

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

INDEX

IN

CIVIL MISC. WRIT PETITION (PIL) NO. OF 2007
(Under Article 226 of the Constitution of India)

DISTRICT - CHITRAKOOT

Akhil Bhartiya Samaj Seva Sansthan
Bharat Janani Parisar, Ranipur Bhatt,
Post Sitapur, District Chitrakoot,
through its Director Bhagwat Prasad.

----- Petitioner

VERSUS

Union of India and others

----- Respondents

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Dated : ___/10/2007

(K.K. Roy) (Prem Prakash Singh)
Advocates
Counsels for the Petitioner
Chamber No. 122, High Court,
Allahabad

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

DATE AND EVENTS

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CIVIL MISC. WRIT PETITION (PIL) NO. OF 2007

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Sl. No.	Date	Events
1.		
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		Hence this writ petition (PIL).

Dated : ___/10/2007

(K.K. Roy) (Prem Prakash Singh)
Advocates
Counsels for the Petitioner
Chamber No. 122, High Court,
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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

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DISTRICT - CHITRAKOOT

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through its Director Bhagwat Prasad.

----- Petitioner

VERSUS

1. Union of India,
through its Secretary, Panchayati Raj,
New Delhi.
2. Union of India,
through its Secretary, Urban Development,
New Delhi.
3. State of U.P.
through its Chief Secretary,
Secretariat Lucknow.
4. State of U.P.
through its Principal Secretary,
Panchayati Raj, Lucknow.
5. Director,
Panchayati Raj, Lucknow.

6. Commissioner Chitrakoot Dham Mandal,
Banda.
7. Commissioner Jhansi Division,
Jhansi.
8. District Magistrate,
Chitrakoot.
9. District Magistrate,
Banda.
10. District Magistrate,
Jalaun.
11. District Magistrate,
Hamirpur.
12. District Magistrate,
Mahoba.
13. District Magistrate,
Jhansi.
14. District Magistrate,
Lalitpur.

-----Respondents

To,

The Hon'ble The Chief Justice and His other
Companion Judges of the aforesaid Court.

The humble petition of the above named
applicant Most Respectfully Showeth as under :-

1. That this is the first writ petition (PIL)
filed by the petitioner before this Hon'ble
Court and no other writ petition has been
filed with the same cause of action. The

petitioner has not received any copy of the caveat application till date.

2. That petitioner is a registered Social Organization, registered under the provisions of Societies Registration Act.

A photocopy of the registration certificate is being filed herewith and marked as **ANNEXURE NO. 1** to this Writ Petition.

3. That the petitioner's origination is active in all seven district of Bundelkhand with its awareness and educational programs, developments, initiation and publication work.
4. That the Constitution (Seventy-Third Amendment) Act, 1992 had received the assent of the President of Union of India on April 20, 1993. It is called Constitution (Seventy-third Amendment) Act, 1992 (in short 73rd Amendment).
5. That after the 73rd Amendment, a new part known as Part IX was inserted in the Constitution after Part-VIII.
6. That the new part IX has been given the name of "The Panchayats".

7. That the part IX contains a set of Articles ranging from Article 243, 243-A to Article 243-O.
8. That under Article 243(d), a 'Panchayat' means an institution of self Government constituted under Article 243-B for the Rural Area.
9. That by the Constitutional 73rd Amendment Act, a concept of decentralization for the development of the Panchayats at grass root level.
10. That the Panchayat has been visualized as a Republic where all the decisions has to be taken by the elected members and general members of Gram Sabha without any bureaucratic interference.
11. That wide spread powers has been given to the Panchayats which includes preparation of plans for Economic Development and Social Justice [Article 243-G (a)], power of impose taxes (Article 243-H) Constitution of Finance Commission to review Financial position (Article 243-I).

12. That under the provisions of Article 243-ZD of the Constitution, there is a mandatory provision of setting up of District Planning Committee (In short DPC) at the District Level in every State to consolidate the plans prepared by the Panchayats and the Municipalities. It has the added responsibility of preparing a draft development plan for the district as a whole. As per Article 243-ZD 2 (a), (b), (c), (d) it is the duty of the legislature of the State to enact law making provision with respect to the composition of the District Planning Committee (DPC) and the manner in which the seats in such committee shall be field giving preference and majority to the elected member of Panchayats and Municipalities and also to make provisions for the functions relating to the District Planning which may be assigned to such committees. It is now clear that the Constitutional Amendment has envisaged the DPC a body greatly responsible for the Development of the Panchayat and Municipalities and it is incumbent upon the legislature of the State to make laws

corresponding with the terms and tunes of the Constitutional mandate.

