

The Case for the Commons

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Bimonthly e-publication

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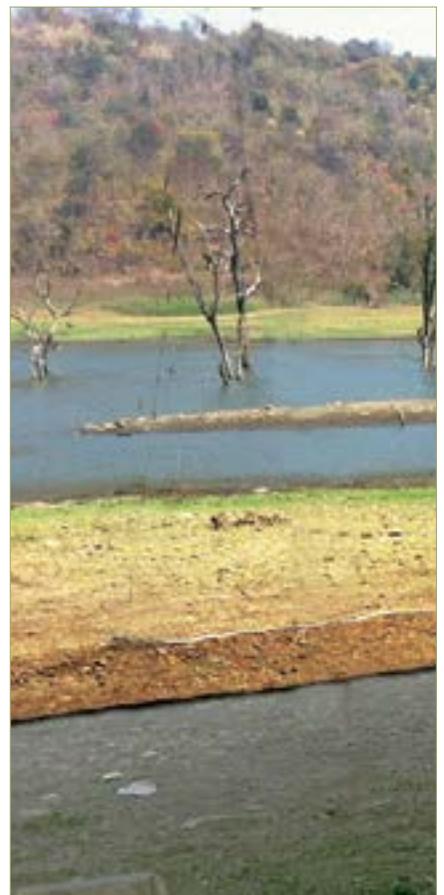
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Editorial

(En)Closing, yet continuing in common...

We reach you after an unusually long stretch of time between issues. That is because in this phase of our work on the 'commons case', this issue is to be the last of the originally planned six-issues of *The Case for The Commons*. In this current phase as intended, the idea has been to take a pan view of the country and how the 'Commons Order' of the Supreme Court of India in the Jagpal Singh PIL delivered on 28 January 2011, was being implemented on the ground.

In this final issue of the first phase of bimonthly e-publication, we tried to focus on the geographical areas that were not covered through our reporting map. These include the Union Territories (UTs), as well as the states we had not heard back from even after a second round of RTI applications. These include Himachal Pradesh, Uttarakhand, Jammu & Kashmir, and West Bengal. We also tried to cover the four remaining states from the North East – Arunachal, Meghalaya, Nagaland and Tripura. But there was not much success in terms of gathering substantive information.

There are currently seven UTs in the country, namely the islands of Lakshadweep, Andaman and Nicobar Islands. Then Dadra and Nagar Haveli, Daman and Diu, Puducherry (Pondicherry), Delhi (National Capital Territory of Delhi) and Chandigarh. We had covered Chandigarh as part of the first issue on Punjab and Haryana. So we do not repeat it here. But it shows how we have come full circle. Delhi has been an interesting case in itself.

The National Capital Territory (NCT) of Delhi may perhaps be the most encroached upon city, amongst those covered in this issue. Yet our reporting here is limited to two aspects. Firstly, the replies we received from the Government of the NCT of Delhi and some of the district-level functionaries. Secondly, we've highlighted some of the key cases filed before the Delhi High Court where the 'Commons Order' has been cited.

Just north of Delhi, from the state of Uttarakhand (UK) we share the details of the state's submission in the Supreme Court. The section on Uttarakhand brings out that many district authorities having reported no presence of gram sabha lands within their administrative boundaries. Since the SC's orders and more importantly the state government's follow up was linked to encroachments on gram sabha and/or gram panchayat lands, the lack of existence of such recorded land has been quite a revelation. There were not many details at hand for the ongoing schemes, if any, pursued by the state government.

Further north, our endeavours to get information from the government in Himachal Pradesh, have yet not been entirely successful. So far the only communication we received was a courtesy copy of a letter from one department forwarding our RTI application to another department in the state. Similarly, in Nagaland our request for information has been redirected from the Chief Secretary's office to the State Rural Department. We hope to be able to bring more about these states when we revive *The Case for the Commons* and through any other interim policy output.

This research to put together the publication, however has given many insights into the challenges related to the state level follow up of the SC's directions. It has also given a cross

section of ideas of how the court's orders can be taken forward to protect common lands. The 28 January 2011 order of the Supreme Court had given directions to all the State Governments in the country to prepare schemes for eviction of illegal/unauthorised occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and for these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers. So we anticipated that either the rural or the panchayat departments of state governments would have all the information regarding this Supreme Court matter. But we learnt that this has not been the case. Through this e-publication we have tried to report how the administration in different states and UTs responded to the Supreme Court directives, irrespective of which quarter of the state government the steps were being taken through.

Meanwhile, the [Foundation for Ecological Security \(FES\) blog](#) *Claim for Commons* continues to collate what was in the public domain on the case and developments thereafter, be it in ensuing legal cases in different high court and district courts, administrative rules framed in compliance, or any other processes/schemes undertaken by state officials for the restoration of the commons in direct response to the Supreme Court directive. The blog will continue as before, beyond this e-publication.

It has been over four years since the Supreme Court order was passed. But we also came across those who were hearing of this case for the first time. We hope that this e-publication since it began in early 2014 has been able to bring the case and the implementation of its orders to many more.

–Shalini & Kanchi

Legal Struggles in Delhi

The National Capital Territory (NCT) of Delhi is spread across 11 eleven revenue districts. In Delhi several cases of unauthorised occupation of common lands have over time been brought before the High Court of Delhi and other courts. Some of the decided cases, reported on the [FES blog](#) that have referred to the Supreme Court's 'common order' have been mentioned below.

I. Writ Petition No. 4437/2013 and CM No.10260/2013

A Writ Petition No. 4437/2013 and CM No.10260/2013 had been filed in the High Court of Delhi by the Residence Welfare Association (RWA), Ekta Enclave of Delhi Tehsil. Petition brought it to the notice of the Court that the village common land was encroached upon by some persons. They urged the court to initiate actions against the encroachers of johads, ponds, lakes and water bodies in the area. In this case, the respondent i.e. the state filed affidavit that land in question belongs to the Gaon Sabha and same had allotted to the individuals in accordance with the orders of the Financial Commissioner under section 42 of the *East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948* to make good the deficiencies in allotment of land during consolidation proceedings.

