

**A Submission
to the Chairman of National Human Rights Commission of
India, Justice J. S. Verma**

on

**Non-implementation and violation of the Supreme Court
judgement of 9 January 1996 in the case of *NHRC Vs State of
Arunachal Pradesh & Anr (720/1995)* and the present plight of
the Chakmas and Hajongs of Arunachal Pradesh**

16th December 2002

**Committee for Citizenship Rights of the Chakmas of Arunachal
Pradesh**

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1. Executive Summary

In 1964, about 30,000 Chakmas and Hajongs migrated to India from East Pakistan, now Bangladesh. They were escaping untold atrocities, religious persecution and the fallout of the construction of the Kaptai hydel project. They were settled in Arunachal Pradesh after due consultation with the local leaders by the Central Government of India under a “Definite Plan of Rehabilitation”. However, the Chakmas and Hajongs are yet to receive citizenship, unlike other migrants in the country.

The Government of India extended all the help possible, including financial aid, employment, trade licences and book grants so that the migrants could rebuild their shattered lives. However, in the wake of the anti-foreigner agitation in Assam, the State Government of Arunachal Pradesh in 1980 began a policy of repression. The State Government vide its letter No. POL –21/80 dated 29th September 1980 banned employment for the Chakmas and Hajongs in the State (*Annexure I*). In 1991, the State Government under its order No FPSO-3/90-91 of 31 October 1991 issued by the Circle Officer of Diyun withdrew ration card facilities under the Public Distribution System (*Annexure II*). The State Government under its order vide no. CS/HOME/94 dated 21 November 1994 further directed ‘withdrawal of all kinds of facilities from the Chakma Settlement area’ (*Annexure III*). Accordingly, all educational facilities, medical facilities, employment facilities, trade licenses, and facilities under the Public Distribution System were withdrawn.

As the repression on the Chakmas and Hajongs increased, the Committee for the Citizenship Rights of the Chakmas of Arunachal Pradesh (CCRCAP) approached the National Human Rights Commission of India (NHRC). The NHRC issued various directions to the State Government of Arunachal Pradesh. As the State Government refused to honour the NHRC directions, the NHRC approached the Supreme Court of India in October 1995. The apex court in its order of 9 January 1996, among others, issued the following orders:

- except in accordance with law, the Chakmas shall not be evicted from their homes and shall not be denied domestic life and comfort therein;
- the application made for registration as citizen of India by the Chakma or Chakmas under Section 5 of the Act, shall be entered in the register maintained for the purpose and shall be forwarded by the Collector or the DC who receives them under the relevant rule, with or without enquiry, as the case may be, to the Central Government for its consideration in accordance with law; even returned applications shall be called back or fresh ones shall be obtained from the concerned persons and shall be processed and forwarded to the Central Government;
- while the application of any individual Chakma is pending consideration, the first respondent shall not evict or remove the concerned person from his occupation on

the ground that he is not a citizen of India until the competent authority has taken a decision in that behalf;

But the Chakmas and Hajongs could not submit their citizenship applications due to the repression by the State Government and the refusal of the Deputy Commissioners to accept the citizenship applications. Consequently, some of the Chakmas and Hajongs submitted their applications directly to the Central Government in 1997 through the CCRCAP. The CCRCAP has submitted more than 4,000 citizenship applications to the Ministry of Home Affairs (MHA). The Union Home Ministry forwarded these citizenship applications to the District Collectors for necessary verification. The CCRCAP has learnt that the State Government of Arunachal Pradesh has forwarded about 260 citizenship applications after completing the necessary verification. However, not a single application has been processed by the Central Government.

In addition, the Rajya Sabha Committee on Petitions in its 105th report of 14 August 1997 also recommended the speedy grant of citizenship to the Chakmas and Hajongs of Arunachal Pradesh. Although, the Government of India has submitted Action Taken Report, practically none of the recommendations of the Rajya Sabha Committee on Petitions have been implemented.

In December 1995, then Prime Minister P V Narashima Rao formed a high-level committee headed by the Prime Minister himself. A Sub-Committee under the leadership of the Home Minister was formed to resolve the problem. On 6-7 March 1999, Union Home Ministry officials representing the sub-committee visited the Chakma and Hajong inhabited areas. The CCRCAP has learnt that the Union Home Ministry team had submitted their report, containing specific recommendations to resolve the Chakma and Hajong problem, to the Home Minister. Unfortunately, no decision has been taken on the recommendations of the Home Ministry team. It is unfortunate and regrettable that the Government of India, as the sole authority to grant citizenship, has failed to respect the judgement of the Supreme Court of India. It is equally regrettable that the Union Home Ministry has not followed its own recommendations made after field visits to the affected areas. While the Central Government had earlier cited opposition by local tribal people, many of the local tribal leaders including former MLAs have written to the Home Minister L K Advani on numerous occasions to grant citizenship to the Chakmas and Hajongs, thereby once again proving that such sentiments were created by then State Government of Arunachal Pradesh. The Chakmas and Hajongs enjoyed excellent relationship with all neighbouring tribal people.

The Delhi High Court in a judgement in the case of the *PUCL and CCRCAP Vs Election Commission of India* recognised that “as per the provisions of the Citizenship Act 1955, every person born in India on or after 26 January 1950 and before 1 July 1987 are citizens of India by birth and therefore eligible for electoral rolls.” The High Court in its judgement (*Annexure-IV*) on 28 September 2000 ordered the registration of all eligible

voters. This order was also flouted on various pretexts. Till date, not a single Chakma or Hajong has been included in the electoral rolls.

Six years have elapsed since the Supreme Court judgment, yet not a single Chakma or Hajong has been granted citizenship until today. Even after the Supreme Court order of 9 January 1996, the State Government refused to withdraw its order vide no. CS/HOME/94 dated 21 November 1994 directing ‘withdrawal of all kinds of facilities from the Chakma Settlement area.’ Consequently, educational facilities, medical facilities, employment facilities, trade licenses, facilities under the Public Distribution System remain withdrawn as of today.

