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F. No. 23011/12/2013-FRA(pt.)
Government of India
Ministry of Tribal Affairs

August Kranti Bhawan, New Delhi
18.02.2014

To,

The secretary/Principal Secretary,
Assam, Arunachal Pradesh, Tripura, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim.

Subject: Proceeding of the Consultation with the North-eastern States on implementation of FRA and scheme programmes being implemented by the Ministry of Tribal Affairs

Sir,

The undersigned is directed to send herewith proceedings of the Consultation with the North Eastern States on Implementation of FRA and Scheme/ Programme being implemented by the Ministry of Tribal Affairs held on October, 28-29, 2013 in Gangtok, Sikkim, organized by Ministry of Tribal Affairs Government of India in collaboration with United Nation Development Programme.

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(Uttam Kumar Kar)
Under Secretary to the Government of India
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PROCEEDINGS OF

**THE CONSULTATION WITH THE NORTH EASTERN STATES ON IMPLEMENTATION OF
FRA AND SCHEMES PROGRAMMES BEING IMPLEMENTED BY THE MINISTRY OF
TRIBAL AFFAIRS**

October 28-29, 2013

GANGTOK, SIKKIM

Organized by

Ministry of Tribal Affairs

Government of India

In collaboration with

United Nation Development Programme

Hosted by

Social Justice, Empowerment and Welfare Department Government of Sikkim

INTRODUCTION:

North east region of the country comprising mainly of the tribal population in many opportunity lacks to connect with the mainstream due to various reasons. One of the reasons is, the geographical terrain of the states disabling them to communicate with the rest. Keeping this in context and to strengthen the relation between the Ministry of Tribal Affairs (MoTA) and North Eastern States, two days long consultation meeting was conducted at Hotel Mayfair at Gangtok, Sikkim to review the series of schemes specifically designed for the Tribal population of the region.

With a view of understanding the difficulties faced by the North Eastern States in implementation of the FRA and also to take stock of the initiatives taken by the States in planning, implementation and monitoring of Tribal Sub Plan and other schemes of the Ministry of Tribal Affairs, all North eastern States came down to Sikkim to share the action plan and the status of the TSP, FRA and other schemes specifically initiated for the tribal population.

The consultation meeting aimed at strengthening the collaboration between Ministry of Tribal Affairs and North Eastern States on matters relating to STs, review the progress on implementation of Forest Rights Act, review ongoing schemes/programmes of the Ministry and facilitate release of grants to North Eastern States, assess the preparedness of States on rollout of Direct Benefit Transfer in the North Eastern Region, follow up on the progress in implementation of Tribal Sub-Plans, and formulate specific guidelines for North-East in various schemes of Ministry of Tribal Affairs.

Scheduled tribes and other Forest Dwellers (recognition of forest rights) Act 2006 was enacted by the Parliament for the development of the Tribal population. The act represented major paradigm shift in approach towards recognition of three broad categories of forest rights relating to tenurial security, providing relief from persistent physical and psychological threat of alienation from the land to the Scheduled tribes and other forest dwellers, livelihood in terms of agriculture on as is where is basis and the ownership of minor forest produce including rights to collect, trade and process the same and traditional customary and development rights.

HIGHLIGHTS OF THE MEETING

28 October, 2013

Venue: Hotel Mayfair, Gangtok

Inaugural session

The inaugural session of the meeting was chaired by Mr D.B. Thapa, the Minister for Urban Development & Housing Department, Government of Sikkim. The Consultation Meeting, organised by Ministry of Tribal Affairs Government of India in collaboration with United Nations Development Programme (UNDP), had the presence of Mr Binod Rai, MLA

cum Parliamentary Secretary, Ms Vibha Puri Das, Secretary, Ministry of Tribal Affairs, Government of India, Dr Sadhana Rout, Joint Secretary, Ministry of Tribal Affairs, GOI, Assistant Country Director, UNDP, Ms Alka Narang, Chairman, Primitive Tribe Welfare Board, Mr T.W. Lepcha, Chairman, Scheduled Tribe Welfare Board, Mr Phetook Tshering Bhutia, Principal Secretary, Social Justice, Empowerment & Welfare Department, Government of Sikkim, Mr G.B. Upadhyay, and senior officers from the Social Welfare and Forest Department, North-eastern States and Sikkim.

While setting the context, the Joint Secretary of the MoTA, Dr. Sadhana Rout said that the Ministry kept the promise made exactly one year ago in New Delhi during a meeting, that the friends from North-East will not be bothered to come down to Delhi every time. It is the duty of the Ministry to keep the promise. And as promised this consultation is being held in Sikkim to address the issues faced that the north-eastern states including Sikkim face in implementation of Forest Rights Act (FRA) and Tribal Sub-Plan (TSP) along with other schemes. She hoped that the next two days would take stock of the important initiatives taken in the last year for the development of the tribal population in the respective states.

The common issues and concerns of the states are hoped to be addressed in this consultation which could be something different so that it is appropriate for the north east regions. She hoped that each state would take back from here the suggestions and the recommendations and look at the issue with fresh perspective in depth and try to bridge the gap. She expressed that the critical gaps would be addressed with support from the expert's presence. Besides these the consultation would also take stock of how the states are rolling out the Direct Benefit Transfer scheme for the benefit of the Scheduled Tribe (ST) students. Tripura and Sikkim has done immense work in this area, and the other states need to gear up.

Ms. Alka Narang, the Assistant Country Director of the UNDP appraised the gathering that UNDP has tied up with the Ministry to focus on the critical gaps and work for the excluded people assessing these gaps to bring the STs at par with others. The tribal population in the country still face disparity in education and livelihood option; so FRA has been initiated to accelerate the development of these left out population. The states need to come to a common understanding in terms of carrying forward the implementation.

UNDP is there to help the Ministry and the State governments identify the areas and gaps and work for a holistic development approach.