The relevant government officials of Delhi submitted status report and highlighted that land in question was earmarked for pond/water body as per the Financial Commissioner to make good deficiencies to them. State had ensured to the court that actions will be taken accordance with the pursuance of the Supreme Court order dated 28 January 2011 in the matter of *Jaspal Singh & Ors. versus State of Punjab*. In its status report, the state had submitted that *(i)n view of the above case it is submitted that we will take action to evict the said allottee/occupants of Johad/Pond, Gram Sabha Land in pursuance of the Hon'ble Supreme Court orders."* The court considered the status report and in its observation on the matter the court cited the Supreme Court order dated 28 January 2011.

In its judgment dated 31 October 2013, the court directed all Deputy Commissioners of the 11 districts (North, South, East, West, North-East, South- West, South-East, North-West, Central, New Delhi and Shahadra) to comply with the direction and ensure that none of the water bodies/johads/water tanks/lakes/water ponds are encroached. The Court made clear that water bodies/johads/water tanks/lakes/water ponds should not be allotted to make good the deficiency of land in the process of consolidation in future. For earlier instances where if water bodies/water tanks/johads/lakes have been allotted to a villager during consolidation proceedings and no permanent structure has been constructed thereon, the Deputy Commissioners are directed to ensure that possession of the said bodies is taken back after giving them alternative land. Deputy Commissioners are also directed to ensure that water bodies/johads/water tanks/lakes/water ponds are maintained, developed as well as kept clean and if necessary, the same be revived. For details of the case [see here](#)

II. LPA No. 858/2004

A Writ Petition No. 959/99 filed by the Banwari Lal Sharma, resident of Village Sahoopur, Mehrauli in the South West District of Delhi. In his petition, he had alleged that part of village land demarcated as Khasra no. 92 had been illegally encroached. He had brought into the notice of the court that said land had been transferred to the Forest Department in 1988. Petitioner requested the Court to direct respondents (Union of India and State Authorities) to remove

the unauthorised occupants from the said land and to develop and maintain the same as a wild life sanctuary. Court considered the notifications dated 9 October 1986 and 3 November 1987 and decided that the land in question was to be used by Gaon Sabha for maintenance and development of forest and trees or any other work of public utility for the purposes of *Delhi Land Reforms Act, 1954* and had not vested in the Forest Department.

The court in its judgment dated 11 November 2003 allowed the writ petition and directed the Development Commissioner to remove the encroachment and to ensure that the land is utilised for forest and trees or for public utility within a period of four months. Thereafter, an application (CM No. 370/04) had been filed by the appellant seeking to ensure compliance with order dated 11 November 2003. The court had passed order dated 14 January 2004 with a direction to Deputy Commissioner to demolish all existing structures on the land within one week and restraining any construction on the site was made. Another application (CM 3467/04) was filed pointing out to the Court that other writ petitions (WP (C) No.892/04 and 906-69/04) were filed and an order against demolition and dispossession had been secured. It was then directed that both the writ petitions be taken up together. This was done on 4 August 2004 when the Court directed that the order dated 11 November 2003 passed in WP(C) No. 959/99 be suspended for a period of six months for a decision on whether the colony is to be regularised or not.

An appeal was filed before the Delhi High Court to challenge the single judge's judgment and order dated 4 August 2004 in CM Nos. 370/04 and 3467/04 in WP(C) No. 959/99 and WP(C) No. 892/04 and 906-69/04. It was contended that the effect of the impugned judgment is to suspend and reverse the judgment and order dated 11 November 2003 of another learned Single Judge in WP (C) No. 959/99. Village Sahoarpur Extn. Counsel for the appellant urged that the regularisation was illegal. It was even urged that the provisions of the 2011 Act should not be enforced by the court as the same are contrary to provisions of the Constitution of India. However, no specific challenge has been made to the Act.

Learned counsel relied on various judgments, including *Jagpal Singh & Ors. versus State of Punjab*, AIR 2011 SC 1123; *Hinch Lal Tiwari v. Kamla Devi & Ors.*, AIR 2001 SC 3215; *T.N. Godavaram v. Union of India*, 1997 (3) SCC 775; *M.C. Mehta v. Union of India*, 1997 (3) SCC 715; *M.C. Mehta v. Kamal Nath*, 1997 (1) SCC 388; *M.C. Mehta v. Union of India*, 1996 (8) SCC 462; *M.C. Mehta v. Union of India*, 1996 (4) SCC 351; *Milk Producers Association, Orissa v. State of Orissa*, AIR 2006 SC 3508.

Government had regularised the colonies including this, taking view of process of regularisation as per the relevant act court passed decision on 28 May 2013 that *(t)he State had decided, in the present case, based on the relevant factors that the colony was to be regularised. The decision of the government has admittedly been made pursuant to the Regulations relating to regularisation of Unauthorised Colonies in Delhi. In the absence of any specific challenge to the Act or the Regulations, which preclude action by the court, the relief claimed in this appeal cannot be granted. The appeal must therefore fail, and is consequently dismissed.* For details of the case [see here](#)

III. Writ Petition(C) No. 5823/2013 & CM Appl. 12824/2013

A Writ Petition(C) No. 5823/2013 & CM Appl. 12824/2013 had filed by appellant Khushi Ram before the court to stay order of the Revenue Assistant dated 16 April 2013, in which removal from the land Khasra No. 37/16 ordered. The said land is situated in the Revenue Estate of Village Mubarakpur Dabas, Delhi and belongs to the Gram Sabha of the village. Court observed that no document as evidence placed on record to confirm that the petitioner owned the land

or a person in adverse possession or evidence which establish that land had allocated to the Sukhbir Singh as claimed by petitioner.