13. That by bringing two major amendment to the Indian Constitution, the Government of India has introduced 73rd and 74th Constitutional Amendment Act which has laid the foundation for bottom up planning approach by introducing 3rd and 4th level of planning at the grassroots level. These 3rd and 4th grassroots level planning organizations are 'District Planning Committee' and 'Gram Sabhas/Ward Committee' respectively. The first and second levels of planning bodies are Central Planning Commission and State Planning Board respectively.
14. That the District Planning Committee has a major role in preparing, scrutinizing and scanning of various plans of the Rural and Urban Areas.
15. That the District Planning Committee has the solemn duty to undertake studies and workshops on development indicators in the district such as admission of school children or school dropout road length and

quality of road availability of safe drinking water and other health indicators. The District Planning Committee would from time to time evaluate the schemes and plans of the local bodies.

16. That the petitioner has got the list of status of District Planning Committee made under Article 243-ZD from the website of the department of Panchayati Raj in Union of India. It shows at serial No. 22 that the Uttar Pradesh has not constituted the District Planning Committee.

A photocopy of the status of District Planning Committee issued by the department of Panchayati Raj is being filed herewith and marked as **ANNEXURE NO. 2** to this writ petition.

17. That, the repeated Hindi Daily 'Hindustan' published a report in the Kanpur Edition on 28 September 2007 to the effect that all development scheme are lurching in darkness due to non-formation of the District Planning Committee. According to the media report, the planning of about 634 crore in

34 districts of Uttar Pradesh have plunged into uncertainty due to this.

A photocopy of the news report published in Kanpur edition of Hindustan Hindi Daily on 28 September 2007 is being filed herewith and marked as **ANNEXURE NO. 3** to this writ petition.

18. That the State of Uttar Pradesh is one of the poorest State in the Country. The poverty ratio in Uttar Pradesh have been relatively high. According to the latest estimate of the Planning Commission, about 1/3 of the population of State was living below the poverty line in 2004-2005 as compared to figure of 27.5% for the country. One Bihar, Chhattisgarh, Jharkhand and Orrisa has higher poverty ratio as compared to Uttar Pradesh. Around 80% of the poor in the State live in the rural area.
19. That a chart showing the trends in poverty ratio in Uttar Pradesh and India would show that from 1973-74 till 2004-2005 the poverty ratio in Uttar Pradesh has been higher than the rest of the India. An extract of the

Comparative Study of Poverty is extracted below :-

Trends in Poverty Ratios in U.P. and India (%)

NSS Round	Uttar Pradesh			All India		
	Rural	Urban	Combined	Rural	Urban	Combined
1973-74	56.53	60.09	57.07	56.44	49.01	54.88
1977-78	47.60	56.23	49.05	53.07	45.24	51.32
1983-84	46.45	49.82	47.07	45.85	40.79	44.48
1987-88	41.10	42.96	41.46	39.09	38.20	38.86
1993-94	42.28	35.39	40.85	37.27	32.36	35.97
1990-00*	31.22	30.89	31.15	27.09	23.62	26.10
2004-05 URP	33.4	30.6	32.8	28.3	25.7	27.5
2004-05 MRP	25.3	26.3	25.5	21.8	21.7	21.8

Source : Planning Commission estimates based on NSS rounds.

* Based on 30 days recall period.

20. That despite the substantial decline in poverty ratio, the absolute number of poor has remained high. Almost 6 million people in Uttar Pradesh were living below the poverty line in 2004-2005 constituting over 1/5 of the total poor of the Country.

21. That the incidence of poverty is much higher among S.C. & S.T. households in Uttar Pradesh. Nearly 60% of the S.C. household

were below poverty line in Uttar Pradesh in 1993-1994.

22. That studies reveals that poverty level are associated with social identity, source of livelihood, landlessness and level of education of the head of household. Over the decades while the percentage of the population below the poverty line has come down, in 2004-05 77% people, totaling 836 million, had an income less than twice the official poverty line or below Rs. 20 per day per capita. These are the poor and vulnerable segment of the Indian Population. About 79% of the unorganized workers, 88% of the Scheduled Castes and Scheduled Tribes, 80% of the OBC and 84% of the Muslims belong to this category of the poor and vulnerable. Country to the trend in the number of people below the official poverty line, the number of people in this segment has steadily increased over the years.

