

# COMPENDIUM OF GUIDELINES, CIRCULARS AND EXECUTIVE INSTRUCTIONS ON FOREST RIGHTS ACT

## VOLUME II

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Implementation  
of  
Forest Rights Act  
in  
Protected Areas

27<sup>th</sup> September, 2007.

Dear

As you are aware, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 has been enacted by the Parliament and rules for the implementation of the same are being finalized. Copies of the Act and the draft Rules have already been sent to you. It is expected that very shortly, the rules will be finalized and notified for implementation of the Act in a time bound manner.

2. The Act envisages determination and vesting of a number of forest rights, individual as well as community rights, in the forest dwelling Scheduled Tribes and other traditional forest dwellers. The whole process for determination of forest rights would start at the level of Gram Sabha, which will be scrutinized at Sub-Divisional Level Committee, after which the District Level Committee will approve/award forest rights. The various Committees under the Act are to be constituted by the State Government.
3. One of the important features of the Act is the identification and notification of Critical Wildlife Habitats. For this purpose, the Secretary, Ministry of Environment and Forests has already addressed the State Governments, vide her D.O. letter No.1-39/2007-WL-I(Pt.) dated 30<sup>th</sup> August, 2007, to constitute State Level Committees so that the task of identification/declaration of Critical Wildlife Habitats could be initiated and completed at the earliest. A representative of the Ministry of Tribal Affairs has also been made a Member of the said Committees.
4. As per Section 11 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, the Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorized by the Central Government in this behalf shall be the nodal agency for the



गौतम बुद्ध मुखर्जी

Gautam Buddha Mukherji

Tele. : 23381652

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D.O. NO.17014/2/2007-PC&V(Vol.VI)

Immediate

सचिव, भास्त्री भवन

Secretary to the Government of India

जनजातीय कार्य मंत्रालय

Ministry of Tribal Affairs

शास्त्री भवन, नई दिल्ली-110001

Shastri Bhawan, New Delhi-110001

E-mail : secy-tribal@nic.in

Website : www.tribal.gov.in

27<sup>th</sup> September, 2007.

Dear

As you are aware, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 has been enacted by the Parliament and rules for the implementation of the same are being finalized. Copies of the Act and the draft Rules have already been sent to you. It is expected that very shortly, the rules will be finalized and notified for implementation of the Act in a time bound manner.

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implementation of the provisions of this Act. This Ministry, thus, nominates the Secretary in charge of the Social Welfare Department in your State to be the nodal agency under Section 11 of the Act for implementation of the provisions of the Act. He will also be the representative of this Ministry to act as a Member of the State Level Committee to be constituted for identification/declaration of Critical Wildlife Habitats as per the provisions of the Act.

5. We hope and presume your State will consent to this nomination. The particulars of the officer so nominated (viz. name, designation, department, address, telephone number, etc.) may also please be intimated.

Yours sincerely,

  
(G.B. Mukherji)

Chief Secretaries of Punjab, Haryana, NCT Delhi and Puducherry (as per list attached).

Copy for information forwarded to Secretaries incharge of Social Welfare Department of Punjab, Haryana, NCT of Delhi and Puducherry (as per list attached).

Copy forwarded for information to Ministry of Environment and Forests (Ms. Meena Gupta, Secretary), Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003.

*dc*  
*Issued by Speed Post*  
*4/10/08*

*Ok*  
(G.B. Mukherji)  
Secretary (TA)

LIST OF SECRETARIES IN CHARGE OF TRIBAL WELFARE  
DEPARTMENTS OF STATES.

1. Shri V. Nagi Reddy, Secretary, Social Welfare Department, Government of Andhra Pradesh, Hyderabad.
2. Shri Juzar Lollen, Secretary, Welfare Department, Government of Arunachal Pradesh, Itanagar.
3. Shri J.P. Meena, Commissioner, Welfare of Plain Tribes and Backward Classes Department, Government of Assam, Dispur, Guwahati.
4. Shri Jai Ram Meen, Principal Secretary, Welfare Department, Government of Bihar, Patna.
5. Shri M.K. Raut, Secretary, Tribal, OBC and Minority Welfare Department, Government of Chhattisgarh, Raipur.
6. Shri A.M. Tiwari, Secretary, Tribal Development Department, Government of Gujarat, Sardar Bhawan, 9<sup>th</sup> Floor, Sachivalaya, Gandhinagar.
7. Shri Subhash C. Negi, Principal Secretary, Tribal Development Department, Government of Himachal Pradesh, Shimla.
8. Shri U.K. Sangma, Secretary, Welfare Department, Government of Jharkhand, Ranchi.
9. Shri Romanu Horo, Principal Secretary, SCs/STs Development Department, Government of Kerala, Thiruvananthapuram.
10. Shri R.B. Agavani, Principal Secretary, Social Welfare Department, Government of Karnataka, Bangalore.
11. Shri O.P. Rawat, Secretary, Tribal Development Department, Government of Madhya Pradesh, Bhopal.
12. Shri P.C. Lawmkunga, Principal Secretary, Tribal Welfare Department, Government of Manipur, Imphal.
13. Shri Sunil Porwal, Secretary, Tribal Development Department, Government of Maharashtra, Mumbai.
14. Smt. Vinitha Kumar, Secretary, Tribal Welfare Department, Government of Uttarakhand, Dehradun.

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15. Shri L. Khingte, Secretary, Social Welfare Department, Government of Mizoram, Aizawl.
16. Shri Y. Tsering, Commissioner-cum-Secretary, Social Welfare Department, Government of Meghalaya, Shillong.
17. Shri K.T. Sukhalu, Secretary, Social Welfare Department, Government of Nagaland, Kohima.
18. Shri Tara Dutt, Secretary, SCs and STs Welfare Department, Government of Orissa, Bhubaneswar.
19. Shri Umrao Salodia, Principal Secretary, Rajasthan Tribal Area Development Department, Government of Rajasthan, Jaipur.
20. Shri R. Ongmau, Principal Secretary, SCs and STs Welfare Department, Government of Sikkim, Gangtok.
21. Shri C. Muthukumaraswamy, Secretary, Adi Dravidar and Tribal Welfare Department, Government of Tamil Nadu, Chennai.
22. Shri S.K. Chaudhary, Secretary, Department of Welfare of STs, Government of Tripura, Agartala.
23. Shri Ram Kumar, Principal Secretary, Social Welfare Department, Government of Uttar Pradesh, Lucknow.
24. Shri Swami Singh, SCs and STs Welfare Department, Government of West Bengal, Kolkata.
25. Miss S.K.P. Sodhi, Special Secretary, Tribal Welfare Department, Government of Andaman and Nicobar Islands, Port Blair.

Guidelines to notify critical wildlife habitat including constitution and functions of Expert Committee, scientific information required and resettlement and matters incidental thereto.

As envisaged in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, Critical Wildlife Habitats are to be declared by the Central Government in the Ministry of Environment and Forests after a process of consultation by Expert Committees. In this regard, these guidelines are issued, which include both criteria as well as the process.

1. Application for notification of critical wildlife habitat :

(a) The State Government shall initiate the process for notification of a critical wildlife habitat by submitting an application on a case by case basis, to the Ministry of Environment and Forests, under intimation to the nodal agency under the said Act. The application shall include, among others, information as required under these guidelines.

2. Criteria and Process for deciding Critical Tiger/wildlife habitats in tiger reserves / protected areas

With the aim of maintaining viable populations of tiger and other faunal and floral species to conserve biodiversity and life support ecological systems in natural wilderness areas, the following criteria would be followed:

a. Delineation of critical tiger/wildlife habitat (inviolate space/habitat) required for the sustenance of a viable populations of tiger and other wild animals in tiger reserves and protected areas vis-à-vis the Wildlife (Protection) Act, 1972, as

amended in 2006, and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

- b. A minimum inviolate space of 800-1000 sq. km. should be maintained as the inviolate area to support a viable population of tiger in tiger landscapes, based on tiger life history parameters, territory sizes and populations viability analysis.
- c. For National Parks and Sanctuaries, other than Tiger Reserves, critical wildlife habitat area should be demarcated on the basis of species area curves specific for each bio-geographical area, as classified by the Wildlife Institute of India (Rodgers and Panwar, 1988). The size of the inviolate area within each critical habitat zone will be based on its potential to harbor viable populations of umbrella species (endemic species; top carnivores, mega-herbivores, indicator, wild relatives of species of economic value, endangered and threatened, and migratory species), which would serve to conserve the entire biodiversity of the area.
- d. Besides National Parks and Sanctuaries, identified corridors of significant wildlife values should also be examined according to the above criteria for delineation as critical wildlife habitat.

3. Expert Committee, its composition and functions

3.1 For completing the process of deciding inviolate areas as per the criteria prescribed above, the following Committees would be constituted:

Central Committee

a. Additional DG Forests (Wildlife)	Chairman
b. Chief Wildlife Wardens of concerned state	Member
c. Director, WII, Dehradun	Member

d. Shri Valmik Thapar, Member  
 e. Shri Mahendra Vyas Member

f. Representative from the Ministry of Tribal Affairs, Member  
 g. Wildlife Scientist familiar with the area Member  
 h. Member Secretary, NTCA/ Member  
 i. Inspector General of forest (WL) Member Convener

3.2 The Central Committee would examine, on a case-by-case basis, proposals received from States for declaration of critical wildlife habitats in tiger reserves/protected areas, within 30 days of its receipt, for final notification.

3.3 State Level Committee

i. The State Government shall notify a State level Committee with the following composition:

a. State Chief Wildlife Warden Chairman  
 b. Representative of Ministry of Member Environment and Forests, Government of India  
 c. Representative from the Ministry of Tribal Member Affairs, Government of India  
 d. Two State level experts in the field of Members wildlife  
 e. One local representative in the field of Member sociology/conservation or a representative from Gram Sabha  
 f. Protected Area Manager Member Convener

3.4 Terms of Reference for State level Expert Committee

(i) The Expert Committee shall determine the extent of inviolate area required for wildlife conservation, based on above criteria, evidence and analysis

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presented by the State Government in its application; deliberations during the consultation and other studies or information from its own investigation;

- (ii) The Expert Committee, in arriving at such a decision, may, among others,
  - (a) have the power to summon witnesses, call for documents, and undertake any other actions or investigations it feels necessary;
  - (b) consult the Gram Sabhas that would fall within or are dependent on resources within the proposed critical wildlife habitat, the Director of the concerned National Park or Sanctuary, Divisional Forest Officer as well members of the civil society organizations working on social and environmental issues in the area.
- (iii) The Expert Committees may further
  - (a) request additional information or return the said application to the State government along with its reasons for doing so, within a specified period
  - (b) independently verify that complete and correct information was provided to the concerned Gram Sabha which are included in the proposed critical wildlife habitat
  - (c) act on requests from concerned Gram Sabhas and provide support to collect relevant information on the proposed critical wildlife habitat
- (iv) The State Government or any affected Gram Sabha or individual may send objections, comments or additional evidence to the Expert Committee on its decision within 30 days from the date of first hearing of the State Committee.
- (v) The Expert Committee shall consider these submissions and give a final recommendation to the Ministry of Environment and Forests within 15 days.

Information to be submitted with application for critical wildlife habitat

The State Government shall include the following information while submitting the application for critical wildlife habitat, namely:-

- (i) Physical, topographical and ecological details along with relevant maps of the areas to be determined as critical wildlife habitat;

- (ii) Location of human habitations within the proposed critical wildlife habitat along with their demographic, economic and social details;
- (iii) A list of families and settlements likely to be affected by the declaration of the critical wildlife habitat;
- (iv) Scientific studies including documentation of biodiversity that at least provide the ecological data on the habitat and population of the significant plant and animal species;
- (v) Data on human animal conflict and assessment of impact of human presence on animal numbers and animal habitat;
- (vi) Studies on the extent of dependence and interaction of the affected Communities with the forest resources within the proposed critical wildlife habitats;
- (vii) Resolution of the Gram Sabha certifying that in areas included within the proposed critical wildlife habitats, the process of recognition and vesting of rights has been completed;
- (viii) Resolution of the Gram Sabha certifying that the affected Gram Sabhas have been informed in writing that it is proposed to include their habitations and habitats in critical wildlife habitats and that a copy of the complete proposal prepared by the State Government for the same has been provided to it;
- (ix) The State Government ensure that the requirement under Sections 4(2)(b) and 4(2)(c) of the Act has been fulfilled and the basis therefore.

#### Consultation for determining critical wildlife habitat

- (i) The Expert Committee shall initiate open process of consultations on the said application in the following manner:
  - (a) One or more hearings close to or within the critical wildlife habitat, ensuring that reasonable opportunity is provided for all affected to attend the said hearings;
  - (b) Public notices in local languages shall be issued, broadcast on the radio, posted on the web and all appropriate publicity methods used at least thirty days prior to public hearings;

- (c) Gram Sabhas can invite additional experts to be present and participate in the public hearing.
- (ii) At the hearing, the State government shall in the local language
  - (a) Describe the areas and boundary of the proposed critical wildlife habitat;
  - (b) Details of the various habitations and persons to be affected
  - (c) Data provided in the application to the Ministry of Environment and Forests

The quorum for the hearing shall be two thirds of the adults in the area for which the hearing is being held shall be required. If there is no quorum then the hearing may be reconvened at a later date with sufficient notice where the quorum shall be half of the adult members in the area. Later date with sufficient notice where the quorum shall be half of the adult members in the area.

#### 6. Subsequent Action by the Ministry of Environment & Forests

- (i) The Ministry of Environment and Forests may notify the critical wildlife habitat taking into account the recommendations of the Expert Committee and make this information public.
- (ii) Such notification will be in English and in the official language of the state, and posted on the web.
- (iii) The Central Government, only after such notification of critical wildlife habitat, may initiate a process of creating inviolate areas for wildlife conservation in such critical wildlife habitat where forest rights may be modified or holders of forest right may be resettled as per the Section 4(2) of the Act.

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File No. 9-5/2006-NTCA (Part)  
GOVERNMENT OF INDIA  
NATIONAL TIGER CONSERVATION AUTHORITY

Annex No. 5, Bikanor House,  
Shajahan Road, New Delhi  
Date 8<sup>th</sup> September, 2008

The Chief Wildlife Warden (s),  
All Tiger Range States

Sub: Identification/ notification of core/critical tiger habitats and relocation of people from such areas, and Identification / notification of buffer or peripheral areas under section 38V of the Wildlife (protection) Act, 1972.

Ref.:

1. This Ministry letter No. 1501/11/2007-PT (Part) dt. 16.11.2007
2. This Ministry's letter No. 1501/11/2007-PT (Part) dt. 3.12.2007
3. This Ministry's letter No. PS-MS (NTLA)/2007... dt. 31.1.2008
4. This Ministry's letter (s) No. 3-1/2003-PT dt. 27.2.2008, 26.2.2008, 25.2.2008, 27.2.2008 and 19.03.2008.

Sir,

The process of relocation of people living in the core/critical tiger habitats of tiger reserves has been elaborately dealt with under section 38V of the Wildlife (Protection) Act, 1972. Detailed guidelines in this regard, inter alia, have already been issued vide reference(s) cited above.

As you are aware, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has come into force with effect from 31.12.2007, and the rules framed under the said Act are in force with effect from 1.1.2008. Hence, the relocation of villages from core/critical tiger may be carried out keeping in view the overall interest of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Further, identification of core/critical tiger habitats in new tiger reserves after the coming into force of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 would involve action as contained in section 38V of the Wildlife (Protection) Act, 1972 read with the provisions contained in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

It is also requested that the buffer or peripheral areas of tiger reserves may also be identified/delineated as per 38V of the Wildlife (Protection) Act, 1972 as suggested, vide reference 1<sup>st</sup> and 3<sup>rd</sup> cited, at an early date under intimation to this Ministry.

Yours Faithfully

Sd/-

(Dr. Ranjit Gopal)

IGF & Member Secretary, (NTCA)

Copy to:

1. The Principal Secretary (Forests), All Tiger Range States.
2. The Principal Chief Conservator of Forces, All Tiger Range States.
3. The Field Directors, All Tiger Reserves.

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File No. 9-5/2006-NTCA (Part)  
GOVERNMENT OF INDIA  
NATIONAL TIGER CONSERVATION AUTHORITY

Annexe No.5, Bikaner House,  
Shahjahan Road, New Delhi- 110 001

Email : [dirptier@nic.in](mailto:dirptier@nic.in)

Tele Fax: 23384428

Date the 8<sup>th</sup> September, 2009

To

The Chief Wildlife Warden (S),  
All Tiger Range State

Sub: Identification / Notification of core / critical tiger habitats and relocation of people from such areas, and Identification / Notification of buffer or peripheral areas under section 38V of the Wildlife (Protection) Act, 1972.

Ref: 1. This Ministry letter No.1501/11/2007-PT (Part) dated 15.11.2007  
2. This Ministry's letter No. 1501/11/2007-PT (Part) dated 3.12.2007  
3. This Ministry's letter No. PS-MS (NTLA) (2007- Middle dated 31.01.2008  
4. This Ministry's letter(s) No. 3-1/2003-PT DATED 17.01.2008, 26.02.2008, and 19.03.2008.

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It is also requested that the buffer or peripheral areas of tiger reserves may also be identified/delineated/notified as per 38V of the wildlife (Protection) Act, 1972, as suggested, vide reference and 3<sup>rd</sup> cited, at an early under interaction.

Yours faithfully,

Sd/-

(Dr Rajesh Gopal)

IGF & Member Secretary (NTCA)

Copy to:-

The Principal Secretary (Forests), All Tiger Ranges States.

The Principal Chief Conservation of Forests, All Tiger Ranges States.

The Field Directors, All Tiger Reserves.

Sd/-  
IGF & Member Secretary (NTCA)

कानूनी लाल भूरिया  
KAL LAL BHURIA



मंत्री  
जनजातीय कार्य  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110 001  
MINISTER OF TRIBAL AFFAIRS  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110 001

D.O. No.23011/29/2009-SG.II (FRA)

6th May April, 2010

Dear Shri Ramesh ji,

Complaints are being received in this Ministry that some Scheduled Tribe persons living in National Parks and Sanctuaries are being forced to leave these areas without their rights, under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, being decided one way or the other. Complaints are also being received that Forest Departments of State Governments are persuading the nodal departments (Tribal Welfare) not to take up the settlement of rights in these areas. At this point, specifics are not being provided, but such statements are widely being made.

As you are aware, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 envisages the recognition and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers over forest land in the National Parks and Sanctuaries also.

As per the information available with the Ministry, critical wildlife habitats in the National Parks and Sanctuaries are yet to be determined and notified, and therefore, no action has been taken by State / UT Governments for the recognition and vesting of rights of forest dwelling Scheduled Tribes and other traditional forest dwellers occupying forest land in the National Parks and Sanctuaries.

It may be mentioned that the recognition and vesting of the forest rights under the Act is not related to the determination and notification of critical wildlife habitats in the National Parks and Sanctuaries under section 2(b) of the Act. There is no provision in the Act to defer the process of vesting of forest rights till critical wildlife habitats are determined and notified. In fact, the rights need to be recognized first in the National Parks and Sanctuaries before undertaking any exercise for resettlement. No eviction and re-settlement is permissible till all the formalities are completed.

कान्तिलाल भुरिया  
KANTI LAL BHURIA



मंत्री  
जनजातीय कार्यालय

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भारत सरकार

मार्गी भवन, नई दिल्ली-110 001  
MINISTER OF TRIBAL AFFAIRS  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110 001

- :: 2 :: -

We would be happy if you would issue instructions to all State Forest Departments to faithfully implement the provisions of the Forest Rights Act before any decision is taken on the eviction of the Scheduled Tribes living in these areas. We would be happy to be told by you that the complaints of forcible evictions are baseless.

With regards,

Yours sincerely,

(Kanti Lal Bhuria)

Shri Jairam Ramesh,  
Minister of State (I/c) for Environment  
& Forests,  
Parivaran Bhavan,  
CGO Complex, Lodi Colony,  
New Delhi.

F.No.7-12/2010-FP

Government of India  
 Ministry of Environment & Forests  
 (FP –Section)

Paryavaran Bhawan,  
 CGO Complex, Lodhi Road,  
 New Delhi – 110003

Dated: 21.06.2010

To

The Principal Chief Conservator of Forests,  
 Department of Forests,  
 All States / UTs.

**Subject: Compelling the Scheduled Tribes dwelling in the National Parks and Wildlife Sanctuaries to leave the premises of National Parks and Wildlife Sanctuaries without settling their rights under the provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

Sir,

Please find enclosed herewith a copy of D.O. letter No. 23011/29/2009-S.G.-2(FRA) dated 06.05.2010 as received from Shri Kanti Lal Bhuria, Hon'ble Minister of Tribal Affairs, Government of India on the subject cited above. In this regard, it is to inform that before taking any decision regarding the displacement of Schedule Tribes from National Parks and Wildlife Sanctuaries, it must be ensured that the Provisions of Scheduled Tribes and Other Traditional Forest Dweller (Recognition of Forest Rights) Act, 2006 have been duly compiled with. This is also needed to evaluate the compensation to be paid to them through award of collector.

Yours faithfully,

Encl. As stated above

Sd/-

(Mohan Lal)

AIG (EC)

Copy to:

Member Secretary, NTCA, Govt. of India, Bikaner House, New Delhi for information.

फाइल सं. 7-12/2010 एफपी

भारत सरकार

पर्यावरण एवं वन मंत्रालय

(एफपी अनुभाग)

पर्यावरण भवन,  
सीजीओ कॉम्प्लेक्स, लोधी रोड,

नई दिल्ली-110003

दिनांक: 21.06.2010

सेवा में,

प्रधान मुख्य वन संरक्षक,  
वन विभाग,  
सभी राज्य/संघ राज्य क्षेत्र

विषय : अनुसूचित जनजाति तथा अन्य परम्परागत वन निवासी (वन अधिकारों को मान्यता) अधिनियम, 2006 के प्रावधानों के तहत राष्ट्रीय उद्यानों और वन्य जीव अभ्यारण्यों में रहने वाली अनुसूचित जनजातियों के अधिकारों का निपटान किए बिना उन्हें राष्ट्रीय पार्कों तथा वन्य जीव अभ्यारण्यों का परिसर छोड़ने के लिए बाध्य किया जाना।

महोदय;

कृपया दिनांक 06.05.2010 के अर्द्धशासकीय पत्रांक 23011/29/2009-एसजी-2 (एफआरए) की संलग्न प्रति का सन्दर्भ ग्रहण करें जो उपरोक्त विषय पर श्री कांतिलाल भूरिया, माननीय जनजातीय कार्य मंत्री, भारत सरकार की ओर से प्राप्त हुआ है। इस संबंध में आपको सूचित किया जाता है कि राष्ट्रीय उद्यानों और वन्य जीव अभ्यारण्यों से अनुसूचित जनजातियों के विस्थापन के सन्दर्भ में कोई निर्णय लेने से पूर्व यह सुनिश्चित किया जाना चाहिए कि अनुसूचित जनजाति तथा अन्य परम्परागत वन निवासी (वन अधिकारों को मान्यता) अधिनियम, 2006 के प्रावधानों का यथाविधि अनुपालन किया गया है। समाहर्ता के पुरस्कार के माध्यम से उन्हें देय क्षतिपूर्ति का मूल्यांकन किएं जाने की भी आवश्यकता है।

भवदीय

(गोहन लाल)  
एआईजी (एफसी)

संलग्न : जैसा उपरोक्त है।

प्रति प्रेषित

सदस्य सचिव, एनटीसीए, भारत सरकार, बीकानेर हाउस, नई दिल्ली को सूचनार्थ।

कांतिलाल भुरिया  
KANTI LAL BHURIA

मंत्री  
जनजातीय कार्य  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110 001  
MINISTER OF TRIBAL AFFAIRS  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110 001

D.O. No.17011/01/2010-FRA  
30 August, 2010

Dear Shri K. Rosaiah ji,

As you are aware, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 envisages the recognition and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers over forest land in the National Parks and Sanctuaries also.

As per the information available with the Ministry, critical wildlife habitats in the National Parks and Sanctuaries are yet to be determined and notified under Section 2(b) of the Act, and, therefore, no action has been taken by State / UT Governments for the recognition and vesting of rights of forest dwelling Scheduled Tribes and other traditional forest dwellers occupying forest land in the National Parks and Sanctuaries. In fact, the rights need to be recognized first in the National Parks and Sanctuaries before undertaking any exercise for resettlement. No eviction and resettlement is permissible till all the formalities are completed.

Complaints were received in this Ministry that some Scheduled Tribe persons living in National Parks and Sanctuaries are being forced to leave these areas without their rights, under the Act being decided one way or the other. The matter was accordingly taken up with the Ministry of Environment and Forests for issuing instructions to all State Forest Departments to faithfully implement the provisions of the Forest Rights Act before taking any decision to evict the Scheduled Tribes living in these areas.

Consequently Ministry of Environment and Forests has requested all the State Governments to ensure that before taking any decision on displacement of Scheduled Tribes from National Parks and Sanctuaries, the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 should be duly complied with. A

Contd. P/2

लल भूरिया  
KANTI LAL BHURIA

18

ज. स्त्री

जनजातीय कार्य

भारत सरकार

शास्त्री भवन, नई दिल्ली-110 001  
MINISTER OF TRIBAL AFFAIRS  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110 001

- 1 : 2 : 1 -

Ministry of Environment & Forests letter No.7-12/2010-FP dated 10.10.2010, addressed to the Principal Chief Conservators of Forests, Government of Forests of all States / UTs issued in this regard, is enclosed.

I will be grateful if you could kindly ensure effective implementation of instructions issued by Ministry of Environment and Forests in your State in regards,

Yours sincerely,



(Kanti Lal Bhuria)

Shah,  
T,  
of Andhra Pradesh.

अर्विंद कुमार चुध  
Arvind Kumar Chugh  
Tel. : 23381652  
Fax : 23073160



D.O. No.17011/1/2010-FRA

सचिव, भारत सरकार

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Secretary to the Government of India  
जनजातीय कार्य मंत्रालय  
Ministry of Tribal Affairs  
शास्त्री भवन, नई दिल्ली-110 001  
Shastri Bhawan, New Delhi-110 001  
Website : [www.tribal.gov.in](http://www.tribal.gov.in)  
3<sup>rd</sup> September, 2010.

Dear

As you are aware, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 envisages the recognition and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers over forest land in the National Parks and Sanctuaries also.

2. As per the information available with the Ministry, critical wildlife habitats in the National Parks and Sanctuaries are yet to be determined and notified under Section 2(b) of the Act, and, therefore, no action has been taken by State/UT Governments for the recognition and vesting of rights of forest dwelling Scheduled Tribes and other traditional forest dwellers occupying forest land in the National Parks and Sanctuaries.

3. It may be mentioned that the recognition and vesting of the forest rights under the Act is not related to the determination and notification of critical wildlife habitats in the National Parks and Sanctuaries. There is no provision in the Act to defer the process of vesting of forest rights till critical wildlife habitats are determined and notified. In fact, the rights need to be recognized first in the National Parks and Sanctuaries before undertaking any exercise for resettlement. No eviction and resettlement is permissible till all the formalities are completed.

4. Complaints were received in this Ministry that some Schedule Tribe persons living in National Parks and Sanctuaries are being forced to leave these areas without their rights, under the Act, being decided one way or the other. The Ministry had accordingly taken up the matter with the Ministry of Environment and Forests to issue instructions to all State Forest Departments to faithfully implement the provisions of the Forest Rights Act before any decision is taken on the eviction of the Scheduled Tribes living in these areas.

5. Consequently, Ministry of Environment and Forests has requested all the State Governments to ensure that before taking any decision on displacement of Scheduled Tribes from National Parks and Sanctuaries, the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 should be duly complied with. In this connection, a copy of Ministry of Environment and Forests' letter No.7-12/2010-FP dated 21<sup>st</sup> June, 2010, addressed to the Principal Chief Conservation of Forests, Departments of Forest of all States/UTs is enclosed.

6. I shall be grateful if you could kindly bring the contents of the enclosed letter to the notice of all officers concerned with the implementation of the Act in your State for compliance.

Yours sincerely,

06

(A.K. Chugh)

Chief Secretaries of all States (except J&K, Punjab, Haryana, Nagaland, Puducherry, Chandigarh, Lakshadweep and Delhi)

Copy, alongwith a copy of Ministry of Environment and Forests letter No.7/12/2010-FP dated 21<sup>st</sup> June, 2010, is also endorsed to all the Secretaries in charge of Tribal Welfare of the States/UTs (except J&K, Punjab, Haryana, Nagaland, Puducherry, Chandigarh, Lakshadweep and Delhi).

Issued At  
List Attached  
10/10/2010

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06

(A.K. Chugh)  
Secretary (T.A)

कुमार चूध  
Kumar Chugh  
81652  
J73160

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सचिव, भारत सरकार  
, to the Government of India  
जनजातीय कार्य मंत्रालय  
Ministry of Tribal Affairs  
शास्त्री भवन, नई दिल्ली-110 001  
Shastri Bhawan, New Delhi-110 001  
Website : [www.tribal.gov.in](http://www.tribal.gov.in)

D.O. No.17011/1/2010-FRA

Dear

*Gopal*

3<sup>rd</sup> September, 2010.

As you are aware, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 envisages the recognition and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers over forest land in the National Parks and Sanctuaries also.

2. As per the information available with the Ministry, critical wildlife habitats in the National Parks and Sanctuaries are yet to be determined and notified under Section 2(b) of the Act, and, therefore, no action has been taken by State/UT Governments for the recognition and vesting of rights of forest dwelling Scheduled Tribes and other traditional forest dwellers occupying forest land in the National Parks and Sanctuaries.
3. It may be mentioned that the recognition and vesting of the forest rights under the Act is not related to the determination and notification of critical wildlife habitats in the National Parks and Sanctuaries. There is no provision in the Act to defer the process of vesting of forest rights till critical wildlife habitats are determined and notified. In fact, the rights need to be recognized first in the National Parks and Sanctuaries before undertaking any exercise for resettlement. No eviction and resettlement is permissible till all the formalities are completed.
4. Complaints were received in this Ministry that some Schedule Tribe persons living in National Parks and Sanctuaries are being forced to leave these areas without their rights, under the Act, being decided one way or the other. The Ministry had accordingly taken up the matter with the Ministry of Environment and Forests to issue instructions to all State Forest Departments to faithfully implement the provisions of the Forest Rights Act before any decision is taken on the eviction of the Scheduled Tribes living in these areas.
5. Consequently, Ministry of Environment and Forests has requested all the State Governments to ensure that before taking any decision on displacement of Scheduled Tribes from National Parks and Sanctuaries, the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 should be duly complied with. In this connection, a copy of Ministry of Environment and Forests' letter No.7-12/2010-FP dated 21<sup>st</sup> June, 2010, addressed to the Principal Chief Conservation of Forests, Departments of Forest of all States/UTs is enclosed.
6. I shall be grateful if you could kindly bring the contents of the enclosed letter to the notice of all officers concerned with the implementation of the Act in your State for compliance.

*Regard*

Yours sincerely,

*(A.K. Chugh)*  
(A.K. Chugh)

Shri Satya Gopal,  
Administrator,  
UT Administration of D...

भूमिया  
BHUURIA

मंत्री  
जनजातीय कार्य  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110 001  
MINISTER OF TRIBAL AFFAIRS  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110 001

D.O. No.23011/05/2010-FRA

27 September, 2010

Dear Shri Sarkar ji,

I am writing this letter in connection with implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the State of Tripura.

While the Ministry is appreciative of the progress made by your State towards implementation of the Act, I would like to mention certain aspects of the Act which need your personal attention. These are discussed below:

(i) Community claims

As of 31<sup>st</sup> July 2010, only 277 community claims have reportedly been filed. Considering that Tripura is a tribal majority State, the number of community claims filed is very low. This could be due to inadequate publicity of the provisions of the Act and the Rules framed thereunder amongst the eligible claimants/communities in different parts of the state. Since most community claims relate to the ownership of minor forest produce, the State Government should launch a special campaign for generating widespread awareness about these community rights, if necessary, by re-

training field level functionaries engaged in the processing of such applications. The Gram Sabhas in the State may be given instructions to facilitate the collection of more community right claims. Support of local resources institutions under the State Government may be enlisted for this purpose.

(ii) Rejection of claims

It is observed that out of a total number of 1,72,304 claims filed in the State till 31<sup>st</sup> July, 2010, 55,997 claims were rejected. This works out to 32.49% of the total claims filed, which is quite high and a matter of concern. The Ministry has already requested the State Government, vide former Secretary (TA)'s D.O. letter No.23011/24/2009-FRA dated 15<sup>th</sup> July, 2010, addressed to Chief Secretary, Tripura, to categorise all rejections with their numbers, on a statistically acceptable sampling basis, at the level of Gram Sabha and SDLCs, in different categories specified in the said letter, and to incorporate this information in the monthly progress report being sent to this Ministry on implementation of the Act. The concerned State Government officials may be directed to complete this exercise and send this information to this Ministry every month.

(iii) Convergence of Government programmes

Having achieved the primary aim of distributing titles, there is a need to bring about the convergence of Government developmental programmes so that the standard of living of the title holders improves and they are weaned away from the timber related activities. The Hon'ble Prime Minister, in

his inaugural address at the two-day Conference of the Chief Ministers and State Ministers (Tribal Welfare / Social Welfare and Forest Department), convened by this Ministry in November, 2009 had also, *inter alia* stressed the need for dovetailing all development and welfare programmes in tribal areas for a coherent strategy and coordinated approach involving all departments. The observations of the Prime Minister were conveyed to the State Government, vide my letter No. 23011/20/2009-FRA dated 19.11.2009 and again on 18.2.2010 for taking necessary measures in this regard. The Ministry may be apprised of the action taken in this regard.

(iv) Diversion of forest land for development activities  
Section 3(2) of the Act provides for diversion of forest land for certain development activities, specified in that Section, which involve felling of trees not exceeding seventy five per hectare. The Ministry had laid down the procedure for diversion of forest land under Section 3(2) of the Act on 18<sup>th</sup> May, 2009. The Ministry has, however, not been apprised of the status of the proposals, if any, received by the State Government under this Section and the action taken thereon by the State Government.

(v) Determination and notification of critical wildlife habitats in the National Parks and Sanctuaries

Under Section 2(b) of the Act, the Ministry of Environment & Forests is responsible for determination and notification of critical wildlife habitats in the National Parks and Sanctuaries.

According to the information received from the Ministry of Environment & Forests, while the Government of Tripura has constituted the State Level Committee for determination and notification of critical wildlife habitats, no further progress has been made in this regard. The State Government needs to take action in this regard on priority basis.

(vi) Eviction of forest dwelling STs from National Parks and Sanctuaries

The Ministry has been receiving complaints from time to time that some Scheduled Tribe persons living in National Parks and Sanctuaries are being forced to leave these areas without their rights under the Act being decided one way or the other pending determination and notification of critical wildlife habitats in these areas. I have already written to you separately, vide my D.O. letter No. 17011/01/2010-FRA dated 30.8.2010, enclosing a copy of letter No. 7-12/2010-FP dated 21.6.2010, issued by the Ministry of Environment & Forests directing the PCCFs in all the States/UTs requesting to ensure that the provisions of the Forest Rights Act should be duly complied with before taking any decision on displacement of Scheduled Tribes from National Parks and Sanctuaries. Steps may be taken for effective implementation of these instructions.

(vii) Conversion of forest villages into revenue villages

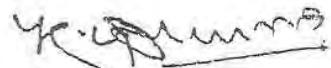
Section 3(1)(h) of the Act envisages conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages. The Ministry had requested the State

Government as early as on 25<sup>th</sup> February, 2008 to initiate action for conversion of all forest villages in your State / UT into revenue villages as per the guidelines issued by the Ministry of Environment & Forests and to intimate this Ministry of the progress made in this regard (number of forest villages, number processed for conversion to revenue villages, number converted with number of families, etc.). The Ministry is yet to hear about the action taken by the State Government for implementing the above provisions of the Act.

I shall be grateful if necessary action on the above issues is taken on priority basis and this Ministry apprised of the progress made at an early date.

With warm regards,

Yours sincerely,



(Kanti Lal Bhuria)

Shri Manik Sarkar,  
Chief Minister,  
Government of Tripura,  
Agartala.

24<sup>th</sup> May, 2012

Dear Hon'ble Chief Minister,

I am writing this to bring to your attention the problems arising in implementation of the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006.

2. In 2006, Parliament unanimously passed the historic 'The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act'. This watershed legislation has been enacted with the laudable objective to remedy the historical injustice done to the Tribals/Adivasis' and other forest dwelling citizens of our country. However, its implementation continues to suffer from many problems, as a result of which the majority of forest dwellers are not receiving their rights. This landmark legislation lamentably hasn't as such benefitted majority of forest dwellers and tribals even after lapse of more than five years of enactment of the Forest Rights Act. This goes against our professed adherence to rule of law.
3. In particular, rejection rates for claims for rights are still very high, and rejected claimants are not informed about the reasons for rejection or given an opportunity to appeal against the rejection. Where land rights are recognized, the area for which title is issued is often a fraction of the area that people are actually entitled to. Recognition of community rights, such as rights to minor forest produce, grazing areas, water bodies, habitats of Primitive Tribal Groups/pre-agricultural communities, pastoralists' routes etc. are very low. There have also been very few cases where the crucial right of forest dwelling communities to protect and manage their forests has been recognized or respected (and in some cases illegal conditions have been imposed on this right). As a result, large numbers of forest dwellers are facing eviction or harassment by forest authorities. Large numbers of them have also been illegally displaced from forest land without respect for their rights or due process of law.

4. The Ministry of Tribal Affairs is the nodal agency for the implementation of this law. From the experience of more than three years of implementation, we have identified certain procedural lacunae that have led to these problems. I wish to draw your attention to some steps that can be taken to address these lacunae. These are in the annexed note on "Steps for Better Implementation." The Ministry is also seeking to incorporate these points into Rules or directions under the Act.

5. I hope that these points will be taken into account by the State Government when implementing this law. If a clear signal is given to implementing authorities that all rights of forest dwellers must be adhered to and that the democratic process under this law must be respected, the forest dwellers of this country may finally find succor and could actually lay claim to their rights.

With regards,

Yours sincerely,  
Sd/-  
(V. KISHORE CHANDRA DEO)

Prof. Prem Kumar Dhumal  
Chief Minister of Himachal Pradesh  
R. No. 101 E, Himachal Pradesh Government Secretariat  
Shimla - 171002  
Himachal Pradesh

Shri Neiphiu Rio,  
Chief Minister of Nagaland,  
Kohima,  
Nagaland.

Shri Pu Lalthanhawla,  
Chief Minister of Mizoram,  
Aizawl,  
Mizoram.

Shri Okram Ibobi Singh,  
Chief Minister of Manipur,  
Imphal,

Dispur,

Shri Tarun Gogoi,  
Chief Minister of Assam,  
Janta Bhawan,  
Dispur,  
Guwahati - 781006.

Dr. Mukul Sangma,  
Chief Minister of Meghalaya,  
Shillong,  
Meghalaya,

Shri R. Raman Singh,  
Chief Minister of Chhattisgarh,  
Room No. 303, Mantralaya,  
D.K.S. Bhavan,  
Raipur (C.G.) 492001.

Shri Shivraj Singh Chouhan,  
Chief Minister of Madhya Pradesh,  
Mantralaya,  
Vallabh Bhawan,  
Bhopal.

Shri Prithviraj Chavan,  
Chief Minister of Maharashtra  
Mantralaya,  
Madam Cama Road,  
Churchgate,  
Mumbai - 400032.

Shri Naveen Patnaik,  
Chief Minister of Odisha,  
Odisha Secretariat,  
Bhubaneswar - 751001.

Shri Vijay Bahuguna,  
Chief Minister of Uttarakhand,  
4 Subash Road, C.M. Office,  
Uttarakhand Secretariat,  
Dehradun -0248001,  
Uttarakhand.

Shri Manik Sarkar,  
Chief Minister of Tripura,

Agartala,  
Tripura.

Shri Nabum Tuki,  
Chief Minister of Arunachal Pradesh,  
Itanagar,  
Arunachal Pradesh.

Shri Oommen Chandy,  
Chief Minister of Kerala,  
North Block,  
Government Secretariat,  
Thiruvananthapuram,  
Kerala,

Shri D.V. Sadananda Gowda,  
Chief Minister of Karnataka,  
Vidhana Soudha,  
Bangalore - 560001,  
Karnataka.

Selvi J Jayalalithaa,  
Chief Minister of Tamil Nadu,  
Chief Minister's Office,  
Secretariat,  
Chennai - 600009.

Shri N. Kiran Kumar Reddy,  
Chief Minister of Andhra Pradesh,  
C Block, 6<sup>th</sup> Floor, AP Secretariat,  
Hyderabad,  
Andhra Pradesh.

विना पुरी दास

सचिव

Vibh Puri Das

Secretary

Tel. 23381652

Fax :23073160



भारत सरकार

Government of India

जनजातीय खार्य मंत्रालय

Ministry of Tribal Affairs

शास्त्री भवन, नई दिल्ली-110001

Shastri Bhawan, New Delhi-110001

E-mail : secy-tribal@nic.in

29

D.O.No.23011/26/2012-FRA(pt.)

28<sup>th</sup> June, 2013

Dear

Kindly refer to my DO letter of even number dated 4.3.2013, enclosing a note on the issue of Madras High Court's stay in Writ Petition No.4533 of 2008 filed in the Madras High Court on implementation of the Forest Rights Act, 2006 in the State of Tamil Nadu and suggested course of action.

2. As mentioned in the note enclosed with my letter, the Madras High Court, vide its order dated 30.8.2008 in the above Writ Petition, had inter-alia directed "that the process of verification of the claims shall go on but before the certificate of title is actually issued, orders shall be obtained from the court". It was clear from the above orders of the court that the process of recognition of rights under the Forest Rights Act can go unhindered until the actual issue of certificate and the Court order does not in any way impede the process of implementation of FRA except issuing of titles.

3. The data available with the Ministry shows that, despite the clear orders of the High Court regarding continuation of the process of verification of the claims, the State Government has not made much progress during the last 2 1/2 years towards processing of the claims filed in the State for issue of certificates of titles. As per the information available with the Ministry, as on 31.12.2009, a total number of 9,355 claims had been filed in the State, and 1,764 titles were ready for distribution, whereas as per the quarterly progress report for the period ending 31.3.2013 received from the State, the status of implementation of the Act is as under:

No. of claims filed	-	27,208 (25,782 individual and 1,426 community)
No. of claims accepted	-	3,723 (2,448 individual and 1,275 community)
No. of claims rejected	-	610 (610 individual and Nil community)
No. of claims pending	-	22,875 (22,724 individual and 151 community)

The above data indicates that out of a total number of 27,208 claims filed in the State, as many as 22,875 claims (84.07%) are still pending. This

shows that the State Government is not making any serious efforts for processing of the claims filed under the Act for issue of certificates of titles, despite clear directions of the High Court. The levels at which these claims are lying pending (Gram Sabha, SDLC or DLC) and the reasons for which they are still pending have also not been intimated to this Ministry.

