krishnaveni was arrested by the Police on 30.4.99 in Crime No.64/98 of Jeelugumilli P.S. The allegation of the Petitioner that the said Yerraiiah was arrested on 26.4.99 asking him to bring his wife is not correct. The Police never created any terror in the minds of the tribals. At the time of arrest of Uke Suryachandra Rao, Tellam Bala Raju and Modiyam Srinivasa Rao in Cr.Nos.64/98 and 63/98, one Hero Puch No. AP 5D 6090, one KB 4S No. AP 5 F 9507 and one Hero Honda Splender No. AP 5Q 3229 were seized from their possession as their personal property and were handed over to the accused after their release from judicial custody on 3-7-99, 1-7-99 and 2-7-99 respectively. The other vehicles bearing No. AP 5D 3473 TVS Champ and AP 6A 8898 TVS Champ were not seized from the custody of Sri M. Babu Rao and Sri T. Papa Rao and they are not in the custody of Police. The Bank Passbook of Uke Suryachandra

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD
(SPECIAL ORIGINAL JURISDICTION)

WEDNESDAY, THE FOURTEENTH DAY OF FEBRUARY
TWO THOUSAND AND ONE

PRESENT:
THE HON'BLE MR. S.B. SINHA, CHIEF JUSTICE
AND
THE HON'BLE MR. JUSTICE: S.R.NAYAK

WRIT PETITION No.11543 of 1999

Between:

SAKTI, a Voluntary Organisation working for the upliftment of Tribals
(Regd.No.76/85), Rampachodavaram, E.G.Dt., repled. by its Director.

... PETITIONER

AND

1. State of A.P. repled. by its Chief Secretary to Govt.,
Govt. of A.P. Sectt. Buildings, Hyderabad.
2. The District Collector & Agent to Govt. W.G.Dt., Eluru.
3. The Superintendent of Police, W.G.Dt., Eluru.
4. The Dy. Superintendent of Police, (Task Force for Jeelugumilli Mdl.),
Jangareddygudem, W.G.Dt..

... RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the
circumstances stated in the Affidavit filed herein, the High Court will be pleased to issue
an appropriate writ, order of direction more particularly one in the nature of a Writ of
Mandamus directing the first respondent.

To appoint an officer, inspiring confidence in accordance with Sec.21 of S.C. &
S.T. (Prevention of Atrocities) Act, 1989 for initiating prosecution for contravention of
the provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities)
Act, 1989 and for ensuring safety to the S.Ts residing in Jeelugumilli, Buttaigudem,
Polavaram, T.Narasapuram and Gopalapuram Mandals of W.G.District.

2. to provide adequate legal aid to the persons subjected atrocities, to enable them to
avail justice and consequently declare that the peaceful agitation and awakening
campaign of the petitioner organisation and followed by S.Ts for restoring of lands
belonging to S.Ts is in furtherance of the prevention of atrocities under S.C. & S.T
(Prevention of Atrocities) Act, 1989.

FOR THE PETITIONER : Mr.RAMALINGESWARA RAO, ADVOCATE.
FOR THE RESPONDENT(S) : ADDL. ADVOCATE GENERAL.

The Court made the following:

ORDER:

Let the matter appear four weeks hence.

We direct the Superintendent of Police, West Godavari to affirm an affidavit.

We, however, direct the Dist. Collector, West Godavari to issue pattas to those
who are eligible therefore without taking into consideration the fact that the Contempt
Case is pending, in as much as by reason of pendency of such proceedings, no embargo
has been placed upon the District Collector to distribute such pattas.

// TRUE COPY//

Sd/- HABEEBUNNISA BEGUM,

Rao was also handed over to him after he was released from judicial custody. It is true
that the then Task Force D.S.P., held a public meeting with tribals at Vankavarigudem
and Sirivarigudem on 23.5.99 and advised the tribals not to indulge in any unlawful
activities in connection with their agitation. But, he never instigated those tribals to leave
the Petitioner Society. He never demanded any money from the tribals to solve the land
problem.

9. I submit that the allegations made by the Petitioner in para. 10 of the affidavit are
false and denied. The Petitioner Society is put to strict proof of the same. In fact the
Police never disturbed the peaceful agitation of the tribals. But they entered into the
scene, when the agitation turned into an unlawful one, resulting in rioting etc. The Police
never beat any of the tribals and the vehicles which were seized were already released.
The allegation that nobody is showing interest in the investigation since the investigators
themselves have been accused of the offences is not correct. Further, the allegation of the
Petitioner that due to inaction of the government, innocent tribals are facing untold
misery and hardship at the hands of the Police of Task Force is totally false and denied.

10. It is submitted that the Police never foisted any false cases against the tribals and
never harassed them. In pursuance of the orders of this Hon'ble Court in
W.P.No.14516/97 dated 28.7.97, the cases against the tribals of Buttaigudem which are
not serious in nature under various sections of IPC pending in the Court of Sub-
Divisional Magistrate, Kovvur and the II Class Magistrate Courts at Buttaigudem and
Jeelugumilli are withdrawn by the Police. A total number of 52 pending trial cases were
withdrawn and requisitions also filed before the respective courts.

11. I submit that there are no merits in the Wit Petition and it is liable to be dismissed.

12. For the reasons stated above, I pray that Oils Hon'ble Court may be pleased to
dismiss the same.

Sworn and signed before me on this
the 2nd day of February 2001 at Hyderabad.

Deponent

Before me

ASSISTANT REGISTRAR.
for ASSISTANT REGISTRAR.

IN THE HIGH COURT OF JUDICATURE ANDHRA PRADESH
AT HYDERABAD
W.P.No.11543 of 1999

To

1. The Chief Secretary to Govt. State of A.P.
Govt of A.P. Sett. Buildings, Hyderabad.
 2. The District Collector & Agent to Govt., W.G.Dt., Eluru.
 3. The Superintendent of Police, W.G.Dt., Eluru.
 4. The Dy. Superintendent of Police (Task Force for Jeelugumilli Mdl.,)
Jangareddygudem, W.G.Dt.,
 5. Two CCs to Addl. Advocate General, High Court of A.P. Hyderabad (OUT).
 6. Two spare copies.
- H.A.

BETWEEN:

Sakti Voluntary Social Organisation
Working for upliftment of tribals
Rampachodavaram, East Godavari District.
Rep: by its Director, P.Sivarama Krishna. ... Petitioner.

AND

The State of Andhra Pradesh
Rep: by the Chief Secretary,
Secretariat, Hyderabad and others. ... Respondent.

COUNTER AFFIDAVIT FILED ON BEHALF OF THE RESPONDENTS 1 AND 2

I, Smt. Poonam Malakondaiah, I.A.S., wife of Malakondaiah, aged 35 years, OCC: Service residing at Eluru, West Godavari District, do hereby solemnly and sincerely affirm and state on oath as follows:

1. I am working as Collector and District Magistrate, West Godavari District and the 2nd respondent herein and am well acquainted with the facts of the case basing on records. I am swearing to this Counter Affidavit on behalf of the 1st respondent also.
2. I have read the affidavit filed in support of the above Writ Petition and deny all the material allegations made therein except those that are specifically admitted hereunder and the Petitioner is put to strict proof of the allegations made therein.
3. I submit that the contents of paras 1 and 2 of the affidavit relates to the registration of the Petitioner Society under the Societies Registration Act, its objects and locus of the petitioner for filing the Writ Petition and as such they need not be traversed.
4. In reply to para. 3 of the affidavit, I submit that in order to solve the land disputes, in (3) Agency Mandals viz., Jeelugumilli, Buttaigudem and Polavaram, the 1st respondent has issued certain guidelines in October 1997 for the conduct of enjoyment survey and title verification work. This Hon'ble Court in its order dated. 2.1.1998 in C.C.No.1381/97 in W.P.No.8009/97 have also issued directions for the conduct of enjoyment survey and title verification work. Accordingly, the enjoyment survey and title verification work was completed in the following villages of above said three Mandals.

