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भारत सरकार
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जनजातीय कार्य मंत्रालय
Ministry of Tribal Affairs
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D.O.No.23011/33/2010-FRA

11th September, 2013.

Dear Shri

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

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

3. In response to the above reference, this Ministry had inter-alia informed the Ministry of Environment & Forests vide OM of even number dated 31.7.2012, that after operationalization of the FRA, 2006 with effect from 31.12.2007, the order dated 13.11.2000 of the Apex Court in I.A.No.2 in WP No.337/1995 would be guided by the provisions of Section 3(1)(h) of the FRA, 2006 and that the right

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

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

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

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