

No. 23011/33/2011-FRA  
Government of India  
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi  
Dated: 24.6.2013

To,

Shri Manoj Kumar Pingua  
Secretary,  
ST & SC Development Department,  
Government of Chhattisgarh,  
Mantralaya,  
Mahandi Bhawan,  
New Raipur

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

Sir,

I am directed to refer to Government of Chhattisgarh's letter No.F-10-11/2007/ TWD/25-2 dated 22.5.2013 on the above subject and to say that so far as the issues relating to conversion of forest villages into revenue villages under FRA, 2006, raised in the State Government's earlier letter dated 30.11.2012 are concerned, it may be stated that, on a reference from the Ministry of Environment & Forests on the same issue, this Ministry has already clarified the position to that Ministry as under:

- The order dated 13.11.2000 of the Apex Court in I.A.No.2 in WP No.337/1995, was passed prior to the enactment of the Forest Rights Act, 2006 on 29.12.2006 and the said order was passed in the context of the provisions of the Forest (Conservation) Act, 1980 which put some restriction on the dereservation of the forest or use of forest land for non-forest purposes.
- After enactment of the FRA, 2006 on 29.12.2006 and its operationalisation w.e.f. 31.12.2007 the "rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forests, whether recorded notified or not into revenue villages" has now become one of forest rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest land recognized under the said Act. Therefore, after operationalisation of the FRA, 2006 w.e.f. 31.12.2007, the order passed by the Apex Court 13.11.2000 in I.A.No.2 in WP No.337/1995 in so far as it pertains to recognition and vesting of the right relating to conversion of forest villages into revenue villages in the forest dwelling Scheduled Tribes and other traditional forest dwellers will be guided by the provisions of Section 3(1)(h) of the FRA, 2006.
- The Forest Rights Act, 2006 and the Forest Rights Rules, 2008 framed there-under already lay down a procedure for adjudicating claims for various forest rights specified in Section 3 of the Act at three levels, namely, by the Gram Sabha, SDLC and DLC.

- The "Claim Form for Rights to Forest Land", appended to the Forest Rights Rules, 2008, also provides for the forest dwelling Scheduled Tribes and other traditional forest dwellers to file their claims for recognition of the forest right relating to conversion of forest villages into revenue villages under Section 3(1)(h) of the Act.
- Therefore, the forest right relating to conversion of forest villages into revenue villages under Section 3(1)(h) of the Act has also to be adjudicated by the Gram Sabha, SDLC and the DLC as per the laid down procedure, like any other forest right specified in Section 3 of the Act.
- Since the Forest Rights Act, 2006 envisages recognition and vesting of forest rights over forest land only, de-reservation of the forest land would not be necessary for recognizing the right relating to conversion of forest village into revenue villages under Section 3(1)(h) of the Act.

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

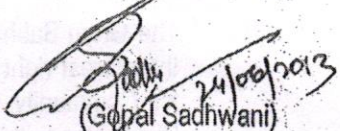
- Section 3(1) of the FRA, 2006 specifies the forest rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands recognized under the Act. Section 3(1)(e) of the Act recognizes the rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities.
- The term "habitat" for purposes of the Act is defined in Section 2(h) of the Act to include the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes.
- The Forest Rights Act, 2006 and the Forest Rights Rules, 2008 framed thereunder already lay down a procedure for adjudicating claims for various forest rights specified in Section 3(1) of the Act, including the forest rights relating to community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities, at three levels, namely, by the Gram Sabha, SDLC and DLC.
- The "Claim Form for Community Rights", appended to the Forest Rights Rules, 2008, also provides for the forest dwelling Scheduled Tribes and other traditional forest dwellers (including members of primitive tribal groups in pre-agricultural communities) to file their claims for recognition of the forest right specified in Section 3(1)(e) of the Act, i.e., the right relating to community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities.
- As per the procedure for filing, determination and verification of claims by the Gram Sabha, laid down in Rule 11 of the Forest Rights Rules, 2008, the Gram Sabha is required to call for the claims and authorize the Forest Rights Committees to accept the claims in the Forms as provided in those Rules and such claims are to be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in Rule 13.

- Rule 12 of the Forest Rights Rules, 2008 further provides that the Forest Rights Committee, after due intimation to the concerned claimant and the Forest Department, shall inter-alia ensure that the claim for member of a primitive tribal group or pre-agricultural community for determination of their rights to habitat, which may either be through their community or traditional community institution are verified when such communities or representatives are present. The Forest Rights Communities is also required to prepare a map delineating the area of each claims indicating recognizable landmarks and then record its findings on the claim and present the same to the Gram Sabha for its consideration.
  - The Forest Rights Rules, 2008, as amended vide Forest Rights Amendment Rules, 2012 dated 6.9.2012, provide that the District Level Committee shall, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups as described in clause (e) of sub-section (l) of section 3 amongst the forest dwellers, ensure that all Particularly Vulnerable Tribal Groups receive habitat rights, in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups and their claims for habitat rights are filed before the concerned Gram Sabhas, wherever necessary by recognizing floating nature of their Gram Sabhas.
5. In view of the above provisions of the Act and the Rules framed thereunder, the following steps are required to be followed for recognition of the habitat rights of the PVTGs:
- (i) The Gram Sabha should call for the claims from the members of the PVTGs for recognition of their forest right relating to community tenures and habitation, in the prescribed "Claim Form for Community Rights" appended to Forest Rights Rules, 2008, and authorize the Forest Rights Committees to accept the said claims.
  - (ii) The members of the PVTGs should submit their claim for recognition of their forest right relating to community tenures and habitation, in the prescribed form, to the Forest Rights Committee within a period of three months from the date of such calling of claims by the Gram Sabha along with atleast two of the evidences mentioned in Rule 13 of the Forest Rights Rules, 2006, as amended on 6.9.2012.
  - (iii) On receipt of the claims from the members of the PVTGs, the Forest Right Committee should, after due intimation to the concerned claimants and the Forest Department, should verify the claim from the member of the PTGs for determination of their rights to habitat either through their community or traditional community institution when such communities or their representatives are present.
  - (iv) After verification of the claim from the members of the PVTGs, the Forest Rights Committee should prepare a map delineating the area of each claim indicating recognizable landmarks, then record its findings on the claim and present the same to the Gram Sabha for its consideration.
  - (v) On receipt of the claim from the FRC along with its findings, the Gram Sabha, the SDLC and the DLC may adjudicate on the claim as per the usual procedure followed by them for adjudicating claims for recognition of other rights.

- (vi) Before finally arriving its decision on the record of forest rights prepared by the SDLC in respect of the claims filed by the PVTGs for recognition of their rights relating to community tenure of habitat and habitation, the DLC should ensure that all PVTGs receive their habitat rights, in consultation with the concerned traditional institutions of PVTGs and their claims for habitat rights had been filed before the concerned Gram Sabhas, wherever necessary by recognizing floating nature of their Gram Sabhas.
- (vii) As regards the components of the "habitat" of the PVTGs, it may be mentioned that as per the definition of "habitat" given in the Oxford dictionary, the habitat means the natural home or environment of an animal, plant, or other organism. Therefore, for purposes of the FRA, 2006, the habitat of the primitive tribal groups and the pre-agricultural communities could be defined to mean the area comprising the customary natural home or environment of the PVTGs and pre-agricultural communities in the reserved forests and protected forests, as may be claimed by their community or traditional community institution.

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

Yours faithfully,

  
(Gopal Sadhwani)

Deputy Secretary to the Government of India  
Tel: 23383965