4. Further, this Ministry has learnt that, after the enactment of the Forest Rights Act, 2006, four Tiger Reserves, covering a total area of 5177 sq kms. (2,967 sq.kms. core area or CTH and 2,210 sq.kms. buffer area), have been notified in the State as per the provisions of the Wild Life (Protection) Act, 1972, allegedly without implementation of the FRA, 2006, thereby causing apprehensions of denial of rights to the forest dwelling STs and OTFDs under FRA and fear of loss of current access and use of forests, though the Wild Life (Protection) Act, 1972 itself provides for completing the process of recognition and determination of rights under the Forest Rights Act, 2006.

5. I would like to inform you that the FRA envisages the recognition and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers over all forest lands, including National Parks and Sanctuaries. Section 4(5) of the Act is very specific and provides that no member of a forest dwelling Scheduled Tribe or other traditional forest dwellers shall be evicted or removed from the forest land under his occupation till the recognition and verification procedure is complete. This clause is of an absolute nature and excludes all possibilities of eviction of forest dwelling Scheduled Tribes or other traditional forest dwellers without settlement of their forest rights. Under Section 2(b) of the Act, the Ministry of Environment & Forests is responsible for determination and notification of critical wildlife habitats in the National Parks and Sanctuaries for the purpose of creating inviolate areas for wildlife conservation, as per the procedure laid down. In fact, the rights of the forest dwellers residing in the National Parks and Sanctuaries are required to be recognized without waiting of notification of critical wildlife habitats in these areas. Further, Section 4(2) of the Act provides for certain safeguards for protection of the forest rights of the forest rights holders recognized under the Act in the critical wildlife habitats of National Parks and Sanctuaries, when their rights are either to be modified or resettled for the purposes of creating inviolate areas for wildlife conservation. No exercise for modification of the rights of the forest dwellers or their resettlement from the National Parks and Sanctuaries can be undertaken, unless their rights have been recognized and vested under the Act. In view of the provisions of Section 4(5) of the Act, no eviction and resettlement is permissible from the National Parks and Sanctuaries till all the formalities relating to recognition and verification of their claims are completed.

6. In view of above provisions, the Ministry has issued guidelines to the State/ UT Governments on 12.7.2012 to ensure that the rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers, residing in National Parks and Sanctuaries are recognized first before any exercise for modification of their rights or their resettlement, if necessary, is undertaken and no member of the forest dwelling Scheduled Tribe or other traditional

forest dweller is evicted from such areas without the settlement of their rights and completion of all other actions required under section 4 (2) of the Act.

7. I would, therefore, request you to kindly review the situation at your level, as Chairman of the State Level Monitoring Committee on FRA, and ensure that the process of verification of all the pending claims is completed expeditiously for issue of certificates of titles in compliance with the order of the Madras High Court and that the rights of all the forest dwelling Scheduled Tribes and other traditional forest dwellers, residing in the Tiger Reserves notified in the State under the Wild Life (Protection) Act, 1972, are recognized and vested before any exercise for modification of their rights or their resettlement is undertaken. The State Government may also take urgent steps for vacation of the stay granted by the Madras High Court so that the titles approved by the District Level Committee could be issued under the law without delay. The Ministry may be informed of the action taken in the matter.

*Regards,*

Yours sincerely,

*Vibha Puri Das*  
(Vibha Puri Das)

Smt. Sheela Balakrishnan,  
Chief Secretary,  
Government of Tamil Nadu,  
Chennai

F.No.23011/22/2014-FRA  
Government of India  
Ministry of Tribal Affairs

F 281, August Kranti Bhawan  
Bhikaji Cama Place  
New Delhi – 110 066  
Dated: 16.09.2014

OFFICE MEMORANDUM

Subject: 10<sup>th</sup> Meeting of the National Tiger Conservation Authority (NTCA).

The undersigned is directed to refer to MoEF&CC's OM No.15/2014-NTCA dated 12.08.2014 on the above subject and to say that the meeting on 26<sup>th</sup> August 2014 was attended by Shri Hrusikesh Panda, Secretary, Ministry of Tribal Affairs.

2. With reference to the agenda items no.16 & 18 regarding 'Supporting Gujar relocation from Corbett' and 'Removing the encroachment from Sunderkhal (near Corbett)', this Ministry is of the view that no person should be displaced unless funds for rehabilitation are available and spent. In this connection, it is observed from the agenda papers of the 10<sup>th</sup> meeting that the budget of NTCA does not seem to have funds available for relocation of persons displaced due to various measures linked to tiger conservation activity. The National Tiger Conservation Authority/ Ministry of Environment, Forests and Climate Change may like to take a call on this aspect.
3. The displacement and rehabilitation issues will also require FRA clearance from the concerned Gram Sabha(s) in all cases where relocation from tiger reserves are envisaged.
4. This issues with the approval of the Competent Authority.



(Roopak Chaudhuri)  
Deputy Secretary to the Government of India  
Tele. No.26182428

Ministry of Environment, Forests and Climate Change  
(National Tiger Conservation Authority)  
{Kind Attn: Shri S.P. Yadav, DIG (NTCA)}  
Annex No.5, Bikaner House  
Shahjahan Road  
New Delhi – 110 011.

# Minor Forest Produce

No.17014/02/2007-PC & V (VOL.VI) (Pt.)  
 Government of India  
 Ministry of Tribal Affairs

Shastri Bhawan, New Delhi-110015  
 February 20, 2008

To

The Principal Secretary  
 Department of STs & SCs Welfare  
 Government of Madhya Pradesh  
 Mantralaya, Vallabh Bhawan  
 Bhopal -462 004

[Atten: Shri O.P. Rawat]

Sub: Clarification on provisions in Section 3(1)(c) of Forest Rights Act vis-à-vis Section 4(m)(ii) of PESA Act.

Sir,

I am directed to refer to your D.O. letter No.F.9-1/2007/5/25 dated 8.1.2008 regarding certain points raised by you in the context of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and to clarify the position regarding conflict between Section 3(1) (c) of the Forest Rights Act, 2006 and Section 4 (m)(ii) of PESA Act, 1996 as follows:

The Forest Rights Act seeks to vest traditional rights. PESA begins by emphasizing that customary and traditional practices must override (Section 4 (a), Section 4(d) of the PESA Act entrusts the Gram Sabhas to safeguard and preserve the traditions and customs. The Forest Rights Act only emphasizes/ addresses these concepts, and is, therefore, not in violation of the subsequent ownership concept under section 4(m)(ii) of the PESA Act, 1996.

2. The above clarification issues in consultation with the Ministry of Panchayati Raj.

Yours faithfully,

Sd/-  
 (A.K. Srivastava)  
 Director

Copy to Ministry of Panchayati Raj (Shri B.K. Sinha, Addl. Secretary), Sardar Patel Bhawan, Parliament Street, New Delhi.

Copy for information to:  
 All Secretaries of Tribal Development / Welfare Department of other States / UTs.

Sd/-  
 (A.K. Srivastava)  
 Director

FAX

D.O. No.23011/23/2009-FRA

9<sup>th</sup> June, 2009

Dear

Orissa is a State that has great potential of successfully implementing the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006. While this Ministry has been monitoring the performance figures on a monthly basis from the reports received from you, we do not have qualitative data as to the way the Act and the Rules are being implemented in the field, and more important, the satisfaction/unsatisfaction level of the beneficiaries for whom this legislation is meant. It is in this context that we feel that you should conduct the following study as a part of the Western Orissa Rural Livelihoods Project (WORLP), a programme that has been running in Orissa for a couple of years.

2. We would like to suggest that the study analyses how the legal and institutional framework, set up under the Forest Rights Act, is actually performing in the State and managing to provide both individual as well as community rights to the beneficiaries. How successfully the Gram Panchayats are being simultaneously enabled/facilitated to design bio-diversity and wildlife conservation measures will also be an important outcome of the study. A couple of cases, analysed from the beginning of the claim process may show how conflicts and problems have been resolved while arriving at the final decision of either recommending a right or not recommending a right by the Divisional Committee. This study can also contextualize the historical and paradigm shift from forests and forest land being the primary responsibility of a State, in the context of trees and wildlife, to the inclusion of forest dwellers in its upkeep and protection. Finally, the study can outline the present and expected challenges before the full implementation of the Act — providing both rights as well as livelihood support — and the way forward, overcoming these expected obstacles.

3. Of particular interest to a State like Orissa would be the way minor forest produce is being included as a community right and the opportunities that are available or should be available for its sustainable use in the best interest of the right owners. It will also be useful if the study can identify complementaries and synergies between the stand point of those in favour of this Act and those who are not.

4. The study should have two components:

- (a) A quick analysis within, say, three months; and
- (b) A longer study; may be six months to a year.

On the completion of the quick study, a workshop can be held in, say, Koraput among all stake holders and decision makers. I would love to attend, if possible. Likewise, a workshop should follow the final outcome/study report.

5. I would like to suggest that the study should be taken up by a competent institution through a transparent and open assessment process. Since WORLP is being funded by DFID, they should be in a position to get this study done quickly. I am endorsing a copy of this letter to DFID for advance information.

6. I hope you will agree to this suggestion. Please keep me informed of your plan.

Yours sincerely,

  
(G.B. Mukherji)

Shri Ashok Kumar Tripathy,  
Principal Secretary,  
ST and SC Development Department,  
Government of Orissa,  
Bhubaneswar.

Copy to:

Shri O.P. Rawat, Principal Secretary, Scheduled Tribes Welfare Department, Government of Madhya Pradesh, Bhopal with a request that he may consider a similar study either on behalf of the State Government or through IFAD who are already working in Madhya Pradesh.

2. Programme Coordinator & Livelihoods Adviser, DFID India, British High Commission, B-28, Tara Crescent, Qutab Institutional Area, New Delhi-110016

3. Shri S. Sriram, IFAD Country Office Coordinator, World Food Programme, 2, Poorvi Marg, Vasant Vihar, New Delhi-110057 (Tel: 46554000). Please see copy No.1.

  
(G.B. Mukherji)  
Secretary (TA)

NOO

O/C JS(BS)

**D.O. NO.23011/47/2009-SG.II (FRA)**

5<sup>th</sup> January, 2010.

Dear

As you are aware, the Ministry of Tribal Affairs had convened a two-day Conference of Chief Ministers, State Ministers (Tribal Development/Social Welfare Department) and State Ministers (Forest Department) on 4<sup>th</sup> and 5<sup>th</sup> November, 2009 at New Delhi to take stock of the status of implementation of the Forest Rights Act and a few major tribal development/welfare programmes, and therefrom arrive at a consensus on how to improve programme delivery, output and outreach. The Conference was inaugurated by the Hon'ble Prime Minister.

2. In his inaugural address, the Hon'ble Prime Minister had, inter-alia, made the following observations:

"Those whose lives are dependent on the forests should be made essential partners in the process of natural resource planning, conservation and protection."

"The livelihood concerns of forest dwellers should be central to the development agenda in forest areas. It is important to dovetail all development and welfare programmes in tribal areas so that our strategy is coherent and there is a coordinated approach involving all Departments. Education and health need priority attention. It is equally important to pay adequate attention to improvement of agricultural productivity in tribal areas."

A copy of the speech of the Prime Minister delivered at the inaugural session of the Conference is enclosed.

3. As the above directions of the Prime Minister concern the Ministry of Environment and Forests also, I would request you to kindly take necessary action in the matter. This Ministry may be kept informed of the action taken.

Yours sincerely,

(G.B. Mukherji)

Shri Vijay Sharma,  
Secretary,  
Ministry of Environment and Forests,  
Parivaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi-110003



No.23011/16/2010-FRA  
Government of India  
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi.  
22<sup>nd</sup> July, 2010.

To

The Chief Secretaries of Schedule V States (vis. Andhra Pradesh, Himachal Pradesh, Gujarat, Odisha, Rajasthan, Maharashtra, Chhattisgarh, Madhya Pradesh and Jharkhand).

Sub: Direction under Section 12 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (in short Forest Rights Act).

Sir,

A direction is being issued under Section 12 of the Forest Rights Act to the authorities prescribed in Chapter IV of the Act that recommendation of the Gram Sabha for settling rights over minor forest produce (both individual and community) should be just processed, not re-examined for quick acceptance.

2. Such a direction will be in tune with both the Forest Rights Act (Section 6(i) read with 3(1)(c) } and Panchayats (Extension to the Scheduled Areas) Act 1996 (PESA) (Section 4(m)(ii)).

Yours faithfully,

*GBM*  
(G.B. Mukherji)

Secretary to the Government of India  
Tel:23381652

*NOC*

Copy for information to:

1. Member Secretary, Planning Commission, Yojana Bhawan, New Delhi.
2. Secretary, Ministry of Panchayati Raj, Krishi Bhawan, New Delhi.

*GBM*  
(G.B. Mukherji)

Secretary to the Government of India

Copy forwarded for information to:

1. Cabinet Secretary, Rashtrapati Bhawan, New Delhi.
2. Prime Minister's Office (Kind Attention: Shri S. Mitra, Joint Secretary) w.r.t. PMO ID No.560/51/C/5/2010 (Vol.II)-ES.II dated 6<sup>th</sup> July, 2010.

(This issues with the concurrence of the Ministry of Law, Department of Legal Affairs).

*GBM*  
(G.B. Mukherji)

Secretary to the Government of India

*Issued*

Government of India  
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

Dated: 1.9.2011

To  
Santosh Sarangi  
Commissioner-cum-Secretary,  
S.T & S.C Development Department,  
Government of Orissa,  
Bhubaneswar.

[Kind attention: Shri Vinod Kumar]

**Subject: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – clarification on certain issues.**

Sir,

I am directed to refer to Chief Secretary, Government of Orissa's letter No. TD-II-32/08-40490/CS(STSC), dated 21.10.2010 on the above subject and to say that issues raised therein have been examined in this Ministry in consultation with the M/o Environment & Forests, M/o Panchayati Raj and M/o Law & Justice and are clarified as under:-

Sl. No.	Issues	Clarification
1.	<p>In cases where there are no villages inside Reserve Forest areas or un-surveyed forest areas, but the Scheduled Tribes / OTFD, irrespective of where they stay, graze their cattle, or claim to collect MFP etc, then which Gram Sabha and at what distance from the concerned forest land should initiate action for settling the community rights of ST / OTFDs in such forest areas which are beyond the limits of a village boundary.</p> <p>Also, in the case of forest diversion proposal, which Gram Sabha, at what distance from the concerned forest land</p>	<ul style="list-style-type: none"> <li>➤ In such cases, the claimants have to file their claims for community forest rights before the concerned Gram Sabha of which they are the members.</li> <li>➤ To decide the claims the procedure laid down in Rule 12 and particularly Rule 12(3) of the Forest Rights Rules, 2008, would need to be followed.</li> <li>➤ Further, in the case of a forest diversion proposal in a situation of this type, the certificate issued by MoEF on 03.08.2009 will need to be taken from all the concerned Gram Sabhas to which of such a forest area is common.</li> <li>➤ The Forest Rights Act, 2006 has been enacted for conferment of defined forest</li> </ul>

<p>should initiate action to enable the State Government to issue a certificate as required under a circular issued by MoEF on 3.8.2009 that the proposal for diversion of forest land has been placed before each Gram Sabha of forest dwellers under the FRA. Since, individual or community rights conferred under Section 4(4) of FRA, 2006 are heritable, but not alienable or transferable, whether after vesting of forest rights of STs and OTFDs on a particular forest areas, can the same forest area be diverted for non-forest use for developmental project or not under the Forest (Conservation) Act, 1980. If diversion of such forest land is permissible, whether the vested forest rights need to be compensated for and if 'yes' how? Is there any norm to compensate such forest rights? Can the forest rights be suspended, acquired or taken away by the State if situation demands?</p>	<p>rights, prescribing the procedure to be followed while conferring such rights and matters incidental to and connected therewith.</p> <p>➤ The Forest Rights Act, 2006 does not deal with the issue relating to diversion of forest land for non-forest use after vesting of forest rights of FDSTs and OTFDs.</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Yours faithfully,

Sd/-

[A.K. Srivastava]

Director

Tel: 23387444

वी. किशोर चन्द्र देव  
V. KISHORE CHANDRA DEO

18/82  
D.O.No.MTA & PR/MP/.....2013



मंत्री  
जनजातीय कार्य एवं संचायती राज.  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110001  
MINISTER OF TRIBAL AFFAIRS  
AND PANCHAYATI RAJ  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110001

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25<sup>th</sup> February, 2013

Dear Prithviraj Bhai,

I have received representation from tribals from Gadchiroli District of Maharashtra. Several titles for Community Forest Resource and Community Rights over Non Timber Forest Produce (Minor Forest Produce) under the Forest Rights Act have been dispersed to tribals and other traditional forest dwellers of several hundred villages. *This indeed is a matter which is highly appreciable.*

2. While commending the laudable initiatives by the Government of Maharashtra, I would like to bring to your notice some obstacles which have surfaced. *Despite the formal recognition of the legal rights of tribals and other traditional forest dwellers, the Forest Department continues to deny these villagers the right to sell their Minor Forest Produce to other buyers as well as with their right to collect it. This in fact, would negate the efforts made by our UPA Government to correct this historical injustice that has been done to these people and will also dilute the efforts made by the Gram Sabha of Dhenora Taluka to sell this Minor Forest Produce.*

3. I would also like to draw your attention to the following extract from the tender notice issued by the Forest Department on 15<sup>th</sup> January, 2013:

*"The individuals of the Gramsabhas which have been awarded Community Forest Rights (CFRs) for tendu leaves in designated Government Forests... These CFR holders would be entitled to sell tendu leaves to the agents appointed by the Government, if they decide to do so. However, it is clarified that no tendu leaves in the State of Maharashtra can be purchased by any person other than the agents appointed by the Government of Maharashtra under the provisions of the Maharashtra Forest Produce (Regulation of Trade) Act, 1969. It is further clarified that no Transport Permit under existing rules of the State Government will be*

given to purchasers of tendu patta except to the agents appointed by the government or his authorized persons".

4. Such a stance goes directly diametrically opposite to the provisions of Forest Rights Rules as amended on 7<sup>th</sup> September, 2012 and the guidelines issued by Ministry of Tribal Affairs on 12<sup>th</sup> July, 2012.

5. I would also like to cite the relevant provisions of the guidelines issued by Ministry of Tribal Affairs vide paragraphs (ii) (b) (ii) (c) for your ready reference:

"(b) The Monopoly of the Forest corporations in the trade of MFP in many States, especially in case of high value MFP, such as, tendu patta, is against the spirit of the Act and should henceforth be done away with.

(c) The forest right holders or their cooperatives/ federations should be allowed full freedom to sell such MFPs to anyone or to undertake individual or collective processing, value addition, marketing, for livelihood within and outside forest area by using locally appropriate means of transport."

6. I would further like to quote from explanation to rule 2 (1) (d) of the Forest Rights Rules as amended which read as follows:

"... given by the Committee constituted under clause (e) of sub-rule (1) of rule 4 or the person authorized by the Gram Sabha. As it might be seen the position taken by the Maharashtra Forest Department are illegal and in violation of the Forest Rights Act. Moreover, in addition to these statements, the Divisional Forest Officer of Gadchiroli has been telling the press that no one can enter the forests to collect tendu patta without the Forest Department's permission. Furthermore, these illegal actions by the State Forest Department will deprive the forest dwellers of Gadchiroli of their legally protected right to obtain the full market price of their valuable tendu patta. It will also encourage corruption and extortion by forest officials. In this sense, it will defeat the purpose of the Forest Rights Act and the Ministry of Tribal Affairs' recent strong initiatives to improve its implementation".

7. I, therefore, seek your intervention to halt this illegality, to ensure action against the officials responsible, and to protect the right of the gram sabhas of Gadchiroli to undertake their historic effort to issue their own tenders for tendu patta sale. I am also attaching herewith, copies (i) Forest Rights Rules as amended on 7.9.2012; (ii) Guidelines issued by the Ministry of Tribal Affairs as 12.7.2012 & (iii) Tender notice dated 15.1.2013 issued by Revenue and Forest Department, Government of Maharashtra; for ready reference.

I look forward to your cooperation in our joint concerted endeavour to ensure that the tribals and other traditional Forest dwellers get their rightful dues under FRA.

With best regards & warm regards

Yours sincerely,



24.2.13

(V. Kishore Chandra Deo)

Shri Prithviraj Chavan,  
Chief Minister of Maharashtra,  
Mantralaya,  
Mumbai,  
Maharashtra.

वी. किशोर चन्द्र देव  
V. KISHORE CHANDRA DEO

18/88  
2013-14/2013-14/2013



मंत्री  
जनजातीय कार्य एवं पंचायती राज,  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110001  
MINISTER OF TRIBAL AFFAIRS  
AND PANCHAYATI RAJ  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110001

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4/4/2013

Dear Hon'ble Chief Minister,

I am writing this in the context of various issues pertaining to The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [Forest Rights Act] which is one of the flagship initiatives of the UPA Government. This watershed legislation has been enacted to undo the injustice done to scheduled tribes and other traditional forest dwellers from the days of yore by restoring and recognizing their pre-existing rights. This laudable social welfare legislation can have its meaningful application only when the rights of scheduled tribes and forest dwellers are handled and rightfully settled in all parts of the country. However, as the ground reality indicates these rights have yet to be settled in many regions owing to disturbances which have been arising from indiscriminate and rampant mining in Schedule V Areas. It is high time that the Forest Rights Act has to be effectively implemented with a view to safeguard the rights as envisaged in this legislation upon the scheduled tribes and forest dwellers. It also becomes imperative that the constitutional safeguards as envisaged in Schedule V to the Constitution and effective implementation of land laws of States are also secured.

2. The enactment of 2006 Forest Rights Act came as a ray of hope to the Scheduled Tribes and the other traditional forest dwellers. This watershed legislation as already mentioned by me sought to reverse the situation and correct the historic injustice by identifying and regularizing the pre-existing rights of these people.

3. Our thrust, therefore, should be implementation of Forest Rights Act and Rules made thereunder. Towards this end, after coming into force of revised Forest Rights Rules and guidelines in mid 2012, I had caused convening of national and regional consultations for emphasizing upon and finding out ways and means for effective implementation of FRA. It has been some time since the December 2012 national consultation held by my Ministry i.e. Ministry of Tribal Affairs on the implementation of the Forest Rights Act, I now wish to write to you in regard to some of the problems that continue to arise in implementation of this Act (and PESA too).

4. I would like to flag some of the oft felt problems which continue to fetter effective implementation of FRA:

- 751, A Wing, Shastri Bhawan, New Delhi-110001, Tel : 011-23381499, 23388492, 23070577 (Fax)
- Resi : 9, Janpath, New Delhi-110001, Tel : 011-23016697, Telefax : 011-23016300.
- Post: Kurum, Dist: Vizianagaram, Andhra Pradesh-535524, Tel : 08983-225135, Cell : (+91) 9860180212, E-mail : v.kdeo@sansad.nic.in

- **Non-recognition of and non-respect for community rights and powers over forest management:** Notwithstanding the revised and updated changes in the FR Rules to make recognition of community forest resource rights mandatory for all forest dwellers' settlements, all the State governments have been unable to take up this matter. There has been no significant progress on this front. In addition, some of the specific problems that have arisen include:
  - *Governments using police and forest officials against people trying to protect their forests:* This has happened in particularly in North Bengal. There are also reports of similar developments with respect to the Baiga community in Dindori, Madhya Pradesh. In both cases, people who are trying to exercise their powers under section 5 of the FRA to protect forests from Forest Department felling (being done on the basis of FD working plans) are facing arrests, police cases and raids. In the Madhya Pradesh case this is happening despite an explicit recognition of these communities' community rights under the FRA. In this context I wish to emphasize that the powers of gram sabhas under section 5 of the Act should be respected. If people are unable to stop their forests from being destroyed by Forest Department felling, how can they exercise their community rights in those forests? This has the effect of making community rights meaningless.
  - *Continued equation of Joint Forest Management with community rights:* Several State governments continue to equate Joint Forest Management with recognition of community forest resource rights under the Act. Indeed, even in their official action plans, the governments of Gujarat, Jharkhand and Tripura have equated JFM committees/VSSs/or by such other names by which referred to with the committees that are to be elected by gram sabhas under the Act. What needs to be emphasized here is that these Committees which are constituted by Forest Departments by no stretch of imagination can be taken on par or equated with committees that elected by Gram Sabhas under the FRA. It has never been the legislative intent to vest upon such a status to JFMs or such like Committees. Some are even equating JFM with community forest resource rights and saying that, therefore, there is no need to recognize the latter. My Ministry had already issued revised guidelines on July 12, 2012 and suitably clarified position in revised FRA Rules which came into effect from September 7, 2012. There has been distortion in interpretation of these guidelines and rules.
  - **Continued problems with respect to ownership and control over minor forest produce:** As a result on my initiative both Maharashtra (with respect to tendu patta) and Odisha (with respect to bamboo) have announced changes to their policies. However, I find that in both cases these changes are partial and do not meet the law's

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requirements. In Maharashtra, the Forest Department is seeking to preserve its power by saying that the gram sabha will merely be recognized as a permitted "agent" for tendu patta - which equates the gram sabha with a contractor and leaves all the regulatory power with the Forest Department (contrary to the Rules and to your intervention on the issue of transit passes). In the case of Odisha, the change that has been announced is only for this year, leaving it open as to what policy will be adopted next year.

In the other States, there is still a complete vacuum on the ground, and so far no State government has fully modified its transit permit regime to match that required by the amended Rules. I would also be speeding up the steps towards operationalising a minimum support price.

- **Rejections of rights not being reviewed and land still being taken over without recognition of rights:** At several of the regional consultations and in the national one, the fact that illegal rejections of rights can be reopened and reviewed was repeatedly stated.

In connection with this, it is also disturbing that there are still gross violations of the rights recognition process. There are instances where the Forest Department has been systematically building high stone walls (ironically using MNREGA funds) around government forests. This is happening regardless of whether people's rights have been recognised under the FRA or not. As a result, people are being forced to walk for kilometers to access their lands and the forest produce in the forest. This is completely illegal, yet no action has been taken to stop it.

- **Continued lack of accountability for violations of the law:** In the above context, there is a strong need to demonstrate to officials - particularly, as one would expect, those from the Forest Department - that violations of the Forest Rights Act are punishable (not only under the Act itself but also under the IPC and the SC/ST Prevention of Atrocities Act, among others). The criminal offence provisions of the Act have gone completely unimplemented (in sharp contrast, of course, to supposed violations of the Indian Forest Act and the Wild Life Protection Act).
- **Non cognizance of viable alternative propositions:** There are certain propositions/proposals for amicable settlement of rights of tribals and forest dwellers, but it is disconcerting to note that there isn't even an iota of consideration of these even before implementation of Forest Rights Act - for instance in Andhra Pradesh in the context of Polavaram Projects there already were some alternative proposals for resolving issues arising therefrom. These proposals were not

considered worthy even a look although they offer viable solution which if opted for would entail least displacement of tribals; considerably less area under submersion of water; and related R&R options. This is nothing but a deliberate conscious apathy by our own State authorities for problem resolutions. This aspect calls for serious consideration.

5. I have through this letter sought to bring to your notice the problems that are yet to be resolved at ground level. It would require collective concerted endeavors of all of us to ensure effective implementation of the Forest Rights Act.

6. I also consider it quite relevant to refer to Preamble to our Constitution through which we have solemnly resolve to constitute India into a sovereign, socialist, secular, democratic republic and to secure to our citizens among other needs social economic and political justice and equity of status of the opportunity. By securing the aforementioned avowed resolutions we seek to promote fraternity among people, strengthening dignity and unity among them and above all integrity of the Nation.

7. You would also appreciate the fact the process of effecting inclusive growth can be achieved only when we address the problems and grievances of the most exploited and deprived sections of our society. This is what is meant by "*inclusive growth*" which has been time and again emphasized upon by our esteemed Prime Minister.

8. In the context of our resolve to ameliorate the most exploited and deprived sections of our society, I consider it appropriate to quote the following from the "**Book of Revelation**" (21:3-5).

*...And I heard a loud voice from the throne saying, 'Now the dwelling of God is with men, and he will live with them. They will be his people, and God himself will be with them and be their God. he will wipe every tear from their eyes. There will be no more death or mourning or crying or pain, for the old order of things has passed away...'.*

This finds echo in one of the inspiring impressions recorded by **Mahatma Gandhi** in a note stated to have been recorded by Gandhiji in August 1947. I also find it appropriate to quote the same which is as follows:

*"Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man whom you may have seen, and ask yourself if the step you contemplate is going to be of any use to him. Will he gain anything by it? Will it restore him to a control over his own life and destiny? In other words, will it lead to Swaraj for the hungry and spiritually starving millions? Then you will find your doubts and yourself melting away."*

9. I would also like to cite the following extract from Pt. Jawahar Lal Nehru's "Tryst with Destiny" speech:

"...That future is not one of ease or resting but of incessant striving so that we may fulfill the pledges we have so often taken and the one we shall take today. The service of India means, the service of the millions who suffer. It means the ending of poverty and ignorance and poverty and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye..."

I trust that I would have your cooperation in this regard.

With best regards

Yours sincerely,

  
4.4.13  
(V. KISHORE CHANDRA DEO)

All CMs

F.No. 2/19/2013-CP&R  
Government of India  
Ministry of Tribal Affairs  
(CP&R Division)

281, August Kranti Bhavan,  
Bhikaji Cama Place, New Delhi-110066

To

Date: 15-01-2014

(As per list)

**Subject: Guide lines and operational manual of the scheme "Mechanism for marketing of Minor Forest Produce (MFP) through Minimum Support Price (MSP) and development of Value Chain for MFP".**

Sir/Madam,

I am directed to inform that an estimated 100 million forest dwellers depend on the Minor Forest Produce (MFP) for food, shelter, medicines, cash income etc. Contribution of MFP to the house hold income varied between 10 to 70 percent and about 25 to 50 percent forest dwellers depend on them for food requirement. The price of MFP is most often determined by the traders than by demand /supply (barring few high revenue items nationalized by the state governments). Most of the MFP rich states are affected by left wing extremism making it easier for unscrupulous traders to operate freely in the market and the state is many a time unable to play effective role in checking the exploitation of the MFP gatherers.

2. In this backdrop, Committee of Secretaries (CoS) in its meeting held on 21.07.2010 decided that the Planning Commission, in consultation with the Ministry of Panchayati Raj and Ministry of Tribal Affairs (MoTA), would work out a mechanism for marketing of MFP to ensure fair returns to the MFP gatherers. Accordingly, Sudha Pillai Committee (Planning Commission) and Haque Committee (under Ministry of Panchayati Raj) constituted for the purpose, studied MFP trade in the country. Both the committees recommended strategic government intervention in the form of Minimum Support Price (MSP).

3. The MoTA held a series of consultations and meetings with State Governments and Ministries of the Central Government viz. the Ministry of Finance, Department of Expenditure, Panchayati Raj, Environment & Forest, Rural Development, the Planning

Commission, National Agriculture Cooperative Marketing Development Federation of India, Food Corporation of India and National Medicinal Plants Board and their views were duly incorporated in the proposal to EFC. The Planning Commission had given in principle approval. EFC met on the 27<sup>th</sup> of September, 2012 and again on the 10<sup>th</sup> of December 2012 and approved the scheme with certain modifications.

4. Based on the decisions of the EFC and Inter-state and Inter-ministerial consultations, the scheme Minimum Support Price (MSP) for Minor Forest Produce (MFP) was formulated. The scheme has been designed as one of the social safety measure for the MFP gatherers, who are primarily members of Schedule Tribe.

5. In order to achieve objectives of u/s 3(1)(c) read with the preamble of FRA i.e., sustainable use, conservation of biodiversity, maintenance of ecological balance and ensuring livelihood and food security of forest dwelling scheduled tribes and other traditional forest dwellers, a package of interventions viz. Minimum Support Price, Trade Information System, Supply Chain Infrastructure, Value Addition and Scientific Harvesting of MFP have been introduced.

6. The scheme has been launched during 2013-14 and will continue during XII Five Year Plan (2012-2017) and beyond based on evaluation of its performance.

7. The total outlay of the project approved by the cabinet for the 12<sup>th</sup> plan period is Rs.967.28 crore Central Government share and Rs.249.50 crore State Government share. Working capital in the form of revolving funds in 75:25 ratio between the Central Government and the State Governments shall be provided during the initial two years.

8. The scheme envisages operation of a separate fund to meet the losses to the state agencies on 75:25 sharing between the Central and State governments. The fund will be made available to state agencies on yearly basis, based on their audited accounts and vetting by TRIFED. The fund requirement has been estimated as Rs. 285.00 crore (central share).

8. The Scheme will initially be implemented in the States having Scheduled Area and Scheduled Tribe in accordance with Fifth Schedule of the constitution of India for identified 12 MFP which are abundantly found in these States.

9. The scheme envisages fixation of Minimum Support Price for the selected MFP based on the suggestions/ input received from TRIFED & State and declaration of MSP for selected MFP by the Ministry of Tribal Affairs. TRIFED would be the nodal agency for implementation of the scheme. Marketing operation at pre fixed MSP will be undertaken by the designated State Agencies. Simultaneously, other medium & long term issues like sustainable collection, value addition, Infrastructure development, knowledge base expansion of MFP, market intelligence development, strengthening the bargaining power of Gram Sabha/ Panchayat will also be addressed.

10. The detailed guide lines along with operational manual of the scheme are attached as Annexure-I for reference. These guidelines are also available on the website of the Ministry i.e [www.tribal.nic.in](http://www.tribal.nic.in).

11. You are therefore advised to take necessary action for rolling out the MSP operation for these Identified MFP as indicated vide this Ministry's letter no. 2/21/2013-CP&R dated 02.01.2014.

Yours Faithfully,

(Nivedita)  
Deputy Secretary to the Government of India  
Telephone: 26182428

Encl: As above

LIST OF NODAL DEPARTMENTS AND IMPLEMENTING AGENCIES INVOLVED IN OPERATION  
OF MSP FOR MFP SCHEME

1. Secretary, Forest Department, Govt. of Madhya Pradesh, Bhopal
2. Special Secretary, Forest Department, Govt. of Chhattisgarh, Raipur
3. Principal Secretary, Tribal Area Development, Udaipur, Rajasthan
4. Secretary, Tribal Development Department, Govt. of Gujarat, Ahmedabad
5. Commissioner-cum-Secretary, ST & SC Development Department, Govt. of Odisha, Bhubaneswar
6. Principal Secretary, Tribal Development Department, Govt. of Maharashtra, Mumbai
7. Principal Secretary, Tribal Welfare Department, Government of Andhra Pradesh, Hyderabad
8. Secretary, Welfare Department, Government of Jharkhand, Ranchi

9. Managing Directors of

- a. CGMFP Federation, Raipur, Chhattisgarh.
- b. M P. State MFP cooperative Federation, Bhopal, Madhya Pradesh.
- c. Girijan Cooperative Corporation, Vishakhapatnam, Andhra Pradesh
- d. OFDC, Bhubaneswar, Odisha
- e. TDCC, Bhubaneswar, Odisha
- f. JHASCOLAMPF, Ranchi, Jharkhand.
- g. JHAMF(OFED), Ranchi, Jharkhand.
- h. Gujarat State Forest Development Corporation, Vadodara, Gujarat
- i. Rajasthan Tribal Area Development Coop. Federation, Udaipur, Rajasthan
- j. MSCTDC LTD, Nasik (Maharashtra)

Copy to:

- (i) Managing Director, TRIFED---- For information and follow up action.
- (ii) PPS to JS (A), MoTA, Shastri Bhawan, New Delhi.
- (iii) Director NIC, MoTA, Shastri Bhawan, New Delhi -- with the request to upload the contents on the website of the Ministry.

Guidelines of the scheme 'Mechanism for marketing of Minor Forest Produce (MFP) through Minimum Support Price (MSP) and Development of Value Chain for MFP' as a measure of social safety for MFP gatherers.

#### 1. Introduction:

An estimated 100 million forest dwellers depend on the Minor Forest Produce (MFP) for food, shelter, medicines, cash income etc. Contribution of MFP to the house hold income varied between 10 to 70 percent and about 25 to 50 percent forest dwellers depend on them for food requirement.

The price of MFP is most often determined by the traders than by demand /supply (barring few high revenue items nationalized by the state governments). Most of the MFP rich states are affected by left wing extremism making it easier for unscrupulous traders to operate freely in the market and the state is many a time unable to play effective role in checking the exploitation of the gatherers.

Based on Inter- state and inter-ministerial consultation, suggestions of the Planning commission and Expenditure Finance Committee the scheme "Marketing of Minor Forest Produce (MFP) through Minimum Support Price (MSP) and Development of Value Chain for MFP" as a measure of social safety for MFP gatherers' was formulated. The scheme was finally approved by the cabinet on 01-08-2013 for its implementation during the 12<sup>th</sup> plan period and beyond bases on its evaluation.

The scheme has been designed as one of the social safety measures for the Minor Forest Produce (MFP) gatherers, who are primarily members of Scheduled Tribe. It seeks to establish a system to ensure fair monetary returns for their efforts in collection, primary processing, storage, packaging, transportation etc. It also seeks to get them a share of revenue from the sales proceeds with cost deducted. It also aims to address other issues for sustainability of process.

2. Objectives: The basic objective of the scheme is to ensure fair returns to the MFP gatherers mainly through minimum support price for identified MFP collected by them along with necessary infrastructure at local level.

3. Fixation of MSP for MFP: Minimum Support Price would be determined based on the baseline survey of price for each of the MFP, its cost of collection, cost of cleaning and primary processing, packaging and transportation cost for each state. A Pricing Cell constituted in the TRIFED would be assigned this task. The Ministry will finally approve and announce state wise MSP for each MFP taken up for that state. The price review would be carried out every three years based on revision in cost of collection.

#### 4. Coverage of MFP and the Coverage Area:

The scheme will initially be implemented in States having areas under V Schedule of the Indian constitution for non- nationalized and abundantly available items out of 12 MFP namely (i) Tendu, (ii) Bamboo, (iii) Mahuwa Seed, (iv) Sal Leaf, (v) Sal Seed, (vi) Lac, (vii) Chironjee, (viii) Wild Honey, (ix) Myrobalan, (x) Tamarind, (xi) Gums (Gum Karaya) and (xii) Karanj.

Any MFP nationalized for procurement would stand deleted from coverage under this scheme for that state. Similarly, MFP removed from monopoly procurement, can prospectively qualify for coverage under the scheme provided such change is effected at least six months prior to commencement of harvest season but not later than 31<sup>st</sup> December of the preceding calendar year. Once non-nationalized MFP is included for MSP under the scheme, it will continue to be in that list for at least three years.

#### 5. Composition of the Scheme and Financial Requirements

The scheme has following main components:-

**5.1 Revolving Fund:** A revolving fund will be operated at state level for upfront payment for procuring MFP for the initial two years on 75:25 sharing by the Central and participating state governments. After the MFP is disposed off, the proceeds there from, shall be credited back to this fund. A budgetary provision of Rs.345.00 crore has been proposed in the scheme for this purpose.

**5.2 Fund to meet the losses:** The scheme envisages operation of a separate fund to meet the losses to the state agencies on 75:25 sharing between the Central and State governments. The fund will be made available to state agencies on yearly basis, based on their audited accounts and vetting by TRIFED. The fund requirement has been estimated as Rs. 285.00 crore (central share).

**5.3 Expansion of Storage and Trading facilities at the State level:** In order to operationalize the scheme, necessary infrastructure such as godowns, cold storage, processing facilities, transport facilities, etc. will be required for states which do not have adequate infrastructure. The estimated budget earmarked for this purpose is Rs.37.50 crore for the 12<sup>th</sup> plan.

#### 5.4 Modernization of Haat:

Modernization of haats with permanent structure and facilities for storage, drinking water, shade, platforms etc., in a phased manner is an essential component of the scheme. Total budget of Rs.80.00 crore has been proposed; of which states shall bear 25% i.e Rs.20.00 crore and balance 60.00 crore shall be met by the Government of India.

**5.5 Creation of Storage facility at aggregation points:** The scheme seeks to establish small godowns of 50 MTs capacity at block level to aggregate the stocks procured at haats spread over the entire area under the block. The total requirements of funds have been estimated at Rs.28.00 crore out of which Center's share will be 75%, i.e. Rs.21 crore and the State's share will be 25%, i.e. 7.00 crore during the 12<sup>th</sup> Five year plan. Apart from this state's share, the cost of land and recurring expenses will also be met by respective state agencies.

#### 5.6 Multi purpose Centre for training, primary processing, value addition in MFP and storage/ (warehouse and cold storage) facilities:

To facilitate capacity building, training for value addition, storage, marketing of MFP and warehousing and cold storage facilities, TRIFED will initially establish five multipurpose centers in the first phase (12<sup>th</sup> Five year plan) at an estimated capital cost of Rs 71.00 crore.

5.7 **Strengthening of State Institutions/ Service Charge of the State Agency:** An incentive of 2% (of the base procurement value of MFP) to encourage the State Governments has been envisaged in the scheme for the initial five years and tentatively an amount of Rs.30.64 crore will be admissible as service charge to the state agencies for the twelfth plan period.

5.8 State Agency will also work to ensure that Aadhar numbers are seeded in the beneficiary account at the earliest. Periodic reviews will have to be undertaken in the initial period for linkage of Aadhar numbers with the system.

5.9 **Capacity Building of Gram Sabha/ Panchayati Raj Institutions:** Linkages with the 'Mahila Sashaktikaran Parivarjana' launched under NRLM Initiative would be ensured for participation of MFP gatherers and their capacity through the gram Sabhas. Estimated budget for the purpose is Rs. 20.00 crore for 12<sup>th</sup> plan period.

5.10 **Development of market Information system:** In order to ensure fair returns to the MFP collectors on a long term basis, MFP market Information system will be developed. An advance Information and communication technology based Scheme (MFPNET) shall be established for speedy collection and dissemination of market Information. To start with, trade Information through ITeS facility for quoting daily prices of the commodities traded along with quantity traded at major mandis like *Khadi Baoli* of Delhi through messaging and web based services would be created by TRIFED in collaboration with state level agencies. Daily prices and quantity traded at major mandis/bazaars would also be displayed on the web of TRIFED and state level agencies.

