

5000000

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL WRIT JURISDICTION
IA NO. 5 OF 2014
IN
WRIT PETITION (CIVIL) NO. 109 OF 2008

IN THE MATTER OF:

WILDLIFE FIRST AND OTHERS ...PETITIONERS
VERSUS
UNION OF INDIA AND OTHERS ...RESPONDENTS

cjp.org.in

**COUNTER AFFIDAVIT ON BEHALF OF MINISTRY OF
TRIBAL AFFAIRS, GOVERNMENT OF INDIA,
RESPONDENT NO. 3**

(FOR INDEX PLEASE SEE INSIDE)

COUNSEL FOR RESPONDENT NO. 3: SHREEKANT N. TERDAL

INDEX

1.	Counter Affidavit on behalf of Ministry of Tribal Affairs, Government of India, Respondent No. 3	1 – 55
2.	Annexure R/1: True copy of the <u>Guidelines</u> on the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006	56 – 64
3.	Annexure R/2: True copy of <u>order dated 28.3.2008</u> passed by this Hon'ble Court in Writ Petition (Civil) No. 109 of 2008	65 – 73
4.	Annexure R/3: True copy of the <u>order dated 2.3.2009</u> passed by this Hon'ble Court in Writ Petition (Civil) No. 50 of 2008, etc.	74 – 75
5.	Annexure R/4: True copy of the <u>order dated 01.05.2009</u> in W.P. No.21479 of 2007 passed by the High Court of Andhra Pradesh	76 – 86
6.	Annexure R/5: True copy of the <u>order dated 15.6.2009</u> passed by this Hon'ble Court in SLP (C) No. 144438-14439 of 2009	87
7.	Annexure R/6: True copy of the order dated <u>12.8.2009</u> passed by the Orissa High Court in W.P.(C) No.4933 of 2008	88 – 99
8.	Annexure R/7: True copy of the <u>Panchayats (Extension to Scheduled Areas) Act, 1996</u>	100-103
9.	Annexure R/8: True copy of the Joint Policy Statement entitled "Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas" issued by <u>IUCN</u> (World Conservation Union), <u>WCPA</u> (World Commission on Protected Areas) and <u>WWF</u> (World Wide Fund for Nature) in 1999	104-114
10.	Annexure R/9: True copy of the Monthly Progress Report entitled <u>Status report</u> on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [for the period ending 31 st May, 2014]	115-155
11.	Annexure R/10: True copy of an extract from "India's State of Forest Report 2013" dated July 2014	156-158
12.	Annexure R/11: True copy of the Introductory Chapter of " <u>Manthan</u> - Report of the National Committee on Forest Rights Act", Government of India, dated December 2010	159-164

13.	Annexure R/12: True copy of the tabulation entitled "Claims filed and approved under FRA by <u>GS, SDLC and DLC</u> for select States, upto May 2014" dated nil	165
14.	Annexure R/13: True copy of judgment and order dated 21.1.2014 passed by the <u>High Court of Karnataka</u> in Writ Petition No. 27390 of 2012' being Sri Veeresh Naik B.N. & Ors. vs. The State of Karnataka & Ors	166-170
15	Annexure R/14: True copy of order dated <u>16.10.2012</u> passed by this Hon'ble Court in SLP (C) No. <u>21339 of 2011</u>	171-180

IN THE SUPREME COURT OF INDIA
 CIVIL ORIGINAL WRIT JURISDICTION
 IA NO. 5 OF 2014
 IN
 WRIT PETITION (CIVIL) NO. 109 OF 2008

IN THE MATTER OF:

WILDLIFE FIRST AND OTHERS ...PETITIONERS

VERSUS

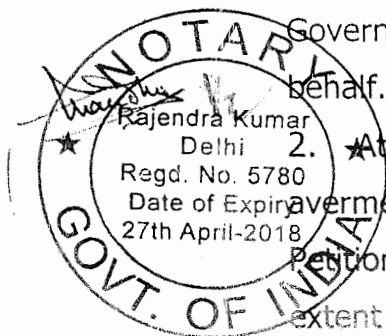
UNION OF INDIA AND OTHERS ...RESPONDENTS

**COUNTER AFFIDAVIT ON BEHALF OF MINISTRY OF TRIBAL
 AFFAIRS, GOVERNMENT OF INDIA, RESPONDENT NO. 3**

I, Roopak Chaudhuri, son of Late Shri Ramendra Mohan Chaudhuri, aged about 54 years, currently working as Deputy Secretary at Ministry of Tribal Affairs, Government of India, Shastri Bhavan, New Delhi, do hereby solemnly affirm and state on oath as under:

