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

From

Commissioner(Tribal Dev.)  
Himachal Pradesh, Bijlani House, 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, Kinnaur  
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 Principal Secretary -cum- FC (Revenue) to the  
Govt. of H.P. Shimla-2
6. The 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

6<sup>th</sup> April, 2011

Subject:-

**Minutes of the State Level Monitoring Committee meeting held on 25.03.2011 at 10.30 AM under the chairpersonship of the Chief Secretary to Govt. of H.P in her office to review/discuss 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 25.03.2011 at 10.30 AM under the chairpersonship of the Chief Secretary to Govt. of H.P in her office to review/discuss the implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for your information please.

Yours faithfully,

  
Additional Commissioner(TD)  
H.P. Shimla-2

Endst No. & Dated:- As above.

Copy for information and necessary action to:-

1. The Deputy Commissioner, Kinnaur/Chamba/Lahaul-Spiti.
2. The Joint Secretary (TD) to the Govt. of H.P. Shimla-2.

  
Additional Commissioner (TD)  
H.P. Shimla-2

**Minutes of the State Level Monitoring Committee meeting held on 25.03.2011 at 10.30 AM under the chairpersonship of the Chief Secretary to Govt. of H.P in her office to review/discuss the implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.**

The following non-official/official members attended the meeting:-

1. Dr. Ram Lal Markanda, Hon'ble MLA Lahaul-Spiti
2. Sh. Tejwant Negi, Hon'ble MLA, Kinnaur
3. Sh. Bhani Chand, Tribal Advisory Council member
4. Sh. S. Roy, Addl. Chief Secretary(Forest)
5. Sh. P. Mitra, Principal Secy.-cum-FC(Revenue)
6. Sh. Bhim Sen, Commissioner-cum-Pr. Secretary(TD)
7. Sh. R.D. Dhiman, Secretary(Rural Dev. & Panchayati Raj)
8. Sh. Vinay Tandon, Pr. CCF.

**Special Invitees**

1. Sh. S.P. Vasudeva, CCF(S&A)
2. Sh. Devesh Kumar, Deputy Commissioner, Chamba
3. Sh. Rajiv Shankar, Deputy Commissioner, Lahaul-Spiti
4. Dr. Sunil K. Chaudhary, Deputy Commissioner, Kinnaur
5. Sh. Deva Singh Negi, ADM Bharmour

1. Commissioner-cum-Principal Secretary (TD) welcomed the Chairperson and the participants and thereafter agenda-wise discussion and decision were taken as follows:

2. The progress of the implementation of the Act in the tribal areas was reviewed and district wise position was noted as under:

- Deputy Commissioner, Chamba apprised that all the claims received had been decided. As on the day of the meeting, the claims shown pending at SDLC level in respect of ITDP Bharmour and Pangti had been rejected. The titles of the approved claims were being issued by passing a self speaking order in each case. Deputy Commissioner,

Chamba was requested to submit the latest progress report to the Tribal Deptt. immediately.

- Deputy Commissioner, Lahaul & Spiti apprised that claims under community rights received from the SDLC Spiti had been approved by the Distt. Level Committee but titles had been withheld due to issue of jurisdiction of DFO Lahaul in Spiti. ACS (Forest) was requested to sort out the matter at the earliest so that the title documents could be issued. ACS (Forest) assured that the matter would be resolved. Further DC Lahaul-Spiti was requested to expedite the progress under the Act in respect of ITDP Lahaul.
- The progress in respect of Distt. Kinnaur was observed to be slow. DC Kinnaur was advised to decide the cases immediately as per provisions of the Act and not to mix them with Nautor cases.

3. The observations and recommendations made in the field visit report of MoEF/MoTA Committee on implementation of Forest Rights Act in Himachal Pradesh during 28-31st July 2010 were discussed and it was observed that most of the observations and recommendations were vague in nature since the Committee was not well acquainted with the conditions of tribals in Himachal Pradesh and was having the picture of tribals living in Madhya Pradesh and Jharkhand. However, observations relevant to the State of H.P had already been acted upon.

4. The recommendations and suggestions of the committee constituted from Forest, Revenue and Tribal Dev. Deptt. w.r.t forest rights to Gaddis and Gujjars under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the State were accepted.

