

**Government of India
Ministry of Tribal Affairs
FRA Division**

Gate No. 2, Ground Floor
Jeevan Tara Building, Sansad Marg
Patel Chowk, New Delhi- 110001
Dated: 02.07.2025

OFFICE MEMORANDUM

Subject: Regarding Clarification for Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

The undersigned is directed to refer to previous communications (as enclosed) regarding Clarification for Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

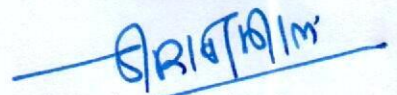
2. Regarding the diversion of forest land under Section 3(2) of the FRA, 2006, the Ministry of Tribal Affairs offers the following clarification:

- Section 3(2) of the FRA states that, notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central government shall provide for diversion of Forest land for facilities including (e.g., schools, health centers, roads, etc.) for forest-dwelling Scheduled Tribes (FDSTs) and Other Traditional Forest Dwellers (OTFDs), on forest land. The clearance of such a developmental project shall be subject to the condition that the Gram Sabha recommends the same.
- It is pertinent to state that Section 3(2) serves as facilitation of several constitutional rights and safeguards, particularly in tandem with provisions stipulated in fundamental rights of Indian Constitution (Article 14, Article 19(1)(e), Article 21) the rights of Scheduled Tribes (STs) as per Fifth and Sixth Schedule of the Indian Constitution and Directive Principles of State Policy (Article 39(a), Article 46). Further, several judgments as ruled by the Hon'ble Supreme Court in Cases like Samatha v. State of Andhra Pradesh (1997) 8 SCC 191 and T.N. Godavarman Thirumulpad v. Union of India (1997) 2 SCC 267 that have emphasized balancing tribal rights, development, and environmental protection, reinforcing the conceptual need for constitutional safeguards as stipulated in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

- Section 3(2) of FRA has to be read in conjunction with Section 2(e), Section 4(1), 4(2), 4(7) of FRA which mandates that the forest rights “shall be vested” in FDSTs and OTFDs except those specified in the Act in order to correct historical injustices, which is the core objective of FRA as stated in its preamble. Further, it is pertinent to note that Section 4(2) of the Forest Rights Act (FRA), 2006, specifies the permissible self limitation . It introduces the self-limiting exception, to the modification or resettlement of forest rights for wildlife conservation, only in **Critical** Wildlife Habitat. And the rights are otherwise legally safeguarded for forest-dwelling Scheduled Tribes and other traditional forest dwellers.
- Furthermore, with reference to the communication dated 18 May 2009, the Ministry of Tribal Affairs, in collaboration with the Ministry of Environment, Forests, and Climate Change, outlined the procedure (enclosed) for considering and approving proposals concerning the diversion of forest land for non-forest purposes under Section 3(2). The stipulated procedure provides a clear understanding that the Wildlife clearance is not automatically mandated.
- The vesting of rights under Section 3(2) read with Section 2(e), Section 4(1), 4(2), 4(7) and Section 13, is thus a statutory entitlement deriving its mandate from the constitution’s Fundamental Rights, not contingent on external clearances unless explicitly stated in the FRA.

This issues with the approval of the competent authority.

Encl: As above



(Arvind Mudgal)

Under Secretary to Govt. of India

Tel: 011-23340466

Email: arvind.mudgal70@nic.in

To,

Deputy Inspector General of Forest (Wildlife)
Ministry of Environment, Forest and Climate Change

F. No. 23011/23/2017 -FRA
 Government of India
 Ministry of Tribal Affairs
 FRA Division

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Jeewan Tara Building, 1st Floor,
 Patel Chowk, Parliament Street,
 New Delhi-110001
 Dated: - 19-05-2020

Subject: - Clarification under scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

This Ministry has received email from one Shri Harish Elasear seeking clarification as to whether Forest Rights Act Section 3(2) is applicable or not in National Parks and Wildlife Sanctuaries and if it is applicable, wildlife clearance is required or not for development work i.e. for providing basic facilities under Section 3(2) of the Forest Rights Act in the National Park and Wildlife Sanctuaries. A copy each of the emails dated 02.03.2020 16:31 and 29.04.2020 1:38:35 PM is enclosed for perusal in this regard.

2. This Ministry has also received an email from one Malekudiya Sanga dakshina Kannada seeking the similar clarification as stated above. The said email has also been forwarded to MoEFCC by Shri Kannade. A copy of the email dated 17.01.2020 19:49 as also dated 25.01.2020 is enclosed for perusal in this regard.

3. MoEFCC is requested to furnish comments on the above said emails so as to enable this Ministry to send requisite clarification to the email senders.