Mandal	Total No. of Villages	No need	Completed	Total	Balance
Jeelugumilli	29	02	27	29	NIL.
Buttaigudem	53	24	26	50	03
Polavaram	19	11	05	16	03
	101	37	58	95	06

I submit that before taking up the survey work, maps have been got prepared duly giving different shades of colours for the lands belonging to Tribals, Non-Tribals L.T.R. and Government lands with reference to 1933 R.S.R. This item of work has been taken up only after giving wide publicity in the village by beat of tom tom, by giving individual notices to all the village committee members, Tribal leaders and Non-Tribal leaders. Copies of R.S.R. and Adangals were also supplied to the Tribal leaders under proper acknowledgement. The objections raised by the tribals and the documents produced lands during Grama Sabhas. In fact 99 village Peace Committees and the District Level Peace Committee have been formed. The District Level Peace Committee meetings were conducted on 7.11.97, 14.9.98 and 24.11.99 and important decisions, were taken to resolve the land disputes in the Agency Area. An extent of Ac. 3663.99 was distributed to the tribals from 11.1.97 till date. The guidelines issued by the Government as well as the directions of the Hon'ble Court are being implemented in all aspects. This Hon'ble

IN THE HIGH COURT OF JUDICATURE ANDHRA PRADESH AT
HYDERABAD

W.P.No.11543 of 1999

Between:

'Sakti' Voluntary Social Organisation
working for the upliftment of tribals,
Rampachodavaram, E.O. District, rep: by its
Director P. Sivaramakrishna ... Petitioner

And

The State of Andhra Pradesh,
rep: by the Chief Secretary,
Secretariat, Hyderabad and others ... Respondents

COUNTER AFFIDAVIT FILED ON BEHALF OF THE RESPONDENT NO. 3

I, Kripanand Tripathi Ujela, Son of Sri M.N.Tripathi, aged about 32 years, Occ: Service, residing at Eluru, W.G.District, do hereby solemnly and sincerely affirm and state on oath as follows:

1. I submit that I am working as Superintendent of Police, West Godavari district since 21-4-2000 and the 3rd respondent herein and as such am well acquainted with the facts of the case basing on the records.
2. I submit that I read the contents of the affidavit filed in support of the above Writ Petition and also the contents of the Reply Affidavit filed by the Writ Petitioner and the third party affidavit filed by Sri. G. Manohar and I deny all the material allegations made therein, except those that are specifically admitted hereunder and the Petitioner is put to strict proof of the allegations made therein.
3. I submit that the contention of the Petitioner in para-2 of the affidavit that it campaigns for the rights of the tribals in a peaceful and legal way is not correct. In fact, the Petitioner Society is concentrated more in the land grabbing agitation by instigation the tribals of the agency villages to grab the patta lands of the non-tribals by way of creating terror in their minds by attacking them with the bows and arrows etc.,
4. In reply to the allegations made in para-3 of the affidavit, I submit that contention of the Petitioner that the orders passed by this Hon'ble Court in W.P.No.14516/97 dated 28.7.97 are not implemented is not correct. The allegation that the Police have been terrorising the tribals under the guise of protecting the lands of non-tribals and spreading disinformation regarding the activities of the Petitioner Society is not correct and hereby denied. It is submitted that originally the tribals and non-tribals were living together in the Scheduled Area with peace. During the year 1994, the Petitioner Society entered into the Agency villages and started instigating the tribals to fight against the non-tribals to grab their patta lands by way of creating terror in their minds by attacking them with bows and arrows which are said to be their traditional weapons. The leaders of the Petitioner Society had lead the tribals of the Agency villages of W.G. district to destroy the standing crops of cashew nuts, mango and coconut gardens of non-tribals and also threatened them not to graze their cattle in their own patta lands. The tribals including the leaders of the Petitioner Society are involved in several criminal cases like murders; attempt to commit murders, riotings, criminal trespass, mischief, arson etc., at Jeelugumilli, Bttaigudem, Polavaram, Koyyalagudem, Gopalapuram Police Station limits. In fact, the tribals who are most law abiding citizens of Agency Area, have become law breakers at the instance of the Petitioner Society. Further, while participating in the Land Grabbing agitation, the tribals under the leadership of the Petitioner Society used to gather in large number, armed with bows and arrows, knives and sticks, attacking the non-tribals by

Court in its order, dt. 24.2.2000 in W.P.No.7916/97 have also issued further directions in order to solve the disputes in Agency Area. Aggrieved by the said order, one Sri. P.Srihari has filed an appeal W.A.No.244/2000 in this Hon'ble Court. The Hon'ble Courts in its orders, dated. 14.3.2000 in W.A.M.P.No.468/2000 in W.A.No.244/2000 has stayed the orders of the learned single Judge passed in W.P.No. 7916/97 dt. 24.1.2000 until further orders. However it is made clear in the said order that by the stay of operation of the impugned order, that the Government is not restrained from discharging its duties in accordance with law. Even after, the orders passed by this Hon'ble Court in W.A.M.P.No.468/2000 in W.A.No.244/2000, dated 24.3.2000 survey and title verification works are being conducted in the presence of tribals and non-tribals. The same were recorded in the Minutes village-wise. It is submitted that the 1st Respondent have also issued G.O.Rt.No.574, Dt.28.11.2000 entrusting the pending L.T.R. cases relating to Polavaram Mandal to the Special Deputy Collector (National Savings), Eluru to conduct the Agency Court at Polavaram in order to have a speedy disposal of cases. Action is also being taken to dispose of all the pending cases within a time bound programme. Hence, the allegation of the petitioner that the orders passed by this Hon'ble Court are not implemented is not correct.

5. In reply to para 5 of the affidavit in respect of 140 acres of Nersugudem village, Jeelugumilli Mandal is concerned, it is submitted that one Garapati Acharyulu and 3 others of Nersugudem village filed W.P.No.31171/97 in this Hon'ble Court seeking a direction to the respondents therein to forward the file relating to amendment of Regulation 1/70 along with all annexures including the report of the Tribal Advisory Council to the Hon'ble Governor to forward the same to the Government of India to make a Legislation in the light of Schedule V of the Constitution of India. The said Writ Petition was disposed of by this Hon'ble Court on 17.2.99 directing the respondents therein not to evict the Petitioners therein from their respective lands except with due process of law. The petitioners therein also filed a Contempt Case in C.C.No.789/99 for not implementing the orders passed by this Hon'ble Court in W.P.No.31171/97, dt. 17.2.99. The said Contempt case is pending. In view of the orders passed by this Hon'ble Court in the said Writ Petition, though pattas were granted in favour of the tribals in respect of 140 acres of land, the land could not be delivered to them. As such the allegation made by the petitioner Society in this regard is not correct.

6. I submit that there are no merits in the Writ Petition and it is liable to be dismissed.

7. For the reasons stated above, I pray that this Hon'ble Court may be pleased to dismiss the same.

SWORN AND SIGNED
BEFORE ME ON THIS
THE 8TH DAY OF
FEBRUARY 2001
AT ELURU.

Deponent,
Collector,
W.G.District, ELURU.

Before me,

Administrative Officer,
W.G.District,
ELURU.

trespassing into their patta lands. When the non-tribal victims approached the concerned Police, protection was arranged for their lives and standing crops by consulting the revenue authorities. The officials of the Revenue and Police authorities never tried to terrorise the innocent tribals in the Agency villages and never spread any disinformation regarding the activities of the Petitioner Society as alleged.

5. In reply to para 5 of the affidavit, I submit that the Police never committed any atrocities against the tribals of Agency villages or never supported the non-tribals for continuing atrocities against the tribals. During the year 1997, the tribals of the agency villages under the leadership of the Petitioner Society, used to attack non-tribals while they were cultivating their patta lands and several complaints were lodged by the non-tribals in the Police Stations of Buttaigudem and Jeelugumilli of Jangareddigudem Circle and Polavaram, Gopalapuram, Koyyalagudem of Polavaram Circle against the supporters of the Petitioner Society for their highhanded behavior. The Petitioner Society used to gather hundreds of tribals to attack the non-tribals and to grab their patta lands. Whenever the Police tried to arrange protection to the person and properties of the non-tribals and arrested the members of the Petitioner Society, the tribals used to attack the Police with bows and arrows. Whenever the Police arrested the leaders of the Petitioner Society, the tribals used to kidnap the Government Officials and Police Officials (Constables) for releasing their leaders. In those circumstances the Police used to arrange pickets in trouble some areas of agency villages to meet the law and order problem in connection with the land grabbing agitation. The Police also conducted patrolling in agency villages to control the unlawful activities of the Petitioner Society. Further knowing the movements of the Police in advance in the Tribal villages the supporters of the petitioner's society involved in several Criminal cases like kidnapping, murder, criminal trespassing and riotings in other agency areas. They also levelled false allegations against the Police in the Special Court constituted under S.C. and S.T. (Prevention of Atrocities) Act and same were endorsed to the Jeelugumilli P.S. for registering cases against the Police. In pursuance of the directions of this Hon'ble Court, with regard to the incidents said to have been occurred on 20.3.97, 21.3.97 in Cr.Nos.31/97 to 37/97 of Jeelugumilli Police Station under the provisions of the SC & ST Act, cases were registered and investigated by the then Inspector of Police, Jangareddigudem Circle and they were referred to as false on 8.6.97 as the contents of the endorsed petitions are not proved. On the other hand, in pursuance of the directions of this Hon'ble Court, in Cr.Nos.18/98 to 26/98 under SC & ST Act, provisions of IPC have been registered at Jeelugumilli P.S. on 26.2.98 against Sri Brahma Reddy, the then Deputy Superintendent of Police. The then S.D.P.Os, Jangareddigudem Sub-Division took up investigation into these cases. He visited the scene of offence, but none of the Complaints or witnesses was traced by him. Since then the S.D.P.O., who took up investigation into those cases had visited the scene of offence several times during their regime and none of the complaint or witnesses were traced by them to finalize those cases. But on 20.1.2001, the present S.D.P.O. secured the presence of one of the Complaints in Cr.No.19/98 under Section 3(1)(x) of the S.C. & S.T. (P.A.) Act, 1989 and Sections 324, 379 read with 34 IPC of Jeelugumilli P.S. and when examined he denied the knowledge of the offence. Another complaint in this case is yet to be traced and he has to be examined and necessary further action has to be taken. In these circumstances. These cases could not be finalized in compliance with the orders of this Hon'ble Court. The allegation of the Petitioner Society that the Police have increased their strength in the Agency villages to terrorise the innocent tribals and to protect the interests of the non-tribals at the instance of the local political leaders who have the support of a Cabinet Minister is not correct. So far as 140 acres of Nersugudem village, Jeelugumilli Mandal is concerned, it is submitted the one Garapathi Acharyulu and 8 others of Nersugudem village filed W.P.No.3117/97 in this Hon'ble Court seeking a direction to the respondents therein to forward the file relating to amendment of Regulation 1/70 along with all annexure including the report of the Tribal Advisory Council to the Hon'ble Governor to forward the same to the Government of India to make a Legislation in the light of Schedule V of the constitution of India. The said Writ Petition was disposed of by this Hon'ble Court on 17.2.99 directing the respondents therein not to evict the Petitioners from their respective lands without recourse to due process of law. The Petitioners therein also

filed a Contempt Case in C.C.No.789/99 for not implementing the orders passed by this Hon'ble Court in W.P.No.31171/97 dated 17.2.99. The said Contempt Case is pending. In view of the orders passed by this Hon'ble Court in the said Writ Petition, though pattas were granted in favour of the tribals in respect of 140 acres of land, the land could not be delivered to them.