Giving the key note address, union Secretary of the MoTA, Ms. Vibha Puri Das said "the situation in the north east including Sikkim is very different from the rest of the country in regard to the matters connected to the Forest Rights Act". She stressed on the need for each State to formulate a concrete Action Plan for effective implementation

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of programmes and schemes related to tribal affairs and minority issues. She urged the participants to share their respective progress reports and raise issues which can be deliberated upon in the meeting. She added that the state of Assam and Tripura has implemented the FRA in right manner; however other states have not been able to implement the FRA adequately, lacking the action plan. From the previous meeting on this, it is clear that except Nagaland, other states has no issues in its applicability. She urged all to go back from here with a clear action plan and agenda and eliminate the critical gaps at the earliest, which is depriving the tribal population of their rights. She also stressed on the importance and need to sharpen focus on Tribal Sub-Plan, which aims at facilitating direct and quantifiable benefits to Scheduled Tribes. Tribal Sub-Plan needs to become an effective tool for grass-root planning, centre-state planning for STs. She urged that the matter of TSP to be carried out with urgency and seriousness in the entire State Planning process. She advised officials to rethink on the missing links and required space in the planning process. She advised officials to rethink on the missing links and required space in the planning process of TSP keeping in mind the stake of the marginalized. She reiterated that without the development of STS, it would be difficult to achieve the 'inclusive, faster and sustainable development' as envisioned in the 12th Five Year Plan. She pointed out that 'deficits and needs to be targeted with dynamic process as a paradigm shift from 'post facto approaches'. She emphasized the need to assess the present situation and fix targets for the future.

Mr D.B. Thapa, the Chief Guest informed that the Direct Benefit Scheme is making good headway and the State has already digitized 90% of the records of the beneficiaries. He however opined that the North-Eastern States and Sikkim have their own set of issues and challenges which restrict the smooth implementation of central schemes. At the same time, the Minister expressed the hope that the two-day consultation would help address issues and genuine concerns common to all the states of the North East and Sikkim, and that a workable solution would be arrived at. Further, Mr Thapa informed that the Government of Sikkim has been giving due consideration to development and economic empowerment of various tribal communities in the State. He also mentioned that the State is proud to host this regional consultation and expressed the hope that the deliberations would be fruitful for the Ministry and the North Eastern States.

Mrs. R. Ongmu, the chief Secretary of the State, joined for a brief period in the evening. In her concluding remarks she requested the ministry for certain relaxation to be provided for Sikkim. She apprised that the capacity building is a flagship program of the state government which has been facilitating many tribal youths as well as educated and unemployed youths. She further requested for access to fund to replicate Eklavaya Model Residential School all over the State. Later she requested the Ministry to ensure that the yardstick prescribed for the implementation of the schemes is not harsh.

STATUS ON IMPLEMENTATION OF FRA BY THE STATES:

Mr.C.R. Bijoy, the resource person, in his presentation on 'Forests and FRA in The North-East' particularly pointed out that unlike the rest of the sub-continent, a large category of forests in the north-east are categorized as 'unclassed forest' and that a large percent of the forests are under community control, excepting for the state of Sikkim. Jhumming is a widespread practice. There is considerable lack of clarity on unclassed forest and is disputed while there is increasing state control over forests. 1,73,515 ha of forests are also reportedly 'encroached'. FRA covers all forest land irrespective of the category of forests and ownership of land. The law applies to the whole of the country, excepting Jammu & Kashmir. As far as the north-eastern states are concerned, Nagaland and Mizoram require their adoption of the law by the state legislature as per the constitutional provisions. While Mizoram has notified its adoption 2010, Nagaland is in the process of examining the law. Assam and Tripura has been implementing the law. Manipur, Meghalaya and Arunachal Pradesh feel that the FRA is not so relevant because of the prevalent customary community ownership of forest land. In Sikkim, the forest department is acting as the nodal agency for implementation of FRA whereas it is the department dealing with tribal development which has to be in charge of implementation of the Act. In the VI Schedule Areas, the Autonomous District Councils (ADCs) can make laws with respect to forests (excepting reserved forests) . There is no change in status of rights to forests (other than reserve forests), recognized under laws made by the ADCs or any other state laws with the application of FRA as under Sec.3(1)(j) which recognizes pre-existing rights in any state. However, where certain rights are either denied or not recognized under the State or ADCs laws, FRA enables communities to claim them. There need not be any fear of not being able to claim any right not listed in FRA as Sec.3(1)(l) provides a blanket provision to claim any rights not listed except 'hunting or trapping or extracting a part of the body of any species of wild animal'. However, hunting that is already protected under any existing law would remain legal. Further, another issue of concern could perhaps be the four hectare limit to the area which under Sec.(4)(6) 'is applicable only in the case of rights conferred under Sec.(3)(1)(a)' only. Moreover, any concern that recognition of claims under FRA will change the status of land is unfounded as the legal status remains the same except in the case of conversion of forest villages to revenue villages. The Gram Sabha which is the primary authority under FRA is at the hamlet/habitation level [Sec,2(g) & (p)] and not at the Gram Panchayat level. Where there are no Panchayat structure the village councils or other traditional village institutions as the case may be carry out the functions prescribed for the Gram Sabha [Sec.2(g)]. All claimants have to be in occupation of the lands claimed as on 13 December, 2005 [Sec.4(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

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December, 2005.] All Scheduled Tribes and Other Traditional Forest Dwellers who have resided in that area for 3 generations (75 years) are eligible for rights [Sec.2(o)].

Shomona Khanna in her address pointed in her address pointed out that it is important to emphasized that the forest rights act applied to all forest. This flows from the judgment of the supreme Court of 1996, wherein the court held that " forest lands' means not only notified forests but all kinds and categories of forests in the dictionary meaning. This judgment of the Supreme Court finds reflection in section 2(1) (d) of FRA from which flows that:

- There is no exemption for wildlife sanctuaries and national parks;
- There is no exemption for community owned forests;
- There is no exemption for unclassed forests;
- Nor is there any exemption for forests managed by the ADCs/Arcs. It is important to state that para 3(1) (a) of the Sixth Schedule, which excludes reserve forests from the jurisdiction of ADCs/ARCs, does not mean that FRA is applicable only in reserve forests.