5.11 **Expanding the knowledge base on MFP, training for sustainable collection, value addition, etc** Appropriate training will be provided by the TRIFED to the stakeholders regarding resource regeneration, improved practices for extraction and value addition of MFP. An estimated budgetary requirement for undertaking these activities is 54.40 crore for the 12<sup>th</sup> plan period.

6. **Institutional mechanism and Monitoring:** The Ministry of Tribal Affairs (MOTA), Government of India shall be the nodal Ministry for operationalising the Scheme. State Governments will be responsible for implementation, supervision and monitoring of the scheme by constituting state level coordination and monitoring committee under the chairmanship of the Chief Secretaries and district level coordination and monitoring committee headed by District Collector for monitoring the scheme at the state and local level. Ministry of Tribal Affairs in association with TRIFED will monitor the performance of designated state agencies and review it periodically. TRIFED and the state agencies would keep close watch on the market prices during procurement season. Whenever the market price falls below the MSP, state agencies would start procurement. For this purpose, TRIFED will establish a trade Information system for broadcasting daily prices through web and web enabled SMSes. Such information will be collected and forwarded to the TRIFED by market correspondents. It would scrutinize the accounts of the State Agencies. The details of scheme design, monitoring mechanism, flow of funds and operational mechanism at Annex-A.

7. **Duration of the scheme:**

The scheme has been launched during 2013-14 and will continue during XII Five Year Plan (2012-2017) and beyond based on evaluation of its performance.

8. **Financial Implications: Total cost of the project over the proposed period:**

The estimated outlay of the scheme approved by the cabinet is Rs.967.28 crore as Central Government's share and in addition, States will share an amount of Rs.249.50 crore towards capital and revenue expenditure.

9. **Miscellaneous:**

Ministry of Tribal Affairs in consultation with Ministry of Finance and Planning Commission may effect changes in the scheme guidelines, other than those affecting the financing pattern as the scheme progresses, if such changes are considered necessary.

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512/CSO/56

F.No.16/13/2013-CP&R  
Government of India  
Ministry of Tribal Affairs

No.281, August Kranti Bhawan,  
Bhikaji Cama Place, New Delhi-66  
Dated: 2<sup>nd</sup> January, 2014

An oval-shaped stamp with a double-line border. The text "GOVERNMENT OF ODISHA" is at the top, and "ST. & SC. DEV. DEPARTMENT" is at the bottom. The date "15 JAN 2014" is in the center.

Commr. Com-Secretary to Govt.  
15 JAN 2014 Subject  
Sir/Madam

The Chief Secretaries of all State Governments (except Jammu & Kashmir, Punjab, Haryana and Delhi).

## The Administration of all Union Territories (except Lakshadweep)

## Ensuring Fair returns to Minor Forest Produce (MFP)/Non-Timber Forest Produce (NTFP) gatherers/ collectors -regarding

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) has been enacted with the objective of remedying the historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers of the country. The Act seeks to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded.

2. Section 3 (1) (c) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 envisages "Right of Ownership, access to collect, use and dispose of Minor Forest Produce (MFP)/Non-Timber Forest Produce (NTFP) which has been traditionally collected within or outside village boundaries" which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional dwellers on all forest lands.

The Ministry had issued detailed guidelines with reference to implementation of FRA vide this Ministry's letter No.23011/32/2010-FRA[Vol.II(pt.)] dated 12.07.2012, the extracts of the letter are mentioned as follows :-

i. The forest right holders or their cooperatives/federations should be allowed full freedom to sell such MFP/NTFPs to anyone or to undertake individual or collective processing, value addition, marketing, for livelihood within and outside forest area by using locally appropriate means of transport.

ii. The State Governments should exempt movement of all MFP/NTFPs from the purview of State Government and, for this purpose, the transit rules be amended suitably. Even a transit permit from Gram Sabha should not be required: Imposition of any fee/charges/royalties of the processing, value addition, marketing of MFR/NTFP collected individually or collectively by the cooperatives/fédérations of the rights holders would also be ultra vires of the Act.

Contd. 2/-

iii. The State Government need to play the facilitating role in not only transferring unhindered absolute rights over MFP/NTFP to forest dwelling Scheduled Tribes and other traditional forest dwellers but also in getting them remunerative price for the MFP/NTFP collected and processed by them.

4. While diverse institutional support may be provided by the State to MFP/NTFP collectors/gatherers, the prime objective should be to ensure benefits of these processes directly flow to the gatherers/ collectors in a timely and fair manner. Ministry has received petitions that the Forest Rights Act, 2006 is not being complied with in the letter and spirit and tribal communities are not getting the benefits of ownership of MFP/NTFP, which include all non-timber forest produce of plant origin including bamboo, brushwood, shrubs, cane, tussar, cocoons, honey, wax, lac, tendu on tendu leaves, medicinal plants and herbs, tubes and the like.

5. It is requested that any process/system which is in contravention of the provisions of the Forest Rights Act in letter & spirit be reviewed. Further, such processes may be expeditiously reoriented to ensure compliance with the law.

Yours faithfully,

(Nivedita)

Deputy Secretary to the Government of India  
Tele No. 26182428

F.No.23011/11/2013-FRA (Pt)  
 Government of India  
 Ministry of Tribal Affairs

Room No.F-281, August Kranti Bhawan  
 Bhikaji Cama Place, R.K. Puram,  
 New Delhi - 110 066

Date: 13<sup>th</sup> February, 2015

The Secretary to the Governor of Maharashtra  
Mumbai.

Subject: Inter relationship between Forest Rights Act and PESA with special reference to Minor Forest Produce (MFP) - Clarification regarding  
 Sir,

I am directed to refer to the e-mail dated 13.11.2013 received from the Secretary to the Governor of Maharashtra seeking clarification on a number of issues on the above subject and to say that the issues raised in the e-mail referred to above have been examined by this Ministry and clarification to the points raised is given as under:

Issue	Clarification
a) In light of the apparent contradiction between the provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 (hereafter "PESA") and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereafter 'FRA'), which provision will take precedence?	The Panchayats (Extension to Scheduled Areas) Act (PESA), 1996 enables extension of panchayats to the scheduled areas. While doing so it envisages additional provisions for empowerment of people given the special nature of scheduled areas. Various State legislations relating to land, water, forest excise, money-lending etc. are to be amended in-line with the spirit of PESA Act. Most of these laws are State legislations. Some of the matters like Minor Forest Produce (MFP) are often covered under executive instructions or Rules and not under any Act. The MFP restrictions, which prevent forest dwellers from having full rights over it arise out of the executive instructions and therefore, violate PESA. The Forest Rights Act (FRA) and PESA are kindred statutes, which empowered people and were framed to undo the historical injustice against tribals and forest dwellers since the colonial period through reservation of forests, restriction of entry to forests and prevention of forest dwellers from forest rights which had been enjoyed by them over generations. The difference is that the FRA is a self-contained Act along with Rules and makes specific provisions on several types of forest rights. The Forest Rights' Committee is a sub-committee of the Gram Sabha and therefore, enjoys all the

		power of the Gram Sabha envisaged under PESA. Therefore, there is no conflict between PESA and FRA. If this prospective is kept in mind then there will be no reason to perceive any conflict between FRA and PESA.
b)	How can ownership of MFP vest in the Gram Sabha under PESA, and also in the forest rights holder under FRA?	The notion of ownership under PESA and FRA is quite different from the commonly understood notion of private property. Individual rights are nested within the right of the Gram Sabha
c)	Between the Gram Sabha and the Committee under Section 4(1)(e) FRA, where does the decision-making power lie?	The power of decision-making with respect to MFPs clearly lie with the Gram Sabha, and the Committee is its delegate, or executive arm. The actions of the Committee are subject to approval by the Gram Sabha
d)	Who can auction and/ or dispose of the MFP--- forest rights holder or the 4(1) (e) committee?	All MFPs are not to be auctioned. The right to dispose of MFP covers the entire gamut of activities as described under Rule 2(1)(d), subject to the powers of the Gram Sabha under Section 5 of the Act. Where the MFP right vests in an individual, groups of individuals, or family, again the disposal of such MFP covers the entire gamut of activities as described under Rule 2(1)(d), but would be subject to the powers of the Gram Sabha under Section 5 of the Act. An important underlying principle of FRA is that no produce should go out of the village/ community until the needs for the same within the village/ community have been satisfactorily met. This prevents the conversion of MFPs for commercial use at the cost of local needs, and also ensures that the rights of local artisans who use the MFPs as raw materials are protected.  Where the Gram Sabha is the sole owner, that is, of MFPs which are not collected/ used by any individuals or family in the community, the auction and disposal of the MFP falls within the power and domain of the Gram Sabha. The Gram Sabha can either carry out this process itself, or authorize the Committee under Rule 4(1)(e) to carry out this function, but in the event that it does so, the Committee performs this function as a delegate of the Gram Sabha and not in its own right. All its decisions, in addition, are subject to the approval of the Gram Sabha

	<p>If the use of income and sale of produce is the prerogative of the Committee under Rule 4(1)(e), can it be exercised without a reference to the right holders under FRA?</p> <p>It would be quite incorrect to assert that the use of income and sale of produce is the prerogative of the Committee under Rule 4(1)(e). The Act and the Rules create space for a multiplicity of mechanisms and methodologies, and steer clear from taking a prescriptive approach.</p>
	<p>In case, the right to dispose of MFP is with the forest right holders can they dispose of MFP to anybody, or are they constrained to sell it to the Gram Sabha or the agency fixed by Gram Sabha only?</p> <p>A conjoint reading of Section 3(1)(c) and Rules 2(1)(d) clearly indicates that such an interpretation of the right to MFP would be quite incorrect, and there cannot be any restriction upon the MFP right to the effect that it be sold only to the Gram Sabha or its agent. Such an interpretation would lead to particular hardship for forest dwellers who depend on low value MFPs for their livelihood can use, in particular those where value addition is a result of the labour invested in the collection and extraction, often in dangerous conditions.</p> <p>As stated earlier, where the owner of the MFP is an individual, group of individuals, or family, they are expected to adhere to the decision of the Gram Sabha under Section 5 and the Committee under Rule 4(1)(e) to the extent that the disposal and sale of the MFP impacts the sustainability of the resource. Save such restriction, the right to disposal cannot be curtailed</p>
	<p>In PESA, it is clear that the ownership of the MFP is with</p> <p>As has been stated earlier, before reaching a conclusion that there is a contradiction between</p>

the Gram Sabha. However, it needs to be clarified that if in a Gram Sabha, a group has already staked claim to minor forest produce under FRA then what happens to the right of ownership of the Gram Sabha under PESA? Will it be coterminous, and how? Or, Section 13 of FRA is to be interpreted to say that PESA will prevail and only the rights of Gram Sabha are to be ensued?

PESA and FRA, it is important to examine carefully whether the source of the conflict is not a lack of compliance of the State level legislation with the parent law. If after such an examination, a contradiction continues to manifest, this is easily addressed through a harmonious construction of the two statutes, since they are, in essence, kindred spirits.

Both PESA and FRA adopt a unique perspective on the notion of ownership, as noted earlier. Failure to foreground such a perspective of the ownership of MFP would, indeed, result in the failure of both FRA and PESA

  
 (Roopak Chaudhuri)  
 Deputy Secretary to the Government of India  
 Tel: 011-2618 2428

# **Community Rights**

and

# **CFR Rights**

गौतम बुद्ध मुखर्जी

Gautam Buddha Mukherji

Tel. : 23381652

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सचिव, भारत सरकार

Secretary to the Government of India

जनजातीय कार्य मंत्रालय

Ministry of Tribal Affairs

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D.O. No.23011/24/2009-FRA

4<sup>th</sup> May, 2010.

Dear

Some civil society organisations have been frequently urging the Ministry of Tribal Affairs to persuade State Governments to implement the Forest Rights Act 2006 in its true spirit. Recently, under the banner of Council for Social Development ([www.cadindia.org](http://www.cadindia.org)), a workshop was held in Delhi to discuss these issues and I attended its valedictory session. The Council, which includes members like Shri B.N. Yugandhar (former Member, Planning Commissioner), Shri S.R. Sankaran (ex-Chief Secretary, Tripura) and Shri K.B. Saxena (ex-Member, Planning Commission), placed the following issues before me. I would like to enumerate these so that under your direction, you could ensure that your State takes corrective measures, wherever necessary. Short point is that the figures showing the number of applications collected and the number of titles distributed may hide procedural irregularities for restrictive control on the legitimate claims.

- (a) The first point that has been highlighted is that the community claims are not being given due importance, and, therefore, community rights for the collection of Tendu Patta, bamboo and other MFP items are being deliberately avoided. In some areas, traditional grazing rights are also stopped. Your officers will recall that in the very first conference of State Tribal Welfare Secretaries held on 18<sup>th</sup>/19<sup>th</sup> February, 2008, we had highlighted the need for concentrating on community rights first over individual rights.
- (b) Another point raised has been the dominant role played by forest department, rather than the nodal department of the State, in deciding on claims and imposing arbitrary conditions for claim verification. Instances of insisting on pre 1980 encroachment cases as proof of occupations were quoted widely. In some cases, it was alleged that forest department is using the JFM structure to take up plantation over lands on which claims under the Forest Rights Act are available. Specifically, it was alleged that

the State Governments are not pushing for collection of claims and their settlement, in national parks and sanctuaries pending declaration of critical wildlife habitats. As per the Forest Rights Act, you would recall, that settlement of rights should have precedence because any subsequent rehabilitation and resettlement can follow only if the rights have been settled. In some areas, statements were made, that tribals are being evicted without following the procedure laid down under the Forest Rights Act.

- (c) Another issue that was raised was that because of the primary role played by the forest department, claim areas are being arbitrarily reduced even if recommended by Gram Sabhas. I have personally seen such records in one State.
- (d) In some States which are mineral rich, it was alleged that the FR Act was not being implemented because these areas were to be leased out to mines and industrial houses under various MOUs.
- (e) Generally, there was wide-spread apprehension that the claims recommended by the Gram Sabhas were being rejected without any intimation to them or the claimants. These issues, your State Secretary may recall, came up during one of the Conferences where it was felt that the status of claims should be put up at the Sub Divisional and Divisional offices so that there is a degree of transparency. It was also suggested that the status should be made known to the Gram Sabhas. This suggestion, if it has not been followed, should be followed.
- (f) In some States it was reported that the forest departments are still collecting Tendu Patta on the ground that Tendu Patta is a nationalized item. It is pointed out that the Forest Rights Act supercedes all State laws and according to the Act, a community becomes owner of Tendu Patta if it can establish its claims through the procedure laid down. The community then has the option to either sell the Tendu Patta to the forest corporation or any other.
- (g) The State level Monitoring Committee, in most States, has not been meeting to take stock of these field level problems. We would request you to intimate us about the number of meetings that the State level Committee has held during 2009 and the first quarter of 2010. We hope the frequency of such meetings will increase, but more important we hope that this Committee can take care of field level problems that are being projected at Government of India level rather than at the State level, for quicker attention.

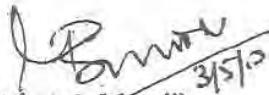
2. Finally, I would like to attach a paper that was circulated in the aforesaid meeting of the Council for Social Development. This paper gives State-wise list of situations which may be construed to be against the provisions of the Forest Rights Act.

Yours sincerely,

S. B. / -  
(G.B. Mukherji)

Chief Secretaries of Andhra Pradesh, Chhattisgarh, Bihar, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Tripura, Uttarakhand, Uttar Pradesh and West Bengal.

✓ Copy to Shri Vijay Sharma, Secretary, Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, Lodi Road, New Delhi, with a request to pass appropriate orders to the Forest Departments of State Governments to observe and support the provisions of the Forest Rights Act in letter and spirit. The objections raised have not been verified by the Ministry of Tribal Affairs, but as you can see, these have been sent to the State Governments for appropriate action. Some are of a generalized nature.

  
3/5/13  
(G.B. Mukherji)  
Secretary (TA)

भूत्या  
BHURIA

मंत्री  
जनजातीय कार्य  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110 001  
MINISTER OF TRIBAL AFFAIRS  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110 001

D.O. No.23011/05/2010-FRA

27 September, 2010

Dear Shri Sarkar ji,

I am writing this letter in connection with implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the State of Tripura.

While the Ministry is appreciative of the progress made by your State towards implementation of the Act, I would like to mention certain aspects of the Act which need your personal attention. These are discussed below:

(i) Community claims

As of 31<sup>st</sup> July 2010, only 277 community claims have reportedly been filed. Considering that Tripura is a tribal majority State, the number of community claims filed is very low. This could be due to inadequate publicity of the provisions of the Act and the Rules framed thereunder amongst the eligible claimants/communities in different parts of the state. Since most community claims relate to the ownership of minor forest produce, the State Government should launch a special campaign for generating widespread awareness about these community rights, if necessary, by re-

training field level functionaries engaged in the processing of such applications. The Gram Sabhas in the State may be given instructions to facilitate the collection of more community right claims. Support of local resources institutions under the State Government may be enlisted for this purpose.

(ii) Rejection of claims

It is observed that out of a total number of 1,72,304 claims filed in the State till 31<sup>st</sup> July, 2010, 55,997 claims were rejected. This works out to 32.49% of the total claims filed, which is quite high and a matter of concern. The Ministry has already requested the State Government, vide former Secretary (TA)'s D.O. letter No.23011/24/2009-FRA dated 15<sup>th</sup> July, 2010, addressed to Chief Secretary, Tripura, to categorise all rejections with their numbers, on a statistically acceptable sampling basis, at the level of Gram Sabha and SDLCs, in different categories specified in the said letter, and to incorporate this information in the monthly progress report being sent to this Ministry on implementation of the Act. The concerned State Government officials may be directed to complete this exercise and send this information to this Ministry every month.

(iii) Convergence of Government programmes

Having achieved the primary aim of distributing titles, there is a need to bring about the convergence of Government developmental programmes so that the standard of living of the title holders improves and they are weaned away from the timber related activities. The Hon'ble Prime Minister, in

his inaugural address at the two-day Conference of the Chief Ministers and State Ministers (Tribal Welfare / Social Welfare and Forest Department), convened by this Ministry in November, 2009 had also, *inter alia* stressed the need for dovetailing all development and welfare programmes in tribal areas for a coherent strategy and coordinated approach involving all departments. The observations of the Prime Minister were conveyed to the State Government, vide my letter No. 23011/20/2009-FRA dated 19.11.2009 and again on 18.2.2010 for taking necessary measures in this regard. The Ministry may be apprised of the action taken in this regard.

(iv) Diversion of forest land for development activities

Section 3(2) of the Act provides for diversion of forest land for certain development activities, specified in that Section, which involve felling of trees not exceeding seventy five per hectare. The Ministry had laid down the procedure for diversion of forest land under Section 3(2) of the Act on 18<sup>th</sup> May, 2009. The Ministry has, however, not been apprised of the status of the proposals, if any, received by the State Government under this Section and the action taken thereon by the State Government.

(v) Determination and notification of critical wildlife habitats in the National Parks and Sanctuaries

Under Section 2(b) of the Act, the Ministry of Environment & Forests is responsible for determination and notification of critical wildlife habitats in the National Parks and Sanctuaries.

According to the information received from the Ministry of Environment & Forests, while the Government of Tripura has constituted the State Level Committee for determination and notification of critical wildlife habitats, no further progress has been made in this regard. The State Government needs to take action in this regard on priority basis.

(vi) Eviction of forest dwelling STs from National Parks and Sanctuaries

The Ministry has been receiving complaints from time to time that some Scheduled Tribe persons living in National Parks and Sanctuaries are being forced to leave these areas without their rights under the Act being decided one way or the other pending determination and notification of critical wildlife habitats in these areas. I have already written to you separately, vide my D.O. letter No. 17011/Q1/2010-FRA dated 30.8.2010, enclosing a copy of letter No. 7-12/2010-FP dated 21.6.2010, issued by the Ministry of Environment & Forests directing the PCCFs in all the States/UTs requesting to ensure that the provisions of the Forest Rights Act should be duly complied with before taking any decision on displacement of Scheduled Tribes from National Parks and Sanctuaries. Steps may be taken for effective implementation of these instructions.

(vii) Conversion of forest villages into revenue villages

Section 3(1)(h) of the Act envisages conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages. The Ministry had requested the State

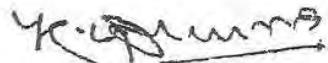
-5-

Government as early as on 25<sup>th</sup> February, 2008 to initiate action for conversion of all forest villages in your State / UT into revenue villages as per the guidelines issued by the Ministry of Environment & Forests and to intimate this Ministry of the progress made in this regard (number of forest villages, number processed for conversion to revenue villages, number converted with number of families, etc.). The Ministry is yet to hear about the action taken by the State Government for implementing the above provisions of the Act.

I shall be grateful if necessary action on the above issues is taken on priority basis and this Ministry apprised of the progress made at an early date.

With warm regards,

Yours sincerely,



(Kanti Lal Bhuria)

Shri Manik Sarkar,  
Chief Minister,  
Government of Tripura,  
Agartala.

वी. किशोर चन्द्र देव  
V. KISHORE CHANDRA DEO

18/88  
राजनीति विभाग  
वर्ष 2013



मंत्री  
जनजातीय कार्य एवं पंचायती राज,  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110001  
MINISTER OF TRIBAL AFFAIRS  
AND PANCHAYATI RAJ  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110001

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4 APR 2013

Dear Hon'ble Chief Minister,

I am writing this in the context of various issues pertaining to The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [Forest Rights Act] which is one of the flagship initiatives of the UPA Government. This watershed legislation has been enacted to undo the injustice done to scheduled tribes and other traditional forest dwellers from the days of yore by restoring and recognizing their pre-existing rights. This laudable social welfare legislation can have its meaningful application only when the rights of scheduled tribes and forest dwellers are handled and rightfully settled in all parts of the country. However, as the ground reality indicates these rights have yet to be settled in many regions owing to disturbances which have been arising from indiscriminate and rampant mining in Schedule V Areas. It is high time that the Forest Rights Act has to be effectively implemented with a view to safeguard the rights as envisaged in this legislation upon the scheduled tribes and forest dwellers. It also becomes imperative that the constitutional safeguards as envisaged in Schedule V to the Constitution and effective implementation of land laws of States are also secured.

2. The enactment of 2006 Forest Rights Act came as a ray of hope to the Scheduled Tribes and the other traditional forest dwellers. This watershed legislation as already mentioned by me sought to reverse the situation and correct the historic injustice by identifying and regularizing the pre-existing rights of these people.

3. Our thrust, therefore, should be implementation of Forest Rights Act and Rules made thereunder. Towards this end, after coming into force of revised Forest Rights Rules and guidelines in mid 2012, I had caused convening of national and regional consultations for emphasizing upon and finding out ways and means for effective implementation of FRA. It has been some time since the December 2012 national consultation held by my Ministry i.e. Ministry of Tribal Affairs on the implementation of the Forest Rights Act, I now wish to write to you in regard to some of the problems that continue to arise in implementation of this Act (and PESA too).

4. I would like to flag some of the oft felt problems which continue to fetter effective implementation of FRA:

■ 751, A Wing, Shastri Bhawan, New Delhi-110001, Tel.: 011-23381499, 29388482, 29070577 (Fax)  
■ Res: 4, Janpath, New Delhi - 110001, Tel.: 011-23016597, Telefax: 011-23016330.  
■ Fort Kurpam, Dist: Vizianagaram, Andhra Pradesh-535524, Tel.: 08953-225138, Cell: (+91) 9869180212, E-mail: vk.deo@sanisad.nic.in

- **Non-recognition of and non-respect for community rights and powers over forest management:** Notwithstanding the revised and updated changes in the FR Rules to make recognition of community forest resource rights mandatory for all forest dwellers' settlements, all the State governments have been unable to take up this matter. There has been no significant progress on this front. In addition, some of the specific problems that have arisen include:
  - *Governments using police and forest officials against people trying to protect their forests:* This has happened in particularly in North Bengal. There are also reports of similar developments with respect to the Baiga community in Dindori, Madhya Pradesh. In both cases, people who are trying to exercise their powers under section 5 of the FRA to protect forests from Forest Department felling (being done on the basis of FD working plans) are facing arrests, police cases and raids. In the Madhya Pradesh case this is happening despite an explicit recognition of these communities' community rights under the FRA. In this context I wish to emphasize that the powers of gram sabhas under section 5 of the Act should be respected. If people are unable to stop their forests from being destroyed by Forest Department felling, how can they exercise their community rights in those forests? This has the effect of making community rights meaningless.
  - *Continued equation of Joint Forest Management with community rights:* Several State governments continue to equate Joint Forest Management with recognition of community forest resource rights under the Act. Indeed, even in their official action plans, the governments of Gujarat, Jharkhand and Tripura have equated JFM committees/VSs/ or by such other names by which referred to with the committees that are to be elected by gram sabhas under the Act. What needs to be emphasized here is that these Committees which are constituted by Forest Departments by no stretch of imagination can be taken on par or equated with committees that elected by Gram Sabhas under the FRA. It has never been the legislative intent to vest upon such a status to JFMs or such like Committees. Some are even equating JFM with community forest resource rights and saying that, therefore, there is no need to recognize the latter. My Ministry had already issued revised guidelines on July 12, 2012 and suitably clarified position in revised FRA Rules which came into effect from September 7, 2012. There has been distortion in interpretation of these guidelines and rules.
  - *Continued problems with respect to ownership and control over minor forest produce:* As a result on my initiative both Maharashtra (with respect to tendu patta) and Odisha (with respect to bamboo) have announced changes to their policies. However, I find that in both cases these changes are partial and do not meet the law's

requirements. In Maharashtra, the Forest Department is seeking to preserve its power by saying that the gram sabha will merely be recognized as a permitted "agent" for tendu patta - which equates the gram sabha with a contractor and leaves all the regulatory power with the Forest Department (contrary to the Rules and to your intervention on the issue of transit passes). In the case of Odisha, the change that has been announced is only for this year, leaving it open as to what policy will be adopted next year.

In the other States, there is still a complete vacuum on the ground, and so far no State government has fully modified its transit permit regime to match that required by the amended Rules. I would also be speeding up the steps towards operationalising a minimum support price.

- **Rejections of rights not being reviewed and land still being taken over without recognition of rights:** At several of the regional consultations and in the national one, the fact that illegal rejections of rights can be reopened and reviewed was repeatedly stated.

In connection with this, it is also disturbing that there are still gross violations of the rights recognition process. There are instances where the Forest Department has been systematically building high stone walls (ironically using MNREGA funds) around government forests. This is happening regardless of whether people's rights have been recognised under the FRA or not. As a result, people are being forced to walk for kilometers to access their lands and the forest produce in the forest. This is completely illegal, yet no action has been taken to stop it.

- **Continued lack of accountability for violations of the law:** In the above context, there is a strong need to demonstrate to officials - particularly, as one would expect, those from the Forest Department - that violations of the Forest Rights Act are punishable (not only under the Act itself but also under the IPC and the SC/ST Prevention of Atrocities Act, among others). The criminal offence provisions of the Act have gone completely unimplemented (in sharp contrast, of course, to supposed violations of the Indian Forest Act and the Wild Life Protection Act).
- **Non cognizance of viable alternative propositions:** There are certain propositions/proposals for amicable settlement of rights of tribals and forest dwellers, but it is disconcerting to note that there isn't even an iota of consideration of these even before implementation of Forest Rights Act - for instance in Andhra Pradesh in the context of Polavaram Projects there already were some alternative proposals for resolving issues arising therefrom. These proposals were not

considered worthy even a look although they offer viable solution which if opted for would entail least displacement of tribals; considerably less area under submersion of water; and related R&R options. This is nothing but a deliberate conscious apathy by our own State authorities for problem resolutions. This aspect calls for serious consideration.

5. I have through this letter sought to bring to your notice the problems that are yet to be resolved at ground level. It would require collective concerted endeavors of all of us to ensure effective implementation of the Forest Rights Act.

6. I also consider it quite relevant to refer to Preamble to our Constitution through which we have solemnly resolve to constitute India into a sovereign, socialist, secular, democratic republic and to secure to our citizens among other needs social economic and political justice and equity of status of the opportunity. By securing the aforementioned avowed resolutions we seek to promote fraternity among people, strengthening dignity and unity among them and above all integrity of the Nation.

7. You would also appreciate the fact the process of effecting inclusive growth can be achieved only when we address the problems and grievances of the most exploited and deprived sections of our society. This is what is meant by "*inclusive growth*" which has been time and again emphasized upon by our esteemed Prime Minister.

8. In the context of our resolve to ameliorate the most exploited and deprived sections of our society, I consider it appropriate to quote the following from the "*Book of Revelation*" (21:3-5).

*...And I heard a loud voice from the throne saying, 'Now the dwelling of God is with men, and he will live with them. They will be his people, and God himself will be with them and be their God. he will wipe every tear from their eyes. There will be no more death or mourning or crying or pain, for the old order of things has passed away...'*

This finds echo in one of the inspiring impressions recorded by **Mahatma Gandhi** in a note stated to have been recorded by Gandhiji in August 1947. I also find it appropriate to quote the same which is as follows:

*"Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man whom you may have seen, and ask yourself if the step you contemplate is going to be of any use to him. Will he gain anything by it? Will it restore him to a control over his own life and destiny? In other words, will it lead to *Swaraj* for the hungry and spiritually starving millions? Then you will find your doubts and yourself melting away."*

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9. I would also like to cite the following extract from Pt. Jawahar Lal Nehru's "Tryst with Destiny" speech:

"...That future is not one of ease or resting but of incessant striving so that we may fulfill the pledges we have so often taken and the one we shall take today. The service of India means, the service of the millions who suffer. It means the ending of poverty and ignorance and poverty and disease and inequality of opportunity. The ambition of the greatest man of our generation has been to wipe every tear from every eye..."

I trust that I would have your cooperation in this regard.

With best wishes

Yours sincerely,

  
4.4.13  
(V. KISHORE CHANDRA DEO)

All CMs

Conversion  
of  
forest villages etc.  
into  
revenue villages

## FOREST VILLAGES (SAMPLE CHAPTER)

The issue of conversion of forest villages and other unsurveyed villages in forest areas into revenue villages has been addressed on a number of occasions even prior to the enactment of the Forest Rights Act. The first mention of the subject dates back to the National Forest Policy of 1988, where it is observed:

### **"4.6 Tribal People and Forests**

*Having regard to the symbiotic relationship between the tribal people and forests, a primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forest. While safeguarding the customary rights and interests of such people, forestry programmes should pay special attention to the following:*

xxx

- *Development of forest villages on par with revenue villages;*

xxx"

An early circular relating to this issue was part of the '1990 Guidelines' issued by the Ministry of Environment and Forests (MoEF) in accordance with decisions taken at the level of the Cabinet. This circular was issued on 18<sup>th</sup> September 1990<sup>1</sup> and relates to conversion of forest villages into revenue villages and settlement of other old habitations. At that time, it was deemed necessary to provide for dereservation of forest land for this purpose under the Forest (Conservation) Act, 1980. A detailed procedure as well as guidelines for eligibility was also provided.

On 3.2.2004, the MoEF issued a further circular which was aimed at 'stepping up of process for conversion of forest villages into revenue villages'<sup>2</sup>. The circular states that the lands which are converted into revenue villages should include "land under habitation, exiting buildings, gochar lands, health centre, community centre, cremation ground, road etc." Guidelines and procedure were provided.

## FOREST RIGHTS ACT

With the enactment of the Forest Rights Act, the conversion of forest villages and unsurveyed villages in forest areas into revenue villages has been given statutory status in the nature of a forest right. Section 3(1)(h) of the FRA, which defines '**forest rights**' includes therein:

**"3.(1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers in **all forest lands**, namely:-**

<sup>1</sup> Circular dt. 18<sup>th</sup> September 1990, No.13-1/90-FP (5), issued by the Ministry of Environment and Forests, Government of India.

<sup>2</sup> Circular dt. 3.2.2004, No. 11-70/202-FC- (pt.), issued by the Ministry of Environment and Forests, Government of India, to the Chief Secretaries, Principal Secretaries, and PCCFs of all the States and UTs.

[Type text]

XXX

(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forest, whether recorded, notified, or not, into revenue villages;"

Section 2 (d) defines "forest land" as under:

"**forest land**" means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;"

Section 2(p)(iii) of the FRA, while defining '**village**' includes:

"(iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not;"

Section 2(f) of the FRA defines '**forest villages**' as follows:

"**forest villages**" means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages and includes lands for cultivation and other uses, permitted by the Government;"

## RULES AND GUIDELINES

The Rules framed under the FRA, as amended up-to-date, under Rule 2A states as follows:

**"2A. Identification of hamlets or settlements and process of their consolidation -**  
The State Government shall ensure that, -

- (a) every panchayat, within its boundaries, prepares a list of group of hamlets or habitations, unrecorded or unsurveyed settlements or forest villages or taungya villages, formally not part of any Revenue or Forest village record and have this list passed by convening Gram Sabha of each such habitation, hamlets or habitations included as villages for the purpose of the Act through a resolution in the Panchayat and submit such list to Sub Division Level Committee.
- (b) the Sub-Divisional Officers of the Sub Division Level Committee consolidate the lists of hamlets and habitations which at present are not part of any village but have been included as villages within the Panchayat through a resolution, and are formalised as a village either by adding to the existing village or otherwise after following the process as provided in the relevant State laws and that the lists are finalised by the District Level Committee after considering public comments, if any.
- (c) on finalisation of the lists of hamlets and habitations, the process of recognition and vesting of rights in these hamlets and habitations is undertaken without disturbing any

rights, already recognized.<sup>3</sup>

Further, the Rules under Rule 12B (5) state as follows:

**"12 B. Process of Recognition of Community Rights:-**

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(5) The conversion of forest villages, unrecorded settlement under clause (h) of section 3 shall include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities and public spaces."<sup>4</sup>

In July 2012, Guidelines under Section 12 were also issued by this Ministry which emphasized the need to implement the provisions of the FRA with regard to conversion of forest villages into revenue villages, without any exceptions or exemptions being provided to such villages in any category of forest lands, such as protected areas. Clause (iii)(d) states:

**"(iii) Community Rights:**

XXX

*The forest villages are very old entities, at times of pre-independent era, duly existing in the forest records. The establishment of these villages as in fact encouraged by the forest authorities in the pre-independent era for availability of labour within the forest areas. The well defined record of each forest villages, including the area, number of inhabitants, etc. exists with the State Forest Departments. There are also unrecorded settlement and old habitations that are not in any Government record. Section 3(1)(h) of the Act recognises the right of forest dwelling Scheduled Tribes and other traditional forest dwellers relating to settlement and conversion of forest villages, old habitation, un-surveyed villages and other villages and forests, whether recorded, notified or not into revenue villages. The conversion of all forest villages into revenue villages and recognition of the forest rights of the inhabitants thereof should actually have been completed immediately on enactment of the Act. The State Governments may, therefore, convert all such erstwhile forest villages, unrecorded settlements and old habitations into revenue villages with a sense of urgency in a time bound manner. The conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities, public spaces etc. Records of the forest villages maintained by the Forest Department may thereafter be suitably updated on recognition of this right."*

<sup>3</sup> Inserted by Rule 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E) dated 6th September, 2012).

<sup>4</sup> Inserted by Rule 11 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E) dated 6th September, 2012)

[Type text]

### IMPORTANT CIRCULARS AND INSTRUCTIONS

No.	Date and Ref. No.	Summary
1.	25 <sup>th</sup> February, 2008 D.O. No. 7014/2/2007-PC&V (Vol.VI) <sup>5</sup>	<p>One of the early circulars issued by Ministry of Tribal Affairs, this instruction listed some of the "major actionable points, along with the timelines" for implementation of the statute by the State Governments.</p> <p>A request for implementation of the important right to conversion of forest villages into revenue villages in terms of the statute and previous circulars was reiterated, along with a request that the Central government be kept informed regarding progress made (number of forest villages etc.; number process for conversion to revenue villages; number converted with number of families).</p>
2.	3.12.2008 No. 23011/28/2008- SG-II <sup>6</sup>	<p><i>Copy of the letter not available with me. According to summary in the annexed table, the letter states that for conversion of forest villages into revenue villages, Guidelines dt. 18.9.1990 issued by MoEF are to be followed. Action can also be taken when the forest dwellers file claims under the Forest Rights Act, to be ultimately decided by the DLC.</i></p>
3.	24.6.2013 No. 23011/33/2011- FRA <sup>7</sup>	<p>In November 2012, the Government of Chhattisgarh addressed a letter<sup>8</sup> to the Ministry of Tribal Affairs seeking certain clarifications, which were addressed in a letter dated 24.6.2013. It was observed that "since the Forest Rights Act, 2006 envisages recognition and vesting of forest rights over forest land only, de-reservation of the forest land would not be necessary for recognising the right relating to conversion of forest village into revenue villages under Section 3(1)(h) of the Act."</p> <p>Accordingly, previous orders of the Supreme Court requiring that its permission be sought prior to dereservation of forests would not be applicable in such instance.</p>
4.	11.9.2013 DO No. 23011/33/2010- FRA <sup>9</sup>	<p>This communication made the following points:</p> <ul style="list-style-type: none"> <li>- That the order dated 13.11.2000 of the Supreme Court in WP 337/1995 would be guided by provisions of Section 3(1)(h) of Forest Rights Act. Since the conversion of forest villages into revenue villages has to be adjudicated by the Gram Sabha, SDLC and DLC, and the rights are recognised over forest land only, de-reservation of forest</li> </ul>

<sup>5</sup> Issued by MoTA, GoI to Chief Secretaries of all States (except Punjab), Chief Secretary of A&N Islands, Administrators of Daman & Diu and Dadra & Nagar Haveli.

<sup>6</sup> Issued by MoTA, GoI to the Govt. of Madhya Pradesh.

<sup>7</sup> Issued by the MoTA to the Secretary, ST & SC Development Department, Govt. of Chhattisgarh.

<sup>8</sup> Note that this letter also contained detailed instructions on recognition of habitat rights of PVTGs.

<sup>9</sup> Issued by Secretary, MoTA to Secretary, MoEF.

		<p>land is not necessary.</p> <ul style="list-style-type: none"> <li>- That the slow progress of conversion of forest villages to revenue villages by State governments is largely due to the assumption that the Supreme court order aforesaid overrides the Forest Rights Act.</li> <li>- That this is an incorrect interpretation as the Forest Rights Act is a subsequent statute.</li> </ul> <p>Accordingly, the MoEF was requested to bring this correct legal position to the notice of all the State Forest Departments so that there is no further delay in initiating the process of conversion of all forest villages into revenue villages.</p>
5.	8.11.2013 No. 23011/33/2010-FRA <sup>10</sup>	<p>Reiterating the points in many of the aforesaid circulars, this is a comprehensive Circular relating to the legal position relating to conversion of all forest villages, old habitations, unsurveyed villages etc, into revenue villages under Section 3(1)(h) of the Forest Rights Act. Numerous issues arising from time to time were clarified in <i>seriatim</i>.</p> <p>The Circular also enclosed detailed step-by-step Guidelines for conversion of forest villages into revenue villages.</p>
6.	3.3.2014 No. 23011/06/2014-FRA <sup>11</sup>	<p>This is an important circular which clarifies that once the process of recognition of rights and issue of titles under the Forest Rights Act is completed, the Revenue and Forest Departments of the State are to prepare a final map of the forest land, and update the revenue and forest records within 3 months.</p> <p>Specifically with regard to conversion of all forest villages, old habitations, unsurveyed villages and other villages in forests whether recorded, notified or not, into revenue villages, the entire records should follow the protocol of the revenue code/law.</p>

<sup>10</sup> Issued by MoTA to Chief Secretaries of all the States (except J&K) and Administrators of all the UTs.

<sup>11</sup> Issued by MoTA to all Secretaries in charge of Tribal Welfare Departments of all States, and Administrators of all UTs.

## ANNEXURE I

**Circular No. 13-1/90-FP of Government of India, Ministry of Environment & Forests, Department of Environment, Forests & Wildlife dated 18.9.90 addressed to the Secretaries of Forest Departments of all States/UTs.**

**II.4. FP (5) Conversion of forest villages into revenue villages and Settlement of other old habitations**

Forest villages were set up in remote and inaccessible forest areas with a view to provide uninterrupted manpower for forestry operations. Of late, they have lost much of their significance owing to improved accessibility of such areas, expansion of human habitations and similar other reasons. Accordingly, some of the States converted forest villages into revenue villages well before 1980. Nevertheless, there still exist between 2500 to 3000 forest villages in the country. Besides, some cases of other types of habitations e.g. unauthorised houses/ homesteads, dwellings of tribals who have been living in them in virtually pre-agrarian life styles, are suspected to exist in forest lands even though these may not have been recognised either as revenue villages or forest villages.

2. In March, 1984, the then Ministry of Agriculture suggested to the state/UT Govts that they may confer heritable and inalienable rights on forest villagers if they were in occupation of land for more than 20 years. But this suggestion does not seem to have been fully implemented. Development of forest villages has also been endorsed in the National Forest Policy, 1986 which states that these should be developed on par with revenue villages. This issue was again examined by an inter - Ministerial Committee, set up by this Ministry to look into various aspects of tribal-forest-interface, in consultation with representatives of some of the States.

3. Although the forest villages have lived in harmony with their surrounding forests and the concept of forest villages proved an effective arrangement for sustained supply of manpower, yet it would not be appropriate to deny them legitimate rights over such land which were allotted to them decades ago for settlement and have been continuously under their occupation since then. Keeping this aspect and the recommendations of the inter - Ministerial Committee the following measures are suggested to resolve the outstanding issues of forest villages and other types of habitations existing in forest lands.

**3.1 Forest villages**

Forest villages may be converted into revenue villages after denotifying requisite land as forest. Proposals seeking prior approval of Government of India for this purpose under the Forest (Conservation) Act, 1980 may be submitted expeditiously. While converting these villages into Revenue Villages, the following principles may be adhered to:

- (i) the villages are conferred heritable but inalienable rights;
- (ii) administration of these and other Revenue Villages enclaved in forest areas should preferably be entrusted to the State Forest Departments.

**3.2 Other Habitations**

- (a) Habitations other than Forest Villages may be grouped into the following categories:

(i) Cases where dwellings belong to persons who have encroached on forest land for cultivation.

(ii) dwelling of other persons who have been living therein since past without encroaching on forest land for cultivation but their habitations are neither recognised as Revenue Villages nor Forest Villages.

(b) Each case may be examined on its merits. Suggestions for resolving the cases are given below:

(i) In case of category (a) (i) above, wherever encroachments for agricultural cultivation are regularised, the house sites and homesteads, too, maybe regularised either in situ or as near to agricultural field as possible subject to certain safeguards in the interest of forest protection and "eligibility" criteria as may be evolved by the State Government.