6. I submit that the contents of paras 6 and 7 relate to the provisions of S.C. & S.T. (P.A.) Act, 1989 and the rules made there under and as such they need not be traversed.
7. The allegation of the Petitioner Society in para.8 of the affidavit that the Police instead of maintaining neutrality expected of them and going strictly according to law have been biased in favour of the non-tribals and terrorizing the innocent tribals is not correct. In fact, the tribals under the leadership of the members of the petitioner society never made any peaceful agitations. They used to arm with bows and arrows, knives and stick and used to attack non-tribals in a violent fashion. In that connection number of criminal cases were also registered and in most of the cases N.B.Ws are pending against the tribals before various Courts.
8. In reply to para 8(a) of the affidavit, I submit that the Police never visited the hamlets of Panduvarigudem and Pathaceemalavarigudem in Jeelugumilli Mandal on 20.3.97 and as such the question of the Police taking away forcibly the valuables of the tribals under the guise of arresting the tribals wanted in connection with certain cases does not arise and the same has no basis.

In respect of the allegations in Para 8(b) of the affidavit, I submit that on 30.6.97, the leaders of the Petitioner society send a word to one Simhadri Gopal Rao of P.Rajavaram and instructed him to attend for negotiations with their leaders arranged at the fields of above said non-tribal. On that day, the said Simhadri Gopal Rao along with his family members and neighboring ryots visited his fields and found gathering of hundreds of tribals in this patta lands and they were destroying paddy seedlings therein and when the said Simhadri Gopal Rao requested them not to destroy the paddy seedlings, some altercation took place between him and the tribals and all of a sudden one Madakam Gangaraju has shot an arrow against the said Simhadri Gopala Rao and it pierced his chest. The other tribals also attacked with bows and arrows, knives and sticks and he died instantaneously. In the above incident some of the non-tribal ryots of the neighbouring villages who came there also sustained injuries at the hands of tribals. In this connection, a case in Cr.No.42/97 under Sections 143, 147, 148, 447, 307,109,114,324 read with 149 IPC and Section 7(1) of Criminal Amendment Act, 1932 of Jeelugumilli Police Station was registered. It is relevant to mention here that in the above said crime. Sri. Dr. P.Sivarama Krishna, Director of the Petitioner Society is the Accused No.1. In the said crime, the accused were arrested at P.Ankampalem road centre. Hence, the allegation that the Police raided the tribal villages of Panduvarigudem, Sirivarigudem and Cheemalavarigudem to arrest the accused in the above said crime and indiscriminately beat the tribals and sent many tribals including women to the Central Prison, Rajahmundry is not correct.

In reply to para 8 (c) of the affidavit, I submit that during the period from 24.4.99 to 19.5.99 a total number of 36 accused tribals were arrested by the S.I. of Police, Jeelugumilli P.S. in connection with Cr.No.64/98 under Sections 147, 148, 447, 307, 506 (2) read with 149 IPC and Section 25(1) of Indian Arms Act, and Section 7(1) of Criminal Law Amendment Act, 1932 of Jeelugumilli P.S. and sent for judicial custody. During the same period a total number of 22 accused were arrested by the Inspector of Police, Jangareddigudem Circle in Cr.No.25/99 under Sections 147, 148, 307, 302 read with 149 IPC and Section 25 of I.A. Act of T.Narasapuram P.S. and sent for judicial custody. In fact none of the above accused were beaten by the Police at the time of their arrest. Hence the allegation of the Petitioner in this regard is not correct and without any basis.

In respect of para 8(c)(i) of the affidavit, I submit that one Modiyam Sankura Rao, Son of Venkateswara Rao, Koya of Tapasivarigudem of Jeelugumilli Mandal was arrested in connection with Cr.No.64/98 of Jeelugumilli P.S., on 25.4.99 and sent for

judicial remand. He participated in the above offence on 13.7.98 along with other members of the Petitioner Society.

In reply to para 8 (c) (ii) of the affidavit, I submit one Uke Suryachandram, Son of Dulappa of Panduvarigudem was arrested in Cr.No.64/98 of Jeelugumilli P.S. on 25.4.99 and sent for judicial remand. At the time of his arrest one Hero Puch bearing No. AP 5 D 6090 and one Andhra Bank Pass Book No. 16471 were seized as his personal property and the same was noted in the Prisoners Search Register and the same were handed over to him after his release from the judicial custody on 3-7-99. The allegation of the Petitioner Society in this regard that the said person was taken away by the Police when he was attending the 10th day ceremony of one Naram Gangulu is not correct and hereby denied.

In reply to para 8 (c) (iii) of the affidavit, I submit that the Police have not raided the gatherings of the tribals at Tapasivarigudem on 25.4.99 and it is also not correct to state that the police have taken away food material and one transistor radio of Modiyam Nageswara Rao. The said allegation is pressed into service only for the purpose of this case.

In reply to para 8 (c) (iv) of the affidavit, I submit that the Police did not visit Vankavarigudem on 25.4.99. The allegation made therein is totally false and denied.

In reply to para 8 (c) (v) of the affidavit, I submit that on 26.4.99 the Police did not visit Sirivarigudem village and they have not taken away cashew nuts belonging to Madakam Somaraju. On 30.4.99 one Tellam Yerraiah was arrested by the S.I. of Police, Jeelugumilli P.S., at Laxmipuram hamlet of Darbhagudem (V) along with 2 other accused in connection with Cr.No.60/98 under Sections 147, 148, 47, 506(2) IPC., Section 25 of I.A. Act and Section 7(1) of Criminal Law Amendment Act, 1932 of Jeelugumilli P.S. and sent for judicial remand. It is not true to say that the said Tellam Yerraiah was taken away by the Police from Patha Cheemalavarigudem village on 26.4.99.

In reply to para 8 (c) (vi) of the affidavit, I submit that on 26.4.99 the S.I. of Police, Jeelugumilli P.S. has arrested the accused Madivi Gangaraju @ Gangulu and Samithi Laxmana Rao, near the Elementary School at Barrinkalapadu Village and sent for judicial remand in Cr.No.64/98 of Jeelugumilli P.S. The allegation that the Police beat one Pandam Jogiraju and others is not correct. The Police have not arrested the above said Pandam Jogiraju as he was not involved in any of the cases at Jeelugumilli P.S.

In reply to para 8 (c) (vii) of the affidavit, I submit that the Police have not raided Kannappagudem, Mallappagudem, Bochuletikoyagudem of T.Narasapuram village and Mandal. The Circle Inspector of Police, Jangareddigudem Circle has arrested 22 accused tribals on 24.4.99 in the fields of Kannappagudem in connection with Crime No.25/99 under Sections 147, 148, 307, 302 read with 149IPC and Section 25 of I.A. Act of T. Narasapuram P.S. and sent them for judicial custody.

Hence I submit that there is no truth in the allegations made by the Petitioner Society in para 8 of the affidavit and the same are pressed into service only for the purpose of this Writ Petition.

9. The allegation of the Petitioner Society in un-numbered para 9 of the Affidavit that the Police Officials including the then Deputy Superintendent of Police threatened the tribals is not correct and denied. The said Tellam Krishnaveni is an active member of the Petitioner Society and she used to instigate the tribals for attacking non-tribals and to grab their patta lands. She is involved in several criminal cases under Jeelugumilli Police Station jurisdiction. Tellam Yerraiah who is the husband of Tellam Krishnaveni was arrested by the Police on 30.4.99 in Crime No.60/98 of Jeelugumilli P.S. The allegation of the Petitioner that the said Yerraiah was arrested on 26.4.99 asking him to bring his wife is not correct. The Police never created any terror in the minds of the tribals. At the time of arrest of Uke Suryachandra Rao, Tellam Bala Raju and Modiyam Srinivasa Rao in Cr.Nos. 64/98 and 63/98, one Hero Puch No. AP 5D 6090, one KB 4S No. AP 5 F 9507 and one Hero Honda Splendor No. AP 5 Q 3229

were seized from their possession as their personal property and were handed over to the accused after their release from judicial custody on 3-7-99, 1-7-99 and 2-7-99 respectively. The other vehicles bearing No. AP 5D 3473 TVS Champ and AP 5A 8898 TVS Champ were not seized from the custody of Sri. M.Babu Rao and Sri T. Papa Rao and they are not in the custody of Police. The Bank Passbook of Uke Suryachandra Rao was also handed over to him after he was released from judicial custody. It is true that the then Task Force D.S.P., held a public meeting with tribals at Vankavarigudem and Sirivarigudem on 23.5.99 and advised the tribals not to indulge in any unlawful activities in connection with their agitation. But, he never instigated those tribals to leave the Petitioner Society. He never demanded any money from the tribals to solve the land problem.