Contrary to the petitioner's claim, the state administration had submitted the land record (Khatoni) which shows that land in question is belong to Gram Sabha. The court considered the facts in the matter and opined that *the petitioner has failed to place on record any document to show that he is the legal owner or authorised occupant of Khasra No. 37/16*. Court cited the Supreme Court order dated 11 January 2011 in Jagpal Singh and Ors. Vs. State of Punjab and Ors and had passed judgment on 13 September 2013 with the spirit of the Supreme Court order and mandate of the laws including the facts associated with the case and gave decision that *present writ petition and application being devoid of merits are dismissed*. For details of the case [see here](#)

IV. Writ Petition No. 4088/2010

A Writ Petition No. 4088/2010 had been filed by the Hira Lal Mohan Devi Rita Gupta Memorial Trust & Another versus Narender Kumar & Others under the Delhi Land Reforms Act 1954 on the matter of taking over the land underneath a pathway/rasta on two sides of which the property of petitioners was situated, in exchange for other land belonging to the petitioners. The Trust's Engineering College H.M.R. Institute of Technology & Management is located at Hamidpur village, Delhi and comes under the jurisdiction Revenue Estate of Narela. College buildings separated by a 25 feet wide rasta/pathway; claiming that the said rasta/pathway was disturbing the privacy of the students of the Institute and invoking Section 40 of the Reforms Act, permission was sought for allotment of the land of the rasta/pathway on both sides of which the petitioners' Institute was situated and in exchange equivalent land in another Khasra number was offered.

Administration allowed the exchange of lands but same exchanged was contested by the different stakeholders including the then administration and Gaon Sabha. Gaon Sabha sited arrangements made the rest of the land of the rasta/pathway of no use and could not be used by the villagers to approach the pucca road (phirni) on the periphery of the village. Gaon Sabha raised the *Right of Way* for villagers, which were denied due to exchange of lands by the petitioner. The aforesaid would show that while the person earlier officiating as the Deputy Commissioner had opined that the exchange proposed by the petitioners was in the interest of the villagers, the present incumbent does not share the same view. The same demonstrates the fickleness in the decision making process and the manner in which the officials are discharging their duties.

Counsel for the respondents brought to the notice of the court as mentioned in the High Court order dated 11 February 2011 that *"Section 40 of the Reforms Act and Rules 25 & 26 of the Reforms Rules were held to be applicable, the same only provide for an exchange which is a matter of contract between the petitioners and the Gaon Sabha, with the permission of the Deputy Commissioner. It is argued that the Deputy Commissioner in the present case has proceeded on the premise that he could allow the exchange even without the Gaon Sabha agreeing to the same*. It was sited counsel for respondents before the court during hearing the matter that resolution of the Gaon Sabha or the consent of the Development Commissioner is required to make any exchanges of land as per the procedure mentioned under the rules made under the Reforms Act so permission granted by the Deputy Commissioner is not as per the established procedure. After considering all the facts and hearing the matter in detail court had passed decision on 11 February 2011. In its order court rejected the petition and mentioned in the order that *(t)he order of the Deputy Commissioner (set aside by the Financial Commissioner) is*

found to be without jurisdiction and in contravention of law. The interim order granted in this petition is vacated. If the petitioners have in pursuance of the order of the Deputy Commissioner closed the rasta/pathway aforesaid and/or included the same in their property, the petitioners are directed to within four weeks of today, restore the rasta/pathway to the original position. The petitioners if have parted with possession of land offered in exchange, shall similarly be entitled to repossess the same. For details of the case [see here](#).

Uttarakhandⁱ

State's Submission before the Supreme Court:

In compliance of the Supreme Court (SC) order dated 28 January 2011 the Uttarakhand Government filed an affidavit before the court through its then Chief Secretary on 22 July 2011. The submission informed the court that the state government is in compliance of the directions and proper instructions had been issued to all the District Magistrates and Sub Divisional Magistrates in the state. Officials had been asked to take immediate action for demarcation and listing of cases of illegal possession/encroachment on the land of Gram Sabha/Gram Panchayat in the entire State and for taking appropriate and immediate action for eviction of unauthorized occupants from such land. The Chief Secretary's affidavit submitted before the court that government had issued appropriate directions to all the District Magistrates in the state to evict unauthorised/illegal occupants of Gram Sabha/Gram Panchayat land in the villages. Further, the concerned officials had been asked to ensure strict compliance of the SC's order. They were also directed to submit status reports regarding illegal possession of Gram Sabha land and position of evicted land.

According to the affidavit, the District Magistrates had complied with the direction and submitted their compliance reports. A complete status report for all the districts was submitted before the Court.

District wise details from the thirteen districts of Uttarakhand as given to the Supreme Court in the state affidavit are mentioned below.

1. District Uttarkashi

The District administration of Uttarkashi demarcated total 740 cases of illegal/unauthorised possession on Gram Sabha land in the villages. The demarcation indicated 65.597 hectare land is under illegal/unauthorised possession and 262 cases were pending before the courts were. 321 cases of illegal encroachments were marked afresh and out of which total 8 cases were rejected. After considering the cases 149 cases of illegal possession eviction orders were passed by the courts and out of which total 142 cases of illegal possession were got evicted as ordered by the court.

2. District Dehradun

The report for Dehradun district indicates that there was no illegal possession/encroachment on Gram Sabha land in 4 out of 7 Tehsils. Chakrata, Kalsi, Tuni and Mussorie were the Tehsils where no illegal possession/encroachment on Gram Sabha land was found. For the remaining 3 Tehsils, urgent directions were given to all the concerned Sub Divisional Magistrates by the District Magistrates to demarcate illegal possession on the land of Gram Sabha and to get the said land evicted from illegal occupants. On the basis of report received from the District Magistrate a total 157.32 hectares land of Gram Swaraj was found in illegal possession. The details of Gram Sabha land available in total 3 Tehsils of the District is given below:-

ⁱThis piece is based entirely on the information received by the team in reply to an application under the Right to Information Act, 2005.