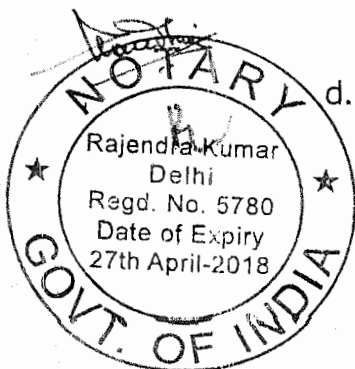
1. That I have gone through the writ petition, interlocutory applications, annexures and other related pleadings in Writ Petition (C) No. 109 of 2008 and in IA No. 5 of 2014. I am familiar with the records, facts and circumstances of the present case and have been duly authorised by Respondent No. 3 Ministry of Tribal Affairs, Government of India to affirm the present counter affidavit on its behalf.

2. At the outset, the Answering Respondent denies each and every averment, statement, allegation, contention raised by the Petitioner/Applicant in the Application under reply, except to the extent indicated hereinbelow.



3. In particular, the Answering Respondent submits that for the reasons stated hereunder, the Application under reply and prayers made thereunder are liable to be dismissed summarily because:

- a. Prayer (i) regarding appointment of a committee of experts or the Comptroller and Auditor General (CAG) to examine the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereafter 'Forest Rights Act') ought not to be granted for the reason that detailed and rigorous monitoring of the implementation of the statute is already being conducted by the Answering Respondent under Rule 10(c) read with Form Annexure V of the Forest Rights Rules. There is no need to duplicate such process, especially when the said statute does not have any financial implications beyond the costs of administration;
- b. Prayer (ii) is defective and contrary to law, as there is no provision for identification or removal of ineligible claimants in the Forest Rights Act, and in accordance with Article 300-A of the Constitution, only the extant procedure of law as applicable in a particular State relating to eviction is applicable. It is not permissible to replace this procedure established by law with a Committee appointed by this Hon'ble Court or by the CAG;
- c. Prayer (iii) is opposed on the ground that such data is already available in the public domain, in the form of Monthly Progress Reports on the website of the Answering Respondent (www.tribal.nic.in). That the Petitioner/ Applicant has not made the effort to access and analyse this data is elaborated in the present counter affidavit;
- d. Prayer (iv) is opposed as defective for the reason that it seeks the reading down or quashing of a statutory provision, which cannot be done on the basis of a prayer made in an interlocutory application; it is further opposed for the reason

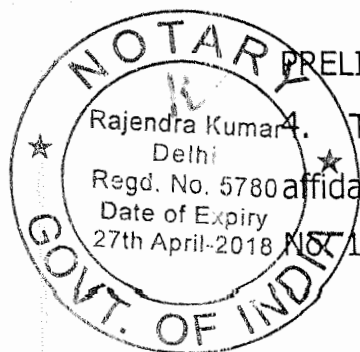


that such prayer is contrary to the constitutional dispensation and the obligation of the state in general, and the Answering Respondent in particular, to ensure substantive equality of the poorest and most marginalized sections of the citizens of India; it is well established that in large parts of the country, declaration of forests and protected areas took place in the past without recognising or settling the pre-existing rights of forest dwellers, which historical injustice the Forest Rights Act seeks to undo;

- e. Prayer (v) is opposed as contrary to the provisions of the Forest Rights Rules which prohibit the mandatory use of satellite imageries for verification of claims; this position of law has been endorsed through a detailed judgment of the Gujarat High Court, which the Petitioner/ Applicant has failed to place before this Hon'ble Court;
- f. Prayer (vi) is opposed as defective for the reason that it seeks a reading down and/or quashing of numerous provisions of the Forest Rights Act, and also Rules, Guidelines and executive instructions issued thereunder, by way of an interlocutory application, which is not permissible; these detailed provisions of law have not even been cited or extracted in seriatim to facilitate examination by this Hon'ble Court; if this had been done, it would have been immediately apparent that these are not contrary to the orders passed by this Hon'ble Court in WP (C) 202 of 1995 as alleged or at all.

Thus the Petitioner/ Applicant's Application under reply is an utter abuse of the process of Court. Each of these points is systematically explicated below.

