

F.No.23011/01/2015-FRA
Government of India
Ministry of Tribal Affairs
(FRA Division)

August Kranti Bhawan, Bhikaji Cama Place,
R.K. Puram, New Delhi-110066

Dated: 5th January, 2015

To,

Dr. S. S. Garbyal
Director General of Forests & Special Secretary,
Ministry of Environment, Forests and Climate Change,
Indira Paryavaran Bhavan,
Jor Bagh Road, Aliganj,
New Delhi -110003

Subject: Suggestion for amendment to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Ref: DO No.1-23/2014-WL dated 29th December, 2014

This refers to the D.O. letter of Director General of Forest and Special Secretary, MoEF & CC suggesting amendment to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereafter 'Forest Rights Act, 2006') such that the concept of Critical Wildlife Habitat be done away with, in order to make Section 4(2) of the said Act applicable in all cases involving modification of forest rights.

2. In the above context, I am directed to inform you that the Ministry has examined the issue in the context of the Forest Rights Act, 2006, and in particular Section 2(b) and Section 4 which provide the definition of Critical Wildlife Habitat and recognition of and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers respectively and also Section 38-V of the Wildlife (Protection) Act, 1972 (as amended in 2006).

3. I have been further directed to bring to the notice of the Ministry of Environment, Forests & Climate Change that whereas the Forest Rights Act, 2006 is a substantive law which vests and recognizes rights enabling correction of historical injustice, the Wildlife Protection Act, 1972 is a regulatory law. Even so, both these provisions are harmonious in so far as they provide the law and procedure for creation of inviolate areas, in the nature of Critical Wildlife Habitats and Critical Tiger Habitats respectively, in exceptional circumstances for the purpose of wildlife conservation and protection in situations where co-existence between such wildlife and the people living there is not possible. It is needless to emphasize that "conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of forests", which is a matter of national and international concern today, is an important objective of the Forest Rights Act, 2006 as

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stated in its Preamble. The provisions of the Forest Rights Act, 2006 which envisage creation of Critical Wildlife Habitats for protection of animal species which are specially endangered are in consonance with the aforesaid objective, and, as such, these provisions do not require any amendment or modification.

4. I have also been directed to bring to your notice a few implementation issues that have come to the attention of this Ministry during various field visits and review of the Forest Rights Act, 2006, as follows:

(1) Section 3 sub-section (2) of the Forest Rights Act, 2006 provides for facilities to be provided by the Government which are primarily basic infrastructural facilities for the benefit of forest dwelling communities. Despite the express nature of this provision, State Forest Department officials are not allowing creation of these facilities in forest areas, and particularly sanctuaries, proposed sanctuaries etc.

(2) Similarly, no rights under Forest Rights Act, 2006 are being settled in National Parks and Wildlife Sanctuaries despite the unambiguous application of the said Act [Section 4(1), 4(2) read with Section 2(a) of Forest Rights Act, 2006] in these areas. Indeed, there are reports that forest dwelling Scheduled Tribes and other traditional forest dwellers are being evicted from these areas without due compensation and contrary to the provisions of the Forest Rights Act, despite the fact that they are traditional forest dwellers eligible for recognition of forest rights. The forest right to ownership, use, collection and transportation of minor forest produce [Section 3(1)(c) of FRA] in national parks and wildlife sanctuaries is not being permitted, which is contrary to the Forest Rights Act.

(3) People are being evicted from sanctuaries etc. without compensation in some cases and this had been pointed out earlier by this Ministry. The alternative option of use of CAMPA funds for displaced tribals and forest dwellers, in those situations where their relocation is essential, is not being done.

5. In view of the circumstances explained above, addressing the issues referred to at Para 4 will address the issues relating to welfare of Scheduled Tribes and other traditional forest dwellers.

Yours faithfully,



(Roopak Chaudhuri)
Deputy Secretary to the Government of India
Tel. No.26182428