Uttam Kumar
 (Uttam Kumar Kar)

Under Secretary to the Government of India.
 Tel. 23340473
 Email: uttam.kk@nic.in

To
 Shri. Soumitra Dasgupta
 Inspector General of Forest, (Wild Life Division),
 Ministry of Environment, Forest and Climate Change,
 6th Floor, Vayu Wing
 Indira Paryavaran Bhawan
 Jor Bagh Road, New Delhi-110003
 Email. igfwl-mef@nic.in

Copy to: -
malekudiyasanghadk@gmail.com,
haritejasamse@gmail.com

Email

uttam.kk@nic.in

Fwd: Clarification under scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**From :** Manoj Bapna <manojb12365-cgo@gov.in>

Wed, Jan 29, 2020 10:23 AM

1 attachment

Subject : Fwd: Clarification under scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**To :** Uttam Kumar Kar Under Secretary <uttam.kk@nic.in>, Heera Kataria <heera.kataria@nic.in>, Heera Kataria <heera.kataria@gov.in>, priya tayde <priya.tayde@undp.org>, Priyanka Kumari <priyanka.k91@gov.in>**Cc :** Jaideep Singh Kochher <jaideep.kochher60@nic.in>

For necessary action please.

From: "Malekudiya sanga dakshina kannada" <malekudiyasanghadk@gmail.com>**To:** "arjun munda" <arjun.munda@gov.in>, secy-tribal@nic.in, manojb12365-cgo@gov.in, "uttam kk" <uttam.kk@nic.in>**Sent:** Wednesday, January 29, 2020 10:05:45 AM**Subject:** Fwd: Clarification under scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

----- Forwarded message -----

From: **Malekudiya sanga dakshina kannada** <malekudiyasanghadk@gmail.com>

Date: Mon, 27 Jan 2020, 14:46

Subject: Fwd: Clarification under scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

To: <arjun.munda@gmail.com>, <arjun.munda@gov.in>

17
12

----- Forwarded message -----

From: **Malekudiya sanga dakshina kannada**

<malekudiyasanghadk@gmail.com>

Date: Sat, 25 Jan 2020, 19:51

Subject: Fwd: Clarification under scheduled Tribes and Other
Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

To: <mefcc@gov.in>, <secy-moef@nic.in>

----- Forwarded message -----

From: **Malekudiya sanga dakshina kannada**

<malekudiyasanghadk@gmail.com>

Date: Fri, 17 Jan 2020, 19:49

Subject: Clarification under scheduled Tribes and Other Traditional
Forest Dwellers (Recognition of Forest Rights) Act, 2006

To: <arjun.munda@gov.in>, <arjun.munda@gmail.com>,
<mpdkannada@gmail.com>, <officehpoonja@gmail.com>

Cc: <agmu196@ifs.nic.in>, <singh.ak2862@nic.in>,
<banshi.bd61@gov.in>, <banshi61@gmail.com>, <secy-tribal@nic.in>,
<lakshmi.narayan@nic.in>

Respected Sir,

Although the Forest Rights Act provides for the provision of basic facilities to the tribal community residing within National Park, reserve forest, Wildlife park for that reason any forest. Tribal communities are unable to get the benefits of basic necessities and infrastructure as the Forest Department says they have to comply with the Wildlife Act. The Forest Rights Act states that tribal rights cannot be curtailed in any forest except for wildlife habitat. Therefore, it is demanded to clarify whether wildlife clearance is required to provide basic infrastructure facilities in wildlife forest under the Forest Rights Act -2006

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THA NKS & BEST REGARDS

JILLA MALE KUDIYA SANGHA (R) D.K

HEAD OFFICE : SHIVAGIRI KOYYURU

~~18~~ 13
~~(3)~~

KOYYURU VILLAGE & POST

BELTHANGADY (T) D.K 524214

PH:+917996332263, 8861514490

EMAIL : malekudiyasanghadk@gmail.com

FOLLOW US ON FACE BOOK:

<https://www.facebook.com/malekudiyasanga.dakshinakannada>



LETTER 001.jpg.docx
13 KB

Email

14 19
uttam.kk@nic.in
5**Re: Forwarding of a grievance of Shri Harish Elaneer****From :** taydepriya@gmail.com

Thu, Apr 30, 2020 02:24 PM

Subject : Re: Forwarding of a grievance of Shri Harish Elaneer

1 attachment

To : Uttam Kumar Kar Under Secretary <uttam.kk@nic.in>**Cc :** Priyanka Kumari <priyanka.k91@gov.in>, Heera Kataria <heera.kataria@nic.in>, Manoj Bapna <manojb12365-cgo@gov.in>, haritejasamse@gmail.com

Dear Sir,

Request you to find attached the draft note on the similar matter raised via other NGO a couple of months ago. The matter was desired to be dealt in the file on Wildlife Habitat (F.No. 23011/23/2017-FRA). It might be pertinent to refer if there was any discussion available in the file as recommended in the note.

Thanks

On Wed, 29 Apr 2020 at 17:34, Uttam Kumar Kar Under Secretary <uttam.kk@nic.in> wrote:
Please take necessary action to send requisite clarification to the clarification seeker.

From: haritejasamse@gmail.com**To:** "Heera Kataria" <heera.kataria@nic.in>, "Uttam Kumar Kar Under Secretary" <uttam.kk@nic.in>, stwelfare@gmail.com, stwelfare2@gmail.com**Sent:** Wednesday, April 29, 2020 1:38:35 PM**Subject:** Fwd: Forwarding of a grievance of Shri Harish Elaneer

We sought for clarification several times but till nobody given clarification. Kindly clarify this matter as soon as possible.

