

**The Scheduled Tribes and other
Traditional Forest Dwellers
(Recognition of Forest Rights) Act, 2006,
Amendment Rule, 2012
&
Guidelines**



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SECTION - I

Forest Rights Act, 2006 & Amendment Rule, 2012



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० २]
No. 2]नई दिल्ली, मंगलवार, जनवरी २, २००७ / पौष १२, १९२८
NEW DELHI, TUESDAY, JANUARY 2, 2007 / PAUSA 12, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 2nd January, 2007/Pausa 12, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 29th December, 2006, and is hereby published for general information:-

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006.

No. 2 OF 2007

[29th December, 2006]

An Act to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definition

2. In this Act, unless the context otherwise requires, -

(a) “**Community forest resource**” means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;

(b) “**Critical wildlife habitat**” means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4;

(c) “**forest dwelling Scheduled Tribes**” means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for *bona fide* livelihood needs and includes the Scheduled Tribe pastoralist communities;

(d) “**forest land**” means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

(e) “**forest rights**” means the forest rights referred to in section 3;

(f) “**forest villages**” means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of *taungya* settlements, by whatever name called, for such villages and includes lands for cultivation and other uses permitted by the Government;

(g) **“Gram Sabha”** means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;

(h) **“habitat”** includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes;

(i) **“minor forest produce”** includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like;

(j) **“nodal agency”** means the nodal agency specified in section 11;

(k) **“notification”** means a notification published in the Official Gazette;

(l) **“prescribed”** means prescribed by rules made under this Act;

(m) **“Scheduled Areas”** means the Scheduled Areas referred to in clause (1) of article 244 of the Constitution;

18 of 2003

(n) **“sustainable use”** shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act, 2002;

(o) **“other traditional forest dwellers”** means any member or community who has for at least three generations prior to the 13th day of December, 2005 primarily resided in and who depend on the forest or forests land for *bona fide* livelihood needs.

Explanation.- For the purpose of this clause, “generation” means a period comprising of twenty-five years;

(p) **“village”** means –

40 of 1996

(i) a village referred to in clause (b) of section 4 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or

(ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or

(iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or

(iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

53 of 1972

(q) **“wild animal”** means any species of animal specified in Schedules I to IV of the Wild Life (Protection) Act, 1972 and found wild in nature.

CHAPTER II
FOREST RIGHTS

Forest rights of
Forest dwelling
Scheduled Tribes
and Other
traditional forest
dwellers.

3. (1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:-

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribes or other traditional forest dwellers;

(b) community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of Pattas or leases or grants issued by any local authority or any State Government on forest lands to titles;

(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;

(i) right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) rights which are recognised under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribes under any traditional or customary law of the concerned tribes of any State;

(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to

(k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) right to *in situ* rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy-five trees per hectare, namely:-

69 of 1980

- (a) *schools;*
- (b) *dispensary or hospital;*
- (c) *anganwadis;*
- (d) *fair price shops;*
- (e) *electric and telecommunication lines;*
- (f) *tanks and other minor water bodies;*
- (g) *drinking water supply and water pipelines;*
- (h) *water or rain water harvesting structures;*
- (i) *minor irrigation canals;*
- (j) *non-conventional source of energy;*
- (k) *skill upgradation or vocational training centres;*
- (l) *roads; and*
- (m) *community centres;*

Provided that such diversion of forest land shall be allowed only if, -

(i) the forest land to be diverted for the purposes mentioned in this 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.

CHAPTER III

RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

4. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in –

Recognition of, and vesting of, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers⁶⁹ of 1980

(a) The forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;

(b) The other traditional forest dwellers in respect of all forest rights mentioned in section 3.

(2) the forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:-

(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government has concluded that other reasonable options, such as, co-existence are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package;

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification process is complete.

(6) Where the forest rights recognised and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

(7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.

69 of 1980

(8) The forest rights recognised and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

Duties of holders of forest rights.

5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to –

- (a) protect the wild life, forest and biodiversity;
- (b) ensure that adjoining catchments areas, water sources and other ecological sensitive areas are adequately protected;
- (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;
- (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

CHAPTER IV

AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof.

6. (1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim in such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition;

Provided that every such petition shall be preferred within sixty days from the date of passing of the resolution by the Gram Sabha;

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer a petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition:

Provided that no petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level Committee:

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level committee.

(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency.

(8) The Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayati Raj Institutions at the

appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.

(9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as may be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

7. Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or any rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees:

Offences by members or officers of authorities and Committees under this Act. Cognizance of offences.

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority

Cognizance of offences.

CHAPTER VI

MISCELLANEOUS

9. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Members of authorities etc., to be public servants.

45 of
1860

Protection
of action
taken in
good faith

10.(1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, members, member-secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

Nodal agency

11. The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorized by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

Power of Central Government to issue directions.

12. In the performance of its duties and exercise of its powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

Act not in derogation of any other law.

13. Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

40 of 1996

Power to make rules.

14. (1) The Central Government may, by notification, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

(a) procedural details for implementation of the procedure specified in section 6;

(b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee under sub-section (2) of that section;

(c) the level of officers of the departments of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;

(d) the composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

K.N. CHATURVEDI,
Secy. To the Govt. of India.



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

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NEW DELHI, THURSDAY, SEPTEMBER 6, 2012/BHADRA 15, 1934

MINISTRY OF TRIBAL AFFAIRS

NOTIFICATION

New Delhi, the 6th September, 2012

¹G.S.R. 669(E).— WHEREAS the draft Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 were published, as required by sub-section (1) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) under the notification of the Government of India in the Ministry of Tribal Affairs number G.S.R.578(E), dated the 19th July, 2012 in the Gazette of India, Part II, Section 3, sub-section (i) of the same date, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of thirty days from the date on which the copies of the Gazette containing the said notification are made available to the public;

AND WHEREAS copies of the said Gazette were made available to the public as on July 20, 2012;

AND WHEREAS the objections and suggestions received from the public in respect of the said draft amendment rules have been duly considered by the Central Government;

NOW, THEREFORE, in exercise of the powers conferred by sub-sections (1) and (2) of section 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), the Central Government hereby makes the following rules to amend the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, namely:-

1. **SHORT TITLE, EXTENT AND COMMENCEMENT-** (1) these rules may be called the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012.
 - (2) They shall extend to the whole of India except the State of Jammu and Kashmir.
 - (3) They shall come into force on the date of their publication in the Official Gazette.
2. **DEFINITIONS-** (1) In these rules, unless the context otherwise requires,-

¹Published in the Gazette of India, (Extra), Part II, Section 3 (i), dated 06.09.2012

- (a) “Act” means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
- (b) [²“bona fide livelihood needs” means fulfillment of livelihood needs of self and family through exercise of any of the rights specified in sub-section (1) of section 3 of the Act and includes sale of surplus produce arising out of exercise of such rights;]
- (c) “claimant” means an individual, group of individuals, family or community making a claim for recognition and vesting of rights listed in the Act;
[³(ca)“community rights” means the rights listed in clauses (b), (c), (d), (e), (h), (i), (j), (k) and (l) of sub-section (1) of section 3;]
- (d) [⁴“disposal of minor forest produce” under clause (c) of sub-section (1) of section 3 shall include right to sell as well as individual or collective processing, storage, value addition, transportation within and outside forest area through appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federations for livelihood;

Explanation:-

- (1) The transit permit regime in relation to transportation of minor forest produce shall be modified and given by the Committee constituted under clause (e) of sub-rule (1) of rule 4 or the person authorized by the Gram Sabha,
- (2) This procedural requirement of transit permit in no way shall restrict or abridge the right to disposal of minor forest produce,
- (3) The collection of minor forest produce shall be free of all royalties or fees or any other charges;
- (e) “Forest Rights Committee” means a committee constituted by the Gram Sabha under rule 3;
- (f) “section” means the section of the Act;
- (2) The words and expressions used and not defined in these rules but defined in the Act, shall have the meanings respectively assigned to them in the Act.

[⁵2A. IDENTIFICATION OF HAMLETS OR SETTLEMENTS AND PROCESS OF THEIR CONSOLIDATION – The State Government shall ensure that –

- (a) every panchayat, within its boundaries, prepares a list of group of hamlets or habitations, unrecorded or unsurveyed settlements or forest villages or taungya villages, formally not part of any Revenue or Forest village record and have this list passed by convening Gram Sabha of each such habitation, hamlets or habitations included as villages for the purpose of the Act through a resolution in the Panchayat and submit such list to Sub Division Level Committee;
- (b) the Sub-Divisional Officers of the Sub Division Level Committee consolidate the lists of hamlets and habitations which at present are not part of any village but have been included as villages within the Panchayat through a resolution, and are formalized as a village either by adding to the existing village or

² Clause (b) of sub-rule (1) in rule 2, substituted by G.S.R. 669(E), dated 06.09.2012

³ Clause (ca) of sub-rule (1) in rule 2, inserted by G.S.R. 669(E), dated 06.09.2012

⁴ Clause (d) of sub-rule (1) in rule 2, substituted by G.S.R. 669(E), dated 06.09.2012

⁵ Rule 2A, inserted by G.S.R. 669(E), dated 06.09.2012

otherwise after following the process as provided in the relevant State laws and that the lists are finalized by the District Level Committee after considering public comments, if any;

- (c) on finalization of the lists of hamlets and habitations, the process of recognition and vesting of rights in these hamlets and habitations is undertaken without disturbing any rights, already recognized.

3. GRAM SABHA-

- (1) The Gram Sabhas shall be convened by the Gram Panchayat and in its first meeting it shall elect from amongst its members, a committee of not less than ten but not exceeding fifteen persons as members of the Forest Rights Committee, wherein [⁶at least two-third members shall be the Scheduled Tribes:]

Provided that not less than one-third of such members shall be women;

Provided further that where there are no Scheduled Tribes, at least one third of such members shall be women.

- (2) The Forest Rights Committee shall decide on a chairperson and a secretary and intimate it to the Sub-Divisional Level Committee.
- (3) When a member of the Forest Rights Committee is also a claimant of individual forest right, he shall inform the Committee and shall not participate in the verification proceedings when his claim is considered.

[⁷(4) The Forest Rights Committee shall not reopen the forest rights recognized or the process of verification of the claims already initiated before the date of coming into force of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendments Rules, 2012.]

4. FUNCTIONS OF THE GRAM SABHA- (1) The Gram Sabha shall -

- (a) initiate the process of determining the nature and extent of forest rights, receive and hear the claims relating thereto;
- (b) prepare a list of claimants of forests rights and maintain a register containing such details of claimants and their claims as the Central Government may by order determine;
- (c) pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee;
- (d) consider resettlement packages under clause (e) of sub section (2) of section 4 of the Act and pass appropriate resolutions; and
- (e) Constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of section 5 of the Act.
- (f) [⁸ monitor and control the committee constituted under clause (e) which shall prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling Scheduled Tribes and other Traditional Forest Dwellers and integrate such conservation and management plan with the micro plans or working plans or management plans of the forest department with such modifications as may be considered necessary by the committee.]

⁶ The words “at least one-third members” substituted by G.S.R. 669(E), dated 06.09.2012

⁷ Sub-rule (4), inserted by G.S.R. 669(E), dated 06.09.2012

⁸ Clause (f) of sub-rule (1) in rule 4, inserted by G.S.R. 669(E), dated 06.09.2012

- (g) [⁹approve all decisions of the committee pertaining to issue of transit permits, use of income from sale of produce, or modification of management plans.]

[¹⁰(2) The quorum of the Gram Sabha meeting shall be not less than one-half of all members of such Gram Sabha:

Provided that at least one-third of the members present shall be women;

Provided further that where any resolutions in respect of claims to forest rights are to be passed, at least fifty per cent of the claimants to forest rights or their representatives shall be present;

Provided also that such resolutions shall be passed by a simple majority of those present and voting.]

(3) The Gram Sabha shall be provided with the necessary assistance by the authorities in the State.

5. SUB-DIVISIONAL LEVEL COMMITTEE- The State Government shall constitute Sub-Divisional Level Committee with the following members, namely:-

- (a) Sub-Divisional Officer or equivalent officer - Chairperson;
- (b) Forest Officer in charge of a Sub-division or equivalent officer - member;
- (c) three members of the Block or Tehsil level Panchayats to be nominated by the District Panchayat of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to the primitive tribal groups and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council or other appropriate zonal level, of whom at least one shall be a woman member; and
- (d) an officer of the Tribal Welfare Department in-charge of the Sub-division or where such officer is not available the officer in-charge of the tribal affairs.

6. FUNCTIONS OF THE SUB-DIVISIONAL LEVEL COMMITTEE- The Sub-Divisional Level Committee (SDLC) shall

- (a) provide information to each Gram Sabha about their duties and duties of holder of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected ;
- (b) provide forest and revenue maps and electoral rolls to the Gram Sabha or the Forest Rights Committee;
- (c) collate all the resolutions of the concerned Gram Sabhas;
- (d) consolidate maps and details provided by the Gram Sabhas;
- (e) examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims;
- (f) hear and adjudicate disputes between Gram Sabhas on the nature and extent of any forest rights;
- (g) hear petitions from persons, including State agencies, aggrieved by there solutions of the Gram Sabhas;
- (h) co-ordinate with other Sub-Divisional Level Committees for inter sub-divisional claims ;
- (i) prepare block or tehsil-wise draft record of proposed forest rights after reconciliation of government records;

⁹ Clause (g) of sub-rule (1) in rule 4, inserted by G.S.R. 669(E), dated 06.09.2012

¹⁰ Sub-rule (2) of Rule 4, substituted by G.S.R. 669(E), dated 06.09.2012

- (j) forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision;
- (k) raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules ;
- (l) [¹¹ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Forms A, B& C) of these rules;]
- (m) ensure that the Gram Sabha meetings are conducted in free, open and fair manner with requisite quorum.