5. In the previous meeting on 17.07.2010 it was decided to bring the matter to the Cabinet after September, 2010 regarding implementation of this Act in non-tribal areas of the State after analyzing the implementation experience of the Tribal Areas. Tribal Deptt. was of the view that this matter needed to be brought to the Cabinet for consideration. However, it was decided to also analyze the experience of the implementation of Tribal Areas.

6. All the non-official members raised the issue of the eligibility guidelines, like any govt. employee(regular or on contract), income tax payee, practicing professionals, businessmen and traders being excluded for vesting rights under this Act, circulated to the field authorities as per decision taken in the State Level Monitoring Committee meeting on 11.11.2009. They suggested that this decision be reviewed and these guidelines be withdrawn and the Committees at Gram Sabha, Sub Division and District Level be allowed to process these claims as per provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Forest Deptt. and other official members were of the view that these guidelines are issued for guidance of field level functionaries to apply the provisions of this Act in an objective and fair manner. Chairperson assured the members that whole issue will be examined on the deptt.'s file and appropriate action will be taken.

7. The Committee was apprised that on the recommendations of MoEF/MoTA Committee on implementation of Forest Rights Act regarding traditional/customary rights including rights to get Nautor Land to be recorded under the Act, the Deputy Commissioner, Kinnaur was requested to examine the matter. The Deputy Commissioner, Kinnaur had referred the matter to consider the Nautor cases under this Act as there is a provision of customary right to obtain Nautor Land as per provisions of H.P. Nautor Rules irrespective of its being a Charagah Darkhatan or Charagah Vila Darkhatan in Sub Clause(Ch) of clause 10 in Wazib-Ul-Urz. The opinion of Law department was sought and which is reproduced as under:

"Sanction of Nautor as a customary right on forest land shall be available to forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers without application of Forest(Conservation) Act,1980 only if the wazib-ul-urz of respective Up-Mohal in which such forest dwelling Scheduled Tribes and

Other Traditional Forest Dwellers permanently reside contained a customary right in respect of such Nautor Government forest land. Since the interpretation of provisions of Wazib-ul-urz(Revenue document) and angle of

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Forest Land involved, views of Revenue and Forest Deptts. may be obtained before proceeding further."

7(i) In this regard, the Revenue Department agreed to the opinion of the Law Department "that the provisions of Forest Conservation Act, 1980 shall not apply where Nautor rights are recorded in the Wazib-ul-urz." However, in the meeting Principal Secy.-cum-FC(Revenue) added that the deptt. has re-examined the Nautor issue and is of the view that those persons who are not forest dwellers and are not dependent on the forests for their bonafide livelihood needs may not be covered under this Act. It will be appropriate to file IA in Hon'ble Supreme Court. He further added that there are 1028 Nautor cases sanctioned in Distt. Kinnaur prior to 1998 but pattas had not been issued and there were 5499 new applications for Nautor pending with the Distt. Revenue Authorities.

7 (ii) Department of Forest reiterated its opinion that IA should be filed in the Hon'ble Supreme Court seeking permission under the Forest Conservation Act, 1980, in respect of Nautor cases in tribal areas where land allotment had been made and allottees were in possession of lands since 80s and early 90s but the Pattas could not be allotted for the want of approval under the FCA, 1980. However, the Govt. would have to pay NPV, even if the IA is accepted by the Hon'ble Supreme Court. In respect of cases, where the applications had been processed but no allotment of land had been made for want of approval under FCA, 1980, it was very unlikely that the Hon'ble Supreme Court may agree for diversion of forest land. The Forest Deptt. was of the view that IA may be filed in the Hon'ble Supreme Court by Revenue Deptt. and all necessary assistance would be provided to them in the matter.

8. The non-official members in unison opined that Nautor issue is pending from many years and because of this, people of IRDP/BPL category were suffering badly and this was also causing unrest in tribal people. They were of the view that Nautor rights had been recorded in Wajib-UI-Urj as customary rights

which in turn had been recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (which has overriding effect on all other laws in this regard). Therefore, Tribal people be allowed to get Nautor land under this Act.

9. After detailed discussions and deliberations, it was decided that Nautor cases may not be mixed up with this Act and may be processed separately. All claims received under the Act should be decided as per provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 by self speaking order in each case and issue of Nautor Land be examined by Revenue and Tribal Dev. Deptt. separately as per discussion in the meeting i.e whether to take up this issue with Hon'ble Supreme Court or to agree to the suggestion of non-official members.

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

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