Question is simple forest right act section 3 (2) is applicable or not in wildlife sanctuaries, if it is applicable wildlife clearance required or not for development work.

----- Forwarded message -----

From: Harish N <haritejasamse@gmail.com>

Date: Mon, 2 Mar 2020, 16:31

Subject: Re: Forwarding of a grievance of Shri Harish Elaneer

To: Uttam Kumar Kar Under Secretary <uttam.kk@nic.in>

Cc: Heera Kataria <heera.kataria@nic.in>

Respected sir,

We required clarification from ministry of tribal affairs. Whether section 3 (2) of the act applies in the national park and wildlife sanctuaries. Is there a need for wildlife clearance

to provide basic facilities under section 3(2) of the forest right act in the national park and
wildlife sanctuaries. Kindly clarify us as soon as possible

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On Mon, 2 Mar 2020, 12:23 Uttam Kumar Kar Under Secretary, <uttam.kk@nic.in> wrote:

Sir,

PFA,

**Regards,
(Uttam Kumar Kar)**

Under Secretary to the Govt of India,
Ministry of Tribal Affairs,
Gate No. 5, First Floor,
Jeevan Tara Building,
Parliament Street, Patel Chowk,
New Delhi-110001
Mob: 9871190714
Ph.-011-23340473



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Regards,
Priya Tayde
+91 8007117142

 **Noting_Section3(2) in Protected Areas.docx**
32 KB

Email

uttam.kk@nic.in

Clarification Under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights)Act, 2006

From : Uttam Kumar Kar Under Secretary <uttam.kk@nic.in>

Tue, May 19, 2020 05:32 PM

 1 attachment**Subject :** Clarification Under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights)Act, 2006**To :** malekudiyasanghadk@gmail.com, haritejasamse <haritejasamse@gmail.com>

PFA

Regards,**(Uttam Kumar Kar)**

Under Secretary to the Govt of India,
Ministry of Tribal Affairs,
Gate No. 5, First Floor,
Jeevan Tara Building,
Parliament Street, Patel Chowk,
New Delhi-110001
Mob: 9871190714
Ph.-011-23340473

 **Clarification.pdf**
2 MB

US (FRA)

Government of India
Ministry of Environment, Forest and Climate Change
(Wildlife Division)

1st Floor, Agni Wing,
Indira Paryavaran Bhawan,
Ali Ganj, Jor Bagh Road,
New Delhi- 110003.

F. No. 8-6/2020-WL

Dated: 08 October, 2020.

Sub: Clarification for section 3(2) of Scheduled tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 - reg.

Ref: Your letter no. 23011/23/2017-FRA dated 19th May, 2020.

Kindly refer to your letter above. Comments from the MoEF&CC are as follows:

- i. As per the definition of forest land given in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, it is clear that the section 3 (2) of the Act is applicable in Sanctuaries and National Parks.
- ii. However, Section 3 (2) provides for certain facilities notwithstanding anything contained in Forest (Conservation) Act, 1980 only. At the same time, Section 13 of the Act provides that the Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. Hence, provisions of Wild Life (Protection) Act will not be effected by Section 3 (2) of the Act.

Therefore, according to section 13 of the Act, wildlife clearance will be required for implementing section 3(2) of the Act.

This issues with the approval of competent authority.

Yours faithfully,

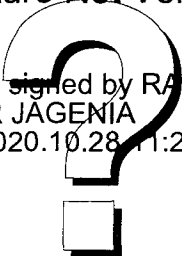
(Rakesh Kumar Jagenia)
Deputy Inspector General of Forests (WL)
E-mail: digwl-mefcc@gov.in

To

Under Secretary,
FRA Division,
Ministry of Tribal Affairs,
New Delhi.

Signature Not Verified

Digitally signed by RAKESH
 KUMAR JAGENIA
 Date: 2020.10.28 11:28:10 IST



(70)

F.No.11-9/98 – FC (Pt)
Government of India
Ministry of Environment & Forests
(FC Division)

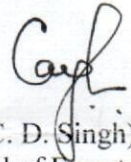
26/02/09 (P)

Paryavaran Bhawan,
 CGO Complex, Lodhi Road,
 New Delhi – 110510
 Dated: 19th March, 2009

OFFICE MEMORANDUM

Sub: Procedure for seeking prior approval for diversion of forest land for non-forest purposes for facilities managed by the Government under section-3(2) of the Chapter-II under 'Forest Rights' of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

The undersigned is directed to refer to the Ministry of Tribal Affairs (MoTA) OM no. F.23011/15/2008-SG.II dated 26.02.2009 on subject mentioned above and to convey the concurrence of the Ministry of Environment & Forests for notifying the procedure for seeking prior approval for diversion of forest land for non-forest purposes for facilities managed by the Government under section-3(2) of the Chapter-II under 'Forest Rights' of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 with the observation that under point 3 of Form 'A' "*the proposed duration of 3-years for protection and maintenance of plants, which has been planted in lieu of diversion, should be minimum of five (5) years keeping in view the heavy biotic pressure*".