7. DISTRICT LEVEL COMMITTEE - The State Government shall constitute District Level Committee (DLC) with the following members, namely:-

- (a) District Collector or Deputy Commissioner - Chairperson;
- (b) concerned Divisional Forest Officer or concerned Deputy Conservator of Forest - member;
- (c) three members of the district panchayat to be nominated by the district panchayat, of whom at least two shall be the Scheduled Tribes preferably those who are forest dwellers, or who belong to members of the primitive tribal groups, and where there are no Scheduled Tribes, two members who are preferably other traditional forest dwellers, and one shall be a woman member; or in areas covered under the Sixth Schedule to the Constitution, three members nominated by the Autonomous District Council or Regional Council of whom at least one shall be a woman member; and
- (d) an officer of the Tribal Welfare Department in-charge of the district or where such officer is not available, the officer in charge of the tribal affairs.

8. FUNCTIONS OF DISTRICT LEVEL COMMITTEE - The District Level Committee shall –

- (a) ensure that the requisite information under clause (b) of rule 6 has been provided to Gram Sabha or Forest Rights Committee;
- (b) examine whether all claims, especially those of primitive tribal groups, pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act;
- (c) consider and finally approve the claims and record of forest rights prepared by the Sub-Divisional Level Committee;
- (d) hear petitions from persons aggrieved by the orders of the Sub-Divisional Level Committee;
- (e) co-ordinate with other districts regarding inter-district claims;
- (f) issue directions for incorporation of the forest rights in the relevant government records including record of rights;
- (g) ensure publication of the record of forest rights as may be finalized; ¹²[xxx]
- (h) ensure that a certified copy of the record of forest rights and title under the Act, as specified in Annexure II & III to these rules, is provided to the concerned claimant and the Gram Sabha respectively ;¹³and]

¹¹Clause (l) of Rule 6, substituted by G.S.R. 669(E), dated 06.09.2012

¹²The word, “and” is omitted by G.S.R. 669(E), dated 06.09.2012

¹³The word, “and” is inserted by G.S.R. 669(E), dated 06.09.2012

- (i) [¹⁴ensure that a certified copy of the record of the right to community forest resource and title under the Act, as specified in Annexure IV to these rules, is provided to the concerned Gram Sabha or the community whose rights over community forest resource have been recognized under clause (i) of sub-section (1) of section 3.]

9. STATE LEVEL MONITORING COMMITTEE - The State Government shall constitute a State Level Monitoring Committee with the following members, namely:-

- (a) Chief Secretary - Chairperson;
- (b) Secretary, Revenue Department - member;
- (c) Secretary, Tribal or Social Welfare Department - member;
- (d) Secretary, Forest Department - member;
- (e) Secretary, Panchayati Raj - member;
- (f) Principal Chief Conservator of Forests - member;
- (g) three Scheduled Tribes member of the Tribes Advisory Council, to be nominated by the Chairperson of the Tribes Advisory Council and where there is no Tribes Advisory Council, three Scheduled Tribes members to be nominated by the State Government;
- (h) Commissioner, Tribal Welfare or equivalent who shall be the Member-Secretary.

10. FUNCTIONS OF THE STATE LEVEL MONITORING COMMITTEE- The State Level Monitoring Committee shall –

- (a) devise criteria and indicators for monitoring the process of recognition and vesting of forest rights;
- (b) monitor the process of recognition, verification and vesting of forest rights in the State;
- (c) [¹⁵meet at least once in three months to monitor the process of recognition, verification and vesting of forest rights, consider and address the field level verification and vesting of forest rights, consider and address the field level problems, and furnish a quarterly report in the format appended as Annexure V to these rules, to the Central Government on their assessment regarding the status of claims, the compliance with the steps required under the Act, details of claims approved, reasons for rejection, if any and the status of pending claims;]
- (d) on receipt of a notice as mentioned in section 8 of the Act, take appropriate actions against the concerned authorities under the Act;
- (e) monitor resettlement under sub-section (2) of section 4 of the Act;
- (f) [¹⁶specifically monitor compliance of the provisions contained in clause (m) of sub-section (1) of section 3 and sub-section (8) of section 4.]

11. PROCEDURE FOR FILING, DETERMINATION AND VERIFICATION OF CLAIMS BY THE GRAM SABHA-

- (1) The Gram Sabhas shall –
 - (a) call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of these rules and such claims shall be made within a period of three

¹⁴ Clause (i) after clause of (h) in Rule 8, inserted by G.S.R. 669(E), dated 06.09.2012

¹⁵ Clause (c) in rule 10, substituted by G.S.R. 669(E), dated 06.09.2012

¹⁶ Clause (f), inserted by G.S.R. 669(E), dated 06.09.2012

months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, shall be made within a period of three months: Provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.

- (b) fix a date for initiating the process of determination of its community forest resource and intimate the same to the adjoining Gram Sabhas where there are substantial overlaps, and the Sub-Divisional Level Committee.
- (2) The Forest Rights Committee shall assist the Gram Sabha in its functions to -
 - (i) receive, acknowledge and retain the claims in the specified form and evidence in support of such claims;
 - (ii) prepare the record of claims and evidence including maps;
 - (iii) prepare a list of claimants on forest rights;
 - (iv) verify claims as provided in these rules;
 - (v) present their findings on the nature and extent of the claim before the Gram Sabha for its consideration.
- (3) Every claim received shall be duly acknowledged in writing by the Forest Rights Committee.
- (4) The Forest Rights Committee shall also prepare the claims on behalf of Gram Sabha for [¹⁷community forest rights in Form B and the right over community forest resource under clause (i) of sub-section (1) of Section 3 in Form Cas provided in Annexure I of these Rules.]
- (5) The Gram Sabha shall on receipt of the findings under clause (v) of sub-rule(2), meet with prior notice, to consider the findings of the Forest Rights Committee, pass appropriate resolutions, and shall forward the same to the Sub-Divisional Level Committee.
- (6) The Secretary of Gram Panchayat will also act as Secretary to the Gram Sabhas in discharge of its functions.

12. PROCESS OF VERIFYING CLAIMS BY FOREST RIGHTS COMMITTEE- (1) The Forest Rights Committee shall, after due intimation to the concerned claimant and the Forest Department

- (a) visit the site and physically verify the nature and extent of the claim and evidence on the site;
- (b) receive any further evidence or record from the claimant and witnesses;
- (c) ensure that the claim from pastoralists and nomadic tribes for determination of their rights, which may either be through individual members, the community or traditional community institution, are verified at a time when such individuals, communities or their representatives are present;
- (d) ensure that the claim from member of a primitive tribal group or pre-agricultural community for determination of their rights to habitat, which may either be through their community or traditional community institution, are verified when such communities or their representatives are present; and
- (e) prepare a map delineating the area of each claim indicating recognizable landmarks.
- (f) [¹⁸delineate the customary boundaries of the community forest resource with other members of the Gram Sabha including elders who are well versed with such boundaries and customary access;

¹⁷ The words and letter “community forest rights in Form B”, substituted by G.S.R. 669(E), dated 06.09.2012

¹⁸ Clause (f) and (g) after clause (e), inserted by G.S.R. 669(E), dated 06.09.2012

- (g) prepare a community forest resource map with recognizable land marks and through substantial evidence as enumerated in sub-rule (2) of rule 13 and thereafter, such community forest resource claim shall be approved by a resolution of the Gram Sabha passed by a simple majority.

Explanation: The delineation of community forest resource may include existing legal boundaries such as reserve forest, protected forest, National Parks and Sanctuaries and such delineation shall formalize and recognize the powers of the community in access, conservation and sustainable use of such community forest resources.]

- (2) The Forest Rights Committee shall then record its findings on the claim and present the same to the Gram Sabha for its consideration.
- (3) If there are conflicting claims in respect of the traditional or customary boundaries of another village or if a forest area is used by more than one Gram Sabha, the Forest Rights Committees of the respective Gram Sabhas shall meet jointly to consider the nature of enjoyment of such claims and submit the findings to the respective Gram Sabhas in writing:

Provided that if the Gram Sabhas are not able to resolve the conflicting claims, it shall be referred by the Gram Sabha to the Sub-Divisional Level Committee for its resolution.

- (4) On a written request of the Gram Sabha or the Forest Rights Committee for information, records or documents, the concerned authorities shall provide an authenticated copy of the same to the Gram Sabha or Forest Rights Committee, as the case may be, and facilitate its clarification, if required, through an authorized officer.

[¹⁹12A. PROCESS OF RECOGNITION OF RIGHTS -

- (1) On receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue departments shall remain present during the verification of the claims and the verification of evidences on the site and shall sign the proceedings with their designation, date and comments, if any.
- (2) If any objections are made by the Forest or Revenue departments at a later date to a claim approved by the Gram Sabha, for the reason that their representatives were absent during field verification, the claim shall be remanded to the Gram Sabha for re-verification by the committee where objection has been raised and if the representatives again fail to attend the verification process the Gram Sabha's decision on the field verification shall be final.
- (3) In the event of modification or rejection of a claim by the Gram Sabha or a recommendation for modification or rejection of a claim forwarded by the Sub-Divisional Level Committee to the District Level Committee, such decision or recommendation on the claims shall be communicated in person to the claimant to enable him to prefer a petition to the Sub-Divisional Level Committee or District Level Committee as the case may be, within a period of sixty days which shall be extendable to a period of thirty days at the discretion of the above said committees.
- (4) If any other state agency desires to object to a decision of the Gram Sabha or the Sub-Divisional Level Committee, it shall file an appeal before the Sub-Divisional Level Committee or the District Level Committee, as the case may be, which shall be decided by the Committee (in the absence of the representative of the concerned agency, if any) after hearing the claimant.

¹⁹ Rule 12A, inserted by G.S.R. 669(E), dated 06.09.2012

- (5) No petition of the aggrieved person shall be disposed of, unless he has been given a reasonable opportunity to present anything in support of his claim.
- (6) The Sub-Divisional Level Committee or the District Level Committee shall remand the claim to the Gram Sabha for reconsideration instead of modifying or rejecting the same, in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination.
- (7) In cases where the resolution passed by the Gram Sabha, recommending a claim, with supporting documents and evidence, is upheld by the Sub-Divisional Level Committee with or without modifications, but the same is not approved by the District Level Committee, the District Level Committee shall record detailed reasons for not accepting the recommendations of the Gram Sabha or the Sub-Divisional Level Committee as the case may be, in writing, and a copy of the order of the District Level Committee along with the reasons shall be made available to the claimant or the Gram Sabha or the Community as the case may be.
- (8) The land rights for self-cultivation recognized under clause (a) of sub-section (1) of section 3 shall be, within the specified limit, including the forest lands used for allied activities ancillary to cultivation, such as, for keeping cattle, for winnowing and other post-harvest activities, rotational fallows, tree crops and storage of produce.
- (9) On completion of the process of settlement of rights and issue of titles as specified in Annexure II, III and IV of these rules, the Revenue and the Forest departments shall prepare a final map of the forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the specified period of record updation under the relevant State laws or within a period of three months, whichever is earlier.
- (10) All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution or recommendation of the Sub-Divisional Level Committee shall give detailed reasons for such modification or rejection, as the case may be:
- Provided that no recommendation or rejection of claims shall be merely on any technical or procedural grounds:
- Provided further that no committee (except the Gram Sabha or the Forest Rights Committee) at the Block or Panchayat or forest beat or range level, or any individual officer of any rank shall be empowered to receive claims or reject, modify, or decide any claim on forest rights.
- (11) The Sub-Divisional Level Committee or the District Level Committee shall consider the evidence specified in rule 13 while deciding the claims and shall not insist upon any particular form of documentary evidence for consideration of a claim.
- Explanation:** 1. Fine receipts, encroacher lists, primary offence reports, forest settlement reports, and similar documentation by whatever name called, arisen during prior official exercise, or the lack thereof, shall not be the sole basis for rejection of any claim.
2. The satellite imagery and other uses of technology may supplement other form of evidence and shall not be treated as a replacement.]

[²⁰12B. Process OF RECOGNITION OF COMMUNITY RIGHTS:-

- (1) The District Level Committee shall, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups as described in clause (e) of sub-section (i) of section 3 amongst the forest dwellers, ensure that all Particularly Vulnerable Tribal Groups receive habitat rights, in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups and their claims for habitat rights are filed before the concerned Gram Sabhas, wherever necessary by recognizing floating nature of their Gram Sabhas.
- (2) The District Level Committee shall facilitate the filing of claims by pastoralists, transhumant and nomadic communities as described in clause (d) of sub-section (i) of section 3 before the concerned Gram Sabhas.
- (3) The District Level Committee shall ensure that the forest rights under clause (i) of sub-section (1) of section 3 relating to protection, regeneration or conservation or management of any community forest resource, which forest dwellers might have traditionally been protecting and conserving for sustainable use, are recognized in all villages with forest dwellers and the titles are issued.
- (4) In case where no community forest resource rights are recognized in a village, the reasons for the same shall be recorded by the Secretary of the District Level Committee.
- (5) The conversion of forest villages, unrecorded settlement under clause (h) of section 3 shall include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities and public spaces.]