It is also important to state that FRA overrides state level legislation and laws made by the ADcs/ARCs where such laws are contrary to the rights vested under section 4(1) (a). Please note that Section 4(1) (A) commences with a non-obstante clause ("notwithstanding anything contained in any other law for the time being in force...")

References have been made in several QPRs to a judgment of the Guwahati High Court to the effect that FRA is not applicable to encroachers. She stated that she tracked down this judgment and studied it carefully, and found that it does not lay down any such legal principle, and applies only to the specific facts of that particular case. It is very important to keep in mind the objective of FRA, stated clearly in its Preamble, which is to vest and recognize the rights of forest dwellers which has not been done in the past resulting in historical injustice. To interpret the FRA to mean that "encroachers" are not entitled or eligible would be a complete violence to the meaning and objective of the law.

Presentation by ASSAM:

The secretary of the Welfare of Plain Tribes & Backward Classes Department submitted that as on 31 September, of the 1,29,810 received, 47,651 were accepted and 40,883 were rejected, and of the 4,800 claims received, 1,244 were accepted and 2,492 were rejected. As per reports submitted by DLCs, large number of claims was rejected on the ground that the claimants were found to be encroachers. Some cases were rejected due to lack of proper documents in support of their claims. Large number of pending cases is

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due to litigation in the High Court. After the review of SLMC on 13.09.2013, the Committee instructed all concerned DCs and Chairpersons of DLC to re-verify those rejected cases afresh in the light of amended Rules 2012 and submit report to Government within a month after taking necessary action.

Another challenge is the conflict between the provisions of the Sixth Schedule and FRA. Under FRA the Deputy Commissioners and Sub-Divisional Officers are to be the Chairpersons of DLC and SDLC respectively but DCs and SDOs do not come under the control of ADCs. As a result DLCs and SDLCs could not be constituted in 6 districts in the 3 Sixth Schedule ADCs making it unable to implement FRA there. This was taken up with MoTA with a suggestion that the Principal Secretary of Sixth Scheduled Councils could be the Chairperson of the DLC. Early action in this regard solicited. All DLCs and SDLCs are demanding contingency expenditure required for implementing FRA which could not be provided by the State. MoTA may provide necessary funds as grants-in-aid for the purpose.

Proper survey and demarcation of Forest land allotted to the claimants as per the land holding certificates could not be made in the field for want of survey instruments and non-availability of necessary funds at the disposal of DLCs and SDLCs. As a result, the exact area of land under allottees' possession does not tally with the area mentioned in the land holding certificates issued by DLC for which total area of land allotted in the whole state are not available.

The claims of Other Traditional Forest Dwellers could not be decided by the DLC and SDLC for want of proper documentary evidence in support of their claims.

TRIPURA:

L.H. Darlong, Secretary of the Tribal Welfare Department submitted that the Committees has been constituted for monitoring & implementation of FRA. Tripura has Forest Rights Committees for all Gram Panchayats and VCs, SLDCs for all Sub- Divisions, DLCs for all districts, State Level Monitoring Committee (SLC), and State Level Committee for identification of Critical Wild Life Habitat. Awareness programme on FRA was organized in all district's involving PRI bodies and District Magistrates.(DMs). FRA and its Rules were translated into local languages and distributed to PRI bodies & DMs, and application form printed and distributed to Forest Dwellers.

As on 30 September 2013, 1,87,791 claims were filed out of which 61,767 were rejected due to lack of proper documents of the land. There is only 5403 claims pending. The process of providing economic benefits to Forest Dwellers is in progress. The forest dwellers are informed reasons of rejections. The government also organized workshop for community claims.

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MEGHALAYA:

Y. S Shullai, the Chief Conservator of Forest, informed that the SDLCs, DLCs and SLMC have been constituted. There have been no claims to rights received till date. communities have unfettered rights to the forests in the states as the forests are community owned. He added that, apart from the Scheduled Tribes, there are no other recognized Forest Dwellers in the State. There has also not been any displacement of forest dwellers as the Government in the recent past has not embarked upon any large scale expansion or development of National Parks/Sanctuaries.

MANIPUR:

Siddharth Dev Verman, the Principal Secretary, stated that the state government faces certain challenges and limitation is implementing the FRA. The local laws and traditions and customs already give tribal's full and absolute rights over their land. And the FRA should not in any way dilute these rights. For instance, the Manipur Land Revenue Act is not extended to the tribal areas, There is a perception that bringing the land under the revenue and forest legal regimes could alienate the existing traditional rights. Wider consultation with local stakeholders is required and consultation with experts can also be held in this regard on the way forward.

Shomona Khanna made an intervention to the effect that article 371-C which provides special status to the hill areas of Manipur, does not require that there should be approval of central legislations by the Hill Areas Committee before extension to such areas. It is a matter of record that there is considerable political tension between the plains and the hill areas, and yet it is important to find a way to extend the benefits of the FRA to the forest dwelling communities in the hill areas of Manipur.

NAGALAND:

Mr. Temjenyabang, the Deputy conservator of Forest, informed that the inapplicability of FRA in Nagaland is not for any other reason other than the fact that about 91 % of the recorded forests in the state is either under private or community ownership. Full ownership rights are enjoyed by communities/ individuals in the land they own. He added that there are no forests villages nor are there any scheduled tribes or other traditional dwellers residing in Government owned forests in the state of Nagaland.