Handwritten signature



PRELIMINARY OBJECTIONS

4. That the Answering Respondent has filed a detailed counter affidavit in August 2008 (pages 184 to 242) to Writ Petition (Civil) No. 109 of 2008, the contents whereof may be read as forming part

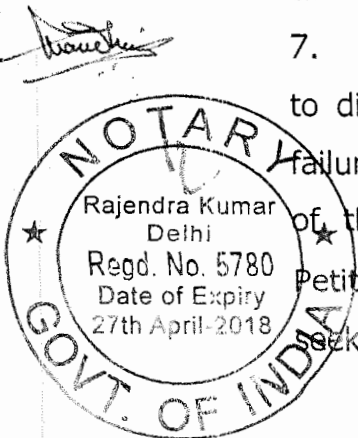
of the present counter affidavit, and the same are not being repeated in the interests of brevity. The Answering Respondents submit and urge that the Application under reply is not maintainable and ought not to be entertained by this Hon'ble Court in exercise of its writ jurisdiction under Article 32 of the Constitution of India for the reasons explicated hereunder:-

LOCUS STANDI

5. That the Petitioner/ Applicant has no locus standi to approach this Hon'ble Court under Article 32 of the Constitution of India by way of Writ Petition (C) 109 of 2008 or the Application under reply. While relaxing the rule of locus standi for the purpose of advancement of fundamental rights through the development of judicial innovation in the form of Public Interest Litigation, this Hon'ble Court has also placed certain boundaries within which such Public Interest Litigation may be entertained.

6. The Petitioner/ Applicant has not disclosed, either in the Writ Petition or in the Application under reply, which class of citizens, marginalized or otherwise, it seeks to represent before this Hon'ble Court through the present purported Public Interest Litigation. It is submitted that far from demonstrating its concern for violation of fundamental rights of a marginalized class of citizens who are unable to approach this Hon'ble Court directly for reasons of their extreme marginalization, the Petitioner/ Applicant is actually seeking through the Application under reply, the extinction of fundamental, constitutional and statutory rights of the most marginalized class of citizens in this country—the tribal and forest dwelling communities.

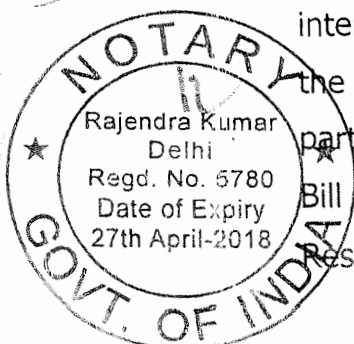
7. It is most respectfully submitted that this Hon'ble Court ought to dismiss the Application under Reply, and the Writ Petition, for failure to establish locus standi even under the expanded definition of the same adopted by the Supreme Court of India, as the Petitioner/ Applicant has not demonstrated which 'public interest' he seeks to represent, or indeed, which 'public' he seeks to represent



before this Hon'ble Court. On the contrary, even Petitioner No. 2 and 3 in the Writ Petition have not been arrayed as parties in the Application under reply. The innovation of Public Interest Litigation under Article 32 of the Constitution is not available to "meddlesome interlopers" or for the purpose of "private interest litigation" as has been held by this Hon'ble Court in a plethora of decisions.

8. Nor is the Petitioner/ Applicant an individual or entity recognized by the Forest Rights Act or acknowledged as having any role to play in the bodies envisaged by and constituted under the said Act from the grassroots level upwards. On the contrary, it is apparent on the face of the record that the Petitioner/ Applicant is using the Writ Petition 109 of 2008 and the Application under reply as a device and design of vested interests to stultify the enforcement, implementation and operation of the Forest Rights Act as well as the democratic decision-making process specifically provided for thereunder starting from the Gram Sabha. By the Application under reply, the Petitioner/ Applicant seeks to prejudice the mind of this Hon'ble Court and to persuade it that questions of law arise for consideration, and thereby to also stultify the enforcement of the Act.

9. It is also important to point out that the Petitioner/ Applicant did not care to participate in the detailed and rigorous democratic process for public debate and comment which have taken place around the Forest Rights Act ever since the Scheduled Tribes (Recognition of Rights) Bill was first placed before Parliament in 2005. In the period of three years between the evolution of the said Bill into the Forest Rights Act as it currently stands, as well as in the drafting and subsequent amendment of the Rules, there has been intense debate and dialogue with the Government of India as well as the various State governments, but the Petitioner/ Applicant did not participate in any of these democratic processes. Indeed, the draft Bill was made available for public comment by the Answering Respondent Ministry of Tribal Affairs in June 2005; testimonies and



submissions were invited by a Joint Parliamentary Committee, which considered the matter in depth from January to May 2006; and comments were further invited on the draft Rules by the Ministry in June 2007, and thereafter to the proposed amendments to the Rules in 2012. Having chosen not to participate in the democratic process of law making, which in the case of the Forest Rights Act has been outstanding in its participatory and consultative nature, the Petitioner/ Applicant now seeks to subvert its implementation by filing the Application under reply in so called "public interest".