Name of Tehsil	Available land of Gram Samaj	Allotted/proposed land	Forest land	Suitable land	Non Suitable land
Dehradun	2816.8670	189.0997	60.6200	54.6900	2512.46
Vikasnagar	1339.654	123.871	29.63	120.256	1065.897
Rishikesh	1469.375	7.357	67.075	13.495	1381.43

3. District Haridwar

It was reported that the district administration had launched a special campaign to demarcate illegal encroachment and eviction drive in lands of Gram Sabha in Tehsil Laksar of District Haridwar. Through the campaign, a total of 127 cases of illegal possession involving 22.750 hectare land were demarcated out of which 65 cases of 8.8547 hectare land are pending before the different courts. The administration had reportedly removed 52 cases of encroachments of 7.860 hectare after necessary measurement and demarcation. 19 cases involving 6.036 hectare land were where the original population of the village is residing.

112 cases of illegal possession on 3.9280 hectare land of Gram Sabha were found in Haridwar Tehsil. Out of this 6 cases on 0.5080 hectares of land in illegal possession was removed. In 106 cases involving 3.4200 hectares proceedings under Section 122B of *Zamindari Abolition and Land Reforms Act* are pending against illegal/unauthorised occupants. At the same time the status report indicated that Roorkee Tehsil demarcated highest number cases (915) of illegal possession in the district involving 55.5285 hectares of Gram Sabha land. The administration had dealt with 87 cases of illegal possession removing encroachments from 5.270 hectares land. In the remaining 825 cases involving 50.5015 hectares land, it was brought out that while some land is being used by older resident of the village and in others adjudication was pending in different courts. The administration had assured that proper compliance of the orders of the Court was being done effectively.

4. District Pauri Garhwal

In Pauri Garhwal a total 30 cases of illegal possession government land was demarcated by the administration. In all these instances, suits were pending against illegal occupants under section 4/5 of *Public Premises (Eviction of Unauthorised Occupants) Act, 1971*¹. The administration submitted in its affidavit before the SC, that the proceedings for eviction from land in question would be done only after the respective courts issue orders. It was also highlighted that in the District no land of Gram Sabha is registered in the record.

5. District Chamoli

It was brought out that the district administration had directed all the Sub Divisional Magistrates to take immediate action for demarcating illegal possession on Gram Sabha/State Government Land and to dispose of the cases within a time bound schedule. This is after giving proper opportunity of hearing to illegal/unauthorised occupants in accordance with the orders of the Court.

6. District Tehri

The status update reported that in most of the portions of this district there is no land of Gram Sabha. On a total 0.399 hectare land of Gram Sabha, 4 illegal encroachments were marked.

¹Section 4 relates to 4 the "Issue of notice to show cause against order of eviction" and Section 5 is for the Eviction of unauthorised occupants, following if the show cause is not satisfactory.

On “non-productive” land of state a total 387 cases of encroachment were demarcated in 97 such cases proceedings under section 4 of Public Premises (Eviction of Unauthorised Occupants) Act were initiated. 85 cases were pending adjudication before District Courts or before the Hon’ble High Court at the time the affidavit was filed before the SC. In 297 cases challan report was filed. At the same time 74 cases were pending adjudication in Courts of appointed authorities.

7. District Rudraprayag

The Court was informed that in Rudraprayag district no land of Gram Sabha is registered.

8. District Udham Singh Nagar

In 95 villages of the Udham Singh Nagar district L.M.C. is in force. These villages are spread in 5 Tehsils of the district. This includes 78 villages in Tehsil Kashipur and Jaspur, 3 villages in tehsil Gadarpur, 3 villages in Tehsil Kichchha and 11 villages in Tehsil Sitarganj. The Gram Sabha lands available in these 95 villages. In other villages of this District there is as reported to the SC, no land of Gram Sabha registered. The administration gave directions to all Sub Divisional Magistrates and the Tehsildar to ensure compliance of the orders of the SC and initiate immediate action to demarcate illegal possession on Gram Sabha land and to evict illegal occupants. The Officials were directed to submit information on the action taken on this. The status report highlighted that the Sub Divisional Magistrates had informed that illegal possession in the land of Gram Sabha have been demarcated and listed. Further, action for eviction was being taken.

9. District Nainital

The administration had that in Kaladungi Tehsil, the land of Gram Sabha is 0.006 hectare in Khet No. 65A in Khata No.1 in village Dhanpur is demarcated. Proceedings for eviction against unauthorised occupant Shri Jagat Singh S/o Nar Singh had been initiated by filing a challan report. Apart from this no other Gram Sabha land was recorded in this District.

10. District Pithoragarh

The District administration informed that in the district there is no land recorded in the name of Gram Sabha. Therefore, proceedings for eviction of unauthorised occupants were not undertaken.

11. District Almora

There was no land recorded in the name of Gram Sabha in Almora district so proceedings against the unauthorised occupants were not initiated by the administration.

12. District Bageshwar

In the district no land is recorded in the name of Gram Sabha. For the land of State Government which was under encroachment, action had been taken to remove the same.

13. District Champawat

No case of encroachment on the land of Gram Sabha/ Gram Panchayat was demarcated by the administration in the district.

Administrative Initiatives to comply with the Court order:

The Chief Secretary of the state sent an official letter No. 133/18(2)/2012-8(34)/2011 dated 27 January 2012 to Chief Revenue Commissioner of Uttarakhand, Commissioner of Garhwal, Kuwaiynu, Pauri and Nainital and all Collectors of Uttarakhand for the time bound compliance of Hon'ble Supreme Court order in Civil Appeal No. 1132/2011/SLP (Civil) No. 3109/2011 *Jagpal Singh and others Vs Punjab State and others*. Chief Secretary in this letter had sent a reminder that as per the direction of government, the district officials had demarcated the different illegal encroachment on compliance of the SC order. He sought a response on the action taken on the demarcated illegal encroachments.

