

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.3749 of 2022**

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Bihar Adiwasi Adhikar Forum Through its Patron namely, Pramod Kumar Singh, having its head office at A- 22, R.D. Tower, New Punaichak, P.S. - Shashtri Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The Union of India Through Secretary, Ministry of Tribal Affairs, Govt. of India, New Delhi.
2. The Under Secretary, Ministry of Tribal affairs Govt. of India, New Delhi.
3. The State of Bihar Through its Chief Secretary, Govt. of Bihar, Patna.
4. The Chief Secretary, Govt. of Bihar, Patna.
5. The Principal Secretary, Department of Schedule Caste and Schedule Tribe Welfare, Patna.
6. The District Magistrate, Patna.
7. The Circle Officer, Patna Sadar, Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s	:	Mr. Vikash Kumar Pankaj, Advocate
For the Respondent/s	:	Dr. K.N. Singh, ASG
		Ms. Prakritita Sharma, Advocate
		Mr. Prashant Pratap, GP-2
		Mr. Tuhin Shankar, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**  
**and**  
**HONOURABLE MR. JUSTICE S. KUMAR**  
**ORAL JUDGMENT**  
**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 26-07-2022**

The present writ petition stands filed in the nature of public interest litigation seeking a writ of mandamus for the respondents, namely the Union of India as well as the State of Bihar, for the establishment of Tribal Research Institute in accordance with communication dated 14<sup>th</sup> December, 2017 by



Ministry of Tribal Affairs, Government of India (Annexure-1-  
Page-11).

2. The objective of establishment of such an Institute and the requisite funding therefor was recorded in this Court's order dated 05.04.2022 in the following terms:-

“We also notice that for the establishment and running of the Institute, perhaps, the State Government is not to spend any money, for the funding for the schemes to be undertaken by the Institute is by way of 100% grant-in-aid of the Central Government (Ministry of Tribal Affairs). We also notice that an apex body already stands constituted by the Central Government. The object and the purpose of establishment of the Institute is to interact; identify issues; find solution of the problems issued by the people hailing from the Scheduled Tribes within the State of Bihar. The challenges in the field of socio-economic development of Tribal, undoubtedly, are critical and absolutely imperative for achieving the constitutional goals, as envisaged under Part-4 and Part 16 of the Constitution of India. Emphasingly, we extract Clause 3 and Clause 6 of the aforesaid communication.

“3. **Institutional Mechanism:**

The Ministry of Tribal Affairs (MoTA), Government of India shall be the nodal Ministry for operationalizing the scheme. The scheme shall be a Central Sector Scheme with 100% funding by the Central Government to the TRIs directly or through State Government. A National Level



Institute under MoTA could probably be set up to coordinate the activities of TRIs across the country, and to undertake National Level Activities.

## 6. Funding:

6.1. There is no uniformity of requirements among TRIs. Some of the TRIs have their own building, some others are running in rented building. Similarly, some TRIs have libraries, museums etc. on the other hand some others do not have. It is thus not feasible to lay down a strict criteria for allocation of funds to States. Funding under this Scheme would, however, be 100% grant-in-aid by the Ministry of Tribal Affairs to the TRIs on need basis with the approval of APEX Committee. TRIs would be responsible to prepare proposal and detailed action plan for the year along with budgetary requirement and submit it to the Ministry through State Tribal Welfare Department.

6.2 The proposals shall be accompanied by utilization certificates as per provisions of GFR.

6.3. Item-wise proposed budgetary expenditure shall be clearly spelt out.”

Now, if any project undertaken by the State Government is to be fully funded and financed by the Central Government, we fail to understand as to why for more than four years, the Government has slept over the matter. More so, when it stood pointed out in the very same communication that at least 19 States of the Union of India have already set up such establishment.”

3. Vide order dated 28.06.2022, this Court reminded the State of its Constitutional and statutory obligation to provide a platform for the people from tribal community as well as the



need for taking expeditious decision.