10. I submit that the allegations made by the Petitioner in para.10 of the affidavit are false and denied. The Petitioner Society is put to strict proof of the same. In fact, the Police never disturbed the peaceful agitation of the tribals. But they entered into the scene only when the agitation turned into violent and an unlawful one, resulting in rioting etc., The Police never beat any of the tribals and the vehicles which were seized were already released. The allegation that nobody is showing interest in the investigation since the investigators themselves have been accused of the offences is not correct. Further, the allegation of the Petitioner that due to inaction of the government, innocent tribals are facing untold misery and hardship at the hands of the Task Force Police is totally false and denied.
11. It is submitted that the Police never foisted any false cases against the tribals and never harassed them. In pursuance of the orders of this Hon'ble Court in W.P.No.14516/97 dated 28.7.97, the cases against the tribals of Buttaigudem which are not serious in nature under various sections of IPC pending in the Court of Sub-Divisional Magistrate, Kovvur and the II class Magistrate Courts at Buttaigudem and Jeelugumilli are withdrawn by the Police. A total number of 52 pending trial cases were withdrawn and requisitions are also filed before the respective courts.
12. In reply to the allegations made in para-3 of the reply affidavit, I submit that, as per the orders in O.S.No. 47/96 on the file of the learned Sub-ordinate Judge at Kovvur, the Circle Inspector of Police, Polavaram along with his staff proceeded to Pedrala on 3-11-97 to arrange protection to the lands of Non-Tribal ryot by name Hotha Sreeramachandra Murthy. At about 3.45 P.M., while returning from Pedrala they reached Munugopula village, the Tribals of Munugopula village armed with bows and arrows, sticks and knives, stopped the Police party and held them hostages. On receipt of information on the early hours of 4-11-97 at about 5 A.M., the Superintendent of Police, W.G. District, and Sub-Collector, Kovvur reached the scene of offence with additional force and warned the tribals to disperse. But the tribals especially women folk surrounded the Police Jeeps and hurled stones at the Police personnel and poured Chilli-powder. In the above incident 9 Police Personnel including Superintendent of Police, W.G. District, were injured. The Tribals pushed the S.P. on the ground and tried to beat him with their arms. On that, the A.P.S.P. Constables who were standing near the S.P. anticipated danger to the lives of S.P. and other Revenue and Police Officials and fired tear gas and rubber bullets, but the tribals did not stop the stone pelting. In those circumstances, after giving several warnings, Police opened fire against Tribal folk and in the said incident one tribal woman by name Karam Parvathi died due to bullet injuries. On the complaint of A.P.S.P. Constables the above said incident was registered as a case in Cr.No.77/99 u/s 143,147,148,307 r/w 149 IPC and 174 Cr.P.C of Polavaram P.S. on 4-7-97 and the same was investigated by the Sub-Divisional Police Officer, Kovvur, Subsequently, on 11-9-98 an endorsed report was received from the Court of Hon'ble Ist Additional District Judge, Eluru with the above facts which is the same transaction and subject matter relating to Cr.No.77/97. The said matter was registered as a case in Cr.No.53/98 u/s 302,307,426,506(2) IPC and Sec.3 of S.C. & S.T. (P.A.) Act of Polavaram P.S. Further action in Cr.No.53/98 was dropped since the transaction in this case is the same to that of the transaction in Cr.No.77/97 which is referred to as M.F. on 31-1-2000 by the Sub-Divisional Police Officer, Kovvur. In another incident, on 8-6-99 one Naram Sreerama Murthy and Kunja Rama Rao were arrested in Cr.No.25/99 u/s 147, 148, 307, 302 r/w 149 IPC and Sec.27 of Indian Arms Act of

T. Narasapuram P.S. and were produced in the Hon'ble Court of Judicial First Class Magistrate, Chintalapudi on 9-6-99. During the intervening night on 9/10-6-99 at about 1 P.M. both the accused were brought to the out side of Police Station by the escort PCs on their request to attend calls of nature. At that time both the accused escaped from the hands of Escort PCs and disappeared into the darkness. In this connection a case in Cr.No.52/99 u/s 224 r/w 34 IPC was registered at Chintalapudi P.S. on 10-6-99 and the same is under investigation. A Habeas Corpus Writ Petition in W.P.No. 14773/99 filed for the disappearance of the above said accused person was dismissed on 6-7-99 by this Hon'ble High Court with a direction to search the said accused and produce him before the concerned Magistrate. Later, the wife of Naram Sreerama Murthy by name Naram Alivelu filed a Writ Petition No.21692/99 for disappearance of Naram Sreerama Murthy and claimed compensation of Rs.5 lakhs for his disappearance. The said Writ Petition is pending in this Hon'ble High Court. In fact efforts are being made to apprehend the above noted accused by name Kunja Rama Rao is moving in and around T.Narasapuram village and Mandal. He filed an anticipatory bail petition through his advocate in the Hon'ble Court of District and Sessions Judge, W.G.District, Eluru in Cr.No.25/99 of T.Narasapuram P.S. and the same was dismissed by the Hon'ble Court vide CrI.M.P.Nos. 2157/2000 and 2362/2000. Further the allegation of the Petitioner society that the tribals when handed over two country bombs alleged to have recovered from the non-tribals and said to have handed over the D.S.P. Jangareddigudem, no investigation has been made and no non-tribal was arrested is not correct and denied.

13. In reply to allegations made in para-4 of the reply affidavit it is submitted that, in Cr.Nos.31/97 to 37/97 of Jeelugumilli P.S. which are registered against Police Personnel, police tried to serve the refer notices to the complainants on 8-6-97, but they refused to take the notices. Hence the final CDs have been prepared and they are being filed in the Court of Addl. District Judge Court, Eluru referring the cases as false. Similarly in Cr.No.18/98 to 26/98 of Jeelugumilli P.S. which are registered against Police personnel are also under investigation. Those cases are pending before the Hon'ble Court due to non availability of complainants. Efforts are being continued to secure the complaints and witnesses in those cases to finalize investigation.
14. The allegation of the petitioner in Para-5 of the reply affidavit which is not specifically admitted hereunder is deemed to be denied. The petitioner is put to strict proof of the same. The Police never committed any atrocities against the Tribals as alleged by the petitioner and as such there is no necessity to appoint an independent officer inspiring confidence of tribals, to investigate the alleged police atrocities against tribals. It is also not correct to state that the intermediate student M.Sankura Rao has discontinued his studies as he was illegally arrested by the Police. In fact, he was arrested by the Police in Cr.No.64/98 of Jeelugumilli P.S. on 25.4.99 as he participated in the above offence on 13.7.98 along with other members of the petitioners society. The vehicles which are taken by police at the time of arrest of accused Uke Suryachandram, Tellam Bala Raju and Modiyam Srinivasa Rao as their personal property, are handed over to the concerned on 3-7-99, 1-7-99 and 2-7-99 respectively, after release from judicial custody in Cr.No.64/98 of Jeelugumilli P.S. The allegation of the petitioner that the Director of Petitioner's Society was purposely implicated as accused no.1 in Crime No.42/97 even though he was no way connected with the crime is not correct and denied.
15. The allegation of the petitioner in Para-6 of the reply affidavit that Tellam Krishnaveni is not an active worker of petitioner society and is not involved in several Criminal cases is not correct. In fact, the said Tellam Krishnaveni is involved in several Criminal Cases of Jeelugumilli P.S. namely in Cr.Nos. 45/2000(A-16), 49/2000(A-22), 42/97(A-18), 4/2001(A-13), 34/2000(A-10), 44/2000(A-12), 58/2000(A-18), 86/2000(A-16), 82/2000(A-9), 87/2000(A-13), 9/2001(A-1), 106/96(A-5), 11/97(A-13), 44/97(A-6), 44/98(A-6), 30/97(A-1), 45/97(A-6). She was arrested by S.I. of Police, Jeelugumilli P.S. in Cr.NO.45/2000 and 49/2000 on 6.2.2001 and she was sent to Judicial remand and at present she is in Central Jail, Rajahmundry. Further, the petitioner's society is maintaining a Joint Account in the name of Tellam Krishnaveni and Uke Suryachandra Rao in Andhra Bank Branch,

Jangareddigudem in Account No.16471 in the name of 'SAKTI' Girijana Swachanda Seva Sangham. Police never supported the non-tribal in cases which are of civil nature. It is relevant hereto mention that the allegation of the petitioner society that its organization was never commented upon adversely by any one is not correct. In fact, a case in Cr.No.15/2001 u/s 420 and 406 r/w 34 IPC was registered against P.Sivaramakrishna at Jeelugumilli P.S. basing on the report given by one Smt. Tellam Muthamma, w/o.Laxmudu of Pathacheemalavarigudem village of Jeelugumilli mandal for the mis-use of society funds and other activities of the society. One receipt of the above said complaint and after registering the above said case, the office records of the petitioners organization were seized under the cover of panchanama. The police never foisted any false case against the supporters of petitioners organization.