Nagaland has passed the Nagaland Village and Area Councils Act, 1978, wherein traditional grassroots level institutions such as the Village Councils have been duly recognized and empowered. Hence the spirit of the Forest Rights Act which seeks to

empower traditional forest dwellers has already been fulfilled in Nagaland long before FRA was enacted.

Agriculture is the main livelihood for over 70 % of the state's rural population. The dominant agricultural practice is Jhum cultivation. People supplement their income by exploitation of forest resources, thus causing degradation of forests.

SIKKIM:

Mr. C. S. Rao, the Chief Conservator of Forest, informed that the Committees have been formed at District and Gram Sabha level. In spite of committee being formed the State government has received no claims under FRA. He felt that there should be a provision in FRA to ensure that JFM committee and Eco-Development Committee representatives are members of the Forest Rights Committees. He further stated that the provisions in the Sikkim Forest Act ensures the tribal community their rights over the land.

MIZORAM:

Vanlalnghaka Zote, Deputy Director of Social Welfare Department, stated that in the sitting on 29 October 2010, the Sixth Legislative Assembly of Mizoram has resolved that the Forest Rights Act shall be adopted in the entire state of Mizoram with effect from 31.12.2009. The same was notified by the state govt in March 2010. The rules had been translated into all local dialects. Coordination meeting of officers from line Departments have taken place for the effective implementation of FRA.

Land use/land cover Map of Aizwal Division was acquired from MIRSAC, Science and technology Department for effective implementation of the Act. Sensitization workshops on FRA for the Forest Rights Committees have been conducted in 26 blocks headquarters of the State from January to May. Seminar on FRA for officers of line Departments and Nodal Department was organized. Seminar for media is being proposed and not yet finalized.

Meeting with the Forest Rights Committee and Village Council Members was held on 17 October in pursuance of resolution made by State level Coordination Committee. This meeting decided that Kolasib District will be covered in the first phase as pilot project for the implementation of FRA. District Level Committee met in August to solve the dispute between the local people and environment and forest department, regarding harvesting and selling of bamboo shoots.

The state government informed that identification of Forest Dwellers will be carried out in a phased manner. Mamit and Kolasib are to be covered in the First Phase during

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2013-2014 as pilot project. Only the villages notified by the government located within the Reserved Forest areas will be covered in the First Phase.

ARUNACHAL PRADESH:

Arunachal Pradesh informed that very recently, the Department of Social Welfare has been selected as the Nodal Department for the implementation of the Act and as reported by the State Government, various Sub-divisional, district and state-level committees have been formed but nothing more has happened.

The Government of Arunachal Pradesh has informed the Ministry of Tribal Affairs that the Forest Rights Act does not have much relevance in Arunachal Pradesh. The reason given is that it is wholly domiciled by various ethnic tribal groups whose land and forests are specifically identified with natural boundaries of hillocks, ranges, rivers and tributaries.

RECOMMENDATION and OBSERVATION:

The Secretary of the MoTA suggested that for the implementation of the FRA, the Tribal Welfare Department has to be a nodal department and be in driver seat communicating with the line departments for the effective implementation of the FRA.

All the states must be able to define the task. The identified the gaps are to be assessed along with the needs of the tribals.

Four state viz. Tripura, Assam, Manipur and Mizoram are going forward. However Sikkim, Nagaland and Meghalaya need to work out strategies as they possess no blueprint of the FRA so far.

The local existing rights need to be understood and the ministry is ready to support the State Government. The state government should give well considered proposal on how the implementation of the Act can be taken forward.

States, who are still behind and have not been able to prepare a blueprint, should visit Tripura to get an idea about effective implementation of FRA.

TSP funds should be utilized only for specific objectives and development of the Scheduled Tribes strictly.

OVERVIEW OF NSTFDC

Representing National Scheduled tribe Financial Development Corporation, Gur Saroop Sood apprised the states about the new schemes initiated by NSTFDC To pay focused attention and to accelerate the pace of economic upliftment of STs on sustainable basis.

He informed that any Applicant(s) who is STs and Annual family income does not exceed Double the Poverty Line (DPL) are applicable to avail the financial assistance. Beside, Self Help Groups (SHGs) having all ST members and Co-operative Society with 80% or more members as STs.

In North-East as on 30.06.2013, the Govts of Assam and Tripura have distributed 36,267 and 120,473 land titles. Most STs covered under this act being poor need financial assistance for productive use of land. In North-Eastern states, financial assistance extended to SCAs of Tripura and Sikkim for courses like B. Tech. (Civil/ Electrical/ ECE), MBBS, B.Sc. (Forestry), BHMS, Bachelor Degree in Hospital Management, BDS, B.Sc. (Physiotherapy) etc. Other State Govts. to impress upon their SCAs for submission of proposals.

Mr.Sood informed that NSTFDC has been receiving rare proposals from the tribal area, excluding Assam and Sikkim. He also requested the states to start with a loan recovery drive as once the loans are not recovered; hindrance for its recovery persists. States inquired about the exemption being sought by the borrowers, to which Mr Sood replied that on the quantum of the interest the exemption of interest can be considered.

EDUCATION AND DIRECT BENEFIT TRANSFER:

The Ministry to avail education to the every ST students has initiated schemes like Post Matric Scholarship, Pre Matric Scholarship.

The Ministry urged the States to submit proposal for the year 2013, 2014. The states were also asked for a clarification for not implementing the schemes for the benefit of tribal student.

The Ministry also recommended that the Tribal welfare Department to take the ownership of the Schedule Tribe Students.

The Ministry observed that at present education Department, Human Resource Department and in some cases, Social Welfare Department has been working as a nodal department for the Education related schemes, complicating and making it difficult for the ministry to engage with every department. Hence the tribal welfare department has to be nodal department for all the schemes related to Tribal Population. The state govt. has to keep a tab on all the statistics of the schemes.

Ministry informed about Mismatch in coverage figures in States proposals under both Schemes.