(ii) In case of category (a)(ii) above, certain specific habitations, more than 25 years old, involving sizeable group of families, may be examined, case by case, on merits for their amicable settlement.

(iii) Scheduled Tribes and rural poor not covered under (i) and (ii) above should be resettled in non-forest Government land.

(iv) All other unauthorised habitations must be evicted.

(v) Wherever provisions of the Forest (Conservation) Act, 1980 are attracted, comprehensive proposals may please be submitted for seeking prior approval of this Ministry. It may kindly be noted that such proposals will be considered only when the State/ UT Govt ensure that all the measures are taken simultaneously and effectively and are accompanied with proposals for compensatory afforestation.

4. This Ministry may kindly be kept informed of the action taken/proposed to be taken in this regard.

## ANNEXURE II

GOVERNMENT OF INDIA  
 MINISTRY OF ENVIRONMENT & FORESTS  
 Tel: 24360379  
 Fax: 24365721

Dated: 3.2.2004

No. 11-70/202-FC- (Pt)

To

1. The Chief Secretary,  
All the States/UTs
2. The Principal Secretary  
All the States/UTs
3. The Principal Chief Conservator of Forests  
All the States/UTs

**Subject: Stepping up of process for conversion of forest villages into revenue villages.**

Sir,

As you are aware that the National Forest Policy of 1988 envisages that development of forest villages should be on par with the revenue villages. In order to ensure this, the Ministry had issued guideline on 18<sup>th</sup> September, 1990 vide this office No. 30-1/90-FP (5) for conversion of these forest villages into revenue villages. But so far, very few proposals have been received from the State Governments, and even of the proposals received, many are either incomplete and/or also include the encroachments in adjoining forest, as also the balance forest land in the compartment. So far only 384 forest villages have been converted into revenue villages (311 in Madhya Pradesh and 73 in Maharashtra) during the last one year. From rest of the states, proposals are yet to be received.

The matter was reviewed last year in September, 2003 by the Ministry on the basis of information furnished by 13 states (Assam, Chhattisgarh, Gujarat, Jharkhand, Maharashtra, Meghalaya, Madhya Pradesh, Mizoram, Orissa, Tripura, Uttarakhand, Uttar Pradesh and West Bengal), a total of 2690 forest villages have been enumerated as existing in the country. It has been decided that the state governments may be requested to immediately expedite the process of conversion of these forest villages into revenue villages.

The following procedure may be followed while preparing the proposal so that the complete proposals are sent within a fixed time limit for taking a decision under the provisions of the Forest (Conservation) Act, 1980.

- i) This is to reiterate that the Central Government is committed to the conversion of forest villages into revenue villages in accordance with the guidelines approved by the Union Cabinet in 1990.
- ii) Central Government would consider all land on which pattas have been issued prior to 25.10.1980 by the concerned Divisional Forest Officers or the authorised officers and patta holders and the land is in their or legal successors continuous possession. These lands will include land under habitation, existing buildings, gochar lands, health centre, community centre, cremation ground, road etc. for diversion. Isolated patches of

settlement should be brought to the periphery of forests by the State Government and proposals sent for the areas in which the resettlement will take place.

For purposes of conversion of forest villages into revenue villages, the State Government shall submit a map delineating the external boundaries of the areas where pattas have been issued pre-1980. It would not be necessary for them to submit details of individual pattas.

- iii) The balance forest areas in the forest compartment shall be demarcated and retained as reserve forests and managed by the state forest department. These areas shall also be demarcated in the field by the state forest department.
- iv) Forest lands which have been encroached shall be dealt with in accordance with the guidelines issued by the Ministry for regularisation of the encroachment and the State Government shall ensure that all ineligible pre-1980 and post-1980 encroachments are evicted in tune with the Hon'ble Supreme court orders. Only eligible category of pre-1980 encroachment shall be considered for regulations if and when the ban on regularisation of the encroachment is lifted by the Supreme Court. The State Governments may also simultaneously approach the Supreme Court in this regard.
- v) If any of the forest village falls in a National Park and Sanctuary, the State Government shall submit the proposal for conversion to the revenue villages only after obtaining the approval of the Standing Committee of the National Board of Wildlife and Hon'ble Supreme Court.
- vi) Regarding traditional rights of inhabitants of forest villages on forest lands outside the village boundaries, the State Governments may document such rights and notify them under the provisions of relevant Acts or Rules as applicable, furnishing the details of specific rights so granted, the villages where individuals are entitled and the specific forest-lands on which such rights may be exercised.

It is therefore, requested that a time bound programme may draw up by the State Government for expeditiously converting forest villages into revenue villages in the next six months so that the people living in these villages can enjoy the fruits of development and also their dependency on forest is reduced.

Yours faithfully,

(Dr. V.K. Bahuguna)

Inspector General of Forests

Copy for information and necessary action:

1. Chief Conservator of Forests (Central) of all Regional Offices located at Bhubaneshwar, Bangalore, Bhopal, Shillong, Lucknow, Chandigarh.
2. The Secretary Ministry of Tribal Welfare, Government of India, New Delhi.
3. The Advisor (Environment and Forests), Planning Commission, Yojana Bhawan, New Delhi.

Yours faithfully,

(Dr. V.K. Bahuguna)

Inspector General of Forests

**Most Immediate**

सचिव, भारत सरकार

Secretary to the Government of India

जनजातीय कार्य मंत्रालय

Ministry of Tribal Affairs

शास्त्री भवन, नई दिल्ली-110001

Shastri Bhawan, New Delhi-110001

E-mail : [secy-tribal@nic.in](mailto:secy-tribal@nic.in)Website : [www.tribal.gov.in](http://www.tribal.gov.in)25<sup>th</sup> February, 2008.

गौतम बुद्ध मुखर्जी

Gautam Buddha Mukherji

Tele. : 23381652

Fax : 23073160

Dear

Kindly refer to my D.O. letter of even number dated 25<sup>th</sup> January, 2008, enclosing a statement indicating the major actionable points, along with the timelines, for the States and the Central Ministries concerned for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.

2. State-wise Information/ data regarding implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 would now be required and for this a comprehensive web-based format is being developed, in consultation with NIC. But pending that, your State may begin by furnishing information on the following:

- (i) Status of formation of various Committees under the Act;
- (ii) Whether the Act and the Rules have been translated in the regional languages and arrangements made for their distribution to Gram Sabhas, Forest Rights Committees, the concerned Departments of the State Government;
- (ii) Steps taken to create awareness about the objectives, provisions and procedures laid down under the Act and the Rules through various means/methods of communication;
- (iv) Arrangements made for the training of PRI officials, SDLC, DLC members by the State Nodal Agency at State, District and Sub-Divisional levels;
- (v) Number of claims filed at Gram Sabha level; number recommended by Gram Sabha to the SDLC; number approved by DLC for title; number of titles distributed;
- (vi) Number of claims rejected and the level of rejection.

The first report may kindly be sent by 31<sup>st</sup> March and monthly thereafter.

3. As you would be aware, section 3(1)(h) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 recognises the forest rights of settlement and conversion of all forest villages, old habitations, unsurveyed villages and other villages in forests whether recorded, notified or not, into revenue villages. The Ministry of Environment and Forests have already issued guidelines, vide their letter No.13-1/90/FP(5) dated 18<sup>th</sup> September, 1990 for conversion of forest villages into revenue villages and settlement of old habitations. One of the actionable points for the States/UTs also relates to conversion of all forest villages into revenue villages. It is requested that necessary action may be initiated for conversion of all forest villages in your State/UT into revenue villages, in a time bound manner, as per the extant guidelines of the Ministry of Environment and Forests. This Ministry may be kept informed of the progress made in this regard (number of forest villages etc; number processed for conversion to revenue villages; number converted with number of families).

4. In this connection, the following directions are also issued under Section 12 of the Act with reference to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules 2008 for implementing the provisions of the Act:

- i) **Rule 5** An officer of Tribal Welfare Department in-charge of the Sub-Division or where such officer is not available, the officer in-charge of the tribal affairs will be the Member Secretary of the Sub-Divisional Level Committee.
- ii) **Rule 7** An Officer of Tribal Welfare Department in-charge of the district or where such officer is not available, the officer in-charge of the tribal affairs will be the Member Secretary of the District Level Committee.
- iii) **Rule 9(g)** While constituting the State Level Monitoring Committee, where there is no Tribes Advisory Council and three Scheduled Tribe members are to be nominated by the State Government in terms of Rule 9(g) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules 2008, the nominees of the State Government should be from the Panchayati Raj Institutions out of whom one should be a woman.
- iv) **Rule 10** In case of inter-state claims, the State Level Monitoring Committee shall also coordinate with other State Governments and State Level Monitoring Committee.

(These directions were also highlighted in the Conference of Secretaries Tribal Development/ Welfare), held in New Delhi on 18<sup>th</sup> and 19<sup>th</sup> February, 2008).

5. It is requested that these directions may be brought to the notice of all the authorities/departments concerned with the implementation of the Act.

Yours sincerely,  
Sd/-  
(G.B. Mukherji)

Chief Secretaries of all States (except Punjab)  
Chief Secretary, Andaman and Nicobar Islands,  
Administrator, Daman and Diu & Dadra and Nagar Haveli.

Copy to:-

The Secretary, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi for information. It is requested that the Ministry of Environment & Forests may also kindly initiate action, after individual rights have been vested, for conversion of 2474 forest villages/ habitations in 12 States into revenue villages and any other such habitation as per provision of Section 3(1)(h) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, as a follow up of actionable points approved in the meeting taken by the Principal Secretary to the Prime Minister.

*✓*  
(Dr. Bachittar Singh)  
Joint Secretary to the Government of India

*dc*  
*ISSued by Speed Post*  
*28/2/08*

	of 3 months period.	Rule has been followed. [MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to all State/ UT Governments except J&K, Harayana, Nagaland and Lakshadweep]
(v)	Whether the forest villages can be converted into revenue villages by an administrative decision and whether claims have to be filed for the same before the Gram Sabha.	The State Government can convert the forest villages into revenue villages as per the guidelines issued by the Ministry of Environment & Forests, vide their letter No.13-1/90/FP(5) dated 18.9.1990. Action for conversion of such forest villages into revenue villages can also be taken by the State Government when the forest dwelling Scheduled Tribes and other traditional forest dwellers file their claims for recognition of this right before the Gram Sabha, to be ultimately decided upon by the District Level Committee. [MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Madhya Pradesh]
(vi)	Whether powers can be delegated to the Revenue Divisional Officer for signing the claimant rights Pass Books i.e. title deeds, instead of District Collector and whether facsimile signature of the District Collector could be permitted in the claimant rights Pass Books i.e. title deeds.	As per Annexure-II & III of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, the title for forest land and community forest rights are to be signed by the District Collector/ Deputy Commissioner. Therefore, this power can not be delegated to the Revenue Divisional Officers. The facsimile signature of the District Collector can also not be permitted on the title deeds. [MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Andhra Pradesh]
(vii)	Whether the Principal Secretary of the Autonomous Councils in certain districts in the States governed under the provisions of the Sixth Schedule to the Constitution of India can be made the Chairperson of the SDLCs and DLCs under the Act.	As per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, Sub-Divisional Level Committees and the District Level Committees are to be headed by Sub-Divisional Level Officers or equivalent officers and District Collector or Deputy Commissioner respectively. During the review meeting of the State Secretaries/ Commissioners of Tribal Welfare held on 11.11.2008, it was informed that SDOs and District Magistrates were available in the six districts of the State, which were under the Sixth Schedule provision.

berji

सचिव, भारत सरकार

Secretary to the Government of India

जनजातीय कार्य मंत्रालय

Ministry of Tribal Affairs

शास्त्री भवन, नई दिल्ली-110 001

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Website : [www.tribal.gov.in](http://www.tribal.gov.in)

D.O. No.49/TP/Secy(TA)/2010

5<sup>th</sup> April, 2010.

Dear

I would like to thank you, and through you your colleagues, especially Shri Debmalya Deb Burman, Joint Director (TW), for making my tour to North Tripura a success. In this letter, I would like to mention a number of issues that I feel should be paid attention to, including one where we would request specific action. I think that procedural irregularities might have taken place in the implementation of the Forest Rights Act.

#### Forest Rights Act:

1. Recently you had sought a clarification from the undersigned as to whether claims under the Act can continue to be received beyond 31<sup>st</sup> December, 2009, as there is no such deadline prescribed. We have confirmed our interpretation, but it appears that instructions might have been incorrectly communicated to field offices that even those whose applications have already been received and processed are to be again given a chance to apply for additional forest land that they are occupying. This is the impression I got both in Jampui area as well as in Manu. I would like to reiterate that there is no question of applicants, whose rights have once been decided by the district level committee and titles given accordingly, being given a second opportunity.

2.2 It also appears that in many cases the claims to the Gram Sabhas have been made for a particular extent of area in a particular village, but titles have been given in another village, often for smaller areas. This, if true, is also incorrect. The law is very specific. The claimants have to make claims for areas that they can justify under the provisions of the Act and the Rules subject to a maximum of 4 hectares. There can be no occasion to give less now and more later. Right holders have to prove their rights, and this Act is not the consequence of a land distribution policy. Allotment of land in another village is also un-understandable. It would appear that even when these problems have been pointed by the Secretary of the Village Rights Committee, to the Sub Divisional Committee and the District level Committee, the irregularity has not been rectified. Please see photocopy of the document at Annexure I in support of what I have said.

2.3 It would also appear that Kuchcha titles have been given when there is no provision for such under the law. The format of the title is specified in the Rules and any other format is legally unacceptable. Annexure.II is the photocopy of two titles deeds that are not as per the Forest Rights Act. Indeed, the Forest Rights Act is not an act of the Government of Tripura.

2.4 Annexure.III is a copy of another petition which shows a list titles settled in areas not claimed.

2.5 The above documents were given to me in Jampui hills. The Lusai community elders were very disturbed by the way the titles have been distributed. The complaint raised by community members including those from village council were not apparently entertained by officials who were entrusted with the work including the Sub Divisional level and District level Committees.

2.6 The Act does not permit any reopening of mistakes once title deeds have been given. If large scale procedural irregularities have actually taken place then the State Government may take legal opinion and approach the High Court for rectification. If, on the other hand, irregularities have been detected before the distribution of titles in the form prescribed under the Act, there is scope for the Divisional and Sub Divisional Committees to send the applications back to the Gram Sabhas or where the irregularities have taken place for rectification. As I have said, legal opinion for my suggestion may be taken as to be totally sure of the conformity to the provisions of the Act. Indirectly, it would appear that while Tripura has taken a lead in distributing a large number of title deeds, one is not sure whether the procedure has been correctly followed. You may like to specifically check up that the procedural formalities have all been sincerely followed in the whole exercise. We would be awaiting your report in this matter.

### 3. Water scarcity:

3.1 In most of the places that I travelled to, water scarcity was apparent. Many tribals, it was found, were drinking water from traditional sources (holes along the rivers or seepages from hill sides) leaving aside water from government constructed ring/sanitary wells. I have suggested some ways to motivate the Scheduled Tribes to maintain their sanitary wells, but I understand that this will need innovative communication methodology/techniques. School children might be better addressed rather than community elders in this regard. Some States like West Bengal are utilizing the services of organisations that are experts in communicating social themes through plays. One such organisation that you may like to contact is [banglanatak.com](http://banglanatak.com).

3.2 Some States like Gujarat, Rajasthan and Orissa have a system of constructing low check dams on streams, with sand filled bags, just before the dry season. These dams are constructed at many places along the stream

where water can form pools to be used by humans (for bathing or washing clothes) and animals for drinking, and for growing vegetables along the side. During monsoons, water will easily flow over the small dams not causing any great damage. The following year only minor gap filling with sand filled bags will be sufficient. You may like to consider the feasibility of this suggestion in the particular vulnerable water scarcity villages of your State.

4. Forest villages:

4.1 I could see only one forest village (Mritingacherra in Kanchanpur forest range) and saw the programme details of S.Unokoti and Sonainuri villages in Kailasahar range. The context for visiting these villages was to ascertain why the State has not claimed the balance amount under this programme since 2008-09. As per the records available in this Ministry, in that year an amount of Rs.5.58 crore was released to Tripura for 62 villages, but there was an unspent balance of Rs.4.36 crore resulting in withholding of similar grant under the second phase of funding. I have found that in Mritingacherra a number of items have been identified for expenditure through the forest development agencies for the year 2009-10, but no money has been spent. I also found that the Government of India money is being taken for distribution for various items of work ranging from purchase of musical instruments, making of sign boards, supply of sport goods etc. The utilization in Kailashahar was more logical. If I am not mistaken, the scheme was aimed to assess critical needs of forest villages, covering infrastructure and income generation and meet these needs in a manner that would provide full (not distributed) satisfaction. I hope that you will take it up with your counter part in the Forest Department to ensure that for the balance amount, at least, optimal utilization of funds is planned and made possible. Funds under this scheme are not meant to supplement the coffers of FDAs. Annexure-IV refers to what I have seen.

Yours sincerely,

Sd/-  
(G.B. Mukherji)

Shri S.K. Das,  
Commissioner and Secretary,  
Tribal Welfare Department,  
Government of Tripura,  
Agartala.

बुद्ध मुखर्जी

कृष्ण बुद्ध मुखर्जी  
Mr. Buddha Mukherji  
Te: 23381652  
Fax: 23073160

सचिव, भारत सरकार

Secretary to the Government of India

जनजातीय कार्य मंत्रालय

Ministry of Tribal Affairs

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Website : [www.tribal.gov.in](http://www.tribal.gov.in)

D.O. No.23011/24/2009-FRA

20<sup>th</sup> July, 2010.

Dear

The status of implementation of the Forest Rights Act was recently reviewed in a very high level meeting. It was noted that while substantial progress had been made, it could have been better had such wide inter-state variations not been there. Concerns were also expressed regarding the high rates of claim rejection, difficulties expressed by claimants in accessing the requisite evidence, delays in the demarcation/handing over of lands including provision of maps, insufficient emphasis on community rights, non-conversion of forest villages into revenue villages, non-involvement of the civil societies, academics, etc. in facilitating claims, especially those of the Particularly Vulnerable Tribal Groups (PTGs), capacity building of the various committees set up under the Act, particularly the Forest Rights Committees and the Gram Sabha, etc.

2. In order to accelerate the pace of implementation of the Act and to address the concerns mentioned above, we would like to request that the following measures be taken by the State Governments immediately:

- (i) A scrutiny of reports received from the States so far reveals that till 30<sup>th</sup> June, 2010 only 1.76 per cent of the forest rights claims filed relate to community rights. Since most community claims relate to the ownership of minor forest produce, State Governments should launch a special campaign, as is being undertaken in Orissa, for generating wide-spread awareness about these community rights, if necessary, by re-training field level functionaries engaged in the processing of such applications. The Gram Sabhas in the State may be given instructions to facilitate the collection of more community right claims. Support of local resource institutions under the State Government may be enlisted.

(ii) As per Rule 4(3), the Gram Sabha is to be provided with all necessary assistance by the authorities in the State in the discharge of its functions. In order to (a) overcome the difficulties experienced by the claimants in accessing the requisite evidence in support of their claims; (b) avoid the delays in preparation of a map delineating the area of each recommended claim; (c) facilitate claims, especially those of PTGs; (d) enhance capacity building of the Forest Rights Committees constituted by the Gram Sabha for assisting the Gram Sabhas, etc., the State Government may provide the Gram Sabhas with the assistance of facilitators. As in the case of Gram Sabhas, the State Government may also provide the Sub Divisional Level Committees with the assistance of facilitators for due discharge of functions assigned to them under Rule 6. These facilitators may be engaged with the involvement and approval of the District Collector. The assistance of local Tribal Research Institutes (TRIs) can also be sought. The expenses on the engagement of facilitators can be made out of the grants Article 275(1) proviso, as communicated to the States in early 2009.

(iii) Rule 12 specifically lays down that Forest Rights Committees must ensure that claims from the members of the PTGs or pre-agricultural communities are verified in the presence of the members of such communities. If this is read with the list of evidence provided in Rule 13(1)(c) and Rule 13(1)(i), the establishment of claims for such communities is not likely to be a problem. What is essential, however, is that such communities must be focussed for specific attention as provided in Rule 8(b). Hence, besides ratifying these provisions, kindly also facilitate collection and processing of the claims from such groups and communities in line with what has been suggested in sub-para (ii) of this letter.

(iv) The Ministry has been noticing that the State Level Monitoring Committees (SLMC), in most States, have not been meeting regularly to take stock of field level problems. You may kindly schedule meeting at least once in three months -- to monitor the process of implementation of the Act, take stock of the field level problems and furnish a six monthly synoptic report to this Ministry on the status of implementation and field level problem, if any, as prescribed under Rule 10(d).

(v) It is proposed to nominate a representative of the Ministry of Tribal Affairs to attend selected meetings of the SLMC in some States as an observer. Hence, a schedule of the SLMC meetings for the year may be drawn up and intimated to this Ministry well in

advance so that a representative of this Ministry could be deputed accordingly.

(vi) Rule 14(1) requires that a person aggrieved by the resolution of the Gram Sabha may file a petition to the Sub Divisional Level Committee (SDLC) within a period of sixty days from the date of resolution. This presumes that the resolution of the Gram Sabha (or the SDLC) is communicated to the claimant on the day the resolution has been passed. There could, however, be a time gap between the date of the resolution and the communication of the same to the affected person. **Natural justice demands that the sixty days should count from the date of communication of the orders.** Likewise, though not specifically provided in the Rules, natural justice demands that the rejection of a claimant by the District Level Committee should also be communicated so that the affected person is aware, and can seek redressal as provided in the Act.

(vii) The Forest Rights Act provides, under Section 3(1)(h), that after settlement of rights, forest villages should be converted into revenue villages. Similarly, individual rights also need to be recorded in the appropriate manner following the settlement rules prescribed to each State. As this aspect has not been attended to till now, and in the context of the large number of claims settled in the meanwhile, **the formal recording of these rights have to be attended to on priority basis, henceforth.** You may in the next meeting of the State Level Monitoring Committee decide on the time schedule for the completion of this activity.

3. We hope that following these measures, our quantitative achievements will now be supported qualitatively.

Yours sincerely,

06

Mr  
25/7/10

(G.B. Mukherji)

Chief Secretaries of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Tripura, Uttarkhand, Uttar Pradesh and West Bengal.

Copy forwarded for information to:

(i) Cabinet Secretary, Rashtrapati Bhawan, New Delhi.

(ii) Prime Minister's Office (Kind Attention: Shri S. Mitra, Joint Secretary) w.r.t. PMO ID No.560/51/C/5/2010 (Vol.II)-ES.II dated 6<sup>th</sup> July, 2010.

07

Mr

(G.B. Mukherji)  
Secretary (TA)

विभा पुरी दास

सचिव

Vibha Puri Das

Secretary

Tel. : 23381652

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भारत सरकार

Government of India

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Shastri Bhawan, New Delhi -110001

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D.O.No.23011/33/2010-FRA

11th September, 2013.

Dear Shri

*Rajendra*

As you are aware, the rights of settlement and conversion of all forest villages, old habitations, unsurveyed villages etc. into revenue villages has been recognized as one of the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands under Section 3(1)(h) of the Forest Rights Act, 2006 (FRA). Further, Section 4(7) of the Act provides that the forest rights under the said Act shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in the said Act.

2. In a meeting taken by the Principal Secretary to PM on 3.7.2010 to discuss implementation status of the FRA, it was inter-alia decided that Ministry of Environment & Forests would issue suitable instructions in consultation with Ministry of Tribal Affairs, to ensure early conversion of forest villages to revenue villages, and that this would be done at the earliest, preferably by July 15, 2010. Pursuant to this decision, the Ministry of Environment & Forests had made a reference to this Ministry, vide their OM No.4-1/2007-FP(Vol.3) dated 11.8.2010, stating that conversion of all forest villages into revenue villages would attract the provisions of Forest (Conservation) Act, 1980 if area is required to be dereserved and converted as revenue land as the Apex Court has put restrictions on dereservation of forests vide its order dated 13.11.2000 in I.A.No.337/1995. The MoEF had accordingly proposed that the Ministry of Tribal Affairs may prepare guidelines and suitable instructions under the provisions of Section 3(1)(h) of the FRA, 2006 for conversion of forest villages into revenue villages without altering the legal status of the land from forest. It was also stated that the provisions of FRA, 2006 can be used so long as the forest village land continues to be "forest".

3. In response to the above reference, this Ministry had inter-alia informed the Ministry of Environment & Forests vide OM of even number dated 31.7.2012, that after operationalization of the FRA, 2006 with effect from 31.12.2007, the order dated 13.11.2000 of the Apex Court in I.A.No.2 in WP No.387/1995 would be guided by the provisions of Section 3(1)(h) of the FRA, 2006 and that the right

relating to conversion of forest villages into revenue villages under this Section has also to be adjudicated by the Gram Sabha, SDLC and DLC as per the laid down procedure, like any other forest right specified in Section 3 of the Act. It was further pointed out that since FRA, 2006 envisages recognition and vesting of forest right over forest land only, de-reservation of the forest land would not be necessary for recognizing this right. This Ministry, therefore, did not see any necessity for issuing any guidelines for this purpose. (Copies of MoEF's OM dated 11.8.2010 and this Ministry's reply dated 31.7.2012 are enclosed for ready reference.)

4. The Ministry has last year issued comprehensive guidelines to all the State/ UT Governments on 12.7.2012 and also notified Forest Rights Amendment Rules, 2012 on 6.9.2012, covering various aspects of implementation of the Act including conversion of all forest villages into revenue villages. The State/ UT Governments have been requested to convert all forest villages into revenue villages with a sense of urgency in a time bound manner. They have also been informed that the conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like schools, health facilities, public spaces etc.

5. The State/ UT Government have not reported any progress towards conversion of forest villages into revenue villages so far, despite the FRA, 2006 being in operation for more than five years now. The Ministry is getting reports that the State Governments are not taking any action for conversion of forest villages into revenue villages as the State Forest Department officials still consider that the provisions of the FRA, 2006 do not supersede the provisions of Forest (Conservation) Act, 1980 and the Hon'ble Supreme Court judgment dated 13.11.2000 regarding diversion/ denotification of forest land and that the de-reservation/ de-notification of forest villages is stayed. Recently, in connection with a Rajya Sabha Starred Question No.184 dated 22.8.2013, tabled by Shri A.V. Swamy, MP, regarding "Problems in forest villages in Odisha", the Government of Odisha had also informed this Ministry that some forest villages were located inside wildlife sanctuaries and, therefore, no proposals for their conversion into revenue villages were submitted in view of directives of the Apex Court.

6. It may be stated that as per the provisions of FRA, 2006, the forest rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers, including the right relating to conversion of forest villages into revenue villages, are to be recognized on all forest lands, including the Sanctuaries and National Parks. It is a well settled principle of statutory interpretation that a subsequent statute supersedes preceding court judgments or orders of prior date on the subject. Therefore, as mentioned in para 2 above, after operationalization of the FRA, 2006 with effect from 31.12.2007, the Apex Court's order dated 13.11.2000 in I.A.No.2 in WP No.337/1995 has to be guided by the provisions of Section 3(1)(h) of the FRA, 2006 and that the right relating to conversion of forest villages

into revenue villages under this Section has also to be adjudicated by the Gram Sabha, SDLC and DLC as per the laid down procedure, like any other forest right specified in Section 3 of the Act.

7. It appears that the legal position stated above, is not clear to the State Forest Departments. I would, therefore, request you to kindly bring the above position to the notice of all the State Forest Departments so that there is no further delay in initiating the process of conversion of all forest villages into revenue villages, as per the provisions of the Forest Rights Act, 2006. A copy of the instructions issued in this regard may be endorsed to this Ministry for information.

*Regards,*

Yours sincerely,

*~ ~ ~*  
(Vibha Puri Das)

Dr. V. Rajagopalan  
Secretary,  
Ministry of Environment & Forests,  
Parivarjan Bhawan, CGO Complex,  
Lodi Road,  
New Delhi

महाराजा भूरिया  
RAJ LAL BHURIA

मंत्री  
जनजातीय कार्य  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110 001  
MINISTER OF TRIBAL AFFAIRS  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110 001

D.O. No.23011/05/2010-FRA

27 September, 2010

Dear Shri Sarkar ji,

I am writing this letter in connection with implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the State of Tripura.

While the Ministry is appreciative of the progress made by your State towards implementation of the Act, I would like to mention certain aspects of the Act which need your personal attention. These are discussed below:

(i) Community claims

As of 31<sup>st</sup> July 2010, only 277 community claims have reportedly been filed. Considering that Tripura is a tribal majority State, the number of community claims filed is very low. This could be due to inadequate publicity of the provisions of the Act and the Rules framed thereunder amongst the eligible claimants/communities in different parts of the state. Since most community claims relate to the ownership of minor forest produce, the State Government should launch a special campaign for generating widespread awareness about these community rights, if necessary, by re-

training field level functionaries engaged in the processing of such applications. The Gram Sabhas in the State may be given instructions to facilitate the collection of more community right claims. Support of local resources institutions under the State Government may be enlisted for this purpose.

(ii) Rejection of claims

It is observed that out of a total number of 1,72,304 claims filed in the State till 31<sup>st</sup> July, 2010, 55,997 claims were rejected. This works out to 32.49% of the total claims filed, which is quite high and a matter of concern. The Ministry has already requested the State Government, vide former Secretary (TA)'s D.O. letter No.23011/24/2009-FRA dated 15<sup>th</sup> July, 2010, addressed to Chief Secretary, Tripura, to categorise all rejections with their numbers, on a statistically acceptable sampling basis, at the level of Gram Sabha and SDLCs, in different categories specified in the said letter, and to incorporate this information in the monthly progress report being sent to this Ministry on implementation of the Act. The concerned State Government officials may be directed to complete this exercise and send this information to this Ministry every month.

(iii) Convergence of Government programmes

Having achieved the primary aim of distributing titles, there is a need to bring about the convergence of Government developmental programmes so that the standard of living of the title holders improves and they are weaned away from the timber related activities. The Hon'ble Prime Minister, in

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his inaugural address at the two-day Conference of the Chief Ministers and State Ministers (Tribal Welfare / Social Welfare and Forest Department), convened by this Ministry in November, 2009 had also, *inter alia* stressed the need for dovetailing all development and welfare programmes in tribal areas for a coherent strategy and coordinated approach involving all departments. The observations of the Prime Minister were conveyed to the State Government, vide my letter No. 23011/20/2009-FRA dated 19.11.2009 and again on 18.2.2010 for taking necessary measures in this regard. The Ministry may be apprised of the action taken in this regard.

(iv) Diversion of forest land for development activities

Section 3(2) of the Act provides for diversion of forest land for certain development activities, specified in that Section, which involve felling of trees not exceeding seventy five per hectare. The Ministry had laid down the procedure for diversion of forest land under Section 3(2) of the Act on 18<sup>th</sup> May, 2009. The Ministry has, however, not been apprised of the status of the proposals, if any, received by the State Government under this Section and the action taken thereon by the State Government.

(v) Determination and notification of critical wildlife habitats in the National Parks and Sanctuaries

Under Section 2(b) of the Act, the Ministry of Environment & Forests is responsible for determination and notification of critical wildlife habitats in the National Parks and Sanctuaries.

According to the information received from the Ministry of Environment & Forests, while the Government of Tripura has constituted the State Level Committee for determination and notification of critical wildlife habitats, no further progress has been made in this regard. The State Government needs to take action in this regard on priority basis.

(vi) Eviction of forest dwelling STs from National Parks and Sanctuaries

The Ministry has been receiving complaints from time to time that some Scheduled Tribe persons living in National Parks and Sanctuaries are being forced to leave these areas without their rights under the Act being decided one way or the other pending determination and notification of critical wildlife habitats in these areas. I have already written to you separately, vide my D.O. letter No. 17D11/01/2010-FRA dated 30.8.2010, enclosing a copy of letter No. 7-12/2010-FP dated 21.6.2010, issued by the Ministry of Environment & Forests directing the PCCFs in all the States/UTs requesting to ensure that the provisions of the Forest Rights Act should be duly complied with before taking any decision on displacement of Scheduled Tribes from National Parks and Sanctuaries. Steps may be taken for effective implementation of these instructions.

(vii) Conversion of forest villages into revenue villages

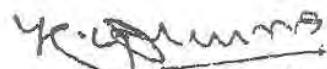
Section 3(1)(h) of the Act envisages conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages. The Ministry had requested the State

Government as early as on 25<sup>th</sup> February, 2008 to initiate action for conversion of all forest villages in your State / UT into revenue villages as per the guidelines issued by the Ministry of Environment & Forests and to intimate this Ministry of the progress made in this regard (number of forest villages, number processed for conversion to revenue villages, number converted with number of families, etc.). The Ministry is yet to hear about the action taken by the State Government for implementing the above provisions of the Act.

I shall be grateful if necessary action on the above issues is taken on priority basis and this Ministry apprised of the progress made at an early date.

With warm regards,

Yours sincerely,



(Kanti Lal Bhuria)

**Shri Manik Sarkar,**  
**Chief Minister,**  
**Government of Tripura,**  
**Agartala.**

No. 23011/33/2011-FRA

Government of India

Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

Dated: 24/6/2013

Shri Manoj Kumar Pingle

Secretary

ST &amp; SC Development Department

Government of Chhattisgarh

Mantralaya,

Mahandi Bhawan,

New Raipur

**Subject:** Seeking guidelines regarding conversion of forest villages into revenue villages and recognition of habitat rights for the PVTGs -regarding.

S.

I am directed to refer to Government of Chhattisgarh's letter No.F/10-11/2007/TWD/25-2 dated 22/5/2013 on the above subject and to say that so far as the issues relating to conversion of forest villages into revenue villages under FRA, 2006, raised in the State Government's earlier letter dated 30/11/2012 are concerned, it may be stated that, on a reference from the Ministry of Environment & Forests on the same issue, this Ministry has already clarified the position to that Ministry as under:

The order dated 13/11/2000 of the Apex Court in I.A. No.2 in WP No 337/1995, was passed prior to the enactment of the Forest Rights Act, 2006 on 29/12/2006 and the said order was passed in the context of the provisions of the Forest (Conservation) Act, 1980 which put some restriction on the reservation of the forest for use of forest land for non-forest purposes.

After enactment of the FRA, 2006 on 29/12/2006 and its operationalisation w.e.f. 31/12/2007 the "rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forests, whether recorded notified or not into revenue villages" has now become one of forest rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest land recognized under the said Act. Therefore, after operationalisation of the FRA, 2006 w.e.f. 31/12/2007, the order passed by the Apex Court 13/11/2000 in I.A. No.2 in WP No. 337/1995 in so far as it pertains to recognition and vesting of the right relating to conversion of forest villages into revenue villages in the forest dwelling Scheduled Tribes and other traditional forest dwellers will be guided by the provisions of Section 3(1)(h) of the FRA, 2006.

The Forest Rights Act, 2006 and the Forest Rights Rules, 2008 (framed thereunder) already lay down a procedure for adjudicating claims for various forest rights specified in Section 3 of the Act at three levels, namely, by the Gram Sabha, SDLC and DLC.

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19. 'Claim Form for Rights to Forest Land', appended to the Forest Rights Rules, 2008, also provides for the forest dwelling Scheduled Tribes and other traditional forest dwellers to file their claims for recognition of the forest right relating to conversion of forest villages into revenue villages under Section 3(1)(h) of the Act.

Therefore, the forest right relating to conversion of forest villages into revenue villages under Section 3(1)(h) of the Act has also to be adjudicated by the Gram Sabha, SDLC and the DLC as per the laid down procedure like any other forest right specified in Section 3 of the Act.

Since the Forest Rights Act, 2006 envisages recognition and vesting of forest rights over forest land only de-reservation of the forest land would not be necessary for recognizing the right relating to conversion of forest village into revenue villages under Section 3(1)(h) of the Act.

2 As regards the other issue raised by the Government of Chhattisgarh, relating to recognition of the habitat rights of PVTGs, the position is as under:

Section 3(1) of the FRA, 2006 specifies the forest rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands recognized under the Act. Section 3(1)(e) of the Act recognizes the rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities.

The term "habitat" for purposes of the Act is defined in Section 2(h) of the Act to include the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes.

The Forest Rights Act, 2006 and the Forest Rights Rules, 2008 framed thereunder already lay down a procedure for adjudicating claims for various forest rights specified in Section 3(1) of the Act, including the forest rights relating to community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities, at three levels, namely, by the Gram Sabha, SDLC and the DLC.

The "Claim Form for Community Rights", appended to the Forest Rights Rules, 2008, also provides for the forest dwelling Scheduled Tribes and other traditional forest dwellers (including members of primitive tribal groups in pre-agricultural communities) to file their claims for recognition of the forest right specified in Section 3(1)(e) of the Act, i.e. the right relating to community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities.

As per the procedure for filing, determination and verification of claims by the Gram Sabha laid down in Rule 11 of the Forest Rights Rules, 2008, the Gram Sabha is required to call for the claims and authorize the Forest Rights Committees to accept the claims in the Forms as provided in those Rules and such claims are to be made within a period of three months from the date of such calling of claims along with atleast two of the evidences mentioned in Rule 13.

Rule 12 of the Forest Rights Rules, 2006 further provides that the Forest Rights Committee, after due intimation to the concerned claimant and the Forest Department, shall inter alia ensure that the claim for member of a primitive tribal group or pre-agricultural community for determination of their rights to habitat, which may either be through their community or traditional community institution, are verified, when such communities or their representatives are present. The Forest Rights Committee is also required to prepare a map delineating the area of each claim indicating recognizable landmarks and then record its findings on the claim and present the same to the Gram Sabha for its consideration.

The Forest Rights Rules, 2006, as amended vide Forest Rights Amendment Rules, 2012 dated 6.9.2012 provide that the District Level Committee shall, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups as described in clause (e) of sub-section (1) of section 3 amongst the forest dwellers, ensure that all Particularly Vulnerable Tribal Groups receive habitat rights in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups and their claims for habitat rights are filed before the concerned Gram Sabhas, wherever necessary by recognizing floating nature of their Gram Sabhas.

3. In view of the above provisions of the Act and the Rules framed thereunder, the following steps are required to be followed for recognition of the habitat rights of the PVTGs.

(i) The Gram Sabha should call for the claims from the members of the PVTGs for recognition of their forest right relating to community tenures and habitation in the prescribed 'Claim Form for Recognition of Community Rights' appended to Forest Rights Rules, 2006, and authorize the Forest Rights Committees to accept the said claims.

The members of the PVTGs should submit their claim for recognition of their forest right relating to community tenures and habitation, in the prescribed form, to the Forest Rights Committee within a period of three months from the date of such calling of claims by the Gram Sabha along with atleast two of the evidences mentioned in Rule 13 of the Forest Rights Rules, 2006, as amended on 6.9.2012.

On receipt of the claims from the members of the PVTGs, the Forest Right Committee should, after due intimation to the concerned claimants and the Forest Department, should verify the claim from the member of the PTGs for determination of their rights to habitat either through their community or traditional community institution when such communities or their representatives are present.

(iv) After verification of the claim from the members of the PVTGs, the Forest Rights Committee should prepare a map delineating the area of each claim indicating recognizable landmarks, then record its findings on the claim and present the same to the Gram Sabha for its consideration.

On receipt of the claim from the FRC along with its findings, the Gram Sabha, the SDP, the DLC may adjudicate on the claim as per the usual procedure followed by them for adjudicating claims for recognition of other rights.

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(vi) Before finally arriving its decision on the record of forest rights prepared by the SDLC in respect of the claims filed by the PVTGs for recognition of their rights relating to community tenure of habitat and habitation, the DLC should ensure that all PVTGs receive their habitat rights. In consultation with the concerned traditional institution of PVTGs and their claims for habitat rights had been filed before the concerned Gram Sabhas, wherever necessary by recognizing floating nature of their Gram Sabhas.

(vii) As regards the components of the "habitat" of the PVTGs, it may be mentioned that as per the definition of "habitat" given in the Oxford dictionary, the habitat means the natural home or environment of an animal, plant, or other organism. Therefore, for purposes of the FRA, 2006, the habitat of the primitive tribal groups and the pre-agricultural communities could be defined to mean the area comprising the customary natural home or environment of the PVTGs and pre-agricultural communities in the reserved forests and protected forests, as may be claimed by their community or traditional community institution.

(viii) In view of above, the Ministry does not see any necessity for issuing any guidelines for conversion of forest villages into revenue villages under Section 3(1)(h) of FRA, 2006 and for recognition of habitat rights of PVTGs under Section 3(1)(c) of the Act.

Yours faithfully,

  
(Gopal Singhwan)

Deputy Secretary to the Government of India  
Tel: 23333955

No. 23011/33/2010-FRA  
Government of India  
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi,  
Dated: 8.11.2013

To,

1. The Chief Secretaries of all State Governments  
(except Jammu & Kashmir, Punjab, Haryana and Delhi)
2. The Administrators of all Union Territory Administrations  
(except Lakshadweep and Puducherry)

Sub: Conversion of all forest villages, old habitations, unsurveyed villages etc. into revenue villages under Section 3(1)(h) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

As you are aware, the rights of settlement and conversion of all forest villages, old habitations, unsurveyed villages etc. into revenue villages has been recognized as one of the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands under Section 3(1)(h) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (In short, Forest Rights Act, 2006). The Ministry has last year issued comprehensive guidelines to all the State/ UT Governments on various aspects of implementation of the Act, which also emphasized the need to implement the provisions of the FRA with regard to conversion of forest villages and other such villages into revenue villages, without any exceptions or exemptions being provided to such villages in any category of forest lands. The State Governments were advised to convert all erstwhile forest villages, unrecorded settlements and old habitations into revenue villages with a sense of urgency in a time bound manner. It was also clarified that the conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities, public spaces etc. The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 notified on 6.9.2012 also contains a similar provision.