16. In reply to para-5 of the third party affidavit I submit that it is not correct to state that the police filed hundreds of Criminal cases against Tribals for trespass into the land of non-tribals without invoking procedure under section 145 Cr.P.C. Police never registered cases against tribals in connection with land grabbing agitation independently. In fact, whenever the non-tribals approached police with specific allegations regarding land disputes, Police used to approach the revenue authorities and then only registered the cases against tribals for their criminal trespass if the said non-tribal is having valid patta to his land.
17. In reply to para 7 of the third party affidavit, I submit that, one Sri Hotha Sreerama Chandra Murthy and his associates attacked the tribals of Munugopula village of Polavaram Mandal in the month of March, 96 but not in the month of May, 96 as alleged by the deponent. The said incident was registered a case in Cr.No. 12/96 u/s 147, 148, 452, 427, 324, 363 r/w 149 IPC and Sec. 3 of SC & ST(PA) Act, 1989 at Polavaram P.S. against the said Sri Hotha Sreerama Chandra Murthy and 49 associates. The said case was charge sheeted on 21-6-96 in the Hon'ble Court of Additional District Judge, W.G. District, Eluru and the same is pending trial.
18. In reply to para-8 of the third party affidavit I submit that the allegation of the petitioner that the non-tribal land lords attacked the Tribals at Busarajupalli village of Buttaigudem Mandal on 5-8-96 is not correct and denied. In fact Busarajupalli is a small village situated near Buttaigudem village of Buttaigudem Mandal. The Scheduled Caste people and small ryots of non-tribals are having about 50 acres of patta land and some extent of 'D' Form Patta lands in small bits at Busarajupalli village. During the year 1996 the Tribals of Busarajupalli tried to grab the above said 'D' form patta lands including patta lands from SCs and small non-tribal ryots. Then the non-tribals and SCs approached the Revenue authorities along with Tribal and non-tribals elders. At that time the revenue authorities declared that the SCs and non-tribals ryots are having the 'D' form pattas and they have a right to cultivate the lands. While matters stood thus on 5-8-96 the SCs and non-tribal ryots started cultivation in the above said lands. Then the tribals of Busarajupalli, Vankavarigudem, Panduvarigudem, Barrinkalapadu, Chimalavarigudem etc., villages nearly 1000 in number, armed with bows and arrows, knives and sticks came to the Busarajupalli fields and obstructed the cultivation in those lands. Then on the request of SCs and small non tribal ryots, the elders of Buttaigudem village, Karatam Rarnbabu and some others visited the Busarajupalli lands to settle the dispute peacefully. But the Tribals demanded the presence of Revenue authorities. Then the non-tribal elders sent a word to the R.D.O., Kovvur and M.R.O., Buttaigudem who said to have been visited ITDA, K.R. Purarm. But they did not visit Busarajupalli and instructed the Tribals, non-tribals and SCs to attend M.R.Os Office at Buttaigudem. All of a sudden the tribals attacked the non-tribal leaders and SCs with a view to kill them and caused severe injuries to them. The above incident was registered as a case in Cr.No. 63/96, u/s 147, 148, 324, 307 r/w 149 and 109 IPC of Buttaigudem P.S. The said case is pending trial vide PRC No. 13/96 on the file of the Sub-Divisional Magistrate, Kovvur. it is relevant to mention that in the said incident none of the tribals were injured to register a case against the non-tribals.
19. In reply to para 9 of the third party affidavit I submit that the non-tribals set fire to the Mandal Revenue Office of Jeelugumilli Mandal on 6-6-96 and burnt the office

records. The said incident was registered as a case in Cr.No. 69/96, u/s 143, 452, 353, 435, 427, 506(2) r/w 149 IPC of Jeelugumilli P.S. against non-tribal agitators and the same was pending trial vide C.C.No. 255/97 on the-file of Hon'ble Sub-Divisional Magistrate's Court at Kovvur.

20. In reply to para 15 of the third party affidavit I submit, now the post of Deputy Superintendent of Police, Task Force is not existing at Jangareddigudem Sub-Division.
21. In reply to para 16 and 17 of the third party affidavit I submit that T. Narasapuram Mandal is not a scheduled area. The Land Regulation Act 1 of 70 is not attracted to T. Narasapuram Mandal. But the tribals of Bochuletikoyagudem, Maliappagudem, Kannappagudem etc., villages used to trespass into the patta lands of non-tribal ryots and threatening them with dire consequences by showing arrows and bows, knives etc., and obstructing them in cultivating their lands. In this connection a case in Cr.No. 8/99 u/s 147, 148, 447, 324, 307 r/w 149 IPC of T.Narasapuram Police Station was registered against the above said tribals for their attack against the non-tribal riot by name Kalneedi Satyanarayana of Sriramavaram of T. Narasapuram Mandal. In this case a total number of 25 accused were arrested on 30-1-99 in the fields of Bochuletigudem and produced them before the Hon'ble Judicial First Class Magistrate Court, Chintalapudi for judicial Custody. In other instance, the tribals of Bochuletikoyagudem, Maliappagudem, Kannappagudem and other villages planted palmyrah leaves in the patta lands of Kalneedi Durga Rao and other non-tribal ryots and prevented them from cultivating their patta lands in an extent of Ac.200 at Epugunta Revenue Village. When the non-tribal ryots questioned them, the tribals threatened them with dire consequences. The said incident was registered as a case in Cr.No. 7/99 u/s 147, 447, 427, 506(2) IPC of T. Narasapuram Police Station and 9 accused tribals were arrested and sent for judicial remand. The allegation that the police committed atrocities against the STs in the above incidents is not correct. In fact, the police arranged pickets in those areas to prevent law and order problem.
22. In reply to para 18 of the third party affidavit, I submit that on 23-4-99 the tribals of Bochuletikoyagudem, Maliappagudem, Ramammagudem, Kannappagudem had formed themselves into an unlawful assembly and obstructed non-tribal ryot Tammiseti Nageswara Rao while he was trying to bring his paddy from the fields. Then he returned to the Sriramavaram village and brought his neighboring ryots to bring the paddy from his fields. When the non-tribal ryots reached the vacant land of Kalneedi Nagaraju of Sriramavaram, tribals of Bochuletikoyagudem, Mallappagudem and Ramammagudem etc., villages attacked the non-tribals with bows and arrows, knives and sticks. In said incident the arrows shot by the Tribals pierced the chest of one non-tribal ryot Kalneedi Ramachandra Rao and caused his instantaneous death and also caused severe injuries to some other non-tribal ryots. The above said incident was registered as a case in Cr.No. 25/99 under sections 147, 148, 307, 302 r/w 149 IPC and Sec. 27 of I.A. Act was registered at T. Narasapuram P.S. against the accused Tribals. A case in Cr. No. 26/59 u/s 147, 148, 307, 324 r/w 149 IPC of T. Narasapuram P.S. was also registered against the non-tribals and the same was referred as a mistake of fact as the tribals are proved as aggressors in the said incident.
23. The allegations made in para 19 of the third party affidavit are totally false and baseless and the same is invented only for the purpose of this case. The allegation that the Police personnel under the leadership of DSP Syamprasad beat the tribals of Jeelugumilli Mandal on 25-4-99 after occurrence of the offence in Cr.No. 25/99 of T. Narasapuram P.S. at Bochuletikoyagudem village is not correct and denied. The Police never abused the tribal ladies in filthy language. It is also not correct that Madakam Sessa Rao and Potta Sankar Rao who are accused in Cr.No. 42/97 were permitted to do illicit trade in arrack. On 5-5-99 the Medical Camp was conducted by the Police in the presence of Newspaper reporters and other elders of the society. Hence the allegation made in this regard is false and baseless. Further, the other allegations made in this paragraph are totally false and denied. The Petitioner is put to strict proof of the same.

I submit that there are no merits in the Writ Petition and it is liable to be dismissed.

For the reasons stated above, I pray that this Hon'ble court may be pleased to dismiss the Writ Petition.

Deponent

Sworn and signed before me on this the 2nd day of February 2001 at Hyderabad.

Before me

Attestor

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD
(SPECIAL ORIGINAL JURISDICTION)

MONDAY, THE EIGHTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT :
THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE
AND
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No.11543 of 1999

Between:

SAKTI, a Voluntary Organisation working for the upliftment of Tribals
(Regd.No.76/85), Rampachodavaram, E.G.Dt., repled. by its Director.
... PETITIONER

AND

1. State of A.P. repled. by its Chief Secretary to Govt.,
Govt. of A.P. Sectt. Buildings, Hyderabad.
2. The District Collector & Agent to Govt. W.G.Dt., Eluru.
3. The Superintendent of Police, W.G.Dt., Eluru.
4. The Dy. Superintendent of Police, (Task Force for Jeelugumilli Mdl.),
Jangareddygudem, W.G.Dt..

... RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction more particularly one in the nature of WRIT OF MANDAMUS directing the first respondent: (1) to appoint an Officer, inspiring confidence in accordance with Sec.21 of S.C & S.T (prevention of Atrocities) Act, 1989 for initiating prosecution for contravention of the provisions of the scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and for ensuring safety to the S.Ts residing in Jeelugumilli, Buttayagudem, Polavaram, T.Narasapam and Gopalapuram Mandals of W.G. Dist. (2) to provide adequate legal aid to the persons subjected to atrocities, to enable them to avail justice and consequently declare that the peaceful agitation and awakening campaign of the petitioner organisation and followed by S.Ts for restoration of lands belonging to S.Ts in the furtherance of the prevention of atrocities under S.C & S.T. (Prevention of Atrocities) Act, 1989.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following :

ORAL ORDER (Per Hon'ble the Chief Justice)

This petition was filed on 7th June, 1999 seeking writ of mandamus directing the respondents to appoint an officer in accordance with Section 21 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for initiating or exercising supervision over prosecutions for the contravention of the provisions of the said Act. Taking note of the grievance made in the writ petition, on the last date, the respondents were directed to state as to what action had been taken in that behalf.

Learned counsel for the respondents has drawn our attention to the provisions of A.P. State Commission for Scheduled Castes and Scheduled Tribes Act, 2003, Act No.9 of 2003 and the notification issued thereunder on 7th November, 2003 constituting a Commission viz., A.P. State Commission for Scheduled Castes and Scheduled Tribes. The said Commission, under the provisions of the Act No.9 of 2003, is to discharge such functions as are envisaged under Section 12 of the said Act which are comprehensive enough. What is envisaged in clause (iv) of sub-Section (2) of Section 21 of the 1989 Act is also one of the functions of the Commission viz., to make recommendations with a view to ensure effective implementation and enforcement of all safeguards under the Protection of Civil Rights Act, 1955 and also under the 1989 Act. The other functions also include evaluating the working of various safeguards under the 1989 Act and to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution of India or in any other laws. There is no manner of doubt that the grievance spelt out by the petitioner can very well be agitated before the said Commission and in view of the fact that the Commission has since been constituted, we cannot issue further direction as prayed for in the writ petition. With leave and liberty granted to the petitioner to approach the Commission for redressal of its grievance, the petition is closed.

Sd/- C.V.RAMA KRISHNA
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

- 1 Chief Secretary to Government, Govt. of A.P., Secretariat Buildings, Hyderabad.
- 2 The District Collector & Agent to Govt., West Godavari Dist., Eluru.
- 3 The Superintendent of Police W.G.Dist., Eluru.
- 4 The Dy. Superintendent of Police (Task Force for Jeelugumilli Mdl.)
Jangareddygudem W.G.Dist.
- 5 2 CCs to the Advocate General, High Court Buildings, Hyderabad (OUT).
- 6 2 CD copies.
7. One cc to Mr.A.Ramalingeshwara Rao.Advocate (OPUC) TRK

BRIEF NOTE ON W.P.NO.11543 OF 1999

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

W. P. No. OF 1999

There was unrest in Tribal areas of West Godavari District in Andhra Pradesh consequent to the demand of the tribal for restoration of the land from the hands of non-tribals. The police were taking the side of non-tribals, terrorised the tribals, committed atrocities and foisted false cases against them and the volunteers of the Sakti. The Hon'ble High Court, through PIL, issued directions in W.P.No.15598 and 17119 of 1997 for the early disposal of cases pending against the police before the Special Court constituted under the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989. The police, who were accused in the cases themselves are the investigators in the cases and they were closing them on the ground that no one is coming forward in support of the complaints.

The SC & ST(Prevention of Atrocities) Act, 1989 provides for punishment for atrocities, the definition of which includes wrongful occupation or cultivation of land owned by Schedule Tribes Section 21 of the Act provides for appointment of officer for initiating or exercising supervision over prosecution for the contravention of the provisions of the Act. Surprisingly, though the Act came into force on 30.1 1990, no officer has been appointed as provided in the said Act In the background of the unrest, Sakti filed W.P.11543 of 1999 seeking the following reliefs:

1. To appoint an officer inspiring confidence in accordance with Sec.21 of S.C. & ST. (Prevention of Atrocities) Act, 1989 for initiating prosecution for contravention of the provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and for ensuring safety to the Scheduled Tribes residing in Jeelugumilli, Buttayagudem, Polavaram, T.Narasapuram and Gopalapuram Mandals of West Godavari District.;
2. To provide adequate legal aid to the persons subjected to atrocities, to enable them to avail justice:

and consequently declare that the peaceful agitation and awakening campaign of the petitioner organization and followed by Scheduled Tribes for restoration of lands belonging to Scheduled Tribes is in furtherance of the prevention of atrocities under S.C. & ST. (Prevention of Atrocities) Act, 1989 and pass such other further orders as this Hon'ble Court may deem fit in the circumstances of the case.

The Government could not be a satisfactory reply but pressed into service the A.P.State Commission for Scheduled Castes and Scheduled Tribes Act, 2003 and the Division Bench, without going into the various allegations in the writ petition, closed the same with liberty to approach the Commission for redressal of grievance.

It is clear that the provisions of Central Enactment of 1989 can not be compared with the provisions of the State Enactment of 2003. The provisions of 2003 enactment can not be an answer for the reliefs sought in the writ petition. Moreover, the term of the Commission for only period of three years. The Commission can not discharge the functions of the officer contemplated under Section 21 of the Act. The Hon'ble High Court should have taken a serious note of the situation, more so, in view of the earlier directions issued in this regard.

Keeping in view the above points and other points raised in the writ petition, an appropriate petition may be moved in the Hon'ble Supreme Court of India.

- Sri A.Ramalingeswararao

Between:
SAKTI, a voluntary social organization
Working for the upliftment of Tribals
(Regd. No. 76/85), Rampachodavaram,
East Godavari District, represented
By its Director, Dr. P. Sivaramakrishna

PETITIONER

AND

State of Andhra Pradesh, rep, by its
Chief Secretary to Government,
Government of Andhra Pradesh,
Secretariat Buildings,
Hyderabad and others

RESPONDENTS

AFFIDAVIT FILED ON BEHALF OF THE PETITIONER

I, B. V Ramana, son of Narasimhulu, Hindu, aged about 30 years, field incahrge, Sakti, resident of Rampachodavaram, East Godavari District, having temporarily come down to Hyderabad, do hereby solemnly and sincerely affirm and state as follows:

1. I am the Field in charge of West Godavari District of the petitioner organization and as such I am well acquainted with the facts of the case. I am authority to file this affidavit on behalf of the petitioner organization.
2. I submit that the petitioner organization was registered as a society under the societies Registration Act, 1860 on 25-2-1985 with registration No. 76 of 1985. the society was formed by Dr. P. Sivaramakrishna, who did research in 'TRIBAL SONGS OF ANDHRA PRADESH' and obtained the Degree of Doctor of philosophy from Osmania University. SAKTI (society for Action and knowledge through Tribal Initiative) works for improvement of the living conditions of the Tribals in Andhra Pradesh in general and in the Districts of East Godavari, West Godavari and Khammam in particular. The main objectives of the society is the upliftment of Tribals, maintenance of ecological balance, protection of environment, prevention of illegal land transfers in Scheduled Areas etc. The Society is financially supported by the International and National organizations like OXFAM INDIA TRUST, BREAD FOR THE WORLD, HIVOS, ECHO etc. It extends its organizational support to Integrated Tribal Development Agency and other Governmental and non-governmental organizations working in the Scheduled areas. I submit that the petitioner Society Campaigns for the rights of tribals in a peaceful and legal way and I submit that the times in public interest in general and in the interest of the Tribals living in the Scheduled Areas in particular. I submit that the present Writ Petition is being filed in the interest of the Tribals living in West Godavari District and as an in charge of that District I am well acquainted with the subject matter of the present Writ Petition and hence deposing to this affidavit. The locus standi of he petitioners to maintain the Writ Petition in the interest of Tribals and for protection of ecology was upheld by a Division Bench of this Court in a decision reported in 1992 (2) ALT 514.
3. I submit that the petitioner society created awareness among the Tribals about their rights in the land and the provisions of welfare legislations like A.P. Scheduled Areas Land Transfer Regulation, 1959 meant for them in the Scheduled Areas and the Tribals in West Godavari started asserting their rights and protesting against the injustice done to them by the non-tribals. The Tribals have been . IS1 peacefully agitating for restoration of their lands occupied by the non-tribals in West Godavari District for the last five years and when no concrete steps have been taken by the Government, the

petitioner Society filed W. P. 7916 of 1997 seeking a direction for distribution of land to the Tribals in Jeelugumilli, Buttaigudem and Polavaram mandals of West Godavari District. This Hon'ble Court issued several directions as contained in the decision reported in 1998 (1) Alt 680. A division Bench of this Hon'ble Court also issued several directions with regard to the land problems in the Scheduled Areas of West Godavari District in W. P. No. 14516 of 1997 dated 28-07-1997. But these courts orders have also not been implemented so far. On the other hand, the police have been terrorizing the Tribals in the guise of protecting the lands of the non-tribals and spreading disinformation regarding the activities of the petitioner organization in order to wean away the Tribals from associating with the Petitioner organization.

4. I submit that in West Godavari District, the Scheduled Area covers three Mandals, Viz., Polavaram, Buttayagudem and Jeelugumilli. There are 101 villages as indicated below in these Mandals.

S. No	Mandal	Total Villages	Scheduled Villages
1.	Polavaram	23	19
2.	Buttayagudem	53	53
3.	Jeelugumilli	29	29
Total		105	101

I submit that the total population in these three Mandals is 92,479 according to 1991 Census and out of the said population, the Tribal population is 36,768 (40%). I submit that the Agency Tracts Interest and Land Transfer Act, 1917 is the earliest legislation placing restrictions on the transfer of land in the Agency tracts of Godavari Agency and subsequently when it was noticed that the said enactment is not able to arrest the illegal transfer of lands from the Tribals, the 'A.P. Scheduled Areas Land Transfer Regulation, 1959' was upheld by the Hon'ble Supreme Court in the decision reported in Air 1988 SC 1626.