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Asked for the Proposals to be based on data. Ensure that ST students are studying recognised courses in recognised Institutes. Tripura to provide physical and financial progress report for 19 Ashram Schools. Other States have not submitted any proposal.

Completion of Hostels pending in Arunachal Pradesh (15), Manipur (8), Meghalaya (5), Nagaland (1), Tripura(14). Complete proposals should be sent by all State.

Informing about the umbrella scheme proposed by the MoTA, it informed that the commitment for the scheme has to be 90:10 for the North Eastern States. Greater coordination with line Departments both at National and State level.

The reforms envisaged are to fill in the critical gaps in existing efforts of access, retention and quality of education of ST children. Ensure all Ashram Schools become RTE compliant. Cater to the diverse needs of States/UTs by offering a cafeteria approach. Bring flexibility in inter-component funds flow. Optimise use of funds available for education in the Ministry. Rationalise the scheme to streamline management, monitoring and supervision. Ensure that Ministry's education funds are utilised for critical gap filling and not as a substitution of State/line ministry provisions by first tapping funds available through SSA, RMSA etc. Institutionalise systems of financial control and discipline.

The Ministry urged the States to finish the DBT at earliest, to facilitate the student. Sikkim has completed in all four district, and Tripura had completed works in four districts and other states need to gear up.

OCTOBER 29

INTRODUCTION

The second day of the consultation meeting of the North Eastern States with the Ministry of Tribal Affairs began with a session on the planning, implementation and monitoring of the Tribal Sub Plans (TSP), which is a key instrument for ensuring inclusive growth of STs. Smt. Vibha Puri Das, Secretary of the Union Ministry of Tribal Affairs (MoTA), Government of India chaired the session. Shri K. Guite, Director, MoDONER, Government of India, Shri G. P Upadhyaya, Principal Secretary, Tribal Welfare Department, Government of Sikkim, Shri S.K. Dev Verman, Secretary, Tribal Welfare Department, Government of Manipur and Smt. Sangeeta Verma, Economic Advisor, MoTA, GoI, were on the panel.

OBJECTIVES

This session was aimed at taking stock of the progress made in proactive planning for the TSP by the four TSP states viz, Assam, Manipur, Tripura and Sikkim, including area

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specific interventions, steps taken to ensure appropriate provision for the sectors where STs face maximum deficits and understand the bottlenecks being faced in the planning and implementation of the TSP.

The meeting also sought to (i) understand the steps taken to strengthen the administrative mechanism for planning, implementation and monitoring of TSP especially for better co-ordination between the nodal and the line departments, inter-sectoral convergence and convergence with grants under art 275 (1) and SCA to TSP; (ii) review the initiatives, if any, taken by the states to use the scheme for 'Non lapsable central pool resources' of Ministry of Development of North Eastern Region to benefit STs; and (iii) share best practices.

Setting the context, Economic Adviser, Ministry of Tribal Affairs, Government of India, emphasized that the efficacy of TSP depends on both allocation of adequate resources as well as proactive planning, implementation and monitoring by the State governments. With respect to resource allocation, she called attention to the fact that the TSP outlay in Sikkim and Assam is less than the proportion of ST population in the State, thereby, depriving the STs of the resource base needed to meet their development needs. In addition, States would need to undertake careful assessment of needs and gaps so that the TSP funds can be used for meeting critical development gaps by ensuring adequate provision for sectors with the maximum deficits. They would also need to identify appropriate indicators for monitoring standards of service delivery. In the North Eastern region, it is even more important for States to take up planning for area specific interventions so as to address the problems of ST populations dispersed in difficult to reach areas. She informed that the Ministry had sent its recommendations for revision of TSP guidelines to the Planning Commission and invited the States to give their suggestions on the same.

In her opening address, Secretary, Ministry of Tribal Affairs, Government of India, Ms Vibha Puri Das said that given the diversity amongst tribal communities and in the administrative and governance models in different areas in the States of the North-East, the strategy for tribal development has to be thought through by each State separately. The common thread has to be ensuring adequate resources and proactive planning. She emphasized that, taking into account the specificities of their respective States and of the tribal groups, the State departments incharge of tribal welfare must function as knowledge hubs for tribal development. They should work on establishing innovative tribal development models with focus on key sectors like health, education and employment. In this context, she mentioned the innovative effort of the Government of Assam to improve access to health services for people in the Brahmaputra river areas through use of boats. She urged the States to undertake preparation of a status profile on access and service

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delivery to STs in these three major sectors and then develop appropriate models that can be funded through TSP.

Stressing the need for a paradigm shift in TSP planning, implementation and monitoring, she urged the States to ensure that TSP planning is made an integral part of the State Planning process. This would facilitate dovetailing of resources from various sources including schemes of the M/o DONER and also ensure that the TSP is accorded due seriousness and becomes an effective tool for grass-root development.

Mentioning that the Planning Commission has from time to time issued guidelines and directions to improve the working of TSP and that the Ministry of Tribal Affairs has undertaken advocacy with the States to privilege TSP outcomes, she highlighted that without the development of STs it would be difficult to achieve the 'inclusive, faster and sustainable development' envisioned in the 12th Five Year Plan. She thanked the Ministry of DONER for joining the deliberations and urged States to make use of the Non-lapsable Central Pool Resources scheme of DONER to improve outcomes for STs.

As Planning Commission has the primary responsibility for allocation of resources for TSP as well as for the issue of guidelines relating to its implementation, she requested that Planning Commission may be represented at a senior level at these discussions.

Development Initiatives by the Ministry of Development of North Eastern Region (MoDONER)

Director, Mo DONER, Shri K. Guite, called attention to the special features of the NER namely, the small size of States (except Assam), geographical diversity, acute problems of connectivity and a large international border, all of which posed a developmental challenge. In view of these specific challenges, the MoDoNER was tasked with the responsibility of advocating the special needs of NER to the other Ministries/Departments and policy makers and coordinating with them in development activities in this region.