13. EVIDENCE FOR DETERMINATION OF FOREST RIGHTS—

- (1) The evidence for recognition and vesting of forest rights shall, inter alia, include –
 - (a) public documents, Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of rights by whatever name called, *pattas* or leases, reports of committees and commissions constituted by the Government orders, notifications, circulars, resolutions;
 - (b) Government authorised documents such as voter identity card, ration card, passport, house tax receipts, domicile certificates;
 - (c) physical attributes such as house, huts and permanent improvements made to land including levelling, bunds, check dams and the like;
 - (d) quasi-judicial and judicial records including court orders and judgments;
 - (e) research studies, documentation of customs and traditions that illustrate the enjoyment of any forest rights and having the force of customary law, by reputed institutions, such as Anthropological Survey of India;
 - (f) any record including maps, record of rights, privileges, concessions, favours, from erstwhile princely States or provinces or other such intermediaries;
 - (g) traditional structures establishing antiquity such as wells, burial grounds, sacred places;

²⁰ Rule 12B, inserted by G.S.R. 669(E), dated 06.09.2012

- (h) genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time;
- (i) statement of elders other than claimants, reduced in writing.
- (2) An evidence for [²¹Community Forest Resource] shall, inter alia, include –
 - (a) community rights such as *nistar* by whatever name called;
 - (b) traditional grazing grounds; areas for collection of roots and tubers, fodder, wild edible fruits and other minor forest produce; fishing grounds; irrigation systems; sources of water for human or livestock use, medicinal plant collection territories of herbal practitioners;
 - (c) remnants of structures built by the local community, sacred trees, groves and ponds or riverine areas, burial or cremation grounds;
 - (d) [²²government records or earlier classification of current reserve forest as protected forest or as gochar or other village common lands, nistari forests;
 - (e) earlier or current practice of traditional agriculture.]
- (3) The Gram Sabha, the Sub-Divisional Level Committee and the District Level Committee shall consider more than one of the above-mentioned evidences indetermining the forest rights.

14. Petitions TO SUB-DIVISIONAL LEVEL COMMITTEE-

- (1) Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.
- (2) The Sub-Divisional Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Gram Sabha in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.
- (3) The Sub-Divisional Level Committee may either allow or reject or refer the petition to concerned Gram Sabha for its reconsideration.
- (4) After receipt of such reference, the Gram Sabha shall meet within a period of thirty days, hear the petitioner, pass a resolution on that reference and forward the same to the Sub-Divisional Level Committee.
- (5) The Sub-Divisional Level Committee shall consider the resolution of the Gram Sabha and pass appropriate orders, either accepting or rejecting the petition.
- (6) Without prejudice to the pending petitions, Sub-Divisional Level Committee shall examine and collate the records of forest rights of the other claimants and submit the same through the concerned Sub-Divisional Officer to the District Level Committee.
- (7) In case of a dispute between two or more Gram Sabhas and on an application of any of the Gram Sabhas or the Sub-Divisional Level Committee on its own, shall call for a joint meeting of the concerned Gram Sabhas with a view to resolving the dispute and if no mutually agreed solution can be reached

²¹ The words “Community Forest Rights”, substituted by G.S.R. 669(E), dated 06.09.2012

²² Clause (d) and (e) after clause (c) inserted by G.S.R. 669(E), dated 06.09.2012

within a period of thirty days, the Sub-Divisional Level Committee shall decide the dispute after hearing the concerned Gram Sabhas and pass appropriate orders.

15. Petitions to DISTRICT LEVEL COMMITTEE-

- (1) Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision of the Sub-Divisional Level Committee file a petition to the District Level Committee.
- (2) The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-Divisional Level Committee in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.
- (3) The District Level Committee may either allow or reject or refer the petition to concerned Sub-Divisional Level Committee for its reconsideration.
- (4) After receipt of such reference, the Sub-Divisional Level Committee shall hear the petitioner and the Gram Sabha and take a decision on that reference and intimate the same to the District Level Committee.
- (5) The District Level Committee shall then consider the petition and pass appropriate orders, either accepting or rejecting the petition.
- (6) The District Level Committee shall send the record of forest rights of the claimant or claimants to the District Collector or District Commissioner for necessary correction in the records of the Government.
- (7) In case there is a discrepancy between orders of two or more Sub-Divisional Level Committees, the District Level Committee on its own, shall call for a joint meeting of the concerned Sub-Divisional Level Committees with a view to reconcile the differences and if no mutually agreed solution can be reached, the District Level Committee shall adjudicate the dispute after hearing the concerned Sub-Divisional Level Committees and pass appropriate orders.

²³16. POST CLAIM SUPPORT AND HAND HOLDING TO HOLDERS OF FOREST RIGHTS:

The State Government shall ensure through its departments especially tribal and social welfare, environment and forest, revenue, rural development, panchayati raj and other departments relevant to upliftment of forest dwelling scheduled tribes and other traditional forest dwellers, that all government schemes including those relating to land improvement, land productivity, basic amenities and other livelihood measures are provided to such claimants and communities whose rights have been recognized and vested under the Act.

Dr.Sadhana Rout, Joint Secretary

[F. No.17014/ 02/ 2007-PC&V (Vol.VII)]

²³ Rule 16, inserted by G.S.R. 669(E), dated 06.09.2012

ANNEXURE - I

[See rule 6(l)]

FORM – A

CLAIM FORM FOR RIGHTS TO FORESTLAND

[See rule 11(1)(a)]

1. Name of the claimant (s):
2. Name of the spouse
3. Name of father/ mother
4. Address:
5. Village:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. (a) Scheduled Tribe: Yes/ No
(Attach authenticated copy of Certificate)
(b) Other Traditional Forest Dweller: Yes/ No
(If a spouse is a Scheduled Tribe (attach authenticated copy of certificate)
10. Name of other members in the family with age:
(including children and adult dependents)

Nature of claim on land:

1. Extent of forest land occupied
 - a) for habitation
 - b) for self-cultivation, if any:
(See Section 3(1)(a) of the Act)
2. Disputed lands if any:
(See Section 3(1)(f) of the Act)
3. Pattas/ leases/ grants, if any:
(See Section 3(1)(g) of the Act)
4. Land for *in situ* rehabilitation or alternative land, if any:
(See Section 3(1)(m) of the Act)
5. Land from where displaced without land compensation:
(See Section 4(8) of the Act)
6. Extent of land in forest villages, if any:
(See Section 3(1)(h) of the Act)
7. Any other traditional right, if any:
(See Section 3(1) (l) of the Act)
8. Evidence in support:
(See Rule 13)
9. Any other information:

**Signature/ Thumb Impression
of the Claimant(s):**

FORM – B
CLAIM FORM FOR COMMUNITY RIGHTS

[See rule 11(1) (a) and (4)]

1. Name of the claimant(s):
 - a. FDST community: Yes/ No
 - b. OTFD community: Yes/ No
2. Village:
3. Gram Panchayat:
4. Tehsil/ Taluka:
5. District:

Nature of community rights enjoyed:

1. Community rights such as *nistar*, if any:
(See Section 3(1)(b) of the Act)
2. Rights over minor forest produce, if any:
(See Section 3(1)(c) of the Act)
3. Community rights
 - a. uses or entitlements (fish, water bodies), if any:
 - b. Grazing, if any
 - c. Traditional resource access for nomadic and pastoralist, if any:
(See Section 3(1)(g) of the Act)
4. Community tenures of habitat and habitation
for PTGs and pre-agricultural communities, if any:
(See Section 3(1)(e) of the Act)
5. Right to access biodiversity, intellectual
property and traditional knowledge, if any:
(See Section 3 (1)(k) of the Act)
6. Other traditional right, if any:
(See Section 3(1)(l) of the Act)
7. Evidence in support:
(See Rule 13)
8. Any other information:

Signature/ Thumb Impression

of the Claimant (s):

²⁴FORM – C

CLAIM FORM FOR RIGHTS TO COMMUNITY FOREST RESOURCE

[See section 3(1) (i) of the Act and rule 11(1) and 4(a)]

1. Village/Gram Sabha:
2. Gram Panchayat:
3. Tehsil / Taluka:
4. District:
5. Name(s) of members of the gram sabha [Attach as separate sheet, with status of Scheduled Tribes / Other Traditional Forest Dwellers indicated next to each member].

Presence of few Scheduled Tribes / Other Traditional forest Dwellers is sufficient to make the claim.

We, the undersigned residents of this Gram Sabha hereby resolve that the area detailed below and in the attached map comprises our Community Forest Resource over which we are claiming recognition of our forest rights under section 3(1)(i).

[Attach a map of the community forest resource, showing location, landmarks within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities to which the community had traditional access and which they have been traditionally protecting, regenerating, conserving and managing for sustainable use. Please note that this need not correspond to existing legal boundaries.)

6. Khasra / Compartment No.(s), if any and if known:
7. Bordering Villages:
 - (i)
 - (ii)
 - (iii)

(This may also include information regarding sharing of resources and responsibilities with any other villages.)

8. List of Evidence in Support (Please see Rule 13)

Signature / Thumb impression of the Claimant(s):

²⁴ “Form C” in annexure 1 after Form B inserted by G.S.R. 669(E), dated on 06.09.2012

ANNEXURE – II

[See rule 8(h)]

TITLE FOR FOREST LAND UNDER OCCUPATION

1. Name(s) of holder (s) of forest rights (including spouse):
2. Name of the father/ mother:
3. Name of dependents:
4. Address:
5. Village/gram sabha:
6. Gram Panchayat:
7. Tehsil/ Taluka:
8. District:
9. Whether Scheduled Tribe or Other Traditional Forest Dweller
10. Area:
11. Description of boundaries by prominent landmarks including khasra/ compartment No:

This title is heritable, but not alienable or transferable under sub section (4) of section 4 of the Act.

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State).....affix our signatures to confirm the above forest right.

**Divisional Forest Officer/
Deputy Conservator of Forests**

District Tribal Welfare Officer

District Collector/ Deputy Commissioner

ANNEXURE – III

[See rule 8(h)]

TITLE TO COMMUNITY FOREST RIGHTS

1. Name(s) of the holder (s) of community forest right:
2. Village/ Gram Sabha:
3. Gram Panchayat:
4. Tehsil/ Taluka:
5. District:
6. Scheduled Tribe/ Other Traditional Forest Dweller:
7. Nature of community rights:
8. Conditions if any:
9. Description of boundaries including
customary boundary and/or by prominent
landmarks including khasra/ compartment No:

Name(s) of the holder (s) of community forest right:

- 1.....
- 2.....
- 3.....

We, the undersigned, hereby, for and on behalf of the Government of (Name of the State).....affix our signatures to confirm the forest right as mentioned in the Title to the above mentioned holders of community forest rights.

**Divisional Forest Officer/
Deputy Conservator of Forests**

District Tribal Welfare Officer

District Collector/ Deputy Commissioner

25 ANNEXURE – IV

TITLE TO COMMUNITY FOREST RESOURCES

[See rule 8(i)]

1. Village/Gram Sabha:
2. Gram Panchayat:
3. Tehsil/Taluka:
4. District:
5. Scheduled Tribe / Other Traditional Forest Dweller. Scheduled Tribes community / Other Traditional Forest Dwellers community / Both
6. Description of boundaries including customary boundary, by prominent landmarks, and by khasra / compartment No.

Within the said area, this community has the right to protect, regenerate or conserve or manage, and this (to be named) community forest resources which they have been traditionally protecting and conserving for sustainable used as per section 3(1)(i) of the Act. No conditions are being imposed on this right other than those in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act and the Rules framed thereunder.

We, the undersigned, hereby, for and on behalf of the Government affix our signatures to confirm the community forest resource (to be named and specified in extent, quantum, area, whichever is applicable) as mentioned in the Title to the above mentioned gram sabha / community (ies).

**Divisional Forest Officer/
Deputy Conservator of Forests**

District Tribal Welfare Officer

District Collector/ Deputy Commissioner

²⁶ANNEXURE – V

Format for furnishing quarterly report

[See Rule 10 (c)]

| | | |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| 1. | Name of the State | |
| 2. | Status of Claims | |
| a) | Individual Rights | |
| | <ul style="list-style-type: none">• Filed | |
| | <ul style="list-style-type: none">• Accepted• Rejected | |
| | <ul style="list-style-type: none">• Pending• Reasons for rejection with examples | |
| | <ul style="list-style-type: none">• Corrective measures suggested | |
| | <ul style="list-style-type: none">• Any other observations• Extent of forest land covered (in Ha.) | |
| | <ul style="list-style-type: none">• Status of updation of forest and revenue records under section 3(1)(a) of the Act (in Ha.) | |
| b) | Community Forest Rights | |
| | <ul style="list-style-type: none">• Filed• Accepted | |
| | <ul style="list-style-type: none">• Rejected• Pending | |
| | <ul style="list-style-type: none">• Extent of forest land covered | |
| | <ul style="list-style-type: none">• Status of updation of forest and revenue record under Section 3(1) (b) to 3(1) (l) of the Act (in Ha.) | |
| | <ul style="list-style-type: none">• Reasons for rejections with example• Corrective measures suggested | |
| | <ul style="list-style-type: none">• Any other observations | |
| c) | Details of Community Forest Resource being managed and by whom | |
| d) | Good Practices (if any) | |
| e) | Area diverted under section 3(2) of the Act (in Ha.) | |
| f) | Any other Remarks | |

(Chairman)

State Level Monitoring Committee

(Member Secretary)

State Level Monitoring Committee

[F. No. 23011/32/2010-(Vol. II)

Dr. SADHANA ROUT, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1 (E), dated the 1st January, 2008.

²⁶“Annexure – V”, inserted by G.S.R. 669 (E), dated on 06.09.2012

SECTION – II
Clarification & Guidelines

Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi
Dated : 12th July, 2012

To

2. **The Chief Secretaries of all State Governments
(except Jammu & Kashmir, Punjab , Haryana and Delhi)**
3. **The Administrators of all Union Territories
(except Lakshadweep)**

Subject: Implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 - guidelines regarding.

