

अरुण झा, मा.प्र.से.
सचिव

Arun Jha, I.A.S.
Secretary



सत्यमेव जयते

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Government of India
जनजातीय कार्य मंत्रालय
Ministry of Tribal Affairs
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D.O. No.23011/18/2015-FRA

Dated: 20th August, 2015

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.

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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.

With regards,

Yours sincerely,

Sd/-
(Arun Jha)

Shri Gokul Chandra Pati
Chief Secretary,
Government of Odisha,
Bhubaneswar -753001.

Copy for information to:

- (i) ✓ The Commissioner-cum-Secretary, ST & SC Development Deptt., Govt. of Odisha, Bhubaneswar-753001.
- (ii) The Commissioner-cum-Director, ST & SC Development Deptt., Govt. of Odisha, Bhubaneswar-753001.

Arun Jha
21/8/15
(Arun Jha)