He explained that every Central Ministry/ Department, unless specifically exempted, was required to allot atleast 10% of their gross budgetary support for use in the NER. The unspent amount of these earmarked funds was deemed accrued to anon-lapsable pool. The MoDONER operated a scheme, 'Non-Lapsable Central Pool of Resources (NLCPR)' to fill resource gap in creation of new infrastructure in the NER. Under this scheme, States may apply to the M/o DONER for funding of State Sector projects duly prioritised by the States on the basis of gap analysis. The Ministry retains the projects based on each State's priority and releases money after the concerned line Ministry has given its approval for the detailed project report. Atleast 25% of the funds have to be allocated to backward areas,

Autonomous District Council areas. The expenditure under this scheme deemed to be debited to the Pool.

While DONER does not distinguish between different social groups, he said that since there is a significant tribal population in NER, they are major beneficiaries of M/o DONER's activities. From a sectoral perspective, the major chunk of NLPCR funds went to roads and bridges (40%) followed by power sector (17.8%), water supply (11.8%) and education (10%). Responding to a question he explained that the projects are selected, prioritized and sent by the Planning Department of the State. It is possible that in the process of establishing State priorities bigger departments like Public Welfare Department get priority over the smaller departments like Tribal Welfare Department. He, therefore, stressed the need for effective consultation and communication between the State Line Departments and the Planning Department. EA, MoTA suggested that the State Tribal Welfare Departments may request the State Planning Department to include them in the meetings called to decide which projects are to be recommended under NLPCR so that concerned line Departments can be asked to give due priority to the infrastructural deficits in tribal areas in their respective sectors. Director, MoDONER proposed that the two Ministries can work together to accelerate the development of the tribal population in the NER by identifying critical gaps and systematizing interventions;

TSP in the States

SIKKIM:

Shri G. P Upadhyaya, Principal Secretary of the Social Justice, Empowerment and Welfare Department presented the status of TSP and initiatives taken in the State. Responding to the point that the state TSP outlay was lower than the proportion of ST population in the State, he clarified that the actual flow of funds for tribal development is much higher as the schedule tribe communities are also covered in the development programmes and schemes of other departments. Citing examples he said that Rs. 120 crores were spent on 3000 ST families under Chief Minister's Rural Housing Scheme and Rs. 195 crores were spent on reconstruction of 3986 ST houses damaged during the earthquake in Sept. 2011. Further, he said that the TSP outlays have been continuously increasing-from Rs 1400 crores in 2011-12, Rs.1877 crores in 2012-13 to Rs 2060 crores in 2013-14.

The TSP funds are under the control of the SJEWD. Line departments submit their schemes to the SJEWD. The latter, after scrutiny, takes relevant clearances and then transfers funds. Elaborating on the consultative and participatory process adopted by the State Government for TSP planning, he explained that promoting inter-sectoral convergence is a key focus area and that before selection of schemes and criteria for

selection of beneficiaries, the SJEWD holds meetings with the line departments and stakeholders. The SJEWD scrutinizes the scheme to see whether it is meant for ST population and whether the ST population is benefiting by it. For infrastructure development schemes the place of implementation (ST area) is considered.

Selection of schemes and beneficiaries is conducted at the Gram Sabha Level, after which the concerned line department is notified to monitor the same. The Welfare Officers posted in 4 districts, along with the Block Development Officers are present in the Gram Sabha meetings for facilitating selection of schemes and also in their implementation. The SJEWD also monitors the schemes under TSP at various levels in the State.

Measures are being taken for the participation of all stakeholders including tribal communities, CSOs and other existing institutions/organizations in activity planning under TSP. The Scheduled Tribe Welfare Board and Primitive Tribe Welfare Board have been constituted to look after the selection and implementation of the schemes. The Boards along with the elected Area MLAs, have active participation in the proceedings of the schemes/programmes. As part of its efforts to implement projects in partnership with ST communities, Government of Sikkim has declared certain geographically isolated areas as Most Backward Areas. The North District is an ST dominant area, many of whom are Buddhists, has been declared as Minority Concentrated Area and all the infrastructure development programmes of Ministry of Minority Affairs are carried out in North District which directed benefits the Tribal of the areas.

Citing an example of a good practice adopted by the State, he spoke about the emphasis given to identification of needs through a participatory approach and involvement of peoples' representatives during a 42-day village-to-village tour undertaken by the Chief Minister in 2011 accompanied by all the elected representatives and heads of the departments. This tour was based on people-to-people contact, in particular, the weaker and vulnerable sections of the society. Schemes were sanctioned on the spot and some areas were identified and declared as the most backward and most remote.

Outlining the challenges, he stressed that lack of capacity has emerged as a key technical issue and expressed the need of capacity building of staff assigned for TSP planning and implementation. He emphasized that simplification of procedures is vital for effective implementation of schemes and programmes. He reiterated that STs are covered under all schemes of the State and pointed out that for a small State like Sikkim, which had a total annual plan outlay of only Rs. 1877.00 in 2012-13, it is difficult to earmark funds under TSP in proportion to the ST population.

The State government suggested that funds under Article 275(1) and SCA to TSP may be released at one time instead of being released in installments.

ASSAM:

Shri Jiten Borgoyari, Additional Secretary, Department of Welfare of Plain Tribes and Backward Classes, informed that the ST population in Assam was distributed over different geographical terrains and their problems and challenges differed. Of Assam's total ST population of 38.84 lakhs, the majority ie 31.94 lakhs lived in the Plains districts and 6.90 lakhs in the Hill districts. Further 10.56 lakh of the Plains ST population resided in the Sixth Schedule areas. Govt. of Assam have been taking various steps to accelerate development process for the welfare of ST in the State through democratic decentralization of power. STs are empowered to participate in the planning, monitoring and implementation of TSP schemes in grass-root level by constituting Territorial Councils, Autonomous Councils and Development Councils for different ST communities in the State. There are 3 Territorial Councils under the 6th Schedule of the Constitution, 6 Statutory Autonomous Councils constituted under State Act, and 4 ST Development Councils. Two Public Sector undertakings i.e Assam Plain Tribes Development Corporation and Assam Tribal Development Authority also look after Tribal development.

