

Note on Joint Verification Process



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PROCESS OF CLAIM VERIFICATION

1. What is Verification?

Section 6 (1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 empowers the Gram Sabha/Palli Sabha to initiate the process for determining the nature and extent of individual and community forest rights of the forest dwelling scheduled tribes and other traditional forest dwellers by receiving claims, consolidating and verifying them and preparing map delineating the area of each recommended claim.

The process of verification of claims is dealt with in Section 11 (2) (iv) and 12 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules 2007. According to this provision the Forest Rights Committee is required to initiate the process of verification of claims on individual and community forest rights mentioned in Section 3 of the Scheduled Tribes and Other Traditional forest dwellers (Recognition of Forest Rights) Act, 2006.

2. Role of Gram Sabha/FRC in verification:

It should be noted that it is the authority of the Gram Sabha to initiate the process of determining rights which include verification of claims. As per the rules the FRC is authorized by the Gram Sabha to carry out the verification with intimation to concerned claimants and the FD and to prepare maps delineating the area of each claim. The FRC is required to present its recommendations to the Gram Sabha for further consideration and approval before sending them to the SDLC. It is the function of concerned authorities at the SDLC and DLC to provide necessary assistance and help in the form of maps and information to the Gram Sabhas to carry out the function of verification and mapping. (Rule 4 (3), 6 (b), 12 (4))

3. Role of SDLC in verification:

Section 6 (3) of the Act provides that 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 to the DLC for a final decision.

Rule 6 provides that the SDLC shall i) collate all the resolutions of the concerned Gram Sabhas, ii) consolidate maps and details provided by the Gram Sabhas and iii) examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims.

4. What is Joint Verification?

As explained in the preceding paras, the authority for verification of claims at the village level is the Gram Sabha. The Forest Rights Committee is authorized by the Gram Sabha to carry out field level verification of claims, prepare maps and present findings to the Gram Sabha for

approval. Rule 4 (3) and 12 (4) provides that the concerned authorities are required to make available necessary assistance to the FRC/Gram Sabha to support the process of determination of rights.

It is observed that during the verification of claims Forest Rights Committees and Gram Sabhas have sought information from government authorities such as village maps, forest maps etc. Further while initiating field verifications the FRCs have informed FD officials as required by Rule 12 (1). But it is seen that the requisite information has not been provided to the FRCs/Gram Sabhas and also government authorities have not participated in the verification process whereby identification of claims and preparation of maps have remained incomplete in most of the cases.

In order to help the Forest Rights Committee and the Gram Sabhas to complete verification of claims and preparation of maps, government authorities have engaged officials (RIs/Amins) whose mandate is to provide technical support to the FRC to complete the process of verification and mapping. So the ongoing process of verification involving government officials like RIs/Amins appointed by the government is a part of the Gram Sabha verification. While assisting FRCs in the field level verification, observations made by the technical team on claims may be recorded in the verification report for further consideration by the Gram Sabhas.

As mentioned in the letter issued by the Chief Secretary, Government of Orissa on 4th February 2009, apart from providing technical support for mapping, if any claim requires further enquiry then the SDLC and DLC can ensure joint visits involving officials from Forest Department, Revenue Department and Welfare Department. But it is to be noted that the letter makes it clear that there is no such express provision for verification of claims by government officials as a matter of routine after the claims are verified and approved by the Gram Sabhas. The relevant portion of the letter is produced below for reference.

“It may be noted that the act does not expressly provide for verification of claims as a matter of routine by officials, after the Gram Sabha has passed resolution on forest rights as per Section 4(1)(c). If SDLC or DLC requires any particular claim to be verified, the same must be attended to on top priority by the concerned officials of Revenue, or Forest or ST SC Development Department. It may be ensured that such joint visits take place with due intimation to the concerned FRCs so that conclusions are drawn for each village and necessary reports are furnished to the SDLC or DLC. Care must be taken to see that indefinitely long time is not taken for this field verification.”

Considering the provisions on verifications in the Act and Rules and also the order issued by the Government of Orissa it becomes clear that any kind of verification or re-verification of claims at the village level involving the Forest Rights Committee and any government officials comes under the purview of the Gram Sabha’s authority. Therefore such verifications and re-verifications are to be carried out in consultation

with concerned Gram Sabhas and the report and maps prepared out of the process are to be shared with the Gram Sabhas for consideration and approval. It is further added that the Chief Secretary's letter dated 4th February 2009 clearly points out that role and responsibilities of each of the authorities are clearly delineated in the Act and that no individual officer has the power to overrule the decisions of the appropriate authorities. The relevant section of the order is quoted below for reference.

“The decision-making authorities under the Act are clearly spelt out. They are the Gram Sabha / Palli Sabha, Sub-Divisional Level Committee and the District Level Committee. It must be noted that the role of the officials is to render proper and timely assistance to these committees and to ensure custody of the records. No individual officer has been given the powers under the Act to overrule or object to the decisions of the appropriate authority, other than filing appeal to the next higher authority as prescribed.”

5. Steps of Joint Verification:

The mandatory steps required to be followed during the ongoing verification process are described below.

- As per the letter issued by the Chief Secretary, verification should involve officials from the Revenue, Forest and Welfare department.
- As any field level verification is part of the Gram Sabha process the ongoing verification involving government officials should take place with active participation of community and FRC members.
- Prior intimation should be given to the FRC and concerned claimants before the joint visits by the verification team.
- The joint verification should refer to the records of claims prepared by the FRC and Gram Sabha such as the record of claims, evidence submitted, verification reports, resolutions adopted in the Gram Sabha.
- Joint verification should cover both individual and community rights.
- Map and report prepared in the process should be shared with the FRC and the FRC should present the same at the Gram Sabha for further consideration and approval.
- At the SDLC level process in case of non-approval of any claim the concerned claimant has to be informed about the reasons for such disapproval so that he/she can exercise right of appeal against the resolution passed. The relevant portion of the Chief Secretary's letter on right to appeal is quoted below for reference.

“..Apart from this, the extract of the relevant portions of the agenda notes and proceedings of the SDLC or DLC of a particular village must be made available to the concerned Gram Sabha / Pali Sabha through the concerned GP Secretary, so that the right to appeal as envisaged in the Act can be ensured.”

The letter further mentions that any government authorities or committees violating provisions under the Act shall be penalized as per section 7 of the Act.

- A copy of joint verification report along with maps should remain with the concerned Gram Sabha.