

15th July, 2010.

Dear

This Ministry has been noticing that **most States have been showing a higher percentage of rejection over acceptance of claims under the Forest Rights Act.** This fact has also been pointed out by various civil society organisations. Admittedly, while processing of claims is a quasi-judicial exercise, it becomes an item of worry when the rejections are of such high order.

2. When the Ministry of Tribal Affairs are asked the reasons for such high rejection by States, only generalized replies are possibly, based on the inputs received during conferences, workshops or from personal interactions. **A time has, therefore, come when not only should we attempt to find out the categories/reasons for rejection by the Gram Sabha and at the Sub Divisional level, but therefrom also find out the ways of improving the quality of our otherwise considered excellent performance in the distribution of rights across the country.**

3. Kindly, therefore, initiate an action immediately, on a statistically acceptable sampling basis, at the level of Gram Sabha and Sub Divisional level Committees for categorizing all rejections, with their numbers. We can suggest the following categories:

- a) Non-availability of written records;
- b) Non-availability of other criteria specified in Rule 13;
- c) Non-possession of forest land;
- d) Non-occupation on the date relevant to the Act;
- e) Multiple claimants;
- f) Doubtful tribal status.

You may like to add other criteria relevant to your State.

4. Kindly also include figures for other traditional forest dwellers (OTFD) separately from Scheduled Tribes in the above assessment.

5. The expenses for the survey can be met out of the grants under Article 275(1) proviso, as communicated to all States in early 2009. We hope that this exercise will be completed in three months and, thereafter, included in each monthly progress report.

Yours sincerely,

(G.B. Mukherji)

Chief Secretaries of Andhra Pradesh, Assam, Gujarat, Jharkhand,
Karnataka, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tripura,
Uttar Pradesh and West Bengal.

20th July, 2010.

Dear

The status of implementation of the Forest Rights Act was recently reviewed in a very high level meeting. It was noted that while substantial progress had been made, it could have been better had such wide inter-state variations not been there. Concerns were also expressed regarding the high rates of claim rejection, difficulties expressed by claimants in accessing the requisite evidence, delays in the demarcation/handing over of lands including provision of maps, insufficient emphasis on community rights, non-conversion of forest villages into revenue villages, non-involvement of the civil societies, academics, etc. in facilitating claims, especially those of the Particularly Vulnerable Tribal Groups (PTGs), capacity building of the various committees set up under the Act, particularly the Forest Rights Committees and the Gram Sabha, etc.

2. In order to accelerate the pace of implementation of the Act and to address the concerns mentioned above, we would like to request that the following measures be taken by the State Governments immediately:

- (i) A scrutiny of reports received from the States so far reveals that till 30th June, 2010 only 1.76 per cent of the forest rights claims filed relate to community rights. Since most community claims relate to the ownership of minor forest produce, **State Governments should launch a special campaign**, as is being undertaken in Orissa, **for generating wide-spread awareness about these community rights, if necessary, by re-training field level functionaries** engaged in the processing of such applications. The Gram Sabhas in the State may be given instructions to facilitate the collection of more community right claims. Support of local resource institutions under the State Government may be enlisted.
- (ii) As per Rule 4(3), the Gram Sabha is to be provided with all necessary assistance by the authorities in the State in the discharge of its functions. In order to (a) overcome the difficulties experienced by the claimants in accessing the requisite evidence in support of their claims; (b) avoid the delays in preparation of a map delineating the area of each recommended claim; (c) facilitate claims, especially those of PTGs; (d) enhance capacity building of the Forest Rights Committees constituted by the Gram Sabha for assisting the Gram Sabha, etc., **the State Government may provide the Gram Sabhas with the assistance of facilitators**. As in the case of Gram Sabhas, the

State Government may also provide the Sub Divisional Level Committees with the assistance of facilitators for due discharge of functions assigned to them under Rule 6. These facilitators may be engaged with the involvement and approval of the District Collector. **The assistance of local Tribal Research Institutes (TRIs) can also be sought.** The expenses on the engagement of facilitators can be made out of the grants Article 275(1) proviso, as communicated to the States in early 2009.

