

Shastri Bhawan, New Delhi

Dated June 9, 2008

To

All State Secretaries in-charge of Tribal Welfare
[All States/UTs, except J&K]

Subject: Implications of the phrase "primarily reside in and who depend on the forests or forest lands for *bona fide* livelihood needs" appearing in sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Sir,

As you are aware, Section 2(c) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 defines the expression "forest dwelling Scheduled Tribes" to mean the members or community of 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. Similarly, Section 2(o) of the Act defines the expression "other traditional forest dweller" to mean 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 the forests land for *bona fide* livelihood needs.

2. This Ministry has received references from certain States seeking clarification about the implications of the phrase "primarily reside in and who depend on the forests or forest lands for *bona fide* livelihood needs" appearing in sections 2(c) and 2(o) of the Act as to whether this would cover the Scheduled Tribes and other traditional forest dwellers who are not necessarily living inside the forests but are depending on the forests or forest lands for their *bona fide* livelihood needs. This issue was also raised in the meetings of the Secretaries of Tribal Welfare/Development Department of the States on the implementation of the Act held on 18th-19th February, 2008 and 16th May, 2008 in New Delhi.

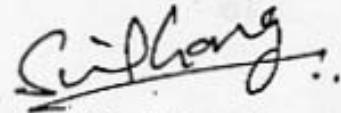
3. The matter has been examined in consultation with the Ministry of Law & Justice and it is clarified that the implication of using the word 'primarily' is to include the Scheduled Tribes and other Traditional Forest Dwellers who have either habitation, or patches of land for self-cultivation for livelihood, and would, therefore, be primarily spending most of their time either in temporary make shift structures or working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land. Therefore, 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 definition of "forest dwelling Scheduled Tribes" and "other traditional forest dweller" as given in Sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

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For the

4. This may be noted and communicated to all concerned with implementation of the Act.

Yours faithfully,

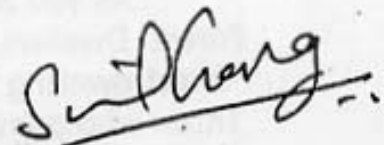


[Sunil Garg]

Under Secretary to the Govt. of India

Copy to:

1. Ministry of Environment & Forests (Ms. Meena Gupta, Secretary), Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, New Delhi-110 003 for information.
2. Prime Minister's Office (Ms. Kalpana Awasthi, Director) South Block, New Delhi for information.



[Sunil Garg]

Under Secretary to the Govt. of India