

COMPENDIUM

FOREST RIGHTS ACT

SCSTRTI



COMPENDIUM
OF
GUIDELINES AND
EXECUTIVE INSTRUCTIONS
ISSUED
BY GOVERNMENT OF INDIA
AND SELECT STATES
ON
**FOREST
RIGHTS ACT**

(A UNDP & MoTA, GoI Supported
FRA Research and Training Related Project)

Prepared by:
National Resource Center
(SCSTRTI Campus, Bhubaneswar)

March 2016



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ACKNOWLEDGEMENTS

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Ministry of Tribal Affairs, GoI, New Delhi

UNDP

Sch. Castes & Sch. Tribes Research & Training Institute

Government of Odisha

Govt. of Maharashtra

Govt. of Andhra Pradesh

Govt. of West Benagal

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- **Dr. H.K. Panda, Secretary, MoTA for encouragement & extending Administrative and Financial Support**
- **Shri Surendra Kumar, Commissioner-cum-Secretary, SSD, Govt. of Odisha for encouragement & extending Administrative Support**
- **Shri Shusil Chawdhury, Programme Officer, UNDP for providing inputs and help in Financial Support**

Preface

The forest is the home of tribals and forest dwellers. Only the recognition and legal protection of their rights can ensure that forest dwellers get a fair deal. The enactment of Forest Rights Act has been hailed as a milestone in the history of empowerment of tribal population in the country. The implementation of the historic Forest Rights Act has generated huge sense of ownership and security amongst forest dwellers over their land and natural resources and has brought in significant reform in the forest tenure and governance system of India. Yet much more has to be done to translate the intended benefits to favour the right holders which can be only possible if the implementation is robust and according to letter and spirit of the Act. The major issue in the implementation of FRA has been lack of awareness on different process of claim submission at different level – from the community to government officials and getting timely information about the law.

National Resource Centre has attempted to compile the calrificatory circulars, guidelines, notifications on different subjects of FRA issued by Government of India and different States on regular intervals; so as to serve as a Ready Reckoner for the Government Officials, User Agencies and the Public in general to facilitate the effective implementation of FRA at the grass root level. This compendium is unique in having different thematic chapters on specific provisions covered under FRA, which will help the reader to get the required information on directions and guidelines issued by the Central Government and different State Governments on various subjects at different point of time. The Compendium has attempted to compile the circulars, guidleines and notifications on FRA issued by Central Government and different State Governments, with primary focus on Government of Odiha. However, important circulars/ notifications issued by Government of Maharashtra, Andhra Pradesh, Gujarat, Chhatisgarh and West Bengal on relavant subjects has also been covered in this compendium.

The Compendium starts with the Introduction to Forest Rights Act and its Preamble moves on to cover different thematic chapters. The thematic chapters cover Initial circulars on setting up institutional structures, clarifying circulars on process of implementation and different provisions of FRA, conversion of forest villages to revenue villages, convergence of development and welfare programmes, minor forest produces, community rights and community forest resource (CFR) rights and circulars on diversion of forestland under Section 2 FCA and compliance with FRA. The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, (Bare Act),and The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 has been provided in the Annexure for reference.

I take this opportunity to extend my sincere gratitude to Dr. Hrushikesh Panda, Secretary Ministry of Tribal Affairs, GoI for extending his full fledged support in bringing out this Compendium. My gratitude to Sri Surendra Kumar, Commissioner –cum- Secretary, ST and SC Development Department Government of Odisha for his constant support and encouragement in bringing out the compendium.

My sincere thanks to the esteemed members of the Technical Review Group for providing their valuable inputs and taking the pain in reviewing and finalizing the report.

I also extend my sincere thanks to United Nations Development Programme for the financial assistance provided in bringing out this compendium and also to Mr. Sushil Chowdhury, UNDP for his constant support in this endeavour.

I hope this compendium will be of of great help to government officials, researchers, academicians, development practioners and individuals in better understanding and facilitating the implementation of the historic legislation in true letter and spirit.



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Contents

Sl.No.	Chapter	
I.	Introduction	1
1.1	Background of FRA and its Rules:	2
1.2	Timeline of Forest Rights Act & Rules:	4
1.3	Preamble	5
1.4	Objectives and key provisions of FRA, 2006	6
1.5	Purpose of the Compendium	10
II.	Bare Act and Rules	11
2.1	The Forest Rights Act, 2006 (Bare Act)	13
2.2	The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012	25
III.	Thematic Chapters (circulars/ clarifications/ guidelines)	46
3.1	Initial circulars on implementation and setting up of institutional structures, setting up of FRCs, SDLCs, DLCs	48
3.2	Circulars clarifying process of implementation of FRA relating to JFM, Record of Rights	102
3.3	Circulars clarifying interpretation of specific provisions of FRA; application to municipal areas, meaning of bonafide livelihood needs, meaning of '75 years', PTG habitat rights	118
3.4	Conversion of forest villages into revenue villages	151
3.5	Convergence of welfare and development programmes	175
3.6	Settlement of rights in national parks and wildlife sanctuaries, and declaration of critical tiger habitats	181
3.7	Proposals under Section 3(2) FRA	205
3.8	Minor Forest Produce	213
3.9	Diversion of Forest Land under Section 2 FCA, and Compliance with FRA	244
3.10	Community Forest Resource Rights (including the Section 12 Guidelines issued on Niyamgiri	266
3.11	Rejection of Claims	284
3.12	Unclassified Circulars	297

I. Introduction

1. Introduction:

Putting social justice and human rights at the vital of the welfare and developmentl policies, India enacted different socio-economic laws for its marginalized people in the recent past. One such popular law is the Forest Rights Act (FRA), 2006. It is a landmark social legislation which has brought in significant reform in the forest tenure and governance system of India to ensure recognition of rights and livelihood security to millions of Scheduled tribes and other traditional forest dwellers. It not only aims at establishing direct democracy at the grassroots but also vests community ownership rights over its natural resources. FRA has recognized the Gram Sabha (the village council) as the custodian of natural resources which has also been upheld by the Hon'ble Supreme Court of India in the historic Niyamgiri Case on 18th April 2013. Further, reviving the provisions of the Central PESA Act, 1996, the Forest Rights Act, 2006 has extended the provisions of the PESA even to all the non scheduled areas.

Despite lofty aims of this Act, there has been serious lacuna in its implementation. The benefits of this law have, therefore, not reached the poor and mariginalized to the desired extent. In order to bridge the gap between the aim and ground realities, the first and foremost need is massive awareness drive. To make this right revolution a success one all the forest dwellers should be well equipped to realize their rights. Besides, the quality of Institutional Infrastruture should be good enough to extend access to good and services and remedies, if the law is violated. All these entail the use of a tool – Compendium of FR Act and its Rules. The present work, an anthology of - *what the Act and its Rules are? how do they be implemented? And what would happen, if they are violated?*- is an endeavour at this end for the use of all concerned. The forthcomings are a brief sketch of the historical background of FRA and its implementation facilitating Rules.

1.1 Background of FRA and its Rules:

Historically, the relationship between forests and tribals and other traditional forest dwelling communities has been characterized by coexistence and these communities have been integral to the survival and sustainability of the forest ecosystems. Tracing the evolution of forest policy, however, we see the slow but systematic alienation of local people from the forests. In medieval India, the ownership of the forests was with the local rulers but local communities enjoyed almost unhindered access rights to forests for their needs. From the beginning of the colonial period, forests started being targeted for commercial exploitation and revenue generation. The traditional/customary rights of the people were often neither recognized nor recorded by the colonial government while declaring forests to be state property. The British policy led to the creation of reserve forests (complete alienation), protected forests (rights were permitted unless specifically forbidden) and village forests (to meet the needs of local communities, but which largely remained only on paper). Through this process of colonization of the forests which began with the Indian Forest Act of 1864 which finally became the Indian Forest Act of 1927, the ancestral rights of tribals and other forest dwellers were progressively reduced to mere privileges which could be withdrawn by the state at its whim. Forest reservation was met with stiff resistance and several tribal uprisings against the colonial administration due to the organic linkage of tribal culture, tradition and social systems with the forests. In response, several laws were enacted to

recognize community rights (as in Jharkhand and Uttarakhand) and many tribal areas were declared either excluded or semi-excluded (the present Schedule V areas) for protecting tribal resource use and governance systems.

With independence, forest dependent communities expected restoration of their rights. But instead of improving, the situation actually worsened. Though the policy makers changed, the policies remained more or less the same. During the process of amalgamation of princely states and abolition of zamindari, unsurveyed non-private lands were declared government property either as forests or revenue wastelands. Though the State Governments proclaimed such forest lands as deemed reserve forests or deemed protected forests, few effective steps for settlement of rights were taken. Due to the improper survey and settlement process the local people inhabiting these lands started being treated as “encroachers” on their ancestral homelands as they did not have recorded rights over them. This historical injustice was further accentuated by the Wildlife (Protection) Act 1972 and the Forest Conservation Act 1980, which made environmental protection and recognition of the rights of tribal communities as mutually irreconcilable objectives. Non recognition of rights of the forest dwelling communities has made them victims of tenurial insecurity, restrictions on collection of minor forest produce, threat to socio-cultural life and livelihoods, and the ever present threat of eviction and displacement without rehabilitation.

In 1990, the Ministry of Environment and Forests (MOEF) issued series of guidelines for resolving disputed lands between the tribal people and the state. These guidelines were somehow, not acted upon or ignored. In 2002, the said ministry instructed state governments to evict the in-eligible encroachers and all post 1980 encroachers from forest lands. This resulted in massive eviction of tribal people and other forest dependent communities all over the country. In two important legal cases namely the Godavarman case (writ petition 202 of 1995) and the Interlocutory Application (IA) 703 filed by the Amicus Curiae, enormous damage was caused to the tribal communities as these cases restrained the central government from regularizing the encroachments.

In the post independent India the forest dependents expected their traditional rights over forests back to their fold but nothing tangible happened. The colonial policies continued to remain more or less the same. Forest governance in post-colonial India is generally divided into three phases: the first phase could be counted from independence to early 70’s in which large scale forest exploitation was done for commercial and industrial purposes besides creating farmland for the large peasantry. The second phase continued till the commencement of 1988 National Forest Policy. This policy was mostly for conservation purposes with increased state control. During this phase, forest conservation was made a directive to state as a fundamental duty under the constitution and incorporated in the concurrent list. During this period, powerful legal instruments like the Wild Life Protection Act and the Forest Conservation Act were enacted. During this phase of forest governance, no clear space was made for forest dwellers and tribals in the protection and management of local forests. It is only after the coming into force of the National Forest Policy in 1988 that forest was made a local resource and required participation of local forest protecting communities mandatory in regeneration of degraded forests. In fact, the legal documents during both the phases were extremely conservative in as much as that they stressed more on excessive state control in form of ‘Eminent Domain’ and restricted existing local use rights. This was apparently under

the presumption that forests had been destroyed by the forest dwellers and tribals which needed protection and conservation although the position was otherwise the handiwork of some rich and influential people including some tainted and corrupt officials. The Forest Conservation Act restricted forest diversion for non-forest use but in practice, diversion of forest land could not be prevented. Ultimately the poor forest dwelling tribals were termed as encroachers and direction for their eviction was issued by the MOEF in 2002 circular (May, 2002). With coming up of the Protected Area Network more and more inviolable areas with no or negligible rights over forests and forest lands by the tribals enabled the state to evict local forest dwellers without settling their bonafide rights to residence. In the Wildlife Protection Act of 2002, no reference was made to Panchayats (Extension to Scheduled Areas) (PESA) Act of 1996, an amendment of the constitution, and surprisingly conservation legislations like WLPA and FCA continued to be more powerful than the PESA.

In 2004, the MOEF issued two circulars, one relating to ‘Regularization of rights of tribals on the forest lands’. The date of regularization of the encroachment was extended to 31st December 1993. The other circular was titled “Stepping up of process for conversion of forest villagers into revenue villages”. Both these circulars were stayed by the Apex Court. While praying for vacation of the stay, the government admitted that during consolidation of forests, the rural people particularly the tribals who have been living in forests since time immemorial, were deprived of their traditional rights and livelihood and consequently have become encroachers in the eyes of law. In 2005, the Ministry of Tribal Affairs mandated to formulate a comprehensive legislation to redress the historical injustice done to tribal community. Accordingly, the Forest Rights Bill, 2005 was introduced in Parliament. Due to protests both from environmentalists and wildlife groups, the Bill was referred to the Joint Parliamentary Committee (JPC). As many tribal forest dwellers had been served with eviction notices in May 2002 for being encroachers and they could not produce residential evidence in forests, the JPC recommended that a cut off date for the settlement of rights’ be extended to 13th December, 2005. It also recommended inclusion of non-scheduled tribe ‘traditional’ forest dwellers’ living in the forest for three generations within its ambit. It also recommended multiple uses for shifting cultivators and removed the land ceiling of 2.5 hectares for land rights. The other recommendation of JPC included ensuring of Minimum Support Price (MSP) for Minor Forest Produces and the Gram Sabha as final authority for settlement of rights. The Gram Sabha was recommended to be the center stage with PESA as a reference point. But when the Bill was introduced in the Parliament, the pre-eminence position of PESA in relation to Gram Sabha was ignored

1.2 Timeline of Forest Rights Act & Rules:

Sl. No.	Date	All India Context	Odisha Context
1	5 th February 2004	GOI formulated a Policy recognizing the rights of the tribal population on forest land and circulated to the State Governments to give legal recognition.	
2	13 th Feb 2005	ST Recognition of Forest Rights Bill 2005 Tabled in Parliament and Bill referred to JPC.	

3	29 th July 2005		Orissa TAC recommended adoption of the Bill
4	23 rd May 2006	JPC Presented the recommendation.	
5	15 th Dec. 2006	Bill Passed in Lok Sabha.	
6	18 th Dec. 2006	Bill Passed in Rajya Sabha.	
7	2 nd January 2007	FRA Notified in Gazette.	
8	19 th June 2007	Draft Rules shared by GOI to different quarters for comments within 45 days period.	
9	1 st January 2008	FRA Rules Issued by GOI.	
10	June 2008		Interim Stay order of Orissa High Court in WP.
11	Aug 2009		Stay of the High Court lifted.
12	6 th September 2012	Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012	

1.3 Preamble:

The “Scheduled Tribes and Other Traditional (Recognition of Forest Rights) Act, 2006 is a watershed legislation which in its ‘Preamble’ declares that this Act is to undo the historical injustice that was made to the tribals communities. The Gramsabha becomes the authority to determine the nature and extent of forest rights both individual, community rights and community forest resource rights.

The preamble of FRA declares that it is.

An Act 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; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and

other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

To sumup, the aforementioned ‘Preamble’ of FRA clarifies the following two vital things.

1. It grants legal recognition to the rights of traditional forest dwelling STs and other traditional forest dwellers. It seeks to redress the historical injustice done to the forest dwellers whose forest rights had so far not been legally recorded and who were denied their traditional rights to forest land and resources.
2. It creates an opportunity to secure not only the rights to forest dwellers to live in the forest, use it resources, but also protect, regenerate, conserve, or manage any community forest resources. Critically the Act addresses important livelihood issues, while emphasizing the responsibilities of forest dwellers in maintating sustainable forest use pattern and conservation of biodiversity.

1.4 Objectives and key provisions of FRA, 2006:

The enactment of the “Scheduled Tribes and Other Traditional (Recognition of Forest Rights) Act, 2006, popularly called the Forest Rights Act (FRA)” is a revolutionary step taken by the central government. Enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was a watershed event in the hard-fought and prolonged struggle of Adivasis and other forest dwellers of India. For the first time in the history of the country, the state formally acknowledged the injustice done to forest dwelling communities due to non-recognition of their rights during the consolidation of state forests. The new forest rights law attempts not only to right this historic wrong but also empowers right holding communities to “protect, conserve, regenerate or manage” their community forest resources for sustainable use.

Forest Rights Act recognizes and vests forest rights in the scheduled tribes and other traditional forest dwellers who have been residing in forests for generations but whose rights could not be recorded. It provides for a framework for recording of the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

Forest Rights Act is a means to address some of the pressing issues affecting livelihood and conservation. In this Act, the recognized rights of forest dwelling scheduled tribes and other traditional forest dwellers also include responsibilities for sustainable use, conservation of biodiversity and maintenance of ecological balance for strengthening the conservation regime of the forests while ensuring livelihood and forest security for the forest dwelling scheduled tribes and other traditional forest dwellers. By securing tenurial and access rights and providing an empowered authority for conservation it aims to,

- Ensure livelihood and food security of the forest dependent communities.
- Provide for basic developmental facilities for the forest villages.
- Provide legal recognition to the community conservation initiatives thereby strengthening traditional conservation practices that protect some of the critical ecosystems of the country.
- Protect traditional knowledge and intellectual property relating to biodiversity and cultural diversity.
- Protect customary rights of the forest communities.
- Empower communities to protect, conserve and manage forest and biodiversity.
- Conserve the common forest and biodiversity resources accessed by the community which are threatened by destructive activities.
- Establish empowered institutions at the community level for conservation and management of natural resources, thereby strengthening conservation governance at the grassroots

What Kinds of Rights do the FRA Recognise?

The FRA recognized the following four types of rights of the STs and Other Traditional Forest Dwellers.

- **Land Rights:** A claimant gets rights to any land occupied by him prior to 15 December 2005. Those who occupy land without having documents can claim up to 4.00 hectares, so long as they are occupying the land for livelihood. Those who have patta or government lease but whose land illegally taken by forest department or whose land is subject to a dispute between the forest and revenue departments, can claim those lands. The land recognized under FRA can not be sold or transferred except by inheritance.
- **Use Rights:** FRA provides for rights to be given to collect and use minor forest produce (tendu patta, herbs, medicinal plants, aries but excluding timber). Besides community rights of uses or entitlements like for fish and other products of water bodies, grazing, and traditional seasonal resource access of nomadic or pastoralist communities.
- **Rights to developmental facilities:** The Act is mandated to provide for diversion of forest land for the following facilities managed by the government which involve felling of trees not exceeding seventy five trees per hectare namely- (a) Schools; (b) Dispensary or hospital; (c) Anganwadis; (d) Fair price shops; (e) Electric and telecommunication lines; (f) Tanks and other minor water bodies; (g) Drinking water supply and water pipelines; (h) Water or rain water harvesting structures; (i) Minor irrigation canals; (j) Non-conventional source of energy (k) Skill upgradation or vocational training centers; (l) Roads and; (m) Community centers.

- **Right to protect and conserve:** The FRA empowers the Gram Sabha with the community rights to protect, regenerate or conserve and manage the forest or any community forest resources which forest dwellers have traditionally been protecting and conserving for sustainable use. It also gives power to Gram Sabha to protect wildlife, forest, biodiversity, water bodies and ecologically sensitive areas and ensure that the habitat of the STs and other traditional forest dwellers is preserved from any destructive practices.

Salient Features of the FRA 2006 are summarized as follows-

- **Beneficiaries:** The Scheduled Tribes and other forest dwellers will have the right to cultivate forest land to the extent under occupation, the right to own, collect, use and dispose of minor forest produce, rights inside forests which are traditional and customary like grazing. Tribals who have been living in and depending on forests, for their livelihood prior to 13 December, 2005, and other traditional forest dwellers who have been living in and depending on forests for their livelihood, for three generations prior to 13th December, 2005 will have these rights.
- **Implementing Mechanism:** Gram Sabha will call for claims, which will be examined by Forest Rights Committee consisting of 10-15 members of Gram Sabha including at least one third of these members will be schedule tribe and one third women. The committee will visit the site and physically verify the nature and extent of the claims. After satisfying itself, it shall forward its recommendations to Sub Divisional level Committee, which will further send the proposal to the District level committee for final consideration. District Level Committee will also have three members from district panchayats of whom at least two shall be the Scheduled Tribes, preferably those who are forest dwellers or who belong to the particularly vulnerable tribal groups (PTGs).
- **Rights Recognised:** The Act Recognises and vests 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.
- It provides for recognition of forest rights of other traditional forest dwellers provided they have for at least three generations prior to 13.12.2005 primarily resided in and have depended on the forest or forest land for bonafide livelihood needs. A "generation" for this purpose would mean a period comprising of 25 years. The cut off date for recognition and vesting of forest rights under the Act will be 13.12.2005.
- The Act provides for the ceiling of occupation of forest land for purposes of recognition of forest rights to the area under actual occupation and in no case exceeding an area of four hectares.
- The Act provides for conferring rights in the National Parks and Sanctuaries also, renamed as 'critical wildlife habitat' on regular basis.
- The Act provides for the right to hold and live in the forestland under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers.

- The Act recognises the right of ownership access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries. The Act has defined the term "minor forest produce" to include all non-timber forest produce of plant origin, including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like.
- The Act recognises the right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to 13.12.2005.
- The Act provides for the forest right relating to Government providing for diversion of forest land for the purpose of schools, hospitals, anganwadis, drinking water supply and water pipelines, roads, electric and telecommunication lines, etc.
- The rights conferred under the Act shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in the case of married persons and in the name of the single head, in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next of kin.
- The Act provides that no member of a forest dwelling Scheduled Tribe or other traditional forest dwellers shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is completed.
- As per the Act, the Gram Sabha has been designated as the competent authority for initiating the process of determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers.
- **Benefits accrued from the Act:** The enactment of the Act results in recognition of forest rights of forest dwelling scheduled tribes and other traditional forest dwellers over the forest land under their occupation and their habitat for self-cultivation of the land for their livelihood.
- The forest dwellers will have access to, use or dispose of, minor forest produce and will be entitled to the benefits of various schemes of the Government after vesting of the clear cut title of land in their favour. They will not face the threat of eviction or removal from forest land under their occupation.
- With a view to empower the local communities in management of their natural resources in tune with the provisions of the PESA Act, 1996 the Gram Sabhas have been designated as the competent authority for initiating the process of determining the nature and extent of individual or community forest rights.
- The aforementioned recognition and vesting of forest rights also includes the responsibility of protection, conservation and regeneration of wild life, forests and biodiversity.
- To extend benefit to the women forests dwellers, the Act envisages registration of the title of the forest land jointly in the name of both the spouses, where married, and in the case of single person headed households, in the name of the single head.

1.5 Purpose of the Compendium:

The fulfillment of the rights under FRA depends on their getting timely information about the law. The major issue in the implementation of FRA has been lack of awareness on different process of claim submission at different level – from the community to government officials. Oftain lack of proper awareness about the FRA among different stakeholders has unintended consequences. Most of the Forest Rights Committees of the Gram Sabhas and the people do not have knowledge of the provisions of FRA. Very few are aware of the community and community resources rights.

Thus the Ministry of Tribal Affairs, Government of India also realized that in spite of some demonstrative action, the impeding factors such as lack of general awareness and common understanding and conceptual clarity among different stakeholders about FRA, ambiguities in the Act, field level operational challenges and lack of adequate institutional infrastructure implementation mechanisms were posing serious limitations in accomplishing the task at hand. Affirmative steps such as amending the forest rights rules have created better scope and brought in greater clarity to expedite the implementation of Act on the ground. Different State Governments have also taken measures accordingly on a time to time basis to facilitate speedy realization of envisaged benefits under the Act to the forest right holders.

Since the enactment of the Forest Rights Act and Rules thereof, Government of India has issued series of guidelines, clarificatory circulars, FAQs and directions to the States for the effective implementation of the Act with a view to sensitize all the stakeholders about the FRA. Review meetings were taken by the Ministry of Tribal Affairs, GoI to track the progress on Forest Rights Act implementation by different States. Therefore, a need was felt for compilation of the Act, Rules, Guidelines and clarifications issued on various subjects relating to FRA and its Rules by the Govt. of India. In addition to the above, different State Governments have also issued clarificatory circulars, guidelines, orders connected to the above subjects and have also issued Circular instructions to the field officers from time to time. Hence, it was decided to bring out a Compendium duly compiling all the above changes and information; so as to serve as a Ready Reckoner for the Government Officials, User Agencies and the Public in general to facilitate the FRA implementation at the grass root level and so as to achieve the lofty aim of the Act.

**2.THE SCHEDULED TRIBES AND OTHER
TRADITIONAL FOREST DWELLERS
(RECOGNITION OF FOREST RIGHTS)
BARE ACT AND RULES**

ABSTRACT

Sl. No.	Date	Particulars (India & States)	Issued by
		Govt. of India	
1.	29.12.2006	The Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006	Ministry of Law & Justice
2.	6.9.2012	The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012	MoTA

**2.1 THE SCHEDULED TRIBES AND OTHER
TRADITIONAL FOREST DWELLERS
(RECOGNITION OF FOREST RIGHTS) ACT, 2006.**

**The Gazette of India
EXTRAORDINARY
PART II – Section I
PUBLISHED BY AUTHORITY
NEW DELHI, TUESDAY, JANUARY 2, 2007 / PAUSA 12, 1928**

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd January, 2007/Pausa 12, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 29th December, 2006, and is hereby published for general information:-

**THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS
(RECOGNITION OF FOREST RIGHTS) ACT, 2006.**

No. 2 OF 2007

[29th December, 2006]

An Act 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; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definition

2. In this Act, unless the context otherwise requires, -

(a) “Community forest resource” means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;

(b) “Critical wildlife habitat” means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4;

(c) “forest dwelling Scheduled Tribes” means the members or community of the 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;

(d) “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;

(e) “forest rights” means the forest rights referred to in section 3;

(f) “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;

(g) “Gram Sabha” means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;

(h) “habitat” includes 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;

(i) “minor forest produce” includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;

18 of 2003

(j) “nodal agency” means the nodal agency specified in section 11;

(k) “notification” means a notification published in the Official Gazette;

(l) “prescribed” means prescribed by rules made under this Act;

(m) “Scheduled Areas” means the Scheduled Areas referred to in clause (1) of article 244 of the Constitution;

(n) “sustainable use” shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002;

40 of 1996

(o) “other traditional forest dwellers” means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for *bona fide* livelihood needs.

Explanation.- For the purpose of this clause, “generation” means a period comprising of twenty-five years;

(p) “village” means –

(i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or

53 of 1972

(ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or

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

(iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

(q) “wild animal” means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature.

CHAPTER II
FOREST RIGHTS

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 on all forest lands, namely:-

Forest rights of Forest dwelling Scheduled Tribes and Other traditional forest dwellers.

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribes or other traditional forest dwellers;

(b) community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of Pattas or leases or grants issued by any local authority or any State Government on forest lands to titles;

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

(i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribes under any traditional or customary law of the concerned tribes of any State;

(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) right to *in situ* rehabilitation including alternative land in cases where the

Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:-

- (a) *schools;*
- (b) *dispensary or hospital;*
- (c) *anganwadis;*
- (d) *fair price shops;*
- (e) *electric and telecommunication lines;*
- (f) *tanks and other minor water bodies;*
- (g) *drinking water supply and water pipelines;*
- (h) *water or rain water harvesting structures;*
- (i) *minor irrigation canals;*
- (j) *non-conventional source of energy;*
- (k) *skill upgradation or vocational training centres;*
- (l) *roads; and*
- (m) *community centres;*

69 of 1980

Provided that such diversion of forest land shall be allowed only if, -

- (i) the forest land to be diverted for the purposes mentioned in this 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.

CHAPTER III

RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

4. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in –

(a) The forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;

(b) The other traditional forest dwellers in respect of all forest rights mentioned in section 3.

(2) the forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:-

(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government has concluded that other reasonable options, such as, co-existence are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package;

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers

53 of 1972

(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification process is complete.

(6) Where the forest rights recognised and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

(7) The forest rights 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 this Act.

69 of 1980

Duties of holders of forest rights.

(8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to –

(a) protect the wild life, forest and biodiversity;

(b) ensure that adjoining catchments areas, water sources and other ecological sensitive areas are adequately protected;

(c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;

(d) 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.

CHAPTER IV AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

*Authorities to
vest forest
rights in
forest
dwelling
Scheduled
Tribes and
other
traditional
forest
dwellers and
procedure*

6. (1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition;

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha;

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level Committee:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level committee.

- (6) The decision of the District Level Committee on the record of forest rights shall be final and binding.
- (7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.
- (8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.
- (9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

CHAPTER V OFFENCES AND PENALTIES

7. Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Offences by members or officers of authorities and Committees under this Act.

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority

Cognizance of offences.

CHAPTER VI MISCELLANEOUS

9. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members of authorities etc., to be

Protection of action taken in good faith

10. (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.

public servants.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

Nodal agency

11. 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 implementation of the provisions of this Act.

Power of Central Government to issue directions.

12. In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

40 of 1996

Act not in derogation of any other law.

13. Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power to make rules.

14. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(a) procedural details for implementation of the procedure specified in section 6;

(b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section (2) of that section;

(c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;

(d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

K.N. CHATURVEDI,
Secy. To the Govt. of India.

2.2 Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012

(Compilation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 with Principal Rules, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008)

MINISTRY OF TRIBAL AFFAIRS
NOTIFICATION
New Delhi, the 6th September, 2012

¹ G.S.R. 669(E).-- WHEREAS the draft Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 were published, as required by sub-section (1) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) under the notification of the Government of India in the Ministry of Tribal Affairs number G.S.R.578(E), dated the 19th July, 2012 in the Gazette of India, Part II, Section 3, sub-section (i) of the same date, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of thirty days from the date on which the copies of the Gazette containing the said notification are made available to the public;

AND WHEREAS copies of the said Gazette were made available to the public as on July 20, 2012.

AND WHEREAS the objections and suggestions received from the public in respect of the said draft amendment rules have been duly considered by the Central Government;

NOW, THEREFORE, in exercise of the powers conferred by sub-sections (1) and (2) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), the Central Government hereby makes the following rules to amend the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, namely:-

1. SHORT TITLE, EXTENT AND COMMENCEMENT - (1) these rules may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012. 1 Published in the Gazette of India, (Extra), Part II, Section 3 (i), dated 06.09.2012

(2) They shall extend to the whole of India except the State of Jammu and Kashmir.

(3) They shall come into force on the date of their publication in the Official Gazette.

2. DEFINITIONS - (1) In these rules, unless the context otherwise requires,-

(a) “Act” means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);

(b) [²“bona fide livelihood needs” means fulfilment of livelihood needs of self and family through exercise of any of the rights specified in sub-section (1) of section 3 of the Act and includes sale of surplus produce arising out of exercise of such rights;]

(c) “claimant” means an individual, group of individuals, family or community making a claim for recognition and vesting of rights listed in the Act;

¹ Published in the Gazette of India, (Extra), Part II, Section 3 (i), dated 06.09.2012

² Clause (b) of sub-rule (1) in rule 2, substituted by G.S.R. 669(E), dated 06.09.2012

[³(ca)“community rights” means the rights listed in clauses (b), (c), (d), (e), (h), (i), (j), (k) and (l) of sub-section (1) of section 3;]

(d) [⁴“disposal of minor forest produce” under clause (c) of sub-section (1) of section 3 shall include right to sell as well as individual or collective processing, storage, value addition, transportation within and outside forest area through appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federations for livelihood;

Explanation:- (1) The transit permit regime in relation to transportation of minor forest produce shall be modified and given by the Committee constituted under clause (e) of sub-rule (1) of rule 4 or the person authorized by the Gram Sabha,

(2) This procedural requirement of transit permit in no way shall restrict or abridge the right to disposal of minor forest produce,

(3) The collection of minor forest produce shall be free of all royalties or fees or any other charges;]

(e) “Forest Rights Committee” means a committee constituted by the Gram Sabha under rule 3;

(f) “section” means the section of the Act;

(2) The words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.

[⁵**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 formalized 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 finalized by the District Level Committee after considering public comments, if any;

(c) on finalization 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.]

³ Clause (ca) of sub-rule (1) in rule 2, inserted by G.S.R. 669(E), dated 06.09.2012

⁴ Clause (d) of sub-rule (1) in rule 2, substituted by G.S.R. 669(E), dated 06.09.2012

⁵ Rule 2A, inserted by G.S.R. 669(E), dated 06.09.2012

3. **GRAM SABHA-** (1) The Gram Sabhas shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein [⁶at least two-third members shall be the Scheduled Tribes:]

Provided that not less than one-third of such members shall be women;

Provided further that where there are no Scheduled Tribes, at least one third of such members shall be women.

(2) The Forest Rights Committee shall decide on a chairperson and a secretary and intimate it to the Sub-Divisional Level Committee.

(3) When a member of the Forest Rights Committee is also a claimant of individual forest right, he shall inform the Committee and shall not participate in the verification proceedings when his claim is considered.

[⁷(4) The Forest Rights Committee shall not reopen the forest rights recognized or the process of verification of the claims already initiated before the date of coming into force of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendments Rules, 2012.]

4. **FUNCTIONS OF THE GRAM SABHA** - (1) The Gram Sabha shall –

(a) initiate the process of determining the nature and extent of forest rights, receive and hear the claims relating thereto;

(b) prepare a list of claimants of forests rights and maintain a register containing such details of claimants and their claims as the Central Government may by order determine;

(c) pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the SubDivisional Level Committee;

(d) consider resettlement packages under clause (e) of sub section (2) of section 4 of the Act and pass appropriate resolutions; and

(e) constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of section 5 of the Act.

(f) [⁸monitor and control the committee constituted under clause (e) which shall prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling Scheduled Tribes and other Traditional Forest Dwellers and integrate such conservation and management plan with the micro

⁶ The words “at least one-third members” substituted by G.S.R. 669(E), dated 06.09.2012

⁷ Sub-rule (4), inserted by G.S.R. 669(E), dated 06.09.2012

⁸ Clause (f) of sub-rule (1) in rule 4, inserted by G.S.R. 669(E), dated 06.09.2012

plans or working plans or management plans of the forest department with such modifications as may be considered necessary by the committee.]

(g) [⁹ approve all decisions of the committee pertaining to issue of transit permits, use of income from sale of produce, or modification of management plans.]

[¹⁰(2) The quorum of the Gram Sabha meeting shall be not less than one-half of all members of such Gram Sabha: Provided that at least one-third of the members present shall be women; Provided further that where any resolutions in respect of claims to forest rights are to be passed, at least fifty per cent of the claimants to forest rights or their representatives shall be present; Provided also that such resolutions shall be passed by a simple majority of those present and voting.]

(3) The Gram Sabha shall be provided with the necessary assistance by the authorities in the State.

5. SUB-DIVISIONAL LEVEL COMMITTEE - The State Government shall constitute SubDivisional Level Committee with the following members, namely:-

- (a) Sub-Divisional Officer or equivalent officer - Chairperson;
- (b) Forest Officer in charge of a Sub-division or equivalent officer - member;
- (c) three members of the Block or Tehsil level Panchayats to be nominated by the District Panchayat of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to the primitive tribal groups and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council or other appropriate zonal level, of whom at least one shall be a woman member; and
- (d) an officer of the Tribal Welfare Department in-charge of the Sub-division or where such officer is not available the officer in-charge of the tribal affairs.

6. FUNCTIONS OF THE SUB-DIVISIONAL LEVEL COMMITTEE - The Sub-Divisional Level Committee (SDLC) shall –

- (a) provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected ;
- (b) provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
- (c) collate all the resolutions of the concerned Gram Sabhas;
- (d) consolidate maps and details provided by the Gram Sabhas;
- (e) examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;

⁹ Clause (g) of sub-rule (1) in rule 4, inserted by G.S.R. 669(E), dated 06.09.2012

¹⁰ Sub-rule (2) of Rule 4, substituted by G.S.R. 669(E), dated 06.09.2012

- (f) hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
- (g) hear petitions from persons, including State agencies, aggrieved by the resolutions of the Gram Sabhas;
- (h) co-ordinate with other Sub-Divisional Level Committees for inter sub-divisional claims ;
- (i) prepare block or tehsil-wise draft record of proposed forest rights after reconciliation of government records;
- (j) forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision;
- (k) raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules ;
- (l) [¹¹ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A, B & C) of these rules;]
- (m) ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum.

7. DISTRICT LEVEL COMMITTEE - The State Government shall constitute District Level Committee (DLC) with the following members, namely:-

- (a) District Collector or Deputy Commissioner - Chairperson;
- (b) concerned Divisional Forest Officer or concerned Deputy Conservator of Forest - member;
- (c) three members of the district panchayat to be nominated by the district panchayat, of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to members of the primitive tribal groups, and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council of whom at least one shall be a woman member; and
- (d) an officer of the Tribal Welfare Department in-charge of the district or where such officer is not available, the officer in charge of the tribal affairs.

8. FUNCTIONS OF DISTRICT LEVEL COMMITTEE - The District Level Committee shall –

- (a) ensure that the requisite information under clause (b) of rule 6 has been provided to Gram Sabha or Forest Rights Committee;
- (b) examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act;
- (c) consider and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee;

¹¹ Clause (l) of Rule 6, substituted by G.S.R. 669(E), dated 06.09.2012

- (d) hear petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee;
- (e) co-ordinate with other districts regarding inter-district claims;
- (f) issue directions for incorporation of the forest rights in the relevant government records including record of rights;
- (g) ensure publication of the record of forest rights as may be finalized; ¹²[xxx]
- (h) ensure that a certified copy of the record of forest rights and title under the Act, as specified in Annexures II & III to these rules, is provided to the concerned claimant and the Gram Sabha respectively ; [¹³and]
- (i) [¹⁴ensure that a certified copy of the record of the right to community forest resource and title under the Act, as specified in Annexure IV to these rules, is provided to the concerned Gram Sabha or the community whose rights over community forest resource have been recognized under clause (i) of sub-section (1) of section 3.]

9. STATE LEVEL MONITORING COMMITTEE - The State Government shall constitute a State Level Monitoring Committee with the following members, namely:-

- (a) Chief Secretary - Chairperson;
- (b) Secretary, Revenue Department - member;
- (c) Secretary, Tribal or Social Welfare Department - member;
- (d) Secretary, Forest Department - member;
- (e) Secretary, Panchayati Raj - member;
- (f) Principal Chief Conservator of Forests - member;
- (g) three Scheduled Tribes member of the Tribes Advisory Council, to be nominated by the Chairperson of the Tribes Advisory Council and where there is no Tribes Advisory Council, three Scheduled Tribes members to be nominated by the State Government;
- (h) Commissioner, Tribal Welfare or equivalent who shall be the Member- Secretary.

10. FUNCTIONS OF THE STATE LEVEL MONITORING COMMITTEE - The State Level Monitoring Committee shall –

- (a) devise criteria and indicators for monitoring the process of recognition and vesting of forest rights;
- (b) monitor the process of recognition, verification and vesting of forest rights in the State;
- (c) [¹⁵meet at least once in three months to monitor the process of recognition, verification and vesting of forest rights, consider and address the field level verification and vesting of forest rights, consider and address the field level problems, and furnish a quarterly report in the format appended as Annexure V to

¹² The word, “and” is omitted by G.S.R. 669(E), dated 06.09.2012

¹³ The word, “and” is inserted by G.S.R. 669(E), dated 06.09.2012

¹⁴ Clause (i) after clause of (h) in Rule 8, inserted by G.S.R. 669(E), dated 06.09.2012

¹⁵ Clause (c) in rule 10, substituted by G.S.R. 669(E), dated 06.09.2012

these rules, to the Central Government on their assessment regarding the status of claims, the compliance with the steps required under the Act, details of claims approved, reasons for rejection, if any and the status of pending claims;]

- (d) on receipt of a notice as mentioned in section 8 of the Act, take appropriate actions against the concerned authorities under the Act;
- (e) monitor resettlement under sub-section (2) of section 4 of the Act;
- (f) [¹⁶specifically monitor compliance of the provisions contained in clause (m) of sub-section (1) of section 3 and sub-section (8) of section 4.]

11. PROCEDURE FOR FILING, DETERMINATION AND VERIFICATION OF CLAIMS BY THE GRAM SABHA - (1) The Gram Sabhas shall –

- (a) call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of these rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, shall be made within a period of three months: Provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.
- (b) fix a date for initiating the process of determination of its community forest resource and intimate the same to the adjoining Gram Sabhas where there are substantial overlaps, and the Sub-Divisional Level Committee.

(2) The Forest Rights Committee shall assist the Gram Sabha in its functions to –

- (i) receive, acknowledge and retain the claims in the specified form and evidence in support of such claims;
- (ii) prepare the record of claims and evidence including maps;
- (iii) prepare a list of claimants on forest rights;
- (iv) verify claims as provided in these rules;
- (v) present their findings on the nature and extent of the claim before the Gram Sabha for its consideration.

(3) Every claim received shall be duly acknowledged in writing by the Forest Rights Committee.

(4) The Forest Rights Committee shall also prepare the claims on behalf of Gram Sabha for [¹⁷community forest rights in Form B and the right over community forest resource under clause (i) of sub-section (1) of Section 3 in Form C as provided in Annexure I of these Rules.]

(5) The Gram Sabha shall on receipt of the findings under clause (v) of sub-rule (2), meet with prior notice, to consider the findings of the Forest Rights Committee,

¹⁶ Clause (f), inserted by G.S.R. 669(E), dated 06.09.2012

¹⁷ The words and letter “community forest rights in Form B”, substituted by G.S.R. 669(E), dated 06.09.2012

pass appropriate resolutions, and shall forward the same to the Sub- Divisional Level Committee.

- (6) The Secretary of Gram Panchayat will also act as Secretary to the Gram Sabhas in discharge of its functions.

12. PROCESS OF VERIFYING CLAIMS BY FOREST RIGHTS COMMITTEE-

(1) The Forest Rights Committee shall, after due intimation to the concerned claimant and the Forest Department

- (a) visit the site and physically verify the nature and extent of the claim and evidence on the site;
- (b) receive any further evidence or record from the claimant and witnesses;
- (c) ensure that the claim from pastoralists and nomadic tribes for determination of their rights, which may either be through individual members, the community or traditional community institution, are verified at a time when such individuals, communities or their representatives are present;
- (d) ensure that the claim from 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; and
- (e) prepare a map delineating the area of each claim indicating recognizable landmarks.
- (f) ¹⁸ delineate the customary boundaries of the community forest resource with other members of the Gram Sabha including elders who are well versed with such boundaries and customary access;
- (g) prepare a community forest resource map with recognizable land marks and through substantial evidence as enumerated in sub-rule (2) of rule 13 and thereafter, such community forest resource claim shall be approved by a resolution of the Gram Sabha passed by a simple majority.

Explanation: The delineation of community forest resource may include existing legal boundaries such as reserve forest, protected forest, National Parks and Sanctuaries and such delineation shall formalize and recognize the powers of the community in access, conservation and sustainable use of such community forest resources.]

- (2) The Forest Rights Committee shall then record its findings on the claim and present the same to the Gram Sabha for its consideration.
- (3) If there are conflicting claims in respect of the traditional or customary boundaries of another village or if a forest area is used by more than one Gram Sabha, the Forest Rights Committees of the respective Gram Sabhas shall meet jointly to consider the nature of enjoyment of such claims and submit the findings to the respective Gram Sabhas in writing: Provided that if the Gram Sabhas are not able

¹⁸ Clause (f) and (g) after clause (e), inserted by G.S.R. 669(E), dated 06.09.2012

to resolve the conflicting claims, it shall be referred by the Gram Sabha to the Sub-Divisional Level Committee for its resolution.

- (4) On a written request of the Gram Sabha or the Forest Rights Committee for information, records or documents, the concerned authorities shall provide an authenticated copy of the same to the Gram Sabha or Forest Rights Committee, as the case may be, and facilitate its clarification, if required, through an authorized officer.

[¹⁹ **12A. PROCESS OF RECOGNITION OF RIGHTS** - (1) On receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue departments shall remain present during the verification of the claims and the verification of evidences on the site and shall sign the proceedings with their designation, date and comments, if any.

- (2) If any objections are made by the Forest or Revenue departments at a later date to a claim approved by the Gram Sabha, for the reason that their representatives were absent during field verification, the claim shall be remanded to the Gram Sabha for re-verification by the committee where objection has been raised and if the representatives again fail to attend the verification process the Gram Sabha's decision on the field verification shall be final.
- (3) In the event of modification or rejection of a claim by the Gram Sabha or a recommendation for modification or rejection of a claim forwarded by the Sub-Divisional Level Committee to the District Level Committee, such decision or recommendation on the claims shall be communicated in person to the claimant to enable him to prefer a petition to the Sub-Divisional Level Committee or District Level Committee as the case may be, within a period of sixty days which shall be extendable to a period of thirty days at the discretion of the above said committees.
- (4) If any other state agency desires to object to a decision of the Gram Sabha or the Sub-Divisional Level Committee, it shall file an appeal before the Sub-Divisional Level Committee or the District Level Committee, as the case may be, which shall be decided by the Committee (in the absence of the representative of the concerned agency, if any) after hearing the claimant.
- (5) No petition of the aggrieved person shall be disposed of, unless he has been given a reasonable opportunity to present anything in support of his claim.
- (6) The Sub-Divisional Level Committee or the District Level Committee shall remand the claim to the Gram Sabha for re-consideration instead of modifying or rejecting the same, in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination.
- (7) In cases where the resolution passed by the Gram Sabha, recommending a claim, with supporting documents and evidence, is upheld by the Sub-Divisional Level Committee or without modifications, but the same is not approved by the District Level Committee, the District Level Committee shall record detailed reasons for not accepting the recommendations of the Gram Sabha or the Sub-Divisional Level Committee as the case may be, in writing, and a copy of the order of the District Level Committee along with the reasons shall be made available to the claimant or the Gram Sabha or the Community as the case may be.

¹⁹ Rule 12A, inserted by G.S.R. 669(E), dated 06.09.2012

- (8) The land rights for self-cultivation recognized under clause (a) of sub-section (1) of section 3 shall be, within the specified limit, including the forest lands used for allied activities ancillary to cultivation, such as, for keeping cattle, for winnowing and other post-harvest activities, rotational fallows, tree crops and storage of produce.
- (9) On completion of the process of settlement of rights and issue of titles as specified in Annexure II, III and IV of these rules, the Revenue and the Forest departments shall prepare a final map of the forest land so vested and the concerned authorities shall 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.
- (10) All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution or recommendation of the Sub-Divisional Level Committee shall give detailed reasons for such modification or rejection, as the case may be:

Provided that no recommendation or rejection of claims shall be merely on any technical or procedural grounds:

Provided further that no committee (except the Gram Sabha or the Forest Rights Committee) at the Block or Panchayat or forest beat or range level, or any individual officer of any rank shall be empowered to receive claims or reject, modify, or decide any claim on forest rights.

- (11) The Sub-Divisional Level Committee or the District Level Committee shall consider the evidence specified in rule 13 while deciding the claims and shall not insist upon any particular form of documentary evidence for consideration of a claim.

Explanation: 1. Fine receipts, encroacher lists, primary offence reports, forest settlement reports, and similar documentation by whatever name called, arisen during prior official exercise, or the lack thereof, shall not be the sole basis for rejection of any claim.

2. The satellite imagery and other uses of technology may supplement other form of evidence and shall not be treated as a replacement.]

[²⁰ 12B. PROCESS OF RECOGNITION OF COMMUNITY RIGHTS:- (1) The District Level Committee shall, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups as described in clause (e) of sub-section (i) 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 20 Rule 12B, inserted by G.S.R. 669(E), dated 06.09.2012 concerned Gram Sabhas, wherever necessary by recognizing floating nature of their Gram Sabhas.

- (2) The District Level Committee shall facilitate the filing of claims by pastoralists, transhumant and nomadic communities as described in clause (d) of sub-section (i) of section 3 before the concerned Gram Sabhas.

²⁰ Rule 12B, inserted by G.S.R. 669(E), dated 06.09.2012

- (3) The District Level Committee shall ensure that the forest rights under clause (i) of sub-section (1) of section 3 relating to protection, regeneration or conservation or management of any community forest resource, which forest dwellers might have traditionally been protecting and conserving for sustainable use, are recognized in all villages with forest dwellers and the titles are issued.
- (4) In case where no community forest resource rights are recognized in a village, the reasons for the same shall be recorded by the Secretary of the District Level Committee.
- (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.]

13. EVIDENCE FOR DETERMINATION OF FOREST RIGHTS-- (1) The evidence for recognition and vesting of forest rights shall, inter alia, include –

- (a) public documents, Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, microplans, forest enquiry reports, other forest records, record of rights by whatever name called, pattas or leases , reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions;
 - (b) Government authorised documents such as voter identity card, ration card, passport, house tax receipts, domicile certificates;
 - (c) physical attributes such as house, huts and permanent improvements made to land including levelling, bunds, check dams and the like;
 - (d) quasi-judicial and judicial records including court orders and judgments;
 - (e) research studies, documentation of customs and traditions that illustrate the enjoyment of any forest rights and having the force of customary law, by reputed institutions, such as Anthropological Survey of India;
 - (f) any record including maps, record of rights, privileges, concessions, favours, from erstwhile princely States or provinces or other such intermediaries;
 - (g) traditional structures establishing antiquity such as wells, burial grounds, sacred places;
 - (h) genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time;
 - (i) statement of elders other than claimants, reduced in writing.
- (2) An evidence for [²¹Community Forest Resource] shall, inter alia, include –
- (a) community rights such as nistar by whatever name called;
 - (b) traditional grazing grounds; areas for collection of roots and tubers, fodder, wild edible fruits and other minor forest produce; fishing grounds; irrigation systems;

²¹ The words “Community Forest Rights”, substituted by G.S.R. 669(E), dated 06.09.2012

sources of water for human or livestock use, medicinal plant collection territories of herbal practitioners;

- (c) remnants of structures built by the local community, sacred trees, groves and ponds or riverine areas, burial or cremation grounds;
 - (d) [²² government records or earlier classification of current reserve forest as protected forest or as gochar or other village common lands, nistari forests;
 - (e) earlier or current practice of traditional agriculture.]
- (3) The Gram Sabha, the Sub-Divisional Level Committee and the District Level Committee shall consider more than one of the above-mentioned evidences in determining the forest rights.

14. PETITIONS TO SUB-DIVISIONAL LEVEL COMMITTEE - (1) Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.

- (2) The Sub-Divisional Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Gram Sabha in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.
- (3) The Sub-Divisional Level Committee may either allow or reject or refer the petition to concerned Gram Sabha for its reconsideration.
- (4) After receipt of such reference, the Gram Sabha shall meet within a period of thirty days, hear the petitioner, pass a resolution on that reference and forward the same to the Sub-Divisional Level Committee.
- (5) The Sub-Divisional Level Committee shall consider the resolution of the Gram Sabha and pass appropriate orders, either accepting or rejecting the petition.
- (6) Without prejudice to the pending petitions, Sub-Divisional Level Committee shall examine and collate the records of forest rights of the other claimants and submit the same through the concerned Sub-Divisional Officer to the District Level Committee.
- (7) In case of a dispute between two or more Gram Sabhas and on an application of any of the Gram Sabhas or the Sub-Divisional Level Committee on its own, shall call for a joint meeting of the concerned Gram Sabhas with a view to resolving the dispute and if no mutually agreed solution can be reached within a period of thirty days, the Sub-Divisional Level Committee shall decide the dispute after hearing the concerned Gram Sabhas and pass appropriate orders.

15. PETITIONS TO DISTRICT LEVEL COMMITTEE - (1) Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision of the Sub-Divisional Level Committee file a petition to the District Level Committee.

²² Clause (d) and (e) after clause (c) inserted by G.S.R. 669(E), dated 06.09.2012

- (2) The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-Divisional Level Committee in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.
- (3) The District Level Committee may either allow or reject or refer the petition to concerned Sub-Divisional Level Committee for its reconsideration.
- (4) After receipt of such reference, the Sub-Divisional Level Committee shall hear the petitioner and the Gram Sabha and take a decision on that reference and intimate the same to the District Level Committee.
- (5) The District Level Committee shall then consider the petition and pass appropriate orders, either accepting or rejecting the petition.
- (6) The District Level Committee shall send the record of forest rights of the claimant or claimants to the District Collector or District Commissioner for necessary correction in the records of the Government.
- (7) In case there is a discrepancy between orders of two or more Sub-Divisional Level Committees, the District Level Committee on its own, shall call for a joint meeting of the concerned Sub-Divisional Level Committees with a view to reconcile the differences and if no mutually agreed solution can be reached, the District Level Committee shall adjudicate the dispute after hearing the concerned Sub-Divisional Level Committees and pass appropriate orders.

²³ **16. POST CLAIM SUPPORT AND HANDHOLDING TO HOLDERS OF FOREST RIGHTS:** The State Government shall ensure through its departments especially tribal and social welfare, environment and forest, revenue, rural development, panchayati raj and other departments relevant to upliftment of forest dwelling scheduled tribes and other traditional forest dwellers, that all government schemes including those relating to land improvement, land productivity, basic amenities and other livelihood measures are provided to such claimants and communities whose rights have been recognized and vested under the Act.

Dr. Sadhana Rout, Joint Secretary
[F. No.17014/ 02/ 2007-PC&V (Vol.VII)]

ANNEXURE - I
[See rule 6(l)]
FORM – A
CLAIM FORM FOR RIGHTS TO FOREST LAND
[See rule 11(1)(a)]

1. Name of the claimant (s):
2. Name of the spouse
3. Name of father/ mother
4. Address:
5. Village:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. (a) Scheduled Tribe: Yes/ No
(Attach authenticated copy of Certificate)
(b) Other Traditional Forest Dweller: Yes/ No
(If a spouse is a Scheduled Tribe (attach authenticated copy of certificate)
10. Name of other members in the family with age:
(including children and adult dependents)

Nature of claim on land:

1. Extent of forest land occupied
 - a) for habitation
 - b) for self-cultivation, if any:
(See Section 3(1) (a) of the Act)
2. Disputed lands if any:
(See Section 3(1) (f) of the Act)
3. Pattas/ leases/ grants, if any:
(See Section 3(1) (g) of the Act)
4. Land for *in situ* rehabilitation or alternative land, if any:
(See Section 3(1) (m) of the Act)
5. Land from where displaced without land compensation:
(See Section 4(8) of the Act)
6. Extent of land in forest villages, if any:
(See Section 3(1) (h) of the Act)
7. Any other traditional right, if any:
(See Section 3(1) (l) of the Act)
8. Evidence in support:
(See Rule 13)
9. Any other information:

Signature/ Thumb Impression
of the Claimant(s):

FORM – B
CLAIM FORM FOR COMMUNITY RIGHTS
[See rule 11(1) (a) and (4)]

1. Name of the claimant(s):
 - a. FDST community: Yes/ No
 - b. OTFD community: Yes/ No
2. Village:
3. Gram Panchayat:
4. Tehsil/ Taluka:
5. District:

Nature of community rights enjoyed:

1. Community rights such as *nistar*, if any:
(See Section 3(1) (b) of the Act)
2. Rights over minor forest produce, if any:
(See Section 3(1) (c) of the Act)
3. Community rights
 - a. uses or entitlements (fish, water bodies), if any:
 - b. Grazing, if any
 - c. Traditional resource access for nomadic and pastoralist, if any:
(See Section 3(1) (g) of the Act)
4. Community tenures of habitat and habitation
for PTGs and pre-agricultural communities, if any:
(See Section 3(1) (e) of the Act)
5. Right to access biodiversity, intellectual
property and traditional knowledge, if any:
(See Section 3 (1)(k) of the Act)
6. Other traditional right, if any:
(See Section 3(1)(l) of the Act)
7. Evidence in support:
(See Rule 13)
8. Any other information:

**Signature/ Thumb Impression
of the Claimant (s):**

CLAIM FORM FOR RIGHTS TO COMMUNITY FOREST RESOURCE

[See section 3(1)(i) of the Act and rule 11(1) and 4(a)]

1. Village/Gram Sabha:
2. Gram Panchayat:
3. Tehsil / Taluka:
4. District:
5. Name(s) of members of the gram sabha [Attach as separate sheet, with status of Scheduled Tribes / Other Traditional Forest Dwellers indicated next to each member].
Presence of few Scheduled Tribes / Other Traditional forest Dwellers is sufficient to make the claim.

We, the undersigned residents of this Gram Sabha hereby resolve that the area detailed below and in the attached map comprises our Community Forest Resource over which we are claiming recognition of our forest rights under section 3(1)(i).

[Attach a map of the community forest resource, showing location, landmarks within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities to which the community had traditional access and which they have been traditionally protecting, regenerating, conserving and managing for sustainable use. Please note that this need not correspond to existing legal boundaries.)

6. Khasra / Compartment No.(s), if any and if known:
7. Bordering Villages:
 - (i)
 - (ii)
 - (iii)

(This may also include information regarding sharing of resources and responsibilities with any other villages.)

8. List of Evidence in Support (Please see Rule 13)

Signature / Thumb impression of the Claimant(s):

ANNEXURE – II

[See rule 8(h)]

TITLE FOR FOREST LAND UNDER OCCUPATION

1. Name(s) of holder (s) of forest rights (including spouse):
2. Name of the father/ mother:
3. Name of dependents:
4. Address:
5. Village/gram sabha:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. Whether Scheduled Tribe or Other Traditional Forest Dweller
10. Area:
11. Description of boundaries by prominent landmarks including khasra/ compartment No:

This title is heritable, but not alienable or transferable under sub section (4) of section 4 of the Act.

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State).....affix our signatures to confirm the above forest right.

**Divisional Forest Officer/
Deputy Conservator of
Forests**

**District Tribal Welfare
Officer**

**District Collector/ Deputy
Commissioner**

ANNEXURE – III

[See rule 8(h)]

TITLE TO COMMUNITY FOREST RIGHTS

1. Name(s) of the holder (s) of community forest right:
2. Village/ Gram Sabha:
3. Gram Panchayat:
4. Tehsil/ Taluka:
5. District:
6. Scheduled Tribe/ Other Traditional Forest Dweller:
7. Nature of community rights:
8. Conditions if any:
9. Description of boundaries including customary boundary and/or by prominent landmarks including khasra/ compartment No:

Name(s) of the holder (s) of community forest right:

- 1.....
- 2.....
- 3.....

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State).....affix our signatures to confirm the forest right as mentioned in the Title to the above mentioned holders of community forest rights.

**Divisional Forest Officer/
Deputy Conservator of
Forests**

**District Tribal Welfare
Officer**

**District Collector/ Deputy
Commissioner**

²⁵**TITLE TO COMMUNITY FOREST RESOURCES**

[See rule 8(i)]

1. **Village/Gram Sabha:**
2. **Gram Panchayat:**
3. **Tehsil / Taluka:**
4. **District:**
5. **Scheduled Tribe / Other Traditional Forest Dweller. Scheduled Tribes community / Other Traditional Forest Dwellers community / Both**
6. **Description of boundaries including customary boundary, by prominent landmarks, and by khasra / compartment No.**

Within the said area, this community has the right to protect, regenerate or conserve or manage, and this (to be named) community forest resources which they have been traditionally protecting and conserving for sustainable used as per section 3(1)(i) of the Act. No conditions are being imposed on this right other than those in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act and the Rules framed thereunder.

We, the undersigned, hereby, for and on behalf of the Government affix our signatures to confirm the community forest resource (to be named and specified in extent, quantum, area, whichever is applicable) as mentioned in the Title to the above mentioned gram sabha / community (ies).

(Divisional Forest Officer /

(District Tribal Welfare Officer)

Deputy Conservator of Forests)

(District Collector / Deputy Commissioner)”

²⁵ “Annexure- IV” inserted by G.S.R. 669(E), dated on 06.09.2012

²⁶Annexure – V
Format for furnishing quarterly report
[See Rule 10 (c)]

1.	Name of the State	
2.	Status of Claims	
a)	Individual Rights	
	• Filed	
	• Accepted	
	• Rejected	
	• Pending	
	• Reasons for rejection with examples	
	• Corrective measures suggested	
	• Any other observations	
	• Extent of forest land covered (in Ha.)	
	• Status of updation of forest and revenue records under section 3(1)(a) of the Act (in Ha.)	
b)	Community Forest Rights	
	• Filed	
	• Accepted	
	• Rejected	
	• Pending	
	• Extent of forest land covered	
	• Status of updation of forest and revenue record under Section 3(1) (b) to 3(1) (l) of the Act (in Ha.)	
	• Reasons for rejections with example	
	• Corrective measures suggested	
	• Any other observations	
c)	Details of Community Forest Resource being managed and by whom	
d)	Good Practices (if any)	
e)	Area diverted under section 3(2) of the Act (in Ha.)	
f)	Any other Remarks	

(Chairman)

(Member Secretary)

State Level Monitoring Committee

State Level Monitoring Committee

[F. No. 23011/32/2010-(Vol. II)
Dr. SADHANA ROUT, Jt. Secy.]

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1 (E), dated the 1st January, 2008.

²⁶ “Annexure – V”, inserted by G.S.R. 669 (E), dated on 06.09.2012

3. THEMATIC CHAPTERS

3.1. Initial Circulars on Implementation and Setting up of Institutional Structures (FRCs, SDLCs, DLCs)

3.1. Initial Circulars on Implementation and Setting up of Institutional Structures (FRCs, SDLCs, DLCs)

ABSTRACT

Sl. No.	Date	Particulars (India & States)	Issued by
Govt. of India			
1	27.09.2007	Letter from Ministry of Tribal Affairs addressed to Principal Secretary/Secretary of Tribal Welfare Department/Tribal Development Department/Social Welfare Department of all States	MoTA
2	08.01 2008	Letter from Hon'ble Prime Minister to Chief Ministers of the States	PMO
3	15.02.2008	Letter from Ministry of Panchayati Raj addressed to Chief Secretaries of all States/Administrators UTs	MoPR, GoI
4	25.02.2008	Letter from MoTA to Chief Secretaries of all States	MoTA, GoI
5	03.12.2008	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 – clarification regarding	MoTA, GoI
6		Clarification on important issues raised by the States since 2008	MoTA, GoI
7	5.04.2010	Letter from MoTA to Government of Tripura	MoTA, GoI
8	12.07.2012	Implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 - guidelines regarding.	
Govt. of Odisha			
9.	25.02.2004	Constitution of Task Force at the sub-divisional Level, District level and state level to review and monitor implementation of various Rules and Regulations concerning welfare of the Scheduled Tribes and to prevent their exploitation.	ST & SC Development Department, Odisha
10.	01.02.2008	Constitution of Sub-Divisional Level Committee, District Level Committee & State Level Monitoring Committee	ST & SC Development Department, Odisha
11.	12.08.2014	Re-constitution of State Level Monitoring Committee (SLMC) for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006 and Rules made there under	ST & SC Development Department, Odisha

Govt. of West Bengal			
12.	07.03.2008	Constitution of State Level Monitoring Committee (SLMC) for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006 and Rules made there under	Backward classes Welfares Department, Govt. of West Bengal
13	10.3.2008	Implementation of “The Scheduled Tribes and Other Traditional Forest Dwellers (Recodnition oof Forest Rights) Act, 2006 & Rules , 2008”	Backward classes Welfares Department, Govt. of West Bengal
14	17.03.2008	Formation of Forest Right Committee at Gram Sansad Level	Panchayati Raj Department
15	26.09.2008	Formation of Block Level Monitoring Committee	Backward classes Welfares Department, Govt. of West Bengal
16	01.10.2008	Formation of State Level Expert Committee	Department of Forest, Govt. of WB
17		Formation of District level and Sub Division Level Committeess	Government of WB

Government of India

Letter No. 17014/2/2007 PC & V (Vol II) dated 27th September 2007 from Shri G.B Mukherji, Secretary to Government of India, Ministry of Tribal Affairs addressed to Principal Secretary/Secretary of Tribal Welfare Department/Tribal Development Department/Social Welfare Department of all States

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 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 the 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.
4. 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 30th August 2007 to constitute the 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 been made a Member of the said Committees.
5. 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 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 the Critical Wildlife Habitats as per the provisions of the Act.
6. 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.

Letter dated 8th January 2008 from Shri Manmohan Singh, Hon'ble Prime Minister of India to Hon'ble Chief Ministers of States

As you are aware, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has now been notified along with the Rules. This is a landmark legislation in independent India that seeks to provide rights over land in their occupation to forest-dwelling scheduled tribes and other traditional forest dwellers who have been residing there for generations but whose rights could not be recorded.

You may appreciate that it is necessary to ensure proper implementation of this Act expeditiously, in keeping with the Rules provided under it. The responsibility for implementation vests with the State Governments which are required to constitute Committees under the Act that would process the cases and ensure distribution of land rights. Therefore the State Level Monitoring Committees, District Level Committees and below district level Committees should be constituted at the earliest so that the work can commence. The Rules provide for the composition of these Committees and their respective functions.

There should be effective communication at multiple forums to ensure that the provisions of this Act and Rules are well known and such public information contributes to transparency and accountability in implementation. Ministry of Panchayati Raj would be writing separately to you to organize Gram Sabhas across the country on an appointed day to ensure that the provisions of this Act are made widely known to Members of the Gram Sabha and Panchayats who will play a critical role in its implementation.

Needless to stress, while implementing the Act, it should be ensured that adequate protection is provided to critical wildlife habitats as provided for in Section 4 of the Act.

I look forward to your leadership and cooperation in the speedy and effective implementation of this significant legislation.

Letter No. N-11016/7/2008-RBH, Dated February 15, 2008, from Sushma Singh, Government of India Ministry of Panchayati Raj addressed to Chief Secretaries of all States/Administrators UTs

Dear Chief Secretary/Administrator,

I would like to invite your attention to the letter from Hon'ble Prime Minister dated January 8, 2008 addressed to the Chief Minister of your State highlighting the need for expeditiously implementing the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act and Rules. Please also refer to the communications in this regard from the Ministry of Tribal Affairs (MoTA). I hope the process of constituting State Level Monitoring Committee and Committees at District and Sub-Divisional Levels has been completed by now.

Clause 6(1) of the Act authorizes the Gram Sabhas to initiate the process for determining the nature and extent of Individual/Community Forest Rights. In this regard Gram Panchayats have to convene the meeting of Gram Sabhas wherein the members of the Forest Rights

Committee (FRC) shall be elected. The FRC is required to collect claim filed in the prescribed formats and give acknowledgement to the claimants, keep proper records of the claimants, verify the claims and present their findings to the Gram Sabhas. The Gram Sabhas are required to pass their resolutions on each individual claim and submit the same to the Sub-Divisional Level Committee for further processing. The FRCs are accountable to the Sub-Divisional Level Committee that also has to ensure that the Gram Sabhas are made aware of their roles and responsibilities, the proforma for fill claims are easily available to the claimants and the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum etc.

To properly perform their responsibilities within the time frame provided by the Rules, the Gram Panchayats and Gram Sabhas must understand the entire process and specifically their assigned roles and responsibilities. The Hon'ble Prime Minister has proposed that the Gram Sabhas in the country should meet on a single day for this purpose. The Ministry suggests that all States may organize Gram Sabhas on the February 28, 2008 during which the provisions of the Act & Rules and the roles and responsibilities of PRIs, Gram Sabhas and FRCs are explained.

Please take action as suggested above and complete arrangements for holding the Gram Sabhas on February 28, 2008. The nodal Secretary for implementing the Act in the State may be directed to confirm the action taken in this regard, when he/ she attend the Review meeting convened by Ministry of Tribal Affairs on February 18-19, 2008.

D.O. No. 17014/2/2007-PC&V (Vol.VI), dated 25th February, 2008, from Gautam Buddha Mukherji, Secretary to the Government of India, Ministry of Tribal Affairs addressed to Chief Secretaries of all States (except Punjab), Chief Secretary, Andaman and Nicobar Islands, Administrator, Daman and Diu & Dadra and Nagar Haveli

Dear

Kindly refer to my D.O letter of even number dated 25th 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;
- (iii) 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 31st 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 recognizes the forest rights of settlement and conversion of all forest villages, old habitations, un-surveyed villages and other villages in forest 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 18th 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 18th and 19th 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.

D.O. No. 49/TP/Secy(TA)/ 2010, dated 5th April, 2010 from G.B Mukherji, Secretary to Government of India, Ministry of Tribal Affairs addressed to Shri S. K. Das, Commissioner and Secretary, Tribal Welfare Department, Government of Tripura

Dear

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

2. Forest Rights Act:

2.1 Recently you had sought a clarification from the undersigned as to claims under the Act can continue to be received beyond 31st December, 2009, as there is no such deadline prescribed. We have confirmed your interpretation, but **it appears that instructions might have been incorrectly communicated to field offices that even those whose implications 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 older in this regard. Some States in communicating social themes through plays. One such organization that you may like to contact is bangiantak.com.

3.2 Some State like Gujarat, Rajasthan and Odisha 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 Mritingachera a number of items have been identified for expenditure through the forest development agencies for the year 2009-10, but 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 counterpart 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.

Letter No. 23011/28/2008 SG -II, Dated, 03.12.2008 from Sunil Garg Under Secretary to Government of India, Ministry of Tribal Affairs addressed to All State Secretaries in charge of Tribal Welfare

Sub: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 – clarification regarding

Sir,

1. As you are aware, Rule 11 (1) of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 provides that Gram Sabha shall call for claims and authorize the Forest Rights Committee to accept the claims in the form as provided in Annexure I of these Rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two evidences mentioned in Rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of 3 months after recording the reasons thereof in writing.
2. As the Rules provide for three months time for filing the claims, a question has been raised as to whether the Gram Sabha can consider the clear cases immediately or the Gram Sabha has to consider the cases only after the expiry of three months period. It is clarified that the period of three months for filing of claims is to be reckoned from the date of calling of claims after the constitution of Forest Rights Committee. Gram Sabh can consider undisputed cases provided the procedure as laid down in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 has been followed.

Clarification issued by Ministry of Tribal Affairs, Government of India to all the States on some of the important issues raised by the States relating to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the clarifications given thereto.

S. No.	Issue	Clarification
(i)	Implications of the phrase “primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs” appearing in Section 2(c) and 2(o) of the Act.	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 selfcultivation 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. [MoTA’s letter No.17014/02/2007-PC&V (Vol.II) dated 9th June, 2008, addressed to all States/ UTs, except J&K]
(ii)	Constitution of various Committees under the Act in Jharkhand where the Panchayat elections had not been held.	In the absence of Panchayati Raj Institution in the State of Jharkhand, the State Government was directed to arrange meetings of the Gram Sabhas and ensure representation in the SubDivisional Level Committees, District Level Committees and the State Level Committees in consultation with the Department of Panchayati Raj and the Nodal Department of State Government on Forest Rights Act. [MoTA’s letter No. 17014/02/2007-PC&V (Vol.VII) (pt) dated 9th July, 2008, addressed to Government of Jharkhand]
(iii)	Consideration of the revenue land under the occupation of forest dwelling Scheduled Tribes and other traditional forest dwellers for determining the limit of an area of 4 hectares of forest land for habitation or for selfcultivation, referred to in Section 4(c) of the Act.	The term “forest land” is defined in section 2(d) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the said definition does not include revenue land. Therefore, the revenue land under the occupation of forest dwelling Scheduled Tribes and other traditional forest dwellers is not to be taken into account for determining the limit of an area of 4 hectares of forest land for habitation or for self-cultivation, referred to in Section 4(6) of the Act. The area of encroachment of forest land shall, however, be included in the limit of 4 hectares, prescribed in section 4(6) of the Act However, section 3(1)(a) of the Act refers to “the right to hold and live in the forest land under the individual or

		<p>common occupation for habitation or for self-cultivation for livelihood”, while rule 2(1) (b) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 notified on 1.1.2008 defines “bona fide livelihood needs” as “fulfillment of sustenance need of self and family”. As the basic objective of the Act is to provide livelihood means to forest dwelling Scheduled Tribes and other traditional forest dwellers, the livelihood aspect also needs to be kept in view, while considering the maximum limit of an area of 4 hectares of forest land for recognition and vesting of forest rights. If the forest dwellers do not primarily reside on the forest land in their occupation and depend on the revenue land or the area of regularized encroachment of forest land for their bona fide livelihood needs, then they should not get title to the forest land in occupation. [MoTA’s letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Gujarat]</p>
	<p>Since 3 months time has been provided under Rule 11(a) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 for filing the claims, whether the Gram Sabha can consider the clear cases immediately or the Gram Sabha has to consider the cases only after the expiry of 3 months period.</p>	<p>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 provide that the Gram Sabha shall call for the claims and authorize the Forest Rights Committee to accept the claims. Such claims are to be made within a period of three months from the date of such calling of the claims. The period of three months for filing the claims is thus to be reckoned from the date of calling of claims after the constitution of the Forest Rights Committee. Gram Sabhas can consider undisputed cases provided the procedure as laid down in the 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]</p>
(v)	<p>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.</p>	<p>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]</p>
(vi)	<p>Whether powers can be delegated to the Revenue Divisional Officer for signing the claimant rights Pass Books</p>	<p>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</p>

	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.	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. Therefore, the District Level Committees and Sub-Divisional Level Committees have to be constituted as per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 even if the forest and land revenue matters are managed by the Council authorities. These Rules do not provide for making the Principal Secretary of the Autonomous Councils as the Chairperson of these Committees. [MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Assam]
(viii)	Definition of the term "State Government" in relation to the Union Territories with reference to the Act.	The expression the "State Government" has not been defined either in the Act or in the Rules. Section 3 of the General Clauses Act, 1897 provides that the definitions given therein shall apply to this Act, and in all Central Acts and Regulations made after the commencement of this Act. These definitions are intended for a proper interpretation of all Central Acts made after the commencement of this Act and are subject to any context being repugnant. Clause (60) of section 3 defines the "State Government" as under: '(a) as respects anything done before the commencement of the Constitution, shall mean, in a Part A State, the Provincial Government of the corresponding Province in a Part B State, the authority or person authorized at the relevant date to exercise executive Government in the corresponding acceding State and in a Part C State, the Central Government; (b) as respects anything done after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a Part A State, the Governor in a Part B State, the Rajpramukh, and in a Part C State, the Central

		<p>Government; (c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a State, the Governor, and in a Union territory, the Central Government; and shall, in relation to functions entrusted under Article 258-A of the Constitution of the Government of India, include the Central Government acting within the scope of the authority given to it under the Article.’ In the light of the above legal position, the expression the “State Government” used in the Act and the Rules shall mean the “Central Government” in so far as the Union Territory of Daman & Diu is concerned. Therefore, the functions and powers of the State Government under the Act may be validly exercised by the Central Government in this Union Territory. [MoTA’s letter No. 17014/02/2007-PC&V (Vol.VII) (pt.) dated 9.1.2009, addressed to Administration of Daman & Diu]</p>
(ix)	<p>Tribals in some settlements are demanding that land under cultivation should be assigned in their common name. Whether this is permissible as per the Act? If yes, then is the ceiling of 4 hectares applicable on the communal allotment of land, or is the applicable ceiling 4 hectares x no. of families? i.e. can 100 acres under common cultivation be so assigned to a community with 40 families in the Form at Annexure II of the Rules?</p>	<p>Section 3(1)(a) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognises the right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers. The said Section, thus, permits the recognition and vesting of the right over the forest land under common occupation for cultivation in the name of a community of tribals. However, in view of the provisions of Section 4(6) of the Act, such forest land under the occupation of the community of tribals shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares. [MoTA’s letter No. 23011/28/2008-SG-II dated 15.1.2009, addressed to Government of Kerala]</p>
(x)	<p>How is the Annexure II Title to be assigned to a couple who are married intercaste?</p>	<p>Section 4(4) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 inter alia provides that a forest right conferred under the Act shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin. There is no bar in the Act to the registration of the forest right conferred under the Act jointly in the name of both the spouses who are married inter-caste, provided the applicant is an ST or if not an ST, fulfils the criteria for a traditional forest dweller. [MoTA’s</p>

		letter No. 23011/28/2008-SG-II dated 15.1.2009, addressed to Government of Kerala]
(xi)	There are cases of tribals from Kerala requiring regularization of their rights under the Act in the forests of Karnataka, and vice versa. There could be similar cases with Tamil Nadu also. How is this to be tackled?	Section 4(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognises and vests forest rights in (a) forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes, and (b) the other traditional forest dwellers. The terms “forest dwelling Scheduled Tribes” and “other traditional forest dweller” are defined in Sections 2(c) and 2(o) of the Act. Further, Section 4(3) read with section 4(6) of the Act requires that the following two conditions should 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 13th 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. The Scheduled Tribe status is Statespecific and the forest dwelling Scheduled Tribes in Kerala would not carry their Scheduled Tribe status in Karnataka and vice versa. As all the conditions prescribed in Sections 2(c), 4(1)(a), 4(3) read with Section 4(6) of the Act would not be satisfied in the case of forest dwelling Scheduled Tribes in Kerala claiming recognition of forest rights in the forests of Karnataka, they would not be eligible for recognition and vesting of forest rights under the Act in the forests of Karnataka, and vice versa. Most important, the recognition of rights and the processing thereof has to be initiated by the concerned Gram Sabhas. The Gram Sabhas of one State cannot recommend the claims for recognition of forest rights over forest land in another State. [MoTA’s letter No. 23011/28/2008-SG-II dated 15.1.2009, addressed to Government of Kerala]
(xii)	Relaxation of the quorum of two-thirds of all members of the Gram Sabha for the meeting of the Gram Sabha in Rule 4(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008.	The provision for the quorum of two-thirds of all members of the Gram Sabha for the meeting of the Gram Sabha in Rule 4(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 has been made with a view to ensure true representation of all the members of the Gram Sabha in such meetings so that the decisions taken therein are impartial and cater to the real objective of the meeting. These Rules do not permit relaxation of this requirement of quorum. [MoTA’s letter No. 23011/28/2008-SG-II dated 21.1.2009, addressed to Government of Kerala] & [MoTA’s letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 4.3.2010, addressed to

		UT Administration of Daman & Diu, Moti Daman]
(xiii)	Processing of the claims of the occupants of forest land in Municipal and Panchayat Areas of Korba district of Chhattisgarh.	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 forest rights which are to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers. The term 'Gram Sabha' is defined in Section 2(g) of the Act and the term 'village', referred to in Section 2(g), is also defined in Section 2(p) of the Act. In case, the Municipal and Panchayat areas of Korba District of Chhattisgarh, which are having forest land, have Gram Sabhas within the meaning of Section 2(g) read with Section 2(p) of the Act, then the claims of the occupants of forest land in such areas for recognition and vesting of forest rights over the forest land under their occupation can be considered as per the procedure laid down in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008. In case these areas do not have Gram Sabhas within the meaning of Section 2(g) read with Section 2(p) of the Act, then the occupants of forest land in those areas would not be eligible for recognition and vesting of forest rights under the Act. [MoTA's letter No. 23011/28/2008-SG-II dated 21.1.2009, addressed to Government of Chhattisgarh]
(xiv)	Whether the cut off date of 13.12.2005 will be applicable for all forest dwelling Scheduled Tribes, irrespective of their State of origin, on migration from one State to another State.	The Scheduled Tribes of one State, on migration to another State, do not carry their ST status in the State of migration, unless they are notified as Scheduled Tribes in that State also. Therefore, the forest dwelling Scheduled Tribes who have migrated from another State to Orissa, would be eligible for recognition and vesting of forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 only if they are declared as Scheduled Tribes in the State of Orissa. Otherwise, they have to be treated as "other traditional forest dwellers" and will need to satisfy the condition of three generations of stay as on 13.12.2005 for recognition and vesting of forest rights under the Act and generation has been defined a period comprising twenty five years in Section 2(o) of the Act. [MoTA's DO letter No. 23011/28/2008-SG-II (FRA) dated 8.5.2009, addressed to Government of Orissa, Bhubaneswar]
(xv)	Whether a Committee other than the Forest Right Committee and comprising persons other than the members of the Gram Sabha	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Rules framed thereunder do not permit formation of any Committee other than the Forest Rights Committee for assisting the Gram Sabha in

	<p>can be formed for assisting the Gram Sabha in discharge of its functions relating to recognition and vesting of forest rights under the Act.</p>	<p>discharge of its functions relating to recognition and vesting of forest rights under the Act. Constitution of a Committee comprising persons other than the members of the Gram Sabha and assigning the role of initiating the process for determining the nature and extent of forest rights to such a Committee, as proposed by the State Government, would be a direct violation of the provisions of the Act and the Rules framed thereunder. Hence, the proposal of the State Government cannot be accepted. [MoTA's letter No. 23011/28/2008-SG-II (FRA) dated 31.8.2009, addressed to Government of West Bengal, Kolkata]</p>
(xvi)	<p>Whether a claimant under the Act who already owns some land other than forest land or when he is engaged in some occupation and is using the forest land under occupation for agriculture in addition to his occupation is to be considered eligible for recognition and vesting of forest rights under the Act?</p>	<p>As per Sections 2(c) and 2(o) of the Act, the eligibility of the forest dwelling Scheduled Tribes and other traditional forest dwellers for claiming forest rights depends upon the following factors: - (1) Primarily residing in the forests or forest lands; (2) Dependence on the forests or forest lands for bona fide livelihood needs (fulfillment of sustenance needs of self and family) This Ministry has clarified vide letter No.17014/02/2007-PC&V(Vol.VII) dated 9.6.2008 that implication of using the word 'primarily' in Sections 2(c) and 2(o) of the Act is to include the Scheduled Tribes and other traditional forest dwellers who have either habitation, or patches of land for selfcultivation 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, it is for the Gram Sabha to examine, based on the findings of the Forest Rights Committee, as to whether a claimant under the Act who already owns some land other than forest land or when he is engaged in some occupation and is using the forest land under occupation for agriculture in addition to his occupation needs forest land under his occupation for the sustenance of bona fide livelihood needs of self and family, before passing a resolution and forwarding the same to SDLC for enabling the SDLC/DLC to adjudicate on the claim. The Ministry of Law Justice (Department of Legal Affairs) is agreeable to the view that the Gram Sabha has to examine each case individually after taking into consideration all relevant factors including the findings of the Forest Rights Committee. [MoTA's letter No.17014/02/2007-PC&V(VolVII)(pt.) dated 17.11.2009, addressed to Tribal Research & Training Institute, Pune] and [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated</p>

		4.3.2010, addressed to Government of Jharkhand, Ranchi]
(xvii)	Whether the term “self cultivation” appearing in Section 3(1)(a) of the Act shall include the forest land under plough only, but also forest lands which are used in activities ancillary to cultivation, such as, for keeping cattle, for winnowing and for other practices that are related to post-harvest activities?	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a welfare legislation. Keeping in view the spirit of this welfare legislation, if the agricultural operations take place adjacent to the place of actual cultivation, such operations and “self-cultivation” appearing in Section 3(1)(a) of the Act cannot be divorced. Each case has to be examined and decided individually by the Gram Sabha. [MoTA’s letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 17.11.2009, addressed to Tribal Research & Training Institute, Pune]
(xviii)	Whether the quorum should not be at least 2/3rd (as against 1/3rd) as indicated in para 2.2(ix) of the procedure for seeking prior approval for diversion of forest land for non-forest purposes for certain facilities under Section 3(2) of the Act as circulated by the Ministry of Tribal Affairs on 18.5.2009 since the total number of members of the District Level Committee as prescribed in Rule 7 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 framed under the Act are just 6?	As per the procedure notified on 18.5.2009, the proposals for diversion of forest land for developmental projects specified in Section 3(2) of the Act are to be forwarded to the District Level Committee for a final decision only when the Divisional Forest Officer (DFO) concerned does not approve the proposal submitted by the User Agency through the Range Forest Officer (RFO). As per the said procedure, at least 1/3rd quorum of members of DLC is needed for taking a final decision in such cases. It may be stated that DLC comprises the following members: (a) District Collector or Deputy Commissioner – Chairperson (b) Concerned Divisional Forest Officer or concerned Deputy Conservator of Forest – Member (c) 3 members of District Panchayat (d) An officer of the Tribal Welfare Department in charge of the district This Ministry has already clarified that the officer of the Tribal Welfare Department will be the Member Secretary of DLC. So, whenever the meeting of DLC is convened, the Chairperson and the Member Secretary would be present and at least one more member – either the concerned DFO / Dy. Conservator of Forests or Member of the District Panchayat – would also be attending the meeting. The possibility of only 2 out of 6 members of DLC deciding such cases is, thus, very remote. Since the process for providing the facilities under Section 3(2) of the Act is going on, it would not be desirable to change the provision relating to quorum at this juncture. [MoTA’s letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 17.11.2009, addressed to Tribal Research & Training Institute, Pune]
(xix)	Whether a time limit should not be fixed for processing of cases under Section 3(2) of the Act as a one-time exercise considering the fact that by	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Rules framed thereunder do not lay down any fixed tenure for the District Level Committees (DLC) constituted under the Act. The DLCs can

	<p>assigning the task of final decision making in respect of section 3(2) cases to the DLC, the DLC will continue to exist even after completion of the process of recognition of forest rights and the need for reconstitution of the Committee after every election of Panchayat body?</p>	<p>continue to exist for considering the cases relating to the diversion of forest land under Section 3(2) of the Act that are referred to it by the DFO for final decision, even after the process of recognition of forest rights is completed under the Act. Such DLCs can be re-constituted if such re-constitution is so warranted on account of election of Panchayat bodies and nomination of new members from Panchayat Institutions. . As regards the issue whether a time limit be fixed for processing of cases under 3(2) as a one time exercise, it may be stated that Section 3(2) of the Act does not prescribe a time limit for processing cases of diversion of forest land for the developmental activities specified in that Section. There is no bar in Section 3(2) of the Act for allowing diversion of forest land on more than one occasion for any of the development projects specified therein, as long as the forest land so diverted is less than one hectare in each case and such projects are recommended by the Gram Sabha. Hence, it is not advisable to fix a time limit for processing cases of diversion of forest land under the Act. The Ministry of Law Justice (Department of Legal Affairs) is also agreeable to the above views. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 17.11.2009, addressed to Tribal Research & Training Institute, Pune]</p>
(xx)	<p>Whether the allotment of area indicated as upto one hectare in Section 3(2) of the Act is applicable to each developmental facility each time in the village or is it once only for all times to come?</p>	<p>As stated above, there is no bar in Section 3(2) of the Act for allowing diversion of forest land on more than one occasion for any of the development projects specified therein, as long as the forest land so diverted is less than one hectare in each case and such projects are recommended by the Gram Sabha. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 17.11.2009, addressed to Tribal Research & Training Institute, Pune]</p>
(xxi)	<p>Whether a final date should be fixed for receiving claims for forest rights under the Act and a calendar drawn for disposal of the claims received upto the final date.</p>	<p>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not prescribe any time limit for recognition and vesting of forest rights of the eligible claimants under the Act. As per Rule 11(a) of the Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Act, the Gram Sabhas shall call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of the rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing. [MoTA's</p>

		letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 4.3.2010, addressed to Government of Rajasthan, Jaipur]
(xxii)	Whether the claims rejected by the District Level Committees can be reinvestigated by the District Level Committees.	The Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 lay down an elaborate procedure for recognition and vesting of forest rights under the Act. The Gram Sabhas, Sub-Divisional Level Committees and District Level Committees are required to scrutinize the claims filed for recognition of forest rights under the Act, in detail, as per the procedure laid down in the said Rules, before the District Level Committee takes a final decision on the claims. Claims rejected by DLCs cannot be reviewed but if the State feels that the rejections at earlier levels have been unduly large, then it can investigate the reasons and if it is due to an inadequate reading of the provisions of the Act and Rules, it can apply correctives. But, to repeat, cases finalized by DLCs cannot be re-opened. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 4.3.2010, addressed to Government of Madhya Pradesh, Bhopal]
(xxiii)	Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal Coporation Areas	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. It has been stated in the letter of TR&TI, Pune, 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. [MoTA's letter No. 17014/02/2007-PC&V (Vol-VII) (pt.) dated 4.3.2010, addressed to Government of Maharashtra, Mumbai]
(xxiv)	Whether there is any deadline for submitting applications for recognition of forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of	There is no time limit for receiving applications. Processing of applications by Gram Sabhas have to be done as per Rules especially Rule- 11 (1)(a) proviso. [MoTA's DO letter No. 23011/24/2009-FRA dated 10.3.2010, addressed to Government of Tripura, Agartala]

	Forest Rights) Act, 2006.	
(xxv)	<p>(i) How the title of forest land issued to a forest right holder under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 would be transferred to his heir(s) in the event of the death of the title holder, considering the fact that the status of the land for which he was issued the title deed remained “forest land”. (ii) What will be the inheritance provision? How the title will be divided in the event of more than one child? (iii) If the right holder applies for bank loan for agricultural purposes, whether the banks would provide loans?</p>	<p>(i) & (ii): Section 4(4) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides that a forest right conferred under the Act shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next of kin. In the event of the death of the title holder, the title shall be transferred to his/her direct heir or shall be divided where there are more than one child, as per the provisions of the relevant inheritance law and the Land Tenure Act applicable to the State/UT concerned. (iii): In view of the provisions of Section 4(4) of Act, the rights recognised and vested on the forest land cannot be pledged with a bank for receiving a loan for agricultural operations, such as, land development, sourcing inputs like fertilizers, etc. The Ministry had examined this issue in consultation with the Ministry of Finance (Department of Financial Services), in the year 2007, who had then informed as under: “The loans upto Rs. 50,000/- have been made collateral and margin free. This also means that even without mortgaging of land by a Tribal farmer, he can avail loan upto 100% requirement of any agriculture or allied purpose including for land development upto the limit of Rs. 50,000/-. Besides, no ‘No Dues Certificate’ is required for such amount of loan. Further, in order to overcome the problems faced by banks in lending to landless labourers, share-croppers and oral lessees due to the absence of documents verifying their identity and status, banks have been advised to accept certificates provided by local administration/Panchayati Raj institutions regarding cultivation of crops in case of loans to landless labourers, sharecroppers and oral lessees. Besides, the Government has taken the following steps to ensure credit disbursement for agriculture purposes:- Short Term Crop loan upto 3 lakh is being disbursed @ 7% per annum at the ground level. Commercial Banks and Regional Rural Banks have been advised to finance 50 lakhs new farmers during each of the last three years. The Banks have been advised to simplify the procedure for documentation for agricultural loans. To bring the ‘financially excluded’ population within the formal banking system, Banks have been instructed to achieve financial outreach through provision of a General Credit Card to households, to open “No</p>

		Frills” accounts with limited overdraft facilities, to extend financial outreach by utilizing services of Civil Society Organisation like Farmers Clubs, NGOs, Post Offices as Business Facilitator/Business Correspondent Model, etc.” [MoTA’s letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 30.3.2010, addressed to Government of Madhya Pradesh, Bhopal]
(xxvi)	Whether rubber cultivation should be allowed on forest land over which rights have been recognized.	Sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which define the terms “forest dwelling Scheduled Tribes” and “other traditional forest dweller”, clearly mention the conditions of “primarily residence in the forests or forest lands” and “dependence on the forests or forest lands for bona fide livelihood needs” for the forest dwelling Scheduled Tribes and other traditional forest dwellers to be eligible for claiming forest rights under the Act. Further, section 3(1)(a) of the Act also refers to “the right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood”. Rule 2(1) (b) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 notified on 1.1.2008 defines “bona fide livelihood needs” as “fulfillment of sustenance need of self and family”. In view of the above mentioned provisions of the Act and the Rules, the forest rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers are to be recognized and vested over the forest land for fulfillment of their bona fide livelihood needs. Considering that rubber plantation is a commercial activity, this Ministry is of the view that the rubber cultivation should not be allowed on forest land over which the rights have been recognized under the Act. [MoTA’s letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 6.5.2010, addressed to Government of Tripura, Agartala]
(xxvii)	Whether the local bodies in the urban areas of a State having forest land can initiate the process of determining the nature and extent of individual and community forest rights to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers under Section 6 of the Act.	Section 6 of 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 forest rights which are to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers. The term ‘Gram Sabha’ is defined in Section 2(g) of the Act and the term ‘village’, referred to in Section 2(g), is also defined in Section 2(p) of the Act. The concerned Urban Areas of the State having forest land may not have Gram Sabhas within the meaning of Section

		2(g) read with Section 2(p) of the Act. If so, the occupants of forest land in such Urban Areas would not be eligible for recognition and vesting of forest rights over the forest land under their occupation under the Act. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 6.5.2010, addressed to Government of Madhya Pradesh, Bhopal]
(xxviii)	Whether taungya cultivators of Uttar Pradesh who do not fulfill the condition of occupation of forest land for three generations (75 years) at one place in the forests prior to 13.12.2005 would be eligible for recognition of forest rights under the Act.	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 13th 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 13th day of December, 2005 is necessary. 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. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 6.5.2010, addressed to Government of Uttar Pradesh, Lucknow]
(xxix)	Whether the condition regarding three generations prescribed in Section 2(o) of the Act can be relaxed in the case of other traditional forest dwellers.	The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not permit relaxation of the condition relating to three generations' residence prior to 13th day of December, 2005 in the case of "other traditional forest dwellers" for recognition and vesting of their forest rights under the Act. Hence, it is not possible to relax this condition. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 6.5.2010, addressed to Government of Maharashtra, Mumbai]
(xxx)	Need for fixing a time limit for filing and deciding the claims under the Forest Rights Act, 2006 to enable issue of a certificate as required by the Ministry of Environment & Forests' circular No. 11-9/1998-FC(pt.) dated 3.8.2009, which calls for a number of evidences from the State Governments for formulating unconditional proposals under the Forest	As per Rule 11(a) of the Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Act, the Gram Sabhas shall call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of the Rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of

	(Conservation) Act, 1980, as in the absence of a cutoff date for claiming forest rights for the forest areas of the State, such a certificate can never be given and no forest diversion proposal can be formulated.	Forest Rights) Act, 2006 does not prescribe any time limit for deciding a filed claim. The Act is being implemented by the State/ UT Governments. They are requested to implement the Act in letter and spirit in a timely manner. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 5.5.2011, addressed to Government of Orissa, Bhubaneswar]
(xxxii)	In cases where Gram Sabha has not completed the process by fixing a date and initiating a process of determination of its community forest resources, as required under Rule 11 (b) of the Forest Rights Rules, 2008, does it mean that no forest diversion proposal can be formulated for the said forest area in view of the requirements under MoEF circular dated 03.08.2009 or should any other authority asked the Gram Sabha to fix a date, initiate and complete the process.	In cases where Gram Sabha has not completed the process by fixing a date for initiating the process of determination of its community forest resources, as required under Rule 11 (b) of the Forest Rights Rules, 2008, then the SLMC can give directions to such Gram Sabhas to initiate the process in accordance with the law. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 5.5.2011, addressed to Government of Orissa, Bhubaneswar]
(xxxiii)	Validity and applicability of the MoEF circular dated 03.08.2009, requiring submission of a letter from each of the concerned Gram Sabhas about completion of all formalities/processes under the FRA and their consent for the diversion of forest land for non-forest purposes, considering that the FRA does not provide for any such mandatory provision for completion of the process under the FRA or consent of Gram Sabha before diversion of any forest land under Forest (Conservation) Act, 1980.	The requirements under circular dated 03.08.2009 of Ministry of Environment & Forests have been decided by Ministry of Environment & Forests keeping in view of their information needs for deciding a case for use of forest land for non-forestry purpose. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 5.5.2011, addressed to Government of Orissa, Bhubaneswar]
(xxxiiii)	The status of land over which the forest rights of the title holders have been vested under the FRA, 2006 and the need for designating a competent authority and a procedure for administration	The FRA, 2006 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. The forest rights specified in Section 3 of the Act are vested over forest land only. It is for the

	of the said land.	State Government to decide about the administration of the said land. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 5.5.2011, addressed to Government of Madhya Pradesh, Bhopal]
(xxxiv)	Procedure for nomination/demarcation and division of forest land amongst the heirs after the death of forest right holder(s).	The provisions of Section 4(4) of FRA are quite clear. In the event of death of the forest right holder(s), the heritable rights shall pass on to the heirs/ next-of-kin, as the case may be, as per the provisions of the relevant State laws. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 5.5.2011, addressed to Government of Madhya Pradesh, Bhopal]
(xxxv)	Procedure for action to be taken against a person who encroaches upon or indulges in illegal mining on the land of forest rights holders	In such cases the forest right holder(s) and the State Government will have to initiate action under the relevant law. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 5.5.2011, addressed to Government of Madhya Pradesh, Bhopal]
(xxxvi)	Procedure for maintenance of the records of titles issued under the Forest Rights Act.	Instructions have already been issued to the State Governments vide Secretary (TA)'s D.O. letter dated 20.07.2010 that the rights conferred under the Act are to be recorded in the appropriate manner following the settlements rules prescribed to each State. Further in this regard Rules 8 (f) and 8(g) of the Forest Rights Rules may also be referred to. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 5.5.2011, addressed to Government of Madhya Pradesh, Bhopal]
(xxxvii)	In case of community forest resource, who will be the claimant to file the community claim. In whose name(s), the community rights will be vested. In case of any dispute amongst the community members over the community rights so vested, how that dispute to be settled?	Rule 11 (1)(a) and (4) of the Forest Rights Rules lays down the procedure for filling, determination and verification of community claims by the Gram Sabha. All the claimants will have to sign the claim Form-B for community rights as given in Annexure-I contained in the Forest Rights Rules, 2008. Community rights vested under the Act would be in the name of all the claimants. In case of any dispute amongst the community rights so vested, the same will have to be settled in accordance with the prevailing State laws in this regard. [MoTA's letter No. 17014/02/2007-PC&V (VolVII) (pt.) dated 5.5.2011, addressed to Government of Rajasthan, Jaipur]

Letter No. 23011/32/2010-FRA [Vol.II (Pt.)] Dated, 12th July 2012 from Sadhana Rout, Joint Secretary to Government of India, Ministry of Tribal Affairs addressed to Chief Secretaries of All State Governments (except Jammu & Kashmir, Punjab , Haryana and Delhi) and The Administrators of all Union Territories (except Lakshadweep)

Subject: Implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 -guidelines regarding.

Sir,

As you are aware, the historic legislation “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act ” had been enacted in 2006 with the objective of remedying the historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers of the country.

However, even after lapse of more than four years of its implementation, the Ministry has observed that the flow of intended benefits of this welfare legislation to the eligible forest dwellers remains constrained.

2. The Ministry has noticed several problems which are impeding the implementation of the Act in its letter and spirit, such as, convening of Gram Sabha meetings at the panchayat level in some cases, resulting in exclusion of smaller habitations not formally part of any village; non-recognition of un-hindered absolute rights over the minor forest produce (MFP) to forest dwellers; imposition of several restrictions, like, transit permit for transportation of MFPs, levy of fees, charges, royalties on sale of MFPs; exclusion of certain types of MFPs, in contravention of the definition of MFP given in the Act; continuance of monopoly in the trade of MFP, especially in the case of high value MFP, such as, tendu patta by the Forest Corporations in many States; non-recognition of other community rights, such as, nistar rights, conversion of all forest villages, old habitations, un-surveyed villages and other villages in forests, whether recorded, notified or not into revenue villages; non-recognition of community forest resource rights relating to protection, regeneration or conservation, or management of any community forest resources under Section 3(1)(i) of the Act; etc.

3. In many areas, the tribal people and other forest dwellers are reportedly facing harassment and threats of eviction from forest lands and forced relocation or displacement from the areas proposed for development projects without settlement of their rights or due compliance with safeguards in violation of the provisions of the Act. The claims are being rejected in some States as the officials are insisting on certain types of evidences and the new technology, such as, satellite imagery, is being used as the only form of evidence for consideration of a claim, instead of using the same to supplement the evidences submitted by the claimants in support of their claims. Inadequate public awareness about the provisions of the Act, particularly the provisions relating to the filing of petitions by the persons aggrieved by the decisions of the authorities prescribed under the Act, inadequate training of the implementing officials etc. are also some of the reasons for non-implementation of the Act in its letter and spirit.

4. In order to address the above concerns and to ensure effective implementation of the Act, the Ministry has undertaken an exercise to arrive at certain provisions/ steps which will facilitate robust implementation of the Act.

Certain guidelines as indicated in the Annexure to this letter are accordingly being issued for compliance by all the State Governments/ UT Administrations. It is requested that the enclosed guidelines may be brought to the notice of all the implementing agencies in your State/UT for strict compliance. This Ministry may also kindly be apprised of the action taken for operationalising these guidelines at an early date.

5. This issues with the approval of competent authority.

Annexure

Guidelines on the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 issued by Ministry of Tribal Affairs, Government of India

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 seeks to recognize 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. The Act was notified for operation with effect from 31.12.2007 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 for implementing the provisions of the Act were notified on 1.1.2008.

Over a period of last four years of implementation of the Act, some problems impeding the implementation of the Act in its letter and spirit have come to the notice of the Ministry of Tribal Affairs, such as, convening of Gram Sabha meetings at the Panchayat level resulting in exclusion of smaller habitations not formally part of any village; non-recognition of unhindered rights over the minor forest produce (MFP) to forest dwellers; non-recognition of other community rights; harassment and eviction of forest dwellers without settlement of their forest rights; rejection of claims by insisting on certain types of evidences, inadequate awareness about the provisions of the Act and the Rules etc.

In order to address the above concerns and with a view to ensure effective implementation of the Act, the following guidelines are issued on various aspects of implementation of the Act for compliance by all the State Governments/UT Administrations:

i) Process of Recognition of Rights:

(a) The State Governments should ensure that on receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue Departments remain present during the verification of the claims and the evidence on the site.

b) In the event of modification or rejection of a claim by the Gram Sabha or by the Sub-Divisional Level Committee or the District Level Committee, the decision on the claim should be communicated to the claimant to enable the aggrieved person to prefer a petition to the Sub-Divisional Level Committee or the District Level Committee, as the case may be, within the sixty days period prescribed under the Act and no such petition should be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

c) The Sub-Divisional Level Committee or the District Level Committee should, if deemed necessary, remand the claim to the Gram Sabha for reconsideration instead of rejecting or modifying the same, in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination.

d) In cases where the resolution passed by the Gram Sabha, recommending a claim, is upheld by Sub-Divisional Level Committee, but the same is not approved by the District Level Committee, the District Level Committee should record the reasons for not accepting the recommendations of the Gram Sabha and the Sub-Divisional Level Committee, in writing, and a copy of the order should be supplied to the claimant.

e) On completion of the process of settlement of rights and issue of titles as specified in Annexures II, III & IV of the Rules, the Revenue /Forest Departments shall prepare a final map of the forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the prescribed cycle of record updation.

f) All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution/ recommendation should be in the form of speaking orders.

g) The Sub-Divisional Level Committee or the District Level Committee should not reject any claim accompanied by any two forms of evidences, specified in Rule 13, and recommended by the Gram Sabha, without giving reasons in writing and should not insist upon any particular form of evidence for consideration of a claim. Fine receipts, encroacher lists, primary offence reports, forest settlement reports, and similar documentation rooted in prior official exercises, or the lack thereof, would not be the sole basis for rejection of any claim.

h) Use of any technology, such as, satellite imagery, should be used to supplement evidences tendered by a claimant for consideration of the claim and not to replace other evidences submitted by him in support of his claim as the only form of evidence.

i) The status of all the claims, namely, the total number of claims filed, the number of claims approved by the District Level Committee for title, the number of titles actually distributed, the number of claims rejected, etc. should be made available at the village and panchayat levels through appropriate forms of communications, including conventional methods, such as, display of notices, beat of drum etc.

j) A question has been raised whether the four hectare limit specified in Section 4(6) of the Act, which provides for recognition of forest rights in respect of the land mentioned in clause (a) of sub-section (1) of section 3 of the Act, applies to other forest rights mentioned in Section 3(1) of the Act. It is clarified that the four hectare limit specified in Section 4(6) applies to rights under section 3(1)(a) of the Act only and not to any other right under section 3(1), such as conversion of pattas or leases, conversion of forest villages into revenue villages etc.

ii) Minor Forest Produce:

(a) The State Government should ensure that the forest rights relating to MFPs under Section 3(1)(c) of the Act are recognized in respect of all MFPs, as defined under Section 2(i) of the Act, in all forest areas, and state policies are brought in alignment with the provisions of the Act. Section 2(i) of the Act defines the term “minor forest produce” to include "all non-timber produce of plant origin, including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers, and the like".

(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.

d) The State Governments should exempt movement of all MFPs from the purview of the transit rules of the 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 on the processing, value addition, marketing of MFP collected individually or collectively by the cooperatives/ federations of the rights holders would also be ultra vires of the Act.

(e) The State Governments need to play the facilitating role in not only transferring unhindered absolute rights over MFP to forest dwelling Scheduled Tribes and other traditional forest dwellers but also in getting them remunerative prices for the MFP, collected and processed by them

iii) Community Rights:

(a) The District Level Committee should ensure that the records of prior recorded nistari or other traditional community rights (such as Khatian part II in Jharkhand, and traditional forest produce rights in Himachal and Uttarakhand) are provided to Gram Sabhas, and if claims are filed for recognition of such age-old usufructory rights, such claims are not rejected except for valid reasons, to be recorded in writing, for denial of such recorded rights;

(b) The District Level Committee should also facilitate the filing of claims by pastoralists before the concerned Gram Sabha (s) since they would be a floating population for the Gram Sabha(s) of the area used traditionally.

(c) In view of the differential vulnerability of Particularly Vulnerable Tribal Groups (PTGs) amongst the forest dwellers, District Level Committee should play a pro-active role in ensuring that all PTGs receive habitat rights in consultation with the concerned PTGs' traditional institutions and their claims for habitat rights are filed before the concerned Gram Sabhas.

(d) The forest villages are very old entities, at times of preindependent era, duly existing in the forest records. The establishment of these villages was in fact encouraged by the forest

authorities in the preindependent 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 settlements and old habitations that are not in any Government record. Section 3(1)(h) of the Act recognizes the right of forest dwelling Scheduled Tribes and other traditional forest dwellers relating to settlement and conversion on 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.

iv) Community Forest Resource Rights:

(a) The State Government should ensure that the forest rights under Section 3(1)(i) of the Act relating to protection, regeneration or conservation or management of any community forest resource, which forest dwellers might have traditionally been protecting and conserving for sustainable use, are recognized in all villages and the titles are issued as soon as the prescribed Forms for claiming Rights to Community Forest Resource and the Form of Title for Community Forest Resources are incorporated in the Rules. Any restriction, such as, time limit, on use of community forest resources other than what is traditionally imposed would be against the spirit of the Act.

b) In case no community forest resource rights are recognized in a village, the reasons for the same should be recorded. Reference can be made to existing records of community and joint forest management, van panchayats, etc. for this purpose.

c) The Gram Sabha would initially demarcate the boundaries of the community forest resource as defined in Section 2(a) of the Act for the purposes of filing claims for recognition of forest right under Section 3(1)(i) of the Act.

d) The Committees constituted under Rule 4(e) of the Forest Rights Rules, 2008 would work under the control of Gram Sabha. The State Agencies should facilitate this process.

e) Consequent upon the recognition of forest right in Section 3(i) of the Act to protect, regenerate or conserve or manage any community forest resource, the powers of the Gram Sabha would be in consonance with the duties as defined in Section 5(d), wherein the Gram Sabha is empowered to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the bio-diversity. Any activity that prejudicially affects the wild-life, forest and bio-diversity in forest area would be dealt with under the provisions of the relevant Acts.

v) Protection Against Eviction, Diversion of Forest Lands and Forced Relocation :

(a) 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 as this Section opens with the words “Save as otherwise provided”. The rationale behind this protective clause against eviction is to ensure that in no case a forest dweller should be evicted without recognition of his rights as the same entitles him to a due compensation in case of eventuality of displacement in cases, where even after recognition of rights, a forest area is to be declared as inviolate for wildlife conservation or diverted for any other purpose. In any case, Section 4(1) has the effect of recognizing and vesting forest rights in eligible forest dwellers. Therefore, no eviction should take place till the process of recognition and vesting of forest rights under the Act is complete.

(b) The Ministry of Environment & Forests, vide their letter No.11-9/1998-FC(pt.) dated 30.07.2009, as modified by their subsequent letter of the same number dated 03.08.2009, has issued directions, requiring the State/ UT Governments to enclose certain evidences relating to completion of the process of settlement of rights under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, while formulating unconditional proposals for diversion of forest land for nonforest purposes under the Forest (Conservation) Act, 1980. The State Government should ensure that all diversions of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 take place in compliance with the instructions contained in the Ministry of Environment & Forest’s letter dated 30.07.2009, as modified on 03.08.2009.

(c) There may be some cases of major diversions of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 after the enactment of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 but before the issue of Ministry of Environment & Forests’ letter dated 30.07.2009, referred to above. In case, any evictions of forest dwelling Scheduled Tribes and other traditional forest dwellers have taken place without settlement of their rights due to such major diversions of forest land under the Forest (Conservation) Act, 1980, the District Level Committees may be advised to bring suchcases of evictions, if any, to the notice of the State Level Monitoring Committee for appropriate action against violation of the provisions contained in Section 4(5) of the Act.

(d) The Act 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. 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. The State/ UT Governments may, therefore, 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.

(e) The State Level Monitoring Committee should monitor compliance of the provisions of Section 3(1)(m) of the Act, which recognizes the right to in situ rehabilitation including alternative land in cases where the forest dwelling Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land without receiving their legal entitlement to rehabilitation, and also of the provisions of Section 4(8) of the Act, which recognizes their right to land when they are displaced from their dwelling and cultivation without land compensation due to State development interventions.

vi) Awareness-Raising, Monitoring and Grievance Redressal :

a) Each State should prepare suitable communication and training material in local language for effective implementation of the Act.

b) The State Nodal Agency should ensure that the Sub Divisional Level Committee and the District Level Committee make district-wise plans for trainings of revenue, forest and tribal welfare departments' field staff, officials, Forest Rights Committees and Panchayat representatives. Public meetings for awareness generation in those villages where process of recognition is not complete need to be held.

c) In order to generate awareness about the various provisions of the Act and the Rules, especially the process of filing petitions, the State Government should organize public hearings on local bazaar days or at other appropriate locations on a quarterly basis till the process of recognition is complete. It will be helpful if some members of Sub Divisional Level Committee are present in the public hearings. The Gram Sabhas also need to be actively involved in the task of awareness raising.

d) If any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or Gram Sabha through a resolution against any higher authority or Committee or officer or member of such authority or Committee gives a notice as per Section 8 of the Act regarding contravention of any provision of the Act or any rule made thereunder concerning recognition of forest rights to the State Level Monitoring Committees, the State Level Monitoring Committee should hold an inquiry on the basis of the said notice within sixty days from the receipt of the notice and take action, if any, that is required. The complainant and the Gram Sabha should be informed about the outcome of the inquiry.

Government of Odisha

Resolution No. 6792 SSD, Dated, 25th February 2004 from Taradatt, Commissioner – cum - Secretary to Government of Orissa, ST & SC Development Department addressed to All Departments of Govt./ All Heads of Departments/ All Collectors and Sub-Collectors.

Sub: Constitution of Task Force at the Sub-Divisional Level, District level and State level to review and monitor implementation of various Rules and Regulations concerning welfare of the Scheduled Tribes and to prevent their exploitation.

1. The welfare of the Scheduled Tribes being one of the primary concerns of the State Government, various welfare schemes are being implemented by different line Departments of the State Government in order to protect the interests of the STs and to prevent their exploitation by others, the State Government has enacted several Rules and Regulations from time to time. With passage of time, these Rules and Regulations are being amended to make them more effective in order to achieve the chosen objectives. The important Rules and Regulations enacted so far and policies can be enlisted as follows.
 - a) Orissa (Scheduled Areas) Transfer of Immovable properties *by Scheduled Tribes) Regulations, 1956 as amended by Regulation-1 of 2002.
 - b) Orissa (Scheduled Areas) Money Landers Regulation, 1967 as amended by Regulation-1 of 2001.
 - c) Section 22 and 23 of Orissa Land Reforms Act.
 - d) Dafayati Rights (Usufructory Rights)) of the tribals in plantation schemes.
 - e) Transfer of the management of a list of articles to the control of GPs which are categorized as Minor Forest produce.
 - f) Policy on rehabilitation of tribals affected by construction of irrigation projects or establishment of industries etc.
 - g) Policy to tackle the problems of pre-1980 and post 1980 Forest Encroachments and declaration of forest villages as revenue villages.
2. With a view to effectively implement the provisions of the Rules and Regulations enumerated above, Task Force have been constituted at the Sub-divisional Level vide Revenue Deptt. Letter No.607/R dt. 4.12.2002. Similarly a State level High Power Committee under the Chairmanship of the Chief Secretary, Orissa has been constituted vide Revenue Deptt. Notification No. 56167/R. dt. 6.12.2001 to supervise the activities of the Task Force constituted for scheduled districts to look into the problems of land disputes and matters relating to tribals pending in the Forest and Environment Department as well as for implementation of antipoverty programmes in the scheduled areas.
3. The matter of widening the scope of Sub-divisional level Task Force, the State Level High Power Committee and also to constitute District Level Task Force Committee so as to include other important aspects as enlisted in para -1 above was under active consideration of the State Govt. for some time past. Government, after careful consideration, have been pleased to decide that the following Committees be constituted in the manner prescribed against each and the committees be vested with powers and functions as mentioned against them as follows.

4. Constitution of Sub-divisional Level Task Force Committee. The following members
- | | | |
|---|---|------------------|
| i) Sub-Collector | - | Chairman |
| ii) Sub-divisional police Officer | - | Member |
| iii) Tahasildar (s) of the Sub-division | - | Member |
| iv) Forest Range Officer(s) | - | Member |
| v) Sub-Registrars | - | Members |
| vi) Two local tribal representatives to be nominated by the Collector of the district | - | Members |
| vii) Addl. District Welfare Officer | - | Member- Convener |
5. Powers and functions:
- i) Review of progress of detection of cases of illegal transfer of tribal land and booking of cases as per relevant provisions of the Act and Rules.
 - ii) Monitoring and supervision of restoration of tribal lands and ensuring affective and physical transfer of possessions of tribal land to the tribals.
 - iii) Monitoring and supervision of distribution of Govt. land and ceiling surplus land with landless tribals and ensuring that such allottees are not disposed of the land settled with them.
 - iv) Effective conformant of dafayati rights (usufructary rights) to tribals under various plantation schemes etc.
 - v) Prevention of exploitation of tribals by money lenders and enforcement of Orissa(Schedule Areas) Money Lenders Regulation, 1967 as amended by Regulation-9 2001.
 - vi) Supervision and monitoring of work relating to settlement of per 1980 encroached forest land with STs and furnishing of comprehensive proposals for declaration of encroached forest villages as revenue villages.
 - vii) Extension of the provisions of the Panchayat (Extension to Scheduled Areas) Act, 1996 which, inter alia, includes election to Panchayati Raj Institutions, ownership of minor forest produces, regulation and control of village markets, land acquisition in scheduled areas, licensing and exploration of minor minerals and lease of minor minerals, management of minor water bodies etc.
 - viii) Review of development and welfare programmes.
 - ix) Any other function as assigned by the Govt. from time to time.
6. Constitution of District level Task Force Committee; constituted as follows;
- | | | |
|---|---|----------|
| i) District Collector | - | Chairman |
| ii) Superintendent of Police | - | Member |
| iii) Project Administrators of ITDAs | - | Members |
| iv) Divisional Forest Officer(Territorial) | - | Member |
| v) District Registrar | - | Member |
| vi) Sub-collector(s) of Revenue Sub-divisions | - | Members |

- vii) Three tribal representatives to be nominated by the concerned R.D.C. - Members
 - viii) District Welfare Officer - Member-Convener.
 - (a) To monitor the progress made by the Sub-divisional level Task Force committee in respect of the functions assigned to them.
 - (b) To take suitable follow up action on the issues highlighted by the Sub-divisional level Task Force Committee.
 - (c) To report to the State Level Task Force Committee about the action taken on different issues at the district level.
 - (d) To bring such deserving issues to the notice of the State Level Committee/Deptt. Of Government which needs to be sorted out at the State level.
7. The District level Task Force Committee shall meet at least once in a quarter or more frequently, if necessary, and shall submit suitable review report with detailed information and note on the action taken by the district level committee, to the Revenue Department and ST & SC Development Deptt. with their comments/views.
8. Constitution of State Level Task Force Committee:
- In order to make the District Level and Sub-Divisional Level Task Forces more effective through supervision and guidance as well as to promptly address the issues requiring Govt. decisions or intervention, the State Government have been pleased to constitute a State Level Task Force Committee as follows;
- i) Chief Secretary, Orissa -Chairman
 - ii) Development Commissioner-cum-ACS -Member
 - iii) Agricultural Production Commissioner -Member
 - iv) Director General of Police -Member
 - v) Principal Chief Conservator of Forests -Member
 - vi) Secretary to Govt. Home Deptt. -Member
 - vii) Secretary to Govt. Revenue Deptt. -Member
 - viii) Secretary to Govt. Forest & Environment Deptt. -Member
 - ix) Secretary to Govt. ST & SC Development -Member
 - x) Revenue Divisional Commissioners (Northern Division Southern Division & Central Division.) -Member
 - xi) Five representatives belonging to Scheduled Tribes to be nominated by Govt. -Member
 - xii) Director, ST & SC Development -Member-Secretary
9. The State Level Task Force Committee will review functioning the District Level and Sub-divisional Level Committees and shall meet at least once in six months or more frequently may be necessary.
10. The State Level committee will review progress of implementation of different regulatory measures and welfare activities as enlisted in paragraph-1 above and will make suitable recommendations to the government in concerned Departments for appropriate action. The committee may also issue directions to the appropriate

Department/ authorities on issues affecting welfare of the Scheduled Tribes and shall keep the Govt. informed from time to time on the achievements of the Task Forces hereby constituted.

11. The Committees/ Task Force constituted by different Departments earlier to perform similar functions shall stand superseded unless they have been constituted in pursuance of any statutory provisions or any court order.

Resolution No – 4694-TD-II-3/2008/SSD, Bhubaneswar, Dated, 1st February, 2008, from Taradatt, Commissioner – Cum - Secretary to Government of Orissa, ST & SC Development Department addressed to All Department of Govt./ All Heads of Departments / All Collectors & Sub-Collectors.

Sub: Constitution of Sub-Divisional Level Committee, District Level Committee & State Level Monitoring Committee for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules made there under.

The Scheduled Tribes and Other Traditional Forest dwellers (Recognition of Forest Rights) Act 2006 and Rules notified by Ministry of Tribal Affairs, Government of India. New Delhi seek to provide rights over land in their occupation to Forest Dwelling Scheduled Tribes and other traditional Forest Dwellers who have been residing there for generations but whose rights could not be recorded.

2. In order to ensure proper implementation of the Act expeditiously in keeping with the rules provided under it, Government after careful consideration have been pleased to decide that the following Committees be constituted in the manner prescribed against each and the Committees be vested with functions as mentioned against them as follows.

3. Constitution of Sub Divisional Level Committee:

The Sub-Divisional Level Committee shall be constituted with the following members namely.

1.	Sub-Collector	Chairperson
2.	Forest Officer in charge of the Sub-Division	Member
3.	3 Members of Panchayat Samiti (These 3 members will be nominated by Zilla Parishad and at least 2 of them shall be Scheduled Tribes, preferably those who are forest dwellers or who belong to primitive tribal groups. Where there are no Scheduled Tribes, 2 members to be nominated by Zilla Parishad would be from other traditional forest Dwellers and one woman	Member
4.	Special Officer, ITDA in Scheduled areas and Asst. Dist. Welfare Officer in non-Scheduled areas	Member-Secretary

4. Functions of the Sub-Divisional Level Committee – The Sub - Divisional Level Committee (SDLC) shall –

- a. Provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna, which need to be conserved and protected;
- b. provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
- c. collate all the resolutions of the concerned Gram Sabhas;
- d. consolidate maps and details provided by the Gram Sabhas ;
- e. examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;
- f. hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
- g. hear petitions from persons including State agencies aggrieved by the resolutions of the Gram Sabhas;
- h. co-ordinate with other Sub Divisional Level Committee for inter sub-divisional claims ;
- i. prepare block or Tehsil wise draft record of proposed forest rights after reconciliation of Government records;
- j. forward the claims with the draft record of proposed forest rights through their Sub-Divisional Officer to the District Level Committee for final decision
- k. raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules.
- l. ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A & B) to these rules;
- m. ensure that the Gram Sabha Meetings are conducted in free, open and fair manner with requisite quorum.

5. District Level Committee – The District Level Committee shall be constituted with the following members, namely-

1.	District Collector	Chairperson
2.	Concerned Divisional Forest Officer or concerned Deputy Conservator of forests	Member
3.	3 Members of Zilla Parishad (These 3 members will be nominated by Zilla Parishad and at least 2 of them shall be Scheduled Tribes, preferably those who are forest dwellers or who belong to primitive tribal groups. Where there are no Scheduled Tribes. 2 members to be nominated by Zilla Parishad would be from other traditional forest dwellers and one woman.	Member
4.	Project Administrator, ITDA in Scheduled Area and Dist. Welfare Officer in other area.	Member Secretary

6. Functions of District Level Committee

The District Level Committee Shall

- a) ensure that the requisite information under clause (b) of rule-6 has been provided to Gram Sabha or Forest Rights Committee;
- b) examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act;
- c) consider and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee;
- d) hear petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee;
- e) co-ordinate with other districts regarding inter-district claims;
- f) issue directions for incorporation of the forest rights in the relevant Government records including record of rights;
- g) ensure publication of the record of the forest rights as may be finalized;
- h) ensure that the certified copy of the record of the forest rights and title under the Act, as specified at Annexure-II & III to rules, is provided to the concerned claimant and the Gram Sabha respectively.

7. State Level Monitoring Committee- The State Level Monitoring Committee shall be constituted with the following members namely

- | | |
|--|-------------------|
| 1. Chief Secretary | Chairperson |
| 2. Secretary, Revenue & DM Department | Member |
| 3. Secretary, Scheduled Tribes & Scheduled Castes Development Department | Member |
| 4. Secretary, Forest Department | Member |
| 5. Secretary, Panchayati Raj Department | Member |
| 6. Principal Chief Conservator of Forests | Member |
| 7. Sri Bharat Paik, Member of TAC | Member |
| 8. Sri Balabhadra Majhi, Member of TAC | Member |
| 9. Smt. Tulasi Munda, Member of TAC | Member |
| 10. Director, ST&SC Development Department | Member Secretary. |

8. Functions of the State Level Monitoring Committee – The State Level Monitoring Committee shall

- a) Devise criteria and indicators for monitoring the process of recognition and vesting of forest rights;
- b) Monitor the process of reorganization, verification and vesting of forest rights in the State.

- c) Furnish a six monthly report on the process of recognition, verification and vesting of forest rights and submit to the nodal agency such returns and reports as may be called for by the nodal agency.
- d) On receipt of a notice as mentioned in section 8 of the Act, take appropriate actions against the concerned authorities under the Act.
- e) Monitor resettlement under Sub-Section (2) of Section – 4 of the Act.

Notification No. 23427/STSCD-FRA-COMMT-002-2014/SSD Bhubaneswar, 12th August, 2014 from all Commissioner –cum- Secretary to Government of Odisha, ST & SC Development Department, addressed to All Departments of Government/ All Heads of Department/ All Collectors/ & Sub-Collectors at the earliest

Sub: Re-constitution of State Level Monitoring Committee (SLMC) for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules made there under.

In pursuance to Rule 9 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Amended Rules, 2012 of the Govt. of India in the Ministry of Tribal Affairs, the State Level Monitoring Committee (SLMC) is hereby reconstituted to monitor implementation of the Act & Rules in the State of Odisha as under.

The Committee reconstituted herewith will be effective from the date of its Notification and the Committee formed earlier vide this Resolution No.25408/ SSD dt. 03.09.2012 stands ceased.

1) The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules notified by the Ministry of Tribal Affairs, Govt. of India seek to provide rights over forest land in their occupation to forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers who have been residing there for generations but whose right could not be recorded.

2) In order to ensure proper implementation of the Act expeditiously in compatible with the rules provided under it and in pursuance to this Department Resolution No.4694/SSD dt.02.02.08, Govt. after careful consideration have been pleased to reconstitute the State Level Monitoring Committee with the following members namely:

I.	Chief Secretary	- Chairperson
II.	Addl. Chief Secretary, Rev. & DM Deptt.	- Member
III.	Principal Secretary, Forest & Env. Deptt.	- Member
IV.	Secretary, ST & SC Dev. Deptt.	- Member
V.	Secretary, Panchayati Raj Deptt.	- Member
VI.	Principal Chief Conservator of Forests	- Member
VII.	Sri Balabhadra Majhi, Hon'ble MLA	- Member
VIII.	Sri Dambaru Sisa, Hon'ble MLA	- Member
IX.	Sri Jogesh Kumar Singh, Hon'ble MLA	- Member
X.	Additional Secretary- cum-Director (ST)	- Member Convener.

3) The State Level Monitoring Committee shall:

- a) Devise criteria and indicators for monitoring the process of recognition and vesting of forest rights'
- b) Monitor the process of recognition, verification and vesting of forest rights in the State;
- c) Meet at least once in three months to monitor the process of recognition, verification and vesting of forest rights, consider and address the field level problems, and furnish a quarterly report in the prescribed format to the Central Government on their assessment regarding the status of claims, the compliance with the steps required under the Act, details of claims approved, reasons of rejection, if any and the status of pending under the Act.
- d) On receipt of a notice as mentioned in Section 8 of the Act, take appropriate actions against the concerned authorities under the Act.
- e) Monitor resettlement under Sub-Section (2) of Section-4 of the Act.
- f) Specially monitor compliance of the provisions contained in (m) of sub-section (1) of section 3 and sub-section (8) of section 4.

Government of West Bengal

Notification No. 644(10)-BCW / 6M (MC)- 5/2006, dated 07.03.2008 from Secretary to the Govt. of West Bengal, Backward classes Welfares Department

Sub: Constitution of State Level Monitoring Committee

Whereas terms of Govt. of India's powers conferred by Sub-Section (1) and (2) of Section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) under the Notification of the Govt. of India in Ministry of Tribal Affairs No.G.S.R.437€ dated the 19th June, 2007 and its related Rules 2008 under the Notification of the Govt. of India in Ministry of Tribal Affairs No.G.S.R.I(E) dated the 1st January, 2008, a State Level Monitoring Committee is required to be constituted for proper implementation of the Act and Rules.

Now, therefore, in pursuance of the provisions of the Act, 2006 & Rules, 2008, the Governor is pleased hereby to constitute the State Level Monitoring Committee with the following members:-

a	Chief Secretary , Government of West Bengal	Chairperson
b	Additional Chief Secretary , Government of West Bengal , Forests Department	Member
c	Principal Secretary, Government of West Bengal , Land & Land Reforms Department	Member
d	Principal Secretary, Government of West Bengal ,Panchayat & Rural Development Department	Member
e	Secretary , Government of West Bengal, Backward Classes Welfare Department	Member
f	Principal Chief Conservator of Forests, Government of West Bengal	Member
g	Shri Rupchand Murmu , MP,jhagram PC	Member
h	Shri Choton Kisku,MLA,PhansidewaAC	Member
i	Shri Rabindranath Hembram, MLA, Kashipur AC	Member
j	Commissioner, Backward Classes Welfare, Government of West Bengal	Member Secretary

Memo No.672(18)- BCW/6M (MC)-5/2006 (1) , dated 10.3.2008 from Smt.R. Chatterjee, Joint Secretary to the Govt. of West Bengal, Backward Classes Welfare Department addressed to The District Magistrate,Bankura, Birbhum, Burdwan, Hooghly, North 24 Pgs, South 24 Pgs, Purba Medinipur, Jalpaiguri,Nadia, Malda, D/Dinajpur, U/Dinajpur, Cooch Behar, Howrah, Paschim Medinipur, Murshidabad, Purulia

Sub: Implementation of “the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 & Rules , 2008”

Sir /Madam,

I am directed by the order of the Governor to State that to simplify the process of implementation of the “Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 & Rules, 2008 regarding formation of committees, awareness and training, the following guidelines, adopted in the meeting held on 28-02-2008 in chamber of the Hon’ble MIC, BCW Deptt. With representatives of the P & RD Deptt, L & LR Deptt, Forest Deptt and BCW Deptt. , may be followed:-

1. Since the village level unit of the Panchayati Raj Institution in West Bengal is known as ‘Gram Sansad’ , the term ‘Gram Sabha’ shall be replaced by ‘ Gram Sansad’ for the purposes of this Act and Rules made there under. (Approval of the Ministry of Tribal Affairs, Government of India has been sought for).
2. The Forest Rights Committee may be formed by the Gram Sansad in its first meeting to be held before 31st March ,2008, so that the Forest Rights Committee may start work w.e.f. 01.04.2008 in the state uniformly.In the Forest Rights Committee, representatives from the local Forest & LR Offices should be made permanent invitees.
3. The Sub-Divisional Committee to be forms as per rule should include SDLLRO as a permanent invitee. Officer of the BCW Deptt. Or Deputy Magistrate looking after the works of the BCW Deptt. Will be the representative of the BCW Deptt. , Principal Chief Conservator of Forests (PCCF), W.B. will nominate the representative of the Forest Deptt. To the Sub-Divisional Committee. Sabhadhipati (Zilla Parisad) of the District will nominate the three Panchayat representatives as prescribed in the Rules 5©.
4. The District committee shall have DL & LRO & DPRDO as permanent invitees to this Committee. Sabhadhipati of the District will nominate the three Panchayat representative s as prescribed in the Rule 7© & PCCF, WB will nominate the representative of the Forest Deptt. PO-cum-DWO/DWO will be the representative of the Bcw Deptt.
5. The State Level Committee has been formed. The District and Sub-Divisional Level Committees are to be formed by 20-03-2008. For this purpose, representatives from different levels are to be nominated and sent by 18-03-2008 to the District Magistrate who is hereby authorized on behalf of the State Govt. to form the District Level and Sub-Divisional Level Committee.

6. Panchayat & Rural Dev. Department may issue necessary direction to all the District Magistrates for formation of forests Rights Committees at Gram Sansad Level and for holding the Gram Sansad meetings in all the concerned Gram Panchayats before 31st March, 2008 positively
7. L & LR Deptt. May issue suitable directions to all DL & LROs provide all kind of assistance required for implementation of Forest Rights as per Act. Also necessary order may be issued to vest the powers to all the District Magistrates as per the requirement of the Act.
8. Awareness regarding the objective of the Act and rules towards conferring Forest Rights to forest dwelling Scheduled Tribes and Other Traditional forest dwellers “**for strengthening right of the Forest Dwellers for ensuring livelihood and food security of the St Forest Dwellers and for eliminating long standing insecurity of tenurial and access right to this to their Forest land**” and also for conservation of biodiversity and maintenance of ecological balance may be given priority. Provisions of the Act and the procedure to be followed for determination of beneficiaries and conferring rights to them, are to be developed among the functionaries at different levels (right from the Gram Sansad Level up to the District Level) so that the requirements for effective implementation of the provisions are identified and measures are taken accordingly.
9. Masters training program will be held at Jalpaiguri for North Bengal Division and in Kolkata for Presidency and Burdwan Division before 20-03-2008 by the BCW Deptt. In collaboration with P & RD Deptt., L & LR and Forest Deptt. Thereafter, training at the District, Sub-Division and Gram Sansad Level will be organized and completed quickly by the respective District Magistrate.
10. The concerned Department like the P& RD, Forest; L & LR, BCW , will extend all necessary assistance and furnish all necessary documents to different Committees for determination of Forest Rights, identities etc. of the Forest Dwellers and other related affairs..
11. The whole process for determination of forest rights would start at the level of Gram Sansad, which will be scrutinized at Sub-divisional Level Committee, after which the District Level Committee will approve/award forest rights.
12. P.O.-Cum-DWO of all the District have already been directed by the BCW Department for printing of adequate claim & other forms and provide to the District Magistrate & all the BDOs (For Gram Sansads) by 31.03.2008 in their respective Districts.
13. The Forest rights shall be conferred free from all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980.
14. Periodical reports regarding progress of implementation of the provisions of the Act & the Rules may be furnished to the BCW Department and will subsequently be placed before the State Level Committee.

Letter No. 1220/PN/O/I/IA-2/07, dated 17.03.2008 from M.N. Roy, Principal Secretary to the Government of West Bengal, Department of Panchayats and Rural Development addressed to Principal Secretary to the Govt. of West Bengal, BCW Deptt./Forest Deptt., Sabhadhipati, Zilla Parisad (All), Commissioner, Panchayats and Rural Development, West Bengal , Director, SIPRD, Kalyani, District Magistrate, District (All), ADDI. District Magistrate (All), Dist. Panchayat & Rural Dev. Officer (All), Sub-Divisional Officer (All), Block Development Officer,(All), All Gram Panchayats and Panchayat Samitis within his jurisdiction, PA to MIC/MOS, BCW Deptt./Forest Deptt./Panch. & Rural Dev.Deptt., Govt. of West Bengal.

ORDER

Whereas the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has already been enacted and the Rules, 2007 under the aforesaid Act have already been framed ;

And whereas a meeting for implementation of the aforesaid Act Rules was held on 28th February, 2008;

And whereas the State Government in this Department considers that a committee named “Forest Rights Committee” should be formed at the level of Gram Sansad ;

Therefore, after careful consideration of the matter and in pursuance of the decision taken in the meeting dated 28.02.2008 on the matter, the Governor, in exercise of the power conferred by section 212 of the West Bengal Panchayat Act, 1973 (West Bengal Act XLI of 1973) has been pleased hereby to direct the following:-

- a) A committee named Forest Rights Committee shall be formed at the level of Gram Sansad in the meeting to be held before 31st March, 2008 so that the Committee may start its function w.e.f. 1st April, all over the state.

For the above purpose the Gram Sansads shall be convened by Gram Panchayat having forest area within its jurisdiction and in its meeting, it shall elect from among its members a committee of not less than ten but not exceeding fifteen persons as member of the Forest Rights Committee. At least one-third members shall be Scheduled Tribes and not less than one-third of such members shall be women. Where there are no Scheduled Tribes, at least one-third of such members shall be women.

- b) The quorum for constitution of Forest Rights Committee shall be not less than two-third of all members of Gram Sansad and the quorum of the aforesaid committee shall be same as that of the Gram Unnayan Samiti i.e. at least one-third of members of the Forest Rights Committee.
- c) Since Gram Unnayan Samiti has been constituted at the level of Gram Sansad, Forest Rights Committee shall act as a functional committee under Gram Unnayan

Samiti comprising ten to fifteen members of Gram Unnayan Samiti subject to the compliance of condition regarding Scheduled Tribes and Women members. If numbers of Scheduled Tribe and Women members fall short of minimum requirement, members/voters of Gram Sansad not included in Gram Unnayan Samiti may be co-opted.

- d) The Chairperson and the Secretary of Gram Unnayan Samiti shall act as the Chairperson and the Secretary of the Forest Rights Committee.
- e) The District Panchayats and Rural Development Officer of the district shall be included as a permanent invitee in the District Level Committee.
- f) Three elected members of the concerned Panchayat Samiti nominated by the Sabhadhipati of the concerned Zilla Parishad shall be the members of the Sub-Divisional Committee. At least two of three such nominated members of the aforesaid committee shall belong to the Scheduled Tribe community preferably those who are forest dwelling or who belong to the primitive tribal groups. Where there are no Scheduled Tribe members, two members who are preferably other traditional forest dwellers and one of them being a woman member shall be nominated.
- g) Three elected members of the concerned Zilla Parishad belonging to the same category as explained in para (f) above being nominated by the Sabhadhipati shall be included in the District Committee.

This order shall come into force at once.

Notification No. 2710 – BCW / 6M (MC)- 5/2006, dated 26.09.2008 from Secretary to the Govt. of West Bengal, Backward Classes Welfare Department copy marked to The Additional Chief Secretary, Department of Forests, Government of West Bengal, The Principal Secretary, P& RD Department, Government of West Bengal, The Land Reforms Commissioner, L&LR Department, Government of West Bengal, The Commissioner, BCW, Government of West Bengal, The Sabhadhipati, Zilla Parishad-Bnkura, Birhum, Burdwan Hooghly, North 24 Pgs, South 24 Pgs, Nadia, Purba Medinipur, Darjeeling, Jalpaiguri, Malda, D/Dinajpur, U/Dinajpur, Cooch Behar, Howarah, Purulia, Paschim Medinipur, Mursidabad, The District Magistrate, Bnkura, Birhum, Burdwan Hooghly, North 24 Pgs, South 24 Pgs, Nadia, Purba Medinipur, Darjeeling, Jalpaiguri, Malda, D/Dinajpur, U/Dinajpur, Cooch Behar, Howarah, Purulia, Paschim Medinipur, Mursidabad, Ps to MIC/MOS of this Department, PA to the Chief Secretary, Government of West Bengal, PA to the Secretary/ Special Secretary / Joint Secretary/ Joint Commissioner for Reservation of this Department.

As per the Decision taken in the meeting held on 26.09.2008 at 11:00 A.M. at Rotunda, Writers' Building on implementation of Forest Rights Act, a Block Level Monitoring Committee is required to be constituted for smooth coordination and monitoring for

conferring forest rights to the Scheduled Tribes & Other Traditional Forest Dwellers under the provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Now, the Governor is pleased to approve hereby of constitution of the Block Level Monitoring Committee with the following members :-

- | | |
|--|------------------|
| a) Sabhapati of the concerned Panchayat Samity - | Chairpeson |
| b) BL&LRO | Member |
| c) Range Officer / Forest Officer in charge of the Block | Member |
| d) Inspector, Backward Classes Welfare | Member |
| e) Block Development Officer | Member Secretary |

The District Magistrate will issue necessary Notification for formation of the Block Level Monitoring Committee.

Notification no. 5957-for., dated: 01-10-2008, from Additional Chief Secretary to the Govt. of West Bengal , Department of Forests

Sub: Constitution of State Level Expert Committee

In accordance with the provisions of Section 2(b) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act,2006 (No. 2 of 2007) and to the guidelines issued by the Ministry of Environment & Forests, Govt. of India vide its letter No. 1- 39/2007 WL-1,dated 25.10.2007, the Governor is hereby pleased to constitute a State Level Expert Committee in the following manner:

- 1) Chief Wildlife Warden, West Bengal. - Chairman
- 2) Regional Deputy Director, Wild Life Preservation,
Kolkata.- - Member.
- 3) Secretary, Backward Class Welfare Department,
Govt. of West Bengal. - Member
- 4) Shri Subimal Roy,
Member, State Board of Wildlife. - Member.
- 5) Sri Kushal Mukherjee,
Member, State Board of Wildlife. - Member.
- 6) Dr. Bela Duttagupta, Sociologist. - Member
- 7) Chief Conservator of Forest,

Public Grievance, Law & Information.

- Member.

8) Addl. Principal Chief Conservator of Forests,
Wildlife
Convener.

- Member-

2. The Expert Committee will co-opt the Divisional Forest Officer in Charge of the National Park/Sanctuary or the Field Director in Charge of the Tiger Reserve, as the case may be, as a member as and when the matter relating to that Protected Area comes for discussion.

3. Terms of reference

i) The Expert Committee shall determine the extent of inviolate area required for wildlife conservation, based on evidence and analysis presented by 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 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 recourses within the proposed Critical Wildlife Habitat, the concerned forest officers as well as members of civil society and organizations working on social and environmental issues in the area.

iii) The Expert Committee may further

a) requested 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 request 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 Committee.

v) The Expert Committee shall consider these submissions and give a final recommendation to the Ministry of Environment and Forests within a month.

4. The expert Committee will decide its own procedure.

5. The non-official members of the Expert Committee will be entitled to get travelling allowance and daily allowance as admissible to Grade – 1 officers of the Government of West Bengal.

Notification For Constitution Of District Level Committee From Additional District Magistrate (G) Member Secretary, District Level F.R.C. Committee Jalpaiguri.

In terms of Govt. of India's Power conferred by Sub-Sections (1) and (2) of Section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (2 of 2007) under the Notification of the GOvt. of India in Ministry of Tribal Affairs No. G.S.R. 437 (E), dt. 19.06.2007 and its related Rules 2008 under the Notification of the Govt. of India in Ministry of Tribal Affairs No. G.S.R.I. (E), dt. 01.01.2009 of the Backward Classes Welfare Dept., a District Level Committee to be constituted for proper implementation of the Act and Rules.

In pursuance of the provisions of the Act, 2006 and Rules 2008 the District Level Committee is hereby constituted with the following members on 19.03.2008 at 4.00 P.M. in the Conference Hall of the District Magistrate, Jalpaiguri and hereby published today in compliceance to the relevant Rules and for necessary Notification by Government.

- 1) District Magistrate, Jalpaiguri – Chairman
- 2) Divisional Forest Officer, Jalpaiguri Divn. – Member
- 3) D.F.O. (Wild Life Divn. II) – Member
- 4) Sri Balai Ekka , Representative of Sabhadhipati, Z.P.Jalpaiguri – Member
- 5) Sri Sukra Oraon, Representative of Sabhadhipati, Z.P. Jalpaiguri – Member
- 6) Smt. Janaki Rava, Representative of Sabhadhipati, Z.P.Jalpaiguri – Member
- 7) Dist. Land & Land Reforms Officer, Jalpaiguri – Permanent Invitees
- 8) Dist. Panchayat & Rural Dev. Officer Jalpaiguri – Permanent Invitees
- 9) A.D.M. (G), Jalpaiguri – Member Secretary
- 10) P.O. Cum D.W.O., B.C.W., Jalpaiguri – Member

Notification for Sub- Divn. Level Committee as per the Sch. Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 Rule 2008 from Sub-Divisional Officer & Chairman District Level F.R.C. Committee, Alipurduar.

Name of Sub-Divn.-Alipurduar

The Sub-Divisional Level Forest Rights Committee, Alipurduar has been formed on 20.03.2008 with the following members:

1. Sub-Divisional Officer, ALipurduar – Chairman
 2. Assistant Divisional Forest Officer, (BTR, West). ALipurduar
 3. Backward Classes Welfare Officer, ALipurduar.
 4. Sri Dilip Ku. Rava, Member, (Nominated by Jalpaiguri Z.P)
 5. Sri Neba Subba, Member, (Nominated by Jalpaiguri Z.P)
 6. Smt. Sakuntala Rava, Member, (Nominated by Jalpaiguri Z.P)
 7. Sub-Divisional Land & Land Officer, Alipurduar – Permanent Invitee Member.
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Notification for Sub-Divn. Level Committee as per the Sch. Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 Rule 2008 from Sub-Divisional Officer & Chairman District Level F.R.C Committee Malbazar.

Name of Sub-Divn.-Malbazar.

The Sub-Divisional Level Forest Rights Committee, Malbazar has been formed on 20.03.2008 with the following members:

1. Sub-Divisional Officer, Mal, Jalpaiguri – Chairman
2. Officer-in-charge, B.C.W, S.D.O., Mal.
3. A.D.F.O., Jalpaiguri , P.C.C.F's Nominee
- 4-6.Three Members nominated by Sabhadhipati, Jalpaiguri Zilla Parishad as per the Act (not yet received)
7. Inspector, B.C.W., Officer of the S.D.O, Mal.
8. SDL & LRO, Mal Jalpaiguri – Permanent Invitee
9. B.D.O, Mal –Permanent Invitee
10. B.D.O., Matialli – Permanent Invitee
11. B.D.O., Nagrakata – Permanent Invitee

Notification for Sub-Divn. Level Committee as per the Sch. Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 Rule 2008 from Sub-Divisional Officer & Chairman District Level F.R.C. Committee, Sadar.

Name of Sub-Divn.-Sadar

The Sub-Divisional Level Forest Rights Committee, Malbazar has been formed on 20.03.2008 with the following members:

1. Sub-Divisional Officer, Sadar, Jalpaiguri – Chairman
2. A.D.F.O, Baikunthapur Divn.
- 3-5.Three members nominated by Sabhadhipati, Jalpaiguri Zilla Parishad as per the Act (not yet received)
6. Inspector, B.C.W, Jalpaiguri.
7. SDL & LRO, Sadar, Jalpaiguri
8. B.D.O. Rajganj – Permanent Invitee
9. B.D.O, Dhupguri - Permanent Invitee
10. B.D.O., Sadar - Permanent Invitee
- 11.B.D.O., Maynaguri - Permanent Invitee

Name of the Sansad Level F.R.C. Committee (Sub-Divn. & Block wise).

Name of Sub-Divn.-Alipurduar.

Name of Block	Name of the Gram Panchayat	Name of Gram Sabha/Gram Sansad	Forest Range	Name of Forest Rights Committee	Name of the Secretary	Remarks
	Tuturi Khanda	Jayantee Hatipota-II	Karticka	Jayantee Hatipota-I,	Bijesh Sannyashi	

Kumargram				J.L.No.6, P.S.Samuktala		
	Tuturi Khanda	Jayantee Hatipota -IV	Karticka	Jayantee Hatipota-II, J.L.No.6, P.S.Samuktala	Anup Chhetri	
	Tuturi Khanda	Jayantee Hatipota -V	Karticka	Jayantee Hatipota-II, J.L.No.6, P.S.Samuktala	Anil Pradhan	
	Tuturi Khanda	Jayantee Hatipota -VI	Karticka	Jayantee Hatipota-II, J.L.No.6, P.S.Samuktala	Gautam Mahali	
	Tuturi Khanda	Chuniajhora-II	Karticka	Chuniajhora-I & II J.L. No.-3, P.S. Samuktala	Buddhiman Subba	
	Tuturi Khanda	Phaskhowa-I	Karticka	Phaskhowa, J.L. No.2, P.S. Samuktala	Bindey Chhetri	
	Kumargram	D/Haldibari-XIII	Kumargram	D/Haldibari, J.L. No.39, P.S. Kumargram	Charka Mia	
	Raidak	Tiamari-VIII	Karticka	Tiamari, J.L. No.11, P.S. Samuktala	Rajkumar Gautam	
	Raidak	Siltong-XI	Karticka	Siltong, J.L. No.11, P.S. Samuktala	Mahesh Rava	
	Raidak	Chhipra-XI	Karticka	Chhipra, J.L. No.11, P.S>Samuktala	Pol Rava	
	Chengmari	Chengmari-VI	Volka	Khuttimari , Bengdoba, Indu Basti	Kishore Sharma	
	Chengmari	Chengamri-III	Volka	Balapara	Ranen Sing Mochary	
	Newlands Kumargram Sankosh	NKS-II	Kumargram	Newlands F.V	Lal Bahadur Rai	
	Newlands Kumargram Sankosh	NKS-V	Kumargram	Kumargram F.V	Krishna Barai	
	Newlands Kumargram Sankosh	NKS-XIII	Kumargram	Sankosh F.V	John Toppo	
	Volka Barobisha-II	Volka Barobisha-II/I	Volka	Lafagyru F.V	Bidyewar Rava	
Volka Barobisha-II	Volka Barobisha-II/I	Volka	Purba Salbari, J.L. No.48	Bidyewar Rava		

Name of Block	Name of Gram Panchayat	Name of Gram Sabha/ Gram Sansad	Forest Range	Name of Forest Rights Committee	Name of Secretary	Remark
	Rajabhatkhowa	Rajabhatkhowa-I	Jayanti	Part No.-11/121 & 122	Arun Thapa	

				Rajabhatkhowa			
	Rajabhatkhowa	Rajabhatkhowa-II	Santarabari	Part No.-11/123Rajabhatkhowa	Chandu Lanma		
	Rajabhatkhowa	Rajabhatkhowa-III	Syantee	Part No.-11/124Rajabhatkhowa	Monoj Prasad		
	Rajabhatkhowa	Rajabhatkhowa-IV	Rajabhatkhowa (West)	Part No.-11/125Rajabhatkhowa	Makar Dhoj Rai		
	Rajabhatkhowa	Rajabhatkhowa-V	Rajabhatkhowa (West)	Part No.-11/126Rajabhatkhowa	Partha Pratim Dutta		
	Rajabhatkhowa	Rajabhatkhowa-VI	Damanpur (West)	Part No.-11/127Rajabhatkhowa	Bipradas Chakroborty		
	Rajabhatkhowa	Rajabhatkhowa-VII	Damanpur (East)	Part No.-11/128Rajabhatkhowa	Dilip Sangma		
	Rajabhatkhowa	Rajabhatkhowa-VIII	Rajabhatkhowa (East) Gadadhar	Part No.-11/129Rajabhatkhowa	Sukumar Rava		
	Rajabhatkhowa	Rajabhatkhowa-IX	Damanpur (West)	Part No.-11/131Rajabhatkhowa	Chandra Rava		
Kalchiri	Satali	Satali VIII	Hamiltonganj Range	Part No.-11/89, Gudambari	Rohit Basumata		
	Kalchini	Kalchini-IV	Pana Range	Part No.-11/95, Raimatang & Pana	Sarju Karki		
	Kalchini	Kalchini-VIII	Pana Range	Part No.-11/98, Gangustia Busti	Kiran Eind		
	Garopara	Garopara-XX	Nimati Range	Part No.-11/120, Nimati	Bishnath Rava		
	Latabari	Latabari-III	Poro (West)Range	Part No.-11/71, Nimti Domohani	Sundar Lama		
	Latabari	Latabari-IV	Nimati Range	Part No.-11/72, D/ Latabari	Sanjay Gowala		
	Latabari	Latabari-V	Nimati Range	Part No.-11/73, U/ Latabari	Robert Kujur		
	Chuapara	Chuapara-X	Pana Range	Part No.-11/86, Bhutri	Fauda Sing Chhetri		
	Satali	Satali-XIII	Pana Range	Dalbadal	Raju Lama		
	Mendabari	Mendabari-X	Chilapata Range	Part No.-13/158, U/Mendabari	Kutin Rava		
	Mendabari	Mendabari-X	Chilapata Range	Part No.-13/158, D/Mendabari	Nagru Rava		
	Rajabhatkhowa	Rajabhatkhowa-VII	Rajabhatkhowa (W) Gadadhar	Panbari	Nanku Rava		
	Mendabari	Mendabari-IX	Kodal Basti Range	kodal Basty Forest Village	Amlaguri Rava		
	Mendabari	Mendabari-IX	Kodal Basti Range	Mantharam Forest Village	Subhash Rava		
	Madarihat-Birpara	Bandapani	Bandapani-II Part No. 14/2	Banarhat	Kalapani Reti Forest	Sania Panna	
		Totopara-Ballalguri	Totopara-Ballalguri-I, Part No. 14/94	Lankapara	Titi Forest	Jakarias Ekka	
		Totopara-Ballalguri	Totopara-Ballalguri-I, Part No. 14/94	Lankapara	D/Ballalguri	Jakarioos Lakra	
		Totopara-Ballalguri	Totopara-Ballalguri-II, Part No. 14/95	Lankapara	U/Ballalguri	Bhimsari Kujur	
		Totopara-Ballalguri	Totopara-Ballalguri-III, Part No. 14/96	Lankapara	Totopara	Bakul Toto	

Name of Block	Name of the Gram Panchayat	Name of Gram Sabha/Gram Sansad	Forest Range	Name of Forest Rights Committee	Name of the Secretary	Remarks
	Birpara-I	Birpara-I/IV, Part No. 14/33	Dalgaon	Tukara-Khas	Mani Dhobi	
Madarih at-Birpara	Birapara-I	Birapara-I/XII, Part No.14/31	Dalgaon	Debi Shimul	Keta Chetri	
	Birapara-I	Birapara-II/II,Part No.14/35	Dalgaon	Daimore Garo Basti (Block –I)	K.C. Thapa	
	Birapara-I	Birapara-II/II,Part No.14/35	Dalgaon	Daimore Garo Dalgaon Basti (Block –II)	Passang Lama	
	Birapara-I	Birapara-II/II,Part No.14/35	Dalgaon	Daimore Garo Basti (Block – III)	Arjun Tirwa	
	Birapara-I	Birapara-II/II, Part No.14/35	Dalgaon	Daimore Garo Basti (Block – IV)	Gobinda Adhikari	
	Lankapara	Lankapara /IV,Part No.14/43	Lankapara	Tukra –Khas (Lankapara)	Deshraj Pradhan	
	Bandapani	Bandapani/IV & Bandapani/II, Part No.14/4 & 14/2	Banarhat	Garochira Bandapani	Bir Bahadur Tamang	
	Bandapani	Bandapani /II,Part No.14/2	Banarhat	Reti Forest	Pacal Tete	
	Khairbari	Khairbari /IV,Part No.14/74	Madarihat	North Khairbari	Khutin Rabha	
	Rangalibanzna	Rangalibanzna/ VI	Madarihat	Dhumchi Rabha Basti	Ananta Rabha	
Alipurdu ar - I	Mathura	Mathura – VII	Chilapata Range	Kurmai Basti FRC, Kurmai Basti, P.O. Mathura Bagan, Dt. Jalpaiguri	Sundar Sing Rava	
	Mathura	Mathura - VII	Chilapata Range	Bania Basti FRC, Bania Basti, P.O.- Mathura Bagan, Dt.-Jalpaiguri	Mangal Rava	
	Mathura	Mathura – VII	Chilapata Range	Andu basti FRC, Andu Basti, P.O.- Mathura Bagan, Dt.Jalpaiguri	Rabi Rava	
Falakata	Salkumar – II	Salkumar – II	Chilapata Range	Salkumar Basti FRC	Mantu Rava	
	Deogaon	Deogaon/III	Dakshin Khairbari F.V.	Part No.-30 Purbo Deogaon	Asoke Karjee	
	Deogaon	Deogaon/V	Dakshin Khairbari F.V.	Part No.32 Dakshin Deogaon	Bhadra Sarkar	
	Deogaon	Deogaon/VIII	Dakshin Khairbari F.V.	Part No. -35 Purbo Jharbeltali	Madhu Munda	
	Deogaon	Deogaon/IX	Dakshin Khairbari F.V.	Part No.36 Purbo Jharbeltali	Gouri Tamang	
	Salkumar	Salkumar/II	Jaldapara (Wild	Part No. -43	Satish Suba	

			Life)	Umacharanpur		
	Salkumar	Salkumar/IV	Jaldapara (Wild Life)	Part No. - 45 Umacharanpur	Suraj Karjee	
	Salkumar	Salkumar/V	South Khairbari	Part No. -46 Paschim Salkumar	Hetaram Oraon	
	Salkumar	Salkumar/VI	South Khairbari	Part No. -47 Paschim Salkumar	Nikhil Karjee	
	Salkumar	Salkumar/VIII	Dakshin Khairbari	Part No.- 49 Chhoto Salkumar	Soumel Karjee	
	Salkumar	Salkumar/XII	Dakshin Khairbari	Part No. -53 Shibanathpur Mouza	Biren Oraon	
	Mairadanga	Jateswar -I/IV	Dalgaon Forest	Part No.-120 Benkandi Mouza	Laku Mahali	
	Mairadanga	Mairadanga/I	Kunjanagar (Wild Life)	Part No. - 54 Satpukuria	Kanduni Mahi	
	Mairadanga	Mairadanga/IV	Kunjanagar (Wild Life)	Part No. -57 Mairadanga	Kanka Munda	
Name of Block	Name of the Gram Panchayat	Name of Gram Sabha/Gram Sansad	Forest Range	Name of Forest Rights Committee	Name of the Secretary	Remarks
Falakata	Mairadanga	Mairadanga/VII I	Kunjanagar (Wild Life)	Part No.-61 Kunjanagar	Ranjit Oraon	
	Mairadanga	Mairadanga/VI	Kunjanagar (Wild Life)	Part No.-59 Laxman Karjee	Manidra Karjee	
	Mairadanga	Mairadanga/IX	Kunjanagar (Wild Life)	Part No.-62 Kunjanagar	Sukra Oraon	
	Mairadanga	Mairadanga/ XI	Kunjanagar (Wild Life)	Part No.-64 Talukartari	Gopal Munda	
	Falakata-II	Falakata-II/XIV	Jaldapara	Part No.-80 Kadambini T.G.	Patel Oraon	
	Falakata -II	Falakata-II/VI	Jaldapara	Part No.-72 Banshdharpur	Kalo Oraon	
	Dalgaon	Dalgaon/III	Dalgaon F.V	Lara Busty & Sunni	Saiteswar Suba	
	Majherdabri G.P.	Majherdabri/III	B.T.R. (West)	Part No.-12/108, Uttar Panjalguri	Sanatan Rautia	
Alipurdu ar - II	Majherdabri G.P.	Majherdabri/IV	B.T.R. (West)	Part No.-12/109, Uttar Panjalguri	Ajit Lakra	
	Majherdabri G.P.	Majherdabri/V	B.T.R. (West)	Part No.-12/110, Uttar Sibkata	Biseswar Barman	

Name of Sub-Divn.-Malbazar

Name of Block	Name of the Gram Panchayat	Name of Gram Sabha/Gram Sansad	Forest Range	Name of Forest Rights Committee	Name of the Secretary	Remarks
Nagrakata	Sulkapara	Sulkapara-X	Gorumara North Range	Panjhora, New Khunia, North Indong & Shipchu Forest Village under Tandu P.O. F.R.C. Upper Range, CHalsa,	Dilip Chhetri	

				Jalpaiguri		
	Sulka para	Sulka para-XII	Diana Range	Chhartandu F.R.C., P.O. Sulka para, Jalpaiguri	Rajen Chhetri	
	Champaguri	Champaguri-IV	Chalsa Range	Lower Hilla F.R.C., P.O., Jalpaiguri	Manju Bar	
	Looksan	Looksan-VI	Diana Range	Looksan F.R.C., P.O. Carron, Jalpaiguri	Ajit Debnath	
	Angrabhasa-II	Angrabhasa-II/III	Nathua Range	Jaldhaka ALadanga and Majjjali Dasti F.R.C, P.O. Nathuahat.	Prabir Dhar	
	Angrabhasa-I	Angrabhasa-I-I/IV	Diana Range	Kherkata F.R.C. P.O. Kalabari, Jalpaiguri.	Motaleb Hosain	
Matia Ili	Matialli-Batabari-II	Matialli-Batabari-II/I	Gorumara North Range	Uttar Dhupjhora F.R.C., P.O. Batabari, Jalpaiguri	Dinesh Roy	
	Matialli-Batabari-II	Matialli-Batabari-II/II	Gorumara North Range	Uttar Dhupjhora F.R.C., P.O. Batabari, Jalpaiguri	Etwa Munda	
	Matialli-Batabari-II	Matialli-Batabari-II/III	Gorumara North Range	Dakshin Dhupjora F.R.C. , P.O. Batabari, Jalpaiguri	Clement Topno	

Name of Block	Name of the Gram Panchayat	Name of Gram Sabha/Gram Sansad	Forest Range	Name of Forest Rights Committee	Name of the Secretary	Remarks
Matialli	Matialli-Batabari-II	Matialli-Batabari-II/I	CHalsa Range	South Indong (Makrapara), P.O.Chalsa	Birendra Nath Roy	
	Matialli-Batabari-II	Matialli-Batabari-II/II	Gorumara North Range	Murti Forest Village, P.O.Batabari, Jalpaiguri	Nitendra Nath Roy	
	Matialli-Batabari-II	Matialli-Batabari-II/XI	Lataguri Range	Barodighi Forest Village, P.O. Batabari, Jalpaiguri	Gouri Kami	
	Matialli-Batabari-II	Matialli-Batabari-II/XII	Gpri,ara South Range & Lataguri Range	Bichabhanga, Sursuti & Bamni Forest Village, P.O. Lataguri, Jalpaiguri.	Basu Kora	
Malbazar	Oodlabari	Oodlabari-I	Targhera	Gajoldoba Forest Village, Oodlabari G.P.	Suresh Majhi	
		Oodlabari-II	Targhera	Targhera Busty,	Bijay Rai	

				Oodlabari G.P.		
		Oodlabari-III	Targhera	7 No. Gajoldoba, Oodlabari G.P.	Durga Sarkar	
		Oodlabari-IV	Targhera	10 No. Gajoldoba, Oodlabari G.P.	Bhabotosh Roy	
	Rajadanga	Rajadanga-I	Targhera	Mech Busty Forest Village, Rajadanga G.P.	Kaile Saibya	
		Rajadanga-II	Apalchand	Soloharia Magurmari Forest Village, Rajadanga G.P.	Sukra	
	Kumalai	Kumalai-XII	Lataguri	Patidhura, Kumlai G.P.	Akhil Roy	
		Kumalai-VI	Lataguri	Cheldhura Salbari (Nepuchapur), Kumlai G.P.	Karfulla Roy	

Name of Sub- Divn.- Sadar

Name of Block	Name of the Gram Panchayat	Name of Gram Sabha/Gram Sansad	Forest Range	Name of Forest Rights Committee	Name of the Secretary	Remarks
Rajganj	Binnaguri	Binnaguri-III	Dabgram Forest Range	Adarshapally, P.O.-Sahudangi.	Gouranga Roy	
	Binnaguri	Binnaguri-V	Dabgram Forest Range	Paghalupara, P.O. Sahudangi.	Subal Roy	
	Binnaguri	Binnaguri-XV	Dabgram Forest Range	Bhotpara, P.O. Kundar Dighi	Haripada Roy	
	Dabgram-I	Dabgram-I/II Rajfapri & Bikashnagar	Salugara Forest Range	Bikashnagar, P.O. Salugara	Subhas Thapa	
	Dabgram-II	Dabgram-II/I Kkudirampally	Dabgram Forest Range	Khudirampally, P.O. Ghogomali	Biswajit Saha	
	Mantadari	Mantadari-VI	Belakoba Forest Range	Marringajhora, P.O. Mantadari	Chandrajit Adhikary	
Maynaguri	Ramsai	Ramsai-X	Lataguri	Kalamatti Forest Village, P.O. Rmsai.	Nandagopa Oraon	
	Ramsai	Ramsai-IX	Lataguri	Ramsai Bazar Forest Village, P.O.Rmsai	Sudhram Maghi	
Dhupguri	Jharaltagram-II	Jharaltagram-II/VIII	Moraghat	Gosairhat F.R.C.	Bidhan Rava	
	Jharaltagram-II	Jharaltagram-II/VIII	Moraghat	Khukdong Basti F.R.C.	Nipen Rava	
	Sakoajhora-II	Sakoajhora-II/I	Moraghat	Sonakhali F.R.C.	Sajib Lama	
	Salbari-I	Salbari-I/VIII	Moraghat	Mogolkata F.R.C.	Dharmendra Rava	
	Salbari-I	Salbari-I/VIII	Moraghat	Totapara F.R.C.	Salkram Rava	
	Salbari-I	Salbari-I/VIII	Moraghat	Mela Basti	Dayuth Rava	
	Salbari-I	Salbari-I/VIII	Moraghat	Khuttimari F.R.C	Manju Kherwar	

3.2. Circulars clarifying process of implementation of FRA relating to JFM, Record of Rights

3.2. Circulars clarifying process of implementation of FRA relating to JFM, Record of Rights

ABSTRACT

Sl. No.	Date	Particulars (India & States)	Issued by
		Govt. of India	
1	06.08.2013	Clarification regarding CFR titles given to JFM (VSS) in Andhra Pradesh State	MoTA
2	19.02.2014	Clarification regarding classification of land in the RoR – regarding	MoEF
3	03.03.2014	Record of Rights issued under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.	MoTA
4	20.8.2015	Letter from Secretary, MoTA to Chief Secretary, GoO – Regarding CFR rights to VSS	MoTA
5	December 2012	Frequently Asked Questions	MoTA
		Govt. of Odisha	
6	29.10.2010	Guidelines for correction of ROR and Maps for forest land in revenue villages for which title has been issued under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Annexure – II appended to the Rules of 2007 made under the Act.	RDM Dept., Govt. of Odisha
7	21.03.2014	Record of Rights issued under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – Observations comments thereof for due compliance	ST & SC Dev. Deptt., Govt. of Odisha
8	17.06.2014	Clarification regarding classification of land in the RoR.	R&DM Department Govt. of Odisha
9	19.09.2014	Maintenance of Permanent Register by the Divisional Forest Officers for reflecting individual and community forests rights under FRA, 2006	Forest & Environment Department, Govt. of Odisha
		Govt. of Maharashtra	
10	26.06.2012	Maharashtra Government Resolution for bringing JFMC's under superintendence and control of Gram Sabha	Chief Minister, Maharashtra

Government of India

Letter No. -23011/11/2013-FRA, dated 6.8.2013, from Gopal Sadhwani, Deputy Secretary to Government of India, Ministry of Tribal Affairs addressed to Shri B. Somashekar Reddy, Principal Chief Conservator of Forests, Government of Andhra Pradesh

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 and 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 Section 2 (c) and 2 (o) of the Forest Rights Act, 2006. Hence, these committees can also not be considered as ‘claimant’ for the purpose of recognition and vesting of forest rights under the Act as per the definition of ‘claimant’ for the purpose 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 Act 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 31st 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 individual claims that such claims were filed within JFM areas was also therefore, incorrect.
4. The Ministry may kindly be apprised of the action taken on this matter.

Letter No. -2/FCE-VI, dated 19th February, 2014, from Dr. Tejinder Singh, Addl. PCCF (Central), Ministry of Environment & Forests, Government of India, Eastern Regional Office, Bhubaneswar addressed to the Chief Secretary, Govt. of Odisha,

Sub.: Clarification regarding classification of land in the RoR – regarding.

Ref.: Addl. Chief Secretary, Government of Odisha, Revenue & DM Department letter No. GE (GL) – 5-83/13-44018/R&DM dated 23.11.2013 addressed to all RDCs, Collectors, Sub-Collectors and Tehasildars (Copy enclosed).

Sir,

The Revenue & DM Department has issued the above circular clarifying doubts whether the provisions of Forest (Conservation) Act, 1980 are attracted to the land recorded as forests in the sabik records but subsequently classified as non-forest in the Hal Record of Rights. The above clarification of R&DM Department has been examined and it is to clarify that the change of kism of land from forest (in the sabik records) to non-forest land in Hal settlement after 25.10.1980 without prior approval from MoEF is a violation of Forest (Conservation) Act, 1980. It is therefore, requested to kindly furnish the details of all the cases where the kism of land has been changed from forest to non-forest in the Hal settlement and also recorded in the RoR. Further, the copy of the affidavit filed by the State Govt. before the Hon'ble Supreme Court in WP(C) No. 202/1995 may also be furnished. The State Govt. may ensure that no non forest activity is allowed in the land which has been changed from forest in sabik settlement to non-forest in Hal settlement, after 25.10.1980 till the matter is decided by the MoEF.

Letter No. 23011/06/2014-FRA, Dated 3rd March 2014, S.M. Sahal, Director, Ministry of Tribal Affairs, Government of India, addressed to All Principal Secretaries / Secretaries in charge of State Tribal Welfare Departments (All States except Jammu and Kashmir, Haryana and Nagaland)/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 8th November, 2013. In this connection, the entire records should follow the protocol of the revenue code / law.
5. All the State / UT Governments are, therefore, requested to take appropriate steps on the points mentioned above.

Leter No 23011/18/2015- FRA, dated 20.8.2015 from Shri Arun Jha, Secretary to Government of India, Ministry of Tribal Affairs addressed to Shri Gokul Chandra Pati, Chief Secretary to Government of Odisha

Dear Shri Pati,

The Ministry of Tribal Affairs is in receipt of the proceedings of the meeting of State Level Monitoring Committee (SLMC), Odisha held on 21st July 2015. It is observed therefrom that two of the decisions taken in the SLMC meeting are in violation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 ('Forest Rights Act' in short) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 (as amended up-to-date) ('Forest Rights Rules).

2. As per Para 9 of the proceedings "the committee observed that in Odisha, the VSS have been over the years nurtured by the F&E Department to sustainably manage and protect forest resources. Hence the committee decided that those VSS where there are no conflicts with the Gram Sabha in sustainable management of the forest resources may be identified so that Community Forest Rights can be given under FRA".

3. It may be noted that Community Forest Resource (CFR) rights may be conferred to Gram Sabha and not to VSS committee as per the Forest Rights Rule 8(i) (as specified in Annexure-IV to these Rules) as amended up to 2012. There are no Statutes that vest any authority with the VSS for CFR Rights. The processes of recognition of rights (Individual and Community, including CFR) are clearly laid down in the Forest Rights Act, 2006 and Rules. It is also important to point out that Rule 12B (4) of the Forest Rights Rules also requires that the Secretary of the District Level Committee shall record the reasons where no community forest rights are recognised in a village. It is for Gram Sabha to constitute a Committee for protection of wildlife, forest and bio diversity as per Rule 4(1)(e) of the Forest Rights Rules.

4. Further, vide Para 10 of the proceedings, it has been "decided that Superintendents of Police / Addl. SPs are to be co-opted as DLC members, while Sub Divisional Police Officers are to be co-opted at the SDLC level as Special Invitees."

5. This again is a violation of the Forest Rights Act, 2006 and the Forest Rights Rules. The Forest Rights Rules under Rule 5 and 7 clearly lay down the composition of the SDLC and the DLC respectively, detailing the officials and representatives of these Committees. There is no provision or scope in the Forest Rights Act or the Forest Rights Rules to co-opt any additional members. It may be pointed out that one of the key functions performed by the SDLC and DLC is the determination and decision on forest rights claims forwarded by the Gram Sabhas, and co-option of members in such Committees contrary to the provisions of the Act and Rules may render such decisions vulnerable to challenge.

6. The State Government of Odisha has taken many proactive steps in recognition of forest rights of the forest Dwelling Scheduled Tribes and Other Traditional Forest dwellers. The Ministry is appreciative of the work undertaken by the State of Odisha and orders and guidelines passed by the State Government are held in high regard as best practices.

7. These decisions of the SLMC as pointed out above, however, are not in the letter and spirit of the Forest Rights Act and may undo the good work done by the State so far and derail the process of vesting of forest rights in the State.

8. You are therefore requested to personally look into the matter and withdraw any such instructions, if communicated to the implementing officers.

Letter No. -2/FCE-VI, dated 19th February, 2014, from Dr. Tejinder Singh, Addl. PCCF (Central), Ministry of Environment & Forests, Government of India, Eastern Regional Office, Bhubaneswar addressed to the Chief Secretary, Govt. of Odisha,

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- (v) 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.
 - (vi) The village maps and the village records should also indicate the community land classified into various categories as per the local revenue code / law.
 - (vii) 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.
 - (viii) 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 8th November, 2013. In this connection, the entire records should follow the protocol of the revenue code / law.
6. All the State / UT Governments are, therefore, requested to take appropriate steps on the points mentioned above.

[1-8. xxxxx](#)

9. What would be the legal status of the titles given under FRA?

- The title given under the FRA is a legal title and is a formal recognition of forests right which is recognized and vested in the right holders in form of a signed document by the competent authority under the Act. It shall be registered jointly in the name of both the spouses or a single head in case only one head is alive as the case may be. It has the force of law and are non transferable, inalienable but heritable as per Section 4(4) of the Act.

10. Where are the records of rights going to be maintained? Whether in the revenue records or forest records?

- As regards maintenance of records of rights, Rule 12 A of the Amendment Rules, 2012, notified on 6.9.2012, provides that on completion of the process of recognition of rights and issue of titles under the Rules, the Revenue and the Forest Departments shall prepare a final map of forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and the forest records within the specified period of record updation under the relevant State laws or within a period of three months, whichever is earlier.
- It is suggested that if the forest land is under the administrative control of the revenue department, the revenue department shall maintain record of rights. If the forest land is under the administrative control of the forest department, the forest department may maintain the records and the records of the titles for individual land rights also need to be recorded in the revenue records. States may take appropriate steps to enter the record of rights in the relevant State records. What is most important that every such record is not only verified on the ground but also reconciled with both forest and revenue records. For example, State of Uttar Pradesh has amended its record of rights (termed as Category (6) under their revenue law) to add a new column for maintenance of forest rights.

11 – 12. xxxx

13. Can Gram Sabhas be called at the Gram Panchayat level for the purpose of FRA?

- No, Gram Sabha should not be called at the Gram Panchayat level for the purpose of FRA. A Gram Panchayat normally consists of one or more revenue villages. As per the provision of the Act, Gram Sabhas are to be held at the village level and village has been defined under section 2(p) of the Act.

14. Can the Gram Sabha meetings be held at the habitation/ hamlet level even in areas not coming under PESA?

- Yes, the Gram Sabha may be held at the hamlet level in areas not coming under PESA.
- The terms “Gram Sabha” and “village” for purposes of FRA are already defined in Sections 2(g) and 2(p) of the Act where any forest settlement, forest village, old habitation or settlement and unsurveyed village may also be treated as village among others. Such entity, even if not notified or recorded as village, is recognized as village for the purpose of this Act.

15. Whether the community rights of the non-Scheduled Tribes who are traditionally using the community resources in the Schedule V areas where PESA is applicable would be affected if they are not eligible for recognition of these rights in those areas under FRA?

- No, the community rights of non-Scheduled Tribes or ineligible OTFDs will not be affected in Schedule V areas where PESA is applicable.
- Section 13 of the FRA clearly supports such an arrangement as the FRA is in addition to and not in derogation of any other law for the time being in force.

16. Whether the title holders have the rights over the trees also standing on the forest land for which their rights have been recognised and vested under FRA?

- Yes, the title holders have right over trees on the forest land for which rights have been recognized under FRA.
- Section 3(1)(a) of the FRA recognizes the right of the FDSTs and OTFDs to hold and live in the forest land for habitation or for self-cultivation for livelihood by a member of a forest dwelling Scheduled Tribe or other traditional forest dwellers. In view of the above, the titleholders have the right over the trees standing on the said forest land but for felling and disposal of the trees, the same shall be treated in the same manner as trees on private land are treated under the relevant State laws and shall be subject to conditions, requirements for permission etc. as specified in those laws.
- For further clarity, the number of trees on the land with species and size should be mentioned in the title. There would be no restriction on collecting and using the minor forest produce from such trees.

17. The number of claims settled under Community Rights is very small as there is lack of adequate documentary evidence to corroborate those claims. What are the documentary evidences required in case of community rights?

- Rule 12A(11) introduced through the recent amendment specifies that the SDLC / DLC cannot insist on a particular evidence in support of the claim. Physical and oral evidence is also admissible under Rule 13. Official documents such as working plans, gazetteers, forest settlement reports, and other types of evidence mentioned in Rule 13 may be considered. Further the evidence for rights over community forest resource and evidence for other forest rights in including community are distinguished in Rule 13 (1) and (2). In fact more evidences such as Government records or earlier classification of current reserve forest as protected forest or as gochar or other village common lands, nistari forests as well as earlier or current practice of traditional agriculture have been added as evidence for “community forest resource”.

18-19. xxx

20. A lot of social capital has been invested by states in the capacity building of JFM Committees in the last 15-20 years for the protection, conservation and management of the forests. Shouldn't these JFMCs be converted into committees under 4(1) (e).

- It is the prerogative of the Gram Sabha to decide whether to nominate the members of the JFMCs in the new Committee under Rule 4(1)(e) or constitute it with new members. It is further clarified that only the members of the Gram Sabha are eligible to become a member of the Committee under Rule 4(1)(e). Automatic conversion of JFMCs into Committee under Rule 4(1)(e) is neither mandated nor desirable under the FRA as the objectives, structure and mandate of JFM is different from that of Committee under Rule 4 (1) (e).

21. Should JFM Areas be directly converted to Community Forest Resource Titles

- As per the provisions of Act and Rules, automatic conversion for JFM areas into CFR areas is neither mandated nor desirable as the objectives, structure and mandate of JFM is different from that of rights under community forest resource. However, wherever JFM areas are co-terminus with CFR boundaries, Gram Sabha may apply and get the title to such community forest resource, subject to the final approval by DLC.

22- 23. xxxxx

Government of Odisha

Letter No. SM13209- 43974 / RDM, Dated, 29.10.2010, from Sri B.N. Das, Spl-Secretary to Government Of Orissa, Revenue and Disaster Management Department addressed to the Member, Board of Revenue/All R.D.Cs/All Collectors/Director, Land Records Surveys & Consolidation

Sub: Guidelines for correction of ROR and Maps for forest land in revenue villages for which title has been issued under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Annexure – II appended to the Rules of 2007 made under the Act.

Sir,

I am directed to say that Government have been pleased to issue a set of guidelines for correction of ROR and Maps to incorporate the rights recognized under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in terms of the Title Certificates issued in respect of forest land in revenue villages. A copy of the said guidelines is sent herewith for favour of your information and necessary action.

Guidelines for Correction Of R.O.R. And Maps For Forest Land In Revenue Villages For Which Title Has Been Issued Under The Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006 In Annexure – II Appended To The Rules Of 2007 Made Under The Act.

Introduction:

The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognizes and vests forest rights including right to hold and live in the forest land under individual or common occupation for habitation or self-cultivation for livelihood by (i) the forest dwelling Schedule Tribes as defined in section 2(c) and (ii) other traditional forest dwellers who has for at least three generation prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forest land for bonafide livelihood needs as provided under section 2(o). Among other forest rights, the provisions of section 3(g) and 3(h) of the Act read with section 4 thereof vest in such forest dwelling Scheduled Tribes and other traditional forest dwellers the right for conversion of leases or grants on forest land to titles and 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. Such rights are heritable but not transferable under sub-section (4) of section 4 of the Act Sub-section (6) of the Act provides that the decision of the District Level Committee on the record of forest rights shall be final and binding. District Level Committees have been formed in each district under sub-section (5) of section 6 of the Act read with rule 7 of the S.T. and OTFD (RFR) Rules, 2007.

Need for correction of R.O.R. and Map:

Rule 8(f) of the aforesaid rules provides that the District Level Committee shall issue directions for incorporation of the forest rights in the relevant government records including record of rights. Rule 8(g) further provides that the Committee shall ensure publication of the record of forest rights as may be finalized.

1. Manner of Correction of R.O.R. and Map:

In the view of the above provisions of law, the Tahasildar who maintains the records of right shall on receipt of copies of title for forest land under individual tenure in Annexure – II issued under rule 8(h) of the ST & OTFD (RFR) Rules, 2007 and the sketch map of the said land from the District Level Committee in respect of revenue village, proceed to incorporate the contents of the title in the Record of Rights of the Revenue village and correct the R.O.R. and Map accordingly. Wherever necessary, bata plots shall be carved out of original plots as is done during correction of records of rights to give effects to orders in mutation cases and such bata plots given bata numbers in the manner provided in paragraph 81 of the Orissa Mutation Manual.

2. Joint records in the name of both Spouses:

The record shall be prepared jointly in the name of both the spouses in case of married person and in the name of single head in the case of a household headed by a single person as required under sub-section (4) of section of the Act.

3. Status of the land:

In view of the peculiar status of land, new Khatians shall have to be prepared for such land covered under forest rights after the existing Government Khatas of the village and allotted new numbers following the last in serial of Government Khata. The status column of the R.O.R. in respect of such forest land under individual tenure shall record the status as “Forest right recognized under the ST & OTFD (RFR) Act, 2006” which in Oriya may read as ‘ଅନୁସୂଚିତ ଜନଜାତି ଏବଂ ଅନ୍ୟାନ୍ୟ ପାରମ୍ପରିକ ବନବାସୀଙ୍କର (ଜଙ୍ଗଲ ଅଧିକାର ସ୍ୱୀକୃତି) ଆଇନ, ୨୦୦୬ ମୁତାବକ ବିଧିବଦ୍ଧ ଅଧିକାର’

4. Non –transferability of the land:

The forest right conferred under the act is heritable but not alienable or transferable as mentioned earlier. The special incidence column of the R.O.R. should, therefore, contain the note that the right is heritable but not transferable or alienable which in Oriya may read as ‘ଏହି ଜଙ୍ଗଲ ଅଧିକାର ପୁରୁଷାନ୍ତରଣୀୟ ହେବ କିନ୍ତୁ ହସ୍ତାନ୍ତର କିମ୍ବା ସ୍ଥାନାନ୍ତରଣ ଦ୍ୱାରା ପରିଚାଳିତ ନାହିଁ ।’

5. Kissam:

Sub-section (7) of section 4 of the Act of 2006 provides that the forest rights 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 this Act. The jungle kissam of such forest land over which the forest right of individual occupants is recognized will remain unchanged.

6. Supply of certified copy of R.O.R. to the claimant:

Rule 8(h) of the Rules of 2007 provides that the District Level Committees is to ensure that a certified copy of the record of forest rights is provided to the concerned claimant. A certified copy of the records of right newly created shall, therefore, be provided to the occupants.

7. Correction of records maintained by the R.I.:

The records maintained by the Revenue Inspector shall be similarly corrected for which intimation slip and sketch map may be sent to the Revenue Inspector in duplicate of which one copy will be returned by the R.I. with an endorsement that he has retained one copy with him.

Letter No. 10496/ GE (GL)-5-63/13/SSD, Bhubaneswar, dated the 21st March, 2014 from Prof. (Dr.) A.B. Ota, Director (ST) – cum-Addl. Secretary to Govt. of Odisha, ST & SC Development Department addressed to R&DM Deptt. / F&E Deptt. / Principal Chief Conservator of Forests, Odisha / all R.D.Cs

Sub.: Record of Rights issued under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – Observations comments thereof for due compliance.

Sir,

I am directed to enclose herewith a copy of the letter bearing L. No. 23011/06/2014-FRA dt.03.03.2014 which is self-explanatory and request you to issue necessary instructions to the field / executing functionaries to strictly follow up the observations / comments of Ministry of Tribal Affairs, Govt. of India as communicated herein for larger interests of the beneficiaries concerned.

Letter No. 17450/GE (GL)-5-63/13/R & DM, Bhubaneswar, Dated 17th June, 2014 from Dr. Taradatt, Additional Chief Secretary to Government of Odisha, Revenue and Disaster Management Department addressed to All Revenue Divisional Commissioners/All Collectors/All Sub-Collectors/All Tahasildars.

Sub: Clarification regarding classification of land in the RoR.

Sir,

I am directed to invite reference to the last paragraph of this Department's letter No.44019/R & DM, dated 23rd November, 2013 on the aforementioned subject, wherein it was stated that "lands included within the list filed before the Hon'ble Apex Court may be treated as forest land and which are not included in the list may be treated as non-forestland".

2. The legal and constitutional provisions in regard to "forest" vis-à-vis the judgment rendered by the Hon'ble Apex Court in T.N Godavarman Thirumulkpad Vrs. Union of India have been examined again in consultation with the legal experts, and as advised by them, the said paragraph is substituted as follows:

“In view of the affidavit filed by the State Government in WP(C) No. 202/1995, lands included in the list filed before the Hon’ble Supreme Court may be treated as forest land. If the lands are not covered under the said affidavit, but if in fact, they satisfy the description of “forest”, the same shall be treated as forest”.

Letter No.10F (Con) 486 /2012/17233 F&E, Bhubaneswar, dated the 19.09.2014 from Sri D. Biswal, IFS, Additional Secretary to Government of Odisha, Department of Forest & Environment addressed to All Divisional Forest Officers (T&WL)

Sub: Maintenance of Permanent Register by the Divisional Forest Officers for reflecting individual and community forests rights under FRA, 2006.

Sir,

I am directed to enclose herewith the copy of the approved Proforma for maintaining the register at the level of Divisional Forest Officers for individual as well as community forest rights being settled under the provision of Forest Rights Act, 2006.

Action taken in compliance to above may be sent to Pr. CCF, Odisha and Collectors concerned for perusal and reference.

Proforma-I

Register for individual Rights

Sl. No.	Name of Title holder	Title No. Date	Area of Forest land settled under FRA	Category of the holder ST/OT FD/ PTG	Purpose	GPS Coordinates of the land settled under FRA	Status of Forest (Provide Name where applicable)					Range	Section	Beat	
							National Park	Sanctuary	Reserved Forest		Village Forest				Other Forest
									Block	Compartment					
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

Proforma-II

Register for Community Rights

Sl. No.	Name of Community Village	Regd. No. Date	Area of Forest land settled under FRA	Purpose	GPS Coordinates of land settled under FRA	Status of Forest (Provide Name where applicable)					Range	Section	Beat	
						National Park	Sanctuary	Reserved Forest		Village Forest				Other Forest
								Block	Compartment					
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

**3.3 Circulars clarifying interpretation of specific provisions of FRA,
(application to municipal areas, meaning of bonafide livelihood
needs, meaning of '75 years', PTG habitat rights)**

3.3 Circulars clarifying interpretation of specific provisions of FRA, (application to municipal areas, meaning of bonafide livelihood needs, meaning of ‘75 years’, PTG habitat rights)

ABSTRACT

Sl. No.	Date	Particulars (India & States)	Issued by
		Govt. of India	
1.	9.6. 2008	“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	MoTA
2.	4.3.2010	Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal Corporation Areas.	MoTA
3	6.5.10	Grant of land rights to Taungya cultivators under FRA, 2006	MoTA
4	12.04.2013	Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal Areas	MoTA
5	1.9.2011	Clarification on certain issues.	MoTA
6	Dec, 2012	FAQ	UNDP
7	29.04.2013	Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal Areas	
8	5.3.2015	Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal / Urban Areas-Regarding	MoTA
9	20.3.2015	Revised Scheme of Development of Particularly Vulnerable Tribal Groups (PVTGs)	MoTA
10	23.4.2015	Clarification pertaining to clarification of habitat rights	MoTA
		Govt. of Odisha	
11	21.11.2008	Frequently asked questions on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and their replies.	ST & SC Dev. Dept, Govt. of Odisha
12	22.11.2011	Clarification on “Pathar Bani Pahada” & “Parbat	ST & SC Dev.

		Kisam”	Dept, Govt. of Odisha
13.	31.12.2011	Clarification on “Gramya Jungle Jogya” Kisam land	ST & SC Dev. Dept, Govt. of Odisha
14.	12.3.2012	Clarification sought for Pahad and Dangar Kissam	ST & SC Dev. Dept, Govt. of Odisha
15.	06.04.2015	Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006 in Municipal/ Urban Areas-regarding	ST & SC Dev. Dept, Govt. of Odisha

Government of India

Letter No.17014/02/2007-PC&V (VOL.VII), 9th June 2008 from [Sunil Garg], Under Secretary to the Govt. of India, Ministry of Tribal Affairs, addresses to All State Secretaries in-charge of Tribal Welfare [All States/UTs, except J&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 13th 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 18th-19th February, 2008 and 16th 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 self-cultivation for livelihood, and would, therefore, be primarily spending most of their time either in temporary make shift structures or working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land. Therefore, such Scheduled Tribes and Other Traditional Forest Dwellers who are not necessarily residing inside the forest but are depending on the forest for their *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.

Letter No. 17014/02/2007-PC&V(Vol. VII)(Pt.), 4th March, 2010 from A.K. Srivastava, Director to Government of India, Ministry of Tribal Affairs addressed to The Secretary, Tribal Development Department, Government of Maharashtra

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.

Letter No.17014/02/2007-PC&WF RA (Vol,VIi) dated, 6th May 2010 from Sri A.K Srivastava, Director, Ministry of Tribal Affairs, Government of India addressed to The Principal Secretary & Commissioner for Social Welfare Government of Uttar Pradesh

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: (1) they had occupied forest land before the 13th 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 13th 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.

Letter No. 19020/02/2012-FRA, Dated 12.4.2013 from Gopal Sadhwani, Deputy Secretary to Government of India, Ministry of Tribal Affairs addressed to The Secretary, Tribal Development Department, Government of Maharashtra

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 TRTI/Forest Act/FRA in Municipal Area/460 and this Ministry's letter No. dated 17014/02/2007-PC&V(Vol. VII)(Pt.), 4.3.2010 on the above subject ad to state that, the clarification issued by this Ministry on the issue of applicability of the Forest Rights Act in the Municipal Areas has been reviewed in consultation with Ministry of Law. The revised clarification on this matter shall be issued shortly to all States/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.

Letter No. 23011/28/2008-SG-II(FRA), 1st September 2011, from A.K. Srivastava, Director to Government of India, Ministry of Tribal Affairs addressed to Santosh Sarangi, Commissioner-cum-Secretary, S.T & S.C Development Department, Government of Orissa

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.	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 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>	<ul style="list-style-type: none"> ➤ 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. ➤ 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. ➤ 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. ➤ The Forest Rights Act, 2006 has been enacted for conferment of defined forest rights, prescribing the procedure to be followed while conferring such rights and matters incidental to and connected therewith. ➤ 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.

[Frequently Asked Questions Issued by Ministry of Tribal Affairs, Government of India, December 2012](#)

1-5. [xxxxxx](#)

6. Can the habitat rights of the PTGs under FRA also include revenue lands?

- Ordinarily No, unless there are recorded forests or there are forests that come within the definition of forest land under the Act on such revenue lands (land under the administrative control of the revenue department) and they overlap with the habitat of the PTGs (Particularly Vulnerable Tribal Groups).
- Further, if the habitat area (or its part) of a PTG does not come within the definition of forest land then such habitat rights cannot be recognized under FRA. However, it may be recognized under the respective revenue laws of the concerned State, if the State so desires in order to protect the habitat rights of the PTGs.

7. How will the claims on rights of PTG groups and habitat rights be facilitated particularly in view of the habitat involving more than one Gram Sabha?

- The definition of habitat under Section 2(h) and the right to such habitat has been clearly laid down in the law under section 3(1)(e) of the Act. Rule 12(1)(d) further directs Forest Rights Committee to ensure that the claims from PTGs are verified when such communities or their representatives are present.
- 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.
- Rule 8 also envisages the role of the District Level Committee (DLC) to ensure that such rights of the PTGs and other vulnerable communities are addressed keeping in mind the objectives of the Act.
- Further, it has now been provided in the Amendment Rules, 2012 notified by the Ministry on 6.9.2012 that, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups (PTGs), the DLC shall ensure that all Particularly Vulnerable Tribal Groups receive habitat rights, in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups and that their claims for habitat rights are filed before the concerned Gram Sabhas wherever necessary by recognizing floating nature of their Gram Sabhas.
- In view of the above provisions in the Act and the Forest Rights Rules, the DLCs should play a proactive role by initiating the process of recognition of rights of the PTGs in consultation with their traditional institutions and ensure that their claims for habitat rights are filed before the concerned Gram Sabhas.
- Where the claims of PTGs have already been filed, the DLCs should take steps to ensure recognition of their rights along with mapping of the area of each claim over which their rights have been recognized.

8. Whether OTFDs who do not fulfill the condition of occupation of forest land for three generations (75 years) prior to 13th December 2005 would be eligible for recognition of forest rights under FRA?

- The Act does not envisage the occupation of forest land for three generations (seventy five years) prior to December 13, 2005 for qualifying as OTFD under the Act. The occupation of forest land should be prior to December 13, 2005 as per Section 4 (3) of the Act which stipulates the condition of occupation of forest land for recognition and vesting of forest rights. This condition does not differentiate between forest dwelling STs and OTFDs.
- To qualify as OTFD and be eligible for recognition of rights under FRA, three conditions need to be fulfilled- 1) Primarily resided in forest or forests land for three generations (75 years) prior to 13-12-2005 2) depend on the forest or forests land for bonafide livelihood needs 3) occupied forest land prior to 13-12-2005.
- Primarily resided in does not mean occupation. Proof of residence in the village for 75 years where claim has been filed and dependence on forest land will suffice for being considered as OTFD. As clarified in an earlier letter No.17014/02/2007-PC&V(Vol.VII) dated 17.06.2008, regarding the phrase “primarily resided in”, “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 definitions of forest dwelling scheduled tribes and other traditional forest dwellers given in Section2(c) and 2 (o) of the Act.

9 -23. xxxxx

Letter No 19020/02/2012- FRA, Dated 29th April 2013 from Dr. Sadhana Rout, Joint Secretary to Government of India, Ministry of Tribal Affairs addressed to All Principal Secretaries/Secretaries/Commissioners of 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 that 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 has 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 Dweller (Recognition of Forest Rights) Act, 2006 (in short Forest Rights Act) in municipal areas (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 this Ministry on the applicability of Forest Rights Act (FRA) to Municipal Areas has been questioned in the said Writ Petition.

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, Chhattisgarh (copies enclosed). Now the stand of this Ministry is that Forest Rights Act applies to 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 the 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.

Letter No.19020/02/2012-FRA (Vol.II), Dated 5.03.2015, from Roopak Chaudhari, Deputy Secretary to the Government of India, Ministry of Tribal Affairs addressed to The Chief Secretaries of all States/UTs/ Principal Secretaries / Secretaries, TWD of States/ UTs/The Secretary, M/o Environment, Forest & Climate Change/The Secretary, M/o Urban Development/The Secretary, M/o Panchayati Raj/The Secretary, M/o Law & Justice

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 29th 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 had 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.

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 Rules 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 Panchayati 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 at least 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 director issues with the approval of the Hon'ble Minister, Tribal Affairs.

Letter No. 22040/37/2012-NGO, dated 20th March 2015 from Shri P.K Sahoo, Under Secretary to Government of India, Ministry of Tribal addressed 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, Telengana, Tripura, Uttar Pradesh, Uttarakhand, West Bengal and Andaman and 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 the implementing agencies of “ Conservation- cum- Development (CCD) Plan” identified by the State Government. The scheme is effective from 1st April 2015

2. The scheme is also available on Ministry’s Website: www.tribal.gov.in

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 optimize utilization 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 prioritizing 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 supplement protein for nutrition,
- (i) 100% health facility coverage of pregnant mothers and immunization 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 teacher 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:

- (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 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 (TDPs)/ 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 installment(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. Kotwali 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

Annex – II

Some examples of expected outcomes from the CCD Plan

- (a) Improvement in enrolment rates in schools,
- (b) Reduction of dropout rates,
- (c) Increase in immunization rate of infants,
- (d) Increase in health coverage of pregnant mothers etc.

Letter No. 23011/16/2015-FRA, dated 23rd April 2015 from Shri Uttam Kumar, Under Secretary to Government of India, Ministry of Tribal addressed to the Chief Secretaries of all State Governments

Sub: Clarification pertaining to recognition of Habitat rights under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)

1. This has come to the notice of the Ministry of Tribal Affairs that the Hindi version of the Forest Rights Act has translated the word '*habitat*' under Section 3(1)(e) as "*aawas*" which is commonly understood as house or homestead. This has created confusion and due to misinterpretation, many States have equated the term "*habitat*" to mean providing housing facilities as under Indira Awas Yojana and other such housing scheme.

2. The Ministry would like to state that the FRA clearly lays down the definition of '*habitat*' under Section 2(h); and further describes the forest right to such habitat under Section 3(1)(e). Rule 12(1)(d) of the FR Rules further requires Forest Rights Committee to ensure that the claims from Particularly Vulnerable Tribal Groups (PVTGs) are verified when such communities or their representatives are present.

3. Further, the right to community tenures of habitat and habitation may be recognized over customary territories used by the PVTG for habitation, livelihoods, social, economic, spiritual, sacred, religious and other purposes. In some cases the habitats of PVTGs may overlap with forests and other rights of other people/communities.

4. Rule 8 of the FR Rules (as amended on 6.9. 2012) envisages the role of the District Level Committee (DLC) to examine, whether all claims, especially those of primitive tribal groups (Particularly Vulnerable Tribal Groups), pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act.

5. It has further been provided in FR Rule 12(B) (1) that, the DLC shall in view of the differential vulnerability of PVTGs, ensure that all PVTGs receive habitat rights in consultation with the concerned traditional institutions and their claims for habitat rights are filed before the concerned Gram Sabhas, wherever necessary, by recognising floating nature of their Gram Sabhas.

6. Where the claims of PVTGs have already been filed, the DLCs should take steps to ensure recognition of their rights along with mapping of the area of each claim over which their rights have been recognized.

7 Therefore the State Governments need to make all out effort to recognise the habitat rights of the PVTGs and intimate the Ministry of Tribal Affairs on the steps taken towards recognition of the rights in the periodic reports submitted by them.

This issues with the approval of competent authority.

Government of Odisha

Letter No. 40373/ TD – II – 5108/SSD Bhubaneswar, Dated, 21.11.08 from Sri Pradipta Kumar Das, Under Secretary to Government of Orissa, ST & SC Development Department addressed to All Collectors & Chairman, District Level (Forest Rights Committee)/All Sub-Collectors & Chairman, Sub-Divisional Level Forest Rights Committee/All Project Administrators, ITDAs/All PD, DRDAs, Non-Scheduled area districts/All DWOs

Sub.: Frequently asked questions on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and their replies.

Sir / Madam,

I am directed to send herewith a set of Frequently Asked Questions on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and their replies for favour of your information and guidance. The set of questions and replies may please be used for clarifying the beneficiaries / claimants, Officials & Non-Officials concerned with the implementation of the Act.

FREQUENTLY ASKED QUESTIONS

1. Does the Act not have the danger of destroying our forests and environment?

Definitely not. We need to see that even in the earlier framework of Forest Conservation Act, there were provisions and procedures for regularizing old habitations. The earlier framework did not have express scope for participation of the people. The present Act mandates that Gram Sabha (i.e. Palli Sabha in Orissa context) is the authority to initiate and decide the claims. The cut-off date was earlier fixed as 25/10/1980. It is now 13/12/2005 for members of the Scheduled Tribes and 13/12/193 for other traditional forest dwellers. The Act only recognizes existing occupations; it does not envisage fresh destruction of forest. It seeks basically to recognize *de jure* the already existing *de facto* position on the ground. Therefore there is no danger really to the forests. Deforestation is mostly due to commercial interests and not due to bona fide livelihood requirements of the poor people. We must see that by having the ordinary people living legitimately in the forest areas on our side, the forest machinery can do a better enforcement work. They can get better intelligence about the movement and activities of the timber mafia. Therefore, sincere implementation of the Act will protect the forests and our environment.

2. In some cases, the palli sabha could not meet on 16/3/2008 or on 23/3/2008. Can they meet now, decide FRC and start the process?

Yes, certainly. The Act does not prescribe any dates for holding the Palli Sabha meetings. Whenever required, it can be done. It must be noted that the initial time permitted as per Rule 11(1)(a) for the claims to be made before the palli sabha is three months. But the same rule has a proviso to the effect that the palli sabha can extend this period for reasons to be recorded in writing.

3. *How will the Palli Sabha get the information on progress of their recommendations made to Sub-Divisional Committee?*

An authenticated copy of the proceedings of SDLC meeting should be given to the Palli Sabha / Gram Sabha so that they can know about the recommendations of the SDLC. As the Palli Sabha has no Secretariat of its own, the concerned Extension Officer or the Secretary of the Gram Panchayat should be the custodian of the documents, who is required to take steps for holding the meetings of the Palli Sabha to apprise them about the documents received from the SDLC.

4. *Is the caste certificate mandatory to accompany every claim under the Act?*

Form A in the Annexure I stipulates for individual claims in respect of members of Scheduled Tribes that the authenticated copy of the certificate should be attached. This matter was discussed in the SLMC meeting on 24/10/2008 and the decision communicated in Revenue Department letter No. 47923 dated 12/11/2008. The Palli Sabha, with two- third or more presence, can pass a resolution affirming the names of members of ST and that can be accepted by the SDLC and DLC. However, if SDLC or DLC has reasons to re-verify, they can get it done through the concerned Tehsildar in doubtful cases.

5. *Is there a stay order by Hon'ble High Court on the implementation of the Act?*

It is true that there is an interim order of Hon'ble High Court barring issue of final patta (title as per the Act) and barring felling of trees, particularly in Reserve Forest / Protected Forest / Wildlife Sanctuary areas. The State Government is taking steps to make appropriate prayer to get the interim order vacated. However, for all other steps in the Act, there is no bar and each one of them must go on. The steps include holding the first meeting of the Palli Sabha for electing members of the FRC, the FRC receiving the individual as well as community claims, FRC verifying the claims and recommending to the Palli Sabha, holding second meeting of the Palli Sabha to make recommendations to SDLC, holding SDLC meetings and finally holding DLC meetings. On all these steps, there is no stay order. The District Level Committee should finalise and dispose of the claims within the stipulated period so that the documents conveying the rights of the claimants duly approved by the DLC could be handed over as soon as the Litigation/case pending in the High Court is decided or leave of the Court is received.

6. *Can any Government Officer take a stand that because of the stay order, the work cannot progress further?*

Any delay or negligent action on part of any Government officer of any Department will mean offence under the Act. The State Government will not hesitate to invoke provisions of Section 7 of this Act, which involves fine of Rs.1000 as well as disciplinary proceedings.

7. *It has just been ordered to procure GPS equipments. How can maps be prepared without GPS instruments?*

The use of GPS equipments is a welcome step, which will help in long term objectives of preparing error-free digitized maps in both revenue lands as well forest lands. Definitely the degree of accuracy can be better if GPS equipment is used, which will give the latitude, longitude and the altitude of any given point using simultaneous reading of four geo-synchronous satellites. This is especially true if Total Station Method is used for survey. However, we need to see that we do not require 100% precision, which may be essential for launching a missile or for other space applications. For implementation of this Act, usage of GPS devices is not mandatory. The title for individual land as well as for community forest rights, as per Annexure II and III of the rules, requires the extent of the area and description of

boundaries by prominent land marks including Khata No / Plot No. Thus preparation of an error-free pucca map is not required under this Act. However, for practical reasons and to see the need to enhance the capability of the law enforcement machinery to deal with land disputes, if any, in future, it is necessary to prepare the maps to be best of our ability using traditional methods. The SDLC can adopt the basic checks to see that (a) the individual land parcels do not overlap or that same portion of any land is not shown to two or more individual claimants and (b) the sum of individual or community lands in a village, for which title is being recommended, will not exceed the total geographical area of the village. Therefore, any delay with the excuse of procurement of GPS for implementation of this Act will not be accepted.

8. *The maps of the field level are not available. What can be done?*

If revenue land is involved, the maps can be obtained by placing indent with Joint Director, Survey and Map Publications, Jobra, Cuttack under intimation to DLRS, Board of Revenue. However, even for such lands, the trace map of the existing working copy available at the Tahsil office should suffice the work at the SDLC level for this Act. In respect of forest land, the scale of their maps is very small i.e. 1:50,000 because traditionally large areas of forest blocks were envisaged and small habitations were not considered. In such cases also, it should not be difficult to prepare the rough maps by indicating the landmarks and other essential data, to fulfill the requirements of this Act. It needs to be seen that for booking forest encroachment cases, the forest machinery has been using rough maps in the past. The same maps can be used even now for examining the claims under this Act. For reducing the valid claims into the form of a rough map, the services of retired RIs and Amins can be utilized, apart from the existing RIs and Amins. The Collectors may also review the available manpower in terms of JC staff from the Settlement and Consolidation organizations, who have been placed with the Collectors by the DLRS.

9. *What about forest habitations not coming within any revenue village?*

Revenue Department has made available to each of the Collectors the data of forest villages as per 2001 Census. Each of these habitations, even without enabling notification by Panchayati Raj Department can serve the purpose of the Act, as per Section 2 (g) read with 2(p) (iii) of the Act. Therefore, village assembly meetings of such habitations will also have the same legal validity as Palli Sabha for all practical purpose. However, Panchyati Raj Department is going to issue a detailed notification in this regard very soon.

10. *Should the work for second stage clearance of identified Pre-1980 habitations under Forest Conservation Act continue?*

Government have made the necessary budget provision and deposited the required amount in pursuance of the Supreme Court clearance obtained for Orissa in the TN Godavarman case. Therefore, the work is in pipeline and hence it should be continued to its logical and without any further delay. The lease documents and other formalities under the Forest Conservation Act are distinct from those under this Act. This Act provides heritable, but non-transferrable rights. The dispensation under the Forest Rights Act is different.

11. *Can the SDLC entertain the claims solely based on the oral evidence?*

Rule 11(1) read with Rule 13 requires at least two of the evidences out of the list of nine different categories provided. Rule 13 (i) makes provides for statement of elders, other than claimants, reduced in writing. We need to understand that the words “other than claimant” must

be with reference to the particular plot in question. SDLC does not entertain individual or community claims. The job of the SDLC as per Rule 14 (5) is to consider the resolution of the Gram Sabha and pass appropriate orders, either accepting or rejecting it. As per Rule 13, oral evidence will be one of the permissible kinds of evidence. The Gram Sabha is required to see that at least one of the other evidences like physical attributes of a house, permanent improvements made to land including leveling, bunds etc. encroachment case records, traditional structures establishing antiquity like burial grounds, wells, sacred places, genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier point of time etc.

12. *Can the cut-off date of 1930 be insisted on tribals who have migrated from another State?*

The law documents do not differentiate between a member of a Scheduled Tribe of one State from a person of another State. Therefore cut-off date of 13/12/2005 will be applicable for all ST persons, irrespective of their State of origin. However, it must be noted that 66 2/3% quorum is mandatory for a gram sabha meeting to take place as per the Act.

13. *What will be role of Vana Sanrakshana Samitis and other organizations or individuals who have been protecting the forests all along?*

The JFM policy guidelines are executive instructions whereas the present provisions are part of an Act. Therefore, the members of the VSS should be encouraged to participate in the meetings of the Gram Sabha / Palli Sabha so that the correct resolutions are passed by it.

14. *A forest officer or a revenue officer has not received intimation to attend Gram Sabha / Palli Sabha meeting. Can he sign the minutes of the SDLC?*

It is the duty of all grass root functionaries of all Departments to attend the Palli Sabha meetings. It must be noted that for the first round of the meetings of the Palli Sabha, wide publicity was given through TV, Radio and print media. No field officer of any department can plead ignorance of the Palli Sabha meetings. However, if the SDLC resolves that a matter requires field verification by a particular officer, the same must be attended to with utmost priority. Weekly meetings of SDLC will help in close monitoring of the field verification if it is decided to be necessary by SDLC.

15. *It has been seen in the SDLC meetings that the resolution of the Palli Sabha is not accompanied by 66 2/3 of the signatures of the adult members of the village. Can it be entertained?*

It must be noted that the Secretary of the Palli Sabha is the executive officer or extension officer or Secretary of the Gram Panchayat. If the functionary has signed and affirmed a document as the resolution of the Palli Sabha, it is his duty to keep the original document with the signatures of the members present in his record. When a copy, if forwarded by him with his signature to the SDLC, the SDLC should accept it as authentic. This is by adopting the same analogy as that of an Act of a Legislative Assembly. Every Act or a Resolution of the Assembly will not bear the signature of every member present. The signature of the authorized officer is adequate. By the same logic, the SDLC has to presume the proceedings to be correct, unless any allegation is received to the contrary. Same logic applies to the point regarding whether one-third ST members are present in the FRC and whether one-third women have been elected to the FRC or not. Wherever the SDLC finds the specific need to get this verified, they can do so. The District Panchayat Officer and the Sub-Divisional Panchayat Officer, with the help of the extension officers, are also required to conduct to conduct periodic inspections and guide the palli sabhas to keep the documentation properly.

16. *Has the State Govt. taken any Programme for creating awareness and training?*

Sub-Divisional Level Committees and District Level Committees have made arrangements for creating awareness and imparting training to the members of the Committees and concerned Officials / Functionaries. Oriya and English version of the Act & Rules have been printed and distributed among DLCs and SDLCs for circulations among Gram Sabhas / FRCs and others concerned with Implementation with the Act.

17. Who will supply the claim form A & B to the Beneficiaries and if any fees to be paid for obtaining forms?

All PA, ITDAs in scheduled areas and all DWOs in non-scheduled area districts will print and distribute the requisite number of form A & B among the beneficiaries free of cost.

18. From which sources FRCs will get funds to purchase registers, files and papers etc.?

Necessary funds under Article 275(1) of the Constitution has already been sanctioned / provided to all PA, ITDAs and all PD, DRDAs of non-scheduled area districts of the State for incurring expenditure towards implementation of this Act.

19. Who will decide recognition and vesting of community right versus individual right?

Gram Sabha shall decide this. In case of dispute appeal to higher committees, SDLC and DLC are possible.

20. What are the Special provisions for displaced Tribals who have not been rehabilitated?

Section 3 (m) of the Act provides that right to in situ rehabilitation including alternative land in cases where the STs and Other Traditional Forest Dwellers have been illegally evicted or displaced from forestland of any description without receiving their legal entitlement to rehabilitation prior to the 13th December 2005.

Section 4(8) of the Act provides that the Forest rights recognized and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers, who can establish that they were displaced from their dwelling and cultivation without land compensation due to state development interventions and where the land has not been used for the purpose for which it was acquired within 5 years of the said acquisition.

21. Who are the traditional forest dwellers?

Section 2(o) of the Act defines the traditional forest dwellers as “Other Traditional Forest Dwellers” means any member or community who has for at least three generations (75 years) prior to the 13th day of December 2005 primarily resided in and who depend on the forest or forests land for bonafide livelihood needs.

22. Does definition of forest land in the Act applies only to the land under Forest Department, or is it that the forestland under the Revenue Department (jungle kizam) also comes within the purview of the Act.

“Forestland” means land of any description falling within any forest area and includes unclassified forests, un-demarcated forests, existing of deemed forest, protected forests, reserved forest, sanctuaries and national parks. Therefore, the definition of forestland specified under the Act applies to all types of forests including that of the jungle kizam land found in the Revenue records.

Letter No. 35570/ TD-II(FRA)-06/2011/ SSD, Bhubaneswar, Dated 22.11.2011 from Shri S,K. Popli, IFS, Director (ST / SC)-cum-Addl. Secretary to Govt. of Odisha, ST & SC Development Department, addressed to the PA, ITDA, Keonjhar.

Sub.: Clarification regarding approval of certificate of title, to “Pathar Bani Pahada” & “Parbat Kisam” of land under Scheduled Tribes & Other Traditional Forest dwellers (Recognition of Forest Rights) Act, 2006.

Ref.: Your Letter No. 1073 dt. 07.07.2011.

Sir,

I am directed to say that the definition of “forest land” has been clearly mentioned at 2(d) which reads as follows:-

“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.

Except the above described Kisam of land, other Kisam land are non-forest land and hence shall not be permissible for settlement under Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Letter No. 39998 / TD-II(FRA)-6/2011 / SSD, Bhubaneswar, dated 31.12.2011, from Shri S,K. Popli, IFS, Director (ST / SC)-cum-Addl. Secretary to Government of Orissa, ST & SC Development Department addressed to the DWO, Nuapada.

Sub.: Clarification between “Gramya Jungle Jogya” for confirmation of title under the ST and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Ref.: Your letter No. 1720 dt.04.11.11

Sir,

I am directed to say that the definition of “forest land” has been clearly mentioned at 2(d) which reads as follows:-

“Forest land” means land of any description falling within any forest area and includes unclassified forests, un-demarcated forests, existing or deemed forests, Protected forests, Reserved forests, Sanctuaries and National parks.

Except the above described Kisam of land, other Kisam land are non-forest land and hence shall not be permissible for settlement under Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

If a gramya jungle has not actually come up in a “Gramya Jungle Jogya” land, then the said patch cannot be considered for settlement under Forest Rights Act, 2006.

Letter No. 10070/TD-II(FRA)-06/2011/ SSD, Bhubaneswar , dated 12.03.2012, from Smt. P. Mekro, IFS, Addl. Secretary to Government of Odisha, ST & SC Development Department, addressed to the Collector, Kalahandi

Sub.: Clarification sought for Pahad and Dangar Kissam of land for settlement of claims under Forest Rights Act, 2006

Ref: Your L. No. – 414 dt. 06.03.2012

Sir,

I am directed to invite a reference to your DO letter cited above and to say that Pahad & Dangar Kissam lands is not synonymous, with Forest Kissam Lands.

Sec 2(d) of the Forest Rights Act defines

“Forest Land means land of any description falling within any forest area and includes unclassified forests, un-demarcated forests, existing or deemed forests, protected forests, reserved forests, sanctuaries and national parks.”

All forest land of Forest Department and forest land under Revenue & Disaster Management and lands having existing forest cover like Pahad and Dongar Kissam, which finds place in the DLC report as filed in WP(C) No. 202/1995-TN Godavarman Thirumulkpad-vrs.- Union of India and Others during 1997, then claims can be entertained under the provisions of this Forest Rights Act as clarified in the Revenue Deptt. letter no. GE (GL)-S-23/09 (pt.1) 5309 dt.11.02.2011.

If the claims are beyond this scope, you are advised to dispose of the case under other available provisions like OPLE Act or OGLS Act as applicable.

Letter No.7531/SSD/ STSCD-FRA-MISC-0033-2014, Bhubaneswar, Dated 06.04.2015 from Shri R. Raghu Prasad, I.F.S.,Director(ST)-cum-Addl. Secy. to Govt of Odisha, ST & SC Development Department addressed to all Collectors.

Sub: Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006 in Municipal/ Urban Areas-regarding.

I am directed to send herewith the copy of the letter No.19020/02/2012-FRA (Vol.II) dt.05.03.2015 received from the Ministry of Tribal Affairs, Govt. of India containing guidelines on applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal/ Urban Areas which is self-explanatory for your information and necessary follow-up action in the interest of implementation of Forest Right Act in Municipal/ Urban Areas.

(Letter No.19020/02/2012-FRA (Vol.II) dt.05.03.2015 from Ministry of Tribal Affairs is at Page No. 43)

3.4 Conversion of forest villages into revenue villages

3.4 Conversion of forest villages into revenue villages

ABSTRACT

Sl. No.	Date	Particulars (India & States)	Issued by
		Govt. of India	
1.	18.9.1990	Review of dispute claims over forest land, arising out of forest settlement, Conversion of forest villages into Revenue villages	MoEF, Govt. of India
2	25.02.2008	Conversion of forest villages to revenue village	MoTA
3	20.7.2010	Letter from MoTA to Chief Secretaries of Various states	MoTA
4	8.11.2013	Clarification & Guideline	MoTA
5.	3.03.14	Record of Rights issued under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006	MoTA
6.	December 2012	Frequently Asked Questions	MoTA
		Govt. of Odisha	
7.	31.10.2008	Conversion of all Forest Villages in the State into Revenue Villages.	PR Dept, Odisha
8.	16.11.2013	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	ST & SC Development Dept.
9.	06.12.2014	Conversion of forest habitation to revenue villages and recognizing habitat right of the Paudi Bhuyan	ST & SC Development Dept.
		Government of West Bengal	
10.	17th October 2014	Conversion of forest villages into revenue villages	Land and Land Reforms Department Land Policy Branch Government of West Bengal

Government of India

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.1 – II.3. FP (1) – FP (4) xxxx

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 man-power 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. unauthorized 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 recognized 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 recognized 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 regularized, the house sites and homesteads, too, may be regularized 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 unauthorized 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.

II.5. FP(6) xxx

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

Letter No.17014/2/2007 PC & V (Vol VI), dated 25th February 2008 from Shri GB Mukherji, Secretary to Government of India, Ministry of Tribal Affairs addressed to Chief Secretaries of All States/Administrators UTs

Dear

Kindly refer to my D.O letter of even number dated 25th 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. xxx

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 recognizes the forest rights of settlement and conversion of all forest villages, old habitations, un-surveyed villages and other villages in forest 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 18th 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. xxx

D.O. No. 49/TP/Secy(TA)/ 2010, dated 5th April, 2010 from G.B. Mukherji, Secretary to Government of India, Ministry of Tribal Affairs addressed to Shri S. K. Das, Commissioner and Secretary, Tribal Welfare Department, Government of Tripura

Dear

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

2. xxx

3. xxx

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 Mritingachera a number of items have been identified for expenditure through the forest development agencies for the year 2009-10, but 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 counterpart 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.

Letter No.23011/24/2009- FRA, dated 20th July 2010 from Shri GB Mukherji, Secretary to Government of India, Ministry of Tribal Affairs addressed to Chief Secretaries of Andhra Pradesh, Assam, Bihar, Chhatisgarh, Gujarat, Jharkhand, Karnataka, Kerela, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Tripura, Uttarakhand, Uttar Pradesh and West Bengal

Dear,

The status of implementation of Forest Rights Act was recently reviewed in a very high level meeting. It was noted that while substantial progress has been made, it could have been better has 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 demarcation/handing over lands including provision of maps, insufficient emphasis on community rights, non conversion of forest villages into revenue villages, non involvement of civil societies, academics etc. in facilitating claims, especially those of Particularly Vulnerable Tribal Groups (PTGs), capacity building of various committees set up under the Act particularly in Forest Rights Committees and the Gram Sabha etc.

2 (i) – (vi) xxx

(vi) 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 in each State. At 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.

D.O. No. 23011/31/2009-SG.II (FRA), dated 27th September, 2010 from Shri Kantilal Bhuria, Hon'ble Minister, Ministry of Tribal Affairs, Government of India addressed to Kumari Mayawati, Chief Minister, Government of Uttar Pradesh

Dear Kumari Mayawati Ji,

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

As per the information received from the State Government, out of 91,406 (91,089 individual and 317 community) claims filed under the Act in the State, as on 31.08.2010, the State Government has distributed 10,092 (10,084 individual and 8 community) title deeds, rejecting 67,788 claims, thereby achieving a disposal rate of 85.20%.

While the Ministry is appreciative of the progress made by the 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) – (vi) xxx

(vii) **Conversion of forest villages into revenue villages:** The State Government has not apprised this Ministry of the action taken for conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests etc. into revenue villages under Section 3(1) (h) of the Act though the Ministry had requested the State Government as early as on 25th February, 2008 to initiate action in this regard. This issue also needs to be attended on priority.

3. I shall be grateful if you could issue necessary directions to the officers concerned with the implementation of the Act in the State for taking action on these issues, on priority. The Ministry may be apprised of the progress made at an early date.

Letter No. 23011/33/2010-FRA, dated 8.11.2013 from Dr. Sadhana Rout, Joint Secretary to the Government of India, Ministry of Tribal Affairs addressed to the Chief Secretaries of all State Governments (Excepted Jammu & Kashmir, Punjab, Haryana and Delhi) and the Administrators of all Union Territory Administrations (Excepted 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 right 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 Right Act,2006). The Ministry has last year issued comprehensive guidelines to all the State/UT Government 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 village and other such villages in any category of forest lands. The State Governments were advised to convert all erstwhile forest villages, unrecorded settlement 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 of 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 06.09.2012 also contains a similar provision.

2. Though the Forest Right 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 Right 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 village 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 & Forest 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 Right Act, 2006 supersede the provisions of forest (Conservation) Act,1980 and the Hon'ble Supreme Court judgement dated 13.11.2000 in I.A.No.2 in WO No.337/1995	<ul style="list-style-type: none"> ➤ It is a well settled principle of statutory interpretation that a subsequent or orders of prior date. ➤ 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 right 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>“not withstanding anything contained in any other</i>

		<p><i>law for the time being in force</i>". This non-obstante clause, therefore, recognizes and vests the 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 law, which includes statutory law as well as judicial precedent, if any.</p> <ul style="list-style-type: none">➤ 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, 1980as well as the requirement of compensatory afforestation as well as payment of net present value.➤ After operationalization of the Forest Right Act, 2006with 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) of the FRA, 2006and that the forest right relating to conversion of
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		<p>forest villages and other such villages into revenue villages under this Section has also to be vested and recognized as per the laid downs procedure, like any forest right specified in Section 3(1) of the Act.</p>
2.	<p>Whether approval of the Ministry of Environment & Forest under Section 2 of the Forest (Conservation) Act, 1980 is required for conversion of forest villages and other such villages into revenue villages.</p>	<ul style="list-style-type: none"> ➤ In view of the position indicate against issue No. 1 above approval under Section 2 of the Forest Conservation Act, 1980 of the Ministry of Environment & Forest is not required for conversion of forest villages and other such villages into revenue villages. ➤ As per the provisions of the Forest Right 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.
3.	<p>Whether conversion of forest villages and other such villages is required in lands which are not classified as forest lands.</p>	<ul style="list-style-type: none"> ➤ The Supreme Court in a landmark judgment dated 12.12.1997 in the Godavarman case, held as under: <ul style="list-style-type: none"> ▪ “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 areas recorded as forest in the Government record irrespective of the ownership.” ➤ 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 forest lands.

		<ul style="list-style-type: none"> ➤ 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.
4.	Whether the conversion of forest villages and other such villages into revenue villages would require de-notification/ de-reservation of the forest land, or alteration of status of land.	<ul style="list-style-type: none"> ➤ The FRA, 2006 envisages recognition and vesting of all forest right relating to conversion of forest villages and other such villages into revenue villages, over all forest lands within the larger definition of forests (see above). ➤ Some forest villages may be on lands which are revenue forest or private or community forests or any other kind of forest. ➤ 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. ➤ However, it is necessary 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.
5.	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.	<ul style="list-style-type: none"> ➤ 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. ➤ 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.
6.	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 villages in to revenue villages.	<ul style="list-style-type: none"> ➤ 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 traditional forest dwellers. ➤ 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.
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 recorded are to be converted into revenue villages.	<ul style="list-style-type: none"> ➤ As provided Rule2-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. ➤ 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 06.09.2012. 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.
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 primarily residing in the said village for 75 years at one place prior to the 13 th day December, 2005, before such forest villages and other such villages could be converted into revenue villages.	<ul style="list-style-type: none"> ➤ Section 4(1)(b) read with Section 2(o) of the FRA, 2006 requires that, for purposes of recognition of forest right under the Act, a “member or community” of other traditional forest dwellers must establish that it has for at least three generations (being 75 years) prior to the 13th day of December, 2005 “primarily resided in or depended on the forest or forest land for bona fide livelihood needs”. ➤ 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 forest or forest land for bona fide livelihood needs for 75 years prior to 13th 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.

4. As regards the procedure is to be followed for settlement and conversion of forest villages, old habitation and other settlement 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 implementation 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 issue with the approval of competent authority.

Letter No. 23011/33/2010-FRA along with Annexure, dated 8.11.2013 from Dr. Sadhana Rout, Joint Secretary to the Government of India, Ministry of Tribal Affairs addressed to the Chief Secretaries of all State Governments (Excepted Jammu & Kashmir, Punjab, Haryana and Delhi) and the Administrators of all Union Territory Administrations (Excepted Lakshadweep and Puducherry)

Sub: Guidelines for conversion of forest villages into revenue villages under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) 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 Right) Act, 2006 (here after 'the act') which defines '**forest rights**' includes there in:

*"3.(1) For the purpose of this Act, the following rights, with 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, 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 forest, undemarcated forest, existing of deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;”

Section 2 (p)(iii) of the Act, while defining ‘**villages**’ as follows:

“(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 departments 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 land for cultivation and other uses, permitted by the Government; ”

Rule 2A of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Rules, 2008 (here after ‘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 a list of groups 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 Division 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 formalized 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 finalization 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.*

Further, Rule 12B. Process of (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 villages in its entirety, including lands required for current of future community uses, like, schools, health facilities and public spaces.”

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 provides 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 recorded. Section 3(1) (h) of the Act recognizes 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 there of 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.”

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 such 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 habitation 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 purpose 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/recognized as forest villages from time to time.
 - All forest villages including 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 resources over which various community forest rights are exercised.
11. The Gram Sabha shall approved 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 claims, 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 proceeding to convert the village into a revenue village and settle the land rights of the residents under revenue laws;
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 finalization of the list 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 recognized.

Letter No. 23011/06/2014-FRA, Dated 3rd March 2014, S.M. Sahal, Director, Ministry of Tribal Affairs, Government of India, addressed to All Principal Secretaries / Secretaries in charge of State Tribal Welfare Departments (All States except Jammu and Kashmir, Haryana and Nagaland)/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) xxx.
- (ii) xxx
- (iii) xxx
- (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 8th 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.

Frequently Asked Questions Issued by Ministry of Tribal Affairs, Government of India, December 2012

1-10. xxxxx

11. What impact the conversion of forest villages would have on the other communities apart from the scheduled tribes residing in the same villages?

- The conversion of the forest villages into revenue villages shall in no way affect any of the communities residing in the village, even though they may not be belonging to Scheduled Tribe or qualifying as OTFD. FRA does not abrogate rights or privileges recognized under any other Act, Rule or Government Order. In fact, the conversion of forest villages into revenue villages would enable the Government to extend all the development facilities to these villages and the residents of this village would be entitled to get the benefits of the development programmes and schemes of the Government.

Government of Odisha

Letter No.PRI- I (IV)- 09/2008/42358/PR.,Dated.31.10.2008, from Shri J.P. Agrawala, IAS, Director , P.R. & Addl. Secy. to Government of Odisha, Panchayati Raj Department, addressed to All Collectors

Sub: Implementation of STs and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006-Conversion of all Forest Villages in the State into Revenue Villages.

Sir/ Madam,

With reference to the captioned subject, I am directed to send herewith a copy of D.O Letter No.17014/2/2007-PC & V (VOL-VI) dt. 25.2.2008 of the Secretary to Govt. or India, Ministry of Tribal Affairs and say that Govt. of India have directed for conversion of all forest villages, old habitations, unsurveyed villages and other villages in forest whether recorded, notified or not, into revenue villages, Govt. of India have also issued certain direction under Section 12 of the STs and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Rules, 2008 for implementation of the Act.

You are, therefore, requested to take immediate necessary action on the directions given in the enclosed letter of Govt. of India under intimation to this Department as well as ST & SC Dev. Dept. It is also requested to convene Palli Sabha and to constitute Forest; Rights Committee in the said Forest villages without any delay.

Letter No. 36823/ TD-II(FRA)-02/2013/SSD, Bhubaneswar, Dated 16.11.2013 from Prof. (Dr.) A.B. Ota, IAS, Director (ST)-cum-Addl. Secretary to Govt of Odisha, ST & SC Development Department addressed to The Additional Chief Secretary, R&DM Deptt./Principal Secretary, F&E Deptt./Commissioner-cum-Secretary, P.R. Deptt./Principal Chief Conservator Forests, Odisha/Principal Chief Conservator Forests (KL) Odisha/ Managing Director, OFDC, Bhubaneswar/All Revenue Divisional Commissioners/All Collectors

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.

Madam / Sir,

I am directed to enclose herewith L. No. 23011/33/2010-FRA dt.8.11.2013 of Govt. of India, Ministry of Tribal Affairs regarding conversion of all forest villages, old habitations,

unsurveyed villages etc. into revenue village under section 3(1)(h) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 for your kind information & necessary action.

Letter No.32830 /SSD, Bhubaneswar, Dated 06-12-2014, from Sri R. Raghu Prasad, IFS, Director (ST)-cum-Addl. Secy. to Government of Odisha, ST & SC Development Department, addressed to the Collector, Sundergarh.

Sub: Conversion of forest habitation to revenue villages and recognizing habitat right of the Paudi Bhuyan, a PVTG under the forest Right Act, 2006 regarding.

Sir,

I am directed to send herewith a copy of the letter dt.01.12.2014 received from Sri Dambaru sisa , Hon'ble M.L.A which is self –explanatory . You are requested to furnish the information to the Hon'ble M.L.A, Chittrakonda and submit a copy this department for further action.

Letter dated 01.12.2014 from DAMBARU SISA, Hon'ble M.L.A, CHITRAKONDA, Malkangiri addressed to the District Magistrate and Collector Sundergarh

Sub: Conversion of forest habitation to revenue villages and recognizing habitat right of the Paudi Bhuyan , a PVTG under the forest Right Act, 2006-regarding.

Sir,

It has been come to my notice that the process to convert forest habitation into revenue villages is not yet started in your district through the Forest Rights Act, 2006 has clearly spelt out the provision and Rules, 2012 has also derived the process for it.

Sundergarh is also enriched with the presence of the Paudi Bhuyan ,a PVTG having their habitat in Khandadhar. Forest Right Act has the scope to recognize their right over habitat and the process is not yet started.

The responsibility to convert forest habitation to revenue village and recognising the habitat is placed with the District Level committee (DLC) under this Act.

You are requested to submit a detail report on the present status and detail plan of action for effective implementation of these rights in the District with in fifteen days of receiving this letter.

This is important and urgent

Government of West Bengal

**Notification No.WB (Part-I)/2014/SAR-983, Registered No.WB/SC-247, Dated 17th October 2014
from A.K. Singh, OSD & Ex-officio A.C.S & L.R.C, Land and Land Reforms Department
Land Policy Branch Government of West Bengal**

Sub: Conversion of forest villages into revenue villages

Whereas the rights of settlement and conversion of all forest villages into revenue villages has been recognized as one of the forest rights to forest dwelling Schedule Tribes and other traditional forest dwellers on all forest lands under Section 3 (1)(h) of the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act. 2006,

And whereas the Ministry of Tribal Welfare, Government of India issued comprehensive guidelines vide No.23011/33/2010-FRA to all State/ UT Governments on implementation of the provisions of the Forest Right Act with regard to conversion of forest villages into revenue villages,

And whereas the State Government has decided to convert the forest villages mentioned in schedule enclosed into revenue villages to implement the rights of settlement of Scheduled Tribes and other traditional forest dwellers,

Now, therefore in exercise of the power conferred by Clause (7) of Section 3 of Land Registration Act, 1876 (Bengal Act-VII of 1876), the Governor is pleased to accord sanction to convert aforesaid Forest villages under Alipurduar District as Revenue villages from the date of publication of this Notification in the Official Gazette.

Further, in exercise of the power conferred by sub-para (1) of para 3 of Schedule A to W.B.L.R. Rules, 1965, the Governor is also pleased hereby to adopt each of the said units as constitution a village.

3.5 Convergence of welfare and development programmes

3.5 Convergence of welfare and development programmes

ABSTRACT

Sl. No.	Date	Particulars	Issued by
		Govt. of Odisha	
1.	5.12.2009	Land Development, Horticulture Plantation and Farm Pond in the Land of Beneficiaries under Forest Rights Act under NREGS	PR Dept.
2	16.08.2011	Cent percent coverage of Forest Rights Act beneficiaries under different Government Schemes.	Chief Secy.
3	1.12.2011	Land Development of FRA beneficiaries under MGNREGA	Commissioner-cum-secy., PR Dept.

Government of Odisha

Letter No. 38708 / II-NREGS-43/09 /PR, dated 05.12.09, from Sri A.K. Tripathy, IAS, Principal Secretary and Sri S.N. Tripathi, IAS, Commissioner-cum-Secretary to the Government of Orissa, Panchayati Raj Department, addressed to All Collectors-cum DPCs /All PD, DRDAs. / All PA ITDAs

Sub.: Land Development, Horticulture Plantation and Farm Pond in the Land of Beneficiaries under Forest Rights Act under NREGS – regarding.

Sir,

Inviting a reference to the subject cited above, I am directed to say that para – 1 (iv) of amended schedule – 1 of NREG Act provides for irrigation facility, horticulture plantation and land development facilities including farm pond to land owned by households belonging to SC & ST or BPL families or beneficiaries of land reforms or beneficiaries under IAY or small and marginal farmers. It has been decided to cover beneficiaries of land under Forest Rights Act under Land Development, Horticulture Plantation and Farm Pond under NREGS to improve their livelihood status.

Therefore, you are requested to take up Land Development, Horticulture Plantation and Farm Pond in the Land of Beneficiaries under Forest Rights Act under NREGS in consultation with PA, ITDA and Agriculture Department at the District level as per the following guidelines.

Eligibility of Beneficiaries:

The beneficiaries of land under Forest Rights Act those who belong to any of the category of BPL / ST / SC / IAY / Land Reform beneficiaries / small and marginal farmers families are eligible for this programme. They must be registered job card holders issued by the Gram Panchayat under NREGA.

Selection of Beneficiaries:

Selection of beneficiaries for this programme shall be done by Palli Sabha. List of selected beneficiaries shall be approved by respective Gram Sabha. The projects shall be part of the annual shelf of projects and will be approved as per NREGS Guidelines.

Nature of Assistance:

Depending on the land holding, selected beneficiaries can take up Land Development, Horticulture Plantation and farm Pond in their lands out of NREGA fund subject to prescribed ceiling of Rs.50,000/-. Expenditure beyond the prescribed ceiling shall be voluntarily contributed by concerned beneficiaries; DRDAs should make standard design and estimate of the works within the prescribed ceiling.

Implementing Agency:

Orissa Watershed Development Mission (OWDM), Orissa Tribal Empowerment and Livelihood Programme (OTELP), Orissa State Forestry Development Programme (OSFDP),

Directorate of Soil Conservation, Panchayat Samiti and Gram Panchayat will be the implementing agencies for execution of this programme.

Fund Flow:

The funds for this programme will be released to Line Departments from concerned DRDAs directly. The Panchayat Samitis and Gram Panchayats will execute from their available funds under NREGS.

Implementation Procedure:

- i. Selected beneficiaries will apply to the respective BDO-cum-PO in case of non-watershed areas and to the PIA in case of watershed areas with all relevant documents including copy of ROR in support of owning land.
- ii. The concerned BDO-cum-PO/PIA shall arrange for field enquiries to judge the eligibility of the beneficiary and feasibility of the project through field staff.
- iii. After field enquiry, if the beneficiary found eligible and project is feasible, the work order will be issued in favour of beneficiary. All the documents and enquiry report will be kept in the concerned case record.
- iv. This programme will be executed by engaging the family members (Registered with the GP under NREGA) of the beneficiary as well as other registered job seekers of the GP.
- v. Still photographs before, during and after completion of the project must be taken which will also form part of the case record.
- vi. Before commencement of the work, the BDO / PIA will move to DRDA for online technical sanction and financial sanction.
- vii. Unique numbered muster roll shall be collected from the office of BDO-cum-Programme officer.
- viii. Payment shall be made on piece rate i.e. out turn basis (not on wage-rate basis).
- ix. For better supervision and monitoring, works should be taken up in cluster to the extent possible.
- x. Extensive IEC activities shall be under taken for awareness and transparency measures.
- xi. The wages of the labourers will be transferred to their savings accounts through Bank / Post office.
- xii. Copy of the muster roll along with other expenditure will be submitted to the concerned Panchayat Samiti for online entry and to Gram Panchayat for record.
- xiii. Online entry of expenditure and other details shall be done by Panchayat Samiti.
- xiv. DPC-cum-Collectors of Districts will issue further detail instructions / Guidelines, if needed, for smooth Implementation of this mission.
- xv. Provisions of NREGA shall be strictly observed, in letter and spirit while implementing this mission.

This is for your information and necessary action.

Letter No. TD-II-(FRA)-06/11(Pt.) 27687/CS(SSD), Bhubaneswar, dated the 16th August, 2011, from the Chief Secretary to Government of Orissa, addressed to All Revenue Divisional Commissioners / All Collectors

Sub.: Cent percent coverage of Forest Rights Act beneficiaries under different Government Schemes.

Re.: P.R. Department letter No. 38708 dt. 05.12.09

Madam / Sir,

Inviting a reference to the subject cited above, I am directed to say that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is being implemented since 01.01.2008. Till date, 279901 nos. of Individual beneficiaries have been distributed with individual titles in recognition of their rights under the Act. Out of the same only 58724 nos. of Right Holders have been covered under different Government Schemes. Except few districts like Kandhamal and Gajapati where pro-active initiatives have been taken, the performance of other districts is not encouraging. In the last review meeting held on 22.07.2011 the Hon'ble Chief Minister has desired that expeditious steps may be taken for covering FRA beneficiaries under a large number of Government Schemes. In view of the above, you are requested to take up the following on priority:

1. Draw up an action plan through the WEO, other Extension Officers and Executive Officers of Gram Panchayats to plan and cover all the individual title holders under different kinds of developmental schemes. The action plan should aim at covering the beneficiaries in a time bound manner.
2. Constitute District Level Committees consisting of senior officers to inspect and verify the development works being planned and executed.
3. Maintain a proper database of the beneficiaries covered and the programme under which they have been covered.

Specific plans should be drawn up to cover cent percent beneficiaries in convergence with different Govt. Schemes like IAY, Mo Kudia, Mo Pokhari, Land Development under MGNREGS, National Horticulture Mission, National Bamboo Mission, etc. Plantation and Bore well programme should preferably be implemented in compact patches by clustering a number of beneficiaries including some beneficiaries who may not be individual title holders under FRA, but whose land is adjacent. Special steps should be taken to cover all the PTG beneficiaries under Land development programme.

You are requested to accord top priority to the above and initiate necessary activity in this regard.

Letter No. D.O. No. 22839/ VI-NREGS-30/09 (Pt.)/PR dated from Pradeep Jena, IAS, Commissioner-cum-Secy to Government of Odisha, Panchayati Raj Department addressed to the Principal Secretary to Government Agriculture Department/Water Resources Department /Commissioner-cum-Secretaries to Government, Forest & Environment Department /Fisheries & ARD Department/ST & SC Development Department.

Sir,

As you are aware, MGNREGS (Mahatma Gandhi National Rural Employment Guarantee Scheme) projects are not only being executed by the Panchayati Raj Institutions but are also taken by the field agencies of your Department. Special emphasis has been given by the Government to take up large number of farm ponds, check-dams, multipurpose farm ponds, land development of FRA beneficiaries and a host of other labour intensive works permissible under the scheme. While the agencies implementing the scheme are expected to follow the guidelines of MGNREGA for all such works, the projects taken up should also be subject to social audit by the respective Panchayati Raj Institutions. The details of works, case records, quality checks conducted and the action taken on all such issues may also be shared with the DRDAs / Collectors concerned by the field officials of your Department. All assistance and co-operation should be provided during the process of Social Audit and the required documents are to be produced during the process as mandated in the law.

This may kindly be communicated to the field officials, 'all Directorates under your control.

3.6 Settlement of Rights in National Parks and Wildlife Sanctuaries, and Declaration of Critical Tiger Habitats

3.6 Settlement of rights in national parks and wildlife sanctuaries, and declaration of critical tiger habitats

ABSTRACT

Sl. No.	Date	Particulars (India & States)	Issued by
		Govt. of India	
1	27.9.2007	Letter from Ministry of Tribal Affairs addressed to Principal Secretary/Secretary of Tribal Welfare Department/Tribal Development Department/Social Welfare Department of all States	MoTA
2.	8.9.2008	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.	NTCA
3	18.11.2008	Monitoring formats for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006,	MoEF
4	8.9.2009	Identification of core/critical tiger habitat	MoEF
5	6.5.2010	Letter from Hon'ble Minister Tribal Affairs, Government of India to Shri Hon'ble Minister of State (I/C), Ministry of Environment and Forest, Government of India	MoTA
6.	21.6.2010	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	MoEF
7	30.8.2010	Recognition of forest rights in National Parks and Sanctuaries	MoTA
8	3.9.2010	Recognition of forest rights in National Parks and Sanctuaries	MoTA
9	7.2.11	Guidelines issued by Ministry of Environment and Forest, Government of	MoEF

		India to notify critical wildlife habitat	
10	4.3.2011	Withdrawal of Revised guideline for determination of CTH	MoEF (Wildlife)
11	28.6.2013	Letter from MoTA to Government of Tamil Nadu on various issues related to FRA	MoTA
12	10.4.2015	Letter from MoTA to State Governments on various issues related to FRA	MoTA
13	28.4.2015	Training and use of technology for proper implementation of FRA	MoTA
14	December 2012	Frequently Asked Questions	MoTA

Government of India

Letter No. 17014/2/2007 PC & V (Vol II) dated 27th September 2007 from Shri G.B Mukherji, Secretary to Government of India, Ministry of Tribal Affairs addressed to Principal Secretary/Secretary of Tribal Welfare Department/Tribal Development Department/Social Welfare Department of all States

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 the rules for the implementation of the same has been finalised. Copies of the Act and draft Rules have already been sent to you. It is expected that very shortly the rules will be finalised and notified for implementation of the Act in a time bound manner.

2. xxxx
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 30th 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 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 Central Government dealing with Tribal Affairs or any other officer or authority authorized by the Central Government in this behalf shall be the nodal agency for the implementation 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 the identification/declaration of Critical Wild Life 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

Letter No. F. No. 9-5/2006-NTCA (Part), dated 8th September, 2008 from (Dr. Ranjit Gopal), IGF & Member Secretary, National Tiger Conservation Authority, Government of India addressed to 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 19.032008.

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 1st and 3rd cited, at an early date under intimation to this Ministry.

F.No. 7-1/2008-FP, Dated 18.11.2008, from (Rajan Sehgal), Sr. Assistant Inspector General of Forests, FP-Division Ministry of Environment & Forests, Government of India to the Secretary (Forests) ,All States / UT Governments

Sub: Monitoring formats for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006,

Sir,

Kindly refer to this Ministry letter of even no. dated 08.10.2008. The monitoring formats have been put on the Ministry website i.e. <http://envfor.nic.in> in the slot of Forest Policy Division.

The return can be submitted through e-mail also i.e. aig_rtdiv@yahoo.com. Please ensure to send the first quarterly report immediately.

ANNEXURE -1

**THE SCHEDULED TRIBES & OTHER TRADITIONAL DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006
IMPLEMENTATION SHEET – FC ACT PERMISSIONS**

SI No.	Name of the State / Uts	Resolution passed by GS for requirement of forest land for infrastructural facilities under Section 3 (2) of Rights Act			Permissions given by DFO under Section (392) of Rights Act, for infrastructural facilities			Conversion of Forest villages into Revenue villages		
		No. of villages / FRCs	No. of cases	Area required	No. of villages / FRCs	No. of cases	Area diverted (Ha.)	No of forest settlements	No. of resolution passed	No. of settlements converted into revenue villages after necessary permissions

TO BE SUBMITTED BY PCCF OF STATE / UT

Quarterly Report As On

ANNEXURE – B(A)

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006

IMPLEMENTATION SHEET – CRITICAL WILDLIFE HABITATS

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Sl No	Name of the State / UTs	Constitution of State Level Committees	1 st Consultation for each Protected Area	2 nd Consultation for each Protected Area	3 rd Consultation with each Protected Area	Final recommendation of State Level Committee	If decided for relocation, Identification of alternate site(s) for relocation	No. of villages to be relocated	Recognition of Rights completed or not	Final recommendation on forwarded to Central Level Committees	Issue of Notification by MOEF	Remarks
				(Wherever required if area large)								

Indicates State Level Committees Constituted

The Ministry has nominated nodal officers to oversee the implementation of the Act.

Quarterly Report As On

ANNEXURE – II (B)

**THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006
IMPLEMENTATION SHEET – CRITICAL WILDLIFE HABITATS**

Name of States / Uts:

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
Sl No	Name of Protect ed Area	Constitut ion of State Level Committ ees	1 st Consulta tion for each Protecte d Area	2 nd Consulta tion for each Protecte d Area	3 rd Consulta tion with each Protected Area	Final recomm endation of State Level Commit tee	If decided for relocation, Identificati on of alternate site(s) for relocation	No. of villages to be relocated	Recogniti on of Rights complete d or not	Final recommen dation on forwarded to Central Level Committees	Issue of Notificat ion by MOEF	Rema rks
				(Wherever required if area large)								

F.No 9-5/2006- NTCA (Part), dated 8th September 2009 from Dr. Rajesh Gopal ICF & Member Secretary (NTCA) addressed to the Chief Wildlife Warden(s) of 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.:

5. This Ministry letter No. 1501/11/2007-PT (Part) dt. 16.11.2007
6. This Ministry's letter No. 1501/11/2007-PT (Part) dt. 3.12.2007
7. This Ministry's letter No. PS-MS (NTLA)/2007... dt. 31.01.2008
8. This Ministry's letter (s) No. 3-1/2003-PT dt. 27.2.2008, 26.2.2008, 25.2.2008, 27.2.2008 and 19.032008.

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 3rd cited, at an early date under intimation to this Ministry.

DO No. 23011/29/2009 SG II (FRA), dated 6th May 2010 from Shri Kanti Lal Bhuria, Hon'ble Minister Tribal Affairs, Government of India addressed to Shri Jairam Ramesh, Hon'ble Minister of State (I/C), Ministry of Environment and Forest, Government of India

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.

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.

Letter No. F.No.7-12/2010-FP, dated 21.06.2010, from (Mohan Lal), AIG (FC) to Government of India, Ministry of Environment & Forests (FP –Section), addressed 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.

D.O No. 17011/01/2010 – FRA, dated 30th August 2010 from Shri Kanti Lal Bhuria, Hon’ble Minister Tribal Affairs, Government of India addressed to Shri Rosaiah, Hon’ble Chief Minister of Andhra Pradesh

Dear Shri K. Rosaiahji,

As you are aware, the Schedule 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 Government 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 there 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 copy of Ministry of Environment and Forests letter No. 7-12/2010-FP dated 21st June, 2010, addressed to the Principal Chief Conservators of Forests, Environment of Forests of all States/ UTs issued in this regard is enclosed.

We shall be grateful if you could kindly ensure effective implementation of instructions issued by Ministry of Environment and Forests in your State

D.O No. 17011/1/2010 – FRA, dated 3rd September 2010 from Shri Arvind Kumar Chugh, Secretary to Government of India, Ministry of Tribal Affairs addressed to Chief Secretaries of all States

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 Act is not related to the determination and notification 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 Park 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. Infact, 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 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 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 Forest 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 21st 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.

Guidelines issued by Ministry of Environment and Forest, Government of India, dated 7th February 2011, to notify critical wildlife habitat including constitution and Functions of Expert Committee, scientific information required and resettlement and matters incidental thereto.

(Note: The guideline has been later on withdrawn vide F.No 1-39/2007 WL-I (pt), dated 4th March 2011 Ministry of Environment and Forest addressed to all Chief Wild Life Wardens of all States/UTs)

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 (inviolable 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 inviolable space of 800-1000sq.km. should be maintained as the inviolable 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 Nation Parks and Sanctuaries, other than Tiger Reserves, critical wildlife habitat area should be demarcated on the basis of species area curves specific for each biogeographical area, as classified by the Wildlife Institute of India (Rodgers and Panwar, 1988). The size of the inviolable 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

23. 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 | Member |
| c. Representative from the Ministry of Tribal Affairs, Government of India | Member |
| d. Two State Level experts in the field of wildlife | Member |
| e. One local representative in the field of sociology / conservation or a representative from Gram Sabha | Member |
| f. Protected Area Manager | Member Convener |

24. 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 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 Committee 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.

4. 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;

5. 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.

F.No 1-39/2007 WL-I (pt), dated 4th March 2011 from Prakriti Srivastava, Deputy Inspector General (WL), Ministry of Environment and Forest addressed to all Chief Wild Life Wardens of all States/UTs

Sub: Withdrawal of revised guidelines for determination of Critical Wildlife Habitats

Sir,

The Ministry of Environment and Forests vide letter of even no. dated 7th February 2011, had circulated the revised guidelines with respect to determination of Critical wildlife Habitats. However, members of some civil society organizations made representatives to the Ministry that some technical, scientific, social and ecological issues related to the process of relocation of people from such areas required to be fine tuned to make it perfectly complaint to the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (recognition of Forest Rights) Act, 2006.

The Ministry organized a meeting with the officers of the Ministry of Tribal Affairs, State/UT Governments and the representatives of scientific and civil society organizations on 4th March 2011 to discuss the revised guidelines.

Taking a note of their concerns, the Ministry has decided to withdraw the guidelines issued on 7th February 2011, and has initiated the process for having new guidelines in place.

D.O No. 23011/26/2012 – FRA(pt.), dated 28th June 2013 from Smt. Vibha Puri Das, Secretary to Government of India addressed to Smt. Sheela Balakrishnan, Chief Secretary, Government of Tamil Nadu

Dear Sheela,

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 Forest Rights Act 2006 in the State of Tamil Nadu and suggested course of action.

2. xxx
3. xxx
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.

D.O No. 23011/12/2015-FRA, Dated 10th April 2015 from Manoj Pingua, Joint Secretary to Government of India, Ministry of Tribal Affairs addressed to Principal Secretary/Secretary/Commissioner, Tribal Welfare Department/Tribal Development Department/Social Welfare Department of all States

Dear

As you may be aware, the Scheduled Tribes and Other Traditional Forests Dwellers (Recognition of Forest Rights) Act, 2006 (in short FRA) has completed more than seven years of its operation. This Act aims at addressing the issue of historic injustice and to recognize and vest the pre-existing rights of the forest dwelling communities in India. This Ministry, which has been designated the nodal Ministry for administration of the above said Act, has been issuing directions and guidelines from time to time on various aspects of implementation of FRA to ensure its proper implementation in the country. It also closely monitors the implementation of the Act. Certain issues have come to the notice of this Ministry which need urgent attention. These are as under:

- a. xxx
- b. xxx
- c. xxx
- d. xxx

e. It has also come to the notice of this Ministry that FRA is not being implemented in Sanctuaries and National Park and relocation is taking place without completion of FRA process. SLMC needs to ensure that Rights recognition process is completed in Sanctuaries and National parks specifically in Tiger Reserves as FRA is applicable in all forest areas. Also, Gram Sabha decision has to be taken into consideration prior to any relocation.

- f. xxx
- g. xxx

2. I shall be grateful if you take appropriate action on the above issues at the earliest to remove any impediments in implementation of FRA.

D.O No. 23011/18/2015-FRA, Dated 28th April 2015 from Shri Hrushikesh Panda, Secretary to Government of India, Ministry of Tribal Affairs addressed to Chief Secretaries all States/UTs

Subject: Training and use of technology for proper implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Dear Colleague,

1. During the Review Meeting as part of PRAGATI on 22.4.2015, the Hon'ble Prime Minister has desired that State Governments need to proactively pursue progress in vesting and recognition of forest rights in a time bound manner under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA, 2006). Emphasis was also laid on training and motivation of officials, Gram Sabha Members and Secretaries of Panchayat so that the progress in vesting of rights in time bound manner may be pursued
2. xxx
3. xxx
4. xxx
5. For identification of forest land under the Community Forest Resource rights and community purposes, geo referencing may, particularly, be useful. It would be important to map villages having forest land within its revenue boundary, villages located within and at the fringes of Reserve Forests, protected forests, National Parks and Sanctuaries or any other forest land as under State Forest Department. Further, all forest villages, old habitations, unsurveyed villages etc. have to be taken into account for delineation of the potential areas and creation of maps where FRA is likely to be implemented.
6. xxx
7. We hope that the processes are completed in the current year.

**Frequently Asked Questions Issued by Ministry of Tribal Affairs, Government of India,
December 2012**

1-22. xxxx

25. Is FRA applicable in National Parks and Sanctuaries? Would it not further threaten the last existing healthy forest with wildlife?

- Yes, FRA is applicable in National Parks and Sanctuaries. FRA only recognizes pre existing rights which are already being exercised by the eligible persons in the National Parks and Sanctuaries. Therefore there is nothing new that is being done to bring fear to the future of National Parks and Sanctuaries except securing their tenure on such lands. Further, where such rights may potentially cause irreversible damage to wildlife, FRA provides for creation of inviolate areas for wildlife protection (called Critical Wildlife Habitats) through a democratic and transparent process after recognition of rights under the FRA is complete.

3.7 Proposals under Section 3(2) FRA

3.7 Proposals under Section 3(2) FRA

ABSTRACT

Sl. No.	Date	Particulars	Issued by
		Govt. of India	
1.	18.5.2009	Procedure for diversion of Forest land for non-forest purpose	MoTA, GOI
2	December 2012	Frequently Asked Questions	MoTA

Government of India

**Annexure to letter No 23011/15/2008-SG.II, dated May 18, 2009, Government of India,
Ministry of Tribal Affairs**

Sub: 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) "Act" 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.

2.1 Submission of the proposals seeking approval for diversion of the forest land under Subsection (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, with 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.

APPENDIX

Form for seeking prior approval for diversion of forest land for non-forest 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 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: _____

**Frequently Asked Questions Issued by Ministry of Tribal Affairs, Government of India,
December 2012**

1-21. xxx

22. Does Development right under section 3(2) which involve land use changes need to be referred under the Forest Conservation Act 1980?

- No permission is needed under FCA, since the Forest Rights Act frees the rights of all encumbrances and procedural requirement of the Forest Conservation Act through Section 4(7). However such conditions must fulfill the conditions under Section 3(2) of the Act namely diversion of less than one hectare, cutting of not more than seventy five trees, recommendation of the Gram Sabha and limited to the thirteen items listed under Section 3(2) of the Act. Procedure for diversion of forest land under Section 3(2) of FRA has been laid down by the Ministry of Tribal Affairs vide Annexure to letter No-23011/15/2008-SG.II, dated- May 18, 2009.

23. xxx

3.8 Minor Forest Produce

3.8 Minor Forest Produce

ABSTRACT

Sl. No.	Date	Particulars (India & States)	Issued by
		Govt. of India	
	20.2.2008	Clarification on provisions in Section 3(1)(c) of Forest Rights Act vis-à-vis Section 4(m)(ii) of PESA Act.	MoTA, GoI
1	22.7.2010	Direction under Section 12 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (in short Forest Rights Act	MoTA, GoI
2	21.03.2011	Declaration and treatment of Bamboo as Minor Forest Produce	Jairam Ramesh (MoEF)
3	02.01.2014	Ensuring Fair returns to Minor Forest Produce (MFP)/ Non- Timber Forest Product (NTFP) gatherers/ collectors-regarding	MoTA, GoI
4.	25.01.2014	Guidelines 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”.	MoTA, GoI
5	31.7.2014	Effective implementation of the Provisions of Panchayat (Extension to the Scheduled Areas) Act, 1996 for management of Minor Forest Product (MFPs)	MoTA, GoI
6.	13.2 2015	Intersection between FRA and PESA with special reference to MFP	MoTA, GoI
7.	December 2012	Frequently Asked Questions	MoTA, GoI
		Govt. of Odisha	
8.	23.06.2014	Mechanism for marketing of Minor Forest Produce (MFP) through Minimum Support Price (MSP) and development of value chain for MFP	Commissioner-cum-Secy, ST & SC Development Dept., Govt. of Odisha
9.	31.07.2014	Effective implementation of the Provisions of Panchayat (Extension to the Scheduled Areas) Act, 1996 for management of Minor Forest Product (MFPs)	Neeraj Sekhar, Joint Secy.
10.	17.7.2013	To provide marketing for Kendu leaves as-well-as MFPs in Nawarangpur K.L. Division	Director (ST)- cum-Addl. Secy. to Govt, ST & SC

			Development Dept., Govt. of Odisha
11	1.1.14	Kendu Leaf working in Malkangiri district under Jeypore (KL) Division during 2014 KL Crop year.	S.S. Srivastava, IFS, Special Secretary to Government, Forest & Environment Department
12	22.1.14	De-regulation of kendu leaf operation in Malkangiri district under Jeypore (KL) Division during 2014 KL crop year.	Dr. A.B. Ota, IAS Director (ST)- cum- Addl. Secretary to Government, ST & SC Development Department Odisha
13	20.2.14	De-regulation and procedure for trading in KL in Nawarangpur (KL) Division for 2014.	Dr. A.B. Ota, IAS Director (ST)- cum- Addl. Secretary to Government, ST & SC Development Department Odisha
14	26.7.13	Supply of Transit permit book (Form-D) to Narigaon Gram Panchayat for transportation of kenduleaves collected during 2013 crop year.	DFO,Office Of The Divisional Forest Officer, Nabarangpur (KI) Division, Nabarangpur
		Government of Maharashtra	
15	12.3.2013	Maharashtra Forest Produce (Regulation of Trade in Tendu Leaves) (First Amendment) Rules, 2013	Government of Maharashtra, Revenue and Forest Department
16	8.4 2013	Community Forest Rights over Tendu Leaves	Government of Maharashtra, Revenue and Forest Department
17	26.06.2012	Implementation of community rights under FRA	Letter from Shri Prithviraj Chavan, Chief Minister, Maharashtra to Shri Jairam Ramesh, Minister of Rural Development, Government of India

Government of India

Letter No.17014/02/2007-PC & V (VOL.VI) (Pt.), Dated 20th February, 2008, from Sri A.K Srivastava, Director, Ministry of Tribal Affairs, Government of India addressed to Shri O.P. Rawat, Principal Secretary, Department of STs & SCs Welfare, Government of Madhya Pradesh

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.

Letter No. F.No 23011/16/2010 - FRA, dated 22nd July 2010, from GB Mukherji, Secretary to the Government of India, Ministry of Tribal Affairs, addressed to the Chief Secretaries of Scheduled V States (Andhra Pradesh, Himachal Pradesh, Gujrat, Odisha, Rajasthan, Maharashtra, Chhattisgarh, Madhya Pradesh and Jharkhand)

Subject: - 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 setting 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 (Extention to Scheduled Areas) Act 1996 (PESA) {Section 4 (m) (ii) }

Letter from Shri Jairam Ramesh, Minister of State (Independent Charge), Environment & Forests, Government of India, 21st March 2011, addressed to Shri Kiran Reddy, Chief Minister, Andhra Pradesh

Sub: Declaration and treatment of Bamboo as Minor Forest Produce

You may recall that I had written to you earlier on 29th October 2010 on the need to restructure Joint Forest Management Committees (**JFMCs**) to address the perceptions in some circles that they need to be made more participatory and democratic. I had identified four specific action items, namely:

1. Existing **JFMCs** should function under the overall supervision and guidance of the Gram Sabha, and where needed, new **JFMCs** are to be set up by Gram Sabha.
2. **JFMCs** should be recognized as organs of the Gram Sabha under the relevant State Acts relating to Panchayati Raj institutions.
3. **JFMCs** should function as Standing Committee of Gram Panchayats for items 6 and 7 listed in the Eleventh Schedule to the Constitution.
4. The manner in which development funds are used should be approved by the Gram Sabha.

I am now writing to you on a related issue of declaring and treating bamboo as Minor Forest Produce. As you are well aware, bamboo is a traditional source of subsistence for many

forest-dwelling communities of India and has immense cultural and economic significance. Bamboo is also an essential raw material for artisans and craftsmen and is the foundation of many indigenous crafts and cottage industries. Bamboo forests are distributed in around 9 million hectares of forests and apart from providing sustenance to the poor, are a vital link in sustaining the stability of many ecosystems. Bamboo forests also serve as important habitats for wildlife. There is hence a pressing need for us to institute a system for the conservation of bamboo forests and enable the empowerment of people for sustainable use and management of this important resource.

Legal Position on Bamboo as Minor Forest Produce

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (also known as the Forest Rights Act, 2006) has vested the “right of ownership, access to collect, use and dispose of minor forest produce, which has been traditionally collected within or outside village boundaries” with scheduled tribes and traditional forest dwellers.

The FRA, 2006 also defines minor forest produce as including “all non- timber forest produce of plant origin **including bamboo** ... and the like”. In the light of these legal provisions, and the significance of bamboo in the lives and livelihoods of many communities, **you are requested to direct the State Forest Departments to treat bamboo as a Minor Forest Produce** and respect the rights accrued to communities as per the FRA 2006.

Next steps for State Government:

The acceptance of bamboo as **MFP** has many consequences for the state government and the forest administration. These are identified below:

a. Areas where rights to Community Forest Resource are recognized and vested under FRA, 2006

- 1. Gram Sabha will issue transit passes:** The Forest Departments must give the Gram Sabha the right to issue transit passes for bamboo as minor forest produce in areas designated as community forest resources (declared under FRA, 2006) and village forests (under Indian Forest Act, 1927)
- 2. Harvesting of Bamboo:** Extraction levels for *bona-fide* and subsistence needs of the local community will be decided by the Gram Sabha. The Gram Sabha, in consultation with the Forest Department, shall develop a Management Plan for commercial harvesting of Bamboo.

b. Areas where community forest rights are not claimed or settled

- 1. Partnership with Local Communities:** In such areas the Forest Department will, in partnership with the local communities, continue to design and implement Management Plans and Working Plans that ensure the sustainable use and extraction of bamboo.
- 2. Revenue Sharing:** All revenue generated from bamboo cultivation/management will be shared with the local communities residing in the areas and dependent on the land for their *bona fide* subsistence needs.
- 3. Ensure sustainability:** however, in these areas it must be made sure that the ecological integrity of the ecosystem is maintained and other relevant laws are obeyed.

c. Others:

1. **Non-forest lands/private lands:** The Gram Sabha will issue transit passes for bamboo grown on such lands.
2. **State with little or no bamboo resources:** These states may liberalize harvest and transport of bamboo by devolving authority to the Gram Sabha for Management Plans and issuance of transit passes.

However, I am sure you will agree with me that we must guard against over-exploitation. The impacts of extraction should be reviewed every three years and appropriate changes be made in the Working Plans and Management Plans to prevent over-harvesting of bamboo. A copy of these studies should be furnished to the Ministry of Environment and Forests.

All management plans should be prepared in a transparent and participatory manner and should be understood and approved by local communities. The Management Plan should clearly outline the felling cycle and annual harvest potential in numbers and should as far as possible plan for a diversity of uses according to the requirements of the Gram Sabha concerned.

Further, it has come to our notice that there have been instances of the Forest Departments asking local communities for proof of bamboo being used for *bona fide* subsistence needs. I'm sure that you will agree with me that this is not necessary.

I am confident that you will initiate the necessary action at you end both on restructuring of Joint Forest Management Committees and treating bamboo as Minor Forest Produce. A clear signal from you to your Forest Administration will be a first step and may have to be followed by relevant changes to the state laws and administrative regulations.

D.O No. MTA & PR/VIP/18/88/2013, dated 4th April 2013 from Shri V. Kishore Chandra Deo, Hon'ble Minister Tribal Affairs & Panchayati Raj, Government of India addressed to Hon'ble Chief Ministers of all States

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 the 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 the 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 Scheduled 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 Scheduled V to the Constitution and effective implementation of land laws of States are also secured.

2. xxx

3. xxx

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

- Xxx**
- 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 are partial and do not meet the law's requirements. In Maharshttra 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 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.

5-9 xxx

Letter No. F.No 18/02/2013-CP &R, dated 2nd January, 2014, from Neeraj Sekhar, Joint Secretary and Nivedita, Deputy Secretary to the Government of India, Ministry of Tribal Affairs, addressed to the Chief Secretaries of all State Government (except Jammu & Kashmir, Punjab, Haryana and Delhi), the Administration of all Union Territories(except Lakshadweep)

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

Sir/Madam,

The Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) 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 recognize and vast 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 Right) Act, 2006 envisages “ Right of Ownership, access to collect, use and dispose of Minor Forest product (MFP))/ Non- Timber Forest Product (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.

3. 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 cooperative/ federations should be allowed full freedom to sell such MFP/NTFPs to anyone or to undertake individual or collective processing, value addition, and marketing, for livelihood within and outside forest area by using locally appropriate means of transport.
- ii. The State Government 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/charge/royalties of the processing, value additional, marketing of MFP/NTFPs collected individually or collectively by the cooperatives/ federations of the rights holders would also be ultra vires of the Act.
- 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 of 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 Right Act, 2006 is not being complied with in 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 Right Act in letter and spirit be review. Further, such process may be expeditiously reoriented to ensure compliance with the law.

F.No.2/19/2013-CP&R,Dated 25.01.2014 from Ms. Nivedita, Deputy Secretary to the Government of India, Ministry of Tribal Affairs addressed to (As per list)

Sub: Guidelines 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 committee 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 27th of September, 2012 and again on the 10th 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 12th 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 ratios between the Central Government and the State Government 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).

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

10. 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. Simultaneous, 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.

11. The detailed guide lines along with operational manual of the scheme are attached as Annexure-1 for reference. These guidelines are also available on the website of the Ministry i.e. www.tribal.nic.in.

12. 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.

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 household income varied between 10 to 70 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 12th plan period and beyond based 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 objectives 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 announced 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 India 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) 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 31st 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 operations 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 account 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 state which do not have adequate infrastructure. The estimated budget earmarked for this purpose is Rs. 37.50 crore for the 12th plan.

5.4 Modernization of Haat:

Modernization of haats with permanent structure and facilities for storage, drinking water, shade, platforms etc., in a phase manner is an essential component of the scheme. Total budget of Rs. 80.00 crore has been proposed; of which state 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 godown 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 12th 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 Multipurpose Center 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 establish five multipurpose centers in the phase (12th 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 number with the system.

5.9 Capacity Building of Gram Sabha/ Panchayati Raj Institutions:

Linkages with the 'Mahila Sashaktikaran Pariyojana' 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 12th 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 resources regeneration, improved practices for extraction and value addition of MFP. An estimated budgetary requirement for undertaken these activities is 54.40 crore for the 12th 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 Annexure.

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, State 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 change in the scheme guidelines, other than those affecting the financing pattern as the scheme progress, if such changes are considered necessary.

Letter No D.O.No.N-11012/3/2014-PESR, dated 31st July 2014, from Neeraj Sekhar Joint Secretary to the Government of India, Ministry of Tribal Affairs addressed to the Principal Secretary/ Secretary of Panchayati Raj Departments of the Schedule V States and Principal Secretary/ Secretary of Forest Departments of the Schedule V States

Sub: Effective implementation of the Provisions of Panchayat (Extension to the Scheduled Areas) Act, 1996 for management of Minor Forest Product (MFPs)

1. The Ministry of Panchayati Raj, mandated to ensure implementation of the provisions of part IX of the Constitution of India, Article 243ZD and the Provisions of the Panchayat (Extension to the Scheduled Areas) Act, 1996, has been requesting the State Governments for Strengthening the Panchayati Raj Institutions (PRIs) through providing 3Fs- funds, functions and functionaries, for ensuring grassroots level local self-governance.

2. As per provisions of Section 4(m)(ii), “While endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State legislature shall ensure that the Panchayats at the ownership of minor forest product”. However, under Section 3(1)(c) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006, “right of ownership, access to collect, use and dispose of minor forest product which has been traditionally collected within or outside village boundaries” has already been given to the forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands. This is ensuring that the people living in and in the vicinity of forests are not deprived of the rights traditionally enjoyed by them for their livelihoods. Article 243G of the Constitution of India, empowers the Legislature of the State to endow the Panchayat, at appropriate level, with such powers and authority and devolve powers and responsibilities including those in relation to the matters listed in the Eleventh Schedule to enable them to function as institutions of self-Government. The Eleventh Schedule, among other matters, lists the subjects of social forestry; farm forestry and minor forest produce which can be devolved to the PRIs.

3. On the basis of the guidelines issued by the Ministry of Environment, Forest and Climate Change, Government of India, most of the State Governments have constituted Joint Forest Management Committees (JFMCs) for involving people in planning, management and implementation of the forestry activities in the State/UTs. Overall, these JFMCs have been functioning as per their mandate and also getting share of the revenue generated out of the working in these forest areas as decided by the respective States.

4. It is thus felt, that at the village level, convergence of the roles of JFMCs and Gram Sabah’s will ensure that the rights of the local communities to own, access, collect, use and dispose of MFPs are secured in the same spirit as envisaged in the laws mentioned above.

Therefore, to ensure that these communities continue to enjoy the benefits out of the ownership of MFPs, JFMCs be involved in the management of MFPs for the Gram Sabhas, wherever the Gram Sabha so resolves. To facilitate the process, the JFMC should be made accountable to the Gram Sabha for the matters dealing with the management of MFPs.

5. It is thus requested that the State Government may issue guidelines for management of the MFPs in the villages falling in schedule V areas, so as to avoid working of multiplicity of committees/ Sub-committees under various Acts.

6. Information on action taken by the State at an early will be appreciated.

F. No 23011/11/2013- FRA (Pt.), dated 13th February 2015 from Roopak Chaudhary, Deputy Secretary to Government of India, Ministry of Tribal Affairs addressed to the Secretary to the Governor of Maharashtra

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?	<p>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.</p> <p>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>

<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>Even where the Gram Sabha is the sole owner of the MFP, it is the decision-making authority for deciding the use of income and sale proceeds of the MFP. At most, it delegates this power to the Committee, so that all actions of the Committee are in accordance with prior decisions of the Gram Sabha, or decisions taken by the Committee must be subsequently vetted and approved by the Gram Sabha. The Act and the Rules, however, visualize many other methods of sale, such as where the right holder is an individual, group of individuals or family. In such cases, the right to collect use, and dispose of the minor forest produce also includes, according to Rule 2(1)(d), the right to sell, and therefore to the sale proceeds. Sales of MFP can also be effected through cooperatives or associations or federations of rights holders. Therefore it would be incorrect to prescribe that the power is vested in any one body, such as the Committee aforesaid.</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>

<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?</p>	<p>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.</p> <p>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</p>
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Frequently Asked Questions issued by Ministry of Tribal Affairs, Government of India
December 2012

- 1. Section 3(1)(c) of FRA confers ownership rights over minor forest produces (MFP) to forest dwelling STs and Other Traditional Forest Dwellers. Can ownership rights over Tendu/Kendu, Bamboo which are nationalised forest produce under the State forest laws be conferred under FRA?**
 - Yes. The recognition and vesting of ownership rights over all minor forest produces (MFP) including bamboo and tendu/kendu are to be conferred to forest dwelling STs and Other Traditional Forest Dwellers as and when the claim for such rights is made.
 - Section 2(i) of FRA clearly defines the term “minor forest produce” which include bamboo and tendu/kendu.
- 2. Whether the shift of ownership of MFPs from the State in case of certain nationalized MFPs, like, tendu patta, would not lead to exploitation of MFP gatherers by the private traders?**
 - The shift of ownership to right holders does not necessitate withdrawal of the State agencies from MFP trade. It is advised that the State agencies should continue to extend their support system to the MFP gatherers by way of purchasing the produces to provide minimum support price and safeguard against any potential exploitative cartel of buyers. A parallel may be drawn in the manner with process followed for rice and wheat.
 - MFP gatherers may be organized through formation of cooperatives/federations or producer companies to enhance bargaining power vis-à-vis MFP buyers.
 - Abolition of monopoly of State Agencies in the trade of nationalized MFPs will in fact strengthen institutions engaged in trade of MFPs and making them more competitive and this will reduce exploitation of the rights holders under the watchful eye of the State.
- 3. Can the Gram Sabhas issue MFP transit permits and what will happen to the existing transit rules?**
 - Yes, the Gram Sabha has the authority to regulate transit permit for MFPs where rights have been recognized under FRA.
 - The Forest Rights Amendment Rules, 2012, notified on 6.9.2012 provide that the transit permit for transportation of minor forest produce shall be issued by the Committee constituted by the Gram Sabha under Rule 4(1)(e) or the person authorized by the Gram Sabha. These Rules further provide that the Gram Sabha shall approve all decisions of this Committee pertaining to issue of transit permit.
 - The State/ UT Governments, therefore, should modify their existing transit permit regimes in relation to transportation of minor forest produce with respect to right holders under FRA and align it with the provisions of FRA.
- 4. Will issuance of transit permits by the Gram Sabha lead to over exploitation of the MFPs?**
 - No, the issue of transit permit by the Gram Sabha has no correlation with over exploitation of MFP. There are enough safeguards in the law to ensure that over exploitation of MFPs is avoided.
 - For example, as per Rule 4(1)(e) of FR Rules, 2008, the responsibility for carrying out

the provisions of Section 5 of the Act has been given to a Committee to be constituted by the Gram Sabha.

- The Forest Rights Amendment Rules, 2012 notified on 6.9.2012 now require the said Committee to prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of FDSTs and OTFDs and integrate such conservation and management plan with the micro plans or working plans or management plans of the Forest Department with such modification as may be considered necessary by the Committee. The monitoring and control of the said Committee vests with the Gram Sabha. The Gram Sabha, therefore, has to ensure that the transit permits are issued by such Committee with proper assessment and in conformity with the conservation and management plan and that such transit permits do not lead to over exploitation of the minor forest produce.
 - The Gram Sabha can further modify the conservation and management plans and impose restrictions if it considers that the existing regime of collection, use and disposal of minor forest produce is leading to over exploitation of minor forest produce.
 - The Gram Sabha as well as the right holder has also been empowered under the Act to stop any activity that adversely affects forest, wildlife, biodiversity among other things.
9. **According to PESA, ownership of Minor Forest Produce has already been vested with the Gram Sabha, then what is the need and legality of the various provisions of FRA that give SDLC/ DLC the power to regulate and recognise the ownership of MFPs?**
- The application of PESA is limited to Scheduled Areas only, therefore it gives the ownership of the MFPs to Gram Sabhas only in the Scheduled Areas. Large tribal populations also live outside the Scheduled Areas which are covered only under FRA. Moreover, PESA does not require administration to give a written title to each right holder, which FRA does.
 - SDLC/DLC are only part of the process of recognition of rights. The regulation of MFP vests with the Gram Sabha.

6-23. xxxxxx

Government of Odisha

Letter No. 24111/ TD-II(FRA)33/2013/SSD Dated, 17.07.2013, from Prof. (Dr.) A.B. Ota, IAS, Director (ST)- cum- Addl. Secy. to Government of Odisha, ST & SC Development Department addressed to the Principal Secretary to Govt of Odisha, Forest & Environment Department.

Sub.: To provide marketing for Kendu leaves as-well-as MFPs in Nawarangpur K.L. Division.

Sir,

In inviting a reference to the subject cited above I am directed to enclose the petition received from the Narigaon Palli Sabha of Borigumma Block under Koraput district (which comes under Nawarangpur Kendu Leaf Division) where constraints are being faced for marketing of Kendu Leaf.

As claimed, the villagers have procured 3,70,000 kerries of Kendu Leaf from Kendu Leaf pluckers & after due processing they have kept it in a rented godown and are ready for sale. As the Palli Sabha have undertaken drying, shading, bagging & renting storage space, they have been requesting to cover the costs of procurement by selling the leaves to the Kendu Leaf Division.

It is therefore requested that necessary steps may kindly be taken to sort out the problem at an early date.

No. KL – 7/2013 68/F& E, Bhubaneswar, Dated 1.1.14 from S.S. Srivastava, IFS, Special Secretary to Government of Odisha, Forest and Environment Department addressed to The Principal Chief Conservator of Forest, Odisha/The Principal Chief Conservator of Forest (KL), Odisha/The Managing Director, OFDC Ltd., Bhubaneswar/

Sub: Kendu Leaf working in Malkangiri district under Jeypore (KL) Division during 2014 KL Crop year.

Sir,

I am directed to say that after careful consideration Government have been pleased to deregulate Kendu Leaf operation in Malkangiri district under Jeypore (KL) Division and people in Malkangiri district will be free to sell Kendu Leaves to anybody of their choice. However KL organization should accept Kendu Leaves from anybody willing to sell KL to it.

Transportation of Kendu Leave in Malkangiri district will be done on the strength of permit to be issued by the Gram Sabhas of the district.

Appropriate action may be taken accordingly without any delay.

Letter No. 3822/ TD-II-FRA-33/2013/SSD, Dated, Bhubaneswar the, 22.01.14 from Prof. (Dr.) A.B. Ota, IAS, Director (ST)- cum- Addl. Secretary to Government of Odisha, ST & SC Development Department, addressed to The Collector & District Magistrate, Malkangiri.

Sub.: De-regulation of kendu leaf operation in Malkangiri district under Jeypore (KL) Division during 2014 KL crop year.

Sir,

In enclosing herewith a copy of the letter no. 68/F&E dt.01.01.2014 of the Forest & Environment Department, Odisha on the subject referred above, I am directed to request you for needful action at your end as per the provisions enumerated under the STs & OTFD (Recognition of Forest Rights) Act, 2006 & Amendment Rules, 2012.

Since the KL crop season for the current year is fast approaching, so to safeguard the interest of the primary gatherers and protect them from possible exploitation by unscrupulous traders, massive capacity building exercise needs to be undertaken at the Block and GP level which would increase the knowledge and awareness about price, quality, possible market channels as well as the importance of the ecological aspects of the resource.

In view of the above notes facts and circumstances I would request you to look into the matter on priority and submit a proposal for modus operandi for KL operation in your district along with the fund required for the purpose, if any, after due deliberation with the concerned departmental authorities and thorough scrutiny of the matter.

An early response in the matter would be highly appreciated.

Letter No.7726/ TD-II-FRA-33/2013/SSD, Dated, Bhubaneswar the, 20.02.14 from Dr. A.B. Ota, IAS, Director (ST)- cum- Addl.Secretary to Government of Odisha, ST & SC Development Department addressed to the Collector & District Magistrate, Nawarangpur

Sub.: De-regulation and procedure for trading in KL in Nawarangpur (KL) Division for 2014.

Sir,

In inviting a reference to this Deptt. L. No.4078 dt.27.01.2014 on the above subject in which notification of Forest & Environment Deptt. bearing no. 80 dt. 02.01.2014 has been forwarded containing instructions on deregulation and procedure for trading in KL in Nawarangpur KL Division, I am directed to inform that the KL crop season for the current year has approached and it is imperative to safeguard the interest of the primary gatherers and protect them from possible exploitation by unscrupulous traders, middle men. As such to overcome the situation, massive capacity building exercise needs to be undertaken at the Block and G.P. Level which would increase the knowledge and awareness about price, quality, possible market channels as well as the importance of ecological aspects of the resources.

In view of the above facts, I would request you to look into the matter personally on priority basis and furnish a proposal of modus operandi for smooth operation of Kendu Leaf in your district after due deliberations and thorough scrutiny of the matter with the concerned executing authorities of the district.

An early response in the matter would be highly appreciated.

Letter No.1494/ Dt. 26.07.2013 3KL-390/2013 from Divisional Forest Officer Nabarangpur (KL) Division, Office Of The Divisional Forest Officer, Nabarangpur (KL) Division, Nabarangpur addressed to the Sarpanch, Narigaon Gram Panchayat, Narigan, Boriguma Block, Koraput District.

Sub.: Supply of Transit permit book (Form-D) to Narigaon Gram Panchayat for transportation of kendu leaves collected during 2013 crop year.

Ref.: Letter no.978/F&E dated 8.5.2013 of Forest & Environment Department, Govt. of Odisha.

Madam,

In pursuance to the letter no. 978/F&E dated 08.05.2013 of Forest and Environment Department, Govt. of Odisha, the kenduleaves transit permit book No. 01 containing 100 pages serially numbered from 100001 to 100100 in triplicate without break is issued to Sarpanch, Narigan Gram Panchayat of Boriguma C.D. Block of Koraput district as requested by you vide your letter 16/13 dated 26.7.2013 for transportation of kenduleaves which are procured during 2013 crop year from Narigaon Gram Panchayat by the authorized representative of Gram Panchayat / Gramsabha.

You are requested to submit a copy of the Gramsabha resolution authorizing permit issuing person (authorized representative of Gram Panchayat / Gramsabha) before issuing any permit to this office for record.

You are also requested to submit a monthly progress report about the quantity of kendu leaves for which permit have been issued by the Gramsabha to this office for record.

Government of Maharashtra

Notification, Dated 12.3.2013 from Praveen Pardeshi, Principal Secretary to Government of Maharashtra, Revenue and Forest Department

Sub: Maharashtra Forest Produce (Regulation of Trade in Tendu Leaves) (First Amendment) Rules, 2013

Maharashtra Forest Produce (Regulation of Trade Act, 1969).

No. MFP-2013/C R-57/F-9, The Following draft of rules further to amend the Maharashtra Forest Produce (Regulation of Trade in Tendu Leaves) Rules, 1969, which the Government of Maharashtra, Proposes to make in exercise of the power conferred by section 19 read with sub-section (2) of section 4 of Maharashtra Forest Produce (Regulation of Trade) Act, 1969 (Mah. L VIII of 1969) and of all other powers enabling it in that behalf, is hereby published as required by sub-section (1) of section 19 of the said Act, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft will be taken into consideration by the Government of Maharashtra on of Date to be after 25/3/2013.

2. Any objection or suggestions, which may be received by the Principal Secretary (Forest), Revenue and Forest Department, Mantralaya, Madam Cama Marg, Hutatma Rajgur Chowk, Mumbai-400 032, from any person with respect to the said draft before the aforesaid date, will be considered by the Government.

DRAFT RULES

1. These rules may be called the Maharashtra Forest Produce (Regulation of Trade in Tendu Leaves) (First Amendment) Rules, 2013.
2. After rule 3 of the Maharashtra Forest Produce (Regulation of Trade in Tendu Leaves) Rules, 1969 the following rule shall be inserted, namely:-

“3A. Appointment of Gram Sabha as an agent Notwithstanding anything contained in these rules, the Government may appoint Gram Sabha as an agent without any competitive bidding process, for any forest area within its jurisdiction or the forest area assigned to the Joint Forest Management Committee constituted under section 49 of the Maharashtra Village Panchayats Act (III of 1959), on such terms and conditions as may be specified by the Government from time to time.

Explanation – For the purpose of this rule, the expression “Gram Sabha’ means a Gram Sabha as defined in clause (g) of section 2 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006”

Letter No.Tendus-2013/C.R. 130/F-9, Dated 8th April 2013 from Praven Pardeshi, Principal Secretary (Forests) to Government of Maharashtra, Revenue & Forest Department addressed to Shri A. K. Joshi, Principal Chief Conservator of Forest, (Head of Forest Force) Maharashtra

Ref:-1) Letter from Hon'ble Minister of Tribal Affairs address to Chief Minister of Maharashtra dated 25th Feb. 2013.

2) Letter from Hon'ble Chief Minister of Maharashtra to Hon'ble Minister of Tribal affairs and Panchayat Raj, New Delhi dated 2nd March, 2013.

Dear Shri Jashi ji,

Please find enclosed letter from Hon'ble Chief Minister of Maharashtra addressed to Hon'ble Minister of Tribal affairs and Panchayat Raj, Government of India, New Delhi in reply to his letter dated 25th Feb. 2013 under reference (2) above.

Under para (2 and 3) of the letter cited under reference 2 above that in the tender notice issued by Forest Department on 15th Jan. 2013 it is mentioned that.

“The individual of the Gram Sabhas which have been awarded Community Forest Rights (CFRs) for Tendu leaves in designated Government Forest. These CFR holders would be entitled to sell tendu leaves to the agents appointed by the Government if they decided to do so.”

In this regard it will be appropriate that the holders of CFR should be given liberty to collect and dispose off tendu leaves. The areas corresponding to these CFRs should be deleted from the areas shown in the tendu notice for auction of Tendu leaves.

Letter No:- CMS/12/48412, Dated 26th June 2012 from Shri Prithviraj Chavan, Chief Minister, Maharashtra addressed to Shri Jairam Ramesh, Minister of Rural Development, Government of India

I am in receipt of your letter regarding community rights under forest rights act with respect to bamboo in tribal areas.

I would like to elucidate the recent proactive steps taken at our level for effective implementation of community rights under FRA, 2006 as well as increasing people's participation in forestry sector.

Government of Maharashtra has recently issued Government Resolution for bringing JFMC's under superintendence and control of Gram Sabha. JFMC's will be elected by Gram Sabha and hence a convergence has been achieved for twin objectives namely peoples participation in instruments/ institutions of forestry sector and local self governance. The joint forest management committees will be operating as committee of Gram Panchayat, separate for each hamlet, and will be elected by gram sabha.

The Government Resolution transferred all rights of minor forest produce, and major timber to Gram Sabha elected JFMC's. Under Maharashtra Minor Forest Produce Act, Bamboo and Tendu are not classified as Minor Forest Produce. Hence an amendment has been moved to Maharashtra Minor Forest Produce Act to include bamboo/ Tendu/ Apta Leaves which hitherto have been kept out of ambit of minor forest produce, under the umbrella of minor forest produce and appropriate rules under Section 28 of Indian Forest Act.

The proposed policy in minor forest produce includes training for storage handling and marketing of produce by creating federation of willing units. The extraction of minor forest produce however shall be done in accordance with technical prescription to ensure sustainability. Enabling provision has been made for issuing transit passes for forest produce by gram sabha.

There is an agreement between Government of Maharashtra and BILT to use bamboo for paper in existence since 1947 and renewed for period from 2004-05 upto 2013-14. Hon'ble High Court has passed interim order regarding procedure for fixing rates and continuation of agreement. Hence, agreement with BILT predates FRA as it is in force since year 1947 and renewed in 2004-05. This agreement needs to be cancelled before granting CFR. Legal complications may arise to prove existence of customary right under Section 3(1) of FRA as on of 2005 because of prior agreement with BILT.

However, to avoid all legal complications Government is moving a policy measure to allocate all bamboo areas in proximity of village to gram sabha by amending Maharashtra Minor Forest Produce Act and making appropriate rules under Indian Forest Act under Section 28 concerning village forests.

3.9 Diversion of Forest land under Section 2 FCA, and compliance with FRA

3.9 Diversion of Forest land under Section 2 FCA, and compliance with FRA

ABSTRACT

Sl. No.	Date	Particulars (India & States)	Issued by
		Govt. of India	
1.	03.11.2005	Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 – verification / recognition of rights of tribals and forest dwellers on forest land.	MoEF
2.	30.07.2009	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.	MoEF
3.	19.11.2012	Letter from MoTA to MoEF on diversion of forestland in violation to FRA	MoTA
	7.12.2012	Letter from MoTA to MoEF on circulars of MoEF to State Governments on diversion of forestland	MoTA
3.	7.3.2014	Compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006 (in short ' FRA, 2006') while proposing for diversion of forest land for non-forest purpose under the Forest (Conservation) Act, 1980	MoTA
	28.10.2014	Diversion of Forest land for non-forest purpose under Forest (Conservation) Act, 1980.	MoEF
	24.2.2015	Streamlining the process of grant of forest and environment clearance to strategic defence project	MoTA
		Govt. of Odisha	
7.	4.8.2014	Diversion of Forest land for non-forest purpose under Forest (Conservation) Act, 1980.	Revenue & D.M. Dept., Govt. of Odisha

Government of India

F. No. 2 – 3 / 2004 – FC, Dated 3rd November 2005, from Sandeep Kumar, Assistant Inspector General of Forests, Ministry Of Environment And Forests, Government Of India addressed to The Chief Secretary /Administrator, All State/Union Territory Governments

Sub: Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980- verification/recognition of rights of tribals and forest dwellers on forest land.

Sir,

State/Union Territory (UT) Governments are aware that this Ministry has issued detailed guidelines on 18th September 1990 to address contentious issues related to forest - tribal interface namely (i) settlement of disputed claims arising out of defective forest settlement, (ii) cases of pattas, leases, grants involving forest land (iii) conversion of forest villages into revenue villages and settlement of other old habitations, and (iv) regularization of encroachment on forest land. These guidelines had provided for a three - member committee consisting of an official each from Revenue, Tribal welfare and Forest Departments to verify the rights/claims of tribal and other forest dwellers covered under the above guidelines.

2. The guidelines of 18th September, 1990 mentioned above sought to address the problems of the forest dwellers, including tribals, which originated from faulty forest consolidation both during the British and the post independence periods. However, no further progress could be made due to various reasons and no proposal was received by the Central Government for consideration under the provisions of Forest (Conservation) Act, 1980. The Central Government also issued a clarification vide letter No. IGF/FC/2002 dated, 30.10.2002 regarding settlement of disputed claims, simplified the procedure for stepping up of process of conservation of forest villages into revenue villages vide letter No.11-70/2002-FC/(Pt.)dated 03.02.04 and issued supplementary guidelines for regularization of the rights of the tribals and other forest dwellers on forest land vided circular No.2-1/2003-FC (Pt). dated 05.02.2004.

3. State/UT Governments are also aware that the Hon'ble Supreme Court of India has issued certain directions which are also related to a few issues of forest tribal interface. These are (i) order dated 13.11.2000 restraining de-reservation of forests till further orders (ii) order dated 23.11.2001 restraining regularization of encroachment on forest land till further orders, and (iii)

order dated 23.2.2004 staying the operation of Ministry's guidelines dated 5.2.2004 cited above. The Central Government has already filed affidavits and requested the Apex Court to modify/withdraw the above restraints.

4. However, in pursuance of the Supreme Court Order dated 23.11.2001, the Central Government has instructed all the State/UT Governments on 3rd May 2002 to evict all ineligible encroachers from forest land in a time bound manner. Consequent follow-up action by the State/UT Governments for evicting the in-eligible encroachers brought the issue of the disputed claims and rights of the genuine tribals and for ST dwellers on the forest land, to the forefront. Upon critical examination of the issue, it emerged that State/UT Governments could not maintain a distinction between traditional tribals / forest dwellers and in-eligible encroachers, while dealing with the eviction of in-eligible encroachers.

5. The Ministry of Environment and Forests observed that, though the orders dated 13.11.2000, 23.11.2001 and 23.2.2004 of the Supreme Court are still in force, there is no bar on verification of claims related to the period prior to 25.10.1980 which can be undertaken to avoid further delay in resolving the matter once the Apex Court accepts the request of the Government to withdraw / modify the restrictions imposed by it. Simultaneously, taking the genuineness of claims of tribals / forest dwellers into consideration and without prejudice to Supreme Court orders, the Ministry of Environment and Forests found it appropriate to request the State/UT Governments that, as an interim measure they should not resort to eviction of tribals and forest dwellers other than in-eligible encroachers till complete survey is done for recognition of such people and their rights. Orders have already been issued in this regard by the Ministry of Environment and Forests vide letter dated 21.12.2004.

6. Therefore, without prejudice to the orders of the Hon'ble Supreme Court of India, keeping in view the facts mentioned above and with an objective of making best use of interregnum to verify the claims of tribals /forest dwellers, the State/UT Governments are requested to adopt following procedures.

1. FORMATION OF COMMITTEES

- (i) Set up a village Level or Local Committee to verify the claims of disputed settlement of tribals and forest dwellers (other than in-eligible encroachers) on forest land. This committee shall consist of the following members:-

- a) Sarpanch of the village (Chairperson).
- b) Two knowledgeable village elders or senior citizens (at least one being women) selected in Gram Sabha meeting specifically called for this purpose.
- c) Talathi or patweri;
- d) Chairman of the Joint Forest Management Committee (if existing) and;
- e) Forest /Beat Guard (to be Secretary of the Committee).

In case of Group Gram Panchayat and for villages other than the main village, a member of Gram Panchayat will be the chairperson. In case of forest settlements not coming under any Gram Panchayat, the traditionally accepted Mukhiya shall be the Chairperson.

- (ii) Set up Block of Taluka Level Review Committee to review such cases where the claimant is aggrieved by the decision of the Village Level or Local Committee. This Committee shall consist of the following members.
 - a. Member of Zilla Parishad as Chairperson (nominated by Chairperson of Zilla Parishad).
 - b. Member of Panchayat Samiti (nominated by the Block Panchayat).
 - c. Naib Tehsildar;
 - d. Asst. Tribal Welfare Officer or Asst. Project Officer (ITDP); and
 - e. Concerned Range Forest Officer nominated by the territorial Divisional Forest Officer concerned (to be Secretary of the Committee).
- (ii) Set up District Level Committee (DLCs) involving Deputy Collector, Sub-Divisional Forest Officer and the representative of Tribal Welfare Department for final notification. Sub-Divisional Forest Officer (Asst. Conservator of Forests) shall be the Convener of the Committee.

(2) PROCEDURE TO BE FOLLOWED BY THE COMMITTEES.

- a) It is a necessary to examine all claims pertaining to disputed claims arising out of defective forest settlements and pattas and leases granted on forest land. This will be done within the purview of the guidelines of Government of India dated 18.09.1990. The claims should cover not only claims over individual plots of land but also collective / communitarian ownership claims and should include claims over forest

products from surrounding forests based on customary use and / or use permitted by earlier princely state / zamindari regimes. The claims of shifting cultivators and pre-agricultural communities should also be addressed within such a framework.

- b) With a view to ensuring that –
- (i) all concerned claimants are informed
 - (ii) all claimants have an opportunity to make their claims in their language.
 - (iii) the weaker sections of the community are spared the time and expense of travel,
 - (iv) all claimants are covered and no person is not given an opportunity to be heard,

Calling for and verification of claims shall be done in the gram sabha meeting of the village specifically called by the Local Committee for the purpose.

- c) A timetable giving the dates and time of the meetings of the gram sabha should be prepared and publicized in advance within a fixed time period.
- (i) to select two village elders or senior citizens to act as members of the committee.
 - (ii) for the local committee to invite claims supported by evidence.
 - (iii) for the local committee to verify the claims and present their findings.
- d) A team comprising one officer each from Revenue, Tribal Welfare and Forest Departments should be appointed at Block Level to ensure that the process is conducted in a disciplined and regulated manner to enhance local women and men's participation.
- e) Traditional methods of publicity in the local language must be used to inform the people about the programme of deciding the eligibility of claims. Field staff of State Forest Department, Joint Forest Management Committees (if existing), Rural Development, Social Welfare and ICDS etc. should be involved in disseminating information about the progress, particularly to village women through the organizations such as SHGs and Mahila Mandals.

- f) Information regarding the task of the committee, its aims, objectives and procedure should be made available in the village square, Gram Panchayat office of all villages, Panchayat Samiti, Forest Range Office and Tahsil Office as well as ICDS, RD, State Forest Department, Health and Education Departments. State Forest Department shall pay special attention in communicating information to remote settlements and un-surveyed villages.
- g) After publicizing the programme of the Gram Sabha at least three weeks in advance, a Gram Sabha meeting calling for claims should be conducted by the village committee.
- h) On receipt of complete application (in Gram Sabha) from the claimants, all claims should be verified in the presence of the assembly in the subsequent Gram Sabha meeting specifically called for the purpose not later than two weeks of such receipt.
- i) As far as possible all meetings of the Gram Sabha should necessarily be held in the late afternoon or late evenings so as to ensure large attendance of villagers.
- j) All Claims verified and accepted by the village Level or Local Committee shall be forwarded to the Block Level Review Committee.
- k) The Local Committee will also give a copy of its findings to the claimants in the Gram Sabha meeting.
- l) the Block Level Review Committee will submit its recommendations to the District Level Committee (DLC) for final ratification DLC, while ratifying, will take following into consideration.
 - (i) The DLC must satisfy itself that the name(s) of the tribals / forest dwellers exist in the census data of 1981, 1991 and 2001 including the electoral rolls of the area to confirm their existences and continued possession of forest land till date.
 - (ii) The tribals and other forest dwellers should be living on the forest land prior to 1980 and also should be in continued possession of forest land till date.
 - (iii) In no case, the Committee shall entertain any claim in which the claimant has not been in possession of the disputed land throughout.

- (iv) The Committees shall examine traditional and customary rights of the particular tribe and other forest dwellers on particular forest land and forest produce.
- (v) The Committee shall examine the land use pattern of the forest land under occupation of such people.
- m) All appeals will be heard by the Block Level Review Committee or District Level Committee, as the case may be after three weeks notice of the appellant.

(3) NATURE OF EVIDENCE TO BE PRODUCED BEFORE THE LOCAL /BLOCK LEVEL COMMITTEES.

- a) It is necessary to clarify the type of evidence(s) that may be used to decide the period of land occupation. As a ROR is not necessarily a proof of claim or otherwise, an assessment of the ground realities, as they existed in the relevant time, is necessary and is possible by verification of natural and situational evidence(s) of the subsisting claims. Hence, a responsible local committee conversant with ground realities has the opportunity to verify the same and can record the evidence of the claimant and opinion of other knowledgeable villagers about the point of time since when the land has been under continuous occupation of the claimant. Benefit of doubt should be given to the claimant.
- b) A variety of evidences, both oral and/or documentary, establishing the claim period can be regarded as proof of the claim, hence, the Committee can accept the following as evidence.
 - (i) Documentary evidence from any Government/Semi-Government source;
 - (ii) Documentary evidence from any prior research or documentation of a reputed institution, including survey maps.
 - (iii) Relevant evidence gathered from spot verification to be done by more than three members of the committee including patwari;
- c) It is important that the village Level or Local Committee definitively decides about the period of the claim. While giving the findings about eligible cases, the following two points should be kept in mind;

- d) The claimant should also fulfill all other conditions laid down in the respective Government's decisions in that regard. In case, the eligibility criteria specified by the respective State/UT Government are not in consonance with those contained in the guidelines issued in 1990 by the Ministry of Environment and Forests, the latter i.e. Provisions of 1990 tribal- forest guidelines shall prevail.
- e) If the respective State/UT Government has not issued any specific orders prescribing any other eligibility criteria for claims arising out of defective forest settlements, pattas and leases granted and subsisting encroachments prior to 1980, the criteria laid down in the 1990 guidelines issued by the Ministry of Environment and Forests shall be adopted.

4. CRITERIA FOR ACCEPTING CLAIMS.

While deciding upon the claim, the village level committee should pay attention to the following criteria within the limits of the guidelines issued by the Ministry of Environment and Forests in 1990.

- (i) All claims where the claimant has Government / Semi-Government/ other relevant documentary evidence in support, and the claimant has been living on the forest land prior to 1980 and also is in continuous possession of forest land till date, should be accepted.
- (ii) If a claimant does not have documentary evidence in support of her/his claim but the gram sabha, on the basis of other relevant evidence, is of the opinion that the claim is legitimate, such claims should be carefully examined by the local committee and the benefit of doubt should be given to the claimant. Decision of the local committee shall be taken by simple majority.
- (iii) If the claimant does not have relevant documentary evidence and the gram sabha has also projected her / his claim, the veracity of such claims should be carefully examined by the local committees and such claims should be specifically referred to the review committee.
- (iv) Claims should cover not only claims regarding individual plots of land but also collective/ communitarian ownership claims. Claims should also include claims over

forest products based on customary use. Claims of shifting cultivators and pre-agricultural communities should also be addressed within this frame work.

- (v) All claims that are upheld within the purview of the 1990 guidelines of the Ministry of Environment and Forests shall be forwarded by DLC to the Nodal Officer (Forest Conservation) of the State /UT Government who in turn shall forward the proposal duly recommended by the PCCF, to the State /UT Government.
- (vi) In cases, where claims are rejected, necessary action should be taken for ex-situ rehabilitation on non-forest Government lands.
- (vii) In case of National Parks/Sanctuaries, State/UT Governments shall consider ex-situ rehabilitation on non-forest Government lands outside the limits of the National Parks/ Sanctuaries.
- (viii) The proposals to be sent to Central Government should be submitted according to the procedure and conditions prescribed under the Forest Conservation Act, 1980 and shall in addition, include a proposal for permanent demarcation of the land for which claims are proposed to be settled and a proposal for Compensatory Afforestation in lieu of forest land diverted for settlement.

5. TRAINING AND PUBLICITY WORKSHOP AT TALUKA LEVEL.

- (i) The following process may be adopted with a view to expedite the process and keep it simple;

Pre planned publicity should be done. After the publicity is done, and before the process of verification is initiated, training workshops be organized by the district committee with the assistance of knowledgeable NGOs at the taluka level for Sarpanchas, Dy. Sarpanchas, Panchayat Samiti and Zila Parishad members, Forest Officers and functionaries, Tribal Welfare Officers and functionaries, Traditional Leaders, Senior citizens, Journalists, Revenue Officials and functionaries, Talathis and members of the Taluk/ Village level Committees.

- (ii) All officials should be invited to these workshops and should be given the information of the procedures and processes of village level enquiry.
- (iii) A separate session should be held for NGOs, CBOs, Activists and Journalists.

- (iv) Gram Sabha meetings should be held after the programme is planned and announced.

6. **OTHER MATTERS**

- (i) To supervise the progress of verification of claims of forest dwellers, including tribals, on forest land prescribed under these guidelines mentioned above, a State Level Task Force may be constituted under the chairmanship of Chief Secretary with Principal Chief Conservator of Forests, being the co-chair. Task Force shall meet after every three months.
- (ii) Entire process may be completed within a period of one year.
- (iii) Last but not least, the purpose of this communication is to complete the process of survey and documentation of claims for future implementation (subject to the final orders to be passed by the Hon'ble Supreme Court of India) of the guidelines dated 18.09.1990 of the Ministry of Environment and Forests, as relevant to pre-1980 situation, in respect of which no follow up action could be taken presumably for want of supporting procedural guidelines. These procedures have been prescribed now without prejudice to the orders of the Apex Court.

Letter No. F. No. 11-9/1998-FC (pt), dated 30.07.2009, from C.D. Singh, Sr. Assistant Inspector General of Forests to the Government of India, Ministry of Environment and Forests (FC Division) 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 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(1)(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.

D. O No. 48/8/2012, dated 19.11.2012 from Shri V. Kishore Chandra Deo, Hon'ble Minister Tribal Affairs, Government of India addressed to Smt. Jayanti Natrajan, Hon'ble Minister of State (I/C) Environment of Forests, Government of India

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.

4. In its most recent meeting (September 17th and 18th) there was no reference to the law at all. In its August meeting, the Committee recommended a thermal power project in Chhattisgarh despite the fact that it had itself pointed out in May that this project had not obtained the requisite gram sabha certificates (File No. 8-21/2012, LARA Thermal Power Project in Raigarh District, Chhattisgarh). On the basis of the Committee's recommendation, this project was subsequently granted in principle clearance, in accordance with the normal procedure. The Committee has the remit to consider all relevant aspects prior to the diversion of forest land; how is it then continuing to ignore people's rights? Why is it misleading both project proponents and the public into believing that these projects are in compliance with the law when they often are not?

5. I am also constrained to note here that it has been drawn to my attention that, perhaps in response to protests on these issues, the Committee has begun including a "condition" in some of its recommendations stating that the Forest Rights Act must be complied with before the final clearance is given. This is only adding to the confusion for both project proponents and the people of the area. Compliance with the FRA is a critical part of deciding whether a project can be considered at all. Naturally it should be considered at the threshold stage. Otherwise project proponents will be placed in the odd position of having received "in principle" clearance as well as environmental and other statutory clearances, only to be denied at the very last stage as a result of FRA violations. This would result either in delay in final clearance, or in State governments and project proponents seeking to evade the law entirely.

6. Thus the FAC's abdication of responsibility will produce conflict, harassment, injustice, delays and litigation. We have already seen several such instances, resulting in either violation of people's rights or in delays/cancellation of projects.

7. In light of the above, I wish to place three suggestions before you for your consideration and action:

- a) *Steps may be taken to ensure that the Forest Rights Act and the 2009 order are complied with in all cases of diversion of forest land, including by the Forest Advisory Committee. In accordance with the law no in principle clearance, or environmental clearance, should be given without certificates from gram sabhas certifying that their rights have been recognized and that they consent to the diversion. This will reduce confusion and provide clarity to both project proponents and state agencies.*

D. O No. 48/9/2012, dated 7th December 2012 from Shri V. Kishore Chandra Deo, Hon'ble Minister Tribal Affairs, Government of India addressed to Smt. Jayanti Natrajan, Hon'ble Minister of State (I/C) Environment of Forests, Government of India

Dear *Jayanti ji,*

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 being 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 our vision of development include all of these. Strict implementation of the 2009 order and ensuring of recognition of rights along with consent of Gram Sabha prior to diversion of land will help ensure this outcome

Letter No. 23011/07/2015- FRA, dated 24th February 2015 from Shri Roopak Chaudhari, Deputy Secretary to Government of India, Ministry of Tribal Affairs addressed to Shri H.C Chaudhary, Director, Ministry of Environment, Forests and Climate Change, Government of India

Subject: Follow up on decisions taken in a meeting held between the Hon'ble Minister of State (Independent Charge) for Environment, Forests and Climate Change and the Secretary, Ministry of Defence to consider streamlining the process for grant of Forest and Environment Clearance to strategic defence projects – reg.

The undersigned is directed to refer to the Ministry of Defence O.M. No.21/11/2014—D (Coord.) dated 27.1.2015 and to state that the Scheduled Tribes and Other Traditional Forest dwellers (Recognition of Forest Rights) Act, 2006 (FRA) is a law for recognition and vesting of individual and community rights. The Act has no provision to exempt in part or full from the process laid down therein.

2. In Sixth Schedule areas of Assam, Meghalaya, Mizoram and Tripura, most of the Rights over forests is vested with the communities. Besides, in States like Arunachal Pradesh, Mizoram, Nagaland and Hill areas of Manipur, the forests are owned by communities through Village Councils and Village authorities. In respect of reserve forests, the Rights of the people have already been documented in States like Mizoram. In such cases, therefore, the Collectors may give a Certificate to this effect to substantiate that no further procedure with regard to FRA is required. However, it should be ensured that in all cases where forest rights holders are being displaced, they are adequately compensated through proper livelihood plan in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act, 2013).

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



Letter No. 23011/02/2014-FRA, dated 7 March 2014, from S. M. Sahai, Director to the Government of India, Ministry of Tribal Affairs, addressed to the Chief Secretaries of all States/Union Territories

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

2. In this connection, the correct 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 & Forest 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 empower the holders of forest right, 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 affected 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 Forest & Ors*, 2013 (6) SCALE 57, wherein the Apex Court has fore grounded 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 para59 of the judgement, 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 district. Any such fresh claims are 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 setting 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 5th February 2013, 5th July 2013 and 15th January 2014 of the Ministry of Environment & Forest are also against the directions of the Hon'ble Supreme Court.

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 violation of law.
4. This issue with the approval of Hon'ble Minister, Tribal Affairs & Panchayati Raj.

Government of Odisha

Letter No. 22958/ GE (GL)-S-31/2014/ R & DM, Bhubaneswar, dated the 4th August, 2014 from Dr. Taradatt.IAS, Additional Chief Secretary to Government of Odisha, Revenue and Disaster Management Department addressed to all Collectors

Sub: Diversion of Forest land for non-forest purpose under Forest (Conservation) Act, 1980.

Sir,

I am directed to invite reference to the aforementioned subject and to say that requisitions are being filed before the revenue authorities to transfer non-forest Government land for the purpose of compensatory afforestation in lieu of forest land required for development purpose in general and for mining and other industrial projects in particular. Govt. India, Ministry of Environment & Forest have stipulated that for diversion of forest land for non-forest use under the provisions of Forest (Conservation) Act, equivalent quantum of non-forest land need to be handed over to the Forest Department for raising compensatory afforestation. As such, whenever a forest diversion proposal is processed under the Forest (Conversion) Act, 1980, a scheme for compensatory afforestation which is required to be executed over the non-forest land is identified for this purpose by the revenue and forest officers.

2. You are aware that Government lands are borne in four Khatas in the record of rights finally published under the provisions of the Orissa Survey & Settlement Act, 1958 viz., Abadajogya Anabadi, Abada Ajogya Anabadi, Rakhit and Sarbasadharana. While the land recorded as Sarbasadharana and Rakhit cannot be used for any purpose other than those of the community and is in the nature of *rescommunis*, the land recorded as Abadajogya Anabadi can only be diverted for raising compensatory afforestation. It may be pertinent to mention here that the land recorded as Abadajogya Anabadi is also set apart for settlement in favour of landless and homesteadles persons. It must also be kept in mind that for the purpose of sustainable development of the State, the housing, transport and other developmental needs and rights of the populace has to be met. Moreover, a certain percentage of land of the effective area of the villages is also reserved for Gramya jungle.

3. Of late, Government faced difficulties in implementing various development projects in the state due to non-availability of sustainable Government land for the purpose. In order to overcome these difficulties, Government have formulated a principal for direct purchase of private land through bi-lateral negotiation for timely execution of social development projects undertaken by different Departments.

4. In view of the difficulties enumerated above, Government have been pleased to decided as follows:

- i. The Circular No. F. No.5-1/2007-FC, dated 28.12.2007 issued by the Govt. of India, Ministry of Environment & Forest deals with compensatory afforestation of non-forest land and takes into account the difficulty of States in finding non-forest land for the purpose of compensatory afforestation. It is clarified that the revenue lands recorded as forest on which the provision of forest (Conservation) Act, 1980 are applicable would be considered for the purpose of compensatory afforestation. The above category of

land may be identified and accepted for compensatory afforestation against the development projects.

- ii. Govt. of India, MoEF, in their guidelines have suggested to provide degraded forests twice in extent to the forest area being diverted for the purpose of compensatory afforestation where suitable non-forest lands are not available for exchange. The Collector, the Divisional Forest Officer and the District Level Officer of the Department requiring forest land for the purpose of mining, industrial or other development projects, as the case may be, should jointly identify the area comprised in the degraded forests for the purpose of compensatory afforestation and send to the appropriate authority the proposal for diversion of forest land for compensatory complete in all respect.
 - iii. In view of scarcity of non-forest Government land, project proponents other than Government projects requiring forest diversion should go for private purchase of land or acquire land through land acquisition mode for raising compensatory afforestation. as far as possible the private land for compensatory afforestation should be identified contiguous to or in the proximity of the reserved forest or protected forest to enable the Forest Department effectively manage the newly planted area. However, in case of availability of surplus unobjectionable Government land, the same may be offered on payment of premium.
5. Considering the importance and urgency of the matter, the State Government expect that all field officers concerned shall act with due diligence and expedition in formulating proposals for diversion of forest land for mining, industrial and other development projects.

**No. 8-63/2007-FC
Government of India
Ministry of Environment & Forests**

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

**To
The Principal Secretary,
Government of Orissa,
Bhubaneswar.**

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

Sir,

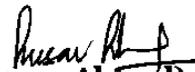
I am directed to refer to our letter of even number dated 29th December, 2009 conveying the approval of the Central Government under Section 2 of the Forest (Conservation) Act, 1980 for diversion of 1253.225 ha of forest land for establishment of Integrated Steel Plant and Captive Port by POSCO-India Pvt. Ltd, Jagatshinghpur district of Orissa. In order to implement the project it is clarified that the project can go ahead only after the conditions of MoEF letter dated 3rd August, 2009 including the condition related to informed consent of the tribal people is fulfilled as per the provisions of the Scheduled Tribes and other Forest Dwellers (Recognition of Forest Rights) Act, 2006.

The Condition No. 14 stipulated in our letter of even number dated 29th December, 2009 also says that the approval was subject to fulfilment of the following conditions besides the other 15 conditions stipulated:

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

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

Yours faithfully,


(Ansar Ahmed) 8/1/10

Inspector General of Forests

3.10 Community Forest Resource Rights

3.10 Community Forest Resource Rights

Sl. No.	Date	Particulars (India & States)	Issued by
		Govt. of India	
1	4.4.2013	Letter from Hon'ble Minister, MoTA to Hon,ble Chief Ministers of all States	MOTA, GoI
	02.05.2013	Directions under Section 12 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (in short Forest Right Act) to comply to the Hon'ble Supreme Court judgement dated 18 th April, 2013 in W.P (civil) No. Writ Petition (civil) No. 180 of 2011 in Orissa Mining Corporation vs. Ministry of Environment and Forests	MoTA (PRA Unit)
5	23.04.2015	Letter from Ministry of Tribal Affairs regarding recognition and vesting of community forest resource rights (CFR)	Uttam Kumar, MoTA
5	27.07.15	Guidelines with regard to use of Geo referencing for assessment of potential areas and re-examination of rejected claims under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA).	Roopak Chaudhari, MoTA
		Govt. of Odisha	
6	22.05.2013	Judgement of the Hon'ble Supreme Court Of India to the writ petitions (Civil) No.180 of 2011 Odisha Mining Corporation Ltd.vrs. Ministry of Environment and Forest and Other dt.18.04.2013	ST & SC Dev. Deptt.,Govt. of Odisha
7	27.05.2013	Convening of Palli Sabha for compliance to the order of the Hon'ble Supreme Court in W.P. (c) No.180 of 2011 dt. 18.04.2013	ST & SC Dev. Deptt.,Govt. of Odisha

Government of India

D.O No. MTA & PR/VIP/18/88/2013, dated 4th April 2013 from Shri V. Kishore Chandra Deo, Hon'ble Minister Tribal Affairs & Panchayati Raj, Government of India addressed to Hon'ble Chief Ministers of all States

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. **Xxx**
3. **Xxx**
4. **I would like to flag some of the felt problems which continue to fetter effective implementation of the Forest Rights Act:**

- **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.

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5-9 xxx

Letter No.23011/22/2010-FRA, Dated 2nd May 2013 from Dr. Sadhana Rout Joint Secretary to the Government of India, Ministry of Tribal Affairs addressed to Shri Santosh Kumar Sarangi, Commissioner-cum-Secretary, SC and ST Development Department, Government of Odisha,

Sub: 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 18th 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 Kalandhi.

This is to bring to your notice especially Para 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 Sabah's) in entertaining and adjudicating upon community forest rights claims. The judgement further emphasizes the role of the Gram Sabah's in safeguarding the customary and religious rights of the STs and other DFDs under the Forest Right Act (para 56); and the importance of PESA and specifically Section 4(d) which mandates the Gram Sabah'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).

In 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 Sabah's 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 district. Any such fresh claims be failed 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 setting 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 Right Act to the authorities prescribed in Chapter IV of the Act for compliance:-

- a) Issue an advertisement in all the local newspaper (especially the ones in the vernacular language that are widely read in the districts of Kandhamal and Rayagada) that all STs and OTFDs living any wherein 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 Center. 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 district, 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 Sabha's where the meetings will be finally held as per the directions of the Supreme Court. The advertisement should clearly mention all the rights recognized in the Forest Right 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 rights(s. 3(1)(I)).
- 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 Sabha's in the past, irrespective of the final order on such claims by the DLC. 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 reside 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 claim 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, livelihood, social, economic, spiritual, and 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 the list can be corrected if any village is left out. After the posting of the list, representation for inclusion of village shall be invited within ten days. The process of identification of the concerned Palli Sabha's 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 Sabha's 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 Sabha's and its residents about the nature of rights that can be claimed and recognized and the consequences thereof.
- f) It is further directed that the state machinery ensure that the entire proceedings of the Palli Sabha's 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 meeting 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 Sabah's. 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 Sabah's the video and audio graphic recording 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.
- j) 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 Sabah's and other such steps being taken by the state. Copies of all advertisements, claims and other documents issued in the course of these proceeding may also be sent to this Ministry.
- k) The proceedings of the Palli Sabha along with all the documents of evidence and claims may be submitted to this Ministry as soon as Palli Sabha 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 action in compliance of the aforesaid directions and for implementation of the judgement on top priority and the Ministry of Tribal Affairs is kept posted of the developments on regular basis.

[Frequently Asked Question issued by Ministry of Tribal Affairs, Government of India, December 2012](#)

1-11. xxxx

12. Who will prepare conservation and management plan for community forest resources?

- As per the FR Amendment Rules, 2012 notified on 6.9.2012, the committee constituted by the Gram Sabha under Rule 4 (1)(e) for carrying out the provisions of Section 5 of the Act is required to prepare the conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling STs and OTFDs.

13 – 14. xxxx

15. Whether the community rights of the non-Scheduled Tribes who are traditionally using the community resources in the Schedule V areas where PESA is applicable would be affected if they are not eligible for recognition of these rights in those areas under FRA?

- No, the community rights of non-Scheduled Tribes or ineligible OTFDs will not be affected in Schedule V areas where PESA is applicable.
- Section 13 of the FRA clearly supports such an arrangement as the FRA is in addition to and not in derogation of any other law for the time being in force.

16. Whether the title holders have the rights over the trees also standing on the forest land for which their rights have been recognised and vested under FRA?

- Yes, the title holders have right over trees on the forest land for which rights have been recognized under FRA.
- Section 3(1)(a) of the FRA recognizes the right of the FDSTs and OTFDs to hold and live in the forest land for habitation or for self-cultivation for livelihood by a member of a forest dwelling Scheduled Tribe or other traditional forest dwellers. In view of the above, the titleholders have the right over the trees standing on the said forest land but for felling and disposal of the trees, the same shall be treated in the same manner as trees on private land are treated under the relevant State laws and shall be subject to conditions, requirements for permission etc. as specified in those laws.
- For further clarity, the number of trees on the land with species and size should be mentioned in the title. There would be no restriction on collecting and using the minor forest produce from such trees.

17. The number of claims settled under Community Rights is very small as there is lack of adequate documentary evidence to corroborate those claims. What are the documentary evidences required in case of community rights?

- Rule 12A(11) introduced through the recent amendment specifies that the SDLC / DLC cannot insist on a particular evidence in support of the claim. Physical and oral evidence is also admissible under Rule 13. Official documents such as working plans, gazetteers, forest settlement reports, and other types of evidence mentioned in Rule 13 may be considered. Further the evidence for rights over community forest resource and evidence

for other forest rights in including community are distinguished in Rule 13 (1) and (2). In fact more evidences such as Government records or earlier classification of current reserve forest as protected forest or as gochar or other village common lands, nistari forests as well as earlier or current practice of traditional agriculture have been added as evidence for “community forest resource”.

18. After recognition of rights under FRA can the forest rights holders get any support for development of the forest land and community forest resources?

- The amendment rules now provide for post claim support to the forest rights holders and require the State Government departments especially tribal and social welfare, environment and forest, revenue, rural development, Panchayat raj and other departments to provide support for land improvement, land productivity, basic amenities and other livelihood measures under existing government schemes to such claimants and communities whose rights have been recognized and vested under the Act.

19. Can the states get separate budget allocations for the demarcation of CFR areas and smooth implementation of FRA?

- Article 275(1) provides window to each state to demand for grants for implementation of FRA. Grants under Special Central Assistance (SCA) to Tribal Sub Plans (TSP) can also be demanded for the development of land over which rights have been recognized.

20. A lot of social capital has been invested by states in the capacity building of JFM Committees in the last 15-20 years for the protection, conservation and management of the forests. Shouldn't these JFMCs be converted into committees under 4(1) (e).

- It is the prerogative of the Gram Sabha to decide whether to nominate the members of the JFMCs in the new Committee under Rule 4(1) (e) or constitute it with new members. It is further clarified that only the members of the Gram Sabha are eligible to become a member of the Committee under Rule 4(1) (e). Automatic conversion of JFMCs into Committee under Rule 4(1) (e) is neither mandated nor desirable under the FRA as the objectives, structure and mandate of JFM is different from that of Committee under Rule 4 (1) (e).

21. Should JFM Areas be directly converted to Community Forest Resource Titles

- As per the provisions of Act and Rules, automatic conversion for JFM areas into CFR areas is neither mandated nor desirable as the objectives, structure and mandate of JFM is different from that of rights under community forest resource. However, wherever JFM areas are co-terminus with CFR boundaries, Gram Sabha may apply and get the title to such community forest resource, subject to the final approval by DLC.

22-23. xxxxx

Letter No. 23011/16/2015/FRA, dated 23rd April 2015 from Uttam Kumar, Under Secretary to Government of India, Ministry of Tribal Affairs addressed to the Chief Secretaries of all State Governments

Sub: Guidelines under Section 12 with regard to recognition and vesting of Community Forest Resource (CFR) and its management under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)

The undersigned is directed to state that the Ministry of Tribal Affairs has in numerous occasions conveyed the importance of recognition and vesting of CFR rights under FRA. While some States have made efforts to recognise the community and CFR rights, the State Governments need to make further efforts to recognise the CFR rights which is still slow in a number of States for all potential forest land where such traditional rights exist and claims have been pending.

2. In view of the above, Ministry of Tribal Affairs issues the present guidelines pertaining to recognition of CFR rights and their subsequent management.

- i. As per Section 3(1) (i) and Section 5 of FRA, the authority to protect, regenerate or conserve or manage CFRs, is the Gram Sabha along with the committee for protection of wildlife, forest and biodiversity constituted under FR Rule 4(1)(e). The meaning of Gram Sabha shall be as defined in Section 2(g) and section 2(p) of the FRA.
- ii. Each Gram Sabha shall be free to develop its own simple format for conservation and management plan of the CFR which its members can understand with ease and may also comprise of the rules and regulations governing forest access, use and conservation.
- iii. The Gram Sabha and the Committee under FR rule 4(1)(e) shall be the authority to modify the micro plan or working plan or management plan of the Forest

[Letter No/23011/18/2015-FRA, dated 27.07.2015 from Roopak Chaudhuri, Deputy Secretary to the Government of India, Ministry of Tribal Affairs addressed to the Chief Secretaries of all State Governments](#)

Sub: Guidelines with regard to use of Geo referencing for assessment of potential areas and re-examination of rejected claims under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)

1-5 xxx

10. Based on the input, the broad parameters for use of geo referencing data for identification of potential areas of both individual and Community Forest Resource Rights (CFR) are listed. The following guidelines may be applied for use of technology and geo referencing to expedite the process of FRA implementation:
 - a. Geo referenced Satellite image of highest resolution (preferably with 1M or higher resolution) of any satellite may be used for period around December, 2005. Google earth images, especially, the historical images of around the year 2005, or any other reliable open-source images can also be used for this purpose. Images can also be procured from National Remote Sensing Agency, Hyderabad if required.
 - b. The geo-referenced imageries on the Latitude/Longitude grid of the GIS program and digitized and geo-referenced village and forest boundaries can be overlaid on the same if available.
 - c. Identification of cultivated areas through the Satellite imagery needs to be verified through ground-truthing using GPS/ Android Phone etc.
 - d. GPS surveys of all plots of lands of the wrongly rejected (including partially rejected) / pending claims, may be done with active participation of the village FRCs and Gram Sabhas.
 - e. Since the GPS survey is a simple tool and can be handled after simple training and demonstration, the States involve FRCs (or teams of local youth) in the survey work after providing necessary training and also providing GPS/ android devices.
 - f. After processing of the GPS data overlay plots of claimed lands (with unique plot numbers) on the imageries and prepare maps (with imagery) and lists with area of each plot provide them to the FRCs and Gram Sabhas.
 - g. The FRCs and Gram Sabhas can then consider the evidence from these maps and lists, together with other evidences, while deciding these claims, including determining the area to be approved.
 - h. For identification of CFR areas, State Government of Odisha has piloted a process in the Mayurbhanj District by using GIS based technology with the help of the following information:
 - Villages having Forest Land within its revenue boundary
 - Villages having no Forest Land within its revenue boundary
 - Villages located in fringe of Reserved Forests land coming under control of State Forest Department
 - Un-surveyed habitations may also be included

- i. Similar method may be adopted by other states based on various Government Records such as Census, 2011 Data, the State level Economic and Statistical surveys, Forest Survey of India etc.
- j. The State Governments can seek support from BISAG, Dept. of Science and Technology, Government of Gujarat and National Resource Centre, Tribal Research Institute, Bhubaneswar for training of officials , FRCs and community volunteers with respect to use of technology. States can also seek support from the State Remote Sensing Centres for this process.
- k. Since maps or geo referenced images can be procured easily and freely/ or at nominal cost, the State Governments need to proactively take up this activity and complete the process of assessment and review of rejected claims in light of the use of technology within a period of two months.

11. These issues with the approval of competent authority.

D. O No. 23011/18/2015-FRA, Dated 28th April 2015 from Shri Hrushikesh Panda, Secretary to Government of India, Ministry of Tribal Affairs addressed to Chief Secretaries of all States, Andaman and Nicobar Islands, Puducherry, Administrators Dadra & Nagar Haveli, Daman & Diu, Lakshadweep

Subject: Training and use of technology for proper implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Dear Colleague,

1. During the Review Meeting as part of PRAGATI on 22.4.2015, the Hon'ble Prime Minister has desired that State Governments need to proactively pursue progress in vesting and recognition of forest rights in a time bound manner under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA, 2006). Emphasis was also laid on training and motivation of officials, Gram Sabha Members and Secretaries of Panchayat so that the progress in vesting of rights in time bound manner may be pursued.
2. For this purpose, it is recommended that extensive training programmes are taken up for officials, Ward Members, Gram Sabha Members, Panchayat Secretaries, field officials of forest, tribal welfare and land administrative departments and Sub-Divisional Level Committee (SDLC) and District Level Committee (DLC) members etc. on priority basis. Training must be hands-on and enable people to make bona fide representations for getting forest rights. In many States, FRA, 2006 has been translated in local languages; wherever possible translation of the Act, Rules and guidelines may be made in tribal languages to create wide spread awareness. I would like to remind you that funds have been made available by this Ministry to conduct training and awareness programmes on FRA. States lacking resource persons to conduct the trainings for master trainers can approach the Tribal Research Institute, Bhubaneswar which has also been recognized as the National Resource Centre by this Ministry.
3. Geo-referenced database of vesting of rights and maps may also be created in order to ensure proper implementation of Forest Rights Act. Such data can also be accessed from BHUVAN portal of Department of Space and State Remote Sensing Agency. While some State Governments have taken steps towards this, similar steps need to be taken up by all the States. In particular, Bihar, Jharkhand and Uttar Pradesh are to identify the potential areas and extent of forest land where individual, Community and Community Forest Resource rights under Forest Rights Act can be vested.
4. However, while creating geo-referenced data base and maps of areas/potential areas under FRA, 2006, it needs to be kept in mind that it is one of the evidences to recognize the rights, but not the only evidence. The geo-referenced data should be corroborated with other sources of information as delineated under Rule 13 of the FR Rules so as to

rule out possibility of wrongful claims or denials. Geo-referenced has its limitations and there have been instances in the past where such data has been used for wrongful denials. For example, in case of shifting cultivation the satellite data will not show continuous agricultural operation in an area. Hence, this should be supplemented with ground verification so as to create the data base. The verification on ground would be important so as to identify genuine claimants and land under their occupation. This includes lands left fallow on account of shifting cultivation or for any other reason.

5. For identification of forest land under the Community Forest Resource rights and community purposes, geo referencing may, particularly, be useful. It would be important to map villages having forest land within its revenue boundary, villages located within and at the fringes of Reserve Forests, protected forests, National Parks and Sanctuaries or any other forest land as under State Forest Department. Further, all forest villages, old habitations, unsurveyed villages etc. have to be taken into account for delineation of the potential areas and creation of maps where FRA is likely to be implemented.
6. In Sixth Schedule areas of Assam, Meghalaya, in Mizoram, Nagaland, Tripura, Arunachal Pradesh, Himachal Pradesh, Hill areas of Manipur etc. most of the rights have already been vested. These recognized rights should be translated into individual and community record of rights as per the process laid down under FRA, 2006
7. We hope that these processes are completed within the current year.

Government of Odisha

Letter NO.17361/ TD-II-FRA-35/2013/SSD, Bhubaneswar, Dated, the, 22-05-2013, from Sri Santosh Sarangi, IAS, Commissioner-cum-Secretary to Government of Odisha, ST & SC Development Department addressed to the Registrar General, Hon'ble High Court of Orissa

Sub:- Judgement of the Hon'ble Supreme Court Of India to the writ petitions (Civil) No.180 of 2011 Odisha Mining Corporation Ltd.vrs. Ministry of Environment and Forest and Other dt.18.04.2013.

Sir,

I am directed to say that the Hon'ble Supreme Court has delivered the Judgement to the writ petition (Civil) No. 180 of 2011, Odisha Mining Corporation Ltd.vrs. Ministry of Environment and Forest & Other dt.18.04.2013.

Paragraph-62 of the said judgement states that *“the proceeding of the Gram Sabha shall be attended as an observer by a judicial officer of the rank of the District Judge nominated by the Chief Justice of the High Court of Orissa who shall sign the minutes of the proceeding, certifying that the proceedings of Gram Sabha took place independently and completely uninfluenced either by the Project proponents or the Central Government or the State Government.”*

Therefore, it is requested that the matter may kindly be placed before the Hon'ble Chief Justice for nominating a judicial officer of the rank of District Judge for the purpose at an early date.

This is for favour of kind information.

Letter NO. 17913/ TD-II-FRA-32/2013,SSD, Bhubaneswar Dated, 27-05-2013 from, Sri Santosh Sarangi, IAS, Commissioner-cum-Secretary to Government of Odisha, ST & SC Development Department addressed to the Principal Secretary to Govt of Odisha, F & E Deptt.

Sub:- Convening of Palli Sabha for compliance to the order of the Hon'ble Supreme Court in W.P. (c) No.180 of 2011 dt. 18.04.2013.

Sir,

I am directed to say that the Hon'ble Supreme Court of India vide order dt. 18.04.2013 in W.P. (c) No.180 of 2011 involving OMC vs. MOEF and others in the Bauxite Mining in Niyam Dangar proposed Mining Lease area has passed the final order.

Para 59 of the said judgement states that *“the Gram Sabha is also free to consider all the community, individual as well as cultural and religious claims, over & above the claims which have already been received from Rayagada & Kalahandi District. Any such fresh claims be filed before the Gram Sabha **within six weeks** from the date of this judgement. State Govt. as well as the Ministry of Tribal Affairs, Govt. of India would assist the Gram Sabha for settling of individual as well as community claims.”*

It is pertinent to say that six weeks from the date of judgement is going to be over on 30.05.2013. So during such a short period it is not possible to issue advertisement for inviting claims forms after observing all formalities.

Under the above circumstances, it is requested that for inviting claims over 12 hill slope villages (5 in Kalahandi, 7 in Rayagada) extension of another six weeks time may be requested & accordingly one time petitions may be filed in the Hon'ble Supreme Court at an early date.

Letter No. 18040/ TD – II(FRA)-35/2013, Bhubaneswar, Dated 27.05.2013 from Sri Santosh Sarangi, IAS, Commissioner-cum-Secretary to Government of Odisha, S.T. &S.C.Development Department addressed to the Collectors, Rayagada / Kalahandi.

Sub.: Convening of Palli Sabha for compliance to the order of the Hon’ble Supreme Court in W.P. (C) No – 180 of 2011 dt. 18.04.2013.

Sir,

I am directed to invite a reference to the subject cited above and to say that the Hon’ble Supreme Court in its interim order dt. 06.12.2012 had directed as follows:-

“Also before proceeding further in the matter, we wish to know the status of the proceedings under section 6 of the Act before the Gram Sabha for the villages on the slopes of Niyamgiri Hill that are likely to be affected by the proposed project and the Mining Operations on the Top of the Hill”.

Accordingly, State Govt. had filed an affidavit in the Hon’ble Supreme Court of India on 07.01.2013 regarding 12 nos. of villages / hamlets (5 nos. of Kalahandi district & 7 nos. of Rayagada district) which are located on the slope of the Niyam Dangar.

Hon’ble Supreme Court of India have delivered the judgment vide order dt. 18.04.2013 in WP (C) No – 180 of 2011 involving OMC Vrs. MoEF and Others with directions to the State Govt. of Odisha and MoTA to ensure placing of issues relating to individual and community rights and cultural-religious rights before the concerned Gramsabha. The detailed order of the Hon’ble Supreme Court can be downloaded by accessing <http://www.supremecourtfindia.nic.in>

For compliance of the order of the Hon’ble Supreme Court of India, you are advised to do the following:

- I) Invite fresh claims for community, individual as well as cultural and religious claims over and above the claims which have already been received from 12 Hill Slope villages / hamlets of Niyamgiri Hills i.e. Jarapa, Khambesi, Kesarpadi, Batudi, Serkapadi, Lakhapadar, Lamba of Rayagada District and Tadijhol, Palberi, Phuldumer, Ijrupa, Kunakadu villages of Kalahandi District. All claims are to be submitted by the claimants before the competent authority within a period of six weeks. Palli Sabha would take a decision on such claims within 3 months.
- II) The Palli Sabha shall also consider the question whether STs and Other TFDs like Dongaria Kandha, Kutia Kandha and others have got any religious right i.e. rights of worship over the Niyamgiri hills, known as NIMAGIRI located near Jundijali, which is the hill tip known as Niyam Raja. The Palli Sabha can also examine whether the proposed mining area Niyam Dangar, which is 10 KMs away from the peak, would in any way affect the abode of Niyam Raja.
An Odia version of the terms of reference vetted by Law Department has been enclosed for necessary reference. Please take steps to also translate this into local dialects followed in the concerned villages / hamlets and make wide circulation of the same.

- III) Further, a gist of some of the important instructions to implement the orders of Hon'ble Supreme Court, issued by Ministry of Tribal Affairs, Govt. of India vide their letter No. 23011/22/2010-FRA dtd. 02.05.2013 is enclosed for necessary action.
- IV) Copy of the Odia version regarding the roles and responsibilities of the Forest Rights Committees and the Gram Sabha / Palli Sabha relating to determination of rights is again enclosed herewith for ensuring wide circulation.

This may please be treated as **most urgent**.

3.11 Rejection of Claims

3.11 REJECTION

ABSTRACT

Sl. No.	Date	Particulars (India & States)	Issued by
		Govt. of India	
		REJECTION	
1	15.7.2010	Letter from MoTA to different States on rejection	MoTA, GoI
2	12.07.2014	Review of high rate of rejections of FRA claims in Left Wing Extremism (LWE) affected area- Issues regarding	MoTA, GoI
3	27.07.2015	Guidelines with regard to use of Geo referencing for assessment of potential areas and re-examination of rejected claims under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA).	MoTA, GoI
4	10.5.2015	Letter from MoTA to Govt. of Chhattisgarh	MoTA
5	12.5.2015	Letter from MoTA to Govt. of Jharkhand	MoTA
		Govt. of Odisha	
6	30.01.2014	Prompt disposal of pending claims and review of rejected claims filed under Forest Right Act & Rules	ST & SC Dev. Deptt., GoO
7	22.10.2014	Review of high rate of rejections of FRA claims in Left Wing Extremism affected area/ districts- major causes identified thereto and major actionable steps thereof for proper implementation/ review of FRA in LWE affected areas/ districts	ST & SC Dev. Deptt., GoO
8	15.11.2014	Review of high rate of rejections of FRA claims in Left Wing Extremism affected area/ districts- major causes identified thereto and major actionable steps thereof for proper implementation/ review of FRA in LWE affected areas/ districts- wanting of action taken report (ATR) thereof	ST & SC Dev. Deptt., GoO
9	1.12.2014	Review of high rate of rejections of FRA Claims in Left Wing Extremism affected Areas/ districts- major causes identified thereto and major actionable steps thereof for proper implementation/ review of FRA in LWA affected areas/district – wanting of action taken report (ATR) thereof.	ST & SC Dev. Deptt., GoO
10	15.12.2014	Review of high rate of rejections of FRA claims in Left Wing Extremism affected areas/districts – major causes identified Thereto and major actionable steps thereof for proper implementation/ review of FRA in I.WE affected areas/districts- Wanting of action taken report (ATR) thereof	ST & SC Dev. Deptt., GoO

Government of India

D.O No. 23011/24 2009 – FRA, dated 15th July 2010, from Gautum Buddha Mukherji, Secretary to the Government of India, Ministry of Tribal Affairs addressed to Chief Secretaries of Andhra Pradesh, Assam, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tripura, Uttar Pradesh and West Bengal

Dear

This Ministry has been noticing that **most States have been showing a higher percentage of rejection over acceptance of claims under the Forest Rights Act.** This fact has also been pointed out by various civil society organisations. Admittedly, while processing of claims is a quasi-judicial exercise, it becomes an item of worry when the rejections are of such high order.

2. When the Ministry of Tribal Affairs are asked the reasons for such high rejection by States, only generalized replies are possibly, based on the inputs received during conferences, workshops or from personal interactions. **A time has, therefore, come when not only should we attempt to find out the categories/reasons for rejection by the Gram Sabha and at the Sub Divisional level, but therefrom also find out the ways of improving the quality of our otherwise considered excellent performance in the distribution of rights across the country.**

3. Kindly, therefore, initiate an action immediately, on a statistically acceptable sampling basis, at the level of Gram Sabha and Sub Divisional level Committees for categorizing all rejections, with their numbers. We can suggest the following categories:

- a) Non-availability of written records;
- b) Non-availability of other criteria specified in Rule 13;
- c) Non-possession of forest land;
- d) Non-occupation on the date relevant to the Act;
- e) Multiple claimants;
- f) Doubtful tribal status.

You may like to add other criteria relevant to your State.

4. Kindly also include figures for other traditional forest dwellers (OTFD) separately from Scheduled Tribes in the above assessment.

5. The expenses for the survey can be met out of the grants under Article 275(1) proviso, as communicated to all States in early 2009. We hope that this exercise will be completed in three months and, thereafter, included in each monthly progress report.

F. No.23011/14/2008-FRA (Vol.II), Dated 12th September, 2014, from Roopak Chaudhuri, Deputy Secretary to the Government of India, Ministry of Tribal Affairs addressed to the Principal Secretaries (All LWE States)

Sub: Review of high rate of rejections of FRA claims in Left Wing Extremism (LWE) affected area- Issues regarding.

I am directed to say that the Cabinet Secretariat in their review group meeting held on 07.03.2014 delved on the issue of Left Wing Extremism (LWE) and also on the high rate of rejection of FRA claims in the LWE affected areas and had desired that the matter be looked into. Accordingly, a brief study was commissioned under the Ministry of Tribal Affairs (MoTA) - UNDP Project to study the reason of high rate of rejections in the LWE areas. The Ministry is now in receipt of the study report. Apart from the study this Ministry had also undertaken consultation on FRA implementation in the LWE affected State and the major causes identified on the issue from time to time are summarized as follow:-

- The rejection rate of Other Traditional Forest Dwellers are higher than the Forest dwelling SRs. This is due to wrong interpretation of provisions that the OTFDs had to prove 75 years of possession over the claimed land where as the OTFD have to prove 75 years of residence in that area.
- Appropriate procedures for filing were not followed due to lack of awareness at the Gram Sabha Level. Documentary evidences were not available with the claimants. The officials/frontline functionaries were unable to undertake wide awareness campaign and capacity building programmers on FRA due to security threat.
- Joint verification process has often not been appropriate due to lack of coordination between the Revenue and Forest department.
- Some other reasons such as non-possession of the land claimed, possession after 13th December 2005, claims on land recorded as revenue land and lack of evidence in support of the claim etc, hinder processing of claims. Also, duplicate claims lead to the inflated number of claims received and the number of rejections.
- The reason for rejection has not been communicated to the claimants and thus the claimants have been able to appeal.
- The community right and specially CFR claims in these areas have also been rejected and in many instances have been awarded to VSS/JFM committees which are not in accordance with the FRA procedures. In a number of instances it has been found that forest department has objected to CFR claims and resultantly it has been rejected.

2. In view of the above it is requested that appropriate steps be taken to review the wrongly rejected claims. Special measures may also please be taken for proper implementation of FRA in LWE affected areas. The major actionable steps towards this end may be on the following lines:-

- The State and the district Collectors are to take proactive steps to mobilize maximum number of claims from the LWE affected States and issue directives and guidelines for the front line staff to address the local issues and challenges for better implementation of FRA on the ground.
 - A kit of standardized stationery like copies of Act and Rules in local language, important circulars, forms, maps, sample verification report, land categories checklist should be made available at the Gram Sabha level. Similarly, a kit for implementing officials should also be provided.
 - The capacity of ground level functionaries of the Government needs to be augmented on important provisions and procedures of FRA.
 - A time bound programme of capacity building of FRC and PRI members on FRA and its implementation process should be taken up.
 - Regular monitoring through video conference by SLMC/ Chief Secretary with district collectors and sub-division level implementing officials would yield results, as in case of Odisha and Chhattisgarh.
 - State need to send data to MOTA clearly mentioning LWE district-wise status on rejection along with reasons for monitoring and review. This would help in reviewing the wrongly rejected claims.
 - For dali plots and Eksali leases in Maharashtra, the right need to be recognized as it is part of pre-existing rights of the communities.
 - Claims to JFM areas under CFR (form C) by VSS and grant of titles to VSS are not permissible under FRA.
 - The process should not just end with recognition of rights, the record of rights (ROR) have to be created in the revenue code of laws as well.
 - The reasons for rejection of claims must be communicated to the claimant in writing and claimant should be given a chance of appeal.
3. This Ministry may kindly be apprised of action taken in the matter.

[Letter No/23011/18/2015-FRA, dated 27.07.2015 from Roopak Chaudhuri, Deputy Secretary to the Government of India, Ministry of Tribal Affairs addressed to the Chief Secretaries of all State Governments](#)

Sub: Guidelines with regard to use of Geo referencing for assessment of potential areas and re-examination of rejected claims under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA)

1. As you may be aware, Ministry of Tribal Affairs has taken up implementation of FRA on a campaign mode. As part of PRAGATI, Hon'ble Prime Minister had reviewed the implementation of FRA Hon'ble Prime Minister has desired that Ministry of Tribal Affairs must take a lead in technological support to the States. It was also stated that States need to proactively pursue progress in vesting of rights in time bound manner. Geo referenced database.
2. Meanwhile, Ministry of Tribal Affairs have consulted technical resource agencies such as National Remote Sensing Centre, Bhaskaracharya Institute for Space Applications and Geo-Informatics (BISAG), Dept of Science and Technology, Govt. of Gujarat, State Governments and Tribal Research Institutes, for inputs on geo referencing on FRA.
3. This Ministry has received reports which suggest that large number of claims have been rejected due to lack of evidence or incomplete evidence. It may be noted that as per Rule 6 (b) of Forest Right Rules, district administration in general and the SDLC in particular are expected to assist the Gram Sabhas and the FRCs by providing forest and revenue maps. In this context geo-referenced maps may be generated and be provided to Gram Sabhas and FRCs. Accordingly claims rejected on the grounds of insufficient evidences or which prima-facie requires additional examination may be re-examined.
4. It is being reiterated that use of any technology, such as, satellite imagery should be used to supplement evidences tendered by a claimant for consideration of the claim and not to replace other evidences submitted by him in support of this claims as the only form of evidence. If rights have already been recognised in favour of a claimant, the same may not be reopened.
5. Through Geographical Information System (GIS), maps can be prepared for implementing agencies, regarding the eligible areas for the implementation of FRA where maps can be drawn at different administrative levels like nation, state, district, block and village. With the use of GIS, final maps can also be prepared for the village as mentioned under Rule 12 A (9) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 (as amended up to date) (FR Rules) with spatial information of physiographic feature of that village, area of the forest land in numerical value recognized under the FRA.
6. [xxxx](#)
7. [xxxx](#)

D. O No. 23011/11/18/2015, dated 10th August 2015 from Ashok Pai, Joint Secretary to Government of India, Ministry of Tribal Affairs addressed to Shri N. Aswal, Additional Chief Secretary, Government of Chhattisgarh

The Ministry of Tribal Affairs is in receipt of letter dated 27.7.2015 bearing No. F-10-11/2007/25-2 issued by Government of Chhattisgarh Tribal Welfare Department and addressed to all District Collectors of the State of Chhattisgarh (except Raipur, Durg and Bemetra)

5. xxx
6. xxx
7. xxx
8. xxx
9. The completion of the process of recognition and vesting of forest rights under the Forest Rights Act requires a number of steps be completed as laid down in the Forest Rights Rules including but not limited to communication of reasons for rejection to the claimant, exhaustion of appeals, creation of record of rights with clear demarcation of boundaries of the forest and in the map and so on. Rule 12 B (4) of the Forest Rights Rules also requires that the Secretary of the District Level Committee shall record the reasons where no community rights are recognized in a village.
10. xxx
11. xxx

D. O No. 23011/11/18/2015, dated 12th August 2015 from Ashok Pai, Joint Secretary to Government of India, Ministry of Tribal Affairs addressed to Shri Rajiv Gauba, Chief Secretary, Government of Jharkhand

Dear Rajiv,

It has come to the notice of Ministry of Tribal Affairs that some State Governments have prescribed unrealistic timelines for completion of recognition and vesting of rights as per Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

2. xxx
3. xxx
4. xxx
5. The completion of the process of recognition and vesting of forest rights under the Forest Rights Act requires a number of steps be completed as laid down in the Forest Rights Rules including but not limited to communication of reasons for rejection to the claimant, exhaustion of appeals, creation of record of rights with clear demarcation of boundaries of the forest and in the map and so on. Rule 12 B (4) of the Forest Rights Rules also requires that the Secretary of the District Level Committee shall record the reasons where no community rights are recognized in a village.
6. It is also important to draw attention to the fact that the vesting and recognition of rights under the said Act requires careful and critical consideration by the Gram Sabha
7. xxx

Government of Odisha

Letter No. 5347/ TD-II (FRA)-02/2014, SSD, Bhubaneswar, Dated. 30.01.2014 from Sri Sanjeeb Kumar Mishra, IAS, Commissioner-cum-Secretary of Govt of Odisha, ST & SC Development Department addressed to all Collectors.

Sub: Prompt disposal of pending claims and review of rejected claims filed under Forest Right Act & Rules.

On review of the status of implementation of Forest Right Act & Rules as on 31.12.2013 in respect of our State, it is ascertained that about 37893 numbers of individual claims and 5417 numbers of community claims (Form B -3355 & Form C - 2062) are pending at different statutory levels for further processing and finalisation. Moreover, it is observed that 138905 number of individual claims and 614 number of community claims have been rejected at different levels for various reasons but in most of these cases, it is observed that the provisions enumerated u/r 12 A (3) of the Forest Right Amendment Rules, 2012 have not been followed up.

You are well aware that the said rule stipulates that in case of modification or rejection of a claim by the Gram-sabha / SDLC / DLC, such decision shall be communicated in person to the claimant to enable him/her to prefer a petition to the appropriate forum. But in practice, most of these rejections seems to have not yet been communicated to the claimant concerned, thus bypassing the basic principal of natural justice and the mandate enshrined in the Amended Rules. District wise figures on pendency and rejection of claims are indicated at Annexure- 1 & 2 enclosed herewith for your reference and needful action.

In view of the above noted facts I would request you to look into the matter personally and initiated prompt action at your end which would facilitate the early disposal of pending claims as indicated in the attached statements and the Rule quoted above is followed up scrupulously in the larger interest of the claimants.

This may please be treated as Most Urgent.

Letter No. 29208/ STSCD-FRA-MEET-0004-2014,SSD,Bhubaneswar, Dated 22nd October, 2014 from Shri Surendra Kumar, IAS, Commissioner-cum-Secretary to Govt.of Odisha, ST & SC Development Department addressed to Collector, Jaipur/ Mayurbhanj/Nayagarh /Balangir/Deogarh/Keonjhar/ Sambalpur/Subarnapur/ Sundargarh/ Gajapati/ Ganjam/Kalahandi/Kandhamal/ Koraput/ Malkangiri/ Nuapara/ Nawarangpur/ Rayagada.

Sub:- Review of high rate of rejections of FRA claims in Left Wing Extremism affected area/ districts- major causes identified thereto and major actionable steps thereof for proper implementation/ review of FRA in LWE affected areas/ districts.

I am directed to enclose herewith the copy of letter bearing No.23011/14/2008-FRA (Vol.II) dt.12.09.2014 received from the Govt. of India in Ministry Of Tribal Affairs which is self-explanatory and inform that the Cabinet Secretariat while reviewing on 07.03.2014 have delved the issue of left wing extremism and also on the high rate of rejection of FRA claims in the LWE affected areas.

Subsequently, a study was commissioned under the Ministry of Tribal Affairs UNDP Project to Study the Reasons of High rate of Rejection in LWE affected areas.

Ministry of Tribal Affairs, consequently has communicated **the major causes identified towards high rate of rejection and major actionable steps towards reviewing the wrongly rejected claims for proper implementation of FRA in LWE affected areas/ districts.**

You are, therefore, sincerely requested to instruct the Nodal Officer concerned Along with other executing officials implementing Forest Right Laws in your district to follow up the instructions in its true spirit in the interest of reviewing the wrongly rejected claims for proper implementation of FRA in LWE affected areas/ districts.

This may please be attended on top priority basis and action taken report (ATR) thereof may please be furnished to this Department by 28.10.2014 positively for onward transmission to Govt. of India in the Ministry of Tribal Affairs and for kind appraisal of the Chief Secretary as Chairperson of the SLMC on FRA.

Letter No. 31078/ STSCD-FRA-MEET-0004-2014, SSD, Bhubaneswar, Dated 15-11-2014 from Shri Surendra Kumar, IAS, Commissioner-cum-Secretary to Govt. of Odisha, ST & SC Development Department addressed to Collector, Jaipur/ Nayagarh/ Deogarh/ Sambalpur/ Sundargarh/ Gajapati/ Ganjam/ Kandhamal/ Koraput/ Malkangiri/ Nuapara/ Nawarangpur.

Sub:- Review of high rate of rejections of FRA claims in Left Wing Extremism affected area/ districts- major causes identified thereto and major actionable steps thereof for proper implementation/ review of FRA in LWE affected areas/ districts- wanting of action taken report (ATR) thereof.

Ref:- this Deptt. Letter bearing No.29208/SSD dt.22.10.2014.

In inviting reference to this Deptt, letter bearing No.29208/SSD dt.22.10.2014 (copy enclosed for ready reference) I am to reiterate that the Cabinet Secretariat while reviewing on 07.03.2014 have delved the issue of left wing extremism and also on the high rate of rejection of FRA claims in the LWE affected areas and Ministry of Tribal Affairs consequently has communicated the major causes identified towards high rate of rejection and major actionable steps towards reviewing the wrongly rejected claims for proper implementation of FRA in LWE affected areas/ districts.

Thereafter, you were informed vide this Deptt. Letter under reference to instruct the Nodal Officer concerned along with other executing officials implementing Forest Right Laws in your district to follow up the instructions in its true spirit in the interest of reviewing the wrongly rejected claims for proper implementation of FRA in LWE affected areas/ district **and furnish action taken report (ATR) thereof to this Department by 28.10.2014 for onward transmission to Govt. of India in the Ministry of Tribal Affairs and for kind appraisal of the Chief Secretary as Chairperson of the SLMC on FRA.**

But it is a matter of regret that the action taken report (ATR) as called for therein has not been received in this Deptt. Till date for which onward transmission of the report to Govt. of India in Ministry of Tribal Affairs has been held up.

You are, therefore, requested to look into the matter on priority basis and arrange to furnish the required report by 22.11.2014 positively.

Letter No. 32405/STSCD-FRA-MEET-0004-2014 SSD, Bhubaneswar, Dated 1st December, 2014 from Shri R.Raghu Prasad, IFS, Director (ST)-cum-Addl. Secy. to Govt. of Odisha, ST & SC Development Department addressed to Collector, Jaipur/Nayagarh/Deogarh/Sambalpur/Gajapati/ Ganjam/Kandhamal/ Koraput/ Malkangiri/ Nuapara/ Nawarangpur.

Sub:- Review of high rate of rejections of FRA Claims in Left Wing Extremism affected Areas/ districts- major causes identified thereto and major actionable steps thereof for proper implementation/ review of FRA in LWA affected areas/district – wanting of action taken report (ATR) thereof.

Ref:- This Deptt. Letter bearing No.29208/SSD dt.22.10.2014 & No.31078/SSD dt.15.11.2014.

In inviting reference to this Deptt. letters cited on the subject I am directed to inform that action taken report (ATR) on major causes identified towards high rate of rejection and actionable steps taken for proper implementation of Forest Rights Act in LWE affected areas/ districts was called for by 22.11.2014.

But the required information has been received.

You are requested to look into the matter and submit the required report immediately.

Letter No.33414/ STSCD_FRA_MEET-0004-2014, SSD, Bhubaneswar Dated 15.12.2014 from Shri Surendra Kumar, IAS, Commissioner – cum -Secretary to Government of Odisha, ST & SC Development Department, addressed to the Collectors, Jajpur/ Sambalpur/Sundergarh/Gajapati/Kandhamal/Koraput/Nupara /Nawarangpur.

Sub: Review of high rate of rejections of FRA claims in Left Wing Extremism affected areas/districts – major causes identified Thereto and major actionable steps thereof for proper implementation/ review of FRA in I.WE affected areas/districts-Wanting of action taken report (ATR) thereof.

Ref: This Deptt. Letter baring No.29208/SSD .22.10.2014, No.31078/SSD dt.15.11.2014 & No.32405/SSD dt.01.12.2014

Sir/Madam,

In inviting reference to this Department letters cited above on the Subject, I am to inform that action taken report (ATR) on Major causes identified owards high rate of rejection and actionable steps taken for proper implementation of Forest Rights Act in LWE affected areas/districts was called for by 22.11.2014. But the required information has not been received in spite of reminders issued as cited above.

You are, requested to look into the matter and submit the required report immediately.

3.12 Unclassified

3.12 Unclassified

ABSTRACT

Sl. No.	Date	Particulars (India & States)	Issued by
		Govt. of India	
		CLARIFICATIONS	
1	18.9.90	Circular No. 13-1/90-FP – clarification	Ministry of Environment & Forests, GoI,
2	20.02.2008	Clarification on provisions in Section 3(1)(c) of Forest Rights Act vis-à-vis Section 4(m)(ii) of PESA Act.	MoTA, GoI
3	4.4.2010	Letter from Hon'ble Minister, Tribal Affairs, GoI to Hon'ble Chief Ministers of all States	MoTA, GoI
4	20.7.2010	Letter from MoTA to various States	MoTA, GoI
5	27.9.2010	Letter from Hon'ble Minister, Tribal Affairs, GoI to Hon'ble Chief Minister, Uttar Pradesh	MoTA, GoI
6	28.6.2013	Letter from MoTA to Government of Tamil Nadu on various issues of FRA	MoTA, GoI
7	10.4.2015	Letter from MoTA to State Governments on various issues of FRA	MoTA, GoI
8	28.4.2015	Training and use of technology for proper implementation of FRA	MoTA, GoI
9	10.8.2015	Letter from MoTA to Govt. of Chhattisgarh	MoTA, GoI
10	12.08.2015	Letter from MoTA to Govt. of Jharkhand	MoTA, GoI
		Government of Odisha	
11	27.06.2013	Proceedings of the 7th State Level Monitoring Committee (SLMC) meeting.	
12	30.04.2014 & 02.05.2014	Proceeding of the Review-cum-Orientation Training on Forest Right Act & Rules for PA, ITDAs, SOs of micro-projects, DWOS & ADWOs of Sub-collectors offices held on 30 th April & 2 nd May, 2014 at SCSTRTI, Bhubaneswar	
13	11.9.2014 (2 Letters)	Submission of action taken report on the proceeding of the last SLMC held on 27.06.2013 under the Chairmanship of the Chief Secretary, Odisha.	

Government of India

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.1 FP (2) Review of disputed claims over forest land, arising out of forest settlement

It has been brought to the notice of this Ministry that local inhabitants, living in and around forest areas, have preferred claims on certain notified forest lands contending that they were in occupation of such areas prior to the initiation of forest settlements and / or their rights were not enquired and / or commuted before notifying these lands as forests under respective laws. The claimants are requesting that title of such lands should be conferred on them. It is being felt that even bonafide claims are persistently overlooked causing widespread discontentment among the aggrieved persons. Such instances ultimately erode the credibility of the Forest Administration and sanctity of the forest laws, especially in the tracts inhabited by tribals.

2. Seized of its complexities, the issue regarding disputed claims over forest land was got critically examined by this Ministry through an inter-Ministerial Committee. The Committee, after prolonged deliberations and due consultations with representatives of some of the states, stressed the need to resolve such disputes with utmost urgency and suggested the feasible course of action to redress genuine grievances without jeopardizing protection of forests and forest land. Keeping in view the recommendations of the said committee and with due approval of the competent authority, the following course of action is suggested for amicably resolving disputed claims on forest land:

2.1 The States / UTs Administration should review the cases of disputed claims over forest land and identify the following three categories of claims;

- (a) Claims in respect of forest areas notified as 'deemed Reserved Forest' without observing the due process of settlement as provided in Forest Acts provided that these pertain to
 - (i) tribal areas or affect a whole cross section of rural poor in non-tribal areas; and
 - (ii) the claimants are in possession of the "disputed land".
- (b) Claims in tribal areas wherever there is *prima facie* evidence that the process of forest settlement has been vitiated by incomplete or incorrect records / maps or lack of information to the affected persons, as prescribed by law, provided that:
 - (i) Such forest settlement pertains to a period after 1947; and (ii) the claimants are in possession of the "disputed land".
 - (ii) Claims in tribal areas wherever the process of settlement is over but notification under Section 20 of the Indian Forest Act, 1927 (or corresponding section of the relevant Act) is yet to be issued, particularly where considerable delay has occurred in the issue of final notification under Section 20, provided that the claimants are still / in possession of 'disputed land'.

2.2 After identifying the above three categories of the claims, the State Government / UT Administration should get these enquired through a Committee which should consist of

atleast the concerned Divisional Forest Officer, Sub-divisional Officer (Revenue Department) and a representative of the Tribal Welfare Department. The Committee should determine genuineness of the claims after examining all available evidence to establish that:

- (i) in case of category 2.1 (a) the claimant was in possession of the disputed land when the notification declaring 'deemed reserved forests' was issued; and
 - (ii) in case of categories 2.1 (b) and 2.1 (c) the claimant was in possession of the disputed land when the notification showing Government intention to declare reserved forest was issued under Section 4 of the Indian Forest Act, 1927 (or corresponding section of the relevant Act) and his rights were not commuted or extinguished in accordance with due process of law.
- 2.3 In no case either the Government or the above Committee shall entertain any claim in which the claimant has not been in possession of the disputed land throughout.
- 2.4 Once the bonafides of the claims are established through proper enquiry, the State / UT Government may consider restoration of titles to the claimants. While deciding to restore titles to the claimants the following aspects should be duly considered:
- (i) As far as possible, restoration of claims should not result in honey-combing of forest land. In such cases possibility of exchange of land near periphery or else where (e.g. non-forest Government land) should be exhausted.
 - (ii) The land to be restored to the claimants should be properly demarcated on the ground with permanent boundary marks.
- 2.5 After the State Government / UT Administration has decided in principle to restore titles to the claimants proposals may be formulated suitably and submitted for seeking prior approval of this Ministry under the provision of the Forest (Conservation) Act, 1980, alongwith proposals for compensatory afforestation.
3. Progress of the action taken / proposed to be taken under the above guidelines may kindly be conveyed to the Ministry.

II.2. FF (3) Disputes regarding pattas / leases / grants involving forest land;

An inter-Ministerial Committee, which was set up by this Ministry to look into various aspects of *tribal* – forest – interface has pointed out that a number of cases of pattas / leases / grants involving forest land in one way or the other, have become *contentious* issues between different departments of the State / UT Govts. Such pattas / leases / grants are said should be examined by district level committees consisting of D.F.O., S.D.O., Revenue Department, a representative of Tribal Welfare Department. The disputes should be resolved at the district level wherever it is possible, or after obtaining suitable orders of the States / UT Govt. or the Government of India (if the provisions of the Forest (Conservation) Act, 1980 are attracted), as the case may be.

2.3 Leases of a period prior to 25.10.1980 which were granted to the Scheduled Tribes or to other rural poor for agro-forestry, tree plantation or alike but could not be renewed, despite the State / UT Government's intention to do so, on account of enactment of the Forest (Conservation) Act, 1980 should be examined expeditiously. Wherever the State / UT Government's desire to continue the leases proposals should be submitted to this Ministry, in the

prescribed manner, for seeking prior approval under the Forest (Conservation) Act, 1980. Pending final decision, that lessees should not be dispossessed of the land.

- 2a. In cases where Forest (Conservation) Act is attracted proposals for denotification of forest land should be accompanied by proposals for compensatory afforestation. This Ministry may be kept informed of the action taken / proposed to be taken in this connection.

II.3. FP (1) Review encroachments on forest lands.

Encroachment of forest land for cultivation and other purposes continues to be most pernicious practice endangering forest resources throughout the country. Statistical information compiled by the then Ministry of Agriculture during early 1980s revealed that nearly 7 lakh hectares of forest land was under encroachment in the country about a decade back. This is despite the fact that prior to 1980, a number of states had regularized such encroachments periodically and approximately, 43 lakh hectares of forest land was diverted for various purposes between 1951 and 1980, more than half of it for agriculture. The decisions of the State Govts. To regularize encroachments from time to time seem to have acted as strong inducement for further encroachments in forest areas and the problem remained as elusive as ever for want of effective and concerted drive against this evil practice.

The National Forest Policy 1988 has also observed the increasing trend in encroachments on forest land and stated that these should not be regularized. Implementation of this pronouncement has been examined by this Ministry keeping in view the constraints of various State Governments, some of whom have expressed that they stand committed to regularize encroachments of a period prior to 1980. The issue figured prominently in the Conference of the Forest Ministers held in May, 1989 and was later examined by an inter-Ministerial Committee, set up by this Ministry in consultation with the representatives of some of the States. Keeping in view the recommendations of the Forest Ministers' Conference and the Committee referred to above, and with due approval of the competent authority, the following measures are suggested for review of the old encroachments and effective implementation of the pronouncement made in this regard in the National Forest Policy, 1988.

- 2.1 All the cases of subsisting encroachments where the State Governments stand committed to regularise on account of past commitments may be submitted to this Ministry for seeking prior approval under the Forest (Conservation) Act, 1980. Such proposals should invariably conform to the criteria given below:-

1. Pre-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENT HAD TAKEN A DECISION BEFORE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980, TO REGULATE 'ELIGIBLE' CATEGORY OF ENCROACHMENTS.

- 1.1 Such cases are those where the State Governments had evolved certain eligibility criteria in accordance with local needs and conditions and had taken a decision to regularise such encroachments but could not implement their decision either wholly or partially before the enactment of the Forest (Conservation) Act on 25.10.80.
- 1.2 All such cases should be individually reviewed. For this purpose the State Govt. may appoint a joint team of the Revenue, Forest and Tribal Welfare Departments for this work and complete it as a time bound programme.

- 1.3 In cases where proposals are yet to be formulated, the final picture after taking into considerations all the stipulations specified here may be placed before the concerned Gram Sabha with a view to avoid disputes in future.
 - 1.4 All encroached lands proposed for regularization should be properly surveyed.
 - 1.5 Encroachments proposed to be regularized must have taken place before 25.10.80. This must be ascertained from the First Offence Report issued under the relevant Forest Act at that point of time.
 - 1.6 Encroachments must subsist on the field and the encroached land must be under continuous possession of the encroachers.
 - 1.7 The encroacher must be eligible to avail the benefits of regularization as per the eligibility criteria already fixed by the State.
 - 1.8 As far as possible scattered encroachments proposed to be regularized should be consolidated / relocated near the outer boundaries of the forests.
 - 1.9 The outer boundaries of the areas to be denotified for regularization of encroachments should be demarcated on the ground with permanent boundary marks.
 - 1.10 All the cases proposed to be regularized under this category should be covered in one proposal and it should give districtwise details.
 - 1.11 All cases of proposed regularization of encroachment should be accompanied by a proposal for compensatory afforestation as per existing guidelines.
 - 1.12 No agricultural practices should be allowed on certain specified slopes.
- 2. INELIGIBLE CATEGORY OF PRE-1980 ENCROACHMENTS WHERE THE STATE GOVERNMENTS HAD TAKEN A DECISION PRIOR TO THE ENACTMENT OF THE FOREST (CONSERVATION) ACT, 1980.**
- 2.1 Such cases should be treated at par with post 1980 encroachments and should not be regularized.
- 3. ENCROACHMENTS THAT TOOK PLACE AFTER 24.10.80.**
- 3.1 In no case encroachments which have taken place after 24.10.1980 should be regularized. Immediate action should be taken to evict the encroachers. The State / UTs Government may, however, provide alternate economic base to such persons by associating them collectively in afforestation activities in the manner suggested in this Ministry's letter No. 6-21/69-FI' dated 1.6.90, but such benefits should not extend to fresh encroachers.

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

11.4 FP (4) Elimination of intermediaries and payment of fair wages to the labourers on forestry works

Forestry works are one of the important sources of livelihood to the tribals and other rural poor living in and around forests. On a number of occasions in the past, especially in the deliberations of the Central Board of Forestry, the need to eliminate contractors and other intermediaries in forestry operations has been emphasized with a view to ensure fair wages to the labourers. The National Forest Policy, 1988 has again reiterated that contractors should be replaced by institutions such as tribal cooperatives, labour cooperatives Government cooperatives etc as early

as possible. A number of states / UTs have taken steps to excite these works through Government agencies viz. State Forest Departments, Forest Corporations. Nevertheless, at operational level certain aberrations still persist resulting in under payment of wages to the labourers. In order to protect tribals and other rural poor from and fair wages to them, the following guidelines may kindly be complied with

- a. no outside labour should be engaged in forestry operations where local tribal labour is adequately available;
- b. no contract should be entered into for imported labour;
- c. tribal cooperatives should be involved wherever labour is in short supply;
- d. representatives of Tribal Welfare Departments should sit in the Wage Board appointed by Forest Department for fixation of daily wages rates;
- e. norms for payment of wages for price works should be worked out by carrying out detailed work studies; and
- f. uniform wage rates should be prescribed for similar piece of works throughout the area by the State Government for all agencies; and
- g. for payment of wages for forestry operations the State Forest Department and Forest Corporations should comply with the provisions of the Minimum Wages Act

Action taken / proposed to be taken in this respect may kindly be intimated to this Ministry.

Joint Secretary,

Government of India

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 man-power 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. unauthorized 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 recognized 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:

- (iii) the villages are conferred heritable but inalienable rights;
- (iv) 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 recognized as Revenue Villages nor Forest Villages.

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

- (viii) In case of category (a) (i) above, wherever encroachments for agricultural cultivation are regularized, the house sites and homesteads, too, may be regularized 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.
- (ix) 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.
- (x) Scheduled Tribes and rural poor not covered under (i) and (ii) above should be resettled in non-forest Government land.
- (xi) All other unauthorized habitations must be evicted.
- (xii) 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.

II.5. FP(6) Payment of compensation for loss of life and property due to predation / depredation by wild animals.

It has been observed that loss of life and property by wild animals is not compensated adequately by the State Governments. Different States have different norms for compensating such losses. The maximum compensation for loss of human life varies from Rs. 2000 (Orissa) to Rs. 20,000 (Bihar). In the interest of inhabitants in and around forests as well as wild fauna it is essential that loss of human life is compensated in such a way that it is fully commensurate with the amount required to settle the dependents of a deceased earning member of the family. The loss of property including livestock also needs to be compensated fully.

2. This issue was discussed in detail by an inter-ministerial committee set up by this Ministry for this purpose. The recommendations of the Committee were considered and after obtaining approval of the competent authority it is suggested that the following norms may be accepted for the same being.
 - (a) Death or permanent incapacitation – Minimum of Rs.20,000/- Part amount of the compensation should be paid through long term deposit;).
 - (b) Grievous injury – one third of (a).
 - (c) Minor injury – cost of treatment.
 - (d) Loss of cattle – Market value (category-wise).
 - (e) Damage to house or crop or any other property – As per assessment of damage. Compensation should be ‘revised subsequently to bring it on par with the amount admissible to riot’ victims. The quantum of compensation may be reviewed periodically with a view to bring it on par with any better norm.
- 2.1 The compensation shall be governed under the regulations made under Wildlife (Protection) Act.

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

Letter No.23011/28/2008-SG-II, Dated 03.12.2008, from Sunil Garg, Under Secy. to the Govt. of India, Ministry of Tribal Affairs addressed to all State secretaries in charge of Tribal Welfare (All States/UTs, except J&K, Haryana, Nagaland and Lakshadweep)

Sub.: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 - clarification regarding.

Sir

1. As you are aware, Rule 11(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 provides that the Gram Sabha shall call for claims and authorize the Forest Right Committee to accept the claims in the form as provided in Annexure-I of these Rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of 3 months after recording the reasons thereof in writing.
2. As the Rules provide for three months time for filing the claims, a question has been raised as to whether the Gram Sabha can consider the clear cases immediately or the Gram Sabha has to consider the cases only after the expiry of three months period. It is clarified that the period of three months for filling the claims is to be reckoned from the date of calling of claims after the constitution of Forest Rights Committee. Gram Sabhas can consider undisputed cases provided the procedure as laid down in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 has been followed.

Letter No.23011/24/2009- FRA, dated 20th July 2010 from Shri GB Mukherji, Secretary to Government of India, Ministry of Tribal Affairs addressed to Chief Secretaries of Andhra Pradesh, Assam, Bihar, Chhatisgarh, Gujarat, Jharkhand, Karnataka, Kerela, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Tripura, Uttarakhand, Uttar Pradesh and West Bengal

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 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 State so far reveals that till 30th June, 2010 only 1.76 percent 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 & special campaign as is being undertaken in Odisha for generating wide-spread awareness about these functionalities 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 Sabha 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 Rules 6. These facilitators may be engaged with the involvement and approval of the District Collector. The assistance of local Tribal Research Institute (TRI) 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 road 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 focused for specific attention as provided in Rule 8(b). Hence, besides reiterating these provisions kindly also facilitate collection and processing of the claims from such groups an 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 moths – 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 period 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, out quantitative achievements will now be supported qualitatively.

Letter No 23011/31/2009 SG –II FRA, dated 27th September 2010 from Shri Kanti Lal Bhuria, Hon’ble Minister, Tribal Affairs, Government of India addressed to Kumari Mayawati, Hon’ble Chief Minister of Uttar Pradesh

Dear Kumari Mayawati Ji,

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

As per the information received from the State Government, out of 91,406 (91,089 individual and 317 community) claims filed under the Act in the State, as on 31.08.2010, the State Government has distributed 10,092 (10,084 individual and 8 community) title deeds, rejecting 67,788 claims, thereby achieving a disposal rate of 85.20%.

While the Ministry is appreciative of the progress made by the 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) **Pending claims:** it is observed that 13,526 claims are still pending for disposal in the State. These pending claims also need to be processed and title deeds distributed to the eligible claimants at the earliest in view of the Her Excellency the President of India announcement in her joint Address to Parliament earlier this year for early disposal of all the remaining claims under the Act.
- (ii) **Community claims:** The number of community claims filed in the State. Viz, 317 is very low. This could be due to inadequate publicity of the provisions of the Act. The State Government needs to launch a special campaign for inviting more community claims, if necessary, by enlisting the support of local resources. Institutions in the State. The Gram Sabhas in the State could also be given suitable instructions in this regard.
- (iii) **Rejection of claims:** The rejection of claims works out to 74.16% of the total claims filed, which is quite high. These rejections may be categorized in the manner indicated in former Secretary (TA)’s D.O. letter No. 23011/24/2009-FRA dated 15th July 2010, addressed to Chief Secretary, Uttar Pradesh and the Ministry apprised of the outcome of this exercise.
- (iv) **Convergence of Government Programmers:** Having distributed 10,092 title deeds, the State Government should now plan convergence of the existing welfare schemes and developmental initiatives for the uplift of the title holders, as is being emphasized by this Ministry from time to time and also stressed by 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, the highlights of which were conveyed to you vide my D.O Letter No. 23011/20/2009-FRA dated 19.11.2009 and again on 18.02.2010.

- (v) **Diversion of forest land for developmental activities:** The Ministry has not been informed of the progress made by the State Government towards provision of developmental facilities by diversion of forest land under Section 3(2) of the Act as per the procedure laid down by this Ministry on 18th May, 2009. The State Government needs to take action in this regard on priority.
- (vi) **Determination notification of critical wildlife habitats in the National Parks and Sanctuaries and recognition of forest rights in these areas:** As per the information available with the Ministry, the State Government has not yet constituted the State Level Committee for determination and notification of “Critical wildlife habitats” in the National Park and Sanctuaries under Section 2(b) of the Act. The State Government should take action in this regard on priority basis. Further, the State Government should also take measures for recognition and vesting of forest rights in these areas without waiting for determination and notification of critical wildlife habitats.
- (vii) **Conversion of forest villages into revenue villages:** The State Government has not apprised this Ministry of the action taken for conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests etc. into revenue villages under Section 3(1)(h) of the Act though the Ministry had requested the State Government as early as on 25th February, 2008 to initiate action in this regard. This issue also needs to be attended on priority.

3. I shall be grateful if you could issue necessary directions to the officers concerned with the implementation of the Act in the State for taking action on these issues, on priority. The Ministry may be apprised of the progress made at an early date.

D.O No. MTA & PR/VIP/18/88/2013, dated 4th April 2013 from Shri V. Kishore Chandra Deo, Hon'ble Minister Tribal Affairs & Panchayati Raj, Government of India addressed to Hon'ble Chief Ministers of all States

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:

- **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

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.

D.O No. 23011/26/2012 – FRA(pt.), dated 28th June 2013 from Smt. Vibha Puri Das, Secretary to Government of India addressed to Smt. Sheela Balakrishnan, Chief Secretary, Government of Tamil Nadu

Dear Sheela,

Kindly refer to my DO letter of even number dated 4.3.2013, enclosing a note on the issue of Madras High Courts stay in Writ Petition No.4533 of 2006 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 ½ 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	-	22,875 (22,724 individual and 151community)

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.

D.O No. 23011/12/2015-FRA, Dated 10th April 2015 from Manoj Pingua, Joint Secretary to Government of India, Ministry of Tribal Affairs addressed to Principal Secretary/Secretary/Commissioner, Tribal Welfare Department/Tribal Development Department/Social Welfare Department of all States

Dear

As you may be aware, the Scheduled Tribes and Other Traditional Forests Dwellers (Recognition of Forest Rights) Act, 2006 (in short FRA) has completed more than seven years of its operation. This Act aims at addressing the issue of historic injustice and to recognize and vest the pre-existing rights of the forest dwelling communities in India. This Ministry, which has been designated the nodal Ministry for administration of the above said Act, has been issuing directions and guidelines from time to time on various aspects of implementation of FRA to ensure its proper implementation in the country. It also closely monitors the implementation of the Act. Certain issues have come to the notice of this Ministry which need urgent attention. These are as under:

- a. Even though a substantial progress has been achieved by most of the States in recognizing and vesting of individual Forest Rights, a lot of work is yet to be done in case of recognition of Community Forest Resources Rights. Regular trainings and workshops are needed to be organized for the personnel involved in the process of implementation of the Act.
- b. A high rate of rejection of claims is another area of concern. Cause of every rejection needs to be communicated to the claimants. All the cases of rejection must be categorized on the basis of causes of rejection. There is a need to have a relook into the cases of doubtful rejection so that any rightful claim does not get denied.
- c. State Level Monitoring Committee (SLMC) meetings are not taking place regularly in many States and the Quarterly Progress Reports which are statutory requirement in the Act, are also not being furnished regularly, in the interest of proper implementation of the FRA, the SLMC meetings are required to be held regularly.
- d. The SLMC also needs to specifically ensure that Section 4(5) of FRA is implemented in letter and spirit and no forest dweller is evicted or removed till the process of FRA implementation is complete.
- e. It has also come to the notice of this Ministry that FRA is not being implemented in Sanctuaries and National Park and relocation is taking place without completion of FRA process. SLMC needs to ensure that Rights recognition process is completed in Sanctuaries and National parks specifically in Tiger Reserves as FRA is applicable in all forest areas. Also, Gram Sabha decision has to be taken into consideration prior to any relocation.

- f. It has also been observed that Ownership Rights to MFP are not recognized in these areas and MSP to MFP are not extended in protected areas. The State monopoly in MFP trade needs to be ended with the enactment of FRA.
 - g. Further, the Ministry also reiterates that the FRA process will only be completed when RoR (Record of Rights) has been created. The purpose of rights recognition is realized only when permanent record of rights are entered into record.
2. I shall be grateful if you take appropriate action on the above issues at the earliest to remove any impediments in implementation of FRA.

D.O No. 23011/18/2015-FRA, Dated 28th April 2015 from Shri Hrushikesh Panda, Secretary to Government of India, Ministry of Tribal Affairs addressed to Chief Secretaries all States/UTs

Subject: Training and use of technology for proper implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Dear Colleague,

1. During the Review Meeting as part of PRAGATI on 22.04.2015, the Hon'ble Prime Minister has desired that State Government need to protectively pursue progress in vesting and recognition of forest rights in a time bound manner under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA, 2006). Emphasis was also laid on training and motivation of officials, Gram Sabha Members and Secretaries of Panchayat so that the progress in vesting of rights in time bound manner may be pursued.
2. For this purpose, it is recommended that extensive training programmes are taken up for officials, Ward Members, Gram Sabha Members, Panchayat Secretaries, field officials of forest, tribal welfare and land administrative departments and Sub-divisional Level Committee (SDLC) and District Level Committee (DLC) members etc. on priority basis. Training must be hands on and enable people to make bona fide representations for getting forest rights. In many States, FRA, 2006 has been translated in local languages; wherever possible translation of the Act, Rules and guidelines may be made in tribal languages to create wide spread awareness. I would like to remind you that funds have been made available by this Ministry to conduct training and awareness programmes on FRA. States lacking resource persons to conduct the trainings for master trainers can approach the Tribal Research Institute, Bhubaneswar which has also been recognized as the National Resource Centre by this Ministry.
3. Geo-referenced database of vesting of rights and maps may also be created in order to ensure proper implementation of Forest Rights Act. Such data can also be accessed from BHUVAN portal of Department of Space and State Remote Sensing Agency. While some State Governments have taken steps towards these similar steps need to be taken up by all the State. In particular, Bihar, Jharkhand and Uttar Pradesh are to identify the potential areas and extent of forest land where individual. Community and Community Forest Resource rights under Forest Rights Act can be vested.
4. However, while creating geo-referenced data base and maps of areas/ potential areas under FRA, 2006, it needs to be kept in mind that it is one of the evidences to recognize

the rights, but not the only evidence. The geo-referenced data should be corroborated with other sources of information as delineated under Rule 13 of the FR Rules so as to rule out possibility of wrongful claims or denials, Geo-referenced data has its limitations and there have been instances in the past where such data has been used for wrongful denials. For example, in case of shifting cultivation, the satellite data will not show continuous agricultural operation in an area. Hence, this should be supplemented with ground verification so as to create the data base. The verification on ground would be important so as to identify genuine claimants and land under their occupation. This includes lands left fallow on account of shifting cultivation or for any other reason.

5. For identification of forest land under the Community Forest Resource rights and community purposes, geo referencing may particularly, be useful. It would be important to map villages having forest land within its revenue boundary, villages located within and at the fringes of reserve forests, protected forests, National Parks and Sanctuaries or any other forest land as under State Forest Department. Further, all forest villages, old habitations, unsurveyed villages etc have to be taken into account for delineation of the potential areas and creation of maps where FRA is likely to be implemented.
6. In Sixth Schedule areas of Assam Meghalaya, in Mizoram, Nagaland, Tripura, Arunachal Pradesh, Himachal Pradesh, Hill areas of Manipur etc. most of the rights have already been vested. These recognized rights should be translated into individual and community record of rights as per the process laid down under FRA, 2006.
7. We hope that these processes are completed within the current year.

D. O No. 23011/11/18/2015, dated 10th August 2015 from Ashok Pai, Joint Secretary to Government of India, Ministry of Tribal Affairs addressed to Shri N. Aswal, Additional Chief Secretary, Government of Chhattisgarh

The Ministry of Tribal Affairs is in receipt of letter dated 27.7.2015 bearing No. F-10-11/2007/25-2 issued by Government of Chhattisgarh, Tribal Welfare Department, and addressed to all the District Collectors of the State of Chhattisgarh (except Raipur, Durg, and Bemetra).

2. While this Ministry appreciates the efforts of the Government of Chhattisgarh towards taking pro active measures for implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 ('Forest Rights Act'), it is also important to draw attention to the fact that the vesting and recognition of forest rights under the said Act requires careful and critical consideration by the Gram Sabha, which is an authority under the Act for the said purpose.

3. This Ministry has examined the aforesaid letter dt. 27.7.2015, where the State government has directed that the issue of whether vesting and recognition of forest rights is complete be placed before the Gram Sabhas at the meetings scheduled for 15th August, 2015. As these meetings have multiple agenda items which are required to be passed, it is apprehended that the Gram Sabhas will not be able to consider the question of whether rights recognition process under Forest Rights Act is complete in the area under their jurisdiction with the requisite attention and application of mind.

4. It is also important to state that this consideration must be done by the Gram Sabhas as defined under Section 2(g) and read with Section 2(p) of the Forest Rights Act, that is, Gram Sabhas at the hamlet level or village level, and must also satisfy the requirements of Rule 4(2) of the Forest Rights Rules, with respect to participation and quorum. It is likely that the Gram Sabhas held on 15th August may not satisfy these statutory requirements under Forest Rights Act and Rules.

5. It would, therefore, be appropriate that the issue of whether vesting and recognition of forest rights is complete be considered at Gram Sabha meetings specially convened for this purpose, and not be bundled with multiple other agenda items on 15th August, 2015.

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6. The completion of the process of recognition and vesting of forest rights under the Forest Rights Act requires that a number of steps be completed as laid down in the Forest Rights Rules, including, but not limited to, communication of reasons for rejection to the claimant, exhaustion of appeals, creation of record of rights with clear demarcation of boundaries of the forest land in the map, and so on. Rule 12B(4) of the Forest Rights Rules also requires that the Secretary of the District Level Committee shall record the reasons where no community forest rights are recognised in a village.

7. It is emphasized that the request of the Ministry of Tribal Affairs through the video conference dated 14.7.2015 that the States implement the Forest Rights Act in a proactive and time-bound manner, should not be interpreted to mean bypassing the requirements of the said Act and Rules in any manner.

8. It is important that all these steps be carried out in conformity with letter and spirit of the law, and the Forest Rights Act implemented in haste may lead to perpetuation of the historical injustice against forest dwelling Scheduled Tribes and other traditional forest dwellers which the Act seeks to correct.

D. O No. 23011/11/18/2015, dated 12th August 2015 from Ashok Pai, Joint Secretary to Government of India, Ministry of Tribal Affairs addressed to Shri Rajiv Gauba, Chief Secretary, Government of Jharkhand

Dear Rajiv,

It has come to the notice of Ministry of Tribal Affairs that some State Governments have prescribed unrealistic timelines for completion of recognition and vesting of rights as per Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

2. Ministry of Tribal Affairs would like to reiterate that while it is important to be proactive and implement Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the due process as laid down in the Act and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 (as amended upto date) need to be complied with in letter and spirit.
3. With regard to the timelines as provided to the low performing States, as well as through Video conference, these are only indicative in nature and are meant to draw attention on expeditious implementation of the Forest Rights Act in a manner to undo historic injustice and also to undertake the various steps based on monitorable parameters.
4. The indicative timeline should not be misinterpreted as a suggestion to bypass the due process as laid down in the Forest Rights Act and the Rules and deny any rightful claimant of the forest rights under the Act.
5. The completion of the process of recognition and vesting of forest rights under the Forest Rights Act requires a number of steps be completed as laid down in the Forest Rights Rules including but not limited to communication of reasons for rejection to the claimant, exhaustion of appeals, creation of record of rights with clear demarcation of boundaries of the forest and in the map and so on. Rule 12 B (4) of the Forest Rights Rules also requires that the Secretary of the District Level Committee shall record the reasons where no community rights are recognized in a village.
6. It is also important to draw attention to the fact that the vesting and recognition of rights under the said Act requires careful and critical consideration by the Gram Sabha
7. Implementation of the Forest Rights Act in a haste may lead to perpetuation of the historic injustice against forest dwelling Scheduled Tribes and other traditional forest dwellers which the Act seeks to correct. Therefore the State Governments are requested to undertake realistic estimates of the pending work, including estimation of potential claimants/villages and potential areas for recognition and vesting of forest rights. On this basis a detailed plan should be drawn up including all the steps required for implementation of the Forest Rights Act and implement it in a time bound manner.

Government of Odisha

Proceedings Of the 7th State Level Monitoring Committee (SLMC) Meeting held under the Chairmanship Of Chief Secretary, Government of Odisha, on 27th June, 2013 At 11 A.M.

The 7th State Level Monitoring Committee (SLMC) meeting on implementation of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 & Amendment Rules, 2012 was held on 27.06.2013 at 11 A.M. in the 3rd floor Conference Hall of the Secretariat under the Chairmanship of the Chief Secretary, Odisha. The list of members present is enclosed at **Annexure 1**.

2. Initiating the discussion, the Chairperson desired to know the progress made so far in respect of the implementation of the Act and recently amended Rules. The progress made so far was placed before the Committee. While appreciating the encouraging progress made in settling 3,34,826 number of individual claims and 2983 number of Community Rights as on 31.05.2013, the Committee gave thrust on settlement of Community Forest Rights and Community Forest Resources Rights. Thereafter, detailed discussion was made agenda wise and the following decisions were taken:

3.I. The PCCE assured that detailed guideline for reflection Individual and Community Rights in the Permanent Register maintained by DFOs is under preparation and will be issued by end of July. It was suggested that the sketch map accompanying the titles should have a scale where the shape and size the land is properly reflected.

(Action:- F & E Deptt.)

II. Chairperson during his visit to some of the districts has observed that Forest Rights Titles are being given with GPS coordinates without a map. It was decided that it will be mandatory for the DLCs to ensure that the title issued to the Forest Rights holders should be accompanied with sketch map.

(Action:- All Collectors)

III. It was decided that the irrigation source created for Forest Rights Title Holders through convergence will be monitored separately. District Administration will take initiative to create different irrigation sources like Dug Well, Deep Bore Well, Farm Ponds and Check Dam as well as Diversion Weir etc., for the title holders. Panchayati Raj Department will issue suitable instruction in this regard to maximize creation of irrigation potential from NREGA.

(Action:- Panchayati Raj Deptt., All Collectors)

IV. It was stated that till the end of May, 2013, 42434 nos. of title holders out of 3,16,425 nos. have been covered under MGNREGA. Decision was taken to instruct all District Collectors to cover more Forest Rights title holders under MGNREGA.

(Action:- P.R Deptt./ All Collectors)

V. It was decided that the Collector, Kandhamal, Mayurbhanj and Sundergarh will be requested to prepare model land development plan i.e. requirement of man days for land

development pre one acre of land, so that will be adopted uniformly for land development works in all district.

(Action: - Panchayati Raj Deptt.)

VI. It was observed by the SLMC that in a number of districts the DLC meeting is not held regularly. It was decided that the PA, ITDAs and DWOs being the convenor of the DLCs will ensure to convene the DLCs regularly once in every two months.

(Action: - All PA, ITDAs & DWOs)

VII. The PCCF suggested that initiative taken in Kalahandi for facilitating development of Micro Plan by the Community in cases where Community Forest Resources Rights has been settled could be replicated elsewhere. PCCF was requested to share the template for development of Micro Plan as well as training module for the orientation of the community regarding preparation of Micro Plan.

(Action: - PCCF)

VIII. Dr.Prafulla Majhi, Hon'ble M.L.A, members of the committee raised the issue of settlement of Forest Right in favour of OTFDS in fraudulent manner in few pockets of Sundergarh District and it was revealed by the Commissioner-cum-Secretary ST & SC Development Department that the fact has been corroborated by the report of the Collector, where Collector has suggested for cancellation of five nos. of titles of OTFDs of village Darlipali. It was decided by the SLMC to cancel such titles immediately and initiate action against the erring official involved in the process. All the titles issued in favour of OTFDs in all the Districts of the State should be checked thoroughly and the process needs to be completed by the end of September, 2013. Wherever compensation amount has been received by such OTFDs on account of holding individual rights in Forest land through fraudulent means, action should be initiated for recovery of the land acquisition compensation.

(Action: - All Collectors including Sundergarh)

IX. Honorable Member Dr. Prafulla Majhi stated that awareness programme on Amended Rules, 2012 on FRA has not properly been done in all Gram Panchayats of Sundergarh District. It was decided that Collector, Sundergarh be requested for taking steps for generation of awareness in all the blocks including GPs within 31st July, 2013.

(Action:- Collectors, Sundergarh)

X. It was decided by the SLMC that efforts will be made to collect the claims applications under Community Forest Rights and Community Forest Resources Rights before 31st August,2013 and the finalization be made before 30th November,2013. The time line should be strictly adhered to.

(Action:- All Collectors)

Proceeding of the Review - cum - Orientation Training on Forest Right Act & Rules for PA-ITDAs, SOs of Micro-projects, DWOS & ADWOs of Sub-Collectors Offices, held under the chairmanship of the Commissioner - cum - Secretary to Govt., ST & SC Development Department, Government of Odisha on 30th April & 2nd May, 2014 at SCSTRTI, Bhubaneswar.

Review - cum - orientation training on Forest Right Acts & Rules for the District & Sub-divisional level Nodal Officers were held on 30.04.2014 & 02.05.2014 at about 10 AM in the conference hall of the SCSTRTI, Bhubaneswar under the chairmanship of the Commissioner cum Secretary to Govt., ST & SC Development Department, and Odisha. Director (ST)- cum-Additional Secretary, Asst, Director(Hqr.), Director cum Secretary, Vasundhara and his team members along with the training personnel of SCSTRTI were present. The list of participants is attached herewith as **Annexure-1**.

Director (ST) cum Additional Secretary while welcoming the participants stated that due to the hard-work put on by most of the field level officers during the past years, our state Odisha has been on the forefront and is acknowledged as one of the pioneering States in the implementation of the FRA. But during the last and half year, especially after the amendment of Forest Right Rules, 2012, the progress has not been encouraging as it was during the corresponding period of previous years. However, he urged upon the participating officers to be utmost sincere & pro-active in discharging their duties and particularly in generating awareness among the stakeholders, which would help the right holders to avail sustainable livelihood opportunity. He also shared the findings of the field experience which were observed during the visit of the Secretary, Ministry of Tribal Affairs (MoTA) to Nuapada and Keonjhar district during the month of February, 2014. Secretary, MoTA had expressed his deep concern over the improper maintenance of records at the Gram Panchayat Level and so, he laid stress upon its improper maintenance & up-keeping of the basic records and registers at the FRC, Panchayat, Sub-Divisional and District Level as per the instructions conveyed vide letter no.6061/SSD dt.04.02.2009 of the Chief Secretary, Odisha addressed to all Collectors.

Commissioner – cum - Secretary, ST & SC Development, Department, Odisha in his address highlighted the basic intention in promulgating the Forest Right Act & the historical injustice perpetuated upon the forest dwelling and dependent people, majority of whom are yet to be benefitted from the various developmental schemes of the Government. He urged upon the participating officers for prompt & effective implementation of the various provisions of the Act & Rules, which would help in providing an important asset i.e., forest land to the genuine & eligible occupier and help them in availing benefits from the plethora of schemes intended to support the income generating activities of those deprived lot.

He laid stress upon the disposal of pending claims at various levels which accounts for 15% of the claims received and further advised to review & communicate the reasons of rejected claims, which accounts for 24% of the total claims received, so that the affected claimants can know the reasons and file appeal with the next statutory authorities. Nodal officers were specially requested to analyze the demography and socio-economic data of the last census in order to identify the potential right holders and chalk out plan accordingly to address the inequality issue. He appreciated the process & procedure adopted by the Mayurbhanj district for determination and recognition of Forest Rights and urged for accomplishment of the recognition

process within the time bound period keeping in view the overall spirit of the law. However, after thorough discussion on the agenda points, which were shown through power point presentation, following decisions were taken.

1. Review of Pending & rejected claims: Two statements indicating district wise position of pending and rejected individual claims as on 31.03.2014 is attached here in as **Annexure-2-A & B** for the information of all concerned officials.

- a) Prompt steps needs to be initiated for quick disposal of all the pending & rejected claims latest by 15.07.2014. Formats for intimation of reasons of rejected & modified claims to the claimants have been depicted in Odia Language along with the format for filing appeals (**Annexure 3 series**), which may be used with modifications, if any required.
- b) District level Nodal Officers are to work out the tentative forest right claims to be recognized under the act by analyzing information from the 2001 Census Report and other basic data available at their level. In this connection, the format attached as Annexure-1 vide DO letter no.118/SSD dt.02.01.2010 of the Principal Secretary to Govt., SSD addressed to all Collectors may please be referred to.
- c) To facilitate proper hearing of the appeals to be received in response to the intimations/notices served by the Sub-Division & District level committees, a particular date/day may be fixed and suitable officers may be authorized for hearing of such appeals at the primary stage, who will eventually report/suggest to the concerned authorities for final decision.

2. Conversion of forest villages into revenue villages: A statement indicating tentative figures of forest village/un-surveyed village/settlements inside the forestland, which has been generated from 2001 census Report, is attached herein as Annexure-4 for the information of all concerned officials. Besides it, a CD containing list of such settlements, district-wise along with the evidences required for CR & CFR claims was also supplied to all the District level Nodal Officers (PA, ITDA and DWOs) in course of the training.

During the review - cum - orientation programme, the provisions under the Act and Amendment Rules, 2012 along with the guideline issued by MoTA on 8th November 2013(No. 23011/33/2010/FRA) was extensively discussed and following action points emerged:

- a) District Administration shall hold a special drive for identification of forest village/un-surveyed villages/old habitations and settlements located inside the forestland as suggested in the guideline issued by Govt. of India in MoTA on 8th November 2013 bearing letter no. 23011/33/2010/FRA. The exercise of such identification ought to be completed by 15.07.2014.
- b) District Administration shall organize training- cum - orientation programme for the GP Secretaries (EOs), Sarpanch and Ward members for identification and facilitation of claims as required under the Amendment Rules, 2012 and guideline issued by Ministry of Tribal Affairs, Government of India.
- c) District Administration may engage local NGOs for identification and wide propagation of the provisions laid under the act, amendment Rules and Guideline issued by MoTA on this matter for generating public awareness.

- d) ST and SC Development Department as well as Revenue & D.M Department were requested to consider issuing a comprehensive guideline containing the provisions under the existing State laws for conversion of forest village/un-surveyed village/old habitations and settlements located inside the forestland.
- e) District Administration shall fix a date for holding special Gram Sabha for adoption of resolution for conversion of forest village/settlement etc, into revenue village as required under clause (a) of Rule, 2(A).

3. Correction of Titles and incorporation in RoRs:

- a) District Administration shall devise a process for incorporation of all titles issued under the Act in the RoR and certified copy of RoR shall be issued to all the claimants incorporating maps as mentioned under the Clauses (h) and (i) of rule 8 and (9) of rule 12A.
- b) ST and SC Development Department as well as Revenue & D.M Department may consider simplifying the procedure outlined in the guideline dt.29.10.2010 issued by the R & DM Department, Odisha for correction and incorporation of forest right in RoR as per the Amendment Rules, 2012 and letter issued by MoTA on 3rd March 2014. The software installed in the BHULEKHA website of the R & DM Department, Odisha needs some updation to incorporate the details of the titles distributed under the FRA & Rules.

4. Formats prescribed for MPR & QPR on FRA & its submission in time:

- a) District Nodal Officers on FRA shall furnish all required information to the SSD Department by 1st each succeeding month & 3rd of each succeeding quarter respectively as per the formats shares by the Ministry of Tribal Affairs, Govt. of India through the following email ids [stscdev@gmail.com/](mailto:stscdev@gmail.com) [stscdev@rediffmail.com/](mailto:stscdev@rediffmail.com) rajdbbsr@gmail.com.
- b) The break-up of the data in respect of Col.11 of MPR (Details of Claims filed by the STs & OTFDs at the Gram-sabha level) are not being mentioned by most of the district. It should be ensured hence forth by the Nodal Officers concerned.

5. Filing & settlement of Community Right (CR) & Community Forest Resources Right (CFR):

- a) Immediate steps needs to be initiated for filing and recognition of Community Forest Rights and right over the Community Forest Resources by organizing sensitization workshops at the block and GP level.
- b) District Administration shall identify the villages/hamlets those have been traditionally protecting and conserving any community forest resources and take proactive steps for recognition of their rights as per sub-rule(3) of Rule 12B.
- c) District Administration may like to engage the local NGOs for providing handholding support to Gram Sabha for filing of Community Forest Right and right over the Community Forest Resources claims.
- d) District Administration may like to follow the procedure adopted by the district Administration of Mayurbhanj for receiving and recognition of claims.
- e) Recognition of CR and CFR needs to be completed by the end of October 2014 including Individual Forest Right.

6. Recognition of Rights of OTFDs:

- a) The Forest Right Law does not make any distinction between the rights of Forest Dwelling Scheduled Tribe and other Traditional Forest Dwellers. So, the DLC shall take steps for ensuring settlement of the forest right of OTFD accordingly.
- b) District Administration may please refer the FAQ forwarded by this department vide letter no.990/TD-II(FRA)/47/2012, dated 10.01.2013, which has been clarified by the Ministry of Tribal Affairs, Govt. of India.
- c) District Administration shall follow the direction issued by MoTA on 8th November 2013 bearing letter no. 23011/33/2010-FRA for conversion of all forest villages, old habitations, unsurveyed villages etc. into revenue villages primarily inhabited by OTFDs.

7. Progress on convergence:

- a) Steps may be taken for convergence of all programmes and schemes to all title/right holders.
- b) DLC/SDLC shall review the progress of various convergence programmes and schemes and its impact on livelihood & ecological security aspect.
- c) District Nodal Officers should not implement any programmes or schemes which might negate the purpose of recognition of forest rights.(i.e. Plantation in land recognized under the self or community cultivation)

Other Issues:

- a) ST and SC Department shall issue a guideline for re-issuance of title, if lost by the holders.
- b) DLC/SDLC shall ensure that the land recognized under the FRA is actually under the possession of the concerned title holder.
- c) Non-recognition of IFR in reserve forest: It was decided that the ST & SC Development Department may consider issuing a request letter to the State Forest & Environment Department for providing all required support to the Gram Sabha during determination of the nature and extent of rights, especially in reserved forest. In this connection UOI no.952/PSSD dt.26.12.2009 of the Principal Secretary to Govt., ST & SC Development Department to the Principal Secretary to Govt., Forest & Environment Department, Odisha & Memo no 2779/F dt.25.02.2010 of the PCCF, Odisha addressed to all DFOs(T/WL) may please be referred to.
- d) All the Nodal Officers were impressed upon to furnish the requirement of fund, if any, by 12th of May, 2014 positively as per the format communicated to them vide letter no. 11576/SSD dt.05.04.2014 of the SSD Department.
- e) All the Nodal Officers were requested to ensure that the grievance petitions received from different person/ organization. Officers and authorities & communicated to them by the Department for action & report Should be Dealt on priority and its ATR needs to be furnished at the earliest possible, list of such pending petitions is available in the website of the Department and may please be referred to for compliance.
- f) Data concerning receipt, processed & distribution of titles under the FRA ought to be uploaded & up-dated in the concerned slots of FRA website by the DLC & SDLC concerned for better monitoring & updation.

ANNEXURE-1(A)**DISTRICT-WISE STATUS OF PENDING CLAIMS**

Sl. No	District	At FRC	At GS	At SDLC	At DLC	TOTAL
1	2	3	4	5	6	7
1	Balasore	0	0	0	0	0
2	Bhadrak	0	27	0	0	27
3	Cuttack	503	16	0	0	519
4	Jagatsinghpur	0	0	0	0	0
5	Jaipur	2324	0	14	0	2338
6	Kendrapara	811	0	0	5	816
7	Khurda	328	36	0	0	364
8	Nayagarh	0	70	34	0	104
9	Puri	0	0	0	0	0
10	Angul	517	0	107	0	624
11	Bargarh	25	65	2	86	178
12	Bolangir	0	0	1970	0	1970
13	Deogarh	0	1385	6223	150	7758
14	Dhenkanal	0	1342	0	71	1413
15	Jharsuguda	0	384	0	0	384
16	Sambalpur	1435	2792	13	253	4493
17	Subarnapur	0	0	38	0	38
18	Boudh	257	0	0	0	257
19	Ganjam	1022	401	0	0	1423
20	Kalahandhi	0	486	8	0	494
21	Nawapara	10320	5574	0	3	15897
22	Mayurbhanj	425	3074	0	0	3499
23	Keonjhar	0	0	0	0	0
24	Sundergarh	5527	12211	7046	461	25245
25	Gajapati	0	0	0	0	0
26	Kandhamal	0	0	91	161	252
27	Koraput	6531	114	0	0	6645
28	malkangiri	20	1020	1167	0	2207
29	Nawarangpur	3	0	0	0	3
30	Rayagada	328	2700	1206	0	4234
TOTAL		30376	31697	17919	1190	81182

ANNEXURE-1(B)**DISTRICT-WISE STATUS OF REJECTION**

Sl. No	District	At GS	At SDLC	At DLC	TOTAL
1	2	3	4	5	6
1	Balasore	1810	0	0	1810
2	Bhadrak	0	0	0	0
3	Cuttack	2833	889	0	3722
4	Jagatsinghpur	0	1	0	1
5	Jaipur	4320	10	0	4330
6	Kendrapara	1	2923	0	2924
7	Khurda	1180	0	0	1180
8	Nayagarh	0	104	65	169
9	Puri	0	1169	0	1169
10	Angul	518	3963	629	5116
11	Bargarh	857	1378	0	2235
12	Bolangir	0	1636	0	1636
13	Deogarh	0	1385	0	1385
14	Dhenkanal	0	5078	0	5078
15	Jharsuguda	0	6850	0	6850
16	Sambalpur	9920	4419	0	14339
17	Subarnapur	0	1166	5	1171
18	Boudh	0	1465	120	1585
19	Ganjam	3197	2761	0	5958
20	Kalahandhi	0	655	2	657
21	Nawapara	0	1000	0	1000
22	Mayurbhanj	9159	5176	0	14335
23	Keonjhar	12462	2835	0	15297
24	Sundergarh	8427	4618	0	13045
25	Gajapati	16585	0	0	16585
26	Kandhamal	1921	507	9	2437
27	Koraput	0	0	0	0
28	malkangiri	971	1584	482	3037
29	Nawarangpur	0	174	0	174
30	Rayagada	0	7694	0	7694
TOTAL		74161	59446	1312	134919

ANNEXURE-2**List of Forest/Un-Surveyed Villages in the Districts of Odisha.**

Sl. No	District	Total Villages			“0” Area
		In-habited	Un-inhabited	Total	
1	2	3	4	5	6
1	Mayurbhanj	3748	202	3950	24
2	Keonjhar	2069	53	2122	38
3	Sundergarh	1723	41	1764	46
4	Gajapati	1512	107	1619	54
5	Kandhamal	2379	167	2546	35
6	Koraput	1922	106	2028	83
7	malkangiri	979	66	1045	112
8	Nawarangpur	876	25	901	9
9	Rayagada	2467	200	2667	34
10	Balasore	2587	365	2952	1
11	Cuttack	1856	94	1950	0
12	Jagatsinghpur	1227	61	1288	1
13	Khurda	1358	193	1551	5
14	Nayagarh	1531	164	1695	3
15	Puri	1591	124	1715	1
16	Angul	1661	249	1910	9
17	Bargarh	1180	27	1207	7
18	Bolangir	1764	30	1794	1
19	Deogarh	711	164	875	12
20	Dhenkanal	1076	139	1215	17
21	Jharsuguda	346	2	384	5
22	Sambalpur	1238	84	1322	7
23	Boudh	1115	71	1186	9
24	Ganjam	2812	400	3212	53
25	Kalahandi	2097	139	2236	16
26	Nawapara	684	15	663	7

D.O. No: 26664 and 26678/TD-II-FRA-26/14/CSSD, Dated: 11-09-2014, from Surendra Kumar, IAS, Commissioner-cum-Secretary to Government of Odisha, ST & SC Development Department addressed to Smt. Mansi Nimbhal, Collector Gajapati, Odisha and to Smt. Yamini Sarangi, Collector, Koraput, Odisha

Sub:- Submission of action taken report on the proceeding of the last SLMC held on 27.06.2013 under the chairmanship of the Chief Secretary, Odisha.

I am to invite reference to this Department letter No.22835/SSD, dt.04.07.2013 in which proceedings of the 7th SLMC on implementation of STs & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 held on 27.06.2013 was sent for necessary compliance. I am constrained to inform that though eight reminders on the subject have been sent but no compliances/ ATR from majority of the Districts have been received in this department till date.

In the meantime SLMC has been reconstituted vide this department Notification No.23427/SSD dt.12.08.2014 with copies to all Collectors vide memo No.23433/SSD dt.12.08.2014. Chief Secretary, Odisha as Chair Person of the Committee is very likely to take a review meeting on implementation as per the provisions enshrined u/r 10 (C) of the Amended Rules, 2012.

Since the action taken report on the proceeding of the last SLMC meeting is to be discussed threadbare so as to reach a consensus imparting further instructions for better implementation of the flagship scheme of the Govt. in the high interest of STs & Other Traditional Forest Dwellers of the State, I would therefore, request you to personally look into the matter and take sincere steps to furnish the action taken report on the proceedings of the last SMLC meeting and particularly the points indicated at point no. 3(ii), 3(vi) & 3(x) of the proceedings dt.04.07.2013 (copy enclosed for ready reference) in the formats attached herein as Annexure-1 by 15.09.2014 positively.

Annexure-1

Formats for submission of information on the proceedings of the 7th SMLC on FRA

Point no.3 (ii): Issue of Title with sketch maps.

Name of the District	Total numbers of titles distributed		Title given with maps		Titles given without maps		Timeline for providing maps to all the balance title holders.
	Individual	Community	Ind.	Com.	Ind.	Com.	
1	2	3	4	5	6	7	8

Point no.3 (vi): Holding of DLC meeting on FRA regularly.

Name of the District	Dates on which DLC meeting on FRA have been held during the year 2013 & 2014	Important decisions taken in the side meetings.
1	2	3

Point no. 3 (x) Completion of recognition of CRs & CFRRs within a time bound period:

Month wise Claims collected		Month wise claims processed		month wise claims approved		Balance claims to be finalised by (indicate month)	
CR	CFRR	CR	CFR	CR	CFRR	CR	CFRR

APPENDIX

Letter from Sadhana Rout, Joint Secretary, Ministry of Tribal Affairs, Government of India

Subject: Implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 – guidelines regarding.

Sir,

As you are aware, the historic legislation “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act” had been enacted in 2006 with the objective of remedying the historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers of the country. However, even after lapse of more than four years of its implementation, the Ministry has observed that the flow of intended benefits of this welfare legislation to the eligible forest dwellers remains constrained.

2. The Ministry has noticed several problems which are impeding the implementation of the Act in its letter and spirit, such as, convening of Gram Sabha meetings at the panchayat level in some cases, resulting in exclusion of smaller habitations not formally part of any village; non-recognition of unhindered absolute rights over the minor forest produce (MFP) to forest dwellers; imposition of several restrictions, like transit permit for transportation of MFPs, levy of fees, charges, royalties on sale of MFPs; exclusion of certain types of MFPs, in contravention of the definition of MFP given in the Act; continuance of monopoly in the trade of MFP, especially in the case of high value MFP, such as, *tendu patta* by the Forest Corporations in many States; non-recognition of other community rights, such as, nistar rights, conversion of all forest villages, old habitations, un-surveyed villages and other villages in forests, whether recorded, notified or not into revenue villages; non-recognition of community forest resource rights relating to protection, regeneration or conservation, or management of any community forest resources under Section 3(1)(i) of the Act; etc.

3. In many areas, the tribal people and other forest dwellers are reportedly facing harassment and threats of eviction from forest lands and forced relocation or displacement from the areas proposed for development projects without settlement of their rights or due compliance with safeguards in violation of the provisions of the Act. The Claims are being rejected in some States as the officials are insisting on certain types of evidences and the new technology, such as, satellite imagery, is being used as the only form of evidence for consideration of a claim, instead of using the same to supplement the evidences submitted by the claimants in support of their claims. Inadequate public awareness about the provisions of the Act, particularly the provisions relating to the filing of petitions by the persons aggrieved by the decisions of the authorities prescribed under the Act, inadequate training of the implementing officials etc. are also some of the reasons for non-implementation of the Act in its letter and spirit.

4. In order to address the above concerns and to ensure effective implementation of the Act, the Ministry has undertaken an exercise to arrive at certain provisions / steps which will facilitate robust implementation of the Act. Certain guidelines as indicated in **Annexure** to this letter are accordingly being issued for compliance by all the State Governments / UT Administrations. It is requested that the enclosed guidelines may be brought to the notice of all the implementing agencies in your State / UT for strict compliance. This Ministry may also kindly be apprised of the action taken for operationalising these guidelines at an early date.

5. This issues with the approval of competent authority.

Yours faithfully,

(Sadhana Rout)

Joint Secretary to the Government of India