APPLICATION NOT MADE BONA FIDE

10. That the Application under reply has not been presented bona fide before this Hon'ble Court. On the contrary, it is an unabashed espousal by the Petitioner/ Applicant of the cause of the very persons who perpetrated "during the colonial period as well as in independent India...historical injustice to...(those) who are integral to the very survival and sustainability of the forest ecosystem", have suffered "long standing insecurity of tenurial and access rights" and "were forced to relocate their dwelling due to State development interventions" (see Preamble to Forest Rights Act).

11. Through the writ petition and the Application under reply, the Petitioner/ Applicant has, perhaps unwittingly, become subservient to advancement of interests of those who seek to profiteer in public property and national wealth. Their depredations have been officially and somberly described by the Planning Commission of India as the "rapacious exploitation by the contractors, middlemen, traders and the greedy sections of the larger society intent on grabbing (the tribals') resources and violating their dignity" (vide Report dated April 2008 of Expert Group to the Planning Commission of India entitled "Development Challenges in Extremist Affected Areas"). The same Report further observes:

".....The Government's statistics show that 39% of what is called forest encroachment in the whole country has taken



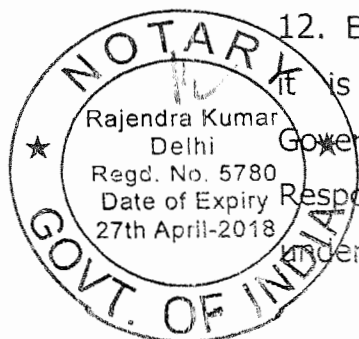
place in the above region. Much of it, as said above, is not encroachment but occupation that far pre-dates forest reservation and forest laws. Prior to 1980 the various State Governments would off and on acknowledge this fact by regularising the occupation, thereby giving back what has been unilaterally taken away. But the Forest Conservation Act, 1980 put an end to such regularisation, and put the forest dwellers perpetually on the brink of eviction from their own habitat. This enabled the naxalites to step into the vacuum to espouse the popular cause and secure popular support. The fear of naxalite armed resistance deterred the repressive and depredatory moves of the authorities. (@ para 3.2.4)

xxx

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a very significant step in recognizing and vesting the forest rights and occupation in forest land in forest dwelling, scheduled tribes and other traditional forest dwellers who have been residing in such forest for generations but whose rights could not be recorded. It provides for a framework for recording the forest rights so vested. The Act has addressed this issue of long standing insecurity of tenurial and access rights of forest dwelling scheduled tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to state development interventions. This Act needs to be strictly operationalised in letter and spirit. (@ para no. 5.1.9)

BENEFICIAL LEGISLATION ALREADY UNDER IMPLEMENTATION

12. Ever since the Forest Rights Act came into force on 31.12.2007, it is being implemented across the country by the State Governments, under the regular monitoring of the Answering Respondent Ministry of Tribal Affairs, which is the Nodal Agency under Section 11 of the said statute. The Scheduled Tribes and

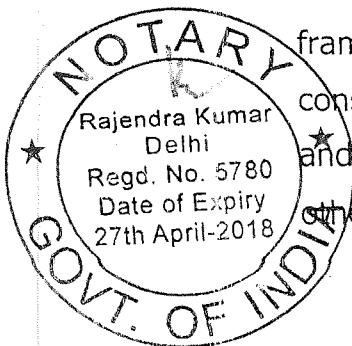


Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 (hereafter 'Forest Rights Rules') were notified on 1.1.2008. State Governments are presenting Monthly Progress Reports in a pre-determined format under Rule 10(c) read with Form Annexure V of the Forest Rights Rules, which reports are being consolidated and uploaded on the website of the Answering Respondent Ministry (www.tribal.nic.in).

13. That since the Answering Respondent has been monitoring the progress of the implementation of the Forest Rights Act on a regular basis, over a period of time it became apparent that there were certain operational difficulties being faced by the State Governments. After collecting and collating these difficulties, the Answering Respondent has drawn up detailed amendments to the Forest Rights Rules in 2012.

14. The Answering Respondent also issued under Section 12 detailed 'Guidelines on the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006', No. 1301/32/2010 FRA (Vol. II)(pt.) on 12.7.2012. A true copy of the Guidelines on the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is annexed herewith and marked as **Annexure R/1** (pgs 56-64). Over the last 8 years of implementing the Forest Rights Act, the Answering Respondent has also issued numerous Office Memoranda, Circulars, and Clarifications in order to facilitate the officers at the State government level and in the line departments to implement this beneficial legislation in its letter and spirit.

15. All these processes, including the drafting and enactment of the Forest Rights Act and Rules, the amendment of the Rules; the framing of Guidelines, have been characterized by a high degree of consultation and discussion with civil society, representative of tribal and forest dwellers, environmental and wildlife experts, and many others. The Petitioner/ Applicant has chosen, however, for reasons



best known to itself, not to participate in any of these consultative processes to put forward its concerns.