The root cause lies in the denial of the right to citizenship and the lack of mechanisms for implementation of the Supreme Court order.

Unless the NHRC takes measures to monitor the implementation of the recommendations by assigning a Special Rapporteur for the task, the Chakmas and Hajongs may be continuously denied all other rights. In order to bring an end to untold sufferings and denial of fundamental rights to the Chakmas and Hajongs for the last four decades and to uphold the majesty of the rule of law and respect for the highest court of the country and the National Human Rights Commission, the CCRCAP urges the NHRC to take the following measures:

1. To send a NHRC team to Chakma and Hajong inhabited areas in Arunachal Pradesh to independently find out the fact of wide spread discrimination and deprivation towards the Chakmas and Hajongs.
2. To monitor the implementation of the Supreme Court Judgment for effective and expeditious processing of citizenship applications of the Chakmas and Hajongs.
3. To recommend the MHA to immediately grant citizenship to those Chakmas and Hajongs whose citizenship applications have been returned to the MHA after due verification.
4. To recommend to the Central Government to immediately resume the Anganwadi Centers and urge the State Government to re-open the schools in the Chakma and Hajong inhabited areas.
5. Seriously consider for filing of writ petition before the Supreme Court with a plea of contempt and seek necessary directions for implementation of the Judgment of the Supreme Court within a specified time frame.

2. Background:

During the partition of India in 1947, the people of the Chittagong Hill Tracts (CHTs) under present-day Bangladesh, sought to be a part of India and even hoisted the Indian National Flag on their lands. However, the Bengal Boundary Commission headed by Cyril Redcliff awarded the CHTs to Pakistan although 98.5% of the population of the CHTs was non-Muslim. The then Pakistan Government took a serious view of the hoisting of the Indian flag by the Chakmas and embarked on a series of repressive measures. Unable to bear the atrocities and faced with displacement on account of the construction of the Kaptai hydel project about 30,000 Chakmas and Hajongs migrated to India in 1964. They were settled in Arunachal Pradesh after due consultation with the local leaders by the Central Government of India under a “Definite Plan of Rehabilitation”. The Government of India extended all possible kind of helps including financial aids, employment, trade, license, book grants etc for proper establishment of their shattered life.

The Chakmas and Hajongs were not the only migrants. After the partition of India, the Government’s policy was to grant citizenship to those who originated from areas that were part of Undivided India. The rest of the migrants were accorded Indian citizenship. However the Chakmas and Hajongs were not granted Indian citizenship.

In the wake of the anti-foreigner agitation in Assam, the State Government of Arunachal Pradesh undertook a series of repressive measures beginning in 1980. The State Government vide its letter No. POL –21/80 dated 29th September 1980 banned public employment for the Chakmas and Hajongs in the State. In 1991, the State Government under its order No FPSO-3/90-91 of 31 October 1991 issued by the Circle Officer of Diyun withdrew ration card facilities under the Public Distribution System. In 1994, the State Government under its order vide no. CS/HOME/94 dated 21 November 1994 further directed ‘withdrawal of all kinds of facilities from the Chakma Settlement area’.

3. Repression for demanding citizenship rights and the Supreme Court judgement:

In 1991, the Committee for Citizenship Rights of the Chakmas of Arunachal Pradesh (CCRCAP) was formed to demand for citizenship rights of the Chakmas and Hajongs of Arunachal Pradesh. Starting in 1992, the State Government of Arunachal Pradesh became more hostile and started inciting sectarian violence against the Chakmas and Hajongs. The All Arunachal Pradesh Students Union (AAPSU) served a “Quit Arunachal Pradesh” notice to the Chakmas to leave the State by 30 September 1994. As a result, a large number of Chakmas fled from Arunachal Pradesh and took refuge in the neighbouring Indian State of Assam. However, the State Government of Assam issued shoot at sight orders against the fleeing Chakmas and Hajongs.

The CCRCAP approached the National Human Rights Commission of India (NHRC) about the deadline set by the AAPSU and the threat to the lives and property of the Chakmas and Hajongs. The NHRC treated it as a formal complaint and asked the State Government and Central Government to report on the issue. On 7 December 1994, the NHRC directed the State Government of Arunachal Pradesh and Central Government to provide information about the steps taken to protect the Chakmas and Hajongs. This was ignored till September 1995. In the meantime, the harassment, intimidation, arrests and detention continued and increased.

The issue became critical following the meeting of all-party leaders and the AAPSU held at Naharlagan, Itanagar on 20 September 1995. Political leaders of Arunachal Pradesh led by then Chief Minister Mr. Gegong Apang passed a unanimous resolution to resign *en masse* from the national party membership if the Chakmas and Hajongs are not deported by 31 December 1995. The resolution also prohibited any social interactions between the local Arunachalis and the Chakmas and Hajongs.

The CCRCAP approached the NHRC again on 12 and 28 October 1995 to seek protection of their lives and liberty in view of the deadline and support extended to the AAPSU by the State Government. As the State Government was inordinately delaying the transmission of information regarding the steps taken to protect the Chakmas and Hajongs, the NHRC, then headed by Justice Ranganath Mishra, approached the Supreme Court to seek appropriate relief and filed a writ petition (720/1995).

The Supreme Court in its interim order on 2 November 1995 directed the State Government to “ensure that the Chakmas situated in its territory are not ousted by any coercive action, not in accordance with law.”

As the 31st December 1995 deadline approached, then Prime Minister P V Narashima Rao formed a high-level committee headed by then Home Minister S B Chavan.