2. Though the Forest Rights Act, 2006 has been in operation for more than five years now, the State/ UT Governments have reported very slow progress towards conversion of forest villages and other such villages into revenue villages so far. It has come to the notice of the Ministry that the State Governments are not taking any action for conversion of forest villages and other such villages into revenue villages as the State Forest Department officials still consider that the provisions of the Forest Rights Act, 2006 do not supersede the provisions of Forest (Conservation) Act, 1980 and the Hon'ble

Supreme Court judgment dated 13.11.2000 in I.A.No 2 in WP No.337/1995 regarding diversion/ denotification of forest land and that the de-reservation/ de-notification of forest villages and other such villages is stayed. There are several other issues also connected with the conversion of forest villages and other such villages into revenue villages on which there is no clarity to the State Government officials responsible for implementation of the Act, namely, whether approval of the Ministry of Environment & Forests is required under Section 2 of the Forest (Conservation) Act, 1980 for conversion of forest villages and other such villages into revenue villages; whether such conversion would require denotification of the forest land; whether on conversion of forest villages and other such villages into revenue villages, the legal status of the land would be altered from "forest" to "revenue"; how the habitations, unrecorded or unsurveyed settlements and other villages on the forest land which are not in the records of the Forest Department are to be converted, etc. There is also no clarity on the procedure to be followed for conversion of such forest villages and other such villages into revenue villages amongst the State Government officials.

3. In order to bring about clarity on the above issues and to expedite the conversion of the forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act, the following clarifications are issued to all the State Governments/ UT Administrations:

Sl.No.	Issue	Clarification
1.	Whether the provisions of the Forest Rights Act, 2006 supersede the provisions of Forest (Conservation) Act, 1980 and the Hon'ble Supreme Court judgment dated 13.11.2000 in I.A.No.2 in WP No.337/1995	<ul style="list-style-type: none"> <li>➤ It is a well settled principle of statutory interpretation that a subsequent statute supersedes all preceding court judgments or orders of prior date.</li> <li>➤ Section 4(1) of the Forest Rights Act, 2006, which recognizes and vests forest rights in the forest dwelling Scheduled Tribes in the States or areas in States where they are declared as Scheduled Tribes and the other traditional forest dwellers, lays down that the forest rights under Section 3(1) of the Act, including the right under Section 3(1)(h), are recognized and vested in the forest dwelling Scheduled Tribes and other traditional forest dwellers "<i>notwithstanding anything contained in any other law for the time being in force</i>". This <i>non-obstante</i> clause, therefore, recognizes and vests the</li> </ul>

forest rights under Section 3(1) in accordance with the provisions of the FRA, regardless of whether such forest rights might be contrary to other laws, which includes statutory law as well as judicial precedent, if any.

- Further, Section 4(7) of the Act provides that the forest rights under the said Act shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in the said Act. The plain meaning of this provision is that recognition and vesting of all forest rights, including the settlement and conversion of forest villages and other such villages into revenue villages under Section 3(1)(h), has been exempted from the requirements of Section 2 of the Forest (Conservation) Act, 1980, as well as the requirement of compensatory afforestation as well as payment of net present value.
- After operationalization of the Forest Rights Act, 2006 with effect from 31.12.2007, the interim order dated 13.11.2000 of the Apex Court in I.A.No.2 in WP No.337/1995, which was passed in the context of the widespread violation of the provisions of the Forest (Conservation) Act, 1980 would, therefore, be guided by the provisions of Section 3(1)(h) of the FRA, 2006 and that the forest right relating to conversion of forest villages and other such villages into revenue villages under this Section has also to be vested and recognised as per the laid down

		procedure, like any other forest right specified in Section 3 (1) of the Act.
2.	Whether approval of the Ministry of Environment & Forests under Section 2 of the Forest (Conservation) Act, 1980 is required for conversion of forest villages and other such villages into revenue villages.	<ul style="list-style-type: none"> <li>➤ In view of the position indicated against issue No. 1 above, approval under Section 2 of the Forest Conservation Act, 1980 of the Ministry of Environment &amp; Forests is not required for conversion of forest villages and other such villages into revenue villages.</li> <li>➤ As per the provisions of the Forest Rights Act, 2006, the District Level Committee is the final authority for approving the record of forest rights specified in Section 3(1) of the Act, including the right relating to conversion of forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act.</li> </ul>
3.	Whether conversion of forest villages and other such villages is required in lands which are not classified as forest lands.	<ul style="list-style-type: none"> <li>• The Supreme Court in a landmark judgment dated 12.12.1997 in the Godavarman case, held as under: <i>"The term "forest land" occurring in Section 2 (of the Forest Conservation Act, 1980) will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership."</i></li> <li>• Since then the term 'forest land' is to be widely understood in its wider definition, that is, including not only forest land classified as such, but also all other forests, which would include revenue forests, private forests, community forests, and any other kind of forest lands.</li> <li>• Since the rights conferred under the Forest Rights Act apply to all forest lands, if there are forest villages or any other such villages on forest lands which are not necessarily classified as forest land, these villages are also required to be converted into revenue villages.</li> </ul>
4.	Whether the conversion of forest villages and other such villages into revenue villages would require de-	<ul style="list-style-type: none"> <li>➤ The FRA, 2006 envisages recognition and vesting of all forest rights, including the right relating to</li> </ul>

	<p>notification/ de-reservation of the forest land, or alteration of status of land.</p> <p>conversion of forest villages and other such villages into revenue villages, over all forest lands within the larger definition of forests (see above).</p> <ul style="list-style-type: none"> <li>➤ Some forest villages may be on lands which are revenue forests or private forests or community forests or any other kind of forests.</li> <li>➤ The FRA, 2006 does not require de-notification/ de-reservation of the forest land for recognition of the forest right relating to conversion of forest villages and other such villages into revenue villages.</li> <li>➤ However, it is necessary that every village thus converted are recorded in the revenue records as "village" to ensure that its legal status as such is secure. The specific method will depend upon State level Land Revenue laws, which are varied.</li> </ul>
5.	<p>Whether the forest villages and other such villages located inside the Wildlife Sanctuaries and National Parks are also required to be converted into revenue villages under Section 3(1)(h) of the Act.</p> <ul style="list-style-type: none"> <li>➤ The FRA, 2006 envisages recognition and vesting of the forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, including the Sanctuaries and National Parks.</li> <li>➤ The forest villages and other such villages located inside the Wildlife Sanctuaries and National Parks are also, therefore, required to be converted into revenue villages under Section 3(1)(h) of the Act.</li> </ul>
6.	<p>Whether the process of recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers can be taken up/ continued, pending conversion of forest villages and other such village</p> <ul style="list-style-type: none"> <li>➤ As per the provisions of the FRA, 2006, conversion of forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act is not a precondition for recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other</li> </ul>

	sinto revenue villages.	traditional forest dwellers.
		<ul style="list-style-type: none"> <li>➤ The process of recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers can, therefore, be taken up/ continued without waiting for conversion of forest villages and other such villages into revenue villages.</li> </ul>
7.	How the old habitations, unrecorded or unsurveyed settlements and other villages on the forest land which are not part of any Revenue or Forest village record are to be converted into revenue villages.	<ul style="list-style-type: none"> <li>➤ As provided under Rule 2-A, in order to ensure that the Act is implemented in letter and spirit, it is necessary that the district administration under the leadership of the Collector, and the panchayati raj Institutions, take pro-active steps to ensure that all forest villages and other such villages are identified, as a preliminary to conversion.</li> <li>➤ The process for identification of hamlets or habitations, unrecorded or unsurveyed settlements or forest villages or taungya villages, and their inclusion as villages for the purposes of the FRA, 2006 is laid down in Rule 2A of the Forest Rights Rules, 2008, as amended vide the Forest Rights Amendment Rules, 2012 notified on 6.9.2012. This Rule also provides that on recognition of such hamlets and habitations as a village, the process of recognition and vesting of rights in these hamlets and habitations is to be undertaken without disturbing any rights, already recognized.</li> </ul>
8.	In the case of forest villages and other such villages which are primarily inhabited by other traditional forest dwellers, whether it is necessary for the other traditional forest dwellers to establish that they had been	<ul style="list-style-type: none"> <li>➤ Section 4(1)(b) read with Section 2(o) of the FRA, 2006 requires that, for purposes of recognition of forest rights under the Act, a "<i>member or community</i>" of other traditional forest dwellers must establish that it has for at least three generations (being 75 years)</li> </ul>

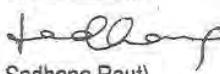
	<p>primarily residing in the said village for 75 years at one place prior to the 13<sup>th</sup> day of December, 2005, before such forest villages and other such villages could be converted into revenue villages.</p> <p>prior to the 13<sup>th</sup> day of December, 2005 "primarily resided in or depended on the forest or forest land for bona fide livelihood needs".</p> <p>➤ There is no requirement in the Act that, for purposes of recognition and vesting of forest rights, a person or community of other traditional forest dwellers must have been specifically located in a particular and identifiable location in the forest for 75 years. As long as they are able to establish that they have been primarily residing in and dependent on forests or forest land for bonafide livelihood needs for 75 years prior to 13<sup>th</sup> day of December, 2005, they are to be considered eligible for recognition and vesting of forest rights under the Act. The same approach has to be adopted while taking up the conversion of forest villages and other such villages primarily inhabited by other traditional forest dwellers into revenue villages.</p>
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4. As regards the procedure is to be followed for settlement and conversion of forest villages, old habitations and other settlements on forest land etc. into revenue villages, Certain guidelines as indicated in the Annexure to this letter are accordingly being issued for compliance by all the State Governments/UT Administrations.

5. It is requested that the above clarifications/ procedure may be brought to the notice of all the implementing agencies in your State/ Union Territory for guidance and necessary action. This Ministry may be apprised of the action taken for conversion of forest villages into revenue villages at an early date.

6. This issues with the approval of competent authority.

Yours faithfully,

  
 (Dr. Sadhana Rout)  
 Joint Secretary to the Government of India  
 Tel: 23383622

No.23011/33/2010-FRA  
 Government of India  
 Ministry of Tribal Affairs  
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**Guidelines for conversion of forest villages into revenue villages under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

This is in supersession of this Ministry's D.O.NO. 17014/2/2007 PC&V (Vol VI) dated February 25, 2008, and further supersession of this Ministry's letter No. 23011/28/2008-SG-II dated 3.12.2008.

Section 3(1)(h) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereafter 'the Act') which defines 'forest rights' includes therein:

*"3.(1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers in all forest lands, namely:-*

xxx

*(h) rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forest, whether recorded, notified, or not, into revenue villages;"*

Section 2 (d) defines "forest land" as under:

*"forest land" means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;"*

Section 2(p)(iii) of the Act, while defining 'village' includes:

*"(iii) forest villages, old habitation or settlements and un-surveyed villages, whether notified as village or not;"*

Section 2(f) of the Act defines 'forest villages' as follows:

*"forest villages" means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages and includes lands for cultivation and other uses, permitted by the Government;"*

Rule 2A of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 (hereafter 'the Rules') as amended up-to-date, states as follows:

*"2A. Identification of hamlets or settlements and process of their consolidation - The State Government shall ensure that, -*

- (a) every panchayat, within its boundaries, prepares a list of group of hamlets or habitations, unrecorded or un-surveyed settlements or forest villages or taungya villages, formally not part of any Revenue or Forest village record and have this list passed by convening Gram Sabha of each such habitation, hamlets or habitations included as villages for the purpose of the Act through a resolution in the Panchayat and submit such list to Sub Division Level Committee.
- (b) the Sub-Divisional Officers of the Sub Division Level Committee consolidate the lists of hamlets and habitations which at present are not part of any village but have been included as villages within the Panchayat through a resolution, and are formalised as a village either by adding to the existing village or otherwise after following the process as provided in the relevant State laws and that the lists are finalised by the District Level Committee after considering public comments, if any.
- (c) on finalisation of the lists of hamlets and habitations, the process of recognition and vesting of rights in these hamlets and habitations is undertaken without disturbing any rights, already recognized.<sup>1</sup>

Further, Rule 12B (5) of the Rules states as follows:

***"12 B. Process of Recognition of Community Rights:-***

xxx

- (5) The conversion of forest villages, unrecorded settlement under clause (h) of section 3 shall include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities and public spaces."<sup>2</sup>

In July 2012, Guidelines also issued by this Ministry which emphasized the need to implement the provisions of the FRA with regard to conversion of forest villages into revenue villages, without any exceptions or exemptions being provided to such villages in any category of forest lands, such as protected areas. Clause (iii)(d) states:

***"(iii) Community Rights:***

xxx

- (d) The forest villages are very old entities, at times of pre-independent era, duly existing in the forest records. The establishment of these villages was in fact encouraged by the forest authorities in the pre-independent era for availability of labour within the forest areas. The well defined record of each forest village, including the area, number of inhabitants, etc. exists with the State Forest Departments. There are also unrecorded settlement and old habitations that are not in any Government record. Section 3(1)(h) of the Act recognises the right of forest dwelling Scheduled Tribes and other traditional forest dwellers relating to settlement and conversion of forest villages, old habitation, un-surveyed villages and other villages and forests, whether recorded, notified or not into revenue villages. The conversion of all forest villages into revenue villages and recognition of the forest rights of the inhabitants thereof should actually have been completed immediately on enactment of the Act. The State Governments may, therefore,

<sup>1</sup> Inserted by Rule 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (I) dated 6th September, 2012)

<sup>2</sup> Inserted by Rule 11 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (I) dated 6th September, 2012)

convert all such erstwhile forest villages, unrecorded settlements and old habitations into revenue villages with a sense of urgency in a time bound manner. The conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities, public spaces etc. Records of the forest villages maintained by the Forest Department may thereafter be suitably updated on recognition of this right."

Pursuant to the above, this Ministry is issuing the present Guidelines to provide for the procedure for settlement and conversion into revenue villages.

**Suggested Procedure for Settlement and Conversion into revenue villages:**

The following procedure may be followed for the settlement and conversion of forest villages, old habitations and other settlements on forest land into revenue villages:

1. All villages/settlements on forest land should be identified with the help of District Statistical Handbooks and Census Village Directories. All settlements with zero revenue land should be presumed to be forest villages in order to be converted into revenue villages under the Act. In addition, public suggestions and inputs should be invited through a public notice in all panchayat offices, forest offices and market places informing the public of this right and requesting villages on forest land to submit claims or to contact the concerned officials for assistance. The Collector of each district shall be responsible for getting lists of such villages prepared.
2. The Sub-Divisional Officers of the Sub Divisional Level Committee shall consolidate the lists of hamlets and habitations which at present are not part of any village but which fall within the definition of 'forest villages' under Section 3(1)(h) of the Act, and shall forward the same to the Collector.
3. Collector shall be responsible for ensuring that residents of such villages/old habitations are enabled to claim their conversion/settlement.
4. In each such village / habitation a notice should be posted stating that such a claim can be filed, giving the procedure for doing so (as per this order), and inviting the filing of a claim.
5. The list as prepared in each district, with updates of new additions where applicable, shall be communicated to the State Level Monitoring Committee, which should maintain a consolidated state-wide list of forest villages and old habitations and the status of their conversion. A progress report, with the district-wise list of forest villages and the status of their conversion, should be communicated to the Ministry every three months.
6. For the purposes of the Act, the assembly of all adult residents of each such village/habitation is recognized as the Gram Sabha, as per Section 2(p)(iii) of the Act, and shall elect its own Forest Rights Committee (FRC).
7. In cases where the number of adult residents of an old habitation or an unsurveyed village are less than the number specified for a forest rights committee, they may form a smaller FRC. If such small habitations are in the vicinity of a revenue village, they may pass a unanimous resolution if they so desire, that they will be included in the larger village after conversion.
8. A claim for the conversion of forest villages, old habitations, unsurveyed villages

and other villages on forest land, whether recorded, notified, or not, into revenue villages under section 3(1)(h) of the Act, shall be made collectively by the Gram Sabha of the settlement (see below). If any settlement fails to submit such a claim within a period of three months after posting of a notice as referred to above, the Collector should direct a revenue official not below the rank of Tehsildar to visit the settlement and inform the residents of their right to file a claim.

9. Any village/habitation on forest land which is not a revenue village shall be considered eligible for conversion, including;

- All Forest Villages including Taungya Villages of all types which the Forest Department established, and recorded/recognised as forest villages from time to time.
- All forest Villages including Taungya Villages which the Forest Department established for forestry and other works on forest land, but which have not been recorded/recognized as forest villages.
- All forest villages including Fixed Demand Holdings which have come up as a result of the Forest Department granting various types of leases on forest land from time to time to various individuals.
- All villages/habitations on forest land established by any Government Department /Agency for persons displaced by development projects or for labour/workers for any type of work, but which have not been recognized, surveyed and recorded as revenue villages.
- All old habitations or unsurveyed villages on forest land which have escaped proper survey and settlement due to the land over which they are located getting classified as forest land.

10. The Gram Sabha/Forest Rights Committee of the concerned forest village/habitation shall first define the boundaries of the village/habitation and then prepare, with help as required and requested by the community from the local land revenue officials, and/or representatives from the Sub-divisional Committee, a detailed map showing the present land use of the village. The Map would contain:

- Extent and location of cultivable area, homestead lands/buildings, forests, water bodies and common lands such as grazing/pasture lands, burial grounds, etc.
- Extent and location of other land uses (such as school building, religious places, playgrounds, health facilities and other community buildings/facilities)
- Extent and location of their community forest resource over which various community forest rights are exercised.

11. The Gram Sabha shall approve the map thus prepared and submit the same to the Sub-Divisional Level Committee, along with its resolution claiming the right to conversion to a revenue village. The claim shall include a list of all adult residents of the village. Incomplete claims shall not be rejected but remanded to

the Gram Sabha with specific instructions on the additional required information.

12. After examining the claim, map and the List, the Sub-Divisional Level Committee shall pass it on to the District Level Committee which shall take the necessary steps to recognize the right of conversion for the concerned village. Within two weeks of the decision of the District level Committee, the Collector will initiate necessary proceedings to convert the village into a revenue village and settle the land rights of the residents under revenue laws;

*Provided that such conversion would in no way curtail or restrict the forest rights of the residents of the converted village;*

13. In the case of villages/habitations consisting entirely of Scheduled Tribe inhabitants, or mixed villages with majority of Scheduled Tribe inhabitants, conversion of the village/ habitation should follow if the settlement existed prior to December 13, 2005.
14. On finalisation of the lists of hamlets and habitations as provided above, the process of recognition and vesting of rights in these hamlets and habitations shall be undertaken without disturbing any forest rights already recognised.

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No.23011/06/2014-FRA  
 Government of India  
 Ministry of Tribal Affairs

Shastri Bhawan, New Delhi.  
 3<sup>rd</sup> March, 2014.

To

1. All Principal Secretaries/Secretaries in charge of State Tribal Welfare Departments  
 (All States except Jammu and Kashmir, Haryana and Nagaland).
2. Administrators of Union Territories,  
 (except Lakshadweep and Puducherry).

Sub: Record of Rights issued under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.

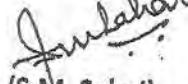
Sir,

The undersigned is directed to state that, in respect of the Records of Rights being issued under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, this Ministry has certain observations/comments as under, for necessary compliance on the part of States/UTs:-

- (I) The Records of Rights issued under the Forest Rights Act 2006 (FRA) should also mention the name of the Caste/Tribe so that, in future, the people do not have any difficulty in obtaining Caste Certificates.
- (II) The village maps and the village records should also indicate the community land classified into various categories as per the local revenue code/law.
- (III) As per the Forest Rights Rules 2007, on completion of the process of settlement of Rights and issue of titles as specified in Annexures II, III and IV of these Rules, the Revenue and Forest Departments are to prepare a final map of the forest land so vested and the concerned authorities are required to incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the specified period of reconstitution under the relevant State laws or within a period of three months whichever is earlier. Eventually, the right holders under FRA have to be issued Record of Rights under the Revenue Code/Law so as to mainstream them and treat them at par with other land holders.

(iv) FRA requires conversion of all forest villages, old habitations, unsurveyed villages and other villages in forest whether recorded, notified or not, into revenue villages. The States have been asked to take necessary action for such conversion as per guidelines issued by this Ministry vide No.23011/33/2010-FRA dated 8<sup>th</sup> November, 2013. In this connection, the entire records should follow the protocol of the revenue code/law.

2. All the State/UT Governments are, therefore, requested to take appropriate steps on the points mentioned above.

Yours faithfully,  
  
(S.M. Sahai)  
Director  
Tel: 23073176

**Diversion  
of  
forest land  
under  
Section 3(2)**

Government of India  
Ministry of Tribal Affairs

Dated May 18, 2009

Procedure for seeking prior approval for diversion of forest land for non forest purposes for facilities managed by the Government under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides that notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for certain facilities managed by the Government, as specified in that Section, which involve felling of trees not exceeding seventy-five trees per hectare, provided that such diversion of forest land shall be allowed only if,-

- (i) the forest land to be diverted for the purposes mentioned in the said sub-section is less than one hectare in each case; and
- (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

2. For implementation of the provisions of sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) act, 2006 the Central Government hereby lays down the following procedure:-

2.1 Definitions:-In the procedure, unless the context otherwise requires:-

- (a) "Acts" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
- (b) "District Level Committee" shall mean the Committee constituted under Rule 7 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Rules, 2008;
- (c) "Forest Land" shall have the same meaning as defined in Section 2(d) of the Act;
- (d) "Gram Sabha" shall have the same meaning as defined in Section 2(g) of the Act;

- (e) "Nodal Officer" means any officer not below the rank of Conservator of Forests, authorized by the State Government to deal with matters relating to diversion of forest land under the Act;
- (f) "Section" means a section of the Act;
- (g) "User Agency" means a Department of the Central or state Government or a District Panchayat making a request for diversion of forest land for developmental projects managed by the Government as specified in sub-section (2) of Section 3 of the Act;
- (h) "Village" shall have the same meaning as defined in Section 2(p) of the Act.

**2.2 Submission of the proposals seeking approval for diversion of the forest land under sub-section (2) of Section 3 of the Act. –**

- (i) Every User Agency, that wants to use any forest land for any developmental project, specified in Section 3(2) of the Act, shall make a proposal in the appropriate Form appended, i.e. Form 'A', and place it before the general assembly of the concerned Gram Sabha for adopting a resolution to that effect.
- (ii) A quorum of atleast half the members of the gram Sabha should be present for adopting a resolution recommending the diversion of forest land.
- (iii) On receipt of a recommendation of the proposal by the gram Sabha, the User Agency will submit the proposal to the concerned Range Forest Officer (RFO) of the area, along with the resolution adopted by the Gram Sabha.
- (iv) The Range Forest Officer (RFO) concerned will carry out site inspection of the proposed area to opine on the acceptance of the proposal.
- (v) The Range Forest Officer (RFO)concerned will submit the proposal and his recommendation to the concerned Divisional Forest Officer (DFO) in Form 'B' appended, along with his site inspection report and his opinion within three weeks from the date of receipt of complete proposal from the User Agency.
- (vi) The Divisional Forest Officer (DFO) concerned will consider the proposal, and if he agrees, he will accord his approval and communicate his decision to the Range Forest Officer (RFO) concerned with a copy to the Chairperson of the District Level Committee, within four weeks from the date of receipt of the proposal from the RFO.

- (vii) After receipt of the approval from the concerned DFO, the RFO will demarcate the area of the forest land approved for diversion and hand over the same to the User Agency under the supervision of the Gram Sabha.
- (viii) If the Divisional Forest Officer (DFO) concerned does not approve the proposal submitted by the User Agency through the Range Forest Officer (RFO), he shall forward the proposal to the District Level Committee for a final decision.
- (ix) The District Level Committee will meet and take a final decision, will at least 1/3 quorum, and convey the decision to the DFO for implementation and correction of records and map if the proposal is accepted.
- (x) The approval for diversion of the forest land by the Divisional Forest Officer (DFO) or by the District Level Committee, as the case may be, shall be accorded subject to the condition that the land diverted for a specific purpose shall not be allowed to be used for any other purpose and the diverted land would be appropriated by the Forest Department if the activity for which the land was diverted is not started within one year of handing over the land to the User Agency.
- (xi) The DFO concerned will submit a quarterly report of the approvals accorded for diversion of forest land under Section 3(2) of the Act to the Nodal Officer of the State who, in turn, will furnish the consolidated information quarterly to the secretary, Tribal Welfare Department who will, in turn send the consolidated report to the Ministries of Tribal Affairs and Environment & Forests.
- (xii) The Nodal Officer will also monitor the progress.

पंत्रांक 23011/15/2008-एस.जी.-2 का अनुलग्न  
तिथि: 18 मई, 2009

भारत सरकार  
जनजातीय काय मन्त्रालय

अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 की धारा 3(2)के तहत सरकार द्वारा प्रबंधित सुविधाओं हेतु वन भूमि को गैर-वन उद्देश्यों हेतु विपथन के लिए पूर्व अनुमोदन प्राप्त करने की कार्यविधि ।

अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 की धारा 3 की उप-धारा(2) में यह प्रावधान है कि वन (संरक्षण) अधिनियम, 1980 में किसी भी बात के रहते हुए भी, केन्द्र सरकार उस धारा में यथा विनिर्दिष्ट सरकार द्वारा प्रबंधित करिपय सुविधाओं हेतु वन भूमि के विपथन हेतु प्रावधान करेगी, जिसमें प्रति हेक्टेयर 75 पेड़ से अधिक नहीं काटे जाएंगे, बर्तन वन भूमि के इस प्रकार के विपथन की अनुमति तभी होगी, यदि :-

- (1) उपर्युक्त उपधारा में उल्लिखित उद्देश्यों हेतु विपथित भूमि प्रत्येक मामले में एक हेक्टेयर से कम हो; तथा
- (2) ऐसी विकास परियोजनाओं को इस शर्त के अधीन कलीयरेस दी जा सकती है कि उसे ग्राम सभा की संस्तुति प्राप्त हो ।

2. अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 की धारा 3 की उप-धारा(2) के प्रावधानों के क्रियान्वयन हेतु केन्द्रीय सरकार ने निम्नांकित कार्यविधि बनाई है -

परिमाण- इस कार्यविधि में यदि संदर्भ अन्यथा अपेक्षित न हो -

क "अधिनियम" का अर्थ अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 (2007 का 2) अभिप्रेत है ;

ख "जिला रत्तरीय समिति" का अर्थ अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) नियम, 2008 के नियम 7 के अंतर्गत गठित समिति है ;

ग "वन भूमि" का अर्थ इस अधिनियम की धारा 2 (घ) में यथा परिभाषित अर्थ के समान है ;

घ "ग्राम सभा" का अर्थ इस अधिनियम की धारा 2 (छ) में यथा परिभाषित अर्थ के समान है ;

ड. "नोडल अधिकारी" का अर्थ कोई भी अधिकारी जो वन संरक्षक के पद से नीचे का न हो तथा जिसे राज्य सरकार के इस अधिनियम के अंतर्गत वन भूमि के विपथन से संबंधित मामले को निपटाने हेतु प्राधिकृत किया हो ;

च "धारा" से अधिनियम की धारा अभिप्रेत है ;

छ "यूजर एजेंसी" का अर्थ एक केन्द्रीय विभाग अथवा राज्य सरकार अथवा एक जिला पंचायत है जो इस अधिनियम की धारा 3 उप-धारा (2) में यथा विनिर्दिष्ट अनुसार सरकार द्वारा प्रबंधित विकास परियोजनाओं हेतु वन भूमि के विपथन हेतु आग्रह से है ।

ज "ग्राम" का अर्थ इस अधिनियम की धारा 2 (त) में यथा परिभाषित अर्थ से है :

1.2 हरी फिलिप्पी की शिला वैदिक विधान सभा को अन्तर्गत वन भूमि के विपर्यय हेतु अनुमोदन प्राप्त करने संबंधी प्रस्तावों की प्रस्तुति -

1. इस अधिनियम की धारा 3(2) के अंतर्गत विर्तिविष्ट अनुसार किसी विकास परियोजना हेतु वन भूमि का उपयोग करने की इच्छा रखने वाले प्रत्येक यूजर एजेंसी एक उचित प्रारूप जो फार्म सं. (क) के रूप में संलग्न है, में प्रस्ताव देंगे तथा यह प्रस्ताव संबंधित ग्राम सभा के सामान्य सभा के समक्ष प्रस्तुत किया जाएगा ताकि वह इस पर संकल्प ले सके ।
2. वन भूमि के विपर्यय हेतु संस्तुति देने के लिए संकल्प हेतु ग्राम सभा में कम से कम कुल संख्या के आधे सदस्यों की न्यूनतम संख्या का कोरम अनिवार्य है ।
3. ग्राम सभा की संस्तुति की प्राप्ति के उपरांत यूजर एजेंसी उस प्रस्ताव को उस क्षेत्र के रेज वन अधिकारी (आर.एफ.ओ.) के समक्ष प्रस्तुत करेंगे जिसमें ग्राम सभा द्वारा लिए गए संकल्प भी संलग्न होंगे ।
4. संबंधित रेज वन अधिकारी (आर.एफ.ओ.) उस प्रस्ताव क्षेत्र के स्थल का दौरा करेंगे तथा प्रस्ताव की स्वीकृति पर अपने विचार देंगे ।
5. संबंधित रेज वन अधिकारी (आर.एफ.ओ.) संबंधित मंडल वन अधिकारी (डी.एफ.ओ.) को फार्म ख के रूप में संलग्न प्रपत्र में प्रस्ताव प्रस्तुत करेंगे तथा यूजर एजेंसी से प्राप्त प्रस्ताव की तिथि के तीन सप्ताह के भीतर स्थल दौरा निरीक्षण रिपोर्ट एवं अपने विचार प्रस्तुत करेंगे ।
6. संबंधित मंडल वन अधिकारी (डी.एफ.ओ.) उस प्रस्ताव पर विचार करेंगे तथा यदि वह सहमत होंगे तो अपनी सहमति एवं अनुमोदन संबंधी रेज वन अधिकारी (आर.एफ.ओ.) को आर.एफ.ओ. से प्रस्ताव प्राप्ति की तिथि से चार सप्ताह के भीतर जिला स्तरीय समिति के अध्यक्ष को एक प्रति के साथ प्रस्तुत करेंगे ।
7. संबंधित डी.एफ.ओ. से अनुमोदन प्राप्त करने के बाद आर.एफ.ओ. उक्त क्षेत्र में वन भूमि को चिन्हित कर उसे ग्राम सभा के निरीक्षण के अधीन उक्त यूजर एजेंसी को भूमि विपर्यय को मान्यता देते हुए सौंप देंगे ।
8. यदि संबंधित मंडल अधिकारी यूजर एजेंसी द्वारा रेज वन अधिकारी (आर.एफ.ओ.) द्वारा प्रस्तुत प्रस्ताव को स्वीकृति नहीं देते हैं तो अंतिम निर्णय हेतु वह जिला स्तरीय समिति को प्रस्ताव भेज देंगे ।
9. जिला स्तरीय समिति न्यूनतम 1/3 कोरम के साथ बैठक कर एक अंतिम निर्णय लेकर यदि प्रस्ताव स्वीकृत करती है तो अभिलेख तथा नक्शे में सुधार को क्रियान्वित करने हेतु डी.एफ.ओ. को अपना निर्णय सूचित कर सकती है ।
10. मंडल वन अधिकारी (डी.एफ.ओ.) अथवा जिला स्तरीय समिति द्वारा वन भूमि के विपर्यय को अनुमोदन, जैसा भी मान्य हो, इस शर्त के अधीन दिया जा सकता है कि वन भूमि का विपर्यय एक विर्तिविष्ट उद्देश्य के लिए अनुमत्य होगा तथा उसका उपयोग किसी अन्य उद्देश्य हेतु नहीं किया जाएगा तथा इस प्रकार विपर्यय भूमि जिस उद्देश्य से इसका विपर्यय किया गया था, उस उद्देश्य हेतु यूजर एजेंसी को भूमि सौंपने की तिथि से एक वर्ष के भीतर शुरू नहीं किए जाने की स्थिति में वन विभाग पुनः उस भूमि को विनियोजित करेगा ।
11. इस अधिनियम की धारा 3(2) के अधीन वन भूमि के विपर्यय हेतु अनुमोदनों की तिमाही रिपोर्ट डी.एफ.ओ. द्वारा उस शज्य के नोडल अधिकारी को दी जाएगी तथा वह समेकित तिमाही सूचना सचिव, जनजाति कल्याण विभाग को देंगे, तथा आगे वे समेकित सूचना जनजातीय कार्य एवं पर्यावरण तथा वन मंत्रालयों को देंगे ।
12. नोडल अधिकारी भी प्रगति की निगरानी करेंगे ।

## APPENDIX

Form for seeking prior approval for diversion of forest land for non-forestry purposes for the facilities managed by the Government under sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

## FORM - A

[See para 2.2(i)]

(To be filled up by the User Agency)

## 1. Project details:

- i. Short narrative of the proposed project / scheme for which the forest land is required.
- ii. Details of the forest land required (two options to be indicated)
  - a. Location – Survey No. / Compartment No.
  - b. Extent of the area (in hectare)
  - c. Forest Division
  - d. Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.
- iii. Justification for locating the project in proposed forest land(s)
- iv. Number of trees to be felled (per hectare) and number that will be kept standing.
2. Detailed, purpose-wise break-up of the total forest land required with proposed building / activity area map.
3. Confirmation that User Agency will plant at least twice the number of trees to be felled, in the project or adjacent area and the amount to be provided annually for protection and maintenance of these plants for at least five years (Details to be enclosed).
4. recommendation of the Gram Sabha – Accepted / Rejected

[Please tick (✓), as the case may be], [Copy of the Gram Sabha resolution to be attached.]

Signature of the authorized person for the User Agency

(Name in Block letters) \_\_\_\_\_

Address \_\_\_\_\_

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Serial No. of proposal \_\_\_\_\_

(To be filled up by the Range Forest Officer with date of receipt)

## FORM - B

[See para 2.2(iv)]

(To be filled up by the concerned Range Forest Officer)

Serial No. of proposal

## 1. Location of the project / Scheme:

- (i) State / Union Territory
- (ii) District.
- (iii) Forest Division
- (iv) Proposed forest land(s) (two options to be indicated)
  - i. Location – Survey No. / Compartment No.
  - ii. Extent of the area (in hectare)
- (v) Whether part of biosphere reserve, tiger reserve, elephant corridor, etc.

2. Site inspection report (to be attached), containing the date of visit, and justified opinion on the acceptability of the proposal (separately for the two options).

3. Specific recommendation of the Range Forest Officer for acceptance or otherwise of the proposal and the better option.

Signature of the RFO

Name \_\_\_\_\_

Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Accepted / Not accepted  
 with reasons to be recorded

Signature of the DFO

Name \_\_\_\_\_

Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

भूरिया  
BHURIA

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मंत्री  
जनजातीय कार्य  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110 001  
MINISTER OF TRIBAL AFFAIRS  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110 001

D.O. No.23011/05/2010-FRA

27 September, 2010

Dear Shri Sarkar ji,

I am writing this letter in connection with implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the State of Tripura.

While the Ministry is appreciative of the progress made by your State towards implementation of the Act, I would like to mention certain aspects of the Act which need your personal attention. These are discussed below:

(i) Community claims

As of 31<sup>st</sup> July 2010, only 277 community claims have reportedly been filed. Considering that Tripura is a tribal majority State, the number of community claims filed is very low. This could be due to inadequate publicity of the provisions of the Act and the Rules framed thereunder amongst the eligible claimants/communities in different parts of the state. Since most community claims relate to the ownership of minor forest produce, the State Government should launch a special campaign for generating widespread awareness about these community rights, if necessary, by re-

training field level functionaries engaged in the processing of such applications. The Gram Sabhas in the State may be given instructions to facilitate the collection of more community right claims. Support of local resources institutions under the State Government may be enlisted for this purpose.

(ii) Rejection of claims

It is observed that out of a total number of 1,72,304 claims filed in the State till 31<sup>st</sup> July, 2010, 55,997 claims were rejected. This works out to 32.49% of the total claims filed, which is quite high and a matter of concern. The Ministry has already requested the State Government, vide former Secretary (TA)'s D.O. letter No.23011/24/2009-FRA dated 15<sup>th</sup> July, 2010, addressed to Chief Secretary, Tripura, to categorise all rejections with their numbers, on a statistically acceptable sampling basis, at the level of Gram Sabha and SDLCs, in different categories specified in the said letter, and to incorporate this information in the monthly progress report being sent to this Ministry on implementation of the Act. The concerned State Government officials may be directed to complete this exercise and send this information to this Ministry every month.

(iii) Convergence of Government programmes

Having achieved the primary aim of distributing titles, there is a need to bring about the convergence of Government developmental programmes so that the standard of living of the title holders improves and they are weaned away from the timber related activities. The Hon'ble Prime Minister, in

his inaugural address at the two-day Conference of the Chief Ministers and State Ministers (Tribal Welfare / Social Welfare and Forest Department), convened by this Ministry in November, 2009 had also, *inter alia* stressed the need for dovetailing all development and welfare programmes in tribal areas for a coherent strategy and coordinated approach involving all departments. The observations of the Prime Minister were conveyed to the State Government, vide my letter No. 23011/20/2009-FRA dated 19.11.2009 and again on 18.2.2010 for taking necessary measures in this regard. The Ministry may be apprised of the action taken in this regard.

(iv) Diversion of forest land for development activities  
Section 3(2) of the Act provides for diversion of forest land for certain development activities, specified in that Section, which involve felling of trees not exceeding seventy five per hectare. The Ministry had laid down the procedure for diversion of forest land under Section 3(2) of the Act on 18<sup>th</sup> May, 2009. The Ministry has, however, not been apprised of the status of the proposals, if any, received by the State Government under this Section and the action taken thereon by the State Government.

(v) Determination and notification of critical wildlife habitats in the National Parks and Sanctuaries

Under Section 2(b) of the Act, the Ministry of Environment & Forests is responsible for determination and notification of critical wildlife habitats in the National Parks and Sanctuaries.

According to the information received from the Ministry of Environment & Forests, while the Government of Tripura has constituted the State Level Committee for determination and notification of critical wildlife habitats, no further progress has been made in this regard. The State Government needs to take action in this regard on priority basis.

(vi) Eviction of forest dwelling STs from National Parks and Sanctuaries

The Ministry has been receiving complaints from time to time that some Scheduled Tribe persons living in National Parks and Sanctuaries are being forced to leave these areas without their rights under the Act being decided one way or the other pending determination and notification of critical wildlife habitats in these areas. I have already written to you separately, vide my D.O. letter No. 17011/01/2010-FRA dated 30.8.2010, enclosing a copy of letter No. 7-12/2010-FP dated 21.6.2010, issued by the Ministry of Environment & Forests directing the PCCFs in all the States/UTs requesting to ensure that the provisions of the Forest Rights Act should be duly complied with before taking any decision on displacement of Scheduled Tribes from National Parks and Sanctuaries. Steps may be taken for effective implementation of these instructions.

(vii) Conversion of forest villages into revenue villages

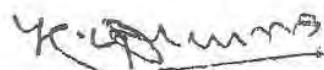
Section 3(1)(h) of the Act envisages conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages. The Ministry had requested the State

Government as early as on 25<sup>th</sup> February, 2008 to initiate action for conversion of all forest villages in your State / UT into revenue villages as per the guidelines issued by the Ministry of Environment & Forests and to intimate this Ministry of the progress made in this regard (number of forest villages, number processed for conversion to revenue villages, number converted with number of families, etc.). The Ministry is yet to hear about the action taken by the State Government for implementing the above provisions of the Act.

I shall be grateful if necessary action on the above issues is taken on priority basis and this Ministry apprised of the progress made at an early date.

With warm regards,

Yours sincerely,



(Kanti Lal Bhuria)

**Shri Manik Sarkar,**  
Chief Minister,  
Government of Tripura,  
Agartala.

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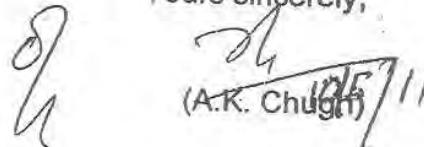
D.O. No.17014/11/2010-FRA

10<sup>th</sup> May, 2011.

Dear

This has reference to my letter of even number dated 20<sup>th</sup> January, 2011, vide which I had requested for informing this Ministry about the number of cases relating to diversion of forest land for non-forest purposes under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in respect of which the time lines, prescribed by this Ministry's letter No.23011/15/2008-SG.II dated 18<sup>th</sup> May, 2009, have not been adhered to. The Ministry is yet to receive the information. I am to request for expediting the information sought so as to be in a position to further improve the guidelines.

Yours sincerely,

  
(A.K. Chugani)  
10/5/11

Chief Secretaries of all States except  
Haryana, Punjab and Jammu & Kashmir.

