

MoEF/ MoTA Committee on Forest Rights Act

Implementation of Forest Rights Act in ANDHRA PRADESH Report of field visit, 27-31 JULY 2010

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Note: This report is written for the purposes of the Committee's ongoing work; any views contained in this are not necessarily those of the entire Committee and are not to be taken as final views or recommendations by the Committee

Overview

As per information provided by the State Government Andhra Pradesh has been in the forefront of implementing the FRA. The process started immediately after the notification of the FRA rules and by 1 March 2008 all committees at State/ district/ sub-divisional and Panchayat levels were constituted and monitored at the level of the Chief Minister. However, the issue of titles was delayed by a year and started only in June 2009 due to a PIL on FRA implementation. State government has provided Rs 20 crores for implementation of FRA of which Rs 12.42 crores has been spent. Until June 2010, of the total 3,23,131 individual claims received 1,74,244 claims have been approved and title has been issued in the majority of cases, 149,867 claims have been rejected and rest are pending at various levels. In most of the cases GPS has been used to survey the land. FRCs have been constituted at the Panchayat level instead of Gram Sabha/settlement/hamlet level. 3830 Gram Panchayats in the state had interface with forests of which 3744 FRCs have been constituted. All the villages in the schedule areas have been notified as revenue villages in Andhra Pradesh long ago.

The three member team of the committee visited one district (Vishakhapatnam) and had interactions with a number of villagers, civil society members and government officials within the schedule areas. The team also interacted with members of civil society of other districts and local as well as state level officials. Though the state has progressed well there are several lacunae in the implementation of the FRA which are mentioned below;

1. The Forest Rights Committees (FRCs) have been constituted at the Panchayat level instead of village / habitation/ hamlet level as a result the effectiveness of these FRCs has been very limited. In many cases all habitations/ villages were not represented in the FRC. This has been a serious deviation from the mandated procedure during implementation in the state.
2. There are many cases where claims were processed long back but title deeds have not been issued so far.
3. The claims of the tribal communities in the forest areas leased /earmarked for bauxite mining have neither been accepted nor the reasons of non-acceptance communicated. As per the act title deed of the land has to be given on in-situ basis.
4. There are numerous representations about reduction in the area of land in the title deed document provided to individual right holders compared to what is claimed and/or actually occupied/ cultivated by them. In most cases GPS has

been used for the survey. As per the RDO (Revenue Divisional Officer) some private agency was hired for the survey purpose. A common complaint by people was that the survey of their land was not done properly.

5. Non acceptance of individual claims in the VSS areas is another important issue. During JFM implementation many tribal families who were cultivating land inside forests were persuaded by the Forests Department to surrender their land about ten years ago in RAP. These families are now claiming their land rights after the enactment of the FRA. It is a unique case in Andhra Pradesh and the state government has to take appropriate action.
6. There is a lack of understanding and awareness for implementing community forest rights. Only those areas which are under JFM and managed by VSS are being considered for granting title under CFR. CFR has been often misunderstood with development rights both by the forest dwelling communities as well as the implementing agencies.
7. There were a few complaints that Forest Department is undertaking planting and soil conservation work in lands that are being claimed by people. This is sending the wrong signal to the local people.
8. Several deadlines have been set by the State Government for filing of claims and granting of title deeds. The committee clarified that the Act itself does not set a deadline.

Visit Programme and Sources of information

A three-member team of the joint FRA committee, consisting of Ravi Rebbapragada, Devendra Pandey (co-chair) and Ravi Chellam, visited the state during 27th to 31st July 2010 to assess the situation regarding the implementation of the Act. Field visits during the first three days covered villages and civil society people around Araku, Paderu, Dumbriguda, Hukumpeta, G.Madugula, and Chintapalli of Vishakhapatnam district, on 30th July there was public consultation in Vishakhapatnam where public representatives and NGOs from other districts as well as CCF of Guntur circle participated in Collector's office and on 31st July meeting took place in Hyderabad with Chief Secretary, Special Chief Secretary Tribal Welfare and PCCF. Tribal Welfare Department coordinated the entire visit through Revenue and Forest Departments and provided the logistic support. The committee's programme was as follows:

27th July: Drive from Vishakhapatnam and visit around Araku.