On 9 January 1996, the Supreme Court gave its judgement in the case of *NHRC vs State of Arunachal Pradesh*, issuing the following orders:

- the first respondent, the State of Arunachal Pradesh, shall ensure that the life and personal liberty of each and every Chakma residing within the State shall be protected and any attempt to forcibly evict or drive them out of the State by organised groups, such as the AAPSU, shall be repelled, if necessary by requisitioning the service of para-military or police force, and if additional forces are considered necessary to carry out this direction, the first respondent will request the second respondent, the Union of India, to provide such additional force, and the second respondent shall provide such additional force as is necessary to protect the lives and liberty of the Chakmas;

- except in accordance with law, the Chakmas shall not be evicted from their homes and shall not be denied domestic life and comfort therein;
- the quit notices and ultimatums issued by the AAPSU and any other group which tantamount to threats to the life and liberty of each and every Chakma should be dealt with by the first respondent in accordance with law;
- the application made for registration as citizen of India by the Chakma or Chakmas under Section 5 of the Act, shall be entered in the register maintained for the purpose and shall be forwarded by the Collector or the DC who receives them under the relevant rule, with or without enquiry, as the case may be, to the Central Government for its consideration in accordance with law; even returned applications shall be called back or fresh ones shall be obtained from the concerned persons and shall be processed and forwarded to the Central Government;
- while the application of any individual Chakma is pending consideration, the first respondent shall not evict or remove the concerned person from his occupation on the ground that he is not a citizen of India until the competent authority has taken a decision in that behalf;

4. Violation of the Supreme Court judgement and the present situation:

Despite the clear and unambiguous order of the Supreme Court, the State Government of Arunachal Pradesh has not taken any measure to implement the court's directions. Rather, the State Government has undertaken various measures to undermine and violate the Supreme Court judgement.

The State Government has been making the conditions of the Chakmas and Hajongs untenable by denying them fundamental rights such as right to education and other basic facilities such as health care, employment facilities. Other measures included a complete halt to any development activities, refusal to provide trade licenses, refusal to deploy teachers in the schools located in the Chakma and Hajong areas, withdrawal of all pre-primary (Anganwadi) centres and finally forcible eviction by claiming the lands of the Chakmas and Hajongs as forest lands.

4.1 Non-implementation of the Supreme Court judgement on processing of citizenship applications:

After the Supreme Court judgment, the AAPSU and State Government of Arunachal Pradesh began inciting communal hatred. The State Government, however, became more tactful, calculated and deliberate in its anti-Chakma activities. With a view to repel any move to submit citizenship applications to the Deputy Commissioners, the State Government attempted to provoke communal passions by calling a state-wide *bandh* on

22 January 1996. The then Chief Minister, Mr. Gegong Apang, went to the extent of describing the Supreme Court judgment as the “step-motherly attitude of the Centre” and calling it biased judgment”. On 26 January 1997 the AAPSU also called a state-wide *bandh*.

On 4 May 1998, 27 Chakmas went to submit the citizenship applications to the Deputy Commissioner of Changlang District. The citizenship applications were verified by the First Class Magistrate of Margarita, Assam. However, the Deputy Commissioner of Changlang refused to accept the applications.

Due to the pervasive fear and the hostile situation engineered by the State Government, the Chakmas and Hajongs were unable to submit applications to the Deputy Commissioners. It was after discussions with the officials of Union Home Ministry that the Chakmas and Hajongs started submitting citizenship applications to the Deputy Commissioners through the Union Home Ministry in February 1997. Over the years, around 4000 citizenship applications have been submitted. However, the concerned Deputy Commissioners have been blocking the said applications by not verifying them and not forwarding them within a reasonable period of time in spite of an amendment in the Citizenship Rules, 1956. Under Rule 9 of the Citizenship Rules (Amended), 1998 the Deputy Commissioner/State Government is required to forward the citizenship application within a period of six months.

The blocking of citizenship applications in this manner is a clear contempt of Supreme Court order in which the apex court clearly held that the Deputy Commissioners are bound to forward the applications received by them, with or without inquiry, as the case may be, to the Central Government for consideration.

It has been learnt that the State Government has forwarded around 260 citizenship applications in January 2000 after due verification. However, until today the Union Home Ministry has not taken any decision on these applications despite the fact that all the applicants have provided documentary proof (such as identity cards issued by the State Government) that can stand judicial scrutiny to prove their migration in 1964 and continuous stay in Arunachal Pradesh.

Justice delayed is justice denied. The refusal of the Central Government to grant citizenship to 260 applicants whose applications have been verified is further denial of justice.

4.2 Attacks on Chakma and Hajong individuals

i. Fatal assault on Phularam Chakma

On 28 January 1996, Mr. Pularam Chakma (50), of Udaipur village under Diyun Circle of Changlang district, and Mr. Maratsa Chakma, S/o- Mr. Ratna Kumar Chakma, aged 16, of Vijoypur village under Bardumsa circle of Changlang district went for harvesting the mustard crop. They were working for Mr. Chandra Kri and Mr. Pyola Kri of Namgo village under Chowkham circle of Lohit district.

Mr. Pularam Chakma and Mr. Maratsa Chakma were attacked by about 20 AAPSU activists and beaten up mercilessly at Medo Bazar of Lohit district in full public view. Mr. Pularam Chakma was beaten to death on the spot. Mr. Maratsa Chakma, who was left for dead, however later gained consciousness and was able to get assistance at a nearby Chakma house.