As per Government Order No. 1922/18(2)/2011 dated 21 July 2011 had also directed the preparation of clear working plan and time bound implementation of the working plan. This letter asked immediately to inform on priority to compliance of this order and current status on the subject.

In response to the Chief Secretary's letter dated 27 January 2012, the Almora District Collector replied (through letter No. 3719/Seven- Bhulekha/2011-128 dated 10 February 2012) to the Chief Secretary on status of compliance of SC's order. The Collector informed that in his area of jurisdiction, private lands were registered in Z. A. Khatuni² and barren, gocher, panghta, etc. were all listed as lands (not measured) registered with government in the non Z.A. Khatuni. It was informed that in his jurisdiction no land had been registered in the records in the name of Gram Samaj or Gram Sabha so in such case information on status preparation of working plan on removal of illegal encroachments and residents is nil. Same status was shared earlier by the Collector's office through letter no. 5257/seven-Bhulekha/2010-11 dated 16 March 2011.

Uttarkashi's District Collector sent a letter No. 7730/Seven- Bhulekha/2011-12 dated 22 May 2012 to Chief Revenue Commissioner and Commissioner of Garhwal Mandal on compliance of SC order in response to the Chief Secretary's letter dated 27 January 2012. The Collector informed that directions were issued to all the Deputy District Officials and Tahsildars on the compliance of the Court order. Collector sent information on the actions carried out by the Deputy District Officials and Tehsildars to remove identified encroachments from community and public land. Compiled information for Uttarkashi Janpad is mentioned below:

Sl.No.	Tehsil	Demarcation/Listing of Illegal Encroachments and Details of Actions to Remove Encroachments from Public/Community Land						
		Demarcated/Listed Illegal Encroachments(in Nos.)	Area In Hectare	Cases Before the Court (in Nos.)	New De-marcated/ Challan issued(in Nos.)	Rejected (in Nos.)	Court order to remove Illegal encroachments (in Nos.)	Compliance with the Court order to remove encroachments (in Nos.)
1	Bhatwadi	185	17.195	127	104	01	33	33
2	Dunda	57	2.022	30	25	-	02	01
3	Chiniyali	130	10.653	71	40	-	20	20
4	Badkot	207	12.103	34	132	04	15	-
5	Puroli	87	10.973	28	06	02	59	57
6	Mori	77	22.237	29	12	03	45	42

²Zamindari abolition areas have two land records in place: khasra and khatauni. Khatauni records are admissible in court as evidence.

161 encroachments had demarcated earlier in Tehsil Badkot out of which 29 illegal encroachments removed during widening of Delhi-Yamnotri National Highway by the concerned department.

Nainital's District Collector sent a letter No. 259/Seven- Bhulekha/2012 dated 3 May 2012 to Chief Revenue Commissioner on compliance of the SC order in response to the Chief Secretary's letter dated 27 January, 2012. The Collector responded that information related to illegal encroachment by the Jagat Singh (S/o Shri Nar Singh) in Mouja Dhanpur Gram Sabha, Kaladhunge tehsil in 0.006 hectare (Land record No. 1, Khet No. 65A) along with the challan report had been sent through letter no. 1184 dated 2 May 2011.

On this matter inspection report dated 16 March 2012 from District Officer was received by the Collector's office. The Inspection report informed that above-mentioned land was registered in Khatuni no. 1419-1424 in crop record no. 1 of village Dhanpur Pargana Bhawarkota, Kaladhunge as Gram Swaraj as 1377 Phasali, Khasara no. 65 Rkawa 0.063 hectare. A case no. 22/01(2010-2011) against Jagat Singh S/o Shri Nar Singh had been filed and matter was heard on 12.04.2012 in the court. As per the direction of the government and its compliance action against the illegal encroachment had proposed and matter was under consideration before the court when the letter had been sent.

In response to the Chief Secretary's letter dated 27 January 2012, Pithoragarh's District Collector responded through letter No. /19- 03/2011-12 in June 2012 to Principal Secretary Revenue Department. The Collector informed that all the Deputy District Officials and Tasildars had been directed to demarcate and list all the illegal encroachments in the Janpad and removal of encroachments. They had submitted information on the actions had taken place to remove the illegal encroachments and same information mentioned below.

Compliance of SC order in Pithoragarh Janpad

Sl. No.	Tahsil	Total No. of Encroachments cases Registered	Total Land Encroached (In Hectare)	Action Initiated to Remove the Encroachments
1	Pithoragarh	8	0.434	All the cases are before the court after issuance of Challan under section 4/5 of public premises (Eviction of unauthorised Occupants) Act 1972.
2	Dedehat	51	2.299	All the cases are before the court after issuance of Challan under section 4/5 of public premises (Eviction of unauthorised Occupants) Act 1972.
3	Munsiyari	8	1.534	All the cases are before the court after issuance of Challan under section 4/5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1972.
4	Dharchula	9	.024	All the cases are before the court after issuance of Challan under section 4/5 of Public Premises (Eviction of Unauthorised Occupants) Act, 1972.
5	Gangolihat	22	4.800	All the cases are before the court after issuance of Challan under section 4/5 of Public Premises (Eviction of Unauthorised Occupants) Act, 1972.
6	Borinag	4	0.045	All the cases are before the court after issuance of Challan under section 4/5 of Public Premises (Eviction of Unauthorised Occupants) Act, 1972.
Total	6 Tahsil	102 Cases	9.136 Hectare	

RTI Updates for Uttarakhand and Union Territories

Applications under the Right to Information (RTI) Act, were sent by the publication team to the states to the pending states (not covered in the publication so far) and the Union Territories to seek the details of implementation of the order of the Hon'ble Supreme Court of India dated 28 January 2011 in the matter of Jagpal Singh & Ors. versus State of Punjab & Ors.(CIVIL APPEAL No.1132 of 2011).The applications requested information on the following points:

1. Kindly provide copies of all the submissions made to the Hon'ble Supreme Court of India by the State Government in accordance with the order of the said Court dated 28 January 2011 in the matter of Jagpal Singh & Ors. versus State of Punjab & Ors. (CIVIL APPEAL No.1132 of 2011).
2. Please give full details of schemes prepared for eviction of illegal/ unauthorised occupants of Gram Sabha/Gram Panchayat/ Poramboke/Shamlat land and for the restoration of such common lands to the Gram Sabha/Gram Panchayat for the common use of villagers.
3. Kindly provide the list of actions taken in compliance of the order of the Hon'ble Supreme Court of India dated 28 January 2011 in the matter of Jagpal Singh & Ors. versus State of Punjab & Ors.(CIVIL APPEAL No.1132 of 2011).