- a. Field visit to village Beesupuram (Anantagiri mandal) where we also met, Sarpanch of Borra and Eguva Sobha panchayats. 40 claims were made from Beesupuram and survey was also done about a year ago but patta has not been issued as yet.
- a. Field visit to village Barajola of Anantagiri mandal. Mostly people are doing podu cultivation in the hills. RDO clarified that 147 acres of land has been accepted against 42 claims and pattas will be issued soon.
- b. Field visit to village Killoguda of Dumbriguda mandal, where tribals are growing vegetables on commercial scale in their own land falling under

revenue land. Some of them have raised silver oak inside the VSS forest area but their claims have not been accepted.

- c. Public meeting at Killoguda where representatives from Sovva, Sagara, Gasaba and Korre panchayats (all of Dumbriguda mandal) and from Gannela and Kotnapali panchayat (of Araku Valley mandal) were present. Sagara Panchayat has 16 villages of which 8 villages have VSS and 72 title deeds have been issued.
- d. Meeting with ex-MP of Badhrachalam, Shri Midiam Babu Rao and local NGO in the evening, who mainly mentioned about issues of bauxite mining, VSS areas, non-functioning of the FRCs and allotment of reduced areas in title deeds.

28nd July: Visit around Paderu

- a. Field visit to Masada village of Kotnapalli panchayat (has 17 villages). Masada village has 40 families of which 26 were doing podu cultivation and have surrendered their land to VSS. FD subsequently spent Rs 6.5 lakh on the development of land etc under RAP.
- b. About 50 CPM workers (AP Girijana Sangham) met on the road after Masada, representing that Forest Department is still making trench for soil conservation in the land for which title deed has already been given.
- c. Physical verification of one allotted piece of land of village Dalamputi (Gabbangi panchayat) 5 km before Paderu with GPS and chain. Actual occupation was found more than mentioned in the title deed but included some portion of freshly encroached land.
- d. Meeting with public representatives at RDO (Revenue Divisional Officer) office at Paderu- ex-MLA Chintapalli Mr G. Demudu who is also Vice President of Girijan Samakhya, Mr DS Prasad Rao Executive Director of ORRC along with their members. Major issues were formation of FRCs in AP at panchayat level, non acceptance of claims by individuals in leased areas for Bauxite mining and in VSS areas, non settlement of displaced persons of Sileru River Valley project, reduction in area in the title deed compared to actual occupation. Some tribals are migrating to AP from Chhattisgarh and Orissa in the bordering areas at Koyuru, Chintapalli and GK Bidhi causing a concern for local tribals and increasing risk of encroachment in forests.
- e. Field visit near Modapalli village, where around 300 people had gathered. The four major issues were; non-acceptance of claims in Bauxite and VSS areas, reduction in the area and formation of FRC at panchayat level. On CFR, people mainly wanted grazing rights in forests.

29th July 2010: Visit around Paderu and Chintapalli and drive to Vishakhapatnam

- a. Interaction with Khond tribes from Gonduru, Eradapalli villages of Paderu panchayat. The major issue brought by the tribal communities was reduced area in title deed compared with area under actual occupation. People complained that in some GPS survey the agency engaged people who did

not actually go to the more difficult to access plots but have produced the maps for these sites.