The following committees have been constituted at various levels for the proper planning, implementation and monitoring of TSP: i) State Advisory Council (SAC) for ST with Hon'ble Minister of Tribal Welfare Dept. as the Chairman. All tribal MPs, MLAs, Chairman of Tribal Sangha and Secretary of Tribal Welfare Dept. are members of SAC which meets atleast twice a year to review and monitor implementation of TSP schemes; ii) Project implementation Committee for each of the 22 ITDPs with ST representatives at the District level; iii) Sub-divisional ST Development Board for each tribal dominated civil sub-division with ST representatives to ensure proper planning, implementation and monitoring of schemes under TSP in dispersed area at Sub Divisional level.

On the issue of allocation of state plan resources to TSP he explained that the State allocates funds to TSP only from its Divisible Funds which are computed after deducting the total earmarked funds from the Total state plan allocation. Seen against the Divisible funds, the State TSP allocations in 2012-13 was 13.46 percent and in 2013-14 this was 18.0 percent, in both cases exceeding the proportion of ST population in the State and utilization of TSP funds for the last three years has been 98 percent and above. Actual flow to STs was even higher as funds for tribal welfare come from various other sources too viz. State Plan other than TSP, allocation to autonomous councils including BTC, CSS, Centrally earmarked funds etc. This approach to TSP allocation was discussed. Director, Planning Commission said that TSP allocations should be computed against the total State plan allocations. It was suggested that Assam may make a written reference to Planning Commission for clarifying the issue.

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The State has identified the areas where it faces critical gaps and challenges. These relate to human resources development, health care. Providing potable drinking water facilities in tribal areas, road connectivity in tribal areas and creation of avenues for employment generation. While the State TSP is being used to address these, he suggested that MoTA may restructure the Ashram Schools into full-fledged residential schools on the model of Jawahar Navodaya Vidyalaya with 100% central funding and facilitated setting up of at least one residential school for each tribal cluster having 10000 population. On the health facilities front, he requested special reservation and financial assistance for sponsoring at least 100 ST students from each State every year for admission in various medical colleges of the country. He also called for the setting up of nursing colleges and training institutes for para medical staff in tribal areas. On the subject of connectivity through roads and bridges, he said that although the State TSP funds as well as GOI funds under Article 275(1) of the Constitution of India were being utilized for this purpose, larger allocation was required to provide good communication facilities in tribal villages and thereby boost their economy for sustainable growth. State shared examples of successful projects under TSP and SCA to TSP.

During discussions, it was suggested that the Tribal Welfare Department of Assam may proactively interact with the concerned line departments and the Planning Department to take advantage of the NLPCR scheme of the Ministry of DONER, specially the provision of 25% funds for backward areas, to create infrastructure for potable water, education and road and bridge connectivity in tribal areas.

The tourism industry, rubber plantations, organic farming and sericulture have been identified as key sectors for income and employment generation for tribals. The state suggested that GoI may give special financial assistance for promotion of tourism in various national parks like Manas, Orang, Pobitora etc. which are located in tribal areas of Assam so as to engage ST in self-employment activities in tourism industry. He sought financial assistance for rubber plantation in available wasteland in tribal areas along with financial assistance to ST students for skill development in ITI related craftsmen training and computer education and financial assistance for other schemes including food processing industry, farming on piggery, fishery, poultry etc., special organic agriculture farming and sericulture farming.

TRIPURA:

Shri L.H Darlong, Secretary, Tribal Welfare Department informed that 69.09% of the total geographical area of the State falls under TSP area. Some of this falls within the Tripura Tribal Autonomous District Council area (TTADC). The State Government has issued directions for earmarking of not less than 31% of total plan fund by all line

Departments for TSP which is proportionate to tribal population in the State (31.8% in Census 2011) to be booked under a separate Demand Head No. 19 of the State Budget so that fund earmarked for TSP area is not diverted. Some departments such as Agriculture and allied activities, rural development, science energy and environment, have earmarked more than 38%, as a result of which in 2013-14 more than 44%of the overall plan allocation is expected to flow to TSP, up from 40 % in 2012-13. The schemes / projects implemented in TSP areas are selected and approved by PRI bodies.

The State has taken steps to identify the gaps in various sectors in the TSP and TTADC areas and has put in place an action plan to bridge these gaps. For example, to improve education services the Junior Basic/Senior Basic schools in TSP area are proposed to be upgraded into High/Higher Secondary schools during 12th Five Year Plan. Similarly, an action plan has been prepared to cover the remaining habitations in the TSP area with rural roads (about 27%), electricity (22%), health sub-centers (100 uncovered village committees) and drinking water during the 12th Five Year Plan. The State monitors development works in TSP area, both physical & financial, at the State Level as well as District Level. On account of careful planning and closed monitoring by the State Tribal Welfare Department, over the last 3 financial years the money allocated to TSP has been fully utilized. With a view to ensuring rapid socio-economic development of STs, the State has announced a special package for welfare of Scheduled Tribes for five years, from 2013-14 to 2017-18. Under this package special efforts will be made for the creation of basic infrastructure, multipurpose halls for skill development and cultural activities, allotment of land to landless BPL ST families, financial assistance for construction of dwellings, development of RoFR land, income generating activities, support for self-employment, setting up of rubber processing center, financial assistance for starting business enterprises, educational scholarships and vocational training.