4. Pursuant to the above order, Secretary, Scheduled Caste, Scheduled Tribe, Welfare Department, Government of Bihar filed an affidavit dated 2<sup>nd</sup> July, 2022 stating that such Institute would be established within one month from July 1, 2022 and a proposal for a permanent home for the Institute would be sent to the Central Government within three months. The process was directed to be expedited and the Under Secretary, Ministry of Tribal Affairs, Government of India (Respondent no.2) was directed to take a decision on such proposal within sixty days of its receipt. In light of the directions for expeditious decision on the above stated matter, the learned counsel for the State submitted that the proposal would be forwarded to the Central Government within one month from the date of the order. The relevant part of the order dated 19.07.2022 reads as under:

“We direct that both the processes be expedited. We also direct the respondent no. 2, namely, Under Secretary, Ministry of Tribal Affairs, Government of India, New Delhi, to positively take a decision on such proposal within a period of two months from the date of receipt thereof.

At this stage, Shri Prashant Pratap, learned counsel for the State, states that the proposal shall positively be



forwarded to the Central Government within a period of one month from today.

Statement accepted and taken on record.

Dr. K.N. Singh, learned ASG states that within two months from the date of receipt of proposal, all decision in accordance with law shall be taken.”

5. The Secretary, Scheduled Caste & Scheduled Tribe, Welfare Department, Government of Bihar filed an affidavit in accordance with the above order on 25.07.2022 and while seeking an extension of time as per the liberty granted by the Court vide order dated 28.06.2022, for sending detailed proposal to the Central Government furnished the following tabular chart detailing the probable time required for ‘robust establishment, management and finances of TRI’:-

Sl. No.	Steps	Probable Time
1.	Proposal for creation of posts and its sanctioning for TRI by the Prashasi Padvarg Samiti constituted under the Finance Department.	3 weeks
2	Proposal for approval of establishment of TRI with posts to be placed before the State Cabinet.	3 weeks thereafter
3	Rules to be framed for posts under TRI and its consent by the Pradhikrit Samiti constituted under the General Administration Department	3 weeks
4	Legal vetting of the said rules by the Law Department	2 weeks thereafter



5	Proposal for approval of the appointment rules to be placed before the State Cabinet	3 weeks thereafter
6	Creation of budgetary head by Accountant General through Finance Department	4 weeks
7	Obtaining Budget through demands (supplementary or BCF) or GoI	4 weeks thereafter

6. The prayer made by the Secretary, Scheduled Caste & Scheduled Tribe, Welfare Department, Government of Bihar is hereby acceded to and the time requested for is granted.

7. However, while we are closing this petition on the assurance of the officer of the State that the activities listed in the above tabular chart will be carried out within time, as also that of the learned Additional Solicitor General who had previously stated that an expeditious decision, on receipt of proposal will be taken- we shall be dissatisfied with ourselves if we do not impress upon the State the nature of constitutional obligation it is required to fulfill for the development of, preserving the heritage/culture/ancient methods of the tribal people of India and more specifically the State of Bihar.

8. The Constitutional framework with respect to the tribal people of India has been recorded by Hon'ble the Supreme Court in **Madhuri Patil v. Commr., Tribal Development, (1994) 6 SCC**



**241. Para 9 thereof reads as under:-**

“9. The Preamble to the Constitution promises to secure to every citizen social and economic justice, equality of status and of opportunity assuring the dignity of the individual. The Scheduled Tribes are inhabitants of intractable terrain regions of the country kept away from the mainstream of national life and with their traditional moorings and customary beliefs and practices, they are largely governed by their own customary code of conduct regulated from time to time with their own rich cultural heritage, mode of worship and cultural ethos. The Constitution guarantees to them, who are also Indian citizens, equality before law and the equal protection of law. Though Articles 14 and 15(1) prohibit discrimination among citizens on certain grounds, Article 15(4) empowers the State to make special provisions for advancement of Scheduled Castes and Scheduled Tribes. Article 16(1) requires equality of opportunity to all citizens in matters of appointments to an office or a post under the Union or a State Government or public undertakings etc. But Article 16(4) empowers the State to make provision for reservation of appointments or posts in favour of classes of citizens not adequately represented in the services under the State. Article 46 enjoins the State by mandatory language employed therein, to promote with special care the educational or economic interest of the Scheduled Tribes and Scheduled Castes and to protect them from “social injustice” and “all forms of exploitation”. Article 51-A(h) enjoins every citizen to develop scientific temper, humanism and the spirit of inquiry and reform. Again Article 51-A(h) requires every citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement. It is, therefore, a fundamental duty of every citizen to develop scientific temper and humanism and spirit of inquiry to reform himself in his onward thrust or strive to achieve excellence in all spheres of individual and collective activity. Since the Scheduled Tribes are a nomadic class of citizens whose habitat being generally hilly regions or forests, results in their staying away from the mainstream of the national life. Therefore, the State is enjoined under our Constitution to provide facilities and opportunities for development of their scientific temper, educational advancement and economic improvement so that they may achieve excellence, equality of status and live with dignity....”