As per list  
(24 letters)

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**Chief Secretaries of States & UTs  
(As On 27/04/2011)**

S.No.	STATE (HEADQUARTER)	NAME	SERVICE/ CADRE	E-MAIL
1.	Andhra Pradesh (Hyderabad)	Shri S. V. Prasad	(AP:75)	cs-andhra@nic.in
2.	Arunachal Pradesh (Itanagar)	Shri Tabom Bam	(AGMU:77)	cs-arunachal@nic.in
3.	Assam (Dispur)	Shri Naba Kumar Das	(AM:76)	cs-assam@nic.in
4.	Chhattisgarh (Raipur)	Shri P. Joy Oommen	(CG:77)	cs-chhattisgarh@nic.in
5.	Bihar (Patna)	Shri Anup Mukerji	(BH:74)	cs-bihar@nic.in
6.	Gujarat (Gandhinagar)	Shri Achal Kumar Jyoti	(GJ:75)	cs-gujarat@nic.in
7.	Goa (Panaji)	Shri Sanjay Kumar Srivastava	(AGMU:80)	cs-goa@nic.in
8.	Haryana (Chandigarh)	Ms Urvashi Gulati	(HY:75)	cs-haryana@nic.in
9.	Himachal Pradesh (Shimla)	Ms. Rajwant Sandhu	(HP:75)	cs-himachal@nic.in
10.	Jammu & Kashmir (Srinagar)	Shri Madhav Lal	(JK:77)	cs-jandk@nic.in
11.	Jharkhand (Ranchi)	Shri S. K. Chaudhary	(JH:77)	cs-jharkhand@nic.in
12.	Karnataka (Bangalore)	Shri S.V.Ranganath	(KN:75)	cs-karnataka@nic.in
13.	Kerala (Thiruvananthapuram)	Dr. P. Prabakaran	(KL:78)	cs-kerala@nic.in
14.	Madhya Pradesh (Bhopal)	Shri Avani Vaish	(MP:75)	cs-madhyapradesh@nic.in
15.	Maharashtra (Mumbai)	Shri R.Y. Galkwad	IAS(MH:75)	cs-maharastra@nic.in
16.	Manipur (Imphal)	Shri D. S. Poonia	(MT:78)	cs-manipur@nic.in
17.	Meghalaya (Shillong)	Shri Winston Mark Simon Pariat	(AM:77)	cs-meghalaya@nic.in
18.	Mizoram (Aizawl)	Shri Vanhela Pachuau	(AGMU:76)	cs-mizoram@nic.in

S.No.	STATE (HEADQUARTER)	NAME	SERVICE/ CADRE	E-MAIL
9.	Nagaland (Kohima)	Shri Lalthara	(NL:75)	cs-nagaland@nic.in
10.	Orissa (Bhubaneswar)	Shri Bijay Kumar Patnaik	(OR:76)	cs-orissa@nic.in
21.	Punjab (Chandigarh)	Shri Subodh Chandra Agrawal	(PB:75)	cs-punjab@nic.in
2.	Rajasthan (Jaipur)	Shri Salauddin Ahmed	(RJ:75)	cs-rajasthan@nic.in
23.	Sikkim (Gangtok)	Shri Tseten Dorji	(SK:75)	cs-sikkim@nic.in
24.	Tamil Nadu (Chennai)	Ms. S. Malathi	(TN:77)	cs-tamilnadu@nic.in
5.	Tripura (Agartala)	Shri S.K. Panda	(MT:80)	cs-tripura@nic.in
26.	Uttarakhand (Dehradun)	Shri Subhas Kumar	(UL:77)	cs-uttaranchal@nic.in
7.	Uttar Pradesh (Lucknow)	Shri Anoop Mishra	(UP:78)	cs-uttarpradesh@nic.in
28.	West Bengal (Kolkata)	Shri Samar Ghosh	(WB:77)	cs-westbengal@nic.in

#### UNION TERRITORIES/ADMINISTRATION

1.	Andaman & Nicobar Port Blair	Shri Shakti Sinha (Chief Secretary)	(AGMU:79)	cs-andaman@nic.in
2.	Chandigarh	Shri Pradip Mehra (Adviser to the Adminstr.)	(AGMU:75)	admr-chandigarh@nic.in
3.	Daman & Diu Daman	Shri Narendra Kumar (Administrator)	(AGMU:88)	admr-daman@nic.in
4.	Delhi Delhi	Shri Praveen Kumar Tripathi (Chieft Secretary)	(AGMU:77)	cs-delhi@nic.in
5.	Lakshadweep Kavaratti	Shri J.K.Dadoo (Administrator)	(AGMU:83)	admr-lakshadweep@nic.in
6.	Pondicherry	Shri R Chandramohan (Chief Secretary)	(AGMU:78)	cs-pondicherry@nic.in
7.	Dadra & Nagar Haveli Silvassa	Shri Narendra Kumar (Administrator)	(AGMU:88)	admr-dadranagar@nic.in

Note : This List is maintained by V.K.Gupta, Section Officer, EO(CM), DOP&T, North Block, New Delhi. (Tel. : 23092584 and e-mail : socm-dopt@nic.in)

**Diversion  
of  
forest lands  
for  
non-forest purpose**



F. No. 11-9/1998-FC (pt)  
 Government of India  
 Ministry of Environment and Forests  
 (FC Division)

Paryavaran Bhawan,  
 CGO Complex, Lodhi Road,  
 New Delhi - 110510.  
 Dated : 30.07.2009

To

The Chief Secretary / Administrator  
 (All State/UT Governments except J&K)

**Subject: Diversion of forest land for non-forest purposes under the  
 Forest (Conservation) Act, 1980 - ensuring compliance of the  
 Scheduled Tribes and Other Traditional Forest Dwellers  
 (Recognition of Forest Rights) Act 2006.**

Sir,

I am directed to invite the attention of the State Government to the operationalization of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 which has become effective from 01.01.2008. It is observed that the proposals under the Forest (Conservation) Act, 1980 are being received from different states/UT Governments with the submission that the settlement of rights under Forest Rights Act, 2006 (FRA) will be completed later on.

Accordingly, to formulate unconditional proposals under the Forest (Conservation) Act, 1980, the State/UT Governments are, wherever the process of settlement of Rights under the FRA has been completed or currently under process, required to enclose evidences for having initiated and completed the above process, especially among other sections, Sections 3(1)(i), 3(1)(e) and 4(5). These enclosures of evidence shall be in the form of following:

- a. A letter from the State Government certifying that the complete process for identification and settlement of rights under the FRA has been carried out for the entire forest area proposed for diversion, with a record of all consultations and meetings held;
- b. A letter from the State Government certifying that proposals for such diversion (with full details of the project and its implications, in vernacular / local languages) have been placed before each concerned Gram Sabha of forest-dwellers, who are eligible under the FRA;
- c. A letter from each of the concerned Gram Sabhas, indicating that all formalities/processes under the FRA have been carried out, and that they have given their consent to the proposed diversion and the compensatory and ameliorative measures if any, having understood the purposes and details of proposed diversion.



- d. A letter from the State Government certifying that the diversion of forest land for facilities managed by the Government as required under section 3(2) of the FRA have been completed and that the Gram Sabhas have consented to it.
- e. A letter from the State Government certifying that discussions and decisions on such proposals had taken place only when there was a quorum of minimum 50% of members of the Gram Sabha present;
- f. Obtaining the written consent or rejection of the Gram Sabha to the proposal.
- g. A letter from the State Government certifying that the rights of Primitive Tribal Groups and Pre-Agricultural Communities, where applicable, have been specifically safeguarded as per section 3(f)(e) of the FRA.
- h. Any other aspect having bearing on operationalisation of the FRA.

The State/UT Governments, where process of settlement of Rights under the FRA is yet to begin, are required to enclose evidences supporting that settlement of rights under FRA 2006 will be initiated and completed before the final approval for proposals.

This is issued with the approval of Minister of Environment and Forests.

(C.D. Singh)  
Sr. Assistant Inspector General of Forests

Copy to:-

1. The PMO (kind attention: Director, PMO)
2. Secretary, Ministry of Tribal Affairs, Shastri Bhawan, New Delhi.
3. The Principal Chief Conservator of Forests, All States / UTs.
4. The Nodal Officer (FCA), C/o the PCCFs, All States / UTs.
5. All Regional Offices of MoEF located at Bhopal, Shillong, Bangalore, Bhubaneshwar, Lucknow and Chandigarh.
6. The RO (HQ), MoEF, New Delhi.
7. Monitoring Cell, FC Division, MoEF, New Delhi for placing the same on the website of the MoEF.
8. Guard File.

(C.D. Singh)  
Sr. Assistant Inspector General of Forests



मंत्री  
जनजातीय कार्य एवं पंचायती राज,  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110001  
MINISTER OF TRIBAL AFFAIRS  
AND PANCHAYATI RAJ  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110001

Dear Jayantiji,

I wish to share my concern at the continued practice by the Ministry of Environment and Forests' advisory and official bodies, of ignoring the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act when diverting forest land for large projects. We are in agreement that this is a very disturbing scenario as it is a violation of the legal and constitutional rights of our country's poorest and most marginalized citizens. It is also resulting in growing conflict, protests, and litigation, and hence in delays in decision making.

2. The Forest Rights Act empowers the gram sabhas of villages to act as the central authorities in the process of recognition of rights and also gives them the statutory authority to protect and manage forests, biodiversity, etc., while preventing the destruction of their cultural and natural heritage. It, therefore, follows that the prior informed consent of the gram sabhas in these areas must be obtained before any destruction/diversion of forest land, and that they must certify that recognition of rights under the Forest Rights Act is complete. Otherwise, diversion of this land would be a direct violation of law and amount to destroying people's right under the Act. The Ministry of Environment and Forests' own order of July 31, 2009, recognized these requirements among others and States were informed that they had to submit resolutions from gram sabhas to this effect.

3. I am, however, anguished to find that even five years after enactment of the historic Forest Rights Act which came into force in January 2008, the statutory Forest Advisory Committee continues blatantly to ignore the existence of both this law and the 2009 order. As a matter of fact in April of this year the Committee itself recorded in a formal decision that submission of gram sabha resolutions is mandatory with a proposal for forest diversion - i.e. that such resolutions should be present when it considers any proposal. Piquantly it is now flouting its own decision as well as the orders of the Ministry and the law of the land.

b) The Ministry of Tribal Affairs being the nodal agency for forest rights, keeping in view of the diversion of forest land affects the rights of forest dwellers, it would be appropriate if this Ministry were to be represented on the Forest Advisory Committee. This may contribute to ensuring that forest rights receive adequate consideration in the decision making process and reduce the possibility of later disputes, as has happened in several well known projects.

c) As I have already directed all State governments to ensure that gram sabha meetings are videographed, it would be effective – and also further reduce the possibility of disputes – if the Ministry of Environment and Forests were to require the same in all cases of gram sabhas held for purposes of forest diversion. This would increase transparency and reduce conflict.

With best wishes & regards,  
Yours sincerely,

  
19.11.12  
(V. Kishore Chandra Deo)

Smt. Jayanti Natarajan,  
Minister of State (I/C) Environment & Forests,  
Paryavaran Bhawan,  
CGO Complex,  
New Delhi-110 003

No. 8-63/2007-FC

**GOVERNMENT OF INDIA**  
**MINISTRY OF ENVIRONMENT AND FORESTS**

Parivaran Bhavan, CGO Complex,  
 Lodhi Road, New Delhi  
 Dated the 8th January, 2010

Sub.: Diversion of 1253.225 ha of forest land for establishment of Integrated Steel Plant: and  
 Captive Port by POSC-India Pvt. Ltd, Jagashinghpur district of Orissa.

Sir,

I am directed to refer to our letter of even number dated 29<sup>th</sup> December, 2009 conveying the approval of Central Government under Section 2 of the Forest (Conservation) Act, 1980 for diversion of 1253.225 ha of forest land for establishment of Integrated Steel Plant: and Captive Port by POSC-India Pvt. Ltd, only after the conditions of MoEF letter dated 3<sup>rd</sup> August, 2009 including the conditions related to informed consent of the tribal people is fulfilled as per the provision of Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006. The condition No. 14 stipulated in our letter of even number dated 29<sup>th</sup> December, 2009 also said that the approval was subject to fulfillment of the following conditions besides the other 15 conditions stipulated:

"The rights of tribal people will be settled as per the provisions of Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 before implementation of the project.

The State Government is, therefore, requested that the conditions stipulated in our previous orders shall be fulfilled in their true spirit.

Yours faithfully,

Sd/-

(Ansar Ahmed)

Inspector General of Forest

Government of India  
 Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

Dated: 1.9.2011

To  
 Santosh Sarangi  
 Commissioner-cum-Secretary,  
 S.T & S.C Development Department,  
 Government of Orissa,  
 Bhubaneswar.

[Kind attention: Shri Vinod Kumar]

**Subject: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – clarification on certain issues.**

Sir,

I am directed to refer to Chief Secretary, Government of Orissa's letter No. TD-II-32/08-40490/CS(STSC), dated 21.10.2010 on the above subject and to say that issues raised therein have been examined in this Ministry in consultation with the M/o Environment & Forests, M/o Panchayati Raj and M/o Law & Justice and are clarified as under:-

Sl. No.	Issues	Clarification
1.	<p>In cases where there are no villages inside Reserve Forest areas or un-surveyed forest areas, but the Scheduled Tribes / OTFD, irrespective of where they stay, graze their cattle, or claim to collect MFP etc, then which Gram Sabha and at what distance from the concerned forest land should initiate action for settling the community rights of ST / OTFDs in such forest areas which are beyond the limits of a village boundary.</p> <p>Also, in the case of forest diversion proposal, which Gram Sabha, at what distance from the concerned forest land</p>	<ul style="list-style-type: none"> <li>➤ In such cases, the claimants have to file their claims for community forest rights before the concerned Gram Sabha of which they are the members.</li> <li>➤ To decide the claims the procedure laid down in Rule 12 and particularly Rule 12(3) of the Forest Rights Rules, 2008, would need to be followed.</li> <li>➤ Further, in the case of a forest diversion proposal in a situation of this type, the certificate as required under the circular issued by MoEF on 03.08.2009 will need to be taken from all the concerned Gram Sabhas to which of such a forest area is common.</li> <li>➤ The Forest Rights Act, 2006 has been enacted for conferment of defined forest</li> </ul>

<p>should initiate action to enable the State Government to issue a certificate as required under a circular issued by MoEF on 3.8.2009 that the proposal for diversion of forest land has been placed before each Gram Sabha of forest dwellers under the FRA. Since, individual or community rights conferred under Section 4(4) of FRA, 2006 are heritable, but not alienable or transferable, whether after vesting of forest rights of STs and OTFDs on a particular forest areas, can the same forest area be diverted for non-forest use for developmental project or not under the Forest (Conservation) Act, 1980. If diversion of such forest land is permissible, whether the vested forest rights need to be compensated for and if 'yes' how? Is there any norm to compensate such forest rights? Can the forest rights be suspended, acquired or taken away by the State if situation demands?</p>	<p>rights, prescribing the procedure to be followed while conferring such rights and matters incidental to and connected therewith.</p> <p>The Forest Rights Act, 2006 does not deal with the issue relating to diversion of forest land for non-forest use after vesting of forest rights of FDSTs and OTFDs.</p>
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Yours faithfully,

Sd/-

[A.K. Srivastava]

Director

Tel: 23387444

वी. किशोर चन्द्र देव  
V. KISHORE CHANDRA DEO

4/5/14



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मंत्री  
जनजातीय कार्य एवं पंचायती राज,  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110001  
MINISTER OF TRIBAL AFFAIRS  
AND PANCHAYATI RAJ  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110001

7 December, 2012

Dear Jayanthiji,

Sub: Circulars of Ministry of Environment and Forests to State governments on diversion of forest land – implications thereof and request

Ref: 1. Order dated 03.08.2009. (F.No. 11-9/1998-FC (pt)) from Ministry of Environment and Forests to State governments

2. Prior letter dated 19.11.2012 from Minister of Tribal Affairs and Panchayati Raj to Minister of State (I/C) for Environment and Forests

I am writing in connection with the above-mentioned circular of the Ministry of Environment and Forests, which was issued on August 3, 2009 in order to ensure that diversion of forest land under the Forest (Conservation) Act, 1980 does not result in violation of the rights and powers of forest dwellers under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (the Forest Rights Act). As noted in my earlier letter I am deeply concerned to note that this order appears to be honoured in the breach. This order is extremely significant and I write to request you to ensure that it is upheld as it is an absolute requirement in order to ensure that takeover of forest land in this country is done in accordance with law. In particular the following may be noted.

2. As clearly laid down in its Preamble and the Statement of Objects and Reasons, the purpose of the Forest Rights Act is twofold: firstly, to recognize and record the rights of forest dwellers; secondly, to empower them and their community institutions as statutory authorities with the power to protect and manage forests. The Preamble of the Act stipulates that both of these measures are required to 1) ensure conservation of forests and 2) address the historical injustice done to forest dwellers, "including those forced to relocate due to State development interventions." In the Act, section 3(1) lists the rights to be recognized, while section 5 (and section 3(1)(i)) empowers forest dwellers with the statutory power to manage the forest. The Act recognizes that forest dwellers' existence and heritage is tied with the forest and hence empowering them to protect it is as essential as recognizing their rights.

3. In light of the above, any takeover or diversion of forest land – under any other law – has to respect both parts of the Forest Rights Act. In particular, it cannot take place until the recognition of rights is complete in the area (to ensure that rights are respected); and the forest dwellers have expressed their collective prior informed consent to the destruction and/or takeover of the forest and to the rehabilitation-/compensation plan that is being provided to them.

4. In both cases, as the 2009 order correctly states, the institution that the Act empowers is the gram sabha or village assembly of the actual village. Under section 6(1) and Rule 11, this is the institution that initiates rights recognition and may extend it as long as required. Hence it must certify that the process is done. Under section 5, it is the institution with the power to protect forests and to protect the cultural and natural heritage of forest dwellers. In light of this, the consent of the gram sabha, with at least a 50% quorum (as stated in the Rules and in the 2009 order), is the bare minimum that is required to comply with the Act before any forest area can be diverted or destroyed. A clear procedure is required for the taking of consent (including provision of all information and videography of gram sabha meetings) to ensure that this is not manipulated or coerced.

5. I trust that strict compliance with these measures may be ensured when diverting forest land. Some may argue that this will delay development projects. This logic does not appear correct. In fact it is ignoring and violating the rights of forest dwellers that will lead to delays, litigation and conflict, aside from injustice. As the Joint Parliamentary Committee (of which I was chair) said in regard to the Forest Rights Bill, forest dwellers should be part of the planning and decision making process and there is no reason to believe they will arbitrarily oppose initiatives in the public interest. We have only to witness the large number of projects in this country that are today stalled by protests and court cases to understand that “short cuts” benefit no one, in addition to being illegal. The Forest Rights Act is not “anti-development” – it is merely a measure to ensure that initiatives are taken in a democratic and transparent manner that actually benefits the people.

6. I note that at present as well there are proceedings pending in the Supreme Court in regard to the proposed mine by Sterlite / Vedanta in Niyamgiri, Kalahandi District, Odisha, where various parties are seeking to argue that they can bypass, ignore or undermine the Forest Rights Act in the name of advancing a project. In this context it is important that our government take a clear stand that upholds the law, the democratic process, and the rights of people, and states that our vision

of development includes all of these. Strict implementation of the 2009 order and ensuring of recognition of rights along with consent of the gram sabha prior to diversion of land will help ensure this outcome.

With best regards & warm regards.

Yours sincerely,

*Manohar* 7.12.12  
P.S. My objection of the above mentioned  
Circular of 2009, will have an adverse  
impact on the "Vedanta Case" which is sub judice.  
Smt Jayanthi Natarajan,  
Hon'ble Minister of State (I/C) for Environment and Forests,  
Parivarjan Bhavan,  
CGO Complex,  
New Delhi 110 003.

1451

११) किशोर चन्द्र देव  
V. KISHORE CHANDRA DEO



नर्ती  
अन्तर्राष्ट्रीय राष्ट्र एवं पंचायती राज,  
भारत राष्ट्रकार  
सामनी भवन, नई दिल्ली-110001  
MINISTER OF TRIBAL AFFAIRS  
AND PANCHAYATI RAJ  
GOVERNMENT OF INDIA  
BHASTRI BHAWAN, NEW DELHI-110001

No.23011/12/2011-FRA

24<sup>th</sup> January, 2013

*Dear Jayanthi,*

Please refer to your DO letter No. 1-44-MOS (E&F)2013 dated 08.01.2013, seeking my views and suggestions on the recommendations of the Committee constituted under the chairmanship of Principal Secretary to PM with Secretary, MoEF and Secretary, MoTA as members for streamlining issues relating to the implementation of the Forest Conservation Act (FCA) and Forest Rights Act (FRA) as well as rules/guidelines framed under these Acts.

I have had the matter examined. I note that the recommendations of the Committee take care of the concerns of FRA with regard to recognition and vesting of rights in forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers before clearance is given by the MoEF for diversion of forest land for non-forestry purpose and therefore I am in broad agreement with the recommendation of the Committee. However, with regard to recommendation 4(i)(c) of the PMO Committee, I wish to draw your attention to the provisions of the Clause 5 of Schedule V of the Constitution of India relating to Law applicable to Scheduled Areas, which would take precedence over any Gram Sabha resolution/public hearing in Schedule V Areas. Therefore, I would suggest that the revised circular to be issued by the MoEF suitably reflect this position.

*With best wishes regards,*

—Yours sincerely,

*Shri Kishore Chandra Deo*

(V. Kishore Chandra Deo)

Ms. Jayanthi Natarajan,  
Minister of State (I/C),  
Ministry of Environment & Forests,  
Parivaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi – 110003.

Shastri Bhawan, New Delhi  
Dated: 7 March 2014

To

The Chief Secretaries of all States/Union Territories

The undersigned is directed to refer to the circular dated 3<sup>rd</sup> August 2009, issued by the Ministry of Environment & Forests (FC Division), Government of India, regarding compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (in short 'FRA, 2006') while proposing for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980, and further circulars pursuant thereto, in particular the circular dated 5<sup>th</sup> February 2013 and 15<sup>th</sup> January 2014 exempting linear projects from the requirement of obtaining consent of the Gram Sabha under FRA 2006.

2. In this connection, the correct position of law is given as under:

- i) The Ministry of Tribal Affairs is the competent Ministry relating to FRA 2006. Provisions of FRA 2006 need to be strictly construed keeping in view the legislative intent of the said Act and primacy of the Gram Sabha in democratic governance. The Act does not provide any exemption to any category of projects. Even if Ministry of Environment & Forests does not insist on compliance to FRA for linear projects, it cannot be said that this authorizes the land acquisition/transfer authorities to violate FRA.
- ii) Compliance with the provisions of FRA 2006, in no way, counters basic developmental initiatives, particularly in less developed Scheduled Areas. In fact, Section 3(2) of the Act expedites projects meant for forest dwellers.

- iii) Section 5 of the FRA 2006 empowers the holders of forest rights, the Gram Sabha and the village level institutions, to protect wildlife, forests, water catchment areas, biodiversity and the cultural and natural heritage of forest dwellers, and to "ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with" [Section 5(d)].
- iv) The central role of the Gram Sabha in developmental initiatives is not unique to the FRA 2006. It also finds mention in the Panchayats (Extension to Scheduled Areas) Act, 1996 ('PESA') where consultation with Panchayats is a necessary pre-condition for alienation of any land in the Scheduled Areas for development projects. Mention may also be made of The Right of Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which requires consent of the Gram Sabha for acquisition of land in Scheduled Areas for development.
- v) The role of the Gram Sabha in this process has received affirmation from the Supreme Court in a recent decision in *Orissa Mining Corporation vs. Ministry of Environment and Forests & Ors*, 2013 (6) SCALE 57, wherein the Apex Court has foregrounded the central role of Gram Sabha (which in the case of Odisha should be read as meaning *Palli Sabha*) in entertaining and determining upon community or individual forest rights claims. To be specific, at para 59 of the judgment, the Hon'ble Supreme Court clearly states that "*the Gram Sabha is also free to consider all the community, individual as well as cultural and religious claims, over and above the claims which have already been received from Rayagada and Kalahandi districts. Any such fresh claims be filed before the Gram Sabha within six weeks from the date of this judgement. State Government as well as the Ministry of Tribal Affairs, Government of India, would assist the Gram Sabha for settling of individual as well as community claims.*" The Court reiterates that a proper process has to be followed for determination of community forest resource rights, and that the decision has to be taken by the

Gram Sabha. In view of this, the aforementioned circulars dated 5<sup>th</sup> February 2013, 5<sup>th</sup> July 2013 and 15<sup>th</sup> January 2014 of the Ministry of Environment & Forests are also against the directions of the Hon'ble Supreme Court.

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3. In view of the above, compliance to FRA is a mandatory requirement before forest land can be diverted. Failure to do so would be a violation of law.
4. This issues with the approval of Hon'ble Minister, Tribal Affairs & Panchayati Raj.

*S. M. Sahai*  
(S. M. Sahai)  
Director  
Tel: 23073176

Copy to Shri H.C. Chaudhary, AIG of Forests, Ministry of Environment & Forests, CGO Complex, Lodhi Road, New Delhi-110003.

Director

No.17011/2/2012-FRA(Pt.)  
Government of India  
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi.  
Dated: May 6, 2014.

OFFICE MEMORANDUM

*(with enclosure)*  
*Letter to Shri Naba Kishore Das, MLA, Jharsuguda*  
*by APBCD P.M.*  
*6/5*

Sub: Serious concerns over the Gram Sabhas being held in the villages Jalahari, Bholbeda, Jajanga, Jurudi, Banspani and Khuntpani coming under Joda-Badbil Tahsil for taking Gram Sabha's approval for diversion of 342.602 hectares of forest land of the total 456.100 hectares of land against M/s. Essel Mining and Industries Limited in Keonjhar District.

The undersigned is directed to enclose herewith a copy of letter dated 2<sup>nd</sup> February, 2014 from Shri Naba Kishore Das, MLA, Jharsuguda addressed to Secretary, Ministry of Tribal Affairs on the above captioned subject. In this connection, it is to mention that Secretary, Ministry of Tribal Affairs, during his visit to Odisha on February 21 - 26, 2014, has observed the following:

"On the basis of a complaint received relating to improper implementation of Forest Rights Act (FRA) in Jalahari, Bholbeda, Jajanga, Jurudi, Banaspani and Khuntpani coming under Joda-Badbil Tehsil for taking Gram Sabha's approval for diversion of 342.602 hectares of forest land of the total 456.100 hectares of land in favour of M/s Essel Mining and Industries Limited in Keonjhar District, I had requested the District Collector to call for the records which were shown to me at Keonjhar Circuit House. The notice which had been issued showed that a meeting had been convened to obtain the approval of the Gram Sabha for transfer of forest land to one M/s. Essel Mining and Industries Limited. In the same meeting, the forest rights were to be ascertained. The minutes of the meetings show that in the same meeting it was decided that the villagers have no forest rights. It was also decided that

they had no objection to transfer forest land to the above firm. The same meeting also records the kind of periphery development expected from the above firm. This is in complete violation of Forest Rights Act. The process envisaged under FRA has to be completed before the question of transfer of forest land for non-forest use is considered under the Forest Conservation Act. Therefore, the transfer of forest land to the above firm is invalid, as it is in violation of Forest Rights Act. I advise that the recommendation should be withdrawn by the collector. This point has been clarified during the video conference on 26.2.2014 (Tour note of Secretary (TA) is enclosed)".

2. In this connection Collector, Keonjhar, has submitted clarifications vide his letter dated 03.03.2014 (copy enclosed). Examination of the papers sent by Collector, Keonjhar, reveals the following:

- (a) No evidence has been produced to show that wide publicity was given for convening of Gram Sabha to ascertaining the entitlements or rights (individual and/or community) under the Forest Rights Act on the land in question.
- (b) No separate meetings of Gram Sabha for awareness on FRA, process to file claims and deciding the claim have taken place. Rather, in a single meeting, ascertaining rights, decisions on claims as well as diversion of forest land for mining/safety zones etc. were taken.
- (c) There was presence of mining company representatives in some of the Gram Sabha meetings.

3. In view of the above, it appears, *prima-facie*, that reported decisions of Gram Sabha have got vitiated and the process followed lacks objectivity and fairness.

4. Therefore, the Ministry of Environment and Forests and the Government of Odisha through Collector, Keonjhar is requested not to go ahead with the diversion of forest land in the instant case without following due process of ascertaining individual and community claims in an objective and fair manner, and in the manner prescribed under Forest Rights Act and Rules.

*S. M. Sahai*  
(S. M. Sahai)  
Director  
Tel: 23073176

Encl: As above.

To

Shri H.C. Chaudhary,  
AIG of Forests,  
Ministry of Environment and Forests,  
CGO Complex, Lodihi Road,  
New Delhi-110003.

Copy to:

- (i) Chief Secretary, Government of Odisha, Bhubaneswar.
- (ii) Collector, Keonjhar District, Keonjhar.

*S. M. Sahai*  
(S. M. Sahai)  
Director  
Tel: 23073176

No.23011/18/2014-FRA  
 Government of India  
 Ministry of Tribal Affairs

August Kranti Bhawan,  
 New Delhi  
 27<sup>th</sup> August, 2014.

Office Memorandum

Sub: Issues relating to existing guidelines for diversion of forest land for non-forest purposes vis-à-vis provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (commonly known as Forest Rights Act) – Reg.

*✓.2014*

The undersigned is directed to refer to the Ministry of Environment, Forest and Climate Change O.M. NO.11-09/98-FC (Pt.) dated 26<sup>th</sup> August, 2014, on the above subject and to say that the Forest Rights Act does not provide for any exemption to its provisions for any category of forests, projects, persons etc. In order to prevent any violation of law, a circular issued by Ministry of Environment & Forest for forest clearance etc. may contain a note of disclaimer to the following effect:-

*"Anything in this instruction may not be construed to imply any relaxation in the provisions of Forest Rights Act or Rules. In addition to Forest Rights Act, there are special regulations under the Fifth Schedule which also cannot be overridden by any executive instructions"*

2. As regards combined public hearing under FRA and Forest Clearance, it is clarified that the Gram Sabha meeting under FRA is a statutory requirement, while public hearing under Forest Clearance is through an executive instruction. The Gram Sabha meeting under FRA can also consider the issue of forest clearance, which is consistent with PESA provisions. The necessary quorum required under FRA Rules for Gram Sabha meeting shall be met in every case.

This issues with the approval of the competent authority.

6/1  
 ✓

(Roopak Chaudhuri)  
 Deputy Secretary to the Govt. of India  
 Tele: 26182428

To

Ministry of Environment, Forests and Climate Change,  
 (Shri H.C. Chaudhary, Director),  
 Indira Paryavaran Bhawan, Aliganj,  
 Jorbagh Road,  
 New Delhi-110003.

No.17011/2/2012-FRA(Pt.)  
 Government of India  
 Ministry of Tribal Affairs

August Kranti Bhawan, Bhikaji Cama Place,  
 New Delhi-110066.

9<sup>th</sup> September, 2014.

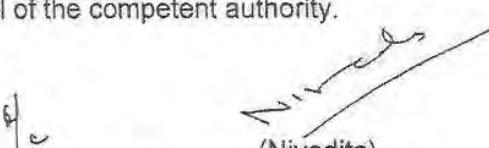
Office Memorandum

Sub: Diversion of 342.602 hectares of forest land (excluding 26.990 hectares of forest land of the lease acquired for Daitari-Bansapani Rail-link from within total 369.592 hectares of forest land in the lease) for mining and allied activities including 65.108 hectares of safety zone in Mining lease area of 456.100 hectares of Jilling Langalota Iron and Manganese Mines by M/s. Essel Mining and Industries Ltd. in Keonjhar District, Odisha in 2<sup>nd</sup> RML.

This refers to Ministry of Environment, Forest and Climate Change O.M. No.8-49/98-FC(pt.) dated 21<sup>st</sup> August, 2014, on the above subject and to state that this Ministry has already communicated its views on the subject vide O.M. of even number dated 6<sup>th</sup> May, 2014. There is nothing more to add to the same.

✓ pp.345-347/6m

This issues with the approval of the competent authority.

  
 (Nivedita)  
 Deputy Secretary to the Government of India

To

Ministry of Environment, Forest and Climate Change,  
 (Forest Conservation Division),  
 (Kind attention: Shri H.C. Chaudhary, Director)  
 Indira Paryavaran Bhawan, Aliganj,  
 Jorbagh Road,  
 New Delhi – 110003.

TSS  
F.No.23011/18/2014-FRA  
Government of India  
Ministry of Tribal Affairs

August Kranti Bhawan,  
Bhikaji Cama Place, New Delhi.

October 21, 2014.

Office Memorandum

**Sub: Guidelines for diversion of forest land for non-forest purposes – Regarding.**

The undersigned is directed to refer to the Ministry of Environment, Forests & Climate Change's Office Memorandum No.11-09/98-FC(Pt.) dated 9<sup>th</sup> October, 2014 seeking a response from the Ministry on the above subject and to reiterate that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 is for recognition and vesting of pre-existing rights of Scheduled Tribes in occupation of forest land and Other Traditional Forest Dwellers. The Act and Rules made therein require that due process has to be followed. It is further clarified that no agency of the Government has been vested with powers to exempt application of the Act in portion or in full. It is further advised that any action or process inconsistent with the due process laid under the Act would not be legally tenable and is likely to be struck down by the Courts of Law. Orissa Mining Corporation Vs. Ministry of Environment and Forests (MoEF) in 2013 is a case in point.

2. It is to be noted that the Ministry of Tribal Affairs is the nodal Ministry for implementation of the Forest Rights Act. Therefore, when the Ministry receives complaint/ information regarding improper implementation of the Act, the Ministry is bound to get the same inquired into and advise for appropriate corrective action, if any.

3. This issues with the approval of the competent authority.



(Roopak Chaudhuri)  
Deputy Secretary to the Government of India  
Tele: 26182428

Ministry of Environment, Forests and Climate Change,  
(Attn: Shri H.C. Chaudhary, Director)  
Indira Paryavaran Bhawan, Allianj,  
Jorbagh Road,  
New Delhi-110003.

Dr. HRUSIKESH PANDA  
Secretary



भारत सरकार  
Government of India  
जनजातीय कार्य मंत्रालय  
Ministry of Tribal Affairs  
शास्त्री भवन, नई दिल्ली-110001  
Shastri Bhawan, New Delhi-110001  
Tel. : 23381652, Fax : 23073160  
E-mail : hruksikesh.p@nic.in

D.O. No. 23011/18/2014-FRA

Dated the 12<sup>th</sup> November 2014

Dear

1. I am constrained to bring to your notice that in the recent past an impression is being created that the administration / implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (in short FRA) is hindering or delaying the clearance of the developmental projects. You would be aware that this legislation is for recognition and vesting of pre-existing rights of forest dwelling STs and Other Traditional Forest Dwellers. Unlike the laws concerning Forests and Environment which are regulatory in nature, this legislation marks a paradigm shift in the substantive law on forest rights.

2. Though, the Ministry of Tribal Affairs is the nodal Ministry of FRA, the Ministry of Environment, Forest and Climate Change (MoEFCC) has been issuing advisories to the States relaxing certain provisions of FRA. In particular, your attention is invited to the letter no. No. 11-09/98-FC (pt.) dated 28.10.2014. The basic legal point is that the Forest Rights Act does not provide any scope to any executive agency for any kind of relaxation of the applicability of the Forest Rights Act. Now, even if the arguments raised in the above letter were factually correct, the correctness of the facts have to be decided by the process prescribed under FRA. This responsibility is not vested on the MoEFCC, nor on the Ministry of Tribal Affairs.

3. Coming to the desirability of relaxation of FRA, we do not have any evidence that the FRA process delays projects. The FRA process is initiated in the village and culminates with the District Committee headed by the District Collector. If there has been any study or evidence on delay of projects because of the processes of FRA, this should be brought to the notice of the Ministry of Tribal Affairs. Clearance on major projects takes a long time because of the layers through which such clearance is given. If a project is being proposed to be taken up in a particular area, the process of FRA can be undergone expeditiously and much before the other clearances are obtained. Certainly the FRA process will take less time than clearances under Forest (Conservation) Act, 1980 and acquisition of land under LARR Act. This will be the legal way of addressing the problem if any, arising out of FRA process. The letter of 28<sup>th</sup>

October 2014 takes a short-cut, which can derail the projects completely. We had flagged the issue in our letter dated October 21, 2014 which appears to have been given a short shrift by MoEFCC. We would like to flag one issue. The FRA is the law of the land. The above letter violates the law. A project which takes a short cut can be stopped by just one village which has land classified as 'forest' under various laws and court orders.

4. There is another aspect of the FRA. A genuine grievance of forest dwellers including tribal people relates to the forest officials and forest laws. The Forest (Conservation) Act, 1980 exasperated the sense of deprivation of such people. With the implementation of FRA, this grievance has been ameliorated in many places. However, the recent announcements including the letter of MoEFCC dated 28.10.2014 have conveyed a message that the Government is against fair implementation of the Forest Rights Act. This is not desirable in the interest of peace and governance in forest areas.

5. In view of this, we request you to cause the withdrawal of circular dated 28.10.2014.

With regards,

Yours sincerely,

(Hrusikesh Panda)

Shri Ashok Lavasa  
Secretary  
Ministry of Environment, Forest and Climate Change,  
4<sup>th</sup> Floor, Prithvi Wiong,  
Indira Paryavaran Bhawan, Aliganj, Jor Bagh Road,  
New Delhi – 110003

Copy to : Shri Anil Goswami, Secretary, Ministry of Home Affairs, North Block  
New Delhi. This issue needs to be taken up in the meeting on LWE also.

*Hrusikesh Panda*  
(Hrusikesh Panda)



7<sup>th</sup> December, 2012

Dear Jayanthiji,

Sub: Circulars of Ministry of Environment and Forests to State governments on diversion of forest land - implications thereof and request

Ref: 1. Order dated 03.08.2009 (F.No. 11-9/1998-FC (pt)) from Ministry of Environment and Forests to State governments

2. Prior letter dated 19.11.2012 from Minister of Tribal Affairs and Panchayati Raj to Minister of State (I/C) for Environment and Forests

I am writing in connection with the above-mentioned circular of the Ministry of Environment and Forests, which was issued on August 3, 2009 in order to ensure that diversion of forest land under the Forest (Conservation) Act, 1980 does not result in violation of the rights and powers of forest dwellers under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (the Forest Rights Act). As noted in my earlier letter I am deeply concerned to note that this order appears to be honoured in the breach. This order is extremely significant and I write to request you to ensure that it is upheld as it is an absolute requirement in order to ensure that takeover of forest land in this country is done in accordance with law. In particular the following may be noted.

2. As clearly laid down in its Preamble and the Statement of Objects and Reasons, the purpose of the Forest Rights Act is twofold: firstly, to recognize and record the rights of forest dwellers; secondly, to empower them and their community institutions as statutory authorities with the power to protect and manage forests. The Preamble of the Act stipulates that both of these measures are required to 1) ensure conservation of forests and 2) address the historical injustice done to forest dwellers, "including those forced to relocate due to State development interventions." In the Act, section 3(1) lists the rights to be recognized, while section 5 (and section 3(1)(i)) empowers forest dwellers with the statutory power to manage the forest. The Act recognizes that forest dwellers' existence and heritage is tied with the forest and hence empowering them to protect it is as essential as recognizing their rights.

3. In light of the above, any takeover or diversion of forest land – under any other law - has to respect both parts of the Forest Rights Act. In particular, it cannot take place until the recognition of rights is complete in the area (to ensure that rights are respected); and the forest dwellers have expressed their collective prior informed consent to the destruction and/or takeover of the forest and to the rehabilitation / compensation plan that is being provided to them.

4. In both cases, as the 2009 order correctly states, the institution that the Act empowers is the gram sabha or village assembly of the actual village. **Under section 6(1) and Rule 11, this is the institution that initiates rights recognition and may extend it as long as required.** Hence it must certify that the process is done. Under section 5, it is the institution with the power to protect forests and to protect the cultural and natural heritage of forest dwellers. **In light of this, the consent of the gram sabha, with at least a 50% quorum (as stated in the Rules and in the 2009 order),** is the bare minimum that is required to comply with the Act before any forest area can be diverted or destroyed. A clear procedure is required for the taking of consent **(including provision of all information and videography of gram sabha meetings)** to ensure that this is not manipulated or coerced.

5. I trust that strict compliance with these measures may be ensured when diverting forest land. Some may argue that this will delay development projects. This logic does not appear correct. In fact it is ignoring and violating the rights of forest dwellers that will lead to delays, litigation and conflict, aside from injustice. As the Joint Parliamentary Committee (of which I was chair) said in regard to the Forest Rights Bill, forest dwellers should be part of the planning and decision making process and there is no reason to believe they will arbitrarily oppose initiatives in the public interest. We have only to witness the large number of projects in this country that are today stalled by protests and court cases to understand that "short cuts" benefit no one, in addition to being illegal. The Forest Rights Act is not "anti-development" – it is merely a measure to ensure that initiatives are taken in a democratic and transparent manner that actually benefits the people.

6. I note that at present as well there are proceedings pending in the Supreme Court in regard to the proposed mine by Sterlite / Vedanta in Niyamgiri, Kalahandi District, Odisha, where various parties are seeking to argue that they can bypass, ignore or undermine the Forest Rights Act in the name of advancing a project. In this context it is important that our government take a clear stand that upholds the law, the democratic process, and the rights of people, and states that our vision

of development includes all of these. Strict implementation of the 2009 order and ensuring of recognition of rights along with consent of the gram sabha prior to diversion of land will help ensure this outcome.

With best regards & warm regards.

Yours sincerely,

*Kishore Chandra Deo*  
7.12.12  
Circular of 2009, will have an adverse impact on the "Vedanta Camp" which is a soft-junction.

P.S. Any dilution of the above mentioned circular of 2009, will have an adverse (V. Kishore Chandra Deo)  
impact on the "Vedanta Camp" which is a soft-junction.

Smt. Jayanthi Natarajan,  
Hon'ble Minister of State (I/C) for Environment and Forests,  
Parivarayan Bhavan,  
CGO Complex,  
New Delhi 110 003.

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No.23011/22/2010-FRA  
Government of India  
Ministry of Tribal Affairs  
(FRA Unit)

Shastri Bhavan, New Delhi-110001  
Dated, the 2<sup>nd</sup> May, 2013

To

Shri Santosh Kumar Sarangi,  
Commissioner-cum-Secretary,  
SC and ST Development Department,  
Government of Odisha,  
Bhubaneshwar

**Subject:** Directions under Section 12 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (in short Forest Rights Act) to comply to the Hon'ble Supreme Court judgement dated 18<sup>th</sup> April, 2013 in W.P(Civil) No. Writ Petition (Civil) No. 180 of 2011 in Orissa Mining Corporation vs Ministry of Environment and Forests

Sir,

As you are aware the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 180 of 2011 in Orissa Mining Corporation vs Ministry of Environment and Forests has delivered a judgement dated April 18, 2013 wherein there are specific directions to the State of Orissa and this Ministry with regard to ensuring both, due recording of the Forest Rights as well as the protection of cultural and religious rights of STs and OTFDs over 660.749 hectares of forest land where the Orissa Mining Corporation (OMC) is proposing to undertake the Bauxite Mining Project (BMP) in the districts of Rayagada and Kalahandi.

This is to bring to your notice especially Paras 56, 57, 58, 59, 60, 62 and 63 of the said judgement that emphasize the central role of Gram Sabha (which in the case of Odisha should be read as meaning Palli Sabhas) in entertaining and adjudicating upon community forest rights claims. The judgement further emphasises the role of the Gram Sabhas in safeguarding the customary and religious rights of the STs and other TFDs under the Forest Rights Act (para 56); and the importance of PESA and specifically Section 4(d) which mandates the Gram Sabha's competence to safeguard and preserve the traditions, customs, cultural identity and community resources (Para 57). More importantly the judgement emphasizes that the questions relating to religious rights including right of worship of the tribal communities in the Niyamgiri Hills have to be considered and decided by the Gram Sabha (Para 58).

It further observes that whether the diversion of 660.749 hectares of forest land for the BMP affects the religious and cultural rights especially their right to worship their deity – Niyamraja has not been placed so far before the respective Gram Sabhas for their active consideration and decision. Para 59 clearly states that "the Gram Sabha is

*also free to consider all the community, individual as well as cultural and religious claims, over and above the claims which have already been received from Rayagada and Kalahandi districts. Any such fresh claims be filed before the Gram Sabha within six weeks from the date of this judgement. State Government as well as the Ministry of Tribal Affairs, Government of India, would assist the Gram Sabha for settling of individual as well as community claims."*

Para 60 and 62 also lays down a process and a timeline within which the claims have to be considered and decision has to be taken by the Gram Sabha in the presence of senior judicial officers as observers.