(C. D. Singh)

Sr. Assistant Inspector General of Forests

To

Ministry of Tribal Affairs,
 (Kind attention: Shri A.K. Srivastava, Director)
 Shastri Bhawan,
 New Delhi 110001.

MD
 26/03
 Govt (PRA)
 7/3/2009
 VS (FRA)
 (On Govt)

sl no 23 (R)

(69)

F.No.14015/5/2007-LRD(Pt)
Government of India
Ministry of Rural Development
Department of Land Resources

'G' Wing. N.B.O Building
Nirman Bhawan, New Delhi
Dated March 19th,2009

Office Memorandum

Subject: - Procedure for seeking prior approval for diversion of forest land for non-forest purposes for facilities managed by the Government under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act,2006.

The undersigned is directed to refer to Ministry of Tribal Affairs O.M.No.23011/15/2008-SG.II dated February 26th,2009 on the above subject matter and say that the proposed "procedure for diversion of forest land for non-forest purposes under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act,2006" does not concern this Department.

2. So the Department of Land Resources has no comments to offer on the above mentioned proposal.

(Charanjit Singh)
Deputy Adviser (LR)
19.03.2009

Ministry of Tribal Affairs
(Shri A. K. Srivastava, Director)
Shastri Bhawan
New Delhi-110001

Original Copy

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R-12011/6/04-PR(Pt.1)
Government of India
Ministry of Panchayati Raj

6th Floor, Hotel Samrat,
Kautilya Marg, Chanakyapuri
New Delhi- 110021
Dated: 12.03.2009

OFFICE MEMORANDUM

Subject: Procedure for seeking prior approval for diversion of forest land for non-forest purposes for facilities managed by the Government under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

The undersigned is directed to refer to the OM no. 23011/15/2008-SG.II, dated 26.2.2009 on the subject cited above, and to state that the Ministry of Panchayati Raj has the following comments to offer on the same:

- (i) In the definitions given under section 2.1, 'User Agency' should be clearly limited to Central or State Government or a District Panchayat, and may be defined as "Department of the Central or State Government or District Panchayat making a request for diversion of forest land for developmental projects managed by the Government as specified in sub-section (2) of Section 3 of the Act".
- (ii) A quorum of at least half the members of the Gram Sabha should be present for adopting a resolution recommending the diversion of forest land.
- (iii) In Form A, the confirmation that the User Agency will plant at least twice the number of trees to be felled, and provide maintenance of those plants for at least **five** years, should be accompanied by a refundable security deposit which can be returned after the period of five years.
- (iv) Further, land diverted for a specific purpose should not be allowed to be used for any other purpose, and the land should be re-appropriated by the Forest Department in case such use is attempted.

Fare already received. This is now your copy.

12/03/09
Consultant PKV

18/3/09
US (FRA)
Con. No. 29
Dated: 18/3/09

18/3/09
Sub. No.

(Susan D. George)
Director
Tel: 24122938

Ministry of Tribal Affairs
(A.K. Srivastava, Director)
Shastri Bhawan, New Delhi

(74)

F.No.23011/15/2008-SG.II
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi
May 18, 2009

To

The Chief Secretary / Administrator
[All State/UT Governments, except J&K,
Punjab, Haryana, Pondicherry and Chandigarh]

Subject: Procedure for seeking prior approval for diversion of forest land for non-forest purposes for facilities managed by the Government under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Sir,

I am directed to invite attention to Sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which provides that notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for certain facilities managed by the Government, as specified in that Section, which involve felling of trees not exceeding seventy-five trees per hectare, provided that such diversion of forest land shall be allowed only if, -

- (i) the forest land to be diverted for the purposes mentioned in the said sub-section is less than one hectare in each case; and
- (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

2. The question of laying down the procedure for implementing the above provisions of the Act has been under examination of this Ministry, in consultation with the Ministry of Environment & Forests and other concerned Ministries. The agreed procedure for considering and approving proposals for diversion of forest land for non-forest purposes under Section 3(2) of the Act is Annexed to this letter.

3. It is requested that the procedure as in the Annexure may be brought to the notice of all Principal Secretaries / Secretaries (Forests) / PCCFs in the State/UT for information and necessary action.

-2-

4. Further, the Nodal Agency nominated in your State/UT for implementing the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 may also be directed to take necessary steps immediately for giving wide publicity to the procedure and to bring the same to the notice of all the Gram Sabhas in your State.

5. This issues with the concurrence of Ministry of Environment & Forests vide their O.M. No.11-9/98-FC (pt.) dated 19.3.2009, Ministry of Panchayati Raj, vide their O.M.No.R-12011/6/04-PR(pt.1) dated 12.3.2009 and Ministry of Rural Development (Deptt. of Land Resources) vide their O.M.No.14015/5/2007-LRD (pt.) dated 19.3.2009.