23. That education is a crucial instrument for raising income level of the peoples and moving out of the vicious circle of poverty. Studies indicate a strong co-relation

between educational attainment and poverty levels. Infact, poverty levels are almost four times higher among illiterates is compared to persons with higher educations. Infact, poverty levels are almost four times higher among illiterates.

A photocopy of the Diagram showing the co-relations of poverty and illiteracy is being filed herewith and marked as **ANNEXURE NO. 4** to this writ petition.

24. That the petitioner, by means of this Public Interest Litigation is specially focusing the acute problem of seven districts of Bundelkhand region of Uttar Pradesh falling in Uttar Pradesh which is facing acute draught situation for four successive years, destruction of agriculture, severe crop failure, hunger death, widespread, starvation, suicides by farmers, huge human migration, dropouts in schools and failure of the welfare schemes advanced by the Central and State Government.

25. That Bundelkhand region is spread over about 69,000 sq. Km. of land in seven Districts of

Uttar Pradesh namely, Chitrakoot, Banda, Jhansi, Jalaun, Hamirpur, Mahoba and Lalitpur and six Districts of Madhya Pradesh. Out of the total population of about 14.5 million, about 7.8 million live in the roughly 29,000 sq. Km. area of Uttar Pradesh. The Uttar Pradesh area is more densely populated. Living a side Jhansi, in all Districts, over 70% of the population live in rural areas, the percentage going over 80% in few Districts.

26. That in recent year, this region has been appearing in the national and State level New papers due to acute drought distress including starvation deaths, suicides and huge migration. Numerous cases of acute exploitation and land grabbing from Kol and Sharia Tribals.

Photocopies of the different Articles written by renowned social researches depicting the pathetic situation of Bundelkhand region are being filed herewith and marked as ANNEXURE NO.5 to this writ petition.

27. That the topography of Bundelkhand includes fertile plains around rivers, ravines as well

as significant stretches of plateaus and hilly land. The different needs of these categories of land should be kept in mind in any planning for this area.

28. That for the kind perusal of this Court, the petitioner is presenting the statistical profile of Bundelkhand region.

Table-1

(Source Uttranchal and Uttar Pradesh At a Glance 2003)

S. No.	District/Division	Population	Density Person/Sq.Km	Sex Ratio (Year2001) Females/1000 male
1.	Banda	1,500,253	340	860
2.	Chitrakoot	800,592	250	872
3.	Hamirpur	1,042,374	241	852
4.	Mahoba	708,831	249	866
Chitrakoot Division		4,052,050	274	861
1.	Jalaun	1,455,859	319	847
2.	Jhansi	1,746,715	348	870
3.	Lalitpur	977,447	194	884
Jhansi Division		4,180,021	286	865

Table-2 land Use (Area in sq. Km.)

Sl. No.	District/Division	Forest	Culturable Wasteland	Net Area
1.	Banda	7332	11337	350629
2.	Chitrakoot Dham	47439	23628	161821
3.	Hamirpur	23520	5675	325422
4.	Mahoba	14826	12710	217912
Chitrakoot Division		93117	53350	1055784

1.	Jalaun	25640	4215	348028
2.	Jhansi	34358	17681	349267
3.	Lalitpur	76617	81598	252938
Jhansi Division		136615	103494	950233

Table-3 Literacy (2001)

S. No.	District/Division	Literacy Total	Literacy Males	Literacy Females
1.	Banda	54.84	69.89	37.1
2.	Chitrakoot	66.06	78.75	51.28
3.	Hamirpur	58.1	72.76	40.65
4.	Mahoba	54.23	66.83	39.57
Chitrakoot Dham Division		57.76	71.82	41.22
1.	Jalaun	66.14	79.14	50.66
2.	Jhansi	66.69	80.11	51.21
3.	Lalitpur	49.93	64.45	33.25
Jhansi Division		62.74	76.28	46.97
Small & Marginal Farmers (Source: Statistical Diary U.P.)				
S.No.	District	Total Holdings (In Thousand)	Marginal Farmers(less than 1 Ha)	Small Farmers (1- 2 Ha)
1	Jalaun	217	115	47
2.	Jhansi	208	100	54
3.	Lalitpur	156	59	55
4.	Hamirpur	168	77	39
5.	Mahoba	129	61	31
6.	Banda & Chitrakoot	365	212	74

29. That six out of seven districts of Bundelkhand region (Uttar Pradesh) are already included in the list of poorest districts. Several hundred poverty-related death, including suicides and hunger deaths, have been reported in recent years. Recent years have seen an aggravation

of distress related to draught, abnormal weather conditions and head wave deaths. Question like 'Is Bundelkhand likely to become an other Vidarbha or Kalahandi are being raised in the media as well as in gatherings of local people.