CCRCAP had approached the NHRC on the issue.

ii. Torture of Bipin Chandra Chakma and others

The State Government of Arunachal Pradesh was clandestinely settling some poor Chakma and Hajong families outside Arunachal Pradesh by providing financial incentives. On 16 December 1997, Mr. S P Bhutia, Officer-in Charge of Diyun Police Station arrested Mr. Bipin Chandra Chakma, Mr. Dhananjoy Chakma and Mr. Lusai Moni Chakma from Dharmapur village under Changlang district as they refused to move out of Arunachal Pradesh after Mr. Bhutia tried unsuccessfully to get them to accept money. They were released on the evening of 19 December 1997 after being tortured. Mr. Lushai Moni Chakma has filed a petition (Case 309 1998) in the Gauhati High Court against Mr. SP Bhutia the Officer-in- charge of Diyun Police Station. The case is continuing.

iii. Torture of CCRCAP members for meeting members of the Rajya Sabha members

On 9 November 1996, Arunachal Pradesh Police led by Mr. S P Bhutia, Officer in Charge (OC) of Diyun Police Station in Changlang district tortured Chakma and Hajong representatives who met the members of the Rajya Sabha Committee on Petitions on 3 November 1996 in Calcutta.

By torturing the Chakma and Hajong representatives, the Arunachal Pradesh Police had clearly sought to undermine the rule of law and respect for the highest lawmaking body, the Indian Parliament.

The delegation of the Rajya Sabha Committee on Petitions consisting of Chairman, Shri O Rajagopal (Member of Parliament), Shrimati Basanti Sharma (MP), Shri Thennala Balakrishna Pillai (MP), Shri Raghavji (MP), Shri K R Malkani (MP) and Mr. Mohd Masud Khan (MP) were scheduled to visit Itanagar, Agartala and Aizwal to investigate the situation of the Chakmas. The Rajya Sabha (RS) Committee on Petitions in its letter of 12 October 1996 requested to meet representatives of the Chakmas of Arunachal Pradesh at 10 am on 2 November 1996 at Itanagar. The CCRCAP fearing for the physical safety and integrity of the Chakma representatives in Itanagar requested the RS Committee on Petitions to meet in Calcutta on 3 November 1996. The request was granted.

A delegation of Chakma representatives from Arunachal Pradesh consisting of (1) Mr. Bimal Kanti Chakma, Assistant Village Headman, Jyotipur, Diyun (2) Mr. Kripadan Chakma, Village Headman, Santipur, Diyun, (3) Mr. Purna Kumar Chakma, Jyotsnapur, (4) Mr. Marati Chakma, Representative, Chowkham, Lohit district, (5) Mr. Bilash Chandra Chakma, village headman, Kokila, Papumpare district, (6) Mr. Punyadhan Chakma, Rajnagar, Diyun, Changlang district, (7) Mr. Sitesh Hajong, Madhupur II, Diyun, Changlang district and (8) Mr. Jayanta Bikash Chakma, Kokila, Papumpare district joined the other delegates of the CCRCAP in Calcutta and met the delegation of the Rajya Sabha Committee on Petitions on 3 November 1996 at the Great Eastern Hotel, Calcutta, West Bengal at 3.15 pm.

While returning from Calcutta, Mr. Bimal Kanti Chakma (40); Mr. Kripandhan Chakma (66); Mr. Punyadhan Chakma (50); Mr. Purna Kumar Chakma (45) and Mr. Sitesh Hajong (45) from Diyun area of Changlang district were arrested without any warrant at Mudhoimukh, Diyun, Changlang district by the Arunachal Pradesh Police led by Mr. S P Bhutia, Officer in Charge of Diyun Police station at 7 pm on 9 November 1996. They were taken to the Diyun Police station and questioned about their visit. When the Chakma representatives informed the police that they had been to Calcutta to meet the Rajya Sabha Committee on Petitions, Mr. S P Bhutia abused them using indecent language and threatened them saying they would be taught a lesson for having met the Rajya Sabha Petition Committee members.

The above mentioned Chakma representatives including then 66-year-old Mr. Kripadhan Chakma were tortured for five hours and released only at midnight. They were beaten with batons and belts and kicked in the stomach. They were made to do push-ups continuously for hours failing which they were mercilessly beaten. Mr. S P Bhutia also took away all their money and documents and threatened to torture them further if they mentioned the incident to anyone or met any more delegations.

The Chakma and Hajong representatives could not even lodge a First Information Report (FIR) for their wrongful arrest, detention and torture against Mr. S P Bhutia. They could

not also be treated in hospital. The incident created panic and fear within the communities.

The issue was raised with the Ministry of Home Affairs and National Human Rights Commission of India. However, Mr. S P Bhutia was allowed to go scot-free.

iv. Arrest of CCRCAP leader, Bimal Kanti Chakma

On 6 June 1998, Mr. Bimal Kanti Chakma was arrested by the Arunachal Pradesh Police. Mr. Bimal Kanti Chakma is an assistant *Gaon Bura* (village headman) of Jyotipur village under Diyun circle of Changlang district and a CCRCAP leader. He has been providing help to several Chakmas of the Mpen area under the Miao circle of Changlang district, attempting to obtain bail for those who are detained. These Chakmas had been summoned by the Sub-Divisional Officer of Miao for alleged illegal occupation of forest land.

4.3 Attacks on Chakma and Hajong communities

i. Forcible eviction of the Chakmas and Hajongs

The State Government of Arunachal Pradesh has adopted various policies to evict the Chakmas and Hajongs by issuing orders for eviction to show that its actions were being done legally without violating the Supreme Court judgement.

On 8 December 1997, the State Government of Arunachal Pradesh issued eviction notices to 66 Chakma families in Kamakhyapur and Raj Nagar areas under Changlang district.

Earlier, on 11 November 1997, the Circle Officer of Diyun, Mr. D Riba served quit notices (memo No Diyun/LR/EVC/97) to 109 families of Jyotsnapur village under Changlang district and directed them to proceed to their original settlement areas. Mr. Riba did not give any explanation for such eviction notice. In his notice, Mr. Riba simply stated, "You are hereby directed to proceed to your original settlement Jyotipur village with family latest by 20 November 1997 without fail. Failing which legal action will be initiated against you." (Please find appended as *Annexure -V*) The Chakmas have been living in Jyotsnapur village for the last two decades. They have settled in Jyotsnapur village after the Diyun river flooded their areas and destroyed their houses during monsoon.