Sharing the best practice initiated by the state government, he spoke of the Block Rubber Plantation Project which started during the 8th Five Year Plan period (1992-96) covering 1500 hectares area on cluster basis for selected ST Jhumia families and continued till 11th Five Year Plan period. The main thrust of the project was to create employment opportunities among poor ST Jhumia families in a sustainable manner". The project was jointly implemented by the Tribal Welfare Department and Rubber Board. Ownership and involvement of the beneficiaries was through contribution through their own labour which accounted for 20 % of the expenditure. Rubber Producers Society (RPS) & Women Thrift Groups (WTG) were formed and every member of the family was involved in the plantation activities. As income from the plantation starts only from the 7th year, during the intervening period convergence was affected with various income generation schemes of line Departments for maintaining livelihood of the beneficiaries. Education and health care facilities were also provided to the beneficiaries and drinking water facilities & village road

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connectivity were provided in the project areas. Due to shortage of land, farmers adopt intercropping farming pattern in the plantation farms for the initial years. He emphasized that the project met with success because the local functionaries of the Tribal Welfare Department took care to handhold the beneficiaries at every stage and see them through to the final stage where they started tapping rubber. Upto 30th September, 2013, 3490 ST Jhumia families were provided financial assistance totaling Rs.279.30 lakhs for creation of rubber plantation in 3724.87 hectares. Beneficiaries earned an estimated average income of Rs.2.23 lakhs per annum.

Best quality green timber is another asset which Tripura has been promoting to stabilize the economic status of its population.

MANIPUR

Director, Tribal Affairs and Hill Department, Government of Manipur, informed that the situation of Manipur is quite different from other states of the NER. Unlike in other States, about 90% of the total geographical area of the State constitutes the TSP area where only 35% of the total State's population is living. Administration of the Tribal Sub-Plan areas are carried out by the Deputy Commissioners concerned who otherwise act as District Magistrates. Schemes for the Tribal Sub-Plan areas are formulated and implemented by the concerned line Departments in association with their District level offices. While the Tribal Affairs & Hills Department is the nodal Department for Tribal Sub-Plan in the State, no administrative and financial powers for distribution of resources for TSP areas and its implementation are vested on the TA&H Department. Pooling of funds of different development departments under a single demand of TA&H Department is yet to be adopted as the State Cabinet decided against it in 1996. At present allocation of funds for the TSP areas is done by the State Planning Department. As the State Tribal Development Department is not fully equipped to handle the issue, the present system of allocation by the Planning Department shall have to continue.

In the absence of full administrative control of the State TA&H Department over Tribal Sub-Plan, many issues remained unaddressed. These are related to participation of tribal communities, Self Help Groups and other stakeholders in the effective planning of TSP; strengthening ability of various institutions working at various levels in TSP areas and inter-Sectoral convergence of different schemes operated in the TSP areas; Despite challenges, the Manipur government has been trying to provide financial resources in proportion to the ST population of the State for development of tribal and the hill areas. The resources under TSP are utilized in the hill areas and are not diverted. Further, the state government is trying to bring in the Manipur TSP (Planning, Allocation and Utilization of Financial Resources) Bill which was prepared on the lines of the Andhra Pradesh

legislation. In 2010, the State Cabinet had decided to devolve various powers and functions to the Autonomous District Councils. In response to a query about the structure available at the village level, he informed that under the Manipur (Village Authorities in the Hill Areas) Act, 1956, every tribal village is required to have a village authority elected by the villagers. This process is being initiated.

Various infrastructural and other activities are implemented under TSP. Funds from the following sources are also utilized to fill the gaps in the development of hill areas of the State- Social & Infrastructure Development Fund (SIDF), Non-Lapsable Central Pool of Resources (NLCPR), Special Plan Assistance (SPA), Finance Commission Award, North Eastern Council (NEC) and Border Area Development Programme (BADP). Summing up the discussions, Mr. Dev Burman, Principal Secretary, Tribal Affairs Department, Government of Manipur, stressed that knowledge enrichment and capacity building of the Tribal Departments is very important to identify gaps. As it is found that the Tribal Departments are not adequately staffed, it affects the performance. Another issue he raised was the importance of good governance and the capacity of stakeholders in implementing schemes, importance of submission of TSP documents on time and the need for proper coordination between concerned departments. He further emphasized that as the procedure for implementation of TSP varies from State to State, MoTA consider laying down a uniform procedure to followed by all States.

He pointed out that lack of inter departmental communication and consultation is a setback in the implementation of schemes and programmes for tribal development and emphasized that the state departments must be in constant communication for the monitoring of the schemes.

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WAY FORWARD

Each State has to think through its own strategy for tribal development and TSP taking into account its own specific circumstances, problems, challenges and strengths.

- ❖ As the Planning Commission is in the process of reviewing the TSP guidelines, the NER States must convey their suggestions for meeting their special challenges to the Planning Commission at the earliest.
- ❖ States must improve the knowledge base of the Tribal Welfare Departments to enable them to promote advocacy with other line departments
- ❖ States Tribal Welfare Departments must take up research studies to find critical gaps in NER and especially in TSP States
- ❖ States should proactively put in place mechanisms to ensure participatory methods for identifying gaps and 'problem share' and for pro-active planning for Tribal Sub Plan schemes.
- ❖ States should take up preparation of a State profile for tribals in atleast three sectors – health, education and employability. This would help them to articulate an action plan.
- ❖ There should be no notional funding under TSP
- ❖ MOTA & MoDONER may consult to identify critical gaps, set priorities and suggest action plan for development interventions. States may approach MoDONER for funding of physical infrastructure in tribal areas and funding of services delivery and maintenance of service standards can be taken up through the sectoral TSP
- ❖ On the request of States technical support may be provided to NER States under the UNDP- MOTA project for developing Perspective Document & Action Plans for TSP
- ❖ Opening more hostels in tribal areas and TSP areas in TSP States. Similar effort to be made for constructing more Ashram Schools
- ❖ Partnering with State and Central Universities for research studies under Tribal Sub-Plan in the NER
- ❖ TSP should not be only population based but outcome based.