APPLICATION IS DEFECTIVE IN LAW

16. Through the Application under reply, the Petitioner/ Applicant is attempting to achieve through a side-wind what it has not been able to achieve through the Writ Petition filed by it under Article 32 of the Constitution (being WP(C) No. 109 of 2008), and the accompanying Application for ad-interim ex-parte stay (being IA No. 1 of 2008). For this purpose, it would be useful to extract below some of the key prayers made by the Petitioner/ Applicant in Writ Petition (Civil) No. 109 of 2008:

"a) issue an appropriate writ order or direction in the nature of a writ of mandamus quashing and setting aside the impugned Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(b) Declare that the Parliament has no legislative competent (sic) to enact the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and therefore the Tribal Rights Act is unconstitutional and colorable exercise of powers.

(c) Declare that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is unconstitutional to the extent that it in Section 2(a), 2(d) includes protected areas such as Sanctuaries and National Parks within the definition of community forest reserve and forest land.

(d) Declare that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is unconstitutional and against public interest to the extent it includes within its scope areas declared as Sanctuaries and National Parks under the Wild Life (Protection) Act, 1972.

xxx



(i) Declare that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is unsustainable and contrary to the Wild Life (Protection) Act, 1972 and the Forest (Conservation) Act, 1980 and against public interest.

....."

17. The Application for ad-interim ex parte stay (IA No. 1 of 2008) made the following prayers:

"(a) Grant ad-interim ex parte stay of the operation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, and

(b) Grant ad-interim ex-parte stay of the operation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Impugned Rules, 2007 (sic)"

18. That when aforesaid Writ Petition came up for hearing at the admission stage, along with IA No. 1 of 2008, this Hon'ble Court was pleased to pass the following order:

"W.P.(C)Nos.50/2008 and 109/2008:

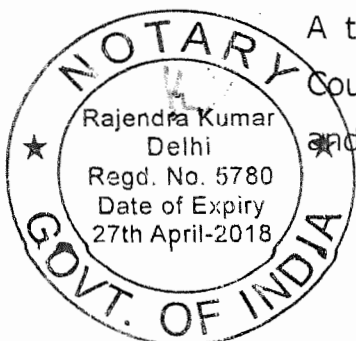
Issue notice."

A true copy of order dated 28.3.2008 passed by this Hon'ble Court in Writ Petition (Civil) No. 109 of 2008, is annexed herewith and marked as **Annexure R/2** (pgs 65-73).

19. The Petitioner/ Applicant has, in addition, failed to disclose that this Hon'ble Court has vide order dated 2.3.2009 in the aforesaid matters directed as follows:

"Post these matters before three-Judge Bench for considering the interim order passed by the High Court in transfer petitions. The Union of India is directed to implead all the respondents who are parties before the High Court...."

A true copy of the order dated 2.3.2009 passed by this Hon'ble Court in Writ Petition (Civil) No. 50 of 2008, etc. is annexed herewith and marked as **Annexure R/3** (pgs 74-75).



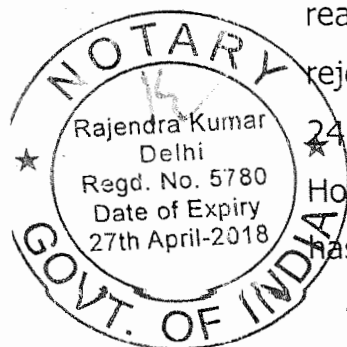
20. Thereafter, the aforesaid writ petition, and other connected matters have come up for hearing from time to time, and this Hon'ble Court has not deemed fit to allow the prayer for ad-interim stay as made in IA No. 1 of 2008, or otherwise.

21. The prayers made in the Application under reply are an extension and an expansion of the Prayers already made in the Writ Petition and in IA No. 1 of 2008, and in fact are an attempt to expand the scope of the present proceedings, which is contrary to procedure established by law and not in the interests of justice. The Applicant/ Petitioner has also contrived to challenge other provisions of the Forest Rights Act, as well as the Rules, Guidelines and Executive Instructions issued thereunder, without adverting to the said provisions of law or extracting them seriatim, which is impermissible and an abuse of process.

22. It is a well established principle of law that there is a presumption of validity of a statute, and insofar as a beneficial legislation such as the Forest Rights Act is concerned, the Petitioner/ Applicant has not been able to demonstrate the need for a 'stay' of implementation or operation of the said statute. Instead the Petitioner/ Applicant has made numerous sweeping and unsubstantiated allegations and averments, which appear to be founded on alarmist assumptions and presumptions, rather than on fact.

