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Green ministry panel takes forest rights to grassroots

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The N C Saxena Committee that called for scrapping the Vedanta bauxite mining project in the Niyamgiri Hills of Orissa has set a precedent that could jolt the entire mining industry — it recommended that under the Forest Rights Act, the gram sabha (village council) is the only authorized body to decide whether or not it wants to part with a patch of forest land for a project.

Going beyond the immediate case of Vedanta, it says the rights of those who lived in or used the forests but were earlier illegally barred should be completely settled under FRA before the environment and forests ministry gives a green signal to divert forest land for projects.

Unlike in the case of Vedanta, it says the Union environment ministry should be barred from giving conditional clearance to a project on the mere assurance of the state government that FRA has been complied with.

Instead, a certificate to that effect has to be procured from the village council, not the district magistrate or chief secretary of the state. The village council (and not the state apparatus on its behalf) has to expressly state that it is ready to give up the forest habitat it uses or claims as community right under FRA before the environment ministry approves of the forest diversion.

Reading the Forest Rights Act in its letter and spirit, the four-member panel has said what UPA government has till date found difficult to articulate in so many words, forcing the environment and forests ministry to deal with the contentious issue head on.

The MoEF's position on the issue, however, will be clear not when the minister, Jairam Ramesh, takes a final call on the Saxena report, but when the government considers two other commissioned reports expected soon — one by the committee under ex-environment secretary Meena Gupta on the Posco integrated steel plant in Orissa and the other, again under Saxena, on implementation of FRA at large.

The fact that the UPA decided to set up a plethora of committees as much to interpret its law as to report on two specific cases indicates the confusion within the government on how to handle the implications of a legislation passed reluctantly after truncating it at a given chance. Till date, in the schedule V areas (tribal dominated areas excluding the northeast states) the laws — Environment Protection Act and the Panchayat (Extension to Scheduled Areas) Act only required the state government to "consult" the affected people before acquiring land.

But the Saxena panel report makes it clear that when it comes to forest land, even the Union government (MoEF while considering diversion of forest land under the Forest Conservation Act) cannot override the veto of a gram sabha. "MoEF would in fact be guilty of violating FRA if it ignores the wishes of the gram sabhas," it states.

Before the FRA was implemented in 2008, the MoEF had to consider cases for diversion under the Forest Conservation Act, which only required the government to assess the impact on wildlife, steering clear of acknowledging the traditional rights of people living in the forests. The Saxena committee points out that the rules of the game have changed since FRA was enacted.

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