Yours faithfully,

A.K. Srivastava
18.05.2009
[A.K. Srivastava]
Director
Tel. 23387444

Copy for information to:

1. All Secretaries in-charge of Tribal Welfare Department in the States/UTs, (except J&K, Punjab, Haryana, Pondicherry and Chandigarh).
2. Ministry of Environment & Forests (Shri P.R. Mohanty, DG[Forests]), Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi-110003. It is requested that the enclosed procedure may be brought to the notice of all Regional Offices of Ministry of Environment & Forests and other concerned Officers in the State/UT Governments for necessary action.
3. Ministry of Panchayati Raj, (Shri A.N.P. Sinha, Secretary), Krishi Bhawan, New Delhi.
4. Ministry of Rural Development, Department of Land Resources (Smt. Rita Sinha, Secretary), Nirman Bhawan, New Delhi.
5. Cabinet Secretariat (Shri C.S. Kedar, Joint Secretary) Rashtrapati Bhawan, New Delhi.
6. Prime Minister's Office (Ms. Kalpana Awasthi, Director), South Block, New Delhi.

A.K. Srivastava
18.05.2009
[A.K. Srivastava]
Director

Annexure to letter No 23011/15/2008-SG.II
dated May 18, 2009

Government of India
Ministry of Tribal Affairs

Procedure for seeking prior approval for diversion of forest land for non-forest purposes for facilities managed by the Government under Section 3(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides that notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for certain facilities managed by the Government, as specified in that Section, which involve felling of trees not exceeding seventy-five trees per hectare, provided that such diversion of forest land shall be allowed only if, -

- (i) the forest land to be diverted for the purposes mentioned in the said sub-section is less than one hectare in each case; and
- (ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

2. For implementation of the provisions of sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Central Government hereby lays down the following procedure:-

2.1 **Definitions.-** In the procedure, unless the context otherwise requires:-

- (a) "Act" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
- (b) "District Level Committee" shall mean the Committee constituted under Rule 7 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Rules, 2008;
- (c) "Forest Land" shall have the same meaning as defined in Section 2(d) of the Act;
- (d) "Gram Sabha" shall have the same meaning as defined in Section 2(g) of the Act;
- (e) "Nodal Officer" means any officer not below the rank of Conservator of Forests, authorized by the State Government to deal with matters relating to diversion of forest land under the Act;

- (f) "Section" means a section of the Act;
- (g) "User Agency" means a Department of the Central or State Government or a District Panchayat making a request for diversion of forest land for developmental projects managed by the Government as specified in sub-section (2) of Section 3 of the Act;
- (h) "Village" shall have the same meaning as defined in Section 2(p) of the Act.

2.2 Submission of the proposals seeking approval for diversion of the forest land under sub-section (2) of Section 3 of the Act.-

- (i) Every User Agency, that wants to use any forest land for any developmental project, specified in Section 3(2) of the Act, shall make a proposal in the appropriate Form appended, i.e. Form 'A', and place it before the general assembly of the concerned Gram Sabha for adopting a resolution to that effect.
- (ii) A quorum of atleast half the members of the Gram Sabha should be present for adopting a resolution recommending the diversion of forest land.
- (iii) On receipt of a recommendation of the proposal by the Gram Sabha, the User Agency will submit the proposal to the concerned Range Forest Officer (RFO) of the area, along with the resolution adopted by the Gram Sabha.
- (iv) The Range Forest Officer (RFO) concerned will carry out site inspection of the proposed area to opine on the acceptance of the proposal.
- (v) The Range Forest Officer (RFO) concerned will submit the proposal and his recommendation to the concerned Divisional Forest Officer (DFO) in Form 'B' appended, along with his site inspection report and his opinion within three weeks from the date of receipt of complete proposal from the User Agency.
- (vi) The Divisional Forest Officer (DFO) concerned will consider the proposal, and if he agrees, he will accord his approval and communicate his decision to the Range Forest Officer (RFO) concerned with a copy to the Chairperson of the District Level Committee, within four weeks from the date of receipt of the proposal from the RFO.

- (vii) After receipt of the approval from the concerned DFO, the RFO will demarcate the area of the forest land approved for diversion and hand over the same to the User Agency under the supervision of the Gram Sabha.
- (viii) If the Divisional Forest Officer (DFO) concerned does not approve the proposal submitted by the User Agency through the Range Forest Officer (RFO), he shall forward the proposal to the District Level Committee for a final decision.
- (ix) The District Level Committee will meet and take a final decision, with at least 1/3 quorum, and convey the decision to the DFO for implementation and correction of records and map if the proposal is accepted.
- (x) The approval for diversion of the forest land by the Divisional Forest Officer (DFO) or by the District Level Committee, as the case may be, shall be accorded subject to the condition that the land diverted for a specific purpose shall not be allowed to be used for any other purpose and the diverted land would be appropriated by the Forest Department if the activity for which the land was diverted is not started within one year of handling over the land to the User Agency.
- (xi) The DFO concerned will submit a quarterly report of the approvals accorded for diversion of forest land under Section 3(2) of the Act to the Nodal Officer of the State who, in turn, will furnish the consolidated information quarterly to the Secretary, Tribal Welfare Department who will, in turn send the consolidated report to the Ministries of Tribal Affairs and Environment & Forests.
- (xii) The Nodal Officer will also monitor the progress.