**Responses from the state of Uttarakhand and Union territories
(Andamans, Dadra, Daman, Delhi, Lakshdweep and Puducherry)
[Chandigarh was already covered in the first issue of the e-publication.]
Indicating also how in each state different departments handle the subject
mentioned in the application and key responses**

Sl.No.	State	RTI Response from Departments	Key Responses
1	Uttarakhand	<ul style="list-style-type: none"> Response received from the Public Information Officer, Revenue Department through Letter no. 1463/XVIII(2)/2014-17(06)/2013 dated 23 May 2014. 	<ul style="list-style-type: none"> Response says that an affidavit filed by the state before the Court and Chief Secretary of the state sent an official letter No. 133/18(2)/2012-8(34)/2011 dated 27 January 2012 to Chief Revenue Commissioner of Uttarakhand, Commissioner of Garhwal, Kuwaiynu, Pauri and Nainital and all Collectors of Uttarakhand for the time bound compliance.
2	Union Territories		
	Andaman & Nicobar Islands	<ul style="list-style-type: none"> Assistant Secretary (Rev)/ Public Information Officer (PIO), Andaman and Nicobar (A&N) Administration responded through a letter no. 5-54/2014/Rev dated 29 May 2014. Assistant District Magistrate of the South Andaman Administration, office of the Deputy Commissioner responded through reference no. RTIA/ADM/2014 Vol-XII/4738 dated 6 June 2014. Deputy Secretary/PIO, Law Department, A&N Administration responded through letter dated 12 June 2014 	<ul style="list-style-type: none"> PIO responded that application was forward to the PIO (Deputy Commissioner) South Andaman district, Port Blair and PIO (Deputy Secretary), Law A&N Administration, Port Blair. PIO informed that application is transferred to the following administrative officials of the South Andaman Administration. PIO responded on point first that affidavit was not filed by the administration and on second point of application PIO office of Deputy Commissioner (South Andaman) may reply. Deputy Secretary responded on point 3 Of the application that Circular Order No.5-2/LC/2011/5765 dated 20 June 2011 had been issued in pursuance of order dated 28 January 2011 of the Court to remove the encroachment and to discourage such unauthorized encroachment.

Dadra & Nagar Haveli	<ul style="list-style-type: none"> Resident Deputy Collector (S)/PIO, Law Section Administration of Dadra & Nagar Haveli responded through letter no ADM/LAW/28/2013/813 dated 27 March 2014. 	<ul style="list-style-type: none"> PIO informed that application had been transferred to the Mamlatdar, Land Reform Officer and the Chief Executive Officer, District Panchayat Dadra & Nagar Haveli
	<ul style="list-style-type: none"> Development and Planning Officer, Department of Rural Development Dadra & Nagar Haveli responded on the points raised in the application through letter no DPO/EO(VP)/RTI/2012/265 dated 7 April 2014. 	<ul style="list-style-type: none"> Officer responded on point first and third that the information was not available and on second point response said that there is no such scheme in this UT.
Daman and Diu	<ul style="list-style-type: none"> Deputy Collector of Daman (UT Administration of Daman and Diu) responded through letter no. COL DMN/EST/RTI-10/2013-14/834 dated 6 June 2014. 	<ul style="list-style-type: none"> Deputy Collector informed that application had been transferred to the Chief Executive Officer, District Panchayat of Daman.
	<ul style="list-style-type: none"> Block Development Officer, District Panchayat of Daman (UT Administration of Daman and Diu) responded with reference letter no. COL/DMN/EST RTI-10/2013-14/834 dated 6 June 2014 to through letter no. bdo/Daman/RTI-Act/2014/353 dated 25 June 2014. 	<ul style="list-style-type: none"> Response says that points mentioned in the application are nil.
Lakshadweep	<ul style="list-style-type: none"> The reply to our RTI Application dated 17 February 2015 came from the Survey Superintendent i/c & CPIO at the Collectorate of the Lakshadweep Administration in Kavaratti reached us in Delhi in early April: F.No. 34/4/2011-LR (Part)(2) dated March 2015 	<ul style="list-style-type: none"> It was a request to remit an amount of Rs. 4/- in the head of account of RTI.
Delhi	<ul style="list-style-type: none"> Response received from the Chief Secretary office through letter no f.3./18/CS/2014-15/I.D.no.-3938 RTI/1074-1077 dated 25 February 2015. 	<ul style="list-style-type: none"> Letter says that application transferred to the SDM, Revenue and PIO/SDM Legal Division of Revenue Department
	<ul style="list-style-type: none"> Response received from Divisional Commissioner of Revenue Department through letter No. 12390/2015/RTI(Rev.)/3076-78 dated 26 February 2015. 	<ul style="list-style-type: none"> Information sought by the applicant is pertains to the Panchayat Department so application transferred to the Panchayat Department to provide information.
	<ul style="list-style-type: none"> Response received from the Public Information Officer (PIO)/SDM-II, Revenue Department through letter no.F.1/2086/Regn.Br./Div.Com/(HQ)/2015/68 43 dated 5 March 2015. 	<ul style="list-style-type: none"> The requisite information does not fall in the jurisdiction department of SDM-III. Application transferred to the PIO,O/o Director Panchayat.
	<ul style="list-style-type: none"> Response received from the Public Information Officer (PIO)/SDM-III, Revenue Department through letter ID No. 12390/2015/RTI(Rev)/legal/SDM/(HQ) III/1460 dated 5 March 2015. 	<ul style="list-style-type: none"> The requisite information does not fall in the jurisdiction department of SDM-III. Application transferred to the PIO/SDM O/o the Deputy Commissioner, all revenue Districts.
	<ul style="list-style-type: none"> Response received from the Public Information Officer (PIO)/SDM-III, Legal Branch, Revenue Department through letter ID No. 12390/2015/RTI (Rev)/legal/SDM/ (HQ)-III/1449 dated 5 March 2015. 	<ul style="list-style-type: none"> Response received that application transferred to Public Information Officer (PIO), Revenue Department and PIO in the office of Development Commissioner to provide information.
	<ul style="list-style-type: none"> Response received from the Public Information Officer (PIO). O/o Office of the Secretary-cum-Commissioner(Dev.) Development Department through letter No.F.66/(83)/RTI/Dev.(HQ)/2015/ ID-76 dated 12 March 2015. 	<ul style="list-style-type: none"> From PIO, O/o Office of the Secretary-cum-Commissioner(Dev.) Development Department on three points mentioned above is as following On point: 1- Information related to the Supreme Court of India. On point: 2- Related to Revenue Department and copy has already been endorsed by the Chief Secretary office. On point: 3- information related to the Supreme Court of India.
	<ul style="list-style-type: none"> Response received from the Public Information Officer (PIO). O/o Office of the Deputy Commissioner office, New Delhi District through letter No.F.11(1) DC/ND/RTI(HQ)/2011/15029 dated 13 March 2015. 	<ul style="list-style-type: none"> Response says that information does not fall in the said office's jurisdiction so application transferred to the PIO/SDM (Vasant Vihar), PIO/SDM (Delhi Cantt.) and the PIO/SDM (Chanakya Puri) of Revenue Department.
	<ul style="list-style-type: none"> Response received from Block Sub Divisional Magistrate(SDM), office of the sub Divisional Magistrate, Patel Nagar, through letter no.SDM/PN/RTI/ID-73/2015/2755-56 dated 13 March 2015. 	<ul style="list-style-type: none"> SDM's response indicated that application transferred to the Block Development Officer (BDO), Nangloi Block to provide information with mention that information fall under the BDO jurisdiction and ask to forward further to concern public authority in case not fall in their Jurisdiction.
	<ul style="list-style-type: none"> Response received from the PIO/SDM(HQ), District East through letter no. F4(1)/14/DC(E)/406-07 dated 13 March 2015 	<ul style="list-style-type: none"> PIO responded indicated that application transferred to the Block Development Officer (BDO), East to provide information and ask to forward further to concern public authority in case not fall in their Jurisdiction.