In view of the above, a number of time bound action(s) are required to be taken by the State Government in compliance of the aforesaid Supreme Court judgement. The following directions are being issued under Section 12 of the Forest Rights Act to the authorities prescribed in Chapter IV of the Act for compliance:-

- a) Issue an advertisement in all the local newspapers (especially the ones in the vernacular language that are widely read in the districts of Kalahandi and Rayagada) that all STs and OTFDs living anywhere in these districts (para 63) who wish to claim individual or community rights as per the FRA or cultural and religious rights over any part of the 660.749 hectares of forest land should submit their applications to the concerned Palli Sabha with a copy to the designated officer of the Department of Tribal Affairs of the Orissa Government as well as to the Ministry of Tribal Affairs at the Centre. Copy of such notification should be sent to all the civil society and NGOs that are active in these two districts, so that complete transparency is maintained in the identification of claims. In addition, it should be publicly posted in all villages and settlements within Kalahandi and Rayagada districts, even if they are far from the forest area proposed to be transferred to OMC. This will ensure that there is no allegation of subjectivity in the selection of Palli Sabhas where the meetings will be finally held as per the directions of the Supreme Court. The advertisement should clearly mention all the rights recognised in the Forest Rights Act, including in particular the right to habitat of PTGs, the right to community forest resources, rights over grazing, fishing and water bodies, rights to minor forest produce, and the FRA's recognition of any other traditional right (s. 3(1)(l)).
- b) Simultaneously the Odisha Government may prepare a list of villages and hamlets that have been traditionally grazing their cattle, collecting minor forest products, protecting forests, worshipping deities or otherwise using the forest land demanded by OMC for the BMP. The list should include those villages where the primitive tribal groups exercise or may wish to claim habitat rights as defined in section 3(1)(e) of FRA over any part of the proposed mining lease (PML) area. Such a list will obviously include those villages too from where community or habitat claims under FRA over the PML were already received by the FRCs or the Palli Sabhas in the past, irrespective of the final order on such claims by the D.I.C. Old Survey and Settlement reports and the Forest Working Plans should also be consulted to identify the villages which have had traditional access to the PML area. It has already been clarified by this Ministry through its letter dated June 9, 2008 to all state secretaries in charge of Tribal Welfare that the term 'primarily' reside in would include 'such Scheduled Tribes and other traditional forest dwellers who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs'. The Frequently

Asked Questions issued by the Ministry in December 2012 also clarify the meaning of the right to habitat in the following manner "Further, the right to community tenures of habitat and habitation may be recognized over customary territories used by the PTG for habitation, livelihoods, social, economic, spiritual, cultural and other purposes. In some cases the habitats of PTGs may overlap with forest and other rights of other people / communities." (point 7, bullet point 2)

- c) The draft list of villages prepared as described above should be shared with the Ministry, made public through news advertisements and posting in the concerned villages, and sent to all stakeholders so that complete transparency is maintained, and the list can be corrected if any village is left out. After the posting of the list, representations for inclusion of village shall be invited within ten days. The process of identification of the concerned Palli Sabhas may be completed within a maximum period of 15-20 days of receiving this direction. It is hoped that this will include all such villages from where people access the forest area of Niyamgiri falling in the BMP area either as habitat or for collecting MFPs, or whose religious rights would be affected by the diversion of forest area for mining.
- d) Thereafter the concerned Palli Sabhas having a claim in the BMP Project or PML area and those dependent on such area shall be proactively sensitized regarding the Supreme Court judgement as well as their religious rights under PESA and FRA. For this it is necessary that independent experts familiar with the FRA should accompany government officials in the area.
- e) The concerned SDLC and DLC members may be actively involved, on a campaign basis so that every possible effort is made to sensitize the concerned Palli Sabhas and its residents about the nature of rights that can be claimed and recognised and the consequence thereof.
- f) It is further directed that the state machinery ensure that the entire proceedings of the Palli Sabhas take place independently and completely uninfluenced by any vested interests or any form of coercion. The State Government may also ensure that people attend the meetings of the Palli Sabha without any fear or influence. The meetings have to be held within the jurisdiction, i.e. the geographical limits of the Palli Sabha so that a large number of people are able to participate and express their views fearlessly.
- g) A full video and audio graphic record of the meeting(s) and of the proceedings therein and the members present, be made and the records may be kept in pursuance of the guidelines issued by the Ministry of Panchayati Raj vide their Office Memorandum dated December 8, 2011 as evidence.
- h) The Court has directed that an officer equivalent of a district judge has to verify the above. You may also request public representatives namely the MPs the MLAs to be present as observers during the meeting of Palli Sabhas. In addition, observers may also be sent from the representatives of the third party in the Supreme Court case. No company representatives should be included in accordance with the court order.

- i) The decisions of the Palli Sabhas, the video and audio graphic recordings of the meetings and the reports of the observers should be communicated to the MOEF, through the State Government, with a copy to this Ministry.
- ii) This is further directed that this Ministry be informed regarding the steps taken to place all forest rights and religious rights issues before the Palli Sabhas and other such steps being taken by the state. Copies of all advertisements, claims and other documents issued in the course of these proceedings may also be sent to this Ministry.
- iii) The proceedings of the Palli Sabhas along with all the documents of evidence and claims may be submitted to this Ministry as soon as Palli Sabhas in the area take the decision as directed by the Hon'ble Supreme Court.

Should you require any assistance of any kind in helping you with the above process please inform as soon as possible so that the mandate of the Hon'ble Supreme Court is complied with in both letter and spirit. As you are well aware, there is a provision of taking up FRA related activities out of the Grants under Article 275(1) of the Constitution.

The State Government should take the necessary actions in compliance of the aforesaid directions and for implementation of the Judgement on top priority and the Ministry of Tribal Affairs be kept posted of the developments on regular basis.

Yours faithfully,

  
 (Dr. Sadhana Rout)  
 Joint Secretary to the Government of India  
 Tele:011-23383622

विभा पुरी दास

सचिव

Vibha Puri Das

Secretary

Tel.: 23381652

Fax: 23073160



राष्ट्रपति का द्वारा

भारत सरकार

Government of India

जनजातीय कार्य मंत्रालय

Ministry of Tribal Affairs

शास्त्री भवन, नई दिल्ली-110001

Shastri Bhawan, New Delhi -110001

E-mail : secy-tribal@nic.in

D.O.No.23011/22/2010-FRA

23rd May 2013

Dear Shri *Patra*,

Kindly refer to this Ministry's letter of even number dated the 2<sup>nd</sup> May, 2013 (copy enclosed) addressed to Commissioner-cum-Secretary, SC and ST Development Department, Government of Odisha vis-à-vis detailed actions to be taken in compliance to the judgement dated the 18<sup>th</sup> April, 2013 of Hon'ble Supreme Court of India in WP (Civil) No.180 of 2011 in Orissa Mining Corporation Vs Ministry of Environment and Forests. As you are aware, specific directions have been issued by the Hon'ble Supreme Court both to the State Government as well to the Ministry of Tribal Affairs, with regard to ensuring due recording of the Forest Rights as well as the protection of cultural and religious rights of STs and OTFDs over 660.749 hectares of forest land

In compliance of the above judgement, the State Government, *inter alia*, was required to:-

- immediately issue an advertisement in all the local newspapers (especially the ones in the vernacular language that are widely read in the districts of Kalahandi and Rayagada) that all STs and OTFDs living anywhere in these districts who wish to claim individual or community rights as per the FRA or cultural and religious rights over any part of the 660.749 hectares of forest land should submit their applications;
- prepare a list of villages and hamlets that have been traditionally grazing their cattle, collecting minor forest products, protecting forests, worshipping deities or otherwise using the forest land demanded by OMC for BMP and share the draft list of villages prepared with this Ministry and made public through news advertisements and posting in the concerned villages; and
- complete the process of identification of the concerned Palli Sabhs may be completed within a maximum period of 15-20 days.

2. You will appreciate that a considerable time has elapsed since the issue of the aforesaid letter from the Ministry and we have not heard anything from the State Government on the actions to be taken in this matter. You will also appreciate that the Hon'ble Supreme Court has directed that fresh claims be filed before the Gram Sabha within six weeks of the judgement and both this Ministry as well as the State Government are required to assist the Gram Sabha for settling of individual as well as community claims. We, therefore, need to work jointly and urgently in this crucial matter.

3. In order to facilitate the State Government in fulfilment of some of the time bound tasks, the Ministry of Tribal Affairs has developed a module for orientation on FRA in Kalahandi and Rayagada; which is enclosed. I will appreciate if the orientation

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programmes are conducted jointly sometime in the last week of May, 2013 so that the directions of the Hon'ble Supreme Court are complied with in letter and spirit.

4. I look forward to hearing from you in this regard,

*Regards*

Yours sincerely,

*Vibha Puri Das*  
(Vibha Puri Das)

Encl:a/a

Shri Bijay Kumar Patnaik,  
Chief Secretary,  
Government of Odisha,  
Bhubneshwar.

Bauxite mining

in

Niyamgiri Hills, Odisha



विभा पुरी दास

सचिव

Vibha Puri Das

Secretary

Tel 23381652

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भारत सरकार

Government of India

जनजातीय कार्य मंत्रालय

Ministry of Tribal Affairs

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Shastri Bhawan, New Delhi-110001

E-mail : secy-tribal@nic.in

D.O. NO.23011/22/2010-FRA

Dear Shri *Sh. Patnaik*,

7<sup>th</sup> June, 2013

Thank you for your letter No.18584/TD-II(FRA)-35/2013 dated 1<sup>st</sup> June, 2013, apprising us of the steps taken by the Government of Orissa with regard to the judgement dated 18<sup>th</sup> April, 2013 of Hon'ble Supreme Court in Writ Petition (Civil) No.180 of 2011 in Orissa Mining Corporation Vs. Ministry of Environment and Forests and others and also enclosing therewith letter dated 27<sup>th</sup> May, 2013, addressed to the Collectors of Rayagada and Kalahandi districts by the Commissioner-cum-Secretary to Government of Odisha.

2. It has been stated in the aforesaid letter that the view of the Law Department of Odisha Government has been obtained with regard to the import of the said Hon'ble Supreme Court's Judgement especially with respect to conducting of Gram Sabha in the Kalahandi and Rayagada districts. You have also informed us that the State Government's law department has advised you that the final judgement of the Apex Court has to be read in conjunction with the interim order dated 6<sup>th</sup> December, 2012.

3. I would like to bring the following to the notice of the State Government:

(a) In the view of this Ministry, the judgement delivered on the 18<sup>th</sup> April, 2013 is the only judgement that assumes finality and it is not subject to or to be read in reference to earlier orders, affidavits filed, argument or submissions made. It is also clear that the Supreme Court in its judgement has not alluded to or limited the application of the Forest Rights Act in the project areas to any specific number of villages under any paragraph of this judgement. Therefore, any interpretation to the contrary would simply be an incorrect interpretation.

(b) Paras 53 and 54 of the judgement referred to in your letter relate to factual information and observations made by the Supreme Court. Such observations cannot be interpreted to assess the number of villages that need to be considered for recognition and vesting of claims under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (hereinafter Forest Rights Act (FRA)).

(c) Para 58 of the judgement too emphasizes that the question whether STs & OTFDs have religious rights is required to be considered by the Gram Sabha. It further observes if the BMP in any way affects their religious rights, that right has to be preserved and protected.

(d) In fact, subsequent paragraphs where there are clear directions of the Supreme Court are the operative parts of the judgement. Thus, for example, Para 59 clearly states that "the Gram Sabha is also free to consider all the community, individual as well as cultural and religious claims, over and above the claims which have already been received from Rayagada and Kalahandi districts. Any such fresh claims be filed before the Gram Sabha within six weeks from the date of this judgement. State Government as well as the Ministry of Tribal Affairs, Government of India, would assist the Gram Sabha for settling of individual as well as community claims."

(e) Similarly, paras 60 and 62 also lay down a process and a timeline within which the claims have to be considered and decision has to be taken by the Gram Sabha in the presence of judicial officers as observers for which you have taken appropriate steps as per information given in the above letter. This Ministry is in receipt of copies of several claims under FRA for various rights including religious and cultural rights claimed over Niyamgiri forests and sacred areas from villages over and above the 12 villages selected by the State Government. It further shows that Niyamgiri forests are shared by not just 12 villages, while a number of other villages in Kalahandi and Rayagada too share religious and cultural rights over Niyamgiri.

4. In view of the above, I would emphasise that limiting the convening of the Gram Sabha only 12 villages is not in accordance with the Hon'ble Supreme Court order dated 18<sup>th</sup> April and directions issued by this Ministry under Section 12 of FRA vide letter No.23011/22/2010-FRA dated 2<sup>nd</sup> May, 2013.

5. The directions issued by this Ministry have laid down steps to arrive on the exact number of villages/hamlets where forest dwellers have customary religious and cultural rights and wish to claim rights as per FRA. The list of villages where rights of forest dwellers are guaranteed under the FRA or where cultural and religious rights are likely to be affected cannot be arbitrarily decided by the State Government. It is to be decided by the people i.e. Palli Sabha where claims would be filed through a transparent manner so that no genuine Gram Sabha who have a legitimate claim is left out of the process. This is in line with para 59 of the Apex Court judgement quoted above.

6. I would also like to bring to your notice that the rights which are required to be protected include the habitat rights as defined in Section 3(1)(e) of FRA. Section 3(1)(e) addresses the rights of particularly vulnerable tribal groups (Dongria Kondhs and Kutia Kondhs in this case) over their customary habitats or territories which, in local context, comprise the entire Niyamgiri forests and sacred areas, which, as we have learnt, are shared by various clan groups of the local tribal communities. It must be noted here that Rule 12B(1) of the Amendment Rules 2012 specifically deals with the recognition of habitat rights and ensure that all PTGs receive habitat rights, in consultation with the concerned traditional institutions of PTGs and their claims are filed before the concerned Gram Sabhas. Since the rights to be addressed include habitat rights, it must be ensured that the process of claims covers all the villages and settlements which share these rights.

7. I would also further advise you that all the points mentioned in the directions issued under Section 12 of the FRA require statutory compliance on part of the State Government.

8. In view of the above, you may like to ensure that the State Government arrive at the exact number of villages in which Gram Sabha is to be conducted through the process mentioned in the directions issued by this Ministry and in accordance with the judgement of the Hon'ble Supreme Court. Ministry may be apprised the progress against the deliverables indicated in this Ministry's letter of 2<sup>nd</sup> May, 2013 at the earliest in view of the timeline indicated in the judgement. Should you require any assistance with the above process, please inform us so that the directions of the Hon'ble Supreme Court are complied with in both letter and spirit.

*Regards,*

Yours sincerely,

*Vibha Puri Das*  
(Vibha Puri Das)

Shri Bijay Kumar Patnaik,  
Chief Secretary,  
Government of Odisha,  
Bhubaneswar.

No.23011/22/2010-FRA  
Government of India  
Ministry of Tribal Affairs  
(FRA Division)

ShastriBhavan, New Delhi-110001  
Dated, the August, 2013

To

The Secretary,  
Ministry of Environment and Forests,  
Government of India,  
New Delhi

Subject: Implementation of Hon'ble Supreme Court of India judgement dated 18<sup>th</sup> April, 2013 in W.P (Civil) No. 180 of 2011 in Orissa Mining Corporation vs Ministry of Environment and Forests & Ors; IA No. 7 filed by State of Orissa seeking extension of time listed for hearing on 8<sup>th</sup> August 2013.

Sir,

I am directed to refer to the captioned subject and to apprise you of a few facts relating to implementation of the Hon'ble Supreme Court of India judgment dated 18<sup>th</sup> April, 2013 in the abovementioned matter.

2. It may be informed that the Ministry of Tribal Affairs has proceeded for implementation of the judgment in its letter and spirit with the requisite urgency and the emphasis it needed. On receipt of the judgment, the Ministry of Tribal Affairs, vide its letter dated the 2<sup>nd</sup> May, 2013 had given specific directions under Section 12 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereafter 'Forest Rights Act'); a copy of which is enclosed. It was, inter alia, stated therein that a list of villages be drawn up to include all such villages from where people access the forest area of Niyamgiri falling in the BMP area either as habitat or for collecting MFPs, or whose religious rights would be affected by the diversion of forest area for mining. This was followed up with communications dated 23<sup>rd</sup> May, 2013 and 7<sup>th</sup> June, 2013 ; copies of which are also enclosed.

3. The State Government of Orissa, however, as per information received, has identified only 12 villages for holding of Gram Sabhas in the area, which Gram Sabha meetings are ongoing and are expected to conclude on or around 19<sup>th</sup> August 2013, and has not

proceeded on the basis of the instructions and communications issued by this Ministry regarding holding of Gram Sabha meetings in the remaining affected villages in the area. This is completely contrary to the judgment dated 18.4.2013 as well as the provisions of the Forest Rights Act.

4. It is pertinent at this point to state that the judgment dated 18.4.2013 of the Hon'ble Supreme Court has correctly interpreted the powers of the Gram Sabha under Section 5 of the Forest Rights Act to ensure that the habitat rights of the forest dwelling scheduled tribes and other traditional forest dwellers are preserved from any form of destructive practices affecting their cultural and natural heritage. Therefore, holding Gram Sabhas in all the affected villages (and not merely<sup>12</sup>) to ascertain the view of the forest rights holders regarding the mining project, over and above the claims process, is not only a direction of the Hon'ble Supreme Court but also a statutory imperative under the Forest Rights Act.

5. The Ministry of Tribal Affairs had also sought the opinion of the Ministry of Law & Justice regarding holding of Gram Sabha by the State Government in only twelve villages. The Ministry of Law & Justice has agreed with the position of Ministry of Tribal Affairs that the scope of filing the claims is open for the entire District of Rayagada and Kalahandi and there is nothing in the Judgment dated 18.4.2013 of Supreme Court to restrict the same to the 12 villages. It was also mentioned in this Ministry's letter dated 7.6.2013 that the Ministry is in receipt of copies of several claims under FRA for various rights including religious and cultural rights claimed over Niyamgiri forest and sacred areas from villages over and above 12 villages selected by the State Government.

6. The Hon'ble Supreme Court of India has given specific directions to the State of Orissa as well as to the Ministry of Tribal Affairs with regard to ensuring Forest Rights claims in the districts of Rayagada and Kalahandi; the process that needs to be followed in ensuring that community claims are entertained and finalized in accordance with Forest Rights Act, the role of Gram Sabha (which in the context of Orissa is the Palli Sabha) in safeguarding the customary and religious rights of the STs and other TFDs under the Forest Rights Act (para 56); the importance of PESA and specifically Section 4(d) which mandates the Gram Sabha's competence to safeguard and preserve the traditions, customs, cultural identity and community resources (Para 57). More importantly, the judgment emphasizes that the questions relating to religious and cultural rights including right of worship of the tribal communities in the Niyamgiri Hills have to be considered by the concerned Gram Sabhas (Para 58). It further observes that whether the BMP affects the religious and cultural rights of the Particularly Vulnerable Tribal Groups in the area, especially their right to worship their deity – Niyamraja has not been placed before the Gram Sabhas for their active consideration. Para 59 clearly states that "*the Gram Sabha is also free to consider all the community, individual as well as cultural and religious claims, over and above the claims which have*

already been received from Rayagada and Kalahandi districts. Any such fresh claims be filed before the Gram Sabha within six weeks from the date of this judgement. State Government as well as the Ministry of Tribal Affairs, Government of India, would assist the Gram Sabha for settling of individual as well as community claims."

7. Based on the information available with this Ministry, including copies of several claims under FRA for various rights including religious and cultural rights, the Ministry of Tribal Affairs is of the view that there is a high probability that there exist claims under FRA for various rights including religious and cultural rights over Niyamgiri Forest and sacred areas from villages over and above the 12 villages selected by the State Government. It has, therefore, been decided that a team be constituted to assess claims in villages beyond the 12 villages selected by the State Government in Rayagada and Kalahandi Districts in compliance of the Apex court judgement. The Team is scheduled to visit Rayagada and Kalahandi Districts in due course of time. The State Government has also been addressed in this regard vide letter dated 24<sup>th</sup> July, 2013; a copy of which is also attached.

8. It is understood that an application filed by the State of Orissa being IA No. 7 in WP (C) No. 180 of 2011, is coming up before the Hon'ble Supreme Court on 8<sup>th</sup> instant. In the said application the the prayer is to grant further six weeks time for "compliance of the judgment dated 18.4.2013 for inviting fresh claims in all 12 villages for individual as well as the community claims; along with cultural and religious claims Gram Sabhas may be allowed to be held within three months from the last date of receipt of fresh claims."

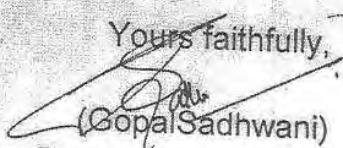
9. Clearly, the State Government is maintaining its stand to restrict the holding of Gram Sabhas in 12 identified villages only; which is contrary to the directions of the Hon'ble Supreme Court in its judgment of 18.4.2013 and the provisions of the Forest Rights Act as stated in several communications of this Ministry aforesaid. 10. Whereas it would be seen from the aforesaid that all steps have been taken by the Ministry of Tribal Affairs for implementation of the judgment dt. 18.4.2013, the legal remedy for the stand taken by the State Government would lie with the Ministry of Environment and Forest; being the party to the dispute before the Supreme Court and also party in the recent IA No. 7 for extension of time filed by the State Government.

10. Another important aspect is in the context of Schedule V Areas is with regard to the Constitutional safeguards which have been enumerated and explained under Article 244(1) of the Constitution and also as provided for in the Orissa Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Amendment Regulation,2000.Hence any land located within notified Schedule V Areas cannot either be alienated or leased to non-tribal person/persons or any community or corporation

which is not owned and controlled by the people, who do not belong to the Scheduled Tribe community in the State of Odisha.

11. It is accordingly requested that the aforesaid stand of the Ministry of Tribal Affairs be elucidated before the Hon'ble Supreme Court at the earliest and at the forthcoming hearing while representing the stand of the Ministry of Environment and Forests. The Ministry of Tribal Affairs may also be kept posted of the developments in this regard.

Yours faithfully,



(Gopal Sadhwani)

Deputy Secretary to the Government of India

Tele:23383965

Encl:a/a

# Municipal Areas

and

# Forest Rights Act

No. 17014/02/2007-PC&V(Vol. VII)(Pt.)  
 Government of India  
 Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

To

March 4, 2010

The Secretary,  
 Tribal Development Department,  
 Government of Maharashtra,  
 Mumbai – 400032.

**Subject: Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal Corporation Areas.**

Sir,

I am directed to refer to the letter No. TRT/Forest Act/FRA in Municipal areas/460 dated 1.12.2009 from the Commissioner, TR&TI, Pune, on the above subject and to say that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 prescribes the Gram Sabha as the authority to initiate the process of determining the nature and extent of the forest rights which are to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers. As per the act and the Rules framed thereunder, the Sub-Divisional Level Committee has to examine the resolution passed by the Gram Sabha and prepare the records of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision on the record of forest rights.

2. It has been stated in the above letter that the Sub-Divisional Level Committee and the District Level Committee cannot be formed in the Municipal Corporation areas of the State as per the provisions of the Act. In view of this, the Act cannot be implemented in the concerned Municipal Corporation areas of the State.

Yours faithfully,  
 Sd/-  
 [A.K. Srivastava]  
 Director  
 Tel. 23387444

Copy to the Commissioner, Tribal Research & Training Institute, 28, Queens Garden, Pune – 411001 for information.

Sd/-  
 [A.K. Srivastava]  
 Director

F. No. 19020/02/2012-FRA  
Government of India  
Ministry of Tribal Affairs

\*\*\*\*\*

Shastri Bhawan, New Delhi  
Dated: 29<sup>th</sup> April, 2013

To  
All the Principal Secretaries/ Secretaries/Commissioners of the States/UTs.  
Tribal Welfare Department.

**Subject: Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of forest Rights) Act, 2006 in Municipal areas.**

I am to refer to the captioned subject and to inform that Ministry of Tribal Affairs had issued clarifications to SC/ST Development Department of Govt. of Chhattisgarh vide its letter No. 23011/28/2008-SG-II, dated 21.01.2009 on the issue of processing of the claims of the occupants of forest land in Municipal and Panchayat area of Korba District of Chhattisgarh (copy enclosed). Ministry of Tribal Affairs had also issued clarifications to the Secretary, Tribal Development Department, Government of Maharashtra vide its letter No. 17014/02/07-PC & V (vol.-VII)(pt.) dated 4.3.2010 on the issue of applicability of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006( in short Forest Rights Act) in municipal Area (copy enclosed). As per these two clarifications, Forest Right Act was not applicable in Municipal Areas.

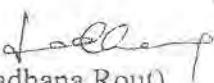
2. It is further informed that the issue of applicability of the " The Scheduled Tribes and Other Traditional Forest Dwellers(Recognition of Forest Rights ) Act,2006" in Municipal Area has figured in W.P. no. 7705 filed by Kashtakari Sanghatana and others in Bombay High court. The clarification issued by this Ministry on the applicability of Forest Rights Act (FRA) to Municipal areas has been questioned in the said Writ Petition.

::2::

3. The clarification, as stated in para 1 above, has since been reviewed by this Ministry in consultation with Ministry of Law & Justice and the same has been withdrawn by this Ministry vide its communication of even number dated 12.04.2013 addressed to Tribal Development Department, Maharashtra and SC/ST Development Department, Chhattisgarh (copies enclosed). Now the stand of this Ministry is that Forest Rights Act applies to Municipal areas. Further, as per the revised clarification, in Municipal areas also. Further, Mohalla Sabha can be constituted as equivalent to the Gram Sabha for the purpose of Forest Rights Act and as such, in such areas the Mohalla Sabha should be constituted along with the equivalent tiers at the sub-division and district level and accordingly be engaged to initiate, consider and finally approve the process of vesting of Forest Rights as envisaged under the Act.

4. State Governments are, therefore, requested to suggest equivalent tiers at the sub divisional and district level with respect to the urban local bodies which can be vested with similar functions to that of Sub Divisional Level committee and District Level Committee so that they are able to deliver the functions assigned to these bodies as per the Forest Rights Act, 2006.

5. The suggestions/ recommendations for formation of appropriate committee equivalent to that of Sub division and District level Committee for the Municipal areas may be furnished to the Ministry at the earliest.

  
(Dr. Sadhana Rout)  
Joint Secretary  
Telefax: 2338-3622

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19020/ 02/ 2012-FRA  
Government of India  
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi  
Date: 12.04.2013

To,

The Secretary  
Tribal Development Department  
Government of Maharashtra  
Mumbai – 400 032.

Subject : Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal Areas.

Sir,

I am directed to refer to TRT/ Forest Act/ FRA in Municipal area/ 460 and this Ministry's letter No.17014/ 02/ 2007-PC&V (Vol VII) (Pt) dated 4.3.2010 on the above subject and to state that, the clarification issued by this Ministry on the issue of applicability of the Forest Rights Act in Municipal Areas has been reviewed in consultation with Ministry of Law. The revised clarification on this matter shall be issued shortly to all the State/ UT Governments. The stand of this Ministry is that Forest Rights Act applies to Municipal Areas and the clarification issued earlier vide letter No. 17014/ 02/ 2007-PC&V (Vol VII) (Pt) dated 4.3.2010, as referred to above, stands withdrawn.

  
(Gopal Sadhwani)  
Deputy Secretary to the Government of India  
Tele: 23383965  
Email: [sadhwani.gopal@nic.in](mailto:sadhwani.gopal@nic.in)

Copy to: The Commissioner, .... For information  
Tribal Research & Training Institute  
28, Queens Garden, Pune – 411 001.

Copy also to File No. 17014/ 02/ 2007-PC&V (Vol VII) (Pt).

No. 19020/02/2012 FRA (Vol II)  
 Government of India  
 Ministry of Tribal Affairs

August Kranti Bhawan, New Delhi  
 Dated: 5.03.2015

Office Memorandum

Subject: Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal/Urban Areas- regarding

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereafter 'FRA') is for recognition and vesting of individual and community rights on forest land irrespective of its location. Ministry, vide OM dated 29<sup>th</sup> April 2013 bearing F No. 19020/02/2012-FRA had clarified accordingly.

2. Some of the States/UTs have sought advice of the Ministry of Tribal Affairs with respect to details of application of the Act in urban/ Municipal areas. In order to facilitate effective implementation through a uniform process, Ministry of Tribal Affairs by exercising power under Section 12 of the FRA, 2006 issues the following directions:
3. Part IX-A (The Municipalities) of the Constitution of India, particularly Article 243Q, requires that every State shall constitute the following categories of municipal areas in urban areas:
  - a. Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;
  - b. Municipal Council (which could also have different nomenclature), for a smaller urban area;
  - c. Municipal Corporation (again, by whatever name called), for a larger urban area.
- 3.1 On forest rights in municipal areas, all references to the term 'Gram Sabha' in the FRA, the FR Rules, the Guidelines, clarifications etc., shall be understood to mean the Wards Committee if constituted under Article 243S of the Constitution, and if not constituted, the assembly of adult residents of the settlement where such a habitation or settlement has continued to exist and is clearly identifiable; and if such settlement is not clearly identifiable, the Mohalla Sabha or Pada or Tola, whichever is smaller;  
*Provided that in Nagar Panchayats or other transitional areas, the Gram Sabha shall comprise the assembly of adult residents of the erstwhile pada/tola/hamlet/habitation/ traditional village.*

(contd.) (i) A

3.2 This assembly under Section 6 of the FRA shall initiate the process for determination of the nature and extent of individual and community forest rights or both, and shall also perform the functions of the Gram Sabha as delineated in the FRA, the FR Rules, the Guidelines etc. including the powers listed in Section 5 of the FRA, the functions delineated in Rule 4, and the constitution of a Forest Rights Committee (FRC) as defined in Rule 2(e) of the FR Rules.

3.3 The Sub-Divisional Level Committee (SDLC) constituted under Section 6(3) of the FRA shall also receive, consider, decide on all claims from municipal areas in the said Sub-Division, subject to the modification in para 3.5 below.

3.4 The existing District Level Committee (DLC) constituted under Section 6(5) of the FRA, shall also consider and take decisions on all claims from municipal areas in the said District, subject to the modification in para 3.5 below.

3.5 The SDLC and DLC, composition in municipal areas, shall be as follows:

a. In municipal areas not covered under the Sixth Schedule to the Constitution, the three representatives of Panchayati Raj Institutions in the SDLC, as specified in Rule 5(c) of the FR Rules, shall be replaced with representatives nominated by the municipality/municipalities in the Sub Division; of whom at least two shall be Scheduled Tribes (STs) preferably those who are forest dwellers, or who belong to the particularly vulnerable tribal groups, and where there are no STs, two members who are preferably other traditional forest dwellers, and one shall be a woman member;  
*Provided that where there are more than one municipality in the Sub -Division, the members shall be nominated from different municipalities in decreasing order of tribal population residing therein.*

b. In municipal areas other than those falling under the Sixth Schedule to the Constitution, the three members of the District Panchayat in the DLC specified in Rule 7(c) of the FR Rules, shall be replaced by 3 members from the Town Panchayats/ Municipal Councils/ Municipal Corporations in such District, to be nominated by the municipalities of the District; of whom at least two shall be STs preferably those who are forest dwellers, or who belong to the particularly vulnerable tribal groups, and where there are no STs, two members who are preferably other traditional forest dwellers, and one shall be a woman member;  
*Provided that where there are more than one Nagar Panchayat/Municipal Council/ Municipal Corporation in the District, the members shall be nominated from different municipalities in decreasing order of tribal population residing therein.*

c. In areas covered under the Sixth Schedule to the Constitution, the aforesaid members of the SDLC and DLC shall be from the Village Council/Committee and atleast one such member shall be a woman

3.6 Where the Nagar Panchayat/ Municipal Council/ Municipal Corporation is at the District level or comprises several Districts, efforts should be made to consult SDLC at the Sub-Division level within the District.

3.7 The State Level Monitoring Committee (SLMC) constituted under Section 6(7) of the FRA read with Rule 9 of the FR Rules shall regularly monitor the progress of recognition and vesting of forest rights in municipal areas and submit returns and reports in this regard to this Ministry, and all other functions as specified under Rule 10 of the FR Rules shall also extend to municipal areas.

3.8 All powers, duties, and functions of the SDLCs, DLCs, and SLMCs as specified in the Forest Rights Act, the Forest Rights Rules, the Guidelines, clarifications etc. shall apply *mutatis mutandis* to exercise of such powers, duties, and functions with respect to forest rights in municipal areas also.

4. This direction issues with the approval of the Hon'ble Minister, Tribal Affairs.

  
 (Roopak Chaudhuri)  
 Deputy Secretary to the Government of India  
 Tel: 26182428

To,

1. The Chief Secretaries of all States/UTs
2. Principal Secretaries/Secretaries, TWD of States/UTs
3. The Secretary, M/o Environment, Forest & Climate Change, Indira Paryavaran Bhawan, Aliganj, Jorbagh Road, New Delhi – 110 003
4. The Secretary, M/o Urban Development, Nirman Bhawan, New Delhi – 110001
5. The Secretary, M/o Panchayati Raj, Krishi Bhawan, New Delhi – 110001
6. The Secretary, M/o Law & Justice, Shastri Bhawan, New Delhi – 110 001

Copy to:

1. Private Secretary to Prime Minister, PMO, South Block, New Delhi - 1
2. Cabinet Secretary, Cabinet Secretariat, Rashtrapati Bhawan, New Delhi - 1

Implementation  
of  
Forest Rights Act  
in  
Left Wing Extremist (LWE)  
affected areas

गृह बुद्ध मुखर्जी  
 G. Ram Buddha Mukherji  
 Tel.: 23381652  
 Fax: 23073160

सचिव, भारत सरकार  
 Secretary to the Government of India  
 जनजातिकार्य मंत्रालय  
 Ministry of Tribal Affairs  
 शास्त्री भवन, नई दिल्ली-110001  
 Shastri Bhawan, New Delhi-110001  
 E-mail : secy-tribal@nic.in  
 Website : www.tribal.gov.in

D.O. No.TP/39/Secy(TA)/2009

2<sup>nd</sup> July, 2009.

Dear

I would like to thank you and your colleagues for making such excellent arrangements for the visit of the Cabinet Secretary and the Secretaries to the Government of India including myself to Jharkhand. I felt it proper to pen down a gist of the discussions that took place between officers of the Tribal Welfare Department and myself, as well as in presence of the Cabinet Secretary and yourself.

~~extremist affected areas~~  
~~we should~~  
~~decide~~ 2. In the context of the difficulties that are being experienced in working in extremist affected areas, including the non-availability of contractors, we have decided that we should concentrate on tribal welfare/development activities in areas which are still free from extremist influence (e.g. districts around Dumka and in the periphery of extremist affected areas).

~~31/7/09~~  
~~03/09/09~~  
~~BS (S)~~  
~~RP (BS)~~  
~~CCP (RA)~~  
~~6/10/09~~  
~~Int. M~~  
~~236/TP/RA/09~~  
~~619~~  
 3. We have also agreed that we will exert maximum energy and attention to the implementation of the Forest Rights Act essentially because it is bound to have popular support, and, therefore, unlikely to be obstructed by the extremists. We will emphasise on increasing awareness using traditional and non-traditional channels and, at the same time, entrust the revenue, forests and NGO machinery to facilitate the collection of applications and submission to Gram Sabhas. Special emphasis will be paid to the collection of claims for community rights (in the case of Jharkhand, this will relate to collection of minor forest produce as well as grazing) so that role of extremists on MFP revenue decreases. Even though the collection of claims on the date of meeting was only 4539 and the vesting of rights was only 72, we have to complete the exercise as per direction of the Hon'ble President of India by December, 2009.

4. Reaching development to the particularly vulnerable tribal groups (PTGs) of Jharkhand, who are eight in number and their population, as per 2001 census, is about 2.23 lakhs, will be our next major focus. In the first instance, Jharkhand will get their CCD plan for the PTGs cleared as soon as possible and, thereafter, utilize the funds (Rs.15 crore approximately) placed with them during the years 2007-08 and 2008-09. Besides the items covered under the CCD plan, which should be in a non-dispersed area, and hamlet/village focused for saturation satisfaction, tribal welfare department should also push related departments to take up programmes that will provide emotional satisfaction to the PTGs as

well as non-PTGs. Departments to be persuaded would cover Forests (easy access to and marketing of minor forest produce and the dropping of petty forest offence cases); Revenue (quick settlement of land rights and restoration of alienated tribal land), Public Distribution (ensuring food grains to all on the verge of starvation on a pattern that is available in neighbouring States); Rural Development (covering all PTGs with houses within next three years if not earlier and providing jobs under NREGS), etc.

5. We have also agreed that proposals for construction of Ashram Schools (from primary to middle level), hostels, etc. will be as per the schemes of the Ministry of Tribal Affairs, and shall be submitted with all documents as per the prescribed check list, utilization certificates/expenditure statement so that minimum time is lost in processing the proposals, and releasing funds.

6. We have also agreed that the grievance redressal machinery in the tribal welfare areas must be revamped. Essential components of this will be Inter departmental camps regularly held every month, under the leadership of the District Collectors, for solution to immediate problems; and regular follow up for items that need a longer completion period. Continuity of staff, giving incentives for good work in such difficult areas are also acknowledged components of a good tribal delivery mechanism. Article 275(1) proviso can be tapped for any scheme that you may like to design for improving the level of tribal administration in Jharkhand.

Yours sincerely,

(G.B. Mukherji)

Shri Ashok Kumar Basu,  
Chief Secretary,  
Government of Jharkhand,  
Ranchi.

Copy to:

1. Shri Ajit Seth, Secretary (Coordination), Cabinet Secretariat, Rashtrapati Bhawan, New Delhi for information.
2. Shri Aditya Swaroop, Secretary, Tribal Welfare Department, Government of Jharkhand, Ranchi.
3. JS(BS)/JS(RP)

(G.B. Mukherji)  
Secretary (TA)

DR. BACHITTAR SINGH  
श्री सचिव  
J.O.L.T SECRETARY  
टेली/फोन : 23073489  
फैक्स/फैक्स : 23070489

D.O. No. 17014/06/2008-PC&V

Dear Sir,

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भारत सरकार  
GOVERNMENT OF INDIA  
जनजातीय कार्य भंगालक  
MINISTRY OF TRIBAL AFFAIRS  
शासनी भवन, नई दिल्ली-110115  
SHASTRI BHAWAN, NEW DELHI-110115

E-mail : bsingh@nic.in  
Website : www.tribal.gov.in

Dated: 31<sup>st</sup> August, 2009

You are aware that Left Wing Extremism (LWE) has to be addressed both on the development/welfare as well as law and order fronts. Hence, as far as the Ministry of Tribal Affairs is concerned, you are requested to take the following actions -

- i) Allocate funds to the LWE affected districts/ areas under the scheme of Article 275(1) of the Constitution and SCA to TSP, in proportion to the percentage of population of LWE affected area to the percentage of total population in the State.
- ii) Propose for construction of model Hostels and Ashram Schools in LWE affected districts/ areas separate or within the general proposals, for quick priority funding.
- iii) Concentrate on the implementation of the 'Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006'. You are requested to submit separate reports on the standard of implementation of the Act and focused monitoring immediately.

Yours sincerely,

Sd/-

(Dr. Bachittar Singh)

To,

The Principal Secretary / Secretary of Social Welfare Department of Governments of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa & Uttar Pradesh

Copy to:

1. Shri Satish Agnihotri, Joint Secretary, Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
2. Shri Kashmir Singh, Joint Secretary, Naxal Management, Ministry of Home, North Block, New Delhi.

Copy to:

Director (Edu), Director (SG) & Under Secretary (NGO) for necessary action.

Sd/-

(Dr. Bachittar Singh)

गौतम बुद्ध मुखर्जी  
Gautam Buddha Mukherji  
Tele. : 23381652  
Fax : 23073160



D.O.No.23011/24/2009-FRA

Most Immediate  
सचिव, भारत सरकार  
Secretary to the Government of India  
जनजातीय कार्य मंत्रालय  
Ministry of Tribal Affairs  
शास्त्री भवन, नई दिल्ली-110001  
Shastri Bhawan, New Delhi-110001  
E-mail : secy-tribal@nic.in  
Website : www.tribal.gov.in

31<sup>st</sup> August, 2009

Dear Ramakanth,

Kindly refer to my d.o. letter of even number dated 12/15 June, 2009 regarding implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

2. In reply to my letter, the Principal Secretary to the Government (Tribal Social Welfare Department, Vide his D.O. letter No.7073/LTR.1/2009 dated 22.6.2009, has informed that, as on 20.6.2009, the total claims received is 3,28,898 and so far the State Government had distributed 44,135 certificates. Further, the Chief Minister has issued directions to complete the entire process of consideration by the DLC and distribution of certificates of titles by the end of July, 2009. The State Government had earlier informed this Ministry that a total 3,29,101 claims had been filed in the State. It is not clear as to how the number of claims filed in the State has come down from 3,29,101 to 3,28,898. This may be clarified.

3. We would request you to prioritise the implementation of the Forest Rights Act in those areas of your State that have been adversely affected by left wing extremism.

4. As you are aware, the Hon'ble President of India, in her Address to both the Houses of Parliament on 4<sup>th</sup> June, 2009, has emphasized the need to ensure the distribution of title deeds to all the eligible claimants under the Act by end of December, 2009. The State Government, therefore, needs to accelerate the process of implementation of the Act so that the exercise of vesting of forest rights to all the eligible claimants could be completed within the given deadline.

5. I therefore, request you to kindly review the progress in this regard personally and ensure that the entire work relating to implementation of the Act is completed at the earliest. The Ministry may be informed of the progress/strategy that the State Government proposes to adopt for ensuring completion of the work within the deadline.

Replies,

Shri P. Ramakanth Reddy,  
Chief Secretary,  
Government of Andhra Pradesh  
Hyderabad.

Yours sincerely

[ G.B. Mukherji ]

1/8/09  
11/8/09



A.K. SRIVASTAVA  
DIRECTOR

सरकारी जगते



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भारत सरकार

Government of India

जनजातीय कार्य पंजालय

Ministry of Tribal Affairs

शास्त्री भवन, नई दिल्ली-110 015

Shastri Bhawan, New Delhi-110 015

Tel: 23387444, Fax: 23383968

D.O.No.23011/14/2008-FRA

Dated: September 14, 2009

Dear Sir,

Kindly refer to Shri G.B. Mukherjee, Secretary, Tribal Affairs D.O. letter No.23011/24/2009-FRA dated 31<sup>st</sup> August, 2009, addressed to the Chief Secretary of your State whereby the State Government was requested to prioritise the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in those areas of the State that have been adversely affected by the left-wing extremism. Dr. Bachittar Singh, Joint Secretary, Ministry of Tribal Affairs vide his D.O. letter No.17014/05/2008-PC&V dated 31.08.2009 had also requested to submit separate reports in this regard, in the standard/prescribed proforma, for focused monitoring.