23. It is pertinent to state, further, that the Petitioner/ Applicant has not sought to amend the averments or prayers in the pending Writ Petition (Civil) No. 109 of 2008 in order to challenge the constitutional validity to the Amendments to the Forest Rights Rules or to the Guidelines under Section 12, or part thereof, and for this reason also the Application under reply is defective and ought to be rejected.

24. Instead, the Petitioner/ Applicant has chosen to approach this Hon'ble Court through the present Application under reply wherein it has sought to substantially expand the scope and extent of the



reliefs sought by it in the main writ petition. It is submitted that the Prayers of the Petitioner/ Applicant in the Application clearly seek modification of key provisions of the Forest Rights Act which would have a serious impact on the implementation of the said legislation, even while no such prayers have been made in the main writ petition. As will be further elucidated below, this Hon'ble Court ought not to permit the Petitioner/ Applicant to abuse the process of justice in this manner, and for this reason also the Application under reply ought to be rejected in limine.

NON-DISCLOSURE OF CONNECTED CASES AND ORDERS PASSED THEREIN

25. The Petitioner/ Applicant has not come before this Hon'ble Court with clean hands, in that it has failed to disclose that there are a large number of connected cases pending before this Hon'ble Court where the constitutional validity of the Forest Rights Act is in issue, and these cases have been tagged together and have been coming up for hearing together from time to time. A list of such pending cases is as follows:

- a. Writ Petition (Civil) No. 50 of 2008, entitled Wildlife Trust of India & Ors. vs. Union of India & Ors., which is the lead matter;
- b. Transfer Petition (Civil) No. 414-417 of 2008, entitled Union of India & Ors vs. J.V. Sharma & Ors., etc.- by this petition the Answering Respondent has sought transfer under Article 139-A of four writ petitions pending before the High Courts of Andhra Pradesh, Madras, Madurai and Bombay;
- c. Special Leave Petition (C) ...CC No. 11408-11409 of 2009, entitled Union of India vs. V. Sambasivam & Ors.; against an interim order passed by the Madras High Court;
- d. Writ Petition (C) No. 514 of 2006, entitled Bombay Natural History Society vs. Union of India & Ors.



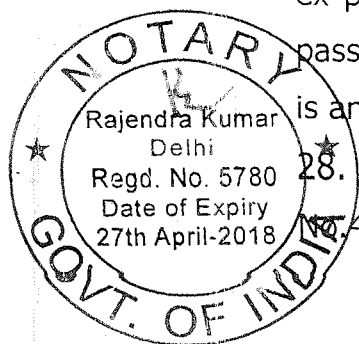
26. It is worth noting that the High Courts of Orissa and Andhra Pradesh, while deciding applications for interim orders in similar writ petitions, have already prima facie found that it would be inappropriate to intervene in the implementation of the Forest Rights Act through judicial orders and directions in the respective Writ Petitions before the said two High Courts. In W.P. No.21479 of 2007 entitled J.V. Sharma, I.F.S. (Retd.) and Ors v. Govt. of India & Ors (which is the subject matter of the connected T.P. (Civil) Nos.414-417 of 2008) vide order dated 01.05.2009 a Division Bench of Andhra Pradesh High Court recorded, inter alia, as follows:

"...Further it is found there have been several claims running into thousands at different parts of 22 districts and particulars of those claims have been verified and processed through and ultimately restricted to those who are found to be eligible. Even an attempt on the part of this Court to verify correctness of those claims individually by going through, would be much against the well established principles while exercise of the jurisdiction under Article 226 of the Constitution of India, therefore this Court would not venture to make any attempt to go into or conduct an enquiry as regards correctness thereof..."

A copy of the aforesaid order dated 01.05.2009 in W.P. No.21479 of 2007 passed by the High Court of Andhra Pradesh is annexed herewith and marked as **Annexure R/4** (pgs 76-86).

27. It is also pertinent to state that a special leave petition against the aforesaid order dated 01.05.2009 of the Andhra Pradesh High Court, being S.L.P. (Civil) Nos.14438-14439/2009 was summarily dismissed by this Hon'ble Court vide order dated 15.06.2009 at the ex parte preliminary hearing. A copy of the order dated 15.6.2009 passed by this Hon'ble Court in SLP (C) No. 144438-14439 of 2009 is annexed herewith and marked as **Annexure R/5** (pgs 87).