		<ul style="list-style-type: none"> Response received from PIO/SDM, Office of the Sub-Divisional Magistrate, District North West through letter no. F.10(10)(1)/RTI/GA/DC NW/2015/303 dated 16 March 2015 	<ul style="list-style-type: none"> PIO responded that as per the application information sought by the applicant does not fall in his jurisdiction and asked PIO/BDO, north west to provide information and directed to forward further to concern public authority in case not fall in their Jurisdiction.
		<ul style="list-style-type: none"> Response received from the Public Information Officer (PIO). O/o Office of Sub Divisional Magistrate, Chanakya Puri through letter No. F.10(90)/SDM Ch.Puri./2014/370 dated 17 March 2015. 	<ul style="list-style-type: none"> PIO responded that information is not available with this office and appeal can be file.
		<ul style="list-style-type: none"> Response received from PIO Office of the District Magistrate, District North through letter no. F. PIO/ RTI-05/I.D.NO.12390/SDM(HQ)/14/905-907 dated 18 March 2015. 	<ul style="list-style-type: none"> PIO responded that as per the application information sought by the applicant does not fall in his jurisdiction and asked APIO/BDO, Alipur to provide information and directed to forward further to concern public authority in case not fall in their Jurisdiction.
		<ul style="list-style-type: none"> Response received from PIO/BDO (HQ) Office of the Director (Panchayat) through letter no. F1'Dir(P)/ RTI/2014-15/5726 to 38 dated 20 March 2015. 	<ul style="list-style-type: none"> Response says that application had been transferred to PIO/O/o D.C. North, South, East, West, North-East, South- West, South-East, North-West, Central, New Delhi and Shahdra to provide information and directed to forward further to concern public authority in case not fall in their Jurisdiction.
		<ul style="list-style-type: none"> Response received from BDO, East through letter no. 125 dated 24 March 2015. 	<ul style="list-style-type: none"> BDO responded on all the three points mentioned in application to provide information, On point 1 and 2 responded that information is not pertain to office of the BDO ,East and on point3 responded that information not available as per this office records.
3.	Puducherry	<ul style="list-style-type: none"> Public Information Officer (PIO), Office of the Special Secretary-Cum-Collector responded through a letter no. 5586/DRDM/RTI/2014 dated 26 June 2014. 	<ul style="list-style-type: none"> PIO stated that the Court order dated 22 July 2011 was explained to all the state officials and they were directed to remove existing encroachments from their jurisdiction. Procedure is set to deal with encroachments as per the practice as and when complain received regarding encroachment on government land. For copy of affidavit applicant was asked to deposit fee and process is initiated to get copy of the affidavit.

A Footnote on a Few Union Territories

This piece is based entirely on the information received by the team in reply to applications filed under the Right to Information (RTI) Act, 2005.

Andaman and Nicobar Islands

In response to our RTI query, the Assistant Secretary (Rev)/ Public Information Officer (PIO), Andaman and Nicobar (A&N) administration responded through a letter no. 5-54/2014/Rev dated 29 May 2014, stating that application was forward to the PIO (Deputy Commissioner) South Andaman district, Port Blair and PIO (Deputy Secretary), Law A&N Administration, Port Blair.