APPENDIX

Form for seeking prior approval for diversion of forest land for non-forest purposes for the facilities managed by the Government under sub-section (2) of Section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

FORM-A

[See para 2.2(i)]

(To be filled up by the User Agency)

1. Project details:
 - (i) Short narrative of the proposed project / scheme for which the forest land is required.
 - (ii) Details of the forest land required (two options to be indicated)
 - a. Location – Survey No./ Compartment No.
 - b. Extent of the area (in hectare)
 - c. Forest Division
 - d. Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.
 - (iii) Justification for locating the project in proposed forest land(s)
 - (iv) Number of trees to be felled (per hectare) and number that will be kept standing
2. Detailed, purpose-wise break-up of the total forest land required with proposed building/activity area map.
3. Confirmation that User Agency will plant at least twice the number of trees to be felled, in the project or adjacent area and the amount to be provided annually for protection and maintenance of these plants for at least five years (Details to be enclosed).
4. Recommendation of the Gram Sabha – Accepted/Rejected
[Please tick (✓), as the case may be]. [Copy of the Gram Sabha resolution to be attached.]

Signature of the authorized person for the User Agency

(Name in Block letters) _____

Address _____

Date: _____

Place: _____

Serial No. of proposal _____

(To be filled up by the Range Forest Officer with date of receipt)

8

FORM-B

[See para 2.2(iv)]

(To be filled by the concerned Range Forest Officer)

Serial No. of proposal _____

1. Location of the project / Scheme:

- (i) State / Union Territory
- (ii) District.
- (iii) Forest Division
- (iv) Proposed forest land(s) (two options to be indicated)
 - i. Location – Survey No./ Compartment No.
 - ii. Extent of the area (in hectare)
- (v) Whether part of biosphere reserve, tiger reserve, elephant corridor, etc.

2. Site inspection report (to be attached), containing the date of visit, and justified opinion on the acceptability of the proposal (separately for the two options).

3. Specific recommendation of the Range Forest Officer for acceptance or otherwise of the proposal and the better option.

Signature of the RFO

Name _____

Official Seal

Date: _____

Place: _____

Accepted / Not accepted
with reasons to be recorded

Signature of the DFO

Name _____

Official Seal

Date: _____

Place: _____

18

पत्रांक 23011/15/2008-एस.जी.-2 का अनुलग्न
तिथि: 18 मई, 2009

भारत सरकार
जनजातीय कार्य मंत्रालय

अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 की धारा 3(2) के तहत सरकार द्वारा प्रबंधित सुविधाओं हेतु वन भूमि को गैर-वन उद्देश्यों हेतु विपथन के लिए पूर्व अनुमोदन प्राप्त करने की कार्यविधि ।

अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 की धारा 3 की उप-धारा(2) में यह प्रावधान है कि वन (संरक्षण) अधिनियम, 1980 में किसी भी बात के रहते हुए भी, केन्द्र सरकार उस धारा में यथा विनिर्दिष्ट सरकार द्वारा प्रबंधित कतिपय सुविधाओं हेतु वन भूमि के विपथन हेतु प्रावधान करेगी, जिसमें प्रति हेक्टेयर 75 पेड़ से अधिक नहीं काटे जाएंगे, बशर्ते वन भूमि के इस प्रकार के विपथन की अनुमति तभी होगी, यदि

- (1) उपर्युक्त उपधारा में उल्लिखित उद्देश्यों हेतु विपथित भूमि प्रत्येक मामले में एक हेक्टेयर से कम हो; तथा
- (2) ऐसी विकास परियोजनाओं को इस शर्त के अधीन क्लियरेंस दी जा सकती है कि उसे ग्राम सभा की संस्तुति प्राप्त हो ।

2. अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 की धारा 3 की उप-धारा(2) के प्रावधानों के क्रियान्वयन हेतु केन्द्रीय सरकार ने निम्नांकित कार्यविधि बनाई है -

2.1 परिभाषा- इस कार्यविधि में यदि संदर्भ अन्यथा अपेक्षित न हो -

- क "अधिनियम" का अर्थ अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 (2007 का 2) अभिप्रेत है ;
- ख "जिला स्तरीय समिति" का अर्थ अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) नियम, 2008 के नियम 7 के अंतर्गत गठित समिति है ;
- ग "वन भूमि" का अर्थ इस अधिनियम की धारा 2 (घ) में यथा परिभाषित अर्थ के समान है ;
- घ "ग्राम सभा" का अर्थ इस अधिनियम की धारा 2 (छ) में यथा परिभाषित अर्थ के समान है ;
- ड. "नोडल अधिकारी" का अर्थ कोई भी अधिकारी जो वन संरक्षक के पद से नीचे का न हो तथा जिसे राज्य सरकार के इस अधिनियम के अंतर्गत वन भूमि के विपथन से संबंधित मामले को निपटाने हेतु प्राधिकृत किया हो ;
- च "धारा" से अधिनियम की धारा अभिप्रेत है ;
- छ "यूजर एजेंसी" का अर्थ एक केन्द्रीय विभाग अथवा राज्य सरकार अथवा एक जिला पंचायत है जो इस अधिनियम की धारा 3 उप-धारा (2) में यथा विनिर्दिष्ट अनुसार सरकार द्वारा प्रबंधित विकास परियोजनाओं हेतु वन भूमि के विपथन हेतु आग्रह से है ;

