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Secretary



भारत सरकार  
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D.O. No. 23011/18/2014-FRA

Dated the 12<sup>th</sup> November 2014

Dear Shri Ashok Lavasa,

1. I am constrained to bring to your notice that in the recent past an impression is being created that the administration / implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (in short FRA) is hindering or delaying the clearance of the developmental projects. You would be aware that this legislation is for recognition and vesting of pre-existing rights of forest dwelling STs and Other Traditional Forest Dwellers. Unlike the laws concerning Forests and Environment which are regulatory in nature, this legislation marks a paradigm shift in the substantive law on forest rights.

2. Though, the Ministry of Tribal Affairs is the nodal Ministry of FRA, the Ministry of Environment, Forest and Climate Change (MoEFCC) has been issuing advisories to the States relaxing certain provisions of FRA. In particular, your attention is invited to the letter no. No. 11-09/98-FC (pt.) dated 28.10.2014. The basic legal point is that the Forest Rights Act does not provide any scope to any executive agency for any kind of relaxation of the applicability of the Forest Rights Act. Now, even if the arguments raised in the above letter were factually correct, the correctness of the facts have to be decided by the process prescribed under FRA. This responsibility is not vested on the MoEFCC, nor on the Ministry of Tribal Affairs.

3. Coming to the desirability of relaxation of FRA, we do not have any evidence that the FRA process delays projects. The FRA process is initiated in the village and culminates with the District Committee headed by the District Collector. If there has been any study or evidence on delay of projects because of the processes of FRA, this should be brought to the notice of the Ministry of Tribal Affairs. Clearance on major projects takes a long time because of the layers through which such clearance is given. If a project is being proposed to be taken up in a particular area, the process of FRA can be undergone expeditiously and much before the other clearances are obtained. Certainly the FRA process will take less time than clearances under Forest (Conservation) Act, 1980 and acquisition of land under LARR Act. This will be the legal way of addressing the problem if any, arising out of FRA process. The letter of 28<sup>th</sup>



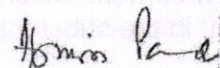
October 2014 takes a short-cut, which can derail the projects completely. We had flagged the issue in our letter dated October 21, 2014 which appears to have been given a short shrift by MoEFCC. We would like to flag one issue. The FRA is the law of the land. The above letter violates the law. A project which takes a short cut can be stopped by just one village which has land classified as 'forest' under various laws and court orders.

4. There is another aspect of the FRA. A genuine grievance of forest dwellers including tribal people relates to the forest officials and forest laws. The Forest (Conservation) Act, 1980 exasperated the sense of deprivation of such people. With the implementation of FRA, this grievance has been ameliorated in many places. However, the recent announcements including the letter of MoEFCC dated 28.10.2014 have conveyed a message that the Government is against fair implementation of the Forest Rights Act. This is not desirable in the interest of peace and governance in forest areas.

5. In view of this, we request you to cause the withdrawal of circular dated 28.10.2014.

With regards,

Yours sincerely,



(Hrusikesh Panda)

**Shri Ashok Lavasa**  
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