With reference to the Assistant Secretary's letter no. 5-54/2014/Rev dated 29 May 2014, Assistant District Magistrate of the South Andman Administration, office of the Deputy Commissioner responded through reference no. RTIA/ADM/2014/Vol-XII/4738 dated 6 June 2014 that application is transferred to the following administrative officials of the South Andaman Administration.

1. PIO/Assistant Commissioner (South Andaman)
2. PIO/Assistant Commissioner (Settlement)
3. PIO/Assistant Commissioner (Legal)
4. APIO/Assistant Director (Admin)
5. APIO/Account Officer
6. APIO/Tehsildar, Port Blair
7. Deputy Manager (IT)
8. S.I. (Planning)
9. Storekeeper

They all were directed to furnish the information by 25 June 2014, but no response was received.

While, Deputy Secretary/PIO, Law Department, A&N Administration responded to the Assistant Secretary's letter no. 5-54/2014/Rev dated 29 May 2014 through letter dated 12 June 2014. Deputy Secretary responded on first point that "affidavit in pursuance of order dated 28 January 2011 was not filed and this department has not received any communication since 2011". On the second point of the application, his response said that the PIO office of Deputy Commissioner (South Andaman) may reply. On third point, Deputy Secretary responded that a Circular Order No.5-2/LC/2011/5765 dated 20 June 2011 had been issued in pursuance of order dated 28 January 2011 of the Court to remove the encroachment and to discourage such unauthorised encroachment.

Circular Order No.5-2/LC/2011/5765 Dated 20 June 2011

This order was issued by Office of the Deputy Commissioner, South Andaman District to comply with the Court's order dated 28 January 2011. Circular underlined that "an affidavit in this regard has to be filed before the Hon'ble Apex Court by the Chief Secretary, A&N administration by 27 July 2011".

The Circular reminded the officials that the list of illegal occupants/encroachers on village, community land recorded in form AM in each village has been furnished by the concerned

Tehsildars in respect of their jurisdiction as sought vide this office memo even no. dated 11 April 2011.

Sections 104, 202, and 24 of A&N Islands Land Revenue & Land Reforms Regulation, 1966 gives powers to the Tehsildar to remove encroachments/obstructions/occupations from free use of a recognised road/path/common land including water bodies of a village, mentioned in the circular. Circular directed all the Tehsildars under the Jurisdiction of South Andaman District to initiate appropriate action to evict all the encroachments from the community land within a period of six months from the community land within a period of six months from the date of issue of this circular order in a phased manner. Circular asked to submit a fortnightly compliance report to the Office of the Deputy Commissioner on the eviction process initiated by the Tehsildars to review the status based on the report. Tehsildars were directed to give prime attention to this work.

With reference to the Deputy Secretary/PIO, Law Department, Andaman and Nicobar Administration F.No.7-157/2007/Legal(PF) dated 12 June 2014, Assistant District Magistrate of the South Andaman Administration, office of the Deputy Commissioner responded through reference no. RTIA/ADM/2014/Vol-XII/5103 dated 24 June 2014 that application is transferred to the following administrative officials of the South Andaman Administration.

1. PIO/Assistant Commissioner (South Andman)
2. PIO/Assistant Commissioner (Settlement)
3. PIO/Assistant Commissioner (Legal)
4. APIO/Assistant Director (Admin)
5. APIO/Account Officer
6. APIO/Tehsildar, Port Blair
7. Deputy Manager (IT)
8. S.I. (Planning)
9. Storekeeper

They were directed to furnish the information directly to the applicant before 14 July 2014. However, no response was received by that date.

Dadar & Nagar Haveli

Resident Deputy Collector (S)/PIO, Law Section Administration of Dadar & Nagar Haveli responded through letter no ADM/LAW/28/2013/813 dated 27 March 2014 that application had been transferred to

1. the Mamlatdar, Dadar & Nagar Haveli,
2. the Land Reform Officer, Dadar & Nagar Haveli and
3. the Chief Executive Officer, District Panchayat Dadar & Nagar Haveli

by underlining that "Since the matter is dealt by your department, hence compliance may please be furnished directly to the applicant at your end, under intimation to this office".

Development and Planning officer, Department of Rural Development Dadar & Nagar Haveli responded on the points raised in the application through letter no DPO/EO(VP)/RTI/2012/265 dated 7 April 2014. On point first and third, the response stated that the information was not available and on second point response said that "There is no such scheme in this UT".

Daman and Diu

Deputy Collector of Daman (UT Administration of Daman and Diu) responded through letter no. COL/DMN/EST/RTI-10/2013-14/834 dated 6 June 2014 that application had been transferred to the Chief Executive Officer, District Panchayat of Daman.

Block Development Officer, District Panchayat of Daman (UT Administration of Daman and Diu) responded with reference letter no. COL/DMN/EST/RTI-10/2013-14/834 dated 6 June 2014 to through letter no. bdo/Daman/RTI-Act/2014/353 dated 25 June 2014 informed that information on points mentioned in the application is nil.

Puducherryⁱ

Public Information Officer (PIO), Office of the Special Secretary-Cum-Collector through a letter no. 5586/DRDM/RTI/2014 dated 26 June responded on points raised in the RTI application. In its response, PIO stated that the Court order dated 22 July 2011 were *explained to all the state officials and they were directed to remove existing encroachments from their jurisdiction. Procedure is set to deal with encroachments* as per the practice as and when complain received regarding encroachment on government land. Complaint forwarded to the concern officials to initiated action as per the law and remove encroachments from government land.

The reply from the PIO stated that the applicant can pay and get per page charges and get the 5 pages submitted to the Supreme Court.

The payment has been sent and the response is awaited.

ⁱThis piece is based entirely on the information received by the team in reply to an application under the Right to Information Act, 2005.

Credits

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