ज "ग्राम" का अर्थ इस अधिनियम की धारा 2 (त) में यथा परिभाषित अर्थ से है ;

2.2 इस अधिनियम की धारा 3 की उप-धारा 2 के अंतर्गत वन भूमि के विपथन हेतु अनुमोदन प्राप्त करने संबंधी प्रस्तावों की प्रस्तुति -

1. इस अधिनियम की धारा 3(2) के अंतर्गत विनिर्दिष्ट अनुसार किसी विकास परियोजना हेतु वन भूमि का उपयोग करने की इच्छा रखने वाले प्रत्येक यूजर एजेंसी एक उचित प्रारूप जो फार्म सं. (क) के रूप में संलग्न है, में प्रस्ताव देंगे तथा यह प्रस्ताव संबंधित ग्राम सभा के सामान्य सभा के समक्ष प्रस्तुत किया जाएगा ताकि वह इस पर संकल्प ले सके ।
2. वन भूमि के विपथन हेतु संस्तुति देने के लिए संकल्प हेतु ग्राम सभा में कम से कम कुल संख्या के आधे सदस्यों की न्यूनतम संख्या का कोरम अनिवार्य है ।
3. ग्राम सभा की संस्तुति की प्राप्ति के उपरांत यूजर एजेंसी उस प्रस्ताव को उस क्षेत्र के रेंज वन अधिकारी (आर.एफ.ओ.) के समक्ष प्रस्तुत करेंगे जिसमें ग्राम सभा द्वारा लिए गए संकल्प भी संलग्न होंगे ।
4. संबंधित रेंज वन अधिकारी (आर.एफ.ओ.) उस प्रस्ताव क्षेत्र के स्थल का दौरा करेंगे तथा प्रस्ताव की स्वीकृति पर अपने विचार देंगे ।
5. संबंधित रेंज वन अधिकारी (आर.एफ.ओ.) संबंधित मंडल वन अधिकारी (डी.एफ.ओ.) को फार्म ख के रूप में संलग्न प्रपत्र में प्रस्ताव प्रस्तुत करेंगे तथा यूजर एजेंसी से प्राप्त प्रस्ताव की तिथि के तीन सप्ताह के भीतर स्थल दौरा निरीक्षण रिपोर्ट एवं अपने विचार प्रस्तुत करेंगे ।
6. संबंधित मंडल वन अधिकारी (डी.एफ.ओ.) उस प्रस्ताव पर विचार करेंगे तथा यदि वह सहमत होंगे तो अपनी सहमति एवं अनुमोदन संबंधी रेंज वन अधिकारी (आर.एफ.ओ.) को आर.एफ.ओ. से प्रस्ताव प्राप्ति की तिथि से चार सप्ताह के भीतर जिला स्तरीय समिति के अध्यक्ष को एक प्रति के साथ प्रस्तुत करेंगे ।
7. संबंधित डी.एफ.ओ. से अनुमोदन प्राप्त करने के बाद आर.एफ.ओ. उक्त क्षेत्र में वन भूमि को चिन्हित कर उसे ग्राम सभा के निरीक्षण के अधीन उक्त यूजर एजेंसी को भूमि विपथन को मान्यता देते हुए सौंप देंगे ।
8. यदि संबंधित मंडल अधिकारी यूजर एजेंसी द्वारा रेंज वन अधिकारी (आर.एफ.ओ.) द्वारा प्रस्तुत प्रस्ताव को स्वीकृति नहीं देते हैं तो अंतिम निर्णय हेतु वह जिला स्तरीय समिति को प्रस्ताव भेज देंगे ।
9. जिला स्तरीय समिति न्यूनतम 1/3 कोरम के साथ बैठक कर एक अंतिम निर्णय लेकर यदि प्रस्ताव स्वीकृत करती है तो अभिलेख तथा नक्शे में सुधार को क्रियान्वित करने हेतु डी.एफ.ओ. को अपना निर्णय सूचित कर सकती है ।
10. मंडल वन अधिकारी (डी.एफ.ओ.) अथवा जिला स्तरीय समिति द्वारा वन भूमि के विपथन को अनुमोदन, जैसा भी मामला हो, इस शर्त के अधीन दिया जा सकता है कि वन भूमि का विपथन एक विनिर्दिष्ट उद्देश्य के लिए अनुमत्य होगा तथा उसका उपयोग किसी अन्य उद्देश्य हेतु नहीं किया जाएगा तथा इस प्रकार विपथित भूमि जिस उद्देश्य से इसका विपथन किया गया था, उस उद्देश्य हेतु यूजर एजेंसी को भूमि सौंपने की तिथि से एक वर्ष के भीतर शुरू नहीं किए जाने की स्थिति में वन विभाग पुनः उस भूमि को विनियोजित करेगा ।
11. इस अधिनियम की धारा 3(2) के अधीन वन भूमि के विपथन हेतु अनुमोदनों की तिमाही रिपोर्ट डी.एफ.ओ. द्वारा उस राज्य के नोडल अधिकारी को दी जाएगी तथा वह समेकित तिमाही सूचना सचिव, जनजाति कल्याण विभाग को देंगे, तथा आगे वे समेकित सूचना जनजातीय कार्य एवं पर्यावरण तथा वन मंत्रालयों को देंगे ।
12. नोडल अधिकारी भी प्रगति की निगरानी करेंगे ।

