



Make Village Forests Rules transparent in Odisha

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Odisha government had taken step towards decentralization of state forest through formulation of Orissa Village Forest Rule, 1985. In context of thousands of community groups protecting and managing nearby forests on their own, this rule holds significance and could have had remarkable impact over whole of forest governance in the state.

However, past twenty years of experience depicts a different scenario, contradicting the then made claims. A close analysis of the existing rules gives glimpses of what went wrong at the policy level which created hindrance and defeated the very objective of village forest and its rule.

It is learnt that the rules in Odisha are so framed that the provisions for village forest can be utilized only for the area under social forestry although this has not been clearly stated. The nature and content of the rule are so, evidently because the primary intension was not to provide a proper legal framework to voluntary efforts of the village communities in the area of forestry being done on a large scale. There are some major issues like larger participation of villagers in managing their affairs, downward accountability toward village, ownership of village over resources, recognition of customary and traditional practices, larger involvement of stakeholders in claim settlement process, resolution of disputes and conflicts and clearly defined role of forest and other government officials, which are not clearly stated or laid down in the rule but have their own significance in larger process of decentralization and management of forest.

Also, rule does not carry the real essence of the Orissa Forest Act; on which this rule was framed. Hence, there is a need to amend certain aspect of the rule by incorporating above mentioned larger issues to make it more rational, toward democratization of forest management, equitable and transparent & accountable towards them, for whom this rule is meant for. Further, we shall try to discuss which and why major amendments are proposed in the existing rule.

Role of Palli Sabha: The essence of Village forest in the act suggests that it is meant to benefit the interest of village Communities. But this essence doesn't reflect in the rule. The rule does not give any scope for villagers to decide or even participate in the affairs of management. Whole management of village forest lies in the hand of few individuals who are not downwardly accountable to village but to forester as he is the person who appoints them in the committee.

Further, Forester has all functioning power similar to JFM in the management of village forest. This gives space to vested interest to maneuver the whole process in their favor and get leverage of association with someone who matters.

Therefore, in the amendments, focus has been given to village assembly for larger participation and downward accountability for management of village forest. In context of Orissa, Palli Sabha is the actual

village assembly as it covers only one village or in maximum two villages and also has statutory recognition by government. Therefore, the proposed amendments give important role to Palli Sabha in terms of resource ownership and management rights over village forest and its produce. Since Palli Sabha is not an elected body but a democratic entity by virtue of village residents being its suo-motto members, it is rational and justified to give it all rights over the forest under its jurisdiction.

Constitution of Forest Enquiry and Settlement Committee: In the existing rule no detail procedure were laid down for registering the claims and settling the existing rights. There is only one small provision in the rule where concerned Range Officer is supposed to register and verify the individual claims if any and give report to Tehsildar for settlement. But nothing were mentioned about procedure through which these claims are to be registered, verified and settled, which gives scope and leverage for the concerned person for manipulation.

In addition, nothing had been made with respect to communal rights of neighboring villages such as Nistar rights or circumstantial rights of such villages who are protecting or managing such forest for long and those families who are dependent on such forest for their survival and drawing their own bonafide livelihood. Claim and settlement process is a significant issue which needs to be taken up carefully so that minimum disputes and conflicts might arise out of notification of such forest as village forest and vesting of rights in one particular village.

Hence, in the proposed amendments, constitution of Forest Enquiry and Settlement Committee and power of registering, verifying and settling claims and rights to this committee instead of Range Officer and Tehsildar is mentioned. Such Committee shall be constituted with three government officials including revenue and forest; three ex-officio members nominated by Panchayat Samiti of forest area and one ecology expert from local university or other institutions. This committee shall be constituted at Sub-divisional level and one member each shall be nominated from local forest federation and civil society organizations. Verification and settlement of all claims shall be done in the open public meeting in the concerned village/s and Palli Sabha shall give its free informed written consent on every order passed by such committee. Provision for rights and privileges of other or neighboring villages and pastoral communities are also mentioned in the amendments.

Resolving disputes and conflicts arising before and after notification of Village Forest: In the present rule, no provision except appeal to sub-collector is mentioned about resolution of disputes and conflict arising out of settlement process and over management of such village forest. However, the disputes and conflicts are bound to arise given the complexity of forest conservation and management and spread of claims over one particular forest patch among many villages. If mechanism for dispute and conflict resolution is not included, creation of village forest shall become a curse for conservation rather than boon.