28. Subsequently, various Interlocutory Applications in W.P.(C) No.4933 of 2008 came up for consideration before the Orissa High



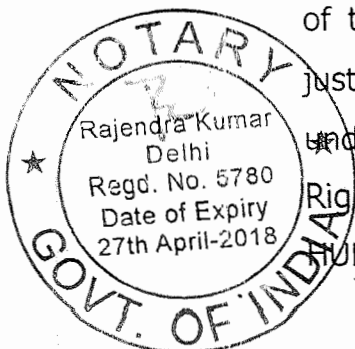
Court, which after hearing all the parties, including the Answering Respondent, at length, vide a detailed order dated 12.08.2009 disposed of the same. In the said order, the Orissa High Court cited, quoted extensively from and relied upon the aforesaid order dated 1.5.2009 passed by the Andhra Pradesh High Court and then passed the following operative order:

"8.....But since according to the petition filed by the SC & ST Development Department 9337 number of cases have become ready for issue of certificate of title, there is no necessity that the interim order should remain in operation. We, therefore, following the order passed by the Andhra Pradesh High Court vacate the interim order dated 23.7.2008 and permit the authorities to issue certificate of title to the eligible forest dwelling scheduled tribes and other traditional forest dwellers under the Act which shall be subject to the result of the main Writ Petition."

A copy of the order dated 12.8.2009 passed by the Orissa High Court in W.P.(C) No.4933 of 2008 is annexed herewith and marked as **Annexure R/6** (pgs 93-99).

29. Any adjudication of the issues relating to the constitutional validity of the Forest Rights Act would greatly benefit from the points of view of the different stakeholders and parties which are before this Hon'ble Court in the aforesaid batch of cases. This Hon'ble Court would, further, greatly benefit from the various judgments and orders which have been passed by the different High Courts in the writ petitions pending before them regarding the implementation of the Forest Rights Act, which form the subject matter of the pending Transfer Petitions. In the humble submission of the Answering Respondent, it would not be in the interests of justice to sever the adjudication and hearing of the Application under reply from the aforesaid batch of cases where the Forest Rights Act is in issue.

HUMAN DEVELOPMENT INDICATORS FOR SCHEDULED TRIBES

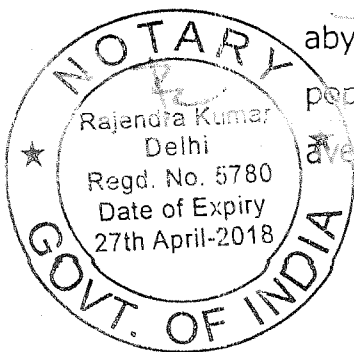


30. Any analysis of the benefits or otherwise of beneficial state interventions, must examine carefully the human development indices relating to the socially and economically backward class which is the focus of the intervention. It is pertinent to state that no such reality check has been attempted by the Petitioner/ Applicant in the Application under reply.

31. The Answering Respondent, as the concerned Ministry in the Government of India which is dedicated exclusively to the economic, social and educational advancement of tribals and forest dwellers, which is the poorest and the most vulnerable section of Indian citizens, is duty bound to place certain key indicators before this Hon'ble Court in the interests of justice.

32. According to the Census of India 2011, there are 104,281, 034 Scheduled Tribes in India, constituting 8.6 % of the total population of India. The majority (over 93 million people) reside in rural areas, with only 10 million tribals residing in urban areas. The sex ratio is a healthy 990 females per 1000 male population which is considerably higher than the national average of 943, pointing to a social fabric which is largely non-patriarchal and egalitarian with regard to women. A number of socio-economic indices point to a standard of living which continues to be rustic and rooted in the earth, including indicators such as access to sanitary toilets, use of non-smoke cooking fuels, and access to drinking water sources. However, it is a matter of grave concern that data relating to infant mortality, child mortality, and maternal mortality, compare poorly to the national average, which is closely linked to poor nutrition and access to health care. For the year 2009-2010, according Planning Commission of India, 47.4% of the rural population of Scheduled Tribes falls below the Tendulkar poverty line. This compares abysmally to the national average of 33.8% for the entire rural population the same period, and even more poorly to the national average of 29.8% for all India.

10.4
crosses



33. A majority of the Scheduled Tribe population, already largely concentrated in rural areas, is highly dependent on forests and forest lands for its everyday survival, and many of them are forest dwellers within the meaning and intent of the Forest Rights Act. The collection of a variety of minor forest produce from the forests is a critical part of their survival strategy. However, forests are also part of their religious, cultural and social traditions, and in the result there are a plethora of different rituals and customs surrounding the forests which ensure their protection and conservation.