- (iii) Rule 12 specifically lays down that Forest Rights Committees must ensure that claims from the members of the PTGs or pre-agricultural communities are verified in the presence of the members of such communities. If this is read with the list of evidence provided in Rule 13(1)(c) and Rule 13(1)(i), the establishment of claims for such communities is not likely to be a problem. What is essential, however, is that such communities must be focussed for specific attention as provided in Rule 8(b). **Hence, besides reiterating these provisions, kindly also facilitate collection and processing of the claims from such groups and communities in line with what has been suggested in sub-para (ii) of this letter.**
- (iv) **The Ministry has been noticing that the State Level Monitoring Committees (SLMC), in most States, have not been meeting regularly to take stock of field level problems.** You may kindly schedule meeting at least once in three months – to monitor the process of implementation of the Act, take stock of the field level problems and furnish a six monthly synoptic report to this Ministry on the status of implementation and field level problem, if any, as prescribed under Rule 10(d).
- (v) **It is proposed to nominate a representative of the Ministry of Tribal Affairs to attend selected meetings of the SLMC in some States as an observer.** Hence, a schedule of the SLMC meetings for the year may be drawn up and intimated to this Ministry well in advance so that a representative of this Ministry could be deputed accordingly.
- (vi) Rule 14(1) requires that a person aggrieved by the resolution of the Gram Sabha may file a petition to the Sub Divisional Level Committee (SDLC) **within a period of sixty days from the date of resolution.** This presumes that the resolution of the Gram Sabha (or the SDLC) is communicated to the claimant on the day the resolution has been passed. There could, however, be a time gap between the date of the resolution and the communication of the same to the affected person. **Natural justice demands that the sixty days should count from the date of communication of the orders.** Likewise, though not specifically provided in the Rules, natural justice demands that the rejection of a claimant by the District Level Committee should also be communicated so

that the affected person is aware, and can seek redressal as provided in the Act.

- (vii) The Forest Rights Act provides, under Section 3(1)(h), that after settlement of rights, forest villages should be converted into revenue villages. Similarly, individual rights also need to be recorded in the appropriate manner following the settlement rules prescribed to each State. As this aspect has not been attended to till now, and in the context of the large number of claims settled in the meanwhile, **the formal recording of these rights have to be attended to on priority basis, henceforth.** You may in the next meeting of the State Level Monitoring Committee decide on the time schedule for the completion of this activity.

3. We hope that following these measures, our quantitative achievements will now be supported qualitatively.

Yours sincerely,

(G.B. Mukherji)

Chief Secretaries of Andhra Pradesh, Assam, Bihar, Chhattisgarh, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Orissa, Rajasthan, Tamil Nadu, Tripura, Uttarkhand, Uttar Pradesh and West Bengal.

PRIORITY



No.23011/16/2010-FRA
Government of India
Ministry of Tribal Affairs

*Shastri Bhawan, New Delhi.
22nd July, 2010.*

To

The Chief Secretaries of Schedule V States (vis. Andhra Pradesh, Himachal Pradesh, Gujarat, Odisha, Rajasthan, Maharashtra, Chhattisgarh, Madhya Pradesh and Jharkhand).

Sub: Direction under Section 12 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (in short Forest Rights Act).

Sir,

A direction is being issued under Section 12 of the Forest Rights Act to the authorities prescribed in Chapter IV of the Act that recommendation of the Gram Sabha for settling rights over minor forest produce (both individual and community) **should be just processed, not re-examined for quick acceptance.**

2. Such a direction will be in tune with both the Forest Rights Act {Section 6(i) read with 3(1)(c) } and Panchayats (Extension to the Scheduled Areas) Act 1996 (PESA) {Section 4(m)(ii)}.

Yours faithfully,

(G.B. Mukherji)
Secretary to the Government of India
Tel:23381652