Henceforth, in the amendment, constitution of Dispute Resolution Committee with nine members at district level is proposed. Out of the nine members four are from Forest federations and civil society organization. One retired Judge served in the district and nominated by Zilla Parishad is also included. Proposed amendment gives authority to this committee to ask for reply from any concerned person or organization including revenue department and forest department in case of any dispute. After receiving reply from concerned parties, the committee shall settle the dispute in the open public meeting at the concerned village. Its order shall be final but subject to further appeal.

In case of conflict arising after notification over management of village forest, such committee shall

intervene if asked but not before all other possibilities such as discussion in the Palli Sabha or in case of inter-village conflict, in joint Palli Sabha and any other traditional or customary institutions existing in the area. Such committee shall only intervene in the last and through open public meeting and its decision shall be final but subject to further appeal.

Framing its own rules and regulation: The present rule does not provide any scope to incorporate diversity of institutional functioning and try to impose a crafted institution over the village with no functioning power. However, experience suggest that villages through their own customary and traditional rules have ably managed and conserved forest and created remarkable impact over resource regeneration and empowerment of village communities.

Therefore, amendments proposed talked about inclusion of space for villages to devise their own rules and regulation in line of their customary practices and in accordance with forest governing laws so that conservation of forest and meeting local needs shall go vis-à-vis. The amendment gives power to Palli Sabha to devise their own rules and regulation in written form covering aspect of protection, management of resource, penal system, grazing and benefit sharing. All such rules are framed and approved in the open public meeting with two-third of quorum. Palli Sabha shall also have power to challenge if it feels any objection is raised by the govt. department over its rules are not technically sound or which may jeopardize the rights and welfare of villagers or not in accordance with the law.

Structure of Village Forest Management Committee: In the present rule, there is provision of Village Forest Committee under which all management rights over village forest are vested. However, in a close analysis, it suggests that these management rights are superficial with complete accountability towards Forest department, particularly with forester and Range Officer. The constitution and functioning of this committee also gives same impression where Forester has all power to appoint members to this committee. Also he/she has power to call meeting and maintain notice & proceeding book.

Therefore, the rule provides lot of space for maneuvering by forester while villagers are restricted in putting their view. The proposed amendments suggest overhauling of the present structure with changed name. The committee in the amendment called as Village Forest Management Committee. It has all management right and have right to implement the decision of Palli Sabha. The structure of committee in the amendment is such that all its members and office bearers shall be elected by Palli Sabha. The Chairperson shall have authority to call and preside over the meeting. The Secretary so elected has to maintain all proceeding and notice such issued for record. He/she also correspond with govt. department and other agencies for specific purpose. Village fund for purpose of this rule shall be operated by four account holders including Chairperson and Secretary. Forester or any outsiders without permission of the committee shall not sit in the meeting and in no case they are part of decision making.

Sharing of Produce: In the present rule, any villager can get forest produce from the village forest on payment of schedule rate of concerned forest division. This provision in no case is in line of natural justice and equality. Though the villagers put their efforts in form of protection and maintenance of boundary to regenerate the resource, still they have to pay same amount of rate which any outsider or contractor has to pay. Then where is the incentive for forest protection. They must be entitled to take necessary produce for domestic consumption and bonafide livelihood without paying any amount. This same notion has been proposed in the amendment. Other than this one part of amount generated from sale of forest produce gathered on communal basis shall be distributed among households on one share per kitchen basis. Apart from this, special provisions for sharing produce among economically weaker sections, Women headed family, widow, Old age persons, Physically challenged persons and landless person; rule such devised by

Palli Sabha. For outsider, produce shall be sold on the schedule rate applicable in the concerned division.

Flow of Fund accountable to Village: Financial accountability in relation with village forest management in the present rule is upward with no mention of village. This allows the vested interest to crop up and dominate the process. On the other side, those who are really dependent on the forest get excluded from the process. This very aspect defeats the purpose and objective of village forest. Henceforth, there is a need to include certain provisions in the rule which shall ensure downward accountability towards village.

This will not only make system function properly with better participation but also ensure functional transparency in the management of village forest. Therefore in the proposed amendment, aspect of monitoring and review of all financial transaction of the committee by Palli Sabha is included. Further, any type of grant from government or panchayat or any private agencies to village fund for management of village forest shall be approved by Palli sabha in the open meeting. Palli sabha is also authorized for internal audit through its special committee. In addition village fund can be utilized for any purpose as deem fit by Palli Sabha and decided in the open meeting.

Apart from these major issues, there are number of issues which are included in the proposed amendments to ensure better participation, transparency and accountability, equitable distribution of resource among community members, enhancement of environmental services and social justice of forest protection and management. Henceforth, it is presumed that through these amendments, long standing issue of recognizing community efforts in regeneration of resource and democratization of forest governance shall be achieved.

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