

No. TBD.F(TDM)1-1/2007-VI
Tribal Development Department
Himachal Pradesh, Shimla

From

Commissioner(Tribal Dev.)
Bijlani House, Chhota Shimla-2

To

1. Dr. Ram Lal Markanda, Hon'ble MLA, Lahaul-Spiti
Set No. 703, New Metropole Hostel, Shimla-171001
2. Sh. Tejwant Singh Negi, Hon'ble MLA, Kinnar
Set No. 311, Jawahar Vidhayak Sadan, Shimla-171004
3. Sh. Bhani Chand Thakur,
Village Chaloli, P.O. Dharwas,
Tehsil Pangi, Distt. Chamba
4. The Additional Chief Secretary (Forests) to the
Govt. of H.P. Shimla-2
5. The Additional Chief Secretary -cum- FC (Revenue) to the
Govt. of H.P. Shimla-2
6. The Principal Secretary (Panchayati Raj) to the
Govt. of H.P. Shimla-2
7. The Principal Chief Conservator of Forest,
H.P. Shimla-1

Dated Shimla-2 November 16, 2009

Subject:- **Minutes of the State Level Monitoring Committee meeting held on 11.11.2009 at 3.30 PM under the chairpersonship of Smt. Asha Swarup, Chief Secretary to Govt. of H.P in her office to review the implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.**

Sir,

I am directed to enclose herewith a copy of minutes of the State Level Monitoring Committee meeting held on 11.11.2009 at 3.30 PM under the chairpersonship of Smt. Asha Swarup, Chief Secretary to Govt. of H.P in her office to review the implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for your information please.

Yours faithfully,


Deputy Director(TD)
H.P. Shimla-2

Endst No. & Dated:- As above.

Copy for information and necessary action to:-

1. The Deputy Commissioner, Kinnar/Chamba/Lahaul-Spiti,
2. The Addl. Deputy Commissioner, Spiti.
3. The Addl. Distt. Magistrate, Pooh/Bharmour
4. The Sub-Divisional Magistrates, Kalpa/Nichar/Spiti / Lahaul/ Udaipur/Pangi/Bharmour
5. The Project Officer, ITDP Kinnar/Lahaul/Spiti/Pangi/Bharmour


Deputy Director(TD)
H.P. Shimla-2

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Minutes of the State Level Monitoring Committee meeting held on 11.11.2009 at 3.30 PM under the chairpersonship of Smt. Asha Swarup, Chief Secretary to Govt. of H.P in her office to review the implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

The following officers attended the meeting:-

1. Dr. Ram Lal Markanda, Hon'ble MLA, Lahaul-Spiti
2. Sh. Avay Shukla, ACS (Forest).
3. Ms. Harinder Hira, ACS(Revenue).
4. Sh. Vinay Tandon, Pr. CCF.
5. Sh. Bhim Sen, Commissioner-cum-Pr. Secretary(TD).

Commissioner-cum-Pr. Secretary (TD) welcomed the Chairperson and the participants and briefed about the progress made under the Act as follows:

1. The Act is under implementation in the tribal areas as per decision in the Cabinet on 28.07.08 and State Level Monitoring Committee, Distt. Level Committees (DLCs) for Kinnaur, Lahaul- Spiti and Chamba Distts. and Sub-Divisional Level Committees(SDLCs) for Kalpa, Pooh, Nicchar, Lahaul, Spiti, Udaipur, Pangi and Bharmour sub-divisions and Forest Right Committees(FRCs) in all 151 Panchayats of the Tribal areas.
2. Extensive training programmes to the members FRCs, PRIs, local govt. officials and other stakeholders was conducted in the last year.
3. The information about the implementation of Act in the web based software of the Ministry is being uploaded and updated.
4. Road Map for implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was circulated on 04.11.08 to field authorities but has not been fulfilled due to reasons:
 - Migration of tribal population during winter season in 2008-09.
 - General Elections in May, 2009 and promulgation of Model Code of Conduct since March, 2009 in the State.
 - Sowing season in May and June months due to which problems were faced regarding quorum of Gram Sabha.
 - Effective implementation of HP Tenancy and Land Reform Act in the State including tribal areas since the year 1975

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and non fulfillment of eligibility condition under Forest Dweller Act.

- Civil Writ Petition filed in the Hon'ble High Court, H.P by one of the resident of Distt. Kinnaur against implementation of the Act.

5. Some claims have been received in Distt. Level Committee Chamba for which the meeting was held on 30.10.09 and the information about the outcome from Deputy Commissioner, Chamba is still awaited.

6. During the Chief Ministers/Tribal Ministers' Conference on 4th November, 2009, the Hon'ble Prime Minister has stressed about the completion of implementation process of the Act by December, 2009

It was brought to the notice of the Committee members that the progress of finalisation of claims filed in the tribal areas is almost negligible because of the slight contradiction between two clarificatory letters issued by TD and Forest Deptts. regarding interpretation of the words "Who primarily reside in forest and forest land".

After detailed deliberations and to speed up the implementation process, the committee decided that:-

1. The proceedings of the meeting held on 07.03.09 under chairmanship of Addl. Chief Secretary (Forests) for the implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 circulated to the Divisional Forest Officers in tribal areas by Pr. CCF, H.P may be amended as per clarification received from Govt. of India 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

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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."

Other guidelines issued by the Forest deptt. will remain unchanged. However, Sub Divisional Level Committee will have to consider individual/community claims on merit of each case as per provisions of Forest Rights Act, 2006 and guidelines issued thereon by recording a speaking order.

Other guidelines issued by the Forest deptt. are :

- The member of Scheduled Tribe and Other Traditional Forest Dweller should be resident of the Tribal Area.
- The member of Scheduled Tribe and Other Traditional Forest Dweller should depend on forests for livelihood.
- Any govt. employee, regular or on contract is not eligible for forest rights under the Act.
- Practising professionals, businessmen and traders are not eligible for forest rights under this Act.
- Any income tax payee should be excluded from the purview of this Act.
- Land should be under actual cultivation.
- Enumeration list of trees shall be prepared by the concerned DFO.

2. Training to the official members of Distt. Level Committees, Sub-Divisional Level Committees may be imparted in November, 2009 and the resource persons/faculty may be invited from the Ministry of Tribal Affairs, Govt. of India.

3. The letter issued by the Deputy Commissioner, Kinnaur to the Sub-Divisional Magistrates with respect to the issue Parcha Tartima to the claimants seeking claims under the Forest Right Act, 2006 may be withdrawn.

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4. As per the directions of the Hon'ble Prime Minister on 04.11.09, every possible effort may be made to finalise the implementation process in the Tribal Areas and thereafter the matter be brought to the Cabinet as per the experience to consider implementation of this Act in the rest of the State.

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

Chief Secretary -cum- Chairperson(SLMC)

Govt. of H.P. Shimla-2