परिशिष्ट

अनुसूचित जनजाति एवं अन्य परंपरागत वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 की धारा 3(2) के तहत सरकार द्वारा प्रबंधित सुविधाओं हेतु वन भूमि को गैर-वन उद्देश्यों हेतु विपथन के लिए पूर्व अनुमोदन प्राप्त करने हेतु प्रपत्र ।

प्रपत्र क
(पैरा 2.2(1) देखें)
(यूजर एजेंसी द्वारा भरा जाएगा)

1. परियोजना विवरण :

(1) प्रस्तावित परियोजना/ योजना जिसके लिए वन भूमि वांछित है, के विषय में लघु कथन ।

(2) वांछित वन भूमि का विवरण (2 विकल्पों का उल्लेख करें)

क स्थान-सर्वे संख्या/ कम्पार्टमेंट संख्या

ख क्षेत्र का विस्तार (हैक्टेयर में)

ग वन मंडल

घ 1:50,000 के स्केल मैप पर निकटवर्ती वन की सीमा तथा वांछित वन भूमि को नक्शे पर दिखाएं;

(3) प्रस्तावित वन भूमि में परियोजना लगाने की औचित्यता

(4) प्रत्येक हैक्टेयर में काटे जाने वाले तथा लगाए रखे जाने वाले वृक्षों की संख्या

2. प्रस्तावित भवन/ गतिविधि क्षेत्र मैप के साथ वांछित कुल वन भूमि का उद्देश्यवार अलग-अलग विवरण ।

3. इस आशय की पुष्टि कि यूजर एजेंसी काटे जाने वाले वृक्षों की संख्या की दोगुनी संख्या में उस परियोजना अथवा निकटवर्ती क्षेत्र में वृक्ष लगाएगी तथा कम से कम 5 वर्षों तक उन वृक्षों की सुरक्षा तथा अनुरक्षण हेतु वार्षिक राशि उपलब्ध कराएगी (विवरण संलग्न करें) ।

4. ग्राम सभा की संस्तुति - स्वीकृत/ अस्वीकृत

(जैसा भी मामला हो (✓) का निशान लगाएं) । (ग्राम सभा के संकल्प की प्रति संलग्न करें)

यूजर एजेंसी हेतु प्राधिकृत व्यक्ति का हस्ताक्षर

(बड़े अक्षरों में नाम)

पता.....

तिथि

स्थान

प्रस्ताव की क्रम संख्या
(रेंज वन अधिकारी द्वारा प्राप्ति तिथि के साथ भरा जाएगा)

प्रपत्र-ख
(पैरा 2.2(4) देखें)
(संबंधित रेंज वन अधिकारी के द्वारा भरा जाएगा)
प्रस्ताव की क्रम संख्या

- 1 परियोजना/ योजना का स्थान
 - (1) राज्य/ संघ राज्य क्षेत्र
 - (2) जिला
 - (3) वन विभाग
 - (4) प्रस्तावित वन भूमि (2 विकल्प उल्लेख करने हैं)
क स्थान-सर्वे संख्या/ कम्पार्टमेंट संख्या
ख क्षेत्र का विस्तार (हैक्टेयर में)
 - (5) क्या यह जैविक रिजर्व, बाघ रिजर्व, हाथी कोरिडोर इत्यादि का भाग है ।
2. प्रस्ताव की स्वीकृति (दो विकल्पों के लिए अलग-अलग) पर उचित विचार के साथ निरीक्षण दौरा किए जाने की तिथि का उल्लेख करते हुए स्थल निरीक्षण रिपोर्ट संलग्न करें ।
3. प्रस्ताव की स्वीकृति अथवा अन्य बातों हेतु रेंज वन अधिकारी की विनिर्दिष्ट संस्तुति तथा बेहतर विचार ।

रेंज वन अधिकारी का हस्ताक्षर

नाम
कार्यालय मुहर.....

तिथि
स्थान

कारण का उल्लेख करते हुए स्वीकृत/ अस्वीकृत

वन मंडल अधिकारी के हस्ताक्षर

नाम
कार्यालय मुहर

तिथि
स्थान