For the last two decades, the State Government did not raise any objection. In fact, it was the officials of the State Government who ordered the Chakmas to settle in Jyotsnapur village.

ILLEGAL DETENTION AND TORTURE OF CHAKMAS FOR EVICTION:

On 14 October 1997, Mr. Siter Manpha, Officer in Charge of the Miao Police Station went to Mpen village and arrested Mr. Goal Mani Chakma, S/o- Madanjoy Chakma, Mr. Kali Mohan Chakma, S/o- Buddha Moni Chakma, Mr. Ranjan Dhan Chakma, S/o- Majarah mohan Chakma, Mr. Sunil Kanti Chakma, S/o- Agulukhya Chakma and Chironjeev Chakma, S/o-Phaigura Chakma without any warrant. The villagers were told that they were arrested for allegedly occupying alleged forest lands. They were severely tortured.

On 13 January 1997, the CCRCAP filed a complaint with the National Human Rights Commission about the forcible eviction of over 150 Chakma families from Mpen village of Changlang district of Arunachal Pradesh by the Arunachal Pradesh Forest Corporation Limited. The Arunachal Pradesh Forest Corporation in its notice stated that the above mentioned Chakmas had allegedly committed illegal acts and the Range Manager of Mpen has made a report of 6 October 1995. The Chakmas have not been given a copy of the report of the Range Manager to submit their reply. Moreover, the Chakma families from Mpen village after receiving the notice on 8 January 1997 have submitted a memorandum to the Sub-Divisional Officer on 10 January for protection of their livelihood. But no action was taken.

Despite the direction (No. 2/12/96 LD) of the National Human Rights Commission on 15 January 1997, the Arunachal Pradesh Forest Corporation Ltd destroyed 15 Chakma houses at the Mpen village on 16 and 17 January 1997 with the help of the Arunachal Pradesh Police. The demolition of the Chakma houses was conducted under the supervision of Mr. B Ajang, Divisional Manager, Forest Corporation, Miao, Mr. K K Dev, Range Manager, Range Manager, Forest Corporation and Mr. C H Deka, Officer in Charge of Miao Police Station.

The following individuals' houses were demolished:

1. Mr. Raimohan Chakma, S/o- Buddha Moni Chakma
2. Mr. Mon Kumar Chakma, S/o- Bilet Moni Chakma
3. Mr. Juddha Deb Chakma, S/o- Padhabhan Chakma
4. Mr. Padha Kumar Chakma, S/o- Bujh Dhan Chakma
5. Mr. Madan Joy Chakma, S/o- Bilet Moni Chakma
6. Mr. Mohan Chandra Chakma, S/o- Buddha Moni Chakma
7. Mr. Gulmoni Chakma, S/o Madan Joy Chakma
8. Mr. Kali Mohan Chakma, S/o - Buddha Moni Chakma
9. Mr. Kandra Chandra Chakma, S/o Buddha Moni Chakma
10. Mr. Gulchoga Chakma,
11. Mr. Pradip Chakma, S/o- Kandra Chandra Chakma
12. Mr. Shanti Deb Chakma, S/o- Buddha Moni Chakma

13. Mr. Basanta Chakma,
14. Mr. Ranga Dhan Chakma, Majara Mohan Chakma
15. Mr. Bhat Pagla Chakma

When three Chakma families re-built their huts, the Forest Officials visited the area on 21 January 1997 and demolished them again. The properties of all the damaged houses were seized by the Forest Corporation officials, transported in two trucks with the help of 40 labourers and auctioned at Miao market in Changlang District on 21 January 1997.

On 2 February 1997, the Forest Corporation Ltd officials planted trees in that area. The plantation in the Chakma inhabited areas was carried by Shri B Ajang (Divisional Manager of Forest Corporation), Mr. K K Dev (Range Manager), Mr. A Dutta (Assistant Range Manager), Mr. D D Dubey, Forest Guard, Mr. L Abou, Forest Guard, Mr. R H Lowang, Forest Guard and Mr. S K Dhar, Forest Guard.

In addition, the State Government in other places evicted many Chakmas from other villages.

ii. Banning of employment of Chakmas and Hajongs as labourers by local people

The Circle Officer of Diyun Mr. D Riba called a meeting with the local tribal leaders on 27 October 1997 at his office where it was unanimously decided not to “engage any Chakma/Hajong people for their agricultural field, contract work and business” by 30 October 1997. The Circle Officer issued a Circular Vide No DYN/CON-4/97 dated 27 October 1997. The Circle Officer also issued another notice on 31 October 1997 Vide No DYN/JUD-1/97, directing to “discontinue the engagement of Chakma/Hajong people in agricultural field/business and contract work forthwith”. Please find enclosed a copy of the direction as *Annexure VI*.

iii. Economic blockade

In 1998 the State Government imposed an economic embargo on the Chakmas and Hajongs. Agricultural products such as ginger, chilli and master seeds produced by the Chakmas and Hajongs have no market in the local areas. They have to be sold in neighbouring Assam. However, to sell these cash crops in Assam require permission from the State Government. But, the Chakmas and Hajongs continue to be denied permission/licenses to sell their products in Assam. As a result, their products are damaged. The CCRCAP filed a PIL bearing No. Civil Rule 4/1998 before the Honourable Gauhati High Court and the same is still pending for adjudication. The State Government taking advantage of the judicial delay until today is denying them permission to sell their products. Please find appended a copy of the writ petition as *Annexure VII*.

iv. Denial of education facilities

While the Government of India has been taking measures to make the right to education a fundamental right, the State Government of Arunachal Pradesh has been taking all measures to completely deny the right to education to the Chakmas and Hajongs.

