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**(2018) 06 UK CK 0108**  
**In the Uttarakhand High Court**  
**Case No : Writ Petition (M/S) No.823 of 2018**

Tarun Joshi & others

APPELLANT

Vs

State of Uttarakhand & others

RESPONDENT

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**Date of Decision :** 25-06-2018

**Acts Referred:**

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 — Section 2 (o), 6, Rule 9

**Citation :** (2018) 06 UK CK 0108

**Hon'ble Judges :** SUDHANSHU DHULIA, J

**Bench :** Single Bench

**Advocate :** R.S. Garia, Yogesh Pandey

**Final Decision :** Disposed Off

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## Judgement

Sudhanshu Dhulia, J. (Oral)

Since the petitioner no. 1 Sri Tarun Joshi is admittedly not a forest dweller, his name stands deleted. Now the petition stands titled as â??Jagat Singh

Mitari & others v. State of Uttarakhand & Othersâ??.

2. Petitioners claim to be â??other traditional forest dwellersâ?. â??Other traditional forest dwellersâ? has been defined under Section 2 (o) of the

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which reads as under:-

â??2. Definitions. -In this Act, unless the context otherwise requires,-(o) â?? other traditional forest dwellerâ? means any member or community who

has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for bona

fide livelihood needs.â??

3. The case of the petitioners is that they reside within Gram Sabha Bilhari Chakarpur, Tehsil Khatima, District Udham Singh Nagar and they depend

on the forest for their bona fide needs. This has not been stated with any clarity, at least not to the satisfaction of this Court, by the petitioners, who

have not said as to what precisely is their dependence on the forest area. There is nothing on record here to suggest that petitioners are "other

traditional forest dwellers". They admittedly reside outside forest area. They, however, claim that for their sustenance they depend on forest, though

this aspect has not been substantiated. Nevertheless, the petitioners claim that the Gram Sabha has already recommended their case to the Sub-

Divisional Level Committee and the Sub-Divisional Level Committee has also referred their case to the District Level Committee. In the counter

affidavit, this fact has been denied by the State saying that no such matter is pending before the Sub-Divisional Level Committee or District Level

Committee.

4. Considering the scheme of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Rules

framed thereunder and in order to determine the rights, inter alia, of "other traditional forest dwellers" in a forest area, the recommendations have

to be first sent by the concerned Gram Sabha to the Sub-Divisional Level Committee which after examining the matter will refer it to the District

Level Committee. It must be stated here that under sub-section (7) of Section 6 of the Scheduled Tribes and Other Traditional Forest Dwellers

(Recognition of Forest Rights) Act, 2006 read with Rule 9, the State Government shall constitute a State Level Monitoring Committee and the ultimate

responsibility of monitoring such cases lies with the State Level Monitoring Committee.

5. The writ petition stands disposed with the direction that the petitioners shall make a representation before the Chief Secretary, Government of

Uttarakhand who shall thereafter refer the matter to the State Level Monitoring Committee for final decision in the matter. In case the petitioners

have any rights, let the case of the petitioners be decided in accordance with law.

6. However, it is made clear that any remarks made by this Court as to the merits of the case are only for the purposes of deciding the present writ

petition, and shall not be taken into consideration by the State Level Monitoring

Committee while deciding the case of the petitioners.