

No.17014/02/2007-PC & V (VOL.VI) (Pt.)
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi-110015
February 20, 2008

To

The Principal Secretary
Department of STs & SCs Welfare
Government of Madhya Pradesh
Mantralaya, Vallabh Bhawan
Bhopal -462 004

[Atten: Shri O.P. Rawat]

Sub: Clarification on provisions in Section 3(1)(c) of Forest Rights Act vis-à-vis Section 4(m)(ii) of PESA Act.

Sir,

I am directed to refer to your D.O. letter No.F.9-1/2007/5/25 dated 8.1.2008 regarding certain points raised by you in the context of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and to clarify the position regarding conflict between Section 3(1) (c) of the Forest Rights Act, 2006 and Section 4 (m)(ii) of PESA Act, 1996 as follows:

The Forest Rights Act seeks to vest traditional rights. PESA begins by emphasizing that customary and traditional practices must override (Section 4 (a), Section 4(d) of the PESA Act entrusts the Gram Sabhas to safeguard and preserve the traditions and customs. The Forest Rights Act only emphasizes/ addresses these concepts, and is, therefore, not in violation of the subsequent ownership concept under section 4(m)(ii) of the PESA Act, 1996.

2. The above clarification issues in consultation with the Ministry of Panchayati Raj.

Yours faithfully,

Sd/-
(A.K. Srivastava)
Director

Copy to Ministry of Panchayati Raj (Shri B.K. Sinha, Addl. Secretary), Sardar Patel Bhawan.
Parliament Street, New Delhi.

Copy for information to:
All Secretaries of Tribal Development / Welfare Department of other States / UTs.

Sd/-
(A.K. Srivastava)
Director