5. I submit that during the present agitation for the restoration of the land lawfully belonging to the Tribals, the police authorities, instead of helping the Tribals from the atrocities committed by the non-tribals, have been high handedly acting and becoming the perpetrators of those brought to the notice of this Hon'ble Court in 1997, this Hobbler court took cognizance of the same by treating the complaint as W. P. No. 15598 and 17119 of 1997, this directions on 16-10-1997 for the early disposal of the cases pending against the police before the Special Court constituted under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. But so far none of the cases have been disposed of even though six months time was specified there in. I submit that the police have increased their strength in the Agency area to terrorize the innocent Tribals and protect the interest of the non-tribals at the instance of the local political leaders who had the support of a Cabinet Minister. For example in Narsugudem village of Jeelugumilli Mandal, Pattas were given to the tribals an extent of Ac. 140.00 after disposal of case under the provisions of A. P. S. L. T. R. Act, 1959 but the non-tribal was allowed to continue in possession of the land for the last two years.

6. I submit that the parliament has enacted "The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The definition of "atrocities" includes wrongful occupation, cultivation of any land owned or allotted or to be allotted to him transferred; wrongfully dispossesses a member of Scheduled Tribe from his land or premises or interferes with enjoyment of his rights on any land, premises or water; gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to injury or annoyance of a member of a Scheduled Tribe; assaults or uses force to any women belonging to Scheduled Tribe with intent to dishonor or outrage her modesty; forces or causes a member of Scheduled Tribe to leave his house, village or other place of residence. I further submit that section 8 provides that in a prosecution for an offence, if it is proved that a group of persons committed an offence under Chapter II and it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object. Section 9 (2) provides that all officers of police and all other officers of

Government shall assist the officer designated for the purpose of arrest, investigation and prosecution persons before any special court. Section 21 casts a duty on the State Government to take such measures as may be necessary for the effective implementation of the provisions of the Act in general and providing adequate facilities including legal aid, providing traveling and maintenance expenses investigation and tribal of offence under the Act, providing for the economic and social rehabilitation of the victims of the atrocities in particular.

7. I further submit that the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 provides for the encouragement of Non-Government organizations for establishing and maintaining Awareness centres and organizing workshops and provide them necessary financial and other sorts of assistance. The Rules also provide for the detailed procedure for investigation and measures for safeguarding the interests of victims of atrocities.

8. I submit that a perusal of the above provisions of the S.C & S.T. (Prevention of Atrocities) Act, 1989 and the rules framed there under read with the Fundamental rights guaranteed under the Constitution of India clearly recognize that it is legitimate to agitate peacefully for the rights of the people including the land rights of the Scheduled Tribes. The Government is under an obligation to provide necessary assistance and aid even by taking the assistance of a non-governmental organization in protecting the interest of the Scheduled Tribes. In an agitation involving thousands of Scheduled Tribe people, sometimes the agitation may turn violent and lead to stray incidents of violence also. But in those circumstances, the Police, instead of maintaining the neutrality expected of them and going strictly according to law have been biased in favour of the non-tribals and terrorizing the innocent tribals. I submit the following incidents during the last three years would clearly show the highhanded and illegal acts of the police.

(a) The police looted five houses in the tribal hamlets of Panduvarigudem and Pathacheemalavarigudem in Jeelugumilli Mandal on 20-31-1997 and took away whatever little valuables available with them in the guise of arresting the tribals wanted in connection with certain cases.

(b) On 30-6-1997, there was a scuffle between the tribals and the non-tribals and one tribal by name, Simhadri Gopala Rao attacked a tribal of Cheemalavarigudem by name, Padam Mutyalu with a sword with an intention to cut his head but he escaped with a major injury. The tribals retaliated in self defence and the non-tribal, S. Gopala Rao died. As a sequel to the said incident, the police raided Panduvarigudem, Sirivarigudem and Cheemalavarigudem villages and indiscriminately beat the tribals and sent many tribals including many women to the Central Jail, Rajahmundry. I submit that in connection with the said incident, several complaints were filed against the Police in the Special Court under S.C & S.T. Act, Eluru in 1997 but they have not yet been disposed inspite of directions from this Hon'ble Court in W. P. No. 15598 and 17119 of 1997 dated 16-10-1997.

(c) Recently from 24-4-1999 to 19-5-1999, the Police swooped on Tapasivarigudem, Vankavarigudem, Sirivarigudem villages and Barrenakalapadu colony of Jeelugumilli Mandal and Kannappagudem, Mallappagudem, Bocchuvetikoyagudem of T. Narasapuram Mandals took in to custody indiscriminately many tribals who are not connected with any crime and bet them black and blue. Following are the specific instances:

(i) One M. Sankur Rao was a student of Intermediate studying on A.P.R.J. C., Rampachodavaram and after attending one examination, he returned to his native village as he was sick. He was arrested by the Circle Inspector of Police, Jangareddygudem and was implicated in a criminal case.

(ii) One Vuka Suryachandram was attending the 10th day ceremony of Naram Gangulu in Tapasivarigudem and he was taken away by the Police and brutally manhandled and was day in Jangareddygudem and was produced before the Revenue Divisional Officer, Kovvur. One Hero Puch Moped bearing No. AP 5D 6090 with him was also taken away..SII

(iii) On 25.04.1999 when the tribals of Tapasivarigudem along with their neighbouring villagers assembled in connection with obsequies and prepared food for nearly 100 people, the Police raided the place and indiscriminately beat all the people assembled there and they had their food with their mouthful and damaged rest of the food. They have also taken away the provisions and other eatables along with them apart from taking one Transistor radio of Moduyam Nageswara Rao.

(iv) The police people led by Deputy Superintendent of Police (Task Force), Jangareddigudem went to Vankavarigudem on 25.04.1999 and taken away (9) bid size bed sheets, (2) steel water vessels, (3) Steel Plates, (2) Cocks, (1) Hen and a bag of pulses from the house of one Smt. Madakam Lakshmi. She escaped the wratch of the police as she ran away from the house after seeing the police. In the same village they went to the house of one Kunja Ramulu and they have taken away his Philips Radio. They have also damaged 100 Sericulture Units supplied by the project officer, Integrated Tribal Development Agency, K.R. Puram and 30"pipes of 600ft., available there. These damage operations were personally supervised by the Deputy Superintendent of Police (Task Force) and they were damaged by using their police van.

(v) On 26.04.1999 the police went to Sirivarigudem village of Jeelugumilli Mandal and took away three bags of Cashewnut belonging to Madakam Somaraju. On the same day they went to Patha Cheemalavarigudem and noticed a tribal named Yerrayya listening to the songs in the radio while grazing his cattle and they have taken him along with the radio in the van.

(vi) In the early hours of 25.04.1999 the Police came in a van to Barrenkulapadu colony of Jeelugumilli Mandal and beat Pandam Jogiraju, Samithi Lakshmana Rao and Madivi Ganga Raju while they were sleeping and before they came to know about the presence of the Police, they were loaded in to the van and were taken away.

(vii) The Police have also raided the villages of Kannappagudem, Mallappagudem, Bokkamsetti Koyagudem and other Gudems of T. Narasapuram Mandal and indiscriminately beat all the tribals without caring for their age and sex.

I submit that the earlier D.S.P. as well as the present S.S.P. was threatening are Thellam Krishnaveni, wife of Yerraiah to rape her and in fact on 26-4-99, her husband was taken away asking him to bring his wife. The Police who are supposed to be the guardians of law have been taking law in to their hands. They have arrested several innocent tribals in the guise of arresting tribals named in the Cr.No. 63 & 64/98 of Jeelugumilli Police station. They are creating terror in the area and the tribals are leaving their houses and belongings. I submit that during the raids on 25.04.1999 in the Gudems of Jeelugumilli Mandal, the police have taken away the following vehicles from the custody of the persons mentioned against each:-

- | | |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Sri B. V. Ramana | ..AP 5F 9507 Kawasaki KB 4S
Along with a camera, one
Watch, Bank passbook
and one pair of clothes kept in
the box of the motorcycle. |
| 2. Sri Suryachandra Rao | ..AP 5D 6090 Hero Puch |
| 3. Sri Modiyam Babu Rao | ..AP 5D T. V. S. Champ |
| 4. Sri T. Papa Rao | ..AP 5A 8898 T. V. S. Champ |
| 5. Sri Modiyam Sreenivas | .. AP 5Q 3229 Hero Honda Splender |

I further submit that after seeing the bank pass book of having Rs. 37,000/-, the police pressurized Vooka Suryachandra Rao to withdraw the amount and give it to them. Since Smt. Tellam Krishnaveni who was the joint account holder was not traceable to the police, they have pressurized the said Suryachandra Rao to obtain her signature also and handover the money to the Deputy Superintendent of Police (Task Force), Jangareddigudem. The Deputy Superintendent of Police held a meeting on 23.05.1999 in Vankavarigudem and Sirivarigudem and threatened the public not to associate themselves with the petitioner organization or the active persons leading the land agitation failing

which they will be shot in the encounter. He also advised them to give him Rs. 10.00 lakhs so that he can solve the land problems by obtaining appropriate orders from the Courts. He abused the petitioner organization and its leaders. Thus I submit that, as per the news reports, since 1994, 423 cases were booked against 8780 tribals out of whom 1283 were arrested. The cases booked against the tribals and non-tribals are as follows:-

