

Minutes of the State Level Monitoring Committee meeting held on 22.07.2008 at 3.30 PM under the chairmanship of Smt. Asha Swaroop, Chief Secretary to Govt. of H.P in her office regarding implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

The following officers attended the meeting:-

1. Sh. Prem Kumar, Financial Commissioner (Revenue).
2. Sh. Pankaj Khullar, Pr. CCF, H.P.
3. Sh. Srikant Baldi, Secretary (Panchayati Raj).
4. Sh. Harsh Mitter, CCF (Ecot & NTFP), H.P.
5. Sh. Subhash C. Negi, Secretary (TD).
6. Sh. Sharabh C. Negi, Special Secretary (TD).

Secretary (TD) welcomed the Chairperson and the participants. The Secretary (TD) briefed/apprised the salient features of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Thereafter, the discussion on various issues was initiated and accordingly following decisions were taken:-

i) The phrase "Who primarily reside in forest and forest land" mentioned in the Act was deliberated and Principal Secretary (TD) apprised that in this regard the opinion of the Law Deptt. of the State Govt. was taken and the matter was also raised with the Govt. of India. The Clarification given by the Govt. of India in consultation with Law Ministry is as under:-

"It is clarified that the implication of using the word 'primarily' is to include the Scheduled Tribes and Other Traditional Forest Dwellers who have either habitations, or patches of land for self cultivation for livelihood, and would, therefore, be primarily spending most of their time either in temporary make shift structures or working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land. Therefore, such Scheduled Tribes and Other Traditional Forest Dwellers who are not necessarily residing inside the forest but are depending on the forest for their bonafide livelihood needs would be covered under the definition of "forest dwelling Scheduled Tribes" and 'other traditional forest dwellers' as given in Section 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006."

The Committee decided that these guidelines should be issued to all implementing agencies such as Distt. Level Committees, Sub-Divisional Level Committees, Forest Right Committees & Other officials to guide and enable them to decide the claims.

ii) What does "bonafide livelihood needs" mean:-

Rule 2(b) states that "bonafide livelihood needs" means fulfillment of sustenance needs of self and family through production or sale of produce resulting from self cultivation on forest land as provided under clauses (a), (c) and (d) of sub-section (1) of section 3 of the Act.

The Committee deliberated upon the modalities and parameters for determining as to how bonafide livelihood needs on sustainable basis can be quantified in practical term for the purpose of uniformity and implementation.

After detailed deliberations and taking overall points into consideration such as land holding, occupational pattern, geographical conditions of the State, the committee decided that :-

*existing of the scheduled tribe / forest dweller held by him* *in the forest*

1. The holding on personal ownership and land under occupation for self cultivation taken together should be taken into account for sustainable livelihood needs *and* Accordingly 20 bighas of total holding should be sufficient for this purpose which is in lines with the provision of the HP Grant of Nautaur Rules where maximum permissible limit is 20 bighas including land already in ownership of applicant.
2. The Committee also suggested that for the purpose of determining possession at the time of accepting claims, same should also be verified from the application submitted by him for the regularization of encroachments in the year 2003, when applications were invited for regularisation of encroachment by the State Govt. However, in those cases where claim is more than the land applied for to regularize encroachments, such cases of claims of possession / occupation after 2003 will be verified by the Forest Right Committee and Sub-Divisional Level Committee in accordance with evidences & procedures laid down in the Rules, 2008
3. The Committee decided that to prevent and discourage the multiplicity of claims by the members of splinter/separated members of the same family, the position of the Parivar Register as on 31.12.2005 will be final for determining the unit of family for the purpose of this Act.
4. The Committee also decided that land where homestead is constructed, same should be given if the claimant has no other house elsewhere.
5. The Committee decided only the claims of permit holders for grazing rights in respect of Himachali Gujjars, Gaddis, Kinnaura Tribes should be accepted.
6. The Committee decided that the Act may be implemented in the Tribal Areas in first phase and keeping in view the experience, the Act may be implemented in the rest of the State.
7. The Committee decided that necessary instructions to Revenue, Forest and Panchayati Raj Deptt. officials should be issued to extend necessary assistance and co-operation to various committees.

The meeting ended with vote of thanks to and from the chair.

*Yewal*  
Chief Secretary –cum- Chairma(SLMC)  
Govt. of H.P. Shimla-2