Sir,

As you are aware, the historic legislation “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act “ had been enacted in 2006 with the objective of remedying the historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers of the country. However, even after lapse of more than four years of its implementation, the Ministry has observed that the flow of intended benefits of this welfare legislation to the eligible forest dwellers remains constrained.

2. The Ministry has noticed several problems which are impeding the implementation of the Act in its letter and spirit, such as, convening of Gram Sabha meetings at the panchayat level in some cases, resulting in exclusion of smaller habitations not formally part of any village; non-recognition of un-hindered absolute rights over the minor forest produce (MFP) to forest dwellers; imposition of several restrictions, like, transit permit for transportation of MFPs, levy of fees, charges, royalties on sale of MFPs; exclusion of certain types of MFPs, in contravention of the definition of MFP given in the Act; continuance of monopoly in the trade of MFP, especially in the case of high value MFP, such as, tendu patta by the Forest Corporations in many States; non-recognition of other community rights, such as, nistar rights, conversion of all forest villages, old habitations, un-surveyed villages and other villages in forests, whether recorded, notified or not into revenue villages; non-recognition of community forest resource rights relating to protection, regeneration or conservation, or management of any community forest resources under Section 3(1)(i) of the Act; etc.

3. In many areas, the tribal people and other forest dwellers are reportedly facing harassment and threats of eviction from forest lands and forced relocation or displacement from the areas proposed for development projects without settlement of their rights or due compliance with safeguards in violation of the provisions of the Act. The claims are being rejected in some States as the officials are insisting on certain types of evidences and the new technology, such as, satellite imagery, is being used as the only form of evidence for consideration of a claim, instead of using the same to supplement the evidences submitted by the claimants in support of their claims. Inadequate

public awareness about the provisions of the Act, particularly the provisions relating to the filing of petitions by the persons aggrieved by the decisions of the authorities prescribed under the Act, inadequate training of the implementing officials etc. are also some of the reasons for non-implementation of the Act in its letter and spirit.

4. In order to address the above concerns and to ensure effective implementation of the Act, the Ministry has undertaken an exercise to arrive at certain provisions/ steps which will facilitate robust implementation of the Act. Certain guidelines as indicated in the Annexure to this letter are accordingly being issued for compliance by all the State Governments/ UT Administrations. It is requested that the enclosed guidelines may be brought to the notice of all the implementing agencies in your State/UT for strict compliance. This Ministry may also kindly be apprised of the action taken for operationalising these guidelines at an early date.

5. This issues with the approval of competent authority.

Yours faithfully,

(Sadhana Rout)

Joint Secretary to the Government of India

Tele: 23383622

Copy also forwarded to State Principal Secretaries/Secretaries in-charge of Tribal Welfare/ Development Departments for urgent necessary action.

(Sadhana Rout)

Joint Secretary to the Government of India

Government of India
Ministry of Tribal Affairs

Guidelines on the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 seeks to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded. The Act was notified for operation with effect from 31.12.2007 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 for implementing the provisions of the Act were notified on 1.1.2008.

Over a period of last four years of implementation of the Act, some problems impeding the implementation of the Act in its letter and spirit have come to the notice of the Ministry of Tribal Affairs, such as, convening of Gram Sabha meetings at the Panchayat level resulting in exclusion of smaller habitations not formally part of any village; non-recognition of un-hindered rights over the minor forest produce (MFP) to forest dwellers; non-recognition of other community rights; harassment and eviction of forest dwellers without settlement of their forest rights; rejection of claims by insisting on certain types of evidences, inadequate awareness about the provisions of the Act and the Rules etc.

In order to address the above concerns and with a view to ensure effective implementation of the Act, the following guidelines are issued on various aspects of implementation of the Act for compliance by all the State Governments/UT Administrations:

i) Process of Recognition of Rights:

- (a) The State Governments should ensure that on receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue Departments remain present during the verification of the claims and the evidence on the site.
- (b) In the event of modification or rejection of a claim by the Gram Sabha or by the Sub-Divisional Level Committee or the District Level Committee, the decision on the claim should be communicated to the claimant to enable the aggrieved person to prefer a petition to the Sub-Divisional Level Committee or the District Level Committee, as the case may be, within the sixty days period prescribed under the Act and no such petition should be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

- (c) The Sub-Divisional Level Committee or the District Level Committee should, if deemed necessary, remand the claim to the Gram Sabha for reconsideration instead of rejecting or modifying the same, in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination.
- d) In cases where the resolution passed by the Gram Sabha, recommending a claim, is upheld by Sub-Divisional Level Committee, but the same is not approved by the District Level Committee, the District Level Committee should record the reasons for not accepting the recommendations of the Gram Sabha and the Sub-Divisional Level Committee, in writing, and a copy of the order should be supplied to the claimant.
- (e) On completion of the process of settlement of rights and issue of titles as specified in Annexures II, III & IV of the Rules, the Revenue / Forest Departments shall prepare a final map of the forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the prescribed cycle of record updation.
- (f) All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution/ recommendation should be in the form of speaking orders.
- (g) The Sub-Divisional Level Committee or the District Level Committee should not reject any claim accompanied by any two forms of evidences, specified in Rule 13, and recommended by the Gram Sabha, without giving reasons in writing and should not insist upon any particular form of evidence for consideration of a claim. Fine receipts, encroacher lists, primary offence reports, forest settlement reports, and similar documentation rooted in prior official exercises, or the lack thereof, would not be the sole basis for rejection of any claim.
- (h) Use of any technology, such as, satellite imagery, should be used to supplement evidences tendered by a claimant for consideration of the claim and not to replace other evidences submitted by him in support of his claim as the only form of evidence.
- (i) The status of all the claims, namely, the total number of claims filed, the number of claims approved by the District Level Committee for title, the number of titles actually distributed, the number of claims rejected, etc. should be made available at the village and panchayat levels through appropriate forms of communications, including conventional methods, such as, display of notices, beat of drum etc.
- (j) A question has been raised whether the four hectare limit specified in Section 4(6) of the Act, which provides for recognition of forest rights in respect of the land mentioned in clause (a) of sub-section (1) of section 3 of the Act, applies to other forest rights mentioned in Section 3(1) of the Act. It is clarified that the four hectare limit specified in Section 4(6) applies to rights under section 3(1)(a) of the Act only and not to any other right under section 3(1), such as conversion of pattas or leases, conversion of forest villages into revenue villages etc.

ii) Minor Forest Produce:

- (a) The State Government should ensure that the forest rights relating to MFPs under Section 3(1)(c) of the Act are recognized in respect of all MFPs, as defined under Section 2(i) of the Act, in all forest areas, and state policies are brought in alignment with the provisions of the Act. Section 2(i) of the Act defines the term “minor forest produce” to include “all non-timber produce of plant origin, including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers, and the like”.
- (b) The monopoly of the Forest Corporations in the trade of MFP in many States, especially in case of high value MFP, such as, tendu patta, is against the spirit of the Act and should henceforth be done away with.
- (c) The forest right holders or their cooperatives/ federations should be allowed full freedom to sell such MFPs to anyone or to undertake individual or collective processing, value addition, marketing, for livelihood within and outside forest area by using locally appropriate means of transport.
- (d) The State Governments should exempt movement of all MFPs from the purview of the transit rules of the State Government and, for this purpose, the transit rules be amended suitably. Even a transit permit from Gram Sabha should not be required. Imposition of any fee/charges/royalties on the processing, value addition, marketing of MFP collected individually or collectively by the cooperatives/ federations of the rights holders would also be ultra vires of the Act.
- (e) The State Governments need to play the facilitating role in not only transferring unhindered absolute rights over MFP to forest dwelling Scheduled Tribes and other traditional forest dwellers but also in getting them remunerative prices for the MFP, collected and processed by them

iii) Community Rights:

- (a) The District Level Committee should ensure that the records of prior recorded nistari or other traditional community rights (such as Khatian part II in Jharkhand, and traditional forest produce rights in Himachal and Uttarakhand) are provided to Gram Sabhas, and if claims are filed for recognition of such age-old usufructory rights, such claims are not rejected except for valid reasons, to be recorded in writing, for denial of such recorded rights;
- (b) The District Level Committee should also facilitate the filing of claims by pastoralists before the concerned Gram Sabha (s) since they would be a floating population for the Gram Sabha(s) of the area used traditionally.
- (c) In view of the differential vulnerability of Particularly Vulnerable Tribal Groups (PTGs) amongst the forest dwellers, District Level Committee should play a pro-active role in ensuring that all PTGs receive habitat rights in consultation with the concerned PTGs’ traditional institutions and their claims for habitat rights are filed before the concerned Gram Sabhas.

(d) The forest villages are very old entities, at times of pre- independent era, duly existing in the forest records. The establishment of these villages was in fact encouraged by the forest authorities in the pre-independent era for availability of labour within the forest areas. The well defined record of each forest village, including the area, number of inhabitants, etc. exists with the State Forest Departments. There are also unrecorded settlements and old habitations that are not in any Government record. Section 3(1)(h) of the Act recognizes the right of forest dwelling Scheduled Tribes and other traditional forest dwellers relating to settlement and conversion on forest villages, old habitation, un-surveyed villages and other villages and forests, whether recorded, notified or not into revenue villages. The conversion of all forest villages into revenue villages and recognition of the forest rights of the inhabitants thereof should actually have been completed immediately on enactment of the Act. The State Governments may, therefore, convert all such erstwhile forest villages, unrecorded settlements and old habitations into revenue villages with a sense of urgency in a time bound manner. The conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities, public spaces etc. Records of the forest villages maintained by the Forest Department may thereafter be suitably updated on recognition of this right.

iv) Community Forest Resource Rights:

- (a) The State Government should ensure that the forest rights under Section 3(1)(i) of the Act relating to protection, regeneration or conservation or management of any community forest resource, which forest dwellers might have traditionally been protecting and conserving for sustainable use, are recognized in all villages and the titles are issued as soon as the prescribed Forms for claiming Rights to Community Forest Resource and the Form of Title for Community Forest Resources are incorporated in the Rules. Any restriction, such as, time limit, on use of community forest resources other than what is traditionally imposed would be against the spirit of the Act.
- (b) In case no community forest resource rights are recognized in a village, the reasons for the same should be recorded. Reference can be made to existing records of community and joint forest management, van panchayats, etc. for this purpose.
- (c) The Gram Sabha would initially demarcate the boundaries of the community forest resource as defined in Section 2(a) of the Act for the purposes of filing claims for recognition of forest right under Section 3(1)(i) of the Act.
- (d) The Committees constituted under Rule 4(e) of the Forest Rights Rules, 2008 would work under the control of Gram Sabha. The State Agencies should facilitate this process.
- (e) Consequent upon the recognition of forest right in Section 3(i) of the Act to protect, regenerate or conserve or manage any community forest resource, the powers of the Gram Sabha would be in consonance with the duties as defined in Section 5(d), wherein the Gram Sabha is empowered to regulate access to community forest resources and stop any activity which adversely affects the wild

animals, forest and the bio-diversity. Any activity that prejudicially affects the wild-life, forest and bio-diversity in forest area would be dealt with under the provisions of the relevant Acts.

v) **Protection Against Eviction, Diversion of Forest Lands and Forced Relocation :**

- (a) Section 4(5) of the Act is very specific and provides that no member of a forest dwelling Scheduled Tribe or other traditional forest dwellers shall be evicted or removed from the forest land under his occupation till the recognition and verification procedure is complete. This clause is of an absolute nature and excludes all possibilities of eviction of forest dwelling Scheduled Tribes or other traditional forest dwellers without settlement of their forest rights as this Section opens with the words "Save as otherwise provided". The rationale behind this protective clause against eviction is to ensure that in no case a forest dweller should be evicted without recognition of his rights as the same entitles him to a due compensation in case of eventuality of displacement in cases, where even after recognition of rights, a forest area is to be declared as inviolate for wildlife conservation or diverted for any other purpose. In any case, Section 4(1) has the effect of recognizing and vesting forest rights in eligible forest dwellers. Therefore, no eviction should take place till the process of recognition and vesting of forest rights under the Act is complete.
- (b) The Ministry of Environment & Forests, vide their letter No.11- 9/1998-FC(pt.) dated 30.07.2009, as modified by their subsequent letter of the same number dated 03.08.2009, has issued directions, requiring the State/ UT Governments to enclose certain evidences relating to completion of the process of settlement of rights under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, while formulating unconditional proposals for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980. The State Government should ensure that all diversions of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 take place in compliance with the instructions contained in the Ministry of Environment & Forest's letter dated 30.07.2009, as modified on 03.08.2009.
- (c) There may be some cases of major diversions of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 after the enactment of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 but before the issue of Ministry of Environment & Forests' letter dated 30.07.2009, referred to above. In case, any evictions of forest dwelling Scheduled Tribes and other traditional forest dwellers have taken place without settlement of their rights due to such major diversions of forest land under the Forest (Conservation) Act, 1980, the District Level Committees may be advised to bring such cases of evictions, if any, to the notice of the State Level Monitoring Committee for appropriate action against violation of the provisions contained in Section 4(5) of the Act.
- (d) The Act envisages the recognition and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers over all forest lands, including National Parks and Sanctuaries. Under Section 2(b) of the Act, the Ministry of Environment & Forests is responsible for determination and

notification of critical wildlife habitats in the National Parks and Sanctuaries for the purpose of creating inviolate areas for wildlife conservation, as per the procedure laid down. In fact, the rights of the forest dwellers residing in the National Parks and Sanctuaries are required to be recognized without waiting of notification of critical wildlife habitats in these areas. Further, Section 4(2) of the Act provides for certain safeguards for protection of the forest rights of the forest rights holders recognized under the Act in the critical wildlife habitats of National Parks and Sanctuaries, when their rights are either to be modified or resettled for the purposes of creating inviolate areas for wildlife conservation. No exercise for modification of the rights of the forest dwellers or their resettlement from the National Parks and Sanctuaries can be undertaken, unless their rights have been recognized and vested under the Act. In view of the provisions of Section 4(5) of the Act, no eviction and resettlement is permissible from the National Parks and Sanctuaries till all the formalities relating to recognition and verification of their claims are completed. The State/ UT Governments may, therefore, ensure that the rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers, residing in National Parks and Sanctuaries are recognized first before any exercise for modification of their rights or their resettlement, if necessary, is undertaken and no member of the forest dwelling Scheduled Tribe or other traditional forest dweller is evicted from such areas without the settlement of their rights and completion of all other actions required under section 4 (2) of the Act.