30. That the recent Below Poverty Line (BPL) Survey of the Ministry of Rural Development displays a grave picture of situation in state and specifically in Bundelkhand region in Uttar Pradesh. The variations in poverty level among district are very stark, ranging from a low of 6.7% to as much as 74.65%. In sixteen districts, poverty levels are above 50%. In Bundelkhand region of Uttar Pradesh, Chitrakoot has 55.13%, Jalaun has 48.34%, Hamirpur has 45.32%, Banda has 40.85%, Lalitpur has 30.47%, Jhansi has 29.19%, Mahoba has 21.33% below the poverty line.

A photocopy of the districts classified according to proportion of Rural Population below poverty line is being filed herewith and marked as ANNEXURE NO.6 to this writ petition.

31. That the Central and the State Government have introduced many poverty alleviation and welfare programmes/schemes such as IRDP, SGSY, TRYSEM, DWCRA.
32. That the purpose of the petitioner to highlight the poverty situation alongwith welfare scheme is to register the fact that the non-formation of District Planning Committee is aggravating the situation.
33. That the petitioner respectfully submits that the Planning Commission has recently declared Backwards Regions Grant Fund (BRGF). This is the first Union Level Development Scheme to be implemented directly through Panchayati Raj institutions and is being seen as an experiment in fiscal decentralization.
34. That a report of the Planning Commission says that the most of the States of the country including Uttar Pradesh have failed to setup District Planning Committees (DPCs), a mandatory requirement to avail funds under the scheme. Funds has to be transferred to the districts directly from

the ministry based on District Development Plans drawn by the Panchayats and DPCS and approved by the State Government.

35. That the report says that in effect 130 backward districts will loose out on funds which includes 34 worst affected districts of Uttar Pradesh.
36. That the allocation of 3,700 crore for 250 districts by (BRGF) is set to be single biggest instruments for effecting participatory planning at the local level.
37. That a sum of rupees 250 crore per annum at the rate of rupees 1 crore per district from BGRF has been earmarked for capacity building and the balance is an untied development fund.
38. That as per the BGRF, the backward districts will also get rupees 2500 crore at the rate of rupees 10 crore a district as untied funds to the Panchayati Raj Institutions.
39. That the Government of Uttar Pradesh and its Panchayati Raj department has willfully not forming the DPCS with the oblique motive to

continue the centralized system of governance.

40. That the very objective of the Constitution 73rd and 74th Amendment have been frustrate by not implementing the various provisions contained in part 9A of the Constitution of India which includes Constitution of Finance Commission [Article 243 (I)] and Committee for District Planning (Article 243-ZD).
41. That if District Planning Committee is not constituted forthwith, hundreds of crores of rupees allotted for the development of the Rural Sector earmarked by BGRF shall not be Channelized.
42. That the petitioner respectfully submits that the State of Karnataka and Madhya Pradesh has made an act for the formation of District Planning Committee for Panchayats and municipalities.
43. That the Government of Karnataka has amended the Karnataka Panchayati Raj Act to incorporate the provisions of District Planning Committee to form it in all the 27

districts as per section 310 of the Karnataka Panchayati Raj Act.

44. That a study has been made by one academician known as Ashok S. Shangnal who found the experiment very affirmative and fruitful.

A photocopy of the study and analysis of the District Planning Committee of two districts of Karnataka done by Ashok S. Shangnal is being filed herewith and marked as **ANNEXURE NO.7** to this writ petition.

45. That in State of U.P., no any serious effort has so far been made for the Constitution of the District Planning Committee.
46. That as per Article (243-ZD) it is mandatory upon the State Government to form the District Planning Committee.
47. That the petitioner has no other equally efficacious and other effective remedy this petition is being filed under Article 226 of the Constitution of India inter-alia on the following grounds.