S.No	Year	No. of cases booked against tribals	No of cases booked against non-tribals
1.	1994	6	N. A
2.	1995	21	N. A
3.	1996	55	6
4.	1997	105	4
5.	1998	207	4
6.	1999	29	1

10. I submit that though the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides that the illegal occupation of land belonging to a tribal by a person other than Scheduled Caste and Scheduled Tribe is an atrocity, the Police authorities have been terrorising innocent tribals when they are agitating for restoration of their lands from the illegal occupation of the non-tribals. As already stated above, the Task Force Police have been mercilessly beating the tribals and looting their property without any respect for law and the vehicles seized on 25.04.1999 have not yet been released so far nor any Panchanama was conducted. I submit that the Code of Criminal Procedure provides for appropriate action for protection of the disputed lands and the Police instead of taking recourse to the procedure provided under Sec. 145 of Cr. P. C. or its equivalent provisions in the Code of Criminal Procedure of 1908 which is applicable to the Scheduled areas. Police have been booking cases under Indian Penal Code against the tribals in order to terrorise them. All the offences alleged relate to land disputed and they are quasi-criminal in nature, I submit that the various cases initiated by the tribals before the Special Courts under S.C. & S.T. (Prevention of Atrocities) Act, 1989 have not yet been disposed of even after lapse of two years. Nobody is evincing interest since investigators themselves have been accused of the offences. The Government which is under an obligation to render service to the tribals is blind to the vows of he tribals and has been going out of way in helping non-tribals in retaining possession over the land illegally under their occupation due to political influence. I submit that these matters are of serious concern to a large section of people in the three Mandals of a prosperous district in the state of Andhra Pradesh. Due to the inaction of the Government, innocent tribals are facing untold misery and hardship at the hands of the Government through its Task Force Police. I submit that the police have been authorisely retaining custody of the vehicles forcibly taken away by them on 25.04.1999 and it is just and necessary to order their release to the respective persons pending disposal of the above writ petition.

11. I submit that the tribals have no other effective alternate remedy except to invoke the extraordinary jurisdiction of this Hon'ble Court under Act. 226 of the Constitution of India. The pending has not filed any suit and no other proceeding is pending for the relief prayed here in.

For all the aforesaid reasons it is therefore prayed that this Hon'ble Court may be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of WRIT OF MANDAMUS directing the first respondent

- To appoint an officer inspiring confidence in accordance with Sec. 21 of S.C & S.T (Prevention of Atrocities) Act, 1989 for initiating prosecution for contravention of the provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and for ensuring safety to the Scheduled Tribes residing in Jeelugumilli, Buttaigudem, Polavaram, T. Narasapuram and Gopalapuram Mandals of West Godavari District;
- To provide adequate legal aid to the persons subjected to atrocities, to enable them to avail justice;

And consequently declare that the peaceful agitation and awakening campaign of the petitioner organization and followed by Scheduled Tribes for restoration of lands belonging to Scheduled Tribes is in furtherance of the prevention of atrocities under S.C

& S.T (Prevention of Atrocities) Act, 1989 and pending disposal of the above writ petition to AP5F 9507 Kawasaki KB 4S to B. V. Ramana, AP 5D 6090 Hero Puch to Vuka Suryachandram, AP 5D 3473 TVS Champ to Modium Baburao, AP 5A 8898 TVS Champ and AP 5Q 3229 to T. Paaparao, Hero Honda Splendor of A. p. 5Q 3229 to Modium Srinivas and pass such other and further order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

DEPONENT

Solemnly affirmed and signed his
Name in my presence on this the
Day of June, 1999

Before me

Advocate: Hyderabad

MEMORANDUM OF WRIT PETITION
UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

(SPECIAL ORIGINAL JURISDICTION)

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

W. P. No. 11543 of 1999

Between:-

SAKTI, a voluntary social organization
Working for the upliftment of tribals
(Regd. No. 76/85), Rampachodavaram,
East Godavari District, represented
By its Director, Dr. P. Sivaramakrishna

PETITIONER

And

1. State of Andhra Pradesh, rep, by its
Chief Secretary to Government,
Government of Andhra Pradesh,
Secretariat Buildings,
HYDERABAD

2. THE District Collector &
Agent to Government,
West Godavari District,
ELURU.

3. The Superintendent of Police,
West Godavari District,
ELURU

4. The Deputy Superintendent of Police,
(Task Force for Jeelugumilli Mandal)
JANGAREDDYGUDEM, W. G. DISTRICT

RESPONDENTS

The address for service of all notices and summons on the above named petitioner is that of its Counsel, Sri. A. Ramalingeswara Rao, Advocate, No. 3-6-550/5, 2nd Floor, 7th Street, Himayannagar, Hyderabad-500 029.

For the reasons stated in the accompanying affidavit, the above named petitioner prays that this Hon'ble court may be pleased to issue an appropriate Writ Order or Direction, more particularly one in the nature of WRIT OF Mandamus directing the first respondent

1. To appoint an officer inspiring confidence on accordance with Sec. 21 of S.C & S.T. (Prevention of Atrocities) Act, 1989 for initiating prosecution for contravention of the provisions of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 and for ensuring safety to the Scheduled Tribes residing in Jeelugumilli, Buttaygudem, Polavaram, T. Narsapuram and Gopalapuram Mandals of West Godavari District;
2. To provide adequate legal aid to the persons subjected to atrocitied, to enable them to avail justice;

And consequently declare that the peaceful agitation and awaking campaign of the petitioner organization and followed by Scheduled Tribes for restoration of lands belonging to Scheduled Tribes is in furtherance of the prevention of atrocities under S.C

& S.T (Prevention of Atrocities) Act, 1989 and pass such other further orders as this Hon'ble Court may deem fit in the circumstances of the case

HYDERABAD
7-6-1999

COUNSEL FOR PETITIONER

WEST GODAVARI DISTRICT
HIGH COURT OF ANDHRA PRADESH
HYDERABAD

W. P. No 11543 of 1997

MEMORANDUM OF WRIT PETITION

A. RAMALINGESWARA RAO (47)
COUNSEL FOR PETITIONERS

IN THE HIGH COURT OF JUDICATURE :: ANDHRA PRADESH
AT HYDERABAD

W. P. No. 11543 of 1999

Between

“SAKTI” Voluntary Social Organization
Workshop for the upliftment of tribals
Rampachodavaram, E. G. District, rep: by its Director
P. Sivaramakrishna

Petitioner

And

The state of Andhra Pradesh,
Rep: by the Chief Secretary,
Secretariat, Hyderabad and others

COUNTER AFFIDAVIT OF THE RESPONDENT NO.3

I, Kripanand Tripati Ujela, Son of Sri M. N. Tripati, aged about 32 years, Occ: Service, residing at Eluru, W. G. District, do hereby solemnly and sincerely affirm and state on oath as follows:

I submit that I am working as Superintendent of Police, West Godavari district since 21-4-2000 and the 3rd respondent here in and as such am well acquainted with the facts of the case basing on the records.

I submit that I read the contents of the affidavit filed in support of the above Writ Petition and also the contents of the Reply Affidavit by the Writ Petitioner and the third party affidavit filed by Sri G. Manohar and I deny all the material allegations made there in, except those that are specifically admitted here under and the petitioner is put to strict proof of the allegations made there in.

I submit that the contention of the Petitioner on para-2 of the affidavit that it campaigns for the rights of the tribals in a peaceful and legal way is not correct. In fact, the Petitioner Society is concentrated more in the land grabbing agitation by instigating the tribals of the agency villages to grab the patta lands of the non-tribals by way of creating terror in their minds by attacking them with the bows and arrows etc.

In reply to the allegations made in para-3 of the affidavit, I submit that contention of the Petitioner that the order passed by this Hon'ble court in W. P. No. 14516/97 dated 28.7.97 are not implemented is not correct. The allegation that the Police have been terrorizing the tribals under the guise of protecting the lands of non-tribals and spreading disinformation regarding the activities of the Petitioner Society is not correct and here by denied. It is submitted that originally the tribals and non-tribals were living together in the Scheduled Area with peace. During the year 1994, the Petitioner Society entered in to the Agency villages and started instigating the tribals to fight against the non-tribals to grab their patta lands by way of creating terror in their minds by attacking them with bows and arrows which are said to be their traditional weapons. The leaders of the Petitioner Society had lead the tribals of the Agency villages of W. G. District to destroy the standing crops of cashewnuts, mango and coconut gardens of non-tribals and also threatened them not to graze their cattle in their own patta lands. The tribals including the leaders of the Petitioner Society are involved in several criminal cases like murders; attempt to commit murders, riotings, criminal trespass, mischief, arson etc at Jeelugumilli, Buttaigudem, Polavaram, Koyyalagudem, Gopalapuram Police Station limits. In fact, the tribals who are most law abiding citizens of Agency Area, have become law breakers at the instance of the Petitioner Society. Further, while participating in the land

SAKTI - SAKTI - SAKTI - SAKTI -