(a) Withdrawal of Anganwadi centers

All the 49 pre-primary schools (Anganwadis), were withdrawn in 1994 (vide No. CS/HOME/94 dated 21 November 1994) during the State sponsored agitation to oust the Chakmas and Hajongs from Arunachal Pradesh. The Anganwadi centres are yet to be restored. Consequently, the Chakmas and Hajongs have been facing a generation gap in education despite the Government of India making the right to education as a fundamental right.

The Anganwadi centres had provided employment to 98 women. The withdrawal had resulted in their termination from job without any compensation.

(b) The following schools in the Chakma settlement areas were withdrawn in 1994 and continue to be so till date:

- (i) Government Middle School, Bijoypur, circle Bordumsa, district Changlang.
- (ii) Government Primary School, M-Pen, circle Miao, district Changlang.
- (iii) Government Primary School, Deban, circle Miao, district Changlang
- (iv) Government Primary School, Chakma Basti, district Lohit.

(c) Schools around the Chakma areas which denies admission to the Chakmas and Hajongs

Admission is being denied to Chakma and Hajong students in the following schools since 1994.

There are no Chakma/Hajong students in the following areas:

- (i) Government Higher Secondary School, Miao, circle Miao, district Changlang.
- (ii) Government Secondary School, Innao, circle Diyun, district Changlang.
- (iii) Government Higher Secondary School, Bordumsa, circle Bordumsa, district Changlang.
- (iv) Government Higher Secondary School, Balizan, district Papumpare.

(d) Condition of the only secondary school at Diyun

For about 40,000 Chakma and Hajong population there is only one Government Secondary School at Diyun. In the absence of any middle school in the whole Diyun circle, this school has to accommodate all the Chakma and Hajong students passing out every year from more than 10 primary schools operating in the Chakma areas. Around 1,400 (12 teachers) are enrolled in this school with virtually no infrastructural facilities. The school building is built by the Chakmas and no grant is given by the State Government. No developmental works has been undertaken by the State Government-bench, desk, duster and other required furniture are self-arranged by the guardians of students.

(e) Villages without a primary school

Many of the Chakma villages in Changlang district are without even primary schools. The existing schools, which had 2-3 teachers each, are left behind with one or no teachers since 1994. The following villages do not have primary schools:

- (i) Udaipur (consisting of 500 families).
- (ii) Jyotsnapur (consisting of 220 families).
- (iii) Modoi Dweep (consisting of 300 families).
- (iv) Bijoypur-I & II (200 and 250 families respectively).
- (v) Seven villages in Deban (consisting of 700 families, circle Miao located at a distance of 24 kilometers from the nearest schools at Miao).

v. Withdrawal of the Public Distribution System

The State Government of Arunachal Pradesh in a circular on 31 October 1991 (No FPSO -3/90-91) had ordered all the Chakmas and Hajongs to surrender their ration cards under the Public Distribution System to the Circle Officer. Thousands of Chakmas and Hajongs were forced to surrender their ration cards to the State Government.

Despite the Supreme Court judgement the State Government has not returned the ration cards. The Chakmas and Hajongs are very poor and rely to a large extent on the Public Distribution System. Ration card facilities are indispensable for the daily labourers. By denying the ration card facilities, the State Government of Arunachal Pradesh has condemned them to poverty.

As stated above, the Chakmas and Hajongs are not even issued permission to sell their cash crops in neighbouring Assam. They are not issued licenses for trade in the local markets. At the same time, hundreds of families were rendered landless due to soil erosion caused by the Noa-Dihing river and its tributaries. More than 80 percent of the Chakmas and Hajongs are below poverty line.

Yet the Chief Secretary to the State Government of Arunachal Pradesh, Mr. P M Nair in a letter to Additional Secretary P D Shenoy, MHA vide letter no D.O.No.HMB(B)-74/96 of 9 March 2000 stated that “[a]t present Chakmas are not covered under the PDS as they are self-sufficient in food grains”. Please find appended a copy of the letter as *Annexure VIII*.

It must be mentioned that if the local people can be covered under the PDS despite having all the facilities at their disposal, the claim of the State Government that the Chakmas and Hajongs are self-sufficient economically is far-fetched. In fact, the Chakmas and Hajongs are not covered under the PDS merely because they are not citizens, which is again contrary to the Supreme Court’s directions.

vi. Denial of trade licenses

Since 22 October 1997, the Circle Officer of Diyun Circle, Officer in Charge of Diyun Police Station and Second Officer of Diyun Police Station came to the shops of Chakmas in Diyun Bazar and verbally ordered the closing down of shops belonging to the following persons:

SL No	Name	Licence No.
1.	Ranjan Chakma	Licence No. 23/79
2.	Niren Chakma	Licence No. 26/79
3.	Bira Lal Chakma	Licence No. 10/79
4.	Hemandra Hajong	Licence No. 14/79
5.	Mohendra Lal Chakma	Licence No. 15/79
6.	Priya Lal Chakma	Licence No. 16/79
7.	Amar Kanti Chakma	Licence No. 17/79
8.	Lakhi Chandra Chakma	Licence No. 18/79
9.	Tutya Chakma	Licence No. 8/79
10.	Kripa Dhan Karbari	Licence No. 1/75
11.	Kripa Dhan Karbari	Licence No. 28/79
12.	Birendra Chakma	Licence No. 3/79
13.	Shanti Lal Chakma	Licence No. 1/79
14.	Debendra Chak	Licence No. 5/79
15.	Prasanta Kumar Chakma	Licence No. 6/79
16.	Lohit Kumar Chakma	Licence No. 27/79
17.	Priti Kusum Chakma	Licence No. 20/79
18.	Kabi Raj Chakma	Licence No. 19/79
19.	Satish Chandra Chakma	Licence No. 11/79
20.	Shanti Kumar Chakma	Licence No. 4/79
21.	Anjan Prasad Chakma	Licence No. 2/79

22.	Binod Baran Chakma	Licence No. 22/79
23.	Abha Lal Chakma	Licence No. 21/79
24.	Prasanta Kumar Chakma	Licence No. 13/79
25.	Mangal Chandra Chakma	Licence No.
26.	Raj Chandra Chakma	Licence No.
27	Upendra Lal Chakma	Licence No.