GROUNDS

- a) Because, the report says that in effect 130 backward districts will loose out on funds which includes 34 worst affected districts of Uttar Pradesh.
- b) Because, the allocation of 3,700 crore for 250 districts by (BRGF) is set to be single biggest instruments for effecting participatory planning at the local level.
- c) Because, a sum of rupees 250 crore per annum at the rate of rupees 1 crore per district from BGRF has been earmarked for capacity building and the balance is an untied development fund.
- d) Because, as per the BGRF, the backward districts will also get rupees 2500 crore at the rate of rupees 10 crore a district as untied funds to the Panchayati Raj Institutions.
- e) Because, the Government of Uttar Pradesh and its Panchayati Raj department has willfully not forming the DPCS with the oblique motive to continue the centralized system of governance.

- f) Because, if District Planning Committee is not constituted forthwith, hundreds of crores of rupees allotted for the development of the Rural Sector earmarked by BGRF shall not be Channelized.
- g) Because, the petitioner respectfully submits that the State of Karnataka and Madhya Pradesh has made an act for the formation of District Planning Committee for Panchayats and municipalities.
- h) Because, in State of U.P., no any serious effort has so far been made for the Constitution of the District Planning Committee.
- i) Because, as per Article (243-ZD) it is mandatory upon the State Government to form the District Planning Committee.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to :-

- i) issue a writ, order or direction in the nature of Mandamus directing the respondent

no. 2 and 3 to take immediate initiative for the formation of Districts Planning Committee as envisaged and created by the Article 243-ZD for Panchayats and Municipalities contained in Part IX-A of the Constitution of India with preference for the formation of District Planning Committees in seven districts of Bundelkhand region of Uttar Pradesh.

ii) issue a writ, order or direction in the nature of Mandamus commanding the respondent no. 2 and 3 to ensure the proper and regular functioning of the District Level Committees.

iii) issue a writ, order or direction in the nature of Mandamus commanding the respondent no. 2 and 3 to ensure that the large scale grants allocated and scheme earmarked such as the huge grant sanctioned by BGRF are transferred directly to the District Planning Committee for its use and implementation for poverty alleviation and other reform activities.

- iv) issue a writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.
- v) award the cost of the writ petition to the petitioner.

Dated : ___/10/2007

(K.K. Roy) (Prem Prakash Singh)
Advocates
Counsels for the Petitioner
Chamber No. 122, High Court,
Allahabad

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

AFFIDAVIT

IN

CIVIL MISC. WRIT PETITION (PIL) NO. OF 2007
(Under Article 226 of the Constitution of India)

DISTRICT - CHITRAKOOT

Akhil Bhartiya Samaj Seva Sansthan
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----- Petitioner

VERSUS

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Affidavit of Bhagwat Prasad,
Aged about 37 years, Son of Sri
Bhagirath Prasad, Resident of
Village and Post Ranipur
(Karvi), District Chitrakoot.

(DEPONENT)

I, the deponent abovenamed, do hereby
solemnly affirm and state on oath as under :-

1. That the deponent is sole petitioner in the
aforesaid writ petition and as such he is
fully acquainted with the facts of the case
deposed to below.

I, the deponent above named do hereby swear and verified that the contents of para no.1 of this affidavit and those of contents of paras no. _____ are true to the personal knowledge, and those of para nos. _____ of this writ petition are based on perusal of records, and those of para nos. _____ of this writ petition are based on information received by the deponent and those of para nos. _____ of this writ petition are based on legal advice which all I believes to be true, no part of it is, false and nothing has been concealed.

So Help Me God.

DEPONENT

I, K.K. Roy, Advocate, High Court, Allahabad do hereby declare that person making this affidavit and alleging himself as deponent is the same person and is known to me from the perusal of papers produced in this case.

ADVOCATE

Solemnly affirmed and stated before me on this day of _____ October, 2007 at about _____ a.m./ p.m. by the deponent who has been identified by the above person.

I have satisfied myself by examining the deponent that he understood the contents of this affidavit which has been read-over to him by me.

OATH COMMISSIONER

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO. 1

IN

CIVIL MISC. WRIT PETITION (PIL) NO. OF 2007
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DISTRICT - CHITRAKOOT

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ANNEXURE NO. 2

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ANNEXURE NO. 3

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO. 4

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO. 5

IN

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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO. 6

IN

CIVIL MISC. WRIT PETITION (PIL) NO. OF 2007
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IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO. 7

IN

CIVIL MISC. WRIT PETITION (PIL) NO. OF 2007

(Under Article 226 of the Constitution of India)

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