- (e) The State Level Monitoring Committee should monitor compliance of the provisions of Section 3(1)(m) of the Act, which recognizes the right to in situ rehabilitation including alternative land in cases where the forest dwelling Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land without receiving their legal entitlement to rehabilitation, and also of the provisions of Section 4(8) of the Act, which recognizes their right to land when they are displaced from their dwelling and cultivation without land compensation due to State development interventions.

vi) Awareness-Raising, Monitoring and Grievance Redressal :

- (a) Each State should prepare suitable communication and training material in local language for effective implementation of the Act.
- (b) The State Nodal Agency should ensure that the Sub Divisional Level Committee and the District Level Committee make district-wise plans for trainings of revenue, forest and tribal welfare departments' field staff, officials, Forest Rights Committees and Panchayat representatives. Public meetings for awareness generation in those villages where process of recognition is not complete need to be held.
- (c) In order to generate awareness about the various provisions of the Act and the Rules, especially the process of filing petitions, the State Government should organize public hearings on local bazaar days or at other appropriate locations on a quarterly basis till the process of recognition is complete. It will be helpful if some members of Sub Divisional Level Committee are present in the public hearings. The Gram Sabhas also need to be actively involved in the task of awareness raising.

- (d) If any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or Gram Sabha through a resolution against any higher authority or Committee or officer or member of such authority or Committee gives a notice as per Section 8 of the Act regarding contravention of any provision of the Act or any rule made thereunder concerning recognition of forest rights to the State Level Monitoring Committees, the State Level Monitoring Committee should hold an inquiry on the basis of the said notice within sixty days from the receipt of the notice and take action, if any, that is required. The complainant and the Gram Sabha should be informed about the outcome of the inquiry.

No. 23011/33/2010-FRA
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

Dated: 8.11.2013

To,

1. The Chief Secretaries of all State Governments
(except Jammu & Kashmir, Punjab, Haryana and Delhi)
2. The Administrators of all Union Territory Administrations
(except Lakshadweep and Puducherry)

Sub: Conversion of all forest villages, old habitations, unsurveyed villages etc. into revenue villages under Section 3(1)(h) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

As you are aware, the rights of settlement and conversion of all forest villages, old habitations, unsurveyed villages etc. into revenue villages has been recognized as one of the forest right of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands under Section 3(1)(h) of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (in short, Forest Rights Act, 2006). The Ministry has last year issued comprehensive guidelines to all the State/UT Governments on various aspects of implementation of the Act, which also emphasized the need to implement the provisions of the FRA with regard to conversion of forest villages and other such villages into revenue villages, without any exceptions or exemptions being provided to such villages in any category of forest lands. The State Governments were advised to convert all erstwhile forest villages, unrecorded settlements and old habitations into revenue villages with a sense of urgency in a time bound manner. It was also clarified that the conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities, public spaces etc. The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 notified on 06.09.2012 also contains a similar provision.

2. Though the Forest Right Act, 2006 has been in operation for more than five years now, the State/UT Governments have reported very slow progress towards conversion of forest villages and other such villages into revenue villages so far. It has come to the notice of the Ministry that the State Governments are not taking any action for conversion of forest villages and other such villages into revenue villages as the State Forest Department officials still consider that the provisions of the Forest Rights Act, 2006 do not supersede the provisions of Forest (Conservation) Act, 1980 and the Hon'ble Supreme Court judgment dated 13.11.2000 in IA. No.2 in WP No.337/1995 regarding diversion/ denotification of forest land and that the de-reservation/ de-notification of forest villages

and other such villages is stayed. There are several other issues also connected with the conversion of forest villages and other such villages into revenue villages on which there is no clarity to the State Government officials responsible for implementation of the Act, namely, whether approval of the Ministry of Environment & Forest is required under Section 2 of the Forest (Conservation) Act, 1980 for conversion of forest villages and other such villages into revenue villages; whether such conversion would require denotification of the forest land; whether on conversion of forest villages and other such villages into revenue villages, the legal status of the land would be altered from “forest” to “revenue”; how the habitations, unrecorded or unsurveyed settlements and other villages on the forest land which are not in the records of the Forest Department are to be converted, etc. There is also no clarity on the procedure to be followed for conversion of such forest villages and other such villages into revenue villages amongst the State Government officials.

3. In order to bring about clarity on the above issues and to expedite the conversion of the forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act, the following clarifications are issued to all the State Governments/ UT Administrations.

| Sl.No | Issue | Clarification |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Whether the provisions of the Forest Rights Act, 2006 supersede the provisions of Forest (Conservation) Act,1980 and the Hon’ble Supreme Court judgement dated 13.11.2000 in I.A.No.2 in WO No.337/1995 | <ul style="list-style-type: none"> ➤ It is a well settled principle of statutory interpretation that a subsequent statute supersedes all preceding court judgments or orders of prior date. ➤ Section 4(1) of the Forest Rights Act, 2006, which recognizes and vests forest rights in the forest dwelling Scheduled Tribes in the States or areas in States where they are declared as Scheduled Tribes and the other traditional forest dwellers, lays down that the forest rights under Section 3(1)of the Act, including the right under Section 3(1)(h), are recognized and vested in the forest dwelling Scheduled Tribes and other traditional forest dwellers “<i>notwithstanding anything contained in any other law for the time being in force</i>”. This non-obstante clause, therefore, recognizes and vests the forest rights under Section 3(1) in accordance with the provisions of the FRA, regardless of whether such forest rights might be contrary to other laws, which includes statutory law as well as judicial precedent, if any. |

| | | |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | <ul style="list-style-type: none"> ➤ Further, Section 4(7) of the Act provides that the forest rights under the said Act shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest(Conservation) Act, 1980, requirement of paying the ‘net present value’ and ‘compensatory afforestation’ for diversion of forest land, except those specified in the said Act. The plain meaning of this provision is that recognition and vesting of all forest rights, including the settlement and conversion of forest villages and other such villages into revenue villages under Section 3(1)(h), has been exempted from the requirements of Section 2 of the Forest (Conservation) Act, 1980 as well as the requirement of compensatory afforestation as well as payment of net present value ➤ After operationalization of the Forest Rights Act, 2006 with effect from 31.12.2007, the interim order dated 13.11.2000 of the Apex Court in I.A.No.2 in WP No.337/1995, which was passed in the context of the widespread violation of the provisions of the Forest (Conservation) Act,1980 would, therefore, be guided by the provisions of Section 3(1)(h) of the FRA, 2006 and that the forest right relating to conversion of forest villages and other such villages into revenue villages under this Section has also to be vested and recognized as per the laid down procedure, like any forest right specified in Section 3(1) of the Act. |
| 2 | <p>Whether approval of the Ministry of Environment & Forests under Section 2 of the Forest (Conservation) Act, 1980 is required for conversion of forest villages and other such villages into revenue villages.</p> | <ul style="list-style-type: none"> ➤ In view of the position indicated against issue No. 1 above, approval under Section 2 of the Forest Conservation Act, 1980 of the Ministry of Environment & Forests is not required for conversion of forest villages and other such villages into revenue villages. ➤ As per the provisions of the Forest Right Act, 2006, the District Level Committee is the final authority for approving the record of forest rights specified in Section 3(1) of the Act, including the right relating to conversion of forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act. |

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| 3 | Whether conversion of forest villages and other such villages is required in lands which are not classified as forest lands. | <ul style="list-style-type: none"> ➤ The Supreme Court in a landmark judgment dated 12.12.1997 in the Godavarman case, held as under: <i>“The term “forest land” occurring in Section 2 (of the Forest Conservation Act, 1980) will not only include “forest” as understood in the dictionary sense, but also any areas recorded as forest in the Government record irrespective of the ownership.”</i> ➤ Since then the term ‘forest land’ is to be widely understood in its wider definition, that is, including not only forest land classified as such, but also all other forests, which would include revenue forests, private forests, community forests, and any other kind of forest lands. ➤ Since the rights conferred under the Forest Rights Act apply to all forest lands, if there are forest villages or any other such villages on forest lands which are not necessarily classified as forest land, these villages are also required to be converted into revenue villages. |
| 4 | Whether the conversion of forest villages and other such villages into revenue villages would require de-notification/ de-reservation of the forest land, or alteration of status of land. | <ul style="list-style-type: none"> ➤ The FRA, 2006 envisages recognition and vesting of all forest rights including the right relating to conversion of forest villages and other such villages into revenue villages, over all forest lands within the larger definition of forests (see above). ➤ Some forest villages may be on lands which are revenue forest or private forests or community forests or any other kind of forest. ➤ The FRA, 2006 does not require de-notification/ de-reservation of the forest land for recognition of the forest right relating to conversion of forest villages and other such villages into revenue villages. ➤ However, it is necessary that every village thus converted are recorded in the revenue records as “village” to ensure that its legal status as such is secure. The specific method will depend upon State level Land Revenue laws, which are varied. |

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| 5 | Whether the forest villages and other such villages located inside the Wildlife Sanctuaries and National Parks are also required to be converted into revenue villages under Section 3(1)(h) of the Act. | <ul style="list-style-type: none"> ➤ The FRA, 2006 envisages recognition and vesting of the forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, including the Sanctuaries and National Parks. ➤ The forest villages and other such villages located inside the Wildlife Sanctuaries and National Parks are also, therefore, required to be converted into revenue villages under Section 3(1)(h) of the Act. |
| 6 | Whether the process of recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers can be taken up/ continued, pending conversion of forest villages and other such villages into revenue villages. | <ul style="list-style-type: none"> ➤ As per the provisions of the FRA, 2006, conversion of forest villages and other such villages into revenue villages under Section 3(1)(h) of the Act is not a pre-condition for recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers. ➤ The process of recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers can, therefore, be taken up/ continued without waiting for conversion of forest villages and other such villages into revenue villages. |
| 7 | How the old habitations, unrecorded or unsurveyed settlements and other villages on the forest land which are not part of any Revenue or Forest village record are to be converted into revenue villages. | <ul style="list-style-type: none"> ➤ As provided Rule 2-A, in order to ensure that the Act is implemented in letter and spirit, it is necessary that the district administration under the leadership of the Collector, and the Panchayati raj institutions, take proactive steps to ensure that all forest villages and other such villages are identified, as a preliminary to conversion. ➤ The process for identification of hamlets or habitations, unrecorded or unsurveyed settlements or forest villages or taungya villages, and their inclusion as villages for the purposes of the FRA, 2006 is laid down in Rule 2A of the Forest Rights Rules, 2008, as amended vide the Forest Rights Amendment Rules, 2012 notified on 06.09.2012. This Rule also provides that on recognition of such hamlets and habitations as a village, the process of recognition and vesting of rights in these hamlets and habitations is to be undertaken without disturbing any rights, already recognized. |

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| 8 | <p>In the case of forest villages and other such villages which are primarily inhabited by other traditional forest dwellers, whether it is necessary for the other traditional forest dwellers to establish that they had been primarily residing in the said village for 75 years at one place prior to the 13th day December, 2005, before such forest villages and other such villages could be converted into revenue villages.</p> | <ul style="list-style-type: none"> ➤ Section 4(1)(b) read with Section 2(o) of the FRA, 2006 requires that, for purposes of recognition of forest rights under the Act, a “<i>member or community</i>” of other traditional forest dwellers must establish that it has for at least three generations (being 75 years) prior to the 13th day of December, 2005 “<i>primarily resided in or depended on the forest or forest land for bona fide livelihood needs</i>”. ➤ There is no requirement in the Act that, for purposes of recognition and vesting of forest rights, a person or community of other traditional forest dwellers must have been specifically located in a particular and identifiable location in the forest for 75 years. As long as they are able to establish that they have been primarily residing in and dependent on forest or forest land for bona fide livelihood needs for 75 years prior to 13th day of December, 2005, they are to be considered eligible for recognition and vesting of forest rights under the Act. The same approach has to be adopted while taking up the conversion of forest villages and other such villages primarily inhabited by other traditional forest dwellers into revenue villages. |
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4. As regards the procedure to be followed for settlement and conversion of forest villages, old habitations and other settlements on forest land etc. into revenue villages, certain guidelines as indicated in the Annexure to this letter are accordingly being issued for compliance by all the State Governments/UT Administrations.
5. It is requested that the above clarifications/procedure may be brought to the notice of all the implementing agencies in your State/ Union Territory for guidance and necessary action. This Ministry may be apprised of the action taken for conversion of forest villages into revenue villages at an early date.
6. This issues with the approval of competent authority.

Yours faithfully,
(Dr. Sadhana Rout)
Joint Secretary to the Government of India

Tel: 23383622

No.23011/33/2010-FRA
Government of India
Ministry of Tribal Affairs

Guidelines for conversion of forest villages into revenue villages under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

This is in supersession of this Ministry's D. O. NO. 17014/2/2007 PC & V (Vol VI) dated February 25, 2008, and further supersession of this Ministry's letter No. 23011/28/2008-SG-II dated 3.12.2008.