The above victims filed a petition before the Guwahati High Court.

The Guwahati High Court in its judgement (Civil Rule No 5255 of 1997) (*Annexure – IX*) stated: “Whenever trade is regulated by licence, the licence is entitled for renewal of the licence as a rule and non-renewal of the licence is exception since granting or refusing of licence regarding trade or business is intrinsically connected with the livelihood of a person, a right rooted in the Indian Constitution. The licensing power is bristed with enormous ramification immensely affecting the rights and liberties of citizens and livelihoods of citizens in particular and thus require a fair procedure”. In the light of the Supreme Court judgement in the National Human Rights Commission Vs the State of Arunachal Pradesh, the Guwahati High Court directed the State Government of Arunachal Pradesh “to consider the case of the petitioners for renewal of their licenses as per law. The Deputy Commissioner, Changlang, Arunachal Pradesh shall also ensure and to see that the original documents which were seized from the petitioners on 22 October 1997 by the Circle Officer, Circle Diyun alongwith the Officer-in-Charge, Diyun Police Station and Second Officer of the said police station are returned to the petitioners. In the meantime, the Respondents are directed to allow the Petitioners to run their business and shops.”

While the State government has restored the trade licenses of the above victims, no fresh licenses have been issued since 1991.

vii. Ban on employment

The State Government vide circular dated 29th September 1980 and circular dated 31st October 1997 has banned employment in government service, agricultural field, contract work and business etc. for the Chakmas and Hajongs in the state, resulting in the unemployment among a large number of educated youths.

The ban on employment continues until today.

viii. Denial of medical facilities

The entire Chakma-Hajong area consisting of 30 villages, there is only one Primary Health Centre (PHC) at Diyun circle, whereas, in other local areas PHC has been provided in almost all villages. The PHC of Diyun hardly able to cater the needs of

Chakmas and Hajongs as it has only one doctor, five nurses and eight beds. The patients often remain unattended and therefore people prefer to give their own treatment gained by way of experience. Instances of malarial deaths and other simple and serious diseases otherwise not fatal are numerous. Though it is claimed that the Chakmas are provided medical facilities, in effect they are still denied treatment. Nurses also charge money to give injections.

Some Chakma villages such as Dharmapur, circle Miao, Bijoypur, circle Bordumsa and Deban area (eight villages) in Changlang district are located far away from the nearest PHC. As there are rivers, which are sometimes flooded, people remain cut off sometime for a month from rest of the places. Therefore, even simple fever often proves fatal in these places.

ix. Ban on public development works in the Chakma and Hajong inhabited areas:

The State Government has banned all development activities in the Chakma and Hajong areas. In an order vide no. CS/HOME/94 dated 21 November 1994 the state government of Arunachal Pradesh directed “withdrawal of all kinds of facilities from the Chakma Settlement area”.

Some of the problems due to lack of any public development works are given below:

- (a) The Chakmas and Hajongs have not been provided with drinking water facilities. Some villagers have to travel a distance of more than one and half kilometer to fetch water for drinking as well as for other domestic uses. During rainy season the river water causes several diseases, as it becomes unfit for drinking.
- (b) No construction of roads, bridges and culverts are undertaken in the Chakma and Hajong inhabited areas. In the absence of infrastructures like roads, bridges, other developmental activities are unimaginable.
- (c) Almost 90 percent of the Chakma villages are not provided with electricity though economically and technically most viable. Even those few villages having connections, electricity supply has been cut off since 1994 due to the non-replacement of worn out apparatus or because of willful negligence on the part of the concerned officials. Complaints/reminders to authorities for replacement of worn out apparatus all these years have gone unheeded.
- (d) The Chakma and Hajong farmers were provided improved seeds, fertilizers, pesticides, agricultural tools and implements at subsidized rates till 1991 and these facilities were stopped thereafter. On the other hand, the other locals are being provided with high yielding variety of seeds, technical know-how and agricultural training and other assistance including monetary aid.

4. Non-implementation of the recommendations of the Rajya Sabha Committee on Petitions

On 23 August 1995, a petition was filed before the Rajya Sabha Committee on Petition. After extensive visits to several places where the views of the local people, the Chakmas, experts, the State Government and the Central Government were taken into account, the Committee in its 105th Report of 14 August 1997 recommended the speedy granting of Indian citizenship to the Chakmas of Arunachal Pradesh. It was also recommended that “all the old applications of Chakmas for citizenship which have been either been rejected or withheld by Deputy Commissioners or the State Government continue to block the forwarding of such applications to Central Government, the Central Government may consider to incorporate necessary provision in the Rules (or the Act if so required) whereby it could directly receive, consider and decide the application for citizenship in the case of Chakmas of Arunachal Pradesh.” The Committee further recommended that the Chakmas be also considered for granting them the status of Scheduled Tribe at the time of granting the citizenship. The Report is marked as *Annexure-X*.

Although, the Government of India has submitted Action Taken Report, practically none of the recommendations of the Rajya Sabha Committee on Petitions have been implemented until today.

5. Non-implementation of the recommendations of the Sub-Committee headed by Home Minister of India

After the Arunachal Pradesh government threatened that all members of State Assembly would resign en masse if the Chakmas and Hajongs were not expelled by 31 December 1995, a committee headed by the Prime Minister of India was established. A Sub-Committee under the chairmanship of the Union Home Minister was formed to find an amicable solution to the Chakma problem. The Home Ministry officials headed by Mr. P. D. Shenoy, Additional Secretary, MHA representing the said Sub-Committee visited the Chakma and Hajong inhabited areas on 6 and 7 March 1999. The Sub-Committee in January 2000 submitted the report to the Union Home Minister, who is currently the chairman, containing specific recommendations to resolve the Chakma and Hajong problem.