2. It is requested that the information relating to implementation of the Act, in the Left Wing Extremism (LWE) affected districts/areas of your State, be furnished immediately in the format enclosed.

With regards,

Yours sincerely,

A.K. Srivastava  
14/09/09

Shri A.K. Tigidi  
Principal Secretary  
Social Welfare Department  
Government of Andhra Pradesh  
Hyderabad

To:- Principal Secretary / Secretary to all  
LWE Affected States.

Format for Information relating to the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the Left Wing Extremism (LWE) affected districts/areas.

Name of State \_\_\_\_\_

For the month of \_\_\_\_\_

S.No	Name of the District	Status of formation of various Committees			No. of Gram Sabha meetings organized.	No. of Forest Rights Committees Constituted	Number of claims filed at Gram Sabha level	Number of titles distributed/ ready for distribution	Number of claims rejected						
		SDLC	DLC	SLMC						STs	OTFDs	Total	STs	OTFDs	Total
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

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डॉ. बचित्तर सिंह  
DR. BACHITTAR SINGH  
सचिव  
JOINT SECRETARY  
टेली/Tele : 23073489  
फैक्स/Fax : 23073489

D.O. No. 17014/06/2008-PC&V

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भारत सरकार  
GOVERNMENT OF INDIA  
जनजातीय कार्य मंत्रालय  
MINISTRY OF TRIBAL AFFAIRS  
रामत्री भवन, नई दिल्ली-110016  
SHASTRI BHAWAN, NEW DELHI-110016  
E-mail : bisingh@nic.in  
Website : www.tribal.gov.in

Dated: 11.11.2009

Dear Sir,

Kindly refer to my earlier DO letter of even number dated 31<sup>st</sup> August, 2009 regarding the need of addressing both the developments / welfare as well as law and order fronts of Left Wing Extremism thereby requesting you to take action on three points concerning the Ministry of Tribal Affairs.

2. I shall be grateful if you could kindly intimate me the action taken / any progress made in this regard at an early dated.

With regards,

Yours sincerely,

Sd/-

(Dr. Bachittar Singh)

To,

The Principal Secretary / Secretary of Social Welfare Department of Governments of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa & Uttar Pradesh

Copy for necessary action:

- i) Director (Education)
- ii)  Director (SG)

(Dr. Bachittar Singh)

Mo  
12-11-09  
VS (PAP)  
Pl. keep in the  
relevant file  
16/11/09  
Bachittar Singh

A.K. SRIVASTAVA  
DIRECTOR



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भारत सरकार  
Government of India  
जनजातीय कार्य मंत्रालय  
Ministry of Tribal Affairs  
शास्त्री भवन, नई दिल्ली-110 115  
Shastri Bhawan, New Delhi-110 115  
Tel: 23387444, Fax: 23383968

D.O.No.23011/14/2008-FRA

Dated: 24.12.2009

Dear Sir,

Kindly refer to my d.o. letter of even number dated 14.9.2009 requesting you to furnish information relating to implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the Left Wing Extremism (LWE) affected districts/areas of your State in the format enclosed with the said letter.

2. The Planning Commission have developed a MIS portal for monitoring the district-wise progress of the implementation of the Act in the identified 33 LWE districts. The MIS portal can be accessed online at <http://pcserver.nic.in/lwe>. The Planning Commission has desired that the district-wise details in respect of the implementation of the Act, district-wise, in respect of the LWE districts may be entered on monthly basis directly on the MIS.

3. I would, therefore, request you to kindly issue necessary instructions to the concerned LWE district officials to ensure the entry of the district-wise details relating to the implementation of the Act, on monthly basis, directly on the MIS. The userid/ password would be made available for on line updation by Shri A.K. Chanana, Sr. Technical Director, Planning Commission (e-mail: [chanana.ak@nic.in](mailto:chanana.ak@nic.in) and telephone No.23096556). This Ministry may be informed of the action taken in the matter.

4. It is further requested that the requisite information relating to the implementation of the Act in the LWE affected districts/ areas of your State may continue to be sent to this Ministry, every month, in the prescribed proforma.

With regards,

Yours sincerely,

[A.K. Srivastava]

To the Secretaries in-charge of Tribal Welfare Departments  
Governments of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand,  
Madhya Pradesh, Maharashtra, Orissa and Uttar Pradesh.

Copy for information to:

1. Planning Commission (Ms. Sudha Pillai, Secretary), Yojana Bhawan, Parliament Street, New Delhi w.r.t. her D.O. No.P-12018/17/20009-RD(Pt.) dated 6.11.2009.
2. PC&V Section w.r.t. their Memo No.17014/13/08-PC&V dated 4.12.2009.

*A.K. Srivastava*  
[A.K. Srivastava ]  
Director

A.K. SRIVASTAVA  
DIRECTOR



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भारत सरकार  
Government of India  
मन्त्रालय कार्य मंत्रालय  
Ministry of Tribal Affairs  
शास्त्री भवन, नई दिल्ली-110 015  
Shastri Bhawan, New Delhi-110 015  
Tel: 23387444, Fax: 23383968

D.O.No.23011/14/2008-FRA

Dated: 18<sup>th</sup> January, 2010

Dear Sir,

Kindly refer to my D.O. letter of even number dated 14.9.2009 regarding furnishing of the information relating the implementation of the Forest Rights Act, 2006 in the Left Wing Extremism (LWE) affected districts/ areas of your State in the prescribed format. Subsequently, vide my D.O. letter of the same number dated 24.12.2009, I had requested you to issue necessary instructions to the concerned LWE districts officials to ensure the entry of the district-wise details relating to the implementation of the Act, on monthly basis, on the MIS portal developed by Planning Commission. *P/10/2K*

2. It is observed that your State Government is not furnishing the requisite information relating to the implementation of the Act in the LWE affected districts/ areas to this Ministry, on a regular basis. As the Planning Commission would be reviewing the State-wise status of implementation of the Special Development Plans, on a regular basis, it is requested that priority may be accorded to this matter and the requisite information furnished to this Ministry on a regular basis, every month. It may also be ensured that the district-wise data is uploaded on the MIS developed by Planning Commission regularly.

With regards,

Yours sincerely,

*A.K. Srivastava*  
18/01/2010  
(A.K. Srivastava)

Shri A.K. Tigid  
Principal Secretary  
Social Welfare Department  
Government of Andhra Pradesh  
Hyderabad

डॉ. बचित्तर सिंह  
DR. BACHITTAR S.  
संयुक्त सचिव  
JOINT SECRETARY  
टेली/Tele : 23073489  
फैक्स/Fax : 23070489



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भारत सरकार  
GOVERNMENT OF INDIA  
जनजातीय कार्य मंत्रालय  
MINISTRY OF TRIBAL AFFAIRS  
शास्त्री भवन, नई दिल्ली-110115  
SHASTRI BHAWAN, NEW DELHI-110115  
E-mail : bisingh@nic.in  
Website : www.tribal.gov.in

D.O. No. 2

- FRA

MOST IMMEDIATE

Dated: March 5, 2010

Dear Sir,

Kindly refer to D.O. letter of even number dated 18.01.2010 from Shri A. K. Srivastava, Director in this Ministry, regarding furnishing of the information relating to implementation of the Forest Rights Act, 2006 in the Left Wing Extremism (LWE) affected districts / areas of your State in the prescribed format.

2. The Planning Commission would be reviewing the State-wise status of the implementation of the Special Development Plans being implemented in 33 LWE districts in a meeting to be held on 12<sup>th</sup> March, 2010.

3. It is requested that the requisite information relating to the implementation Forest Rights Act, 2006 in the LWE affected districts / areas of your State may kindly be furnished to this Ministry, district-wise, in the prescribed format (copy enclosed), by 8<sup>th</sup> March, 2010 positively.

*With regards*

Yours sincerely,

*S. Singh*

(Dr. Bachittar Singh)

Shri A. K. Tigidi  
Principal Secretary,  
Social Welfare Department,  
Government of Andhra Pradesh,  
Hyderabad

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कांतिलाल भूरिया  
KANTI LAL BHURIA

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मंत्री

जनजातीय कार्य

भारत सरकार

शासनी भवन, नई दिल्ली-110 001

MINISTER OF TRIBAL AFFAIRS

GOVERNMENT OF INDIA

SHASTRI BHAWAN, NEW DELHI-110 001

D.O. No.23011/14/2008-FRA (VOL.II)

21 May, 2010

Dear Shri Kamleshwar Bhatia ji,

As you might be aware, the Government of India has identified 33 districts that are naxal affected in eight States of the Country. Apart from handling it as a law and order problem, special efforts need to be undertaken for the overall development of these areas.

So far as my Ministry is concerned, there are number of schemes implemented for the welfare/development of the Scheduled Tribes. Special dispensation has been given to two on-going schemes namely (i) Establishment of Ashram Schools in TSP Areas, and (ii) Construction of Hostel for ST Boys and Girls. Under these schemes, the funding pattern has been modified from 50:50 basis to 100% as Central funding to these States. Similarly, guidelines for setting up EMRS has been revised on 14.12.2009 and non-recurring cost per school has been raised to Rs.12.00 crore (plain areas) and Rs.16.00 crore (hilly areas) from Rs.2.5 crore.

In addition to the schemes being implemented by my Ministry for the welfare/development of the Scheduled Tribes, my Ministry is also administering the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for recognizing and vesting the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded. Under this Act, the forest dwelling Scheduled Tribes residing in the naxal affects districts have also filed claims and a number of title deeds have been issued by the concerned States.

The Hon'ble Prime Minister in a two-days Conference of Chief Ministers, State Ministers (Tribal / Social Welfare and Forest Department), convened by my Ministry on 4-5 November, 2009 to take stock of the implementation of the Act, had inter alia stressed the need for dovetailing all development and welfare programmes in tribal areas for a coherent strategy and coordinated approached involving all Departments. I have accordingly

Contd....P/2

तिलाल भूरिया  
TIL LAL BHURIA

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मंत्री  
जनजातीय कार्य  
भारत सरकार  
शास्त्री भवन, नई दिल्ली-110 001  
MINISTER OF TRIBAL AFFAIRS  
GOVERNMENT OF INDIA  
SHASTRI BHAWAN, NEW DELHI-110 001

11211

advised all the State Governments to take all measures necessary for dovetailing the development and welfare programmes for the uplift of potential title holders under the Act as emphasized by the Hon'ble Prime Minister.

I would, therefore, personally request you to kindly provide funds MPLAD scheme for the various schemes/programmes of the Central and State Government being implemented in the naxal affected districts for the socio-economic development of Scheduled Tribes. Your contribution in this regard would not only help in overall development of naxal affects areas in the country but would also help in handling this serious problem.

With regards,

Yours sincerely,

  
(Kanti Lal Bhuria)

Shri Kameshwar Bhatia,  
Member of Parliament (Lok Sabha),  
520, V.P. House,  
Rafi Marg,  
New Delhi.

To:- All Member of Parliament Representative of  
all LWE affected Districts.

डॉ. बचित्तर सिंह  
DR. BACHITTAR SINGH  
जोन्ट सचिव  
JOINT SECRETARY  
टेली/Tele : 23073489  
फैक्स/Fax : 23070489



D.O. No. 23011/14/2008-FRA

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भारत सरकार  
GOVERNMENT OF INDIA  
जनजातीय कार्य मंत्रालय  
MINISTRY OF TRIBAL AFFAIRS  
शास्त्री भवन, नई दिल्ली-110115  
SHASTRI BHAWAN, NEW DELHI-110115

E-mail : bsingh@nic.in  
Website : www.tribal.gov.in

IMMEDIATE  
Dated: 16.06.2010

Dear Sir,

Please refer to D.O. letter of even number dated 14.9.09 by Shri A. K. Srivastava, Director of this Ministry regarding furnishing of the information relating to the implementation of the Forest Rights Act, 2006 in the Left Wing Extremism (LWE) affected districts/ areas of your State in the prescribed format. Subsequently, Shri Srivastava, vide his D.O. letter of same number dated 24.12.09 had requested you to issue necessary instructions to the concerned LWE district officials to ensure the entry of the district wise details relating to the implementation of the Act, on monthly basis, on the MIS Portal developed by Planning Commission. Shri Srivastava has again requested you, vide his D.O. letter of same number dated 18.01.2010, to ensure that the district-wise data is uploaded on the MIS developed by Planning Commission regularly.

2. It is observed that your State Government is not furnishing the requisite information relating to the implementation of the Act in the LWE affected districts/ areas to this Ministry, on a regular basis. The Secretary, Planning Commission vide letter No.P-12018/6/2010-RD(Pt.) dated 4.2.2010, has requested the Chief Secretary of your State to advise the District Collectors/ District Magistrates of the LWE districts in your State to upload district-wise data of January 2010 on their MIS in the revised format —— by 10<sup>th</sup> February 2010.

3. I request you to accord top-most priority to furnishing the requisite information to this Ministry, every month. It may also be ensured that the district-wise data is uploaded on the MIS developed by Planning Commission regularly. The MIS can be accessed on-line at <http://pcserver.nic.in/lwe>.

4. As the data uploaded on the LWE MIS Portal is analysed in the Planning Commission and the analysis report is sent to Cabinet Secretariat, Prime Minister's Office and M/o Home Affairs, you are requested to advise the District Collector/ District Magistrate to personally look in the timely loading and correctness of the data. You are also requested to intimate the action taken in-regard to uploading district-wise data on the MIS developed by the Planning Commission in the revised format for the month of January, 2010 to May, 2010 and also furnish a copy of the same to this Ministry, at your earliest.

Yours sincerely,  
Sd/-  
(Dr. Bachittar Singh)

To the Secretary in-charge of Tribal Development Departments, Government of Andhra Pradesh, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Uttar Pradesh.

Copy to:

PC&V Section with respect to their O.M. No.17014/01/2010-PC&V dated 25.05.2010.

(Dr. Bachittar Singh)

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AK SRIVASTAVA

DIRECTOR  
मिंदे शक



भारत सरकार

GOVERNMENT OF INDIA

जनजातीय कार्य मंत्रालय

MINISTRY OF TRIBAL AFFAIRS

शास्त्री भवन, नई दिल्ली-110001

SHASTRI BHAWAN, NEW DELHI-110001

Tel:011-23387444

Fax:011-23383968

DO No.23011/21/2011-FRA

Immediate

Dated: 29<sup>th</sup> August, 2011

Dear *Shri Patnaik*,

Kindly refer to this Ministry's DO letter No.23011/14/2008-FRA dated 14.09.2009, 24.12.2009, 18.1.2010, 5.3.2010 and 16.6.2010 requesting you to furnish the information relating to the implementation of the Forest Rights Act, 2006 in the LWE affected districts of areas of your State in the prescribed format to this Ministry regularly.

2. It is observed that your State Government is not furnishing the requisite information relating to the implementation of the Act in the LWE affected districts/ areas to this Ministry on a regular basis.

3. Meanwhile, the Planning Commission have informed that there are now 60 selected Districts covered under the Integrated Action Plan (IAP) for Tribal and Backward Districts for monitoring the identified schemes through the MIS. Planning Commission would not be taking Video-Conferences/ Meetings under the Chairmanship of Member-Secretary, Planning Commission to discuss the progress of implementation of the Integrated Action Plan and identified schemes being monitored through the MIS in those 60 Selected Districts. Recently, such a Video-Conference/ Meeting has been held in Planning Commission on 19<sup>th</sup> August, 2011. A list of the 60 selected districts under the Integrated Action Plan (IAP) for Tribal and Backward Districts is enclosed herewith.

4. You are requested to instruct the concerned District Collectors/ District Magistrate of the selected Tribal and Backward Districts covered under the IAP to upload the district wise data, as per the list enclosed, relating to the implementation of the Forest Rights Act, 2006 on their MIS regularly and also send the requisite information to this Ministry every month positively, in the enclosed format

*With regards,*

Yours Sincerely,

*[Signature]*

Shri Ravi Patnaik  
Secretary  
SC & ST Welfare Department  
Government of Bihar, Patna.

To: All ~~Secretary~~ / Principal Secretary  
of LWE Affected States

State-Wise List of Sixty Left Wing Extremism Affected Districts Identified by the  
Planning Commission and the Ministry of Home Affairs

Sl. No.	State	District
1	Andhra Pradesh	Khammam
2		Adilabad
3	Bihar	Aurangabad
4		Arwal
5		Nawada
6		Jehanabad
7		Gaya
8		Rohtas
9		Jamui
10	Chhattisgarh	Bastar
11		Bijapur
12		Jashpur
13		Kawardha
14		Koriya
15		Dantewada
16		Kanker
17		Narayanpur
18		Rajnandgaon
19		Surguja
20	Jharkhand	Sarhwa
21		Gumla
22		Hazaribagh
23		Koderma
24		Latehar (N)
25		Ramgarh
26		Saraikela (n)
27		Simdega (n)
28		Pachim Singhbhum
29		Purbi Singhbhum
30		Bokaro
31		Chatra
32		Lohardaga
33		Palamu
34	Madhya Pradesh	Balaghat
35		Anuppur
36		Dindori
37		Mandla
38		Soni
39		Shahdol
40		Sidhi
41		Umaria

Sl. No.	State	District
42	Maharashtra	Gadchiroli
43		Gondiya
44	Orissa	Debgarh
45		Gajapati
46		Rayagada
47		Sambalpur
48		Malkangiri
49		Balangir
50		Kalahandi
51		Kandhamal
52		Kendujhar
53		Koraput
54		Mayurbhanj
55		Nabarangapur
56		Nuapada
57		Sonapur
58		Sundargarh
59	Uttar Pradesh	Sonbhadra
60	West Bengal	Medinipur West

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Format for information relating to the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the Left Wing Extremism (LWE) affected districts/areas

Name of the State \_\_\_\_\_

For the month of

\* information in respect of individual and community claims may be given separately.

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# Particularly Vulnerable Tribal Groups (PVTGs)

F.No. 22040/37/2012-NGO  
 Government of India  
 Ministry of Tribal Affairs  
 (NGO Section)

Shastri Bhawan, New Delhi  
 Dated 20<sup>th</sup> March, 2015

To,

The Principal Secretary/Secretary  
 Tribal Welfare Department/Tribal Development Department/  
 Social Welfare Department  
 Government of Andhra Pradesh, Bihar, Chhattisgarh, Gujarat, Jharkhand, Karnataka,  
 Kerala, Madhya Pradesh, Maharashtra, Manipur, Odisha, Rajasthan, Tamil Nadu,  
 Telangana, Tripura, Uttar Pradesh, Uttrakhand, West Bengal and Andaman & Nicobar  
 Islands.

**Subject: Revised Scheme of "Development of Particularly Vulnerable Tribal Groups (PVTGs)"**

Sir,

I am directed to enclose herewith one bilingual copy of the revised scheme of 'Development of Particularly Vulnerable Tribal Groups(PVTGs)' with a request that the same may please be widely publicized and circulated among all implementing agencies of "Conservation-cum-Development (CCD) Plan" identified by the State Government. The Scheme is effective from 1<sup>st</sup> April 2015.

2. The Scheme is also available on Ministry's Web-Site: [www.tribal.gov.in](http://www.tribal.gov.in).

Encls: As above.

Yours faithfully,

(P.K. Sahoo)

Under Secretary to the Government of India  
 Tel No. 011-23073709

Copy for information to:-

1. PS to MTA/ PS to MoSTA
2. PS to Secretary (TA)
3. PPS to JS(A)/PPS to JS (MKP)
4. All Divisional Heads

F. No. 22040/37/2012-NGO  
 Government of India  
 Ministry of Tribal Affairs

**SCHEME OF DEVELOPMENT OF PARTICULARLY VULNERABLE  
 TRIBAL GROUPS (PVTGs)**  
 (Effective from 01.04.2015)

**1. BACKGROUND**

1.1 There are tribal communities who have declining or stagnant population, low level of literacy, pre-agricultural level of technology and are economically backward. 75 such groups of tribals in 18 States and 1 Union Territory have been identified and categorized as Particularly Vulnerable Tribal Groups (PVTGs). State/UT-wise list of PVTGs is at Annex. Most of these groups have not attained significant level of educational, economic progress and are having low health indices. Hence, priority is accorded for their protection and improvement in terms of the social indicators like livelihood, health, nutrition and education so as to decrease their vulnerability.

**2. OBJECTIVE**

2.1 PVTGs constitute the most vulnerable section among tribals and inhabit isolated, remote and difficult areas in small and scattered hamlets/ habitats. The scheme aims at planning their socio-economic development in a comprehensive manner while retaining the culture and heritage of the community by adopting habitat development approach and intervening in all spheres of their social and economic life, so that a visible impact is made in improvement of the quality of life of PVTGs.

2.2 The scheme follows the strategic approach of Vanbandhu Kalyan Yojana , which is need-based and strives to optimise utilisation of resources available under various programs and aims at specific outcomes.

**3. SCOPE**

3.1 The scheme will cover only the 75 identified PVTGs. The scheme is flexible because it enables each State to focus on areas that they consider relevant to their PVTGs and their socio-cultural environment. Activities under it may include the following:

- (a) Livelihood,
- (b) Employment opportunities and economic development of PVTGs through

Agriculture, Horticulture, Animal Husbandry, Dairy, and Skilling/ Vocational Training

- (c) Education, (Literacy, Drop-out, Residential schools in addition to SSA/RMSA).
- (d) Health, (Gap filling for effective health service delivery beyond NHM etc).
- (e) Provision of safe drinking water (gap filling where line Ministries do not provide complete/universal coverage),
- (f) Land distribution, land development,
- (g) Social security,
- (h) Housing and Habitat,
- (i) Connectivity (Road and Telecommunication),
- (j) Supply of Electricity (gap filling where line Ministries do not provide complete/universal coverage), Solar power, with provision of maintenance,
- (k) Irrigation (gap filling where line Ministries do not provide complete/universal coverage),
- (l) Urban Development,
- (m) Culture,
- (n) Sports including traditional and tribal games and sports,
- (o) Any other innovative activity for the comprehensive socio-economic development of PVTGs.

3.2 The project authorities should tap resources for above activities also from other schemes of the Ministry of Tribal Affairs, other Centrally Sponsored Schemes of line Ministries and Schemes of the State Government, particularly the TSP component of the State Plan, to ensure convergence of funds and manpower under the scheme. The funds under this scheme would be made available only for important items/activities for the survival, protection and development of PVTGs and which are not specifically catered to by any other scheme of State or Central Government or by guidelines governing the utilization of funds under Special Central Assistance to Tribal Sub-Plan and Article 275(1) of the Constitution. Where felt necessary, funds under this scheme would also be made available for gap filling even if proposed activities are covered under other schemes as indicated above.

#### 4. IMPLEMENTATION OF THE SCHEME

4.1 All the 18 State Governments and the Union Territory of A&N Island shall prepare a long term "Conservation-cum-Development (CCD) Plan" for each PVTG of their State on the basis of requirement assessed through Baseline and other specific surveys conducted by them. The activities should be outcome driven and should focus on making a visible impact

such as improvement in human development indices and infrastructure, through parameters, which can be verified. For implementation of the scheme, 'Micro Project' located in or near the habitation shall be created if not already existing in or near the habitation of the PVTGs.

4.2 A five year plan shall be prepared by each of the States/UT by adopting habitat development approach. This would be a sum of activities needed for PVTG development based on need and ground realities. While identifying and prioritising activities for inclusion in the CCD Plan, the inputs and views of the concerned Gram Sabha at the hamlet or habitat level, including the women, should be obtained and taken into account for identifying needs and problems of the community. Separate Mahila Sabha meeting should also be held for this purpose. In Urban areas, a Gram Sabha like body will be constituted consisting of all voters belonging to the PVTGs.

4.3 The plan shall identify activities that cannot be funded by other ongoing schemes of the Ministry of Tribal Affairs or other line Ministries for inclusion in the CCD plan. The CCD Plan shall clearly indicate the annual provisions for each financial year and also the agency proposed to be involved in implementation of that activity. The cost norms of the ongoing schemes of various line Ministries and State Governments (where no norms of line Ministries existed) shall be adopted while preparing the plan. The 'Micro Project' will also make efforts to access funds under various Central Sector and Centrally Sponsored Schemes as well as funds available under State TSP for the activities. The State Government/UT Administration shall ensure proportionate flow of financial resources for all PVTGs found in their State and the activities shall be taken with interventions through the State/UT Government. The duplication of intervention in same area shall be avoided.

4.4 Under this scheme, it is emphasized that the CCD plans should focus on strengthening of institutional framework in the PVTG areas and that the activities undertaken thereunder should be sustainable and aimed at long-term socio-economic development of the PVTGs.

4.5 With regard to the aspect of Health, emphasis has been given on the following:

- (a) creation of special health centres for PVTGs beyond National Health Mission (NHM) norms;
- (b) support to existing institutions for manpower,
- (c) medicines, equipment, buildings,
- (d) the need to undertake health surveys of PVTGs including issuing health cards to them indicating their health status especially with respect to sickle-cell anemia (100% screening),

- (e) keeping aside untied funds for emergency and specific needs,
- (f) training for paramedics amongst the tribal people;
- (g) using of treated mosquito nets to contain malaria.
- (h) Composite fish culture to contain mosquito population and also to supplement protein for nutrition.
- (i) 100% health facility coverage of pregnant mothers and immunisation of children.

4.6 As regards the aspect of education, the focus is on the following issues:

- (a) Making efforts to ensure 100% physical enrolment in schools through campaign mode,
- (b) setting up of larger residential co-educational schools in PVTG areas where access to schools is poor, literacy rate is very low and dropout rate of girls is high,
- (c) Training and engagement of local educated people as teachers, special incentives to attract good teachers in schools;
- (d) improving infrastructure in residential schools,
- (e) construction of toilets with running water in schools including separate girls toilets; availability of running water and electricity,
- (f) authorisation to the school management committee to engage teachers in subjects where teachers are not available,
- (g) special coaching before the new session starts in class V, VII, VIII and X etc. when children face new barriers,
- (h) adopting flexible approach for running schools as per local needs, including aligning vacations to local festivals,
- (i) special focus on dropped-out students and efforts to get them back to school,
- (j) development of primers in local language,
- (k) regular health check-up of students (including PVTG inhabitants of the locality),
- (l) maintenance of kitchen-gardens for supplementing nutritional needs of the students and also for children to learn practices of vegetable growing.

4.7 The skill development and up-gradation activities in the CCD plan should aim at enhancing the livelihood and income generation capacity of the PVTGs on a long-term sustainable basis. It is also essential that equal focus should be given to women in all these activities. Such projects should include:

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- (a) Creation of hatcheries for backyard poultry and backyard fisheries with necessary training and linkages with the market. Evolution from capture fisheries to culture fisheries with the tribal community being involved in all steps of the end to end process.
- (b) Kitchen gardens, dairy projects through milk-cooperative societies, and horticulture projects, where linkages are available.
- (c) Eco-tourism, fitter/trader/welder/masonry/electrician/solar electrician/computer/hospitality/cuisine etc.

4.8 Housing and Habitat would cover funds for housing for PVTGs, primarily through special assistance under IAY and additionally through this scheme, for gap filling. While necessary facilities like toilets etc. should be provided in the houses constructed, efforts should be made to maintain the traditional architecture of the PVTGs.

4.9 Under agriculture, PVTG funds should be used for activities like revival of traditional nutritious crops, crop planning to ensure multiple crops and crop rotation to ensure periodic replenishment of soil nutrients. Funds and manpower should be accessed from schemes of line Ministries. For example under irrigation management, tanks should be taken under MGNREGA, solar pump from Ministry of New and Renewable Energy, Watershed management from Department of Land Resources.

4.10 In so far as urban areas are concerned, there should be an agency for focus in the urban areas with a dedicated person who will take care of needs of PVTGs living in the urban areas, such as skill up-gradation, issue of caste certificate, overcoming cultural barriers, problem of landlessness, trafficking, safety, facilitation for labour market etc.

4.11 In so far as the issue of culture is concerned, this will include conservation of culture of the PVTGs including documentation of their lifestyle, traditional medicine and medical practices, art, folklore, sports, music, dance, crops food etc.

4.12 As regards electricity, the project authorities will pursue with the line Ministries and State Departments and also with the concerned authorities with respect to forest clearances, where required.

## 5. CCD Plan

5.1 The CCD Plan will consist of an Annual Plan and a perspective Plan for five years which will be appraised by the Project Appraisal Committee constituted by the Ministry. At

the field level, the CCD Plan shall be implemented under the supervision of a Committee constituted by the State Government for the purpose.

5.2 The State Government/ implementing agencies will furnish a schedule of activities to be undertaken with the first and subsequent release of funds, and the time likely for their continuance or completion to enable effective project progress monitoring.

5.3 PRIs will be assigned roles for effective and transparent delivery of services. A representative of the appropriate Panchayat will be a member of the management committee of a particular project. There shall be voluntary disclosure before the Gram Sabhas about the activities to be taken up. The voluntary disclosure will include the kinds of activities supported under the approved CCD plan, names of the beneficiaries, nature of benefit and the amount of support given to the beneficiaries.

5.4 The scheme/projects will be monitored by the Ministry in a continuous basis through various monitoring mechanism, as under:

- Field visits by State Government officials
- Field visits by Ministry officials
- Specific outcomes with respect to literacy, drop out, immunization, nutrition, income levels, employments etc.

## 6. IMPLEMENTING AGENCIES

6.1 The scheme will be implemented in accordance with aforesaid CCD Plan prepared by the State/UT and executed through various agencies of the State Government/UT Administration like Integrated Tribal Development Projects (ITDPs)/Integrated Tribal Development Agencies (ITDAs), Tribal Research Institutes (TRIs), State/UT Societies and (Panchayati Raj Institutions)PRIs as well as the line departments of Government of India. The State Government concerned will be responsible for proper execution, implementation, supervision and coordination of the scheme.

6.2 The Ministry of Tribal Affairs can also draw up plans for the PVTGs involving reputed National level bodies, including Industry Associations, and the concerned State Governments/ Agencies.

## 7. PATTERN OF FUNDING

7.1 It is a 100% Central Sector Scheme. The funds will be released to States/UT in one/two instalment(s) in accordance with the annual programme proposed for a particular

financial year in the CCD Plan, subject of availability of funds with the Ministry of Tribal Affairs.

#### **8. EXAMINATION AND APPLICATION OF THE CCD PLANS**

8.1 The CCD Plans submitted by State Governments/UT Administration will be examined, approved and also reviewed from time to time by the Project Appraisal Committee of the Ministry of Tribal Affairs.

#### **9. MONITORING AND REVIEW OF PERFORMANCE**

9.1 The CCD plan should not only indicate the yearly physical target to be achieved in respect of the selected and approved activities, but also the expected outcomes at the end of every year and the five year period of the CCD plan. Some examples of outcome are enclosed at Annex-II.

9.2 The implementation of the CCD Plan will be monitored by the officials of the Ministry, officials of State Governments and such independent agencies as may be appointed by the Ministry of Tribal Affairs for the purpose. The Ministry reserves the right to prescribe formats or guidelines for improving monitoring and progress, anytime.

9.3 At the end of each financial year, the State Government/ UT Administration shall submit a physical progress report to the Ministry of Tribal Affairs.

9.4 Under the scheme, tenural security of the traditionally used land to be ensured and in case of displacement (in exceptional circumstances), compensatory land rights to be restored. State Government shall ensure that registration of the land is made in the name of both the spouses (the intended beneficiaries under the scheme). No person will be displaced unless satisfactory rehabilitation scheme has been implemented. The cost of the rehabilitation shall be borne by the Project proponent and not from the CCD Plan.

9.5 The continuation of funding will entirely depend on the satisfactory progress made by the State Government in respect of annual programme indicated in CCD Plan for a particular year.

9.6 2% of the budget of the scheme may be utilized for monitoring and management of the scheme.

## Names of the Particularly Vulnerable Tribal Groups (PVTGs) - State / UT wise.

S.No.	Name of the State /UT	Name of PVTGs
1	Andhra Pradesh ( including Telangana)	1. Bodo Gadaba 2. Bondo Poroja 3. Chenchu 4. Dongria Khond 5. Gutob Gadaba 6. Khond Poroja 7. Kolam 8. Kondareddis 9. Konda Savaras 10. Kutia Khond 11. Parengi Poroja 12. Thoti
2	Bihar (including Jharkhand)	13. Asurs 14. Birhor 15. Birjia 16. Hill Kharia 17. Korwas 18. Mal Paharia 19. Parhaiyas 20. Sauria Paharia 21. Savar
3	Gujarat	22. Kathodi 23. Kotwalia 24. Padhar 25. Siddi 26. Kolgha
4	Karnataka	27. Jenu Kuruba 28. Koraga
5	Kerala	29. Cholanaikayan (a section of Kattunaickans) 30. Kadar 31. Kattunayakan 32. Kurumbas 33. Koraga
6	Madhya Pradesh (including Chhattisgarh)	34. Abujh Marias 35. Baigas 36. Bharias 37. Hill Korwas 38. Kamars 39. Saharias 40. Birhor
7	Maharashtra	41. Katkaria (Kathodia) 42. Kolam 43. Maria Gond

8	Manipur	44. Morram Nagas
9	Orissa	45. Birhor 46. Bondo 47. Didayi 48. Dongria-Khond 49. Juangs 50. Kharias 51. Kutia Kondh 52. Lanjia Sauras 53. Lodhas 54. Mankidias 55. Paudi Bhuyans 56. Soura 57. Chuktia Bhunjia
10	Rajasthan	58. Seharias
11	Tamil Nadu	59. Kattu Nayakans 60. Kotas 61. Kurumbas 62. Irulas 63. Paniyans 64. Todas
12	Tripura	65. Reangs
13	Uttar Pradesh (including Uttarakhand)	66. Buxas 67. Rajis
14	West Bengal	68. Birhor 69. Lodhas 70. Totos
15	Andaman & Nicobar Islands	71. Great Andamanese 72. Jarawas 73. Onges 74. Sentinelese 75. Shom Pens

Some examples of expected outcomes from the CCD Plan

- (a) Improvement in enrolment rates in schools,
- (b) Reduction of dropout rates,
- (c) Increase in immunisation rates of infants,
- (d) Increase in health coverage of pregnant mothers etc.

## Specific issues:

- Forest Offences
- Meaning of 'primarily reside in'
- Joint forest management and  
Forest Rights Act
- Record of Rights

MOST IMMEDIATE  
REMINDER - I

No. 4 - 1 / 2007 - FP  
Government of India  
Ministry of Environment & Forests  
(F.P. Division)

Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi - 110003.

Dated: 13<sup>th</sup> May, 2008.

To

The Chief Secretary,  
All State / UT Governments.

Sub.: Disposal of petty forest offence cases by tribals and other deprived sections of society.

I am directed to refer to this Ministry's letter of even number dated 17/20.2.2008 on the above mentioned and to say that action taken report in the matter has not been received so far. It is, therefore, once again requested that the same may please be expedited urgently.

Yours faithfully

Sd/-  
(S.P. Yadav)  
Asst. Inspector General of Forest (FP)  
Tele Fax No. 011 - 24360627

No.17014/02/2007-PC&amp;V (VOL.VII)

Government of India,  
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi  
Dated June 09.2008

To

All State Secretaries in-charge of Tribal Welfare

[All States/UTs, except J&amp;K]

Sub.: Implications of the phrase “primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs” appearing in sections 2 (c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

1. As you are aware, Section 2(c) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 defines the expression ‘forest dwelling Scheduled Tribes’ to mean the members or community of Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs and includes the Scheduled Tribe pastoralist communities. Similarly, Section 2(o) of the Act defines the expression “other traditional forest dweller” to mean any member or community who has for at least three generations prior to the 13<sup>th</sup> day of December, 2005 primarily resided in and who depend on the forest or the forests land for bona fide livelihood needs.
2. This Ministry has received references from certain States seeking clarification about the implications of the phrase “primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs” appearing in sections 2(c) and 2(o) of the Act as to whether this would cover the Scheduled Tribes and Other Traditional Forest Dwellers who are not necessarily living inside the forests but are depending on the forests or forest lands for their bona fide livelihood needs. This issue was also raised in the meetings of the Secretaries of Tribal Welfare / Development Department of the States on the implementation of the Act held on 18<sup>th</sup>-19<sup>th</sup> February, 2008 and 16<sup>th</sup> May 2008 in New Delhi.
3. The matter has been examined in consultation with the Ministry of Law & Justice and 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 habitation, or patches of land for 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 bona fide livelihood needs would be covered under the definition of 'forest dwelling Scheduled Tribes' and 'Other Traditional Forest Dweller' as given in Sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

4. This may be noted and communicated to all concerned with implementation of the Act.

Yours faithfully,

Sd/-  
 [Sunil Garg]  
 Under Secretary to the Govt. of India

Copy to:

1. Ministry of Environment & Forests (Ms. Meena Gupta, Secretary), Paryavran Bhawan, CGO, Complex, Lodhi Road, New Delhi-110 003 for information.
2. Prime Minister's Office (Ms. Kalpana Awasthi, Director) South Block, New Delhi for information.

Sd/-  
 [Sunil Garg]  
 Under Secretary to the Govt. of India

No. 17014/02/2007-PC&V/FRA (Vol.VII)  
 Government of India  
 Ministry of Tribal Affairs

Shastri Bhawan, New Delhi  
 May 6 2010

To

The Principal Secretary & Commissioner for Social Welfare  
 Government of Uttar Pradesh  
 Lucknow

Subject: Grant of land rights to *taungya* cultivators under the Scheduled Tribes and  
 Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

I am directed to refer to your letter No.568/26-3-2010-4(41)/2006 dated 12.4.2010 on the above subject and to say that under Section 4(3) read with section 4(6) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the following two conditions are required to be satisfied for recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers in respect of forest land and their habitat:

- (i) they had occupied forest land before the 13<sup>th</sup> day of December, 2005; and
- (ii) they were in occupation of such land on the date of commencement of the Act, i.e., 31.12.2007.

In the case of the other traditional forest dwellers, the condition of at least three generations' stay (75 years) prior to the 13<sup>th</sup> day of December, 2005 is necessary.

2. In the case of *taungya* cultivators of the State, if the above conditions are not satisfied, they would not be eligible for recognition of forest rights over forest land under their occupation under the Act.

Yours faithfully,

  
 06-05-10  
 (A.K. Srivastava)  
 Director  
 Tele: 23387444

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No.-23011/11/2013-FRA (pt.)  
Government of India  
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi  
Dated: 6.08.2013

To,

Shri B.Somasekhara Reddy,  
Principal Chief Conservator of Forests,  
Government of Andhra Pradesh,  
Aranya Bhawan, Saifabad,  
Hyderabad-500004

Subject: Forest Department – Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Act, 2006- clarification regarding the CFR titles given to JFM (VSS) Committees In Andhra Pradesh State.

Sir,

I am directed to refer to your D.O. letter No. 40971/2012/LR.1, dated 17.06.2013 on the above subject and to say that the JFM (VSS) Committees formed in the State of Andhra Pradesh pursuant to the Joint Forest Management (JFM) programme of the Ministry of Environment & Forests and the Government of Andhra Pradesh are not covered by the definition of the terms "forest dwelling Scheduled Tribes" and "other traditional forest dweller", as given in Sections 2(c) and 2(o) of the Forest Rights Act, 2006. Hence, these Committees can also not be considered as "claimant" for purposes of recognition and vesting of forest rights under the Act as per the definition of "claimant" given in Rule 2(c) of the Forest Rights Rules, 2008. These Committees are, therefore, not eligible for recognition and vesting of forest rights under the said Act, including the forest right specified in Section 3(1)(i) of the Act.

2. As regards the decision taken by the State Government on 21.07.2009 in the meeting held under the Chairmanship of then Chief Minister of Andhra Pradesh to give Community Rights to JFM(VSS) Committees, it may be stated that the Forest Rights Act, 2006 had already been notified for operation with effect from 31<sup>st</sup> December, 2007. The decision taken by the State Government on 21.07.2009 to give Community Rights to these Committees subsequent to operationalization of the Act was, therefore, not in accordance with the law.

3. In view of the above, the CFR titles given to JFM (VSS) Committees may be withdrawn. The rejection of the individual claims on the ground that such claims were filed within the JFM areas was also, therefore, incorrect.

4. The Ministry may kindly be apprised of the action taken on this matter.

Yours faithfully,

(Gopal Sadhwani)  
Deputy Secretary to the Government of India  
Tel: 23383965

G.S.

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✓ Copy, along with a copy of PCCF, Government of Andhra Pradesh's D.O. letter No. 40971/2012/LR.1, dated 17.06.2013, referred to above, is forwarded to Principal Secretary, Tribal Development Department, Government of Andhra Pradesh, Hyderabad for information and necessary action.

  
(Gopal Sadhwani)

Deputy Secretary to the Government of India

No.23011/06/2014-FRA  
Government of India  
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi.  
3<sup>rd</sup> March, 2014.

To

1. All Principal Secretaries/Secretaries in charge of State Tribal Welfare Departments  
(All States except Jammu and Kashmir, Haryana and Nagaland).
2. Administrators of Union Territories,  
(except Lakshadweep and Puducherry)

Sub: Record of Rights issued under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.

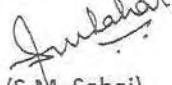
Sir,

The undersigned is directed to state that, in respect of the Records of Rights being issued under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, this Ministry has certain observations/comments as under, for necessary compliance on the part of States/UTs:-

- (i) The Records of Rights issued under the Forest Rights Act 2006 (FRA) should also mention the name of the Caste/Tribe so that, in future, the people do not have any difficulty in obtaining Caste Certificates.
- (ii) The village maps and the village records should also indicate the community land classified into various categories as per the local revenue code/law.
- (iii) As per the Forest Rights Rules 2007, on completion of the process of settlement of Rights and issue of titles as specified in Annexures.II, III and IV of these Rules, the Revenue and Forest Departments are to prepare a final map of the forest land so vested and the concerned authorities are required to incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the specified period of record updation under the relevant State laws or within a period of three months, whichever is earlier. Eventually, the right holders under FRA have to be issued Record of Rights under the Revenue Code/Law so as to mainstream them and treat them at par with other land holders.

(iv) FRA requires conversion of all forest villages, old habitations, unsurveyed villages and other villages in forest whether recorded, notified or not, into revenue villages. The States have been asked to take necessary action for such conversion as per guidelines issued by this Ministry vide No.23011/33/2010-FRA dated 8<sup>th</sup> November, 2013. In this connection, the entire records should follow the protocol of the revenue code/law.

2. All the State/UT Governments are, therefore, requested to take appropriate steps on the points mentioned above.

Yours faithfully,  
  
(S.M. Sahai)  
Director  
Tel: 23073176