Section 3(1)(h) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (here after 'the Act') which defines '**forest rights**' includes there in;

*"3.(1) For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers in **all forest lands**, namely:-*

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(h) rights of settlement and conversion of all forest villages, old habitation, un-surveyed villages and other villages in forest, whether recorded, notified, or not, into revenue villages;"

Section 2 (d) defines "**forest land**" as under:

"forest land" means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing of deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;"

Section 2 (p)(iii) of the Act, while defining '**villages**' as follows:

"(iii) forest villages, old habitation or settlements and un-surveyed villages, whether notified as village or not;"

Section 2(f) of the Act defines '**forest villages**' as follows:

"forest villages" means the settlements which have been established inside the forests by the forest department of any State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such villages and includes lands for cultivation and other uses, permitted by the Government;

Rule 2A of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 (here after ‘the Rules’) as amended up-to-date, states as follows:

“2A. Identification of hamlets or settlements and process of their consolidation -

The State Government shall ensure that, -

- (a) *every Panchayat, within its boundaries, prepares a list of group of hamlets or habitations, unrecorded or un-surveyed settlements or forest villages or taungya villages, formally not part of any Revenue or Forest village record and have this list passed by convening Gram Sabha of each such habitation, hamlets or habitations included as villages for the purpose of the Act through a resolution in the Panchayat and submit such list to Sub Division Level Committee.*
- (b) *the Sub Divisional Officers of the Sub Division Level Committee consolidate the lists of hamlets and habitations which at present are not part of any village but have been included as villages within the Panchayat through a resolution, and are formalized as a village either by adding to the existing village or otherwise after following the process as provided in the relevant State laws and that the lists are finalised by the District Level Committee after considering public comments, if any.*
- (c) *on finalization of the lists of hamlets and habitations, the process of recognition and vesting of rights in these hamlets and habitations is undertaken without disturbing any rights, already recognized.*¹

Further, Rule 12B (5) of the Rules states as follows:

“12 B. Process of Recognition of Community Rights:-

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- (5) *The conversion of forest villages, unrecorded settlement under clause (h) of section 3 shall include the actual land-use of the village in its entirety, including lands required for current of future community uses, like, schools, health facilities and public spaces.*”²

In July 2012, Guidelines also issued by this Ministry which emphasized the need to implement the provisions of the FRA with regard to conversion of forest villages into revenue villages, without any exceptions or exemptions being provides to such villages in any category of forest lands, such as protected areas. Clause (iii)(d) states:

¹. Inserted by Rule 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R.No. 669(E) dated 6th September, 2012)

². Inserted by Rule 11 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R.No.669(E) dated 6th September, 2012)

“(iii) Community Rights:

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(d) The forest villages are very old entities, at times of pre-independent era, duly existing in the forest records. The establishment of these villages was in fact encouraged by the forest authorities in the pre-independent era for availability of labour within the forest areas. The well defined record of each forest village, including the area, number of inhabitants, etc. exists with the State Forest Departments. There are also unrecorded settlement and old habitations that are not in any Government record. Section 3(1) (h) of the Act recognizes the right of forest dwelling Scheduled Tribes and other traditional forest dwellers relating to settlement and conversion of forest villages, old habitation, un-surveyed villages and other villages and forests, whether recorded, notified or not into revenue villages. The conversion of all forest villages into revenue villages and recognition of the forest rights of the inhabitants thereof should actually have been completed immediately on enactment of the Act. The State Governments may, therefore, convert all such erstwhile forest villages, unrecorded settlements and old habitations into revenue villages with a sense of urgency in a time bound manner. The conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities, public spaces etc. Records of the forest villages maintained by the Forest Department may thereafter be suitably updated on recognition of this right.”

Pursuant to the above, this Ministry is issuing the present Guidelines to provide for the procedure for settlement and conversion into revenue villages.

Suggested Procedure for Settlement and Conversion into revenue villages:

The following procedure may be followed for the settlement and conversion of forest villages, old habitations and other settlements on forest land into revenue villages:

1. All villages/settlements on forest land should be identified with the help of District Statistical Handbooks and Census Village Directories. All settlements with zero revenue land should be presumed to be forest villages in order to be converted into revenue villages under the Act. In addition, public suggestions and inputs should be invited through a public notice in all panchayat offices, forest offices and market places informing the public of this right and requesting villages on forest land to submit claims or to contact the concerned officials for assistance. The Collector of each district shall be responsible for getting lists of such villages prepared.
2. The Sub-Divisional officers of the Sub Divisional Level Committee shall consolidate the lists of hamlets and habitations which at present are not part of any village but which fall within the definition of ‘forest villages’ under Section 3(1)(h) of the Act, and shall forward the same to the Collector.

3. Collector shall be responsible for ensuring that residents of such villages/old habitations are enabled to claim their conversion/settlement.
4. In each such village/ habitation a notice should be posted stating that such a claim can be filed, giving the procedure for doing so(as per this order), and inviting the filing of a claim.
5. The list as prepared in each district, with updates of new additions where applicable, shall be communicated to the State Level Monitoring Committee, which should maintain a consolidated state-wide list of forest villages and old habitations and the status of their conversion. A progress report, with the district-wise list of forest villages and the status of their conversion, should be communicated to the Ministry every three months.
6. For the purpose of the Act, the assembly of all adult residents of each such village/habitation is recognized as the Gram Sabha, as per Section 2(p)(iii) of the Act, and shall elect its own Forest Rights Committee (FRC).
7. In cases where the number of adult residents of an old habitation or an unsurveyed village are less than the number specified for a forest rights committee, they may form a smaller FRC. If such small habitations are in the vicinity of a revenue village, they may pass a unanimous resolution if they so desire, that they will be included in the larger village after conversion.
8. A claim for the conversion of forest villages, old habitations, unsurveyed villages and other villages on forest land, whether recorded, notified, or not, into revenue villages under section 3(1)(h)of the Act, shall be made collectively by the Gram Sabha of the settlement (see below). If any settlement fails to submit such a claims within a period of three months after posting of a notice as referred to above, the Collector should direct a revenue official not below the rank of Tehsildar to visit the settlement and inform the residents of their right to file a claim.
9. Any village/habitation on forest land which is not a revenue village shall be considered eligible for conversion, including;
 - All Forest Villages including Taungya Villages of all types which the Forest Department established, and recorded/recognized as forest villages from time to time.
 - All forest villages including Taungya Villages which the Forest Department established for forestry and other works on forest on forest land, but which have not been recorded/recognized as forest villages.
 - All forest villages including Fixed Demand Holdings which have come up as a result of the Forest Department granting various types of leases on forest land from time to time to various individuals.

- All villages/habitations on forest land established by any Government Department/Agency for persons displaced by development projects or for labour/workers for any type of work, but which have not been recognized, surveyed and recorded as revenue villages.
 - All old habitations or unsurveyed villages on forest land which have escaped proper survey and settlement due to the land over which they are located getting classified as forest land.
10. The Gram Sabha/Forest Rights Committee of the concerned forest village/habitation shall first define the boundaries of the village/habitation and then prepare, with help as required and requested by the community from the local land revenue officials, and/or representatives from the Sub-divisional Committee, a detailed map showing the present land use of the village. The map would contain:
- Extent and location of cultivable area, homestead lands/buildings, forests, water bodies and common lands such as grazing/pasture lands, burial grounds, etc.
 - Extent and location of other land uses (such as school building, religious places, playgrounds, health facilities and other community buildings/facilities.)
 - Extent and location of their community forest resources over which various community forest rights are exercised.
11. The Gram Sabha shall approved the map thus prepared and submit the same to the sub-Divisional level Committee, along with its resolution claiming the right to conversion to a revenue village. The claim shall include a list of all adult residents of the village. Incomplete claims shall not be rejected but remanded to the Gram Sabha with specific instructions on the additional required information.
12. After examining the claims, map and the list, the Sub-Divisional Level Committee shall pass it on to the District Level Committee which shall take the necessary steps to recognize the right of conversion for the concerned village. Within two weeks of the decision of the District level Committee, the Collector will initiate necessary proceeding to convert the village into a revenue village and settle the land rights of the residents under revenue laws;
13. In the case of villages/habitations consisting entirely of Scheduled Tribe inhabitants, or mixed villages with majority of Scheduled Tribe inhabitants, conversion of the village/habitation should follow if the settlement existed prior to December 13, 2005.
14. On finalization of the list of hamlets and habitations as provided above, the process of recognition and vesting of rights in these hamlets and habitations shall be undertaken without disturbing any forest rights already recognized.

F.No 18/02/2013-CP &R
Government of India
Ministry of tribal Affairs

R. No.281, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi-66

Dated: 2nd January, 2014

1. The Chief Secretaries of all State Government (except Jammu & Kashmir, Punjab, Haryana and Delhi)
2. The Administration of all Union Territories(except Lakshadweep)

Sub: Ensuring Fair returns to Minor Forest Produce (MFP)/ Non- Timber Forest Product (NTFP) gatherers/collectors- regarding

Sir/Madam,

The Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006(FRA) has been enacted with the objective of remedying the historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers of the country. The Act seeks to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded.

2. Section 3(1)(c) of the Scheduled Tribes and other Traditional Forest dwellers (Recognition of Forest Rights) Act, 2006 envisages “ Right of Ownership, access to collect, use and dispose of Minor Forest Produce (MFP) / Non- Timber Forest Produce (NTFP) which has been traditionally collected within or outside village boundaries” which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional dwellers on all forest lands.

3. The Ministry had issued detailed guidelines with reference to implementation of FRA vide this Ministry’s letter No.23011/32/2010-FRA [Vol.II (pt.)] dated 12.07.2012, the extracts of the letter are mentioned as follows:

- i. The forest right holders or their cooperatives/ federations should be allowed full freedom to sell such MFP/NTFPs to anyone or to undertake individual or collective processing, value addition, marketing, for livelihood within and outside forest area by using locally appropriate means of transport.
- ii. The State Government should exempt movement of all MFP/NTFPs from the purview of State Government and, for this purpose, the transit rules be amended suitably. Even a transit permit from

Gram Sabha should not be required. Imposition of any fee/charges/royalties of the processing, value addition, marketing of MFP/NTFPs collected individually or collectively by the cooperatives/ federations of the rights holders would also be ultra vires of the Act.

- iii. The State Government need to play the facilitating role in not only transferring unhindered absolute rights over MFP/NTFP to forest dwelling Scheduled Tribes and other traditional forest dwellers but also in getting them remunerative price for the MFP/NTFP collected and processed by them.

4. While diverse institutional support may be provided by the State of MFP/NTFP collectors/gatherers, the prime objective should be to ensure benefits of these processes directly flow to the gatherers/ collectors in a timely and fair manner. Ministry has received petitions that the Forest Rights Act, 2006 is not being complied with in the letter and spirit and tribal communities are not getting the benefits of ownership of MFP/NTFP, which include all non-timber forest produce of plant origin including bamboo, brushwood, shrubs, cane, tussar, cocoons, honey, wax, lac, tendu on tendu leaves, medicinal plants and herbs, tubes and the like.

5. It is requested that any process/ system which is in contravention of the provisions of the Forest Rights Act in letter and spirit be review. Further, such process may be expeditiously reoriented to ensure compliance with the law.

Yours faithfully,

(Nivedita)

Deputy Secretary to the Government of India

Tele No. 26182428

No. 23011/06/2014-FRA
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi
3rd March, 2014

To

- 1. All Principal Secretaries / Secretaries in charge of State Tribal Welfare Departments
(All States except Jammu and Kashmir, Haryana and Nagaland).**
- 2. Administrators of Union Territories,
(except Lakshadweep and Puducherry)**

**Sub.: Record of Rights issued under the Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Act, 2006.**

Sir,

The undersigned is directed to state that, in respect of the Records of Rights being issued under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, this Ministry has certain observations / comments as under, for necessary compliance on the part of States / UTs:-

- (i) The Records of Rights issued under the Forest Rights Act 2006 (FRA) should also mention the name of the Caste / Tribe so that, in future, the people do not have any difficulty in obtaining Caste Certificates.
- (ii) The village maps and the village records should also indicate the community land classified into various categories as per the local revenue code / law.
- (iii) As per the forest Rights Rules 2007, on completion of the process of settlement of Rights and issue of titles as specified in Annexures – II, III and IV of these Rules, the Revenue and Forest Departments are to prepare a final map of the forest land so vested and the concerned authorities are required to incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the specified period of record updation under the relevant State laws or within a period of three months, whichever is earlier. Eventually, the right holders under FRA have to be issued Record of Rights under the Revenue Code / Law so as to mainstream them and treat them at par with other land holders.
- (iv) FRA requires conversion of all forest villages, old habitations, unsurveyed villages and other villages in forest whether recorded, notified or not, into revenue villages. The States have been asked to take necessary action for such conversion as per guidelines issued by this Ministry vide No.23011/33/2010-

FRA dated 8th November, 2013. In this connection, the entire records should follow the protocol of the revenue code / law.

2. All the State / UT Governments are, therefore, requested to take appropriate steps on the points mentioned above.

Yours faithfully,
(S.M. Saha)
Director

No. 23011/16/2015-FRA
Government of India
Ministry of Tribal Affairs
(FRA Division)

R. No. F-280, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi
Dated: 23rd April, 2015

To

The Chief Secretaries of all State Governments

Sub.: Guidelines under Section 12 with regard to recognition and vesting of Community Forest Resource (CFR) and its management under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA).