- b. Interaction with Khond tribes at Pardesiputtu village of Paderu Panchayat. About 30 families stay in this village but neither FRC has been formed nor has the claim process been initiated.
- c. Interaction with villagers of G. Modugula Panchayat. The major issue was of reduced area. There appeared lack of consistency in many claims and some appeared to be exaggerated and false claims.
- d. Interaction with villagers of Cherkumpakala and Lothugudda at Chintapalli. In Cherkumpakala all the claims have been settled and against 26 claims 36.38 acre land has been allotted. On discussing with 5 individuals who showed their land deed document 3 were satisfied with the area allotted but remaining two expressed that their area should be slightly more.
- e. Interaction with public at Chintapalli Forest Rest House (APFDC). About 300 people mobilised by 'Girijan Vikasa Swachanda Seva Samstha' presented a memorandum to the FRA team. The main issue raised by them was delay in issue of title deeds, non acceptance of claims in bauxite lease area and VSS lands and reduction in area allotted.

30th July 2010: Public consultation at Collectorate, Vishakhapatnam and travel to Hyderabad

- a. The major issues that were observed during the field visit were brought to the notice of Collector, PO and other officials of the district.
- b. An example of the application of high resolution satellite imagery of Cartosat I (2.5 m resolution) along with GPS in Guntur region for deciding the boundaries and area of the occupied land as on cut off date was presented by CCF Guntur, Shri Anoop Singh which has resulted in reducing the discrepancy between occupied land and allotted land.
- c. Many civil society organisations from different districts of Srikakulam (Velugu association, Chinnaya Adiwasi Vikas Sangam), Narsipatnam (Bhusadhikarika Saksham Sangam), East Godawari (Sujana association) and Vizianagaram District (Girijan Sangathan) made representations and reiterated the major issues related to the implementation of the FRA which have been mentioned earlier. Additional point was non-acceptance of CFR claims outside VSS areas.

31st July 2010: Meeting with Chief Secretary/ Spl CS (Tribal) at Hyderabad

- a. In the meeting PCCF and other officials of the Forest and Tribal Welfare Department were present.
- b. Major issues as observed during the field visit and interaction with the civil society as mentioned in the earlier paragraphs were highlighted in the meeting. The Spl CS realised that formation of FRC at panchayat level was a mistake and this will be looked into.
- c. It was clarified by the Spl CS that the cut off date given to concerned official departments (Collectors, Project Officers, Revenue Divisional Officers) for FRA implementation was mainly to expedite the process. But this has given a wrong message among tribals and they feel that the time to

prefer the claim is over. He was convinced that there is a need for issuing necessary clarification.

- d. It was emphasized that high resolution satellite imagery be used in all other areas and specially, where discrepancy between the claim and allotted land is high like in Paderu and Chintapalli. The potential of this technology has already been established in Guntur district where it has been used to resolve the disputes objectively and systematically.

Observations and Analysis

1. Deviation in Constitution of FRCs: The Forest Rights Committee (FRC) which has the major responsibility of initiating the process of determining the nature and extent of forest rights, conduct survey of the land under the occupation of individual or community and pass resolution on claims has been constituted at Panchayat level and not at habitation/ hamlet level. Although in the operational guidelines it is mentioned that 'while forming FRC, care should be taken to see that every habitation shall be represented as far as possible. The number of habitation in some of Panchayats are as high as 55, obviously, about 75% habitations will not be represented in the FRC (number of members being min 10 and max 15). In such case it would be impossible for FRC to know and verify extent of individual claims properly. In Paderu sub-division there are only 244 Panchayats against 3884 habitations. As a result the FRCs are largely ineffective.
2. Claims in Bauxite mining lease areas not accepted: Many areas have been earmarked/ leased for bauxite mining and other projects including housing colonies for jawans by the state government which includes areas in GK Veedhi mandal of Paderu sub-division and some areas of Chintapalli sub-division. The claims of the tribal communities cultivating land in these areas (individual/community) are not being accepted without assigning any reason. The rights of the communities can't be denied in the name of the development projects.
3. Discrepancy between the area claimed and the title deed: Numerous claimants informed that they have been cultivating more land than what has been allotted in the title deed after the survey. In some cases the allotted land is reduced by 70 to 80% from the area claimed. Though GPS has been used in most of the cases for survey by out sourcing to some private agency, it is possible that the staff taking reading in the field did not stand at the correct point, thereby reducing the area. There could also be intentional reduction by the grass root level forest officials assisting the survey. It is also possible that claimants might have wrong assessment of their own area or might be claiming the area cultivated as on the date of survey 2008/2009. As per the Act people are eligible to claim land only if they had occupied it prior to the cut off date 13th December 2005. Unfortunately there has been a tendency to encroach and increase the area under occupation after the enactment of this Act and definitely after December 2005. The objective and fair way to resolve this issue is to use high resolution remote sensing satellite imagery of the period on or immediately after the cut off date. The CCF Guntur demonstrated the application of this technology at a meeting in the Vishakhapatnam which proved to be acceptable to all.