9. In various decisions, Hon’ble the Supreme Court has recognized the need for positive steps being taken in furtherance of the development of tribal people, in terms noted in **Madhuri Patil** (supra).



10. In **Sudhakar Vithal Kumbhare v. State of Maharashtra, (2004) 9 SCC 481**, Hon'ble the Supreme Court has acknowledged the struggle and difficulty faced by the tribal persons in the following terms:-

“5.... It is not in dispute that the Scheduled Castes and Scheduled Tribes have suffered disadvantages and been denied facilities for development and growth in several States. They require protective preferences, facilities and benefits inter alia in the form of reservation, so as to enable them to compete on equal terms with the more advantaged and developed sections of the community.”

11. Hon'ble the Supreme Court in **Samatha v. State of A.P., (1997) 8 SCC 191**, taking note of the land mark case, *Minerva Mills Ltd. v. Union of India* made the following observations with respect to the values enshrined in the preamble of the Constitution of India.

“97. In *Minerva Mills Ltd. v. Union of India* [(1980) 3 SCC 625 : (1981) 1 SCR 206] the Constitution Bench had held that the edifice of our Constitution is built upon the concept crystallised in the Preamble. We “the People” resolved to constitute ourselves into a socialist State which carries with it the obligation to secure to the people, justice — social, economic and political. We, therefore, put Part IV into our Constitution containing Directive Principles of State Policy which specifies the socialistic role to be achieved. In *D.S. Nakara v. Union of India* [(1983) 1 SCC 305 : 1983 SCC (L&S) 145 : (1983) 2 SCR 165] (SCR at pp. 187-F to 189-H) another Constitution Bench had dealt with the object to amend the Preamble by the Constitution (42nd Amendment) Act and pointed out that the concept of Socialist Republic was to achieve socio-economic revolution to end poverty, ignorance and disease and inequality of opportunity. It was pointed out that socialism is a much misunderstood word. Values determine contemporary socialism — pure and simple. The principal aim of a Socialist State is to eliminate inequality in income and status and standards of life. The basic framework of socialism is to provide a decent standard of life to the working people especially to provide



security from the cradle to the grave. The less equipped person shall be assured a decent minimum standard of life and exploitation in any form shall be prohibited. There will be equitable distribution of the national cake and the worst off shall be treated in such a manner as to push them up the ladder. The Preamble directs the centres of power, Legislature, Executive and Judiciary — to strive to set up from a wholly feudal exploited slave society to a vibrant, throbbing socialist welfare society under the rule of law though it is a long march, but during the journey to the fulfilment of the goal every State action including interpretation whenever taken, must be directed and must be so interpreted as to take the society towards establishing an egalitarian socialist State, the goal....”

12. The development of tribal persons, while staying true to their culture, ways and heritage is an essential aspect of translating into reality the golden words of the preamble. Justice, economic, social and political can become an actuality only when holistic development takes place, i.e. with efforts on part of the State as also the common citizens. The basic tenet of the Constitution is to ensure that an adequate standard of living and a sense of security is provided to one and all from a cradle to the grave. The tribals of India are as much entitled to this security in keeping with, and suitably modified to fit their ways, as any other person.

13. Hon’ble the Supreme Court in **P. Rami Reddy v. State of A.P., (1988) 3 SCC 433**, in particular reference to education and protection from injustice has noted:-

“14. It cannot therefore be gainsaid that the tribals not only require to be preserved and protected in respect of their economic and educational interest but they also require to be immunized from social injustice and exploitation. The Founding Fathers of the



Constitution of India have in their wisdom and foresight taken cognizance of this vital aspect as is evidenced by the provisions embodied in Article 15(4) [ 15. (4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.] and Article 46 [ 46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.—The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.”] of the Constitution of India.