The undersigned is directed to state that the Ministry of Tribal Affairs has in numerous occasions conveyed the importance of recognition and vesting of CFR rights under FRA. While some States have made efforts to recognize the community and CFR rights, the State Governments need to make further efforts to recognize the CFR rights which is still slow in a number of States for all potential forest land where such traditional rights exist and claims have been pending.

2. In view of the above, Ministry of Tribal Affairs issues the present guidelines pertaining to recognition of CFR rights and their subsequent management.
 - i. As per Section 3(1)(i) and Section 5 of FRA, the authority to protect, regenerate or conserve or manage CFRs, is the Gram Sabha along with the committee for protection of wildlife, forest and biodiversity constituted under FR Rule 4(1)(e). The meaning of Gram Sabha shall be as defined in Section 2(g) and section 2(p) of the FRA.
 - ii. Each Gram Sabha shall be free to develop its own simple format for conservation and management plan of the CFR which its members can understand with ease and may also comprise of the rules and regulations governing forest access, use and conservation.
 - iii. The Gram Sabha and the Committee under FR rule 4(1)(e) shall be the authority to modify the micro plan or working plan or management plan of the Forest Department to the extent necessary in order to integrate the same with the conservation and management plan for the CFR as passed by the Gram Sabha.
 - iv. **The State Government shall make available through its departments, funds available under Tribal Sub Plan, MGNREGA, funds for forestry available with the Gram Panchayat, Funds under CAMPA to the committee at the Gram Sabha constituted under FR Rule 4(1)(e) for development**

of CFR. The State Governments may also send proposals to Ministry of Tribal Affairs for development of CFR as per FR rule 16.

- v. Community Forest Resource (CFR) areas as recognized under Section 3(1)(i) of FRA shall constitute a new category of forest area which should be recorded as “CFRs” in the Records of Rights and be suitably incorporated in the records of the Forest Department.
- vi. Further as per Rule 12(B)(4) in case where no community forest resource rights are recognized in a village, the reasons for the same shall be recorded in writing by the Secretary of the District level committee.
- vii. The State Governments while furnishing their Monthly and Quarterly progress report should also invariably provide the disaggregated information on the CFR claims, CFR rights recognized and the extent of forest land recognized for the same under FRA.

This issues with the approval of competent authority.

Yours faithfully,

(Uttam Kumar Kar)

Under Secretary to the Government of India

No. 23011/16/2015-FRA
Government of India
Ministry of Tribal Affairs
(FRA Division)

R. No. F- 280, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi
Dated: 23rd April, 2015

To,

The Chief Secretaries of all State Governments

Sub: Clarification pertaining to recognition of Habitat rights under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA).

1. This has come to the notice of the Ministry of Tribal Affairs that the Hindi version of the Forest Rights Act has translated the word “habitat” under Section 3(1)(e) as “aawas” which is commonly understood as house or homestead. This has created confusion and due to misinterpretation, many States have equated the term “habitat” to mean providing housing facilities as under *Indira Awas Yojana* and other such housing scheme.
2. The Ministry would like to state that the FRA clearly lays down the definition of ‘habitat’ under Section 2(h), and further describes the forest right to such habitat under Section 3(1)(e), Rule 12(1)(d) of the FR Rules further requires Forest Rights Committee to ensure that the claims from Particularly Vulnerable Tribal Groups (PVTGs) are verified when such communities or their representatives are present.
3. Further, the right to community tenures of habitat and habitation may be recognized over customary territories used by the PVTG for habitation, livelihoods, social, economic, spiritual, sacred, religious and other purposes. In some cases the habitats of PVTGs may overlap with forests and other rights of other people / communities.
4. Rule 8 of the FR Rules (as amended on 6.9.2012) envisages the role of the District Level Committee (DLC) to examine, whether all claims, especially those of primitive tribal groups (Particularly Vulnerable Tribal Groups), pastoralists and nomadic tribes, have been addressed keeping in mind the objectives of the Act.
5. It has further been provided in FR Rule 12(B)(1) that, the DLC shall in view of the differential vulnerability of PVTGs, ensure that all PVTGs receive habitat rights in consultation with the concerned traditional institutions and their claims for habitat rights are filed before the concerned Gram Sabhas, wherever necessary, by recognizing floating nature of their Gram Sabhas.
6. Where the claims of PVTGs have already been filed, the DLCs should take steps to ensure recognition of their rights along with mapping of the area of each claim over which their rights have been recognized.

7. Therefore the State Governments need to make all out effort to recognize the habitat rights of the PVTGs and intimate the Ministry of Tribal Affairs on the steps taken towards recognition of the rights in the periodic reports submitted by them.

This issues with the approval of competent authority.

Yours faithfully,

(Uttam Kumar Kar)

Under Secretary to the Government of India

Copy to: Principal Secretary / Secretary / Commissioner – Tribal Welfare Departments of all States.

Dr. HRUSHIKESH PANDA
Secretary

Government of India
Ministry of Tribal Affairs
Shastri Bhawan, New Delhi, 110001
Tel: 23381652, Fax: 23073160

D.O.No. 23011/18/2015-FRA

Dated: 28th April, 2015

Subject: Training and use of technology for proper implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Dear Colleague,

1. During the Review Meeting as part of PRAGATI on 22.04.2015, the Hon'ble Prime Minister has desired that State Governments need to proactively pursue progress in vesting and recognition of forest rights in a time bound manner under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA, 2006). Emphasis was also laid on training and motivation of officials, Gram Sabha Members and Secretaries of Panchayat so that the progress in vesting of rights in time bound manner may be pursued.
2. For this purpose, it is recommended that extensive training programmes are taken up for officials, Ward Members, Gram Sabha Members, Panchayat Secretaries, field officials of forest, tribal welfare and land administrative departments and Sub-divisional Level Committee (SDLC) and District Level Committee (DLC) members etc. on priority basis. Training must be hands-on and enable people to make bona fide representations for getting forest rights. In many States, FRA, 2006 has been translated in local languages, wherever possible translation of the Act, Rules and guidelines may be made in tribal languages to create wide spread awareness. I would like to remind you that funds have been made available by this Ministry to conduct training and awareness programmes on FRA. States lacking resource persons to conduct the trainings for master trainers can approach the Tribal Research Institute, Bhubaneswar which has also been recognized as the National Resource Centre by this Ministry.
3. Geo-referenced database of vesting of rights and maps may also be created in order to ensure proper implementation of Forest Rights Act. Such data can also be accessed from BHUVAN portal of Department of Space and State Remote Sensing Agency. While some State Governments have taken steps towards this, similar steps need to be taken up by all the States. In particular, Bihar, Jharkhand and Uttar Pradesh are to identify the potential areas and extent of forest land where Individual, Community and Community Forest Resource rights under Forest Rights Act can be vested.

4. However, while creating geo-referenced data base and maps of areas / potential areas under FRA, 2006, it needs to be kept in mind that it is one of the evidences to recognise the rights but not the only evidence. The geo-referenced data could be corroborated with other sources of information as delineated under Rule 13 of the FR Rules so as to rule out possibility of wrongful claims or denials. Geo-referenced data has its limitations and there have been instances in the past where such data has been used for wrongful denials. For example, in case of shifting cultivation, the satellite data will not show continuous agricultural operation in an area. Hence, this should be supplemented with ground verification so as to create the data base. The verification on ground would be important so as to identify genuine claimants and land under their occupation. This includes lands left fallow on account of shifting cultivation or for any other reason.
5. For identification of forest land under the Community Forest Resource rights and community purposes, geo referencing may, particularly, be useful. It would be important to map villages having forest land within its revenue boundary, villages located within and at the fringes of Reserve Forests, protected forests, National Parks and Sanctuaries or any other forest land as under State Forest Department. Further, all forest villages, old habitations, unsurveyed villages etc. have to be taken into account for delineation of the potential areas and creation of maps where FRA is likely to be implemented.
6. In Sixth Scheduled areas of Assam, Meghalaya, in Mizoram, Nagaland, Tripura, Arunachal Pradesh, Himachal Pradesh, Hill areas of Manipur etc., most of the rights have already been vested. These recognized rights should be translated into individual and community record of rights as per the process laid down under FRA, 2006.
7. We hope that these process are completed within the current year.

With regards,

Yours sincerely,

(Hrusikesh Panda)

Chief Secretaries of All States, Andman & Nicobar Islands, Puducherry; Administrators, Dadra & Nagar Haveli, Daman & Diu, Lakshwadeep.

December 2012 (UNDP)

1. Section 3(1)(c) of FRA confers ownership rights over minor forest produces (MFP) to forest dwelling STs and Other Traditional Forest Dwellers. Can ownership rights over Tendu/Kendu, Bamboo which are nationalised forest produce under the State forest laws be conferred under FRA?

- Yes. The recognition and vesting of ownership rights over all minor forest produces (MFP) including bamboo and tendu/kendu are to be conferred to forest dwelling STs and Other Traditional Forest Dwellers as and when the claim for such rights is made.
- Section 2(i) of FRA clearly defines the term “minor forest produce” which include bamboo and tendu/kendu.

2. Whether the shift of ownership of MFPs from the State in case of certain nationalized MFPs, like, tendu patta, would not lead to exploitation of MFP gatherers by the private traders?

- The shift of ownership to right holders does not necessitate withdrawal of the State agencies from MFP trade. It is advised that the State agencies should continue to extend their support system to the MFP gatherers by way of purchasing the produces to provide minimum support price and safeguard against any potential exploitative cartel of buyers. A parallel may be drawn in the manner with process followed for rice and wheat.
- MFP gatherers may be organized through formation of cooperatives/federations or producer companies to enhance bargaining power vis-à-vis MFP buyers.
- Abolition of monopoly of State Agencies in the trade of nationalized MFPs will in fact strengthen institutions engaged in trade of MFPs and making them more competitive and this will reduce exploitation of the rights holders under the watchful eye of the State.

3. Can the Gram Sabhas issue MFP transit permits and what will happen to the existing transit rules?

- Yes, the Gram Sabha has the authority to regulate transit permit for MFPs where rights have been recognized under FRA.
- The Forest Rights Amendment Rules, 2012, notified on 6.9.2012 provide that the transit permit for transportation of minor forest produce shall be issued by the Committee constituted by the Gram Sabha under Rule 4(1)(e) or the person authorized by the Gram Sabha. These Rules further provide that the Gram Sabha shall approve all decisions of this Committee pertaining to issue of transit permit.
- The State/ UT Governments, therefore, should modify their existing transit permit regimes in relation to transportation of minor forest produce with respect to right holders under FRA and align it with the provisions of FRA.

4. Will issuance of transit permits by the Gram Sabha lead to over exploitation of the MFPs?

- No, the issue of transit permit by the Gram Sabha has no correlation with over exploitation of MFP. There are enough safeguards in the law to ensure that over exploitation of MFPs is avoided.
- For example, as per Rule 4(1)(e) of FR Rules, 2008, the responsibility for carrying out the provisions of Section 5 of the Act has been given to a Committee to be constituted by the Gram Sabha.
- The Forest Rights Amendment Rules, 2012 notified on 6.9.2012 now require the said Committee to prepare a conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of FDSTs and OTFDs and integrate such conservation and management plan with the micro plans or working plans or management plans of the Forest Department with such modification as may be considered necessary by the Committee. The monitoring and control of the said Committee vests with the Gram Sabha. The Gram Sabha, therefore, has to ensure that the transit permits are issued by such Committee with proper assessment and in conformity with the conservation and management plan and that such transit permits do not lead to over exploitation of the minor forest produce.
- The Gram Sabha can further modify the conservation and management plans and impose restrictions if it considers that the existing regime of collection, use and disposal of minor forest produce is leading to over exploitation of minor forest produce.
- The Gram Sabha as well as the right holder has also been empowered under the Act to stop any activity that adversely affects forest, wildlife, biodiversity among other things.

5. According to PESA, ownership of Minor Forest Produce has already been vested with the Gram Sabha, then what is the need and legality of the various provisions of FRA that give SDLC/ DLC the power to regulate and recognise the ownership of MFPs?

- The application of PESA is limited to Scheduled Areas only, therefore it gives the ownership of the MFPs to Gram Sabhas only in the Scheduled Areas. Large tribal populations also live outside the Scheduled Areas which are covered only under FRA. Moreover, PESA does not require administration to give a written title to each right holder, which FRA does.
- SDLC/DLC are only part of the process of recognition of rights. The regulation of MFP vests with the Gram Sabha.

6. Can the habitat rights of the PTGs under FRA also include revenue lands?

- Ordinarily No, unless there are recorded forests or there are forests that come within the definition of forest land under the Act on such revenue lands (land under the administrative control of the revenue department) and they overlap with the habitat of the PTGs (Particularly Vulnerable Tribal Groups).

- Further, if the habitat area (or its part) of a PTG does not come within the definition of forest land then such habitat rights cannot be recognized under FRA. However, it may be recognized under the respective revenue laws of the concerned State, if the State so desires in order to protect the habitat rights of the PTGs.

7. How will the claims on rights of PTG groups and habitat rights be facilitated particularly in view of the habitat involving more than one Gram Sabha?