4. Confusion over the area covered under VSS: Under the Joint Forest Management (JFM) scheme, in many villages individual tribals surrendered in part or completely their land under cultivation in forest areas (Podu cultivation), during 1995-2000 to AP Forest Department. This was to be managed by Vana Samrakshana Samitis (VSS-formed to mobilize people under JFM) when Phase I of the World Bank project was implemented. In all about 37,000 acres of land was handed over to the FD by the people. However, there was no Rehabilitation & Resettlement (R&R) scheme. In Phase II of the project under resettlement action plan (RAP) FD AP provided support to such affected families by giving a package of Rs 25,000/- per family. In all about 12,000 families have been supported during 2004-2010. During FRA implementation, though community forest rights are given in VSS areas, individual claims are not being accepted. The tribal families on the other hand who did not surrender their land are being benefited as title deeds are given for the land under their occupation. Paderu forest division has 277 VSS of which 128 VSS have 3500 project affected families. This creates a complex situation which the state government has to resolve by seeking clarification from MoTA or amending the Act has to be considered.
5. Lack of awareness about Community Forest Rights: At the state level 6704 CFR claims have been received of which 2132 claims (32%) have been accepted until June 2010. Though Andhra Pradesh seems to be better compared to other states in terms of percentage of settling CFR claims but the spirit of CFR has not been understood. There is a lack of awareness about the objective and purpose of notifying such areas. Further, FRC constituted at panchayat level is also creating confusion, because proposal of CFR would generally be at the village level and not at panchayat level. CFRs are largely being granted in areas which are under VSS. Further, claims are generally of minor public spaces such as burial ground, cattle grazing, worship sites etc. There is a lot of confusion in the minds of the implementing agencies as well between development rights and CFRs.
6. Settlement of displaced persons: The special cases of forest dwellers displaced by development projects (example Ninimamedi village under Bora panchayat who were displaced during 1950s, Sileru River Valley Project) which includes both tribals as well other traditional forest dwellers have not been addressed till now.
7. Serious lacuna in the implementation process: In terms of process, the detailed participatory processes as laid down in the Act and Rules have not been followed. Firstly because FRCs are not constituted at village level and this reduces the scope for adequate representation from all settlements. FRCs have not been very active thus giving opportunity for the officials to act in target oriented mode. In many cases interference by the local forest officials is very high. Gram Sabha level meetings have not really happened, and discussions on the claims have not taken place in the Gram Sabhas. The process is entirely driven by government officials and in some cases major role has been played by the forest department officials in the field.
8. Absence of Tribal Welfare department at field level: Though Tribal Welfare department is the nodal agency for implementation of the FRA and coordinating the activity at the state level with the help of Tribal Cultural

Research and Training Institute of the AP Govt, it was found that structure of the department at the field level is very weak. The team did not find a single field staff assisting the forest dwelling communities in providing inputs, facilitating form filling etc. Most of the processing is being done by the revenue officials and supported by the frontline staff of the forest department which becomes an additional job for them without any extra support. This seriously affects the quality of output and liable to have many errors specially when implemented in a mission mode and time bound manner.