

Diversion of forest land for industrial use may delay as environment ministry seeks time for consultations

NEW DELHI: The Prime Minister Office's move to ease [diversion of forest land](#) for [industrial use](#) faces further delay as the [ministries of tribal affairs](#) and environment want more time for consultations.

A panel headed by the Principal Secretary to the Prime Minister Pulok Chatterjee had decided to dilute the requirement of taking consent from the affected tribal population before diverting forest land. The committee which submitted its report on Dec 12 included top officials from tribal affairs and environment ministries.

The recommendations for all practical purposes allows the forest clearance process to bypass the gram sabhas or village assemblies, which are the basic units for the implementation of the [Forest Rights Act](#).

The PMO-driven report required the environment ministry to change its August 2009 orderâ€”removing the clause that makes it mandatory for the state government to provide written consent from the project affected gram sabhas that all claims under the Forest Rights Act had been settled and that they approved of the diversion of forest land. The changes were to be finalised and notified by the ministries by Dec 31.

The dilution of the Forest Rights Act is a politically fraught issue with the Congress leadership and the [Sonia Gandhi](#) led National Advisory Council firmly coming down in favour of protecting the rights of the tribal population. However, sections of the government are pushing for a more liberal regime to support industrial growth. Sources indicated that given the high political voltage of the move, no ministry is willing to be responsible for the dilution of the Forest Rights Act.

A senior environment ministry official said, "the issue is still being discussed. The minister has written to the tribal affairs minister". Sources indicated that there was a level of unease with the recommendations of the committee. Given that the Forest Rights Act is administered by the tribal affairs ministry, it will have the final say on whether it would like a strict adherence of the Forest Rights Act while considering projects for forest clearance, a senior government official said.

Tribal affairs minister KC Deo said, "the recommendations of the PMO-led committee do take on board the concerns of this ministry. However, consultations with the environment ministry are still on. The process is far from over." Deo has already written two strongly worded letters to environment minister [Jayanthi Natarajan](#) stressing the need to ensure that no clearance is given to projects in areas where the Forest Rights Act has not been implemented

Deo told ET that any guidelines on forest areas have to maintain the sanctity of the Schedule V areas (tribal-inhabited forest areas). "The Constitution guarantees protection to the Scheduled V

areas. This protection guaranteed in the Constitution has never been repealed and must be ensured. This protection predates the Forest Rights Act and the PESA Act," Deo said.

The proposed order would make it mandatory for all "proposals for unconditional forest clearance" to include a letter from the state government "certifying" that the complete process of recognition and vesting of rights under Forest Rights Act has been carried out for the entire forest area proposed for diversion. A record of the all consultations and meetings and the types of individual and community rights recognised would also have to be provided. The state government would also have to certify that the rights of the primitive tribal groups and Pre-Agricultural Communities had been safeguarded.

"Till date, in every case where state governments have given such certificates, the claims have been questioned and found to be incorrect. This was the case in Odisha (Vedanta and POSCO cases), Andhra Pradesh (Polavaram dam), and Madhya Pradesh (Mahan coal mines). It is precisely to avoid such a situation that the Forest Rights Act doesn't provide for a certificate from the state government," a forest rights expert explained.

In case the process of recognizing claims under the Forest Rights Act had yet to begin, the PMO-sponsored changes suggests that the state government provide a a confirmation stating that the process would be completed before the final approval of the proposal or order of diversion by the State. The August 2009 order requires the state government to submit evidence that they would initiate and complete the process before approval was given.

The committee recommended that where the project activity on forest land is "affecting the quality of life" of the people living in the project affected area would require a resolution of the affected gram sabhas allowing for the diversion of the forest. Even in this instance, the committee has provided for exceptions. It states that a resolution from the affected gram sabhas would not be required if any "consultation" that is "statutorily statutorily mandated has been carried out and has been communicated to the state or the project proponent" and has been included in the project proposal. This would include public hearings required for environmental clearance.