

Symbolic Victory for Tribals

The Indore Bench of the Madhya Pradesh High Court on 23rd April 2003 quashed an order passed by the Collector of Khargone district on 29th April 2002 externing Chhotelal Bamnia a Barela *adivasi* activist of the *Adivasi Shakti Sangathan* from Barwah *tehsil*, where he used to live, and from residing anywhere in Khargaon and four other contiguous districts for a period of one year under the provisions of the Madhya Pradesh *Suraksha Adhiniyam* (Security Act). The High Court noted in its order that:

→ The government had not been able to prove that Chhotelal was a habitual criminal and a threat to the state as all the cases against him were of a minor nature and had been registered along with cases filed against other *adivasi* men and women for their involvement in protest actions. Moreover, all these cases were subjudice and there had not been any convictions.

→ The *Suraksha Adhiniyam* had been enacted to protect *adivasis* against the atrocities of non-*adivasis* but in this case an *adivasi* had been victimised for the first time on flimsy grounds for violating its provisions.

→ The Collector of Khargone had not given Chhotelal an opportunity to cross-examine witnesses before passing the impugned order and thus violated the principles of natural justice.

→ There was clear evidence of the Collector and later the appellate authority, the Home Secretary having shown unjustifiable bias against the victim in passing the order and upholding it.

Chhotelal and his *adivasi* colleagues have been waging a longdrawn out battle to secure a better livelihood for themselves by challenging the malpractices of non-*adivasis* both outside and inside the administration. They have in the process invited their ire in the form of a plethora of false cases. The situation

has become even more trying as the Nimar region of Madhya Pradesh to which they belong, had drought conditions for the past three years. Seeing that these cases and repeated jailing had not been able to dampen the *adivasis'* resolve to fight, the administration took the unprecedented step of starting externment proceedings against an *adivasi* activist.

When Chhotelal went to meet the collector of Khargone to reply to the show cause notice served on him under the *Suraksha Adhiniyam*, the Collector categorically warned him that he must give up his organisational activities or be externed. Chhotelal refused to do so and instead busied himself with preparations for the May Day rally of May 1, 2002 which was to focus on the Government's inability to provide adequate drought relief and its failure to follow Supreme Court orders regarding the provision of adequate cheap rations to BPL families.

The Congress MLA of Barwah told Chhotelal that the Deputy Chief Minister of Madhya Pradesh, Subhash Yadav, who is from the Nimar region, wanted to meet him. At this meeting too, Yadav told Chhotelal that he should disassociate himself from the *Sangathan* and its non-*adivasi* activists and join the Congress Party if he wanted to avoid being externed. Once again Chhotelal refused. The net result was that on the day of the May Day rally, he was handed a copy of the externment order passed by the Collector without having been given an opportunity to present his case or cross-examine the witnesses produced against him.

When Chhotelal went on appeal to the Home Secretary as provided for in the *Suraksha Adhiniyam*, the latter

launched into a tirade against him and his lawyer for having destabilised the State machinery in Nimar and having created a fertile breeding ground for Naxalism in association with non-*adivasi* activists of, mass organisations. While passing the final order after the usual dilly dallying, the Home Secretary once again berated Chhotelal for being instrumental in giving shape to the dangerous plans of the Naxalites. Of course, since he did not have any solid evidence to support this wild claim he mentioned in his written order that as Chhotelal was a criminal, he was upholding the order of the Collector. By this time, five months had already passed.

Chhotelal then appealed to the High Court in Indore but given the heavy load of cases and the frivolous dilly dallying of the government of MP, the final order was passed in his favour only six days before his externment term was to expire, providing him with little actual relief but giving him and his colleagues in mass organisations a safeguard against future victimisation. The legal proceedings cost the *Sangathan* a whopping twenty thousand rupees.

This sordid story brings out the difficulty of getting justice of any kind for *adivasis* in Madhya Pradesh in the face of blatant and illegal misuse of state power by senior IAS officers and their political bosses to muzzle dissent under the false pretext of curbing the spread of Naxalism. This is in fact in stark contrast to the myth of tribal development that is being propagated by the Government of Madhya Pradesh and which has mesmerised both the mainstream press and the intelligentsia, not only in this country but also among western donor agencies.

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Readers' Forum