14. With the obligation under the Constitution of India clearly set out in the terms above, the role and the objective of the Tribal Research Institute sought to be established via this public interest litigation, can be seen in a new light. The Ministry of Tribal Affairs, Government of India explains the objective of establishing TRIs as [a] “research body of the Ministry of Tribal affairs at state level. It is envisaged that TRIs should focus on their core responsibilities as body of knowledge & research more or less as a think tank for tribal development, preservation of tribal cultural heritage, providing inputs to States for evidence based planning and appropriate legislations, capacity building of tribals and persons / institutions associated with tribal affairs, dissemination of information and creation of awareness”.<sup>1</sup>

15. The development of tribal persons, protection of

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<sup>1</sup> <https://tribal.nic.in/TRI.aspx>



heritage, enactment of legislations for their advancement, creation of awareness etc. all are essential facets of the responsibilities enshrined in the Constitution as noted in **Madhuri Patil** (supra) and in furtherance of the goal of social justice and egalitarianism noted in **Samatha** (supra).

16. The Central Government in communiqué dated 14<sup>th</sup> December, 2017 titled as “Operational Guidelines for The scheme "Support to Tribal Research Institutes (TRI), 2017 " details the support to such institutions to be lent by it, but it also sheds light on the activities to be undertaken by such TRIs. It reads as under:-

“4.2 Research & Documentation (including Audio/ Video/ Virtual Reality (VRy Augmented Reality (AR) & new technologies):

(a) Tribal welfare measure

(b) Success stories.

(c) Tribal Profile.

(d) Tribal language, culture, traditions, customs, art & artefacts, traditional medicinal practices, tribal myth & stories, tribal cuisines and other special characteristics and

(e) Monitoring and evaluation of various government interventions.

(f) Development and printing of primers in local tribal languages.

(g) Any other aspects relating to tribal art, tradition and culture

4.3 Training and Capacity building:

(a) Laws/constitutional provisions in respect of Scheduled areas / tribal rights. (including FRA, PESA, Prevention of Atrocity Act, L&RR, Land Acquisition etc.)

(b) Capacity building of functionaries and tribal representatives on socioeconomic programs.

(c) Capacity building of Artisans- Art & craft Metal craft, painting, dance/drama, textiles, handicrafts as well as value addition to art, craft and designs etc. This can include kits and tools etc.

(d) Conducting of Seminars, Conferences, Workshops on



various tribal related issues.

(e) Think tank related activities.

4.4 Many tribal festivals/ yatras etc. are celebrated in States which can be publicized at National Level to attract more tourists, TRIs may propose such festivals/ yatras etc. for supplementary support under the scheme.

4.5 Organizing "exchange of visits by tribals": TRI shall arrange visit to other parts of the State/Country. The visiting groups may comprise of people for various tribes, have adequate representation from women and officials. The objectives should include to get a wider perspective of culture and traditions, to learn about socio- economic development/ best practices of other areas and to see how TRIs can be managed more efficiently and to see how socio-economic development can happen without losing core culture etc.

4.6 Innovative projects /initiatives / activities which can help the tribals or tribal majority area.”

17. In light of the decision of Hon'ble the Supreme Court, having highlighted the obligation of the State and also underscored multifarious activities to be undertaken by a Tribal Research Institute once established, in furtherance and fulfillment of these obligations, we deem it appropriate to close the present petition with the following directions:-

(i) The Government of Bihar is directed to take all measures to comply with the timeline furnished in the Tabular Chart as reproduced supra as also to send a proposal for establishment of Tribal Research Institute to the Central Government with despatch.

(ii) The Central Government and in particular the Ministry of Tribal Affairs to act expeditiously upon the proposal of establishment of such an institute, once



received from the Government of Bihar.

(iii) Liberty reserved to any public spirited person/organization to approach this Court on the same and subsequent cause of action should the need so arise.

18. The writ petition stands disposed of with the aforesaid observations and directions.

19. Interlocutory Application, if any, shall stand disposed of.

20. Let a copy of this order be communicated to the Chief Secretary, Government of Bihar and also other concerned authorities for the needful.

**(Sanjay Karol, CJ)**

**(S. Kumar, J)**

P.K.P./Sunil

AFR/NAFR	AFR
CAV DATE	
Uploading Date	22.08.2022
Transmission Date	