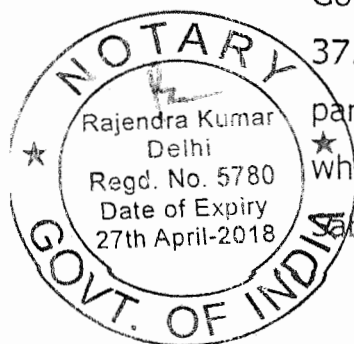
34. In the landmark judgment *Samatha vs. State of Andhra Pradesh & Ors.* (1997) 8 SCC 191 this Hon'ble Court has noted that agriculture is the only source of livelihood for the Scheduled Tribes apart from collection and sale of minor forest produce to supplement their income. Land is their most important natural and valuable asset and imperishable endowment from which the tribals derive their sustenance, social status, economic and social equality, permanent place of abode, work and living. Consequently, Scheduled Tribes have great emotional attachments to their lands.

35. Having failed to take any of these factors into account, the Application under reply ought to be dismissed by this Hon'ble Court for this reason also.

CONSTITUTIONAL MANDATE ON LOCAL SELF GOVERNANCE

36. The Petitioner/ Applicant, in its eagerness to advert to half-truths and assumptions, conjectures and surmises, has completely failed to place before this Hon'ble Court the constitutional mandate relating to the tribal and forest dwelling communities in the country, by which the Answering Respondent in particular, and the Government of India in general, is bound.

37. Article 40 of the Constitution of India contemplates the village panchayats shall be organised as units of local self governance, which principle is further effectuated through the village level Gram Panchas and Panchayats under Part IX of the Constitution of India.



These principles of decentralized governance find further strength in Article 243-G and Article 244. Scheduled Areas under Paragraph 6(2) of the Fifth Schedule of the Constitution of India have been declared by Presidential Orders dating back to 1950, in a total of 9 States in India, namely, Andhra Pradesh, Gujarat, Himachal Pradesh, Maharashtra, Odisha, Rajasthan, Madhya Pradesh, Jharkhand and Chhattisgarh.

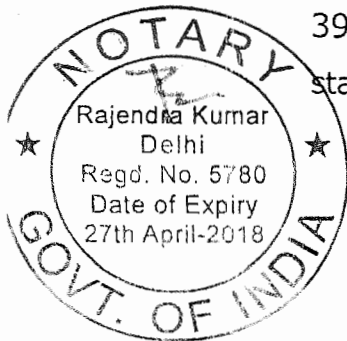
38. It is pertinent in this context to note that, in exercise of its powers under Article 243M(4)(b) of the Constitution, Parliament enacted the Panchayats (Extension to Scheduled Areas) Act, 1996 (hereinafter "PESA") which extended the provisions of Part IX of the Constitution to the Scheduled Areas (under Article 244 read with the Fifth Schedule) with certain exceptions and modifications. The said statute, in recognition of the continued importance of community self-governance among tribal communities, inter alia required that State statutes on panchayats must empower the Gram Sabha:

- a. "[to be] competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution" (Section 4(d));
- b. "[to] be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes (Section 4(e)(ii));
- c. "(with) the ownership of minor forest produce" (Section 4(m)(ii);
- d. "to exercise control over institutions and functionaries in all social sectors" (Section 4(m) (vi)).

Handwritten signature

39. Particular attention may be drawn to Section 4(i) of PESA which states that:

"the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-



settling or rehabilitating persons affected by such projects in the Scheduled Areas” .

A true copy of the Panchayats (Extension to Scheduled Areas) Act, 1996 is annexed herewith and marked as **Annexure R/7** (pgs 100-103).

40. Moreover, it is pertinent to note that the Eleventh Schedule to the Constitution of India enumerates the subjects upon which Panchayats may have powers and responsibilities, as per Article 243G of the Constitution.

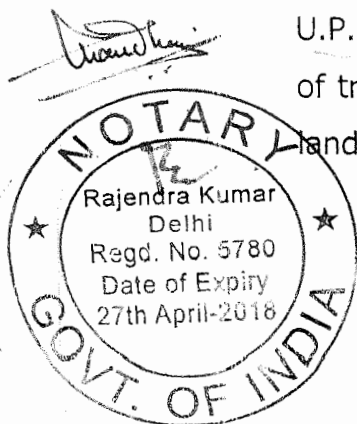
41. The inter-relationship between the Panchayats Extension to Scheduled Areas Act, 1996 and the Forest Rights Act has been elucidated by this Hon'ble Court in Orissa Mining Corporation vs. Ministry of Environment and Forests & Ors (2013) 6 SCC 476 (@ para 57) (three judges bench).

CONSTITUTIONAL AND FUNDAMENTAL RIGHTS

42. It is submitted that the right to equality and dignity of tribals and forest dwellers in a precious fundamental right under Articles 14, 15, 21 and 29 of the Constitution of India. The Forest Rights Act is an example of Constitutