

गणेश बुद्ध मुखर्जी
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सचिव, भारत सरकार
Secretary to the Government of India
जनजातीय कार्य मंत्रालय
Ministry of Tribal Affairs
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पिछला	अगला
भारत सरकार	

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

4th May, 2010.

Dear

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

(a) The first point that has been highlighted is that the community claims are not being given due importance, and, therefore, community rights for the collection of Tendu Patta, bamboo and other MFP items are being deliberately avoided. In some areas, traditional grazing rights are also stopped. Your officers will recall that in the very first conference of State Tribal Welfare Secretaries held on 18th/19th February, 2008, we had highlighted the need for concentrating on community rights first over individual rights.

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(b) Another point raised has been the dominant role played by forest department, rather than the nodal department of the State, in deciding on claims and imposing arbitrary conditions for claim verification. Instances of insisting on pre 1980 encroachment cases as proof of occupations were quoted widely. In some cases, it was alleged that forest department is using the IFM structure to take up plantation over lands on which claims under the Forest Rights Act are available. Specifically, it was alleged that

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

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

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

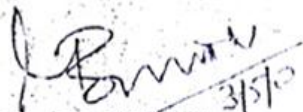
Yours sincerely,

Sd/-

(G.B. Mukherji)

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

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


(G.B. Mukherji) 3/5/10
Secretary (TA)