Unfortunately, no decision has been taken for implementation of the recommendations of the Home Ministry team.

6. Non-implementation of the Delhi High Court’s judgement

In addition to the Chakmas and Hajongs who migrated in 1964, there are about 35,000 Chakmas and Hajongs who are born after the migration of their parents in 1964. They are

Indian citizens by birth under Section 3(1)(a) of the Indian Citizenship Act, 1955 which states that “except as provided in sub-section (2), every person born in India, - (a) on or after the 26th day of January, 1950 but before the commencement of the Citizenship (Amendment) Act, 1986” is a citizen by birth.

The CCRCAP filed a complaint with the NHRC on 12 December 1997 against the denial of franchise rights to the Chakmas and Hajongs. The NHRC issued notice to the State Government of Arunachal Pradesh and the Union Government of India on the issue. In their replies to the NHRC, both the Central Government and the State Government of Arunachal Pradesh recognised that “as per the provisions of the Citizenship Act 1955, every person born in India on or after 26 January 1950 and before 1 July 1987 are citizens of India by birth and therefore eligible for electoral rolls.”

However, when the Chakmas and Hajongs who were born after their parents’ migration and are citizens under Section 3(1)(a) of Indian Citizenship Act, 1955, went to the Assistant Electoral Registration Officer of Diyun under Changlang District of Arunachal Pradesh, the officer refused to accept their Form 6 – Application for inclusion of name in electoral rolls.

The CCRCAP approached the Ministry of Home Affairs (MHA). The MHA informed it that the Election Commission had been requested to include all the Indian citizens into the electoral rolls.

But the Election Commission took no action. Since no action has been taken to ensure that the Chakmas and Hajongs are enrolled in the voters’ list, the PUCL and the CCRCAP filed a writ petition (CPR no. 886 of 2000) before the Delhi High Court. In its judgement on 28 September 2000, the Delhi High Court ordered the registration of all eligible voters. This order, too, was flouted on various pretexts. Till date, not a single Chakma or Hajong has been included in the electoral rolls.

During the revision of electoral roll 2001 around 2000 Chakmas and Hajongs filed claim applications enclosed therewith their proof of age, residence etc. All the claim applications were, however, rejected for not specifying house enumeration number and due to lack of polling station in the Chakma areas. It may be stated that the allotment of house enumeration number and setting up of polling station are tasks of EC and the Chakma and Hajong applicants cannot be punished for omission on the part of the officials of the EC. The repeated representations to the EC failed to elicit any positive result.

7. An alibi called local sentiments

One of the concerns of the Central Government that unfortunately prevailed over the need to uphold the rule of law by processing citizenship applications has been the

perceived opposition to the grant of citizenship to the Chakmas and Hajongs of Arunachal Pradesh by the local tribal communities. The CCRCAP has consistently stated that it was nothing but a creation of the then State Government of Arunachal Pradesh to deny the Chakmas and Hajongs the right to citizenship. The Chakmas and Hajongs since their migration enjoyed excellent relationship with the neighbouring communities. Even the Central Team that visited in 1982 to study the problems of the Chakmas and Hajongs had submitted in its report that “No reports have been received regarding involvement of these refugees in anti-national activities. The presence of these refugees in the area has not resulted so in any major law and order problem though some isolated instances of friction between the locals and these refugees have come to our notice. The grant of citizenship would introduce an element of responsible social behaviour in these refugees.” Therefore, the plea of the State Government that opposition by local tribal people against grant of citizenship to the Chakmas and Hajongs is unfounded. In fact, many leaders of the local Singpho and Tangsa community leaders including ex-Members of Legislative Assembly have written to Union Home Minister, Mr L K Advani on various occasions supporting the grant to citizenship rights of the Chakmas and Hajongs of Arunachal Pradesh. The said representations are marked as *Annexure-XI*. Yet, no favourable decision has been taken.

8. Conclusion and recommendations

The root cause of the suffering of the Chakmas and Hajongs of Arunachal Pradesh – ranging from denial of educational facilities including withdrawal of all pre-primary – *Anganwadi*- centres with a view to keep the Chakmas and Hajongs illiterate is the denial of citizenship rights in clear contempt of the Supreme Court order.

While the CCRCAP admits that the NHRC and the MHA have applied the necessary pressure, the State Government often gets away by providing false information.

Unless the NHRC takes measures to monitor the implementation of the recommendations by assigning a Special Rapporteur for the task, the Chakmas and Hajongs may be continuously denied all other rights. In order to bring an end to untold sufferings and denial of fundamental rights to the Chakmas and Hajongs for the last four decades and to uphold the majesty of the rule of law and respect for the highest court of the country and

the National Human Rights Commission, the CCRCAP urges the NHRC to take the following measures:

1. To send a NHRC team to Chakma and Hajong inhabited areas in Arunachal Pradesh to independently find out the fact of wide spread discrimination and deprivation towards the Chakmas and Hajongs;
2. To monitor the implementation of the Supreme Court Judgment for effective and expeditious processing of citizenship applications of the Chakmas and Hajongs.
3. To recommend the MHA to immediately grant citizenship to those Chakmas and Hajongs whose citizenship applications have been returned to the MHA after due verification.
4. To recommend to the Central Government to immediately resume the Anganwadi Centers and urge the State Government to re-open the schools in the Chakma and Hajong inhabited areas.
5. Seriously consider for filing of writ petition before the Supreme Court with a plea of contempt and seek necessary directions for implementation of the Judgment of the Supreme Court within a specified time frame.