- The definition of habitat under Section 2(h) and the right to such habitat has been clearly laid down in the law under section 3(1)(e) of the Act. Rule 12(1)(d) further directs Forest rights Committee to ensure that the claims from PTGs are verified when such communities or their representatives are present.
- Further, the right to community tenures of habitat and habitation may be recognized over customary territories used by the PTG for habitation, livelihoods, social, economic, spiritual, cultural and other purposes. In some cases the habitats of PTGs may overlap with forest and other rights of other people / communities.
- Rule 8 also envisages the role of the District Level Committee (DLC) to ensure that such rights of the PTGs and other vulnerable communities are addressed keeping in mind the objectives of the Act.
- Further, it has now been provided in the Amendment Rules, 2012 notified by the Ministry on 6.9.2012 that, in view of the differential vulnerability of Particularly Vulnerable Tribal Groups (PTGs), the DLC shall ensure that all Particularly Vulnerable Tribal Groups receive habitat rights, in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups and that their claims for habitat rights are filed before the concerned Gram Sabhas wherever necessary by recognizing floating nature of their Gram Sabhas.
- In view of the above provisions in the Act and the Forest Rights Rules, the DLCs should play a proactive role by initiating the process of recognition of rights of the PTGs in consultation with their traditional institutions and ensure that their claims for habitat rights are filed before the concerned Gram Sabhas.
- Where the claims of PTGs have already been filed, the DLCs should take steps to ensure recognition of their rights along with mapping of the area of each claim over which their rights have been recognized.

8. Whether OTFDs who do not fulfill the condition of occupation of forest land for three generations (75 years) prior to 13th December 2005 would be eligible for recognition of forest rights under FRA?

- The Act does not envisage the occupation of forest land for three generations (seventy five years) prior to December 13, 2005 for qualifying as OTFD under the Act. The occupation of forest land should be prior to December 13, 2005 as per Section 4 (3) of the Act which stipulates the condition of occupation of forest land for recognition and vesting of forest rights. This condition does not differentiate between forest dwelling STs and OTFDs.
- To qualify as OTFD and be eligible for recognition of rights under FRA, three conditions need to be fulfilled- 1) Primarily resided in forest or forests land for three generations (75 years) prior to 13-12-2005 2) depend on the forest or forests land for bonafide livelihood needs 3) occupied forest land prior to 13-12-2005.

- Primarily resided in does not mean occupation. Proof of residence in the village for 75 years where claim has been filed and dependence on forest land will suffice for being considered as OTFD. As clarified in an earlier letter No.17014/02/2007-PC&V(Vol.VII) dated 17.06.2008, regarding the phrase “primarily resided in”, “such Scheduled tribes and other traditional forest dwellers who are not necessarily residing inside the forest but are depending on the forest for their bona fide livelihood needs would be covered under the definitions of forest dwelling scheduled tribes and other traditional forest dwellers given in Section2(c) and 2 (o) of the Act.

9. What would be the legal status of the titles given under FRA?

- The title given under the FRA is a legal title and is a formal recognition of forests right which is recognized and vested in the right holders in form of a signed document by the competent authority under the Act. It shall be registered jointly in the name of both the spouses or a single head in case only one head is alive as the case may be. It has the force of law and are non transferable, inalienable but heritable as per Section 4(4) of the Act.

10. Where are the records of rights going to be maintained? Whether in the revenue records or forest records?

- As regards maintenance of records of rights, Rule 12 A of the Amendment Rules, 2012, notified on 6.9.2012, provides that on completion of the process of recognition of rights and issue of titles under the Rules, the Revenue and the Forest Departments shall prepare a final map of forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and the forest records within the specified period of record updation under the relevant State laws or within a period of three months, whichever is earlier.
- It is suggested that if the forest land is under the administrative control of the revenue department, the revenue department shall maintain record of rights. If the forest land is under the administrative control of the forest department, the forest department may maintain the records and the records of the titles for individual land rights also need to be recorded in the revenue records. States may take appropriate steps to enter the record of rights in the relevant State records. What is most important that every such record is not only verified on the ground but also reconciled with both forest and revenue records. For example, State of Uttar Pradesh has amended its record of rights (termed as Category (6) under their revenue law) to add a new column for maintenance of forest rights.

11. What impact the conversion of forest villages would have on the other communities apart from the scheduled tribes residing in the same villages?

- The conversion of the forest villages into revenue villages shall in no way affect any of the communities residing in the village, even though they may not be belonging to Scheduled Tribe or qualifying as OTFD. FRA does not abrogate rights or privileges recognized under any other Act, Rule or Government Order. In

fact, the conversion of forest villages into revenue villages would enable the Government to extend all the development facilities to these villages and the residents of this village would be entitled to get the benefits of the development programmes and schemes of the Government.

12. Who will prepare conservation and management plan for community forest resources?

- As per the FR Amendment Rules, 2012 notified on 6.9.2012, the committee constituted by the Gram Sabha under Rule 4 (1)(e) for carrying out the provisions of Section 5 of the Act is required to prepare the conservation and management plan for community forest resources in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling STs and OTFDs.

13. Can Gram Sabhas be called at the Gram Panchayat level for the purpose of FRA?

- No, Gram Sabha should not be called at the Gram Panchayat level for the purpose of FRA. A Gram Panchayat normally consists of one or more revenue villages. As per the provision of the Act, Gram Sabhas are to be held at the village level and village has been defined under section 2(p) of the Act.

14. Can the Gram Sabha meetings be held at the habitation/ hamlet level even in areas not coming under PESA?

- Yes, the Gram Sabha may be held at the hamlet level in areas not coming under PESA.
- The terms “Gram Sabha” and “village” for purposes of FRA are already defined in Sections 2(g) and 2(p) of the Act where any forest settlement, forest village, old habitation or settlement and unsurveyed village may also be treated as village among others. Such entity, even if not notified or recorded as village, are recognized as village for the purpose of this Act.

15. Whether the community rights of the non-Scheduled Tribes who are traditionally using the community resources in the Schedule V areas where PESA is applicable would be affected if they are not eligible for recognition of these rights in those areas under FRA?

- No, the community rights of non-Scheduled Tribes or ineligible OTFDs will not be affected in Schedule V areas where PESA is applicable.
- Section 13 of the FRA clearly supports such an arrangement as the FRA is in addition to and not in derogation of any other law for the time being in force.

16. Whether the title holders have the rights over the trees also standing on the forest land for which their rights have been recognised and vested under FRA?

- Yes, the title holders have right over trees on the forest land for which rights have been recognized under FRA.
- Section 3(1)(a) of the FRA recognizes the right of the FDSTs and OTFDs to hold and live in the forest land for habitation or for self-cultivation for livelihood by a member of a forest dwelling Scheduled Tribe or other traditional forest dwellers. In view of the above, the titleholders have the right over the trees standing on the

said forest land but for felling and disposal of the trees, the same shall be treated in the same manner as trees on private land are treated under the relevant State laws and shall be subject to conditions, requirements for permission etc. as specified in those laws.

- For further clarity, the number of trees on the land with species and size should be mentioned in the title. There would be no restriction on collecting and using the minor forest produce from such trees.

17. The number of claims settled under Community Rights is very small as there is lack of adequate documentary evidence to corroborate those claims. What are the documentary evidences required in case of community rights?

- Rule 12A(11) introduced through the recent amendment specifies that the SDLC / DLC cannot insist on a particular evidence in support of the claim. Physical and oral evidence is also admissible under Rule 13. Official documents such as working plans, gazetteers, forest settlement reports, and other types of evidence mentioned in Rule 13 may be considered. Further the evidence for rights over community forest resource and evidence for other forest rights including community are distinguished in Rule 13 (1) and (2). In fact more evidences such as Government records or earlier classification of current reserve forest as protected forest or as gochar or other village common lands, nistari forests as well as earlier or current practice of traditional agriculture have been added as evidence for “community forest resource”.

18. After recognition of rights under FRA can the forest rights holders get any support for development of the forest land and community forest resources?

- The amendment rules now provide for post claim support to the forest rights holders and require the State Government departments especially tribal and social welfare, environment and forest, revenue, rural development, Panchayat raj and other departments to provide support for land improvement, land productivity, basic amenities and other livelihood measures under existing government schemes to such claimants and communities whose rights have been recognized and vested under the Act.

19. Can the states get separate budget allocations for the demarcation of CFR areas and smooth implementation of FRA?

- Article 275(1) provides window to each state to demand for grants for implementation of FRA. Grants under Special Central Assistance (SCA) to Tribal Sub Plans (TSP) can also be demanded for the development of land over which rights have been recognized.

20. A lot of social capital has been invested by states in the capacity building of JFM Committees in the last 15-20 years for the protection, conservation and management of the forests. Shouldn't these JFMCs be converted into committees under 4(1) (e).

- It is the prerogative of the Gram Sabha to decide whether to nominate the members of the JFMCs in the new Committee under Rule 4(1)(e) or constitute it with new members. It is further clarified that only the

members of the Gram Sabha are eligible to become a member of the Committee under Rule 4(1)(e). Automatic conversion of JFMCs into Committee under Rule 4(1)(e) is neither mandated nor desirable under the FRA as the objectives, structure and mandate of JFM is different from that of Committee under Rule 4 (1) (e).

21. Should JFM Areas be directly converted to Community Forest Resource Titles

- As per the provisions of Act and Rules, automatic conversion for JFM areas into CFR areas is neither mandated nor desirable as the objectives, structure and mandate of JFM is different from that of rights under community forest resource. However, wherever JFM areas are co-terminus with CFR boundaries, Gram Sabha may apply and get the title to such community forest resource, subject to the final approval by DLC.

22. Does Development right under section 3(2) which involve land use changes need to be referred under the Forest Conservation Act 1980?

- No permission is needed under FCA, since the Forest Rights Act frees the rights of all encumbrances and procedural requirement of the Forest Conservation Act through Section 4(7). However such conditions must fulfill the conditions under Section 3(2) of the Act namely diversion of less than one hectare, cutting of not more than seventy five trees, recommendation of the Gram Sabha and limited to the thirteen items listed under Section 3(2) of the Act. Procedure for diversion of forest land under Section 3(2) of FRA has been laid down by the Ministry of Tribal Affairs vide Annexure to letter No- 23011/15/2008-SG.II, dated- May 18, 2009.

23. Is FRA applicable in National Parks and Sanctuaries? Would it not further threaten the last existing healthy forest with wildlife?

- Yes, FRA is applicable in National Parks and Sanctuaries. FRA only recognizes pre existing rights which are already being exercised by the eligible persons in the National Parks and Sanctuaries. Therefore there is nothing new that is being done to bring fear to the future of National Parks and Sanctuaries except securing their tenure on such lands. Further, where such rights may potentially cause irreversible damage to wildlife, FRA provides for creation of inviolate areas for wildlife protection (called Critical Wildlife Habitats) through a democratic and transparent process after recognition of rights under the FRA is complete

SECTION – III
Diversion of Forest Land for
Non – Forest Purposes

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) "Acts" 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 at least 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, will 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 handing 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-forestry 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)

FORM – B

[See para 2.2(iv)]

(To be filled up 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: _____

F. No. 11-9/1998-FC (pt)
Government of India
Ministry of Environment and Forests
(FC Division)

Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110510.
Dated : 30.07.2009

To

The Chief Secretary / Administrator
(All State/UT Governments except J&K)

Subject: Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 - ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.

Sir,

I am directed to invite the attention of the State Government to the operationalization of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 which has become effective from 01.01.2008. It is observed that the proposals under the Forest (Conservation) Act, 1980 are being received from different states/UT Governments with the submission that the settlement of rights under Forest Rights Act, 2006 (FRA) will be completed later on.

Accordingly, to formulate unconditional proposals under the Forest (Conservation) Act, 1980, the State/UT Governments are, wherever the process of settlement of Rights under the FRA has been completed or currently under process, required to enclose evidences for having initiated and completed the above process, especially among other sections, Sections 3(1)(i), 3(1)(e) and 4(5). These enclosures of evidence shall be in the form of following:

- a. A letter from the State Government certifying that the complete process for identification and settlement of rights under the FRA has been carried out for the entire forest area proposed for diversion, with a record of all consultations and meetings held;
- b. A letter from the State Government certifying that proposals for such diversion (with full details of the project and its implications, in vernacular / local languages) have been placed before each concerned Gram Sabha of forest-dwellers, who are eligible under the FRA;
- c. A letter from each of the concerned Gram Sabhas, indicating that all formalities/processes under the FRA have been carried out, and that they have given their consent to the proposed diversion and the compensatory and ameliorative measures if any, having understood the purposes and details of proposed diversion.

- d. A letter from the State Government certifying that the diversion of forest land for facilities managed by the Government as required under section 3(2) of the FRA have been completed and that the Gram Sabhas have consented to it.
- e. A letter from the State Government certifying that discussions and decisions on such proposals had taken place only when there was a quorum of minimum 50% of members of the Gram Sabha present;
- f. Obtaining the written consent or rejection of the Gram Sabha to the proposal.
- g. A letter from the State Government certifying that the rights of Primitive Tribal Groups and Pre-Agricultural Communities, where applicable, have been specifically safeguarded as per section 3(1)(e) of the FRA.
- h. Any other aspect having bearing on operationalisation of the FRA.

The State/UT Governments, where process of settlement of Rights under the FRA is yet to begin, are required to enclose evidences supporting that settlement of rights under FRA 2006 will be initiated and completed before the final approval for proposals.

This is issued with the approval of Minister of Environment and Forests.

(C.D. Singh)

Sr. Assistant Inspector General of Forests

Copy to:-

1. The PMO (kind attention: Director, PMO)
2. Secretary, Ministry of Tribal Affairs, Shastri Bhawan, New Delhi.
3. The Principal Chief Conservator of Forests, All States / UTs.
4. The Nodal Officer (FCA), O/o the PCCFs, All States / UTs.
5. All Regional Offices of MoEF located at Bhopal, Shillong, Bangalore, Bhubaneswar, Lucknow and Chandigarh.
6. The RO (HQ), MoEF, New Delhi.
7. Monitoring Cell, FC Division, MoEF, New Delhi for placing the same on the website of the MoEF.
8. Guard File.

(C.D. Singh)

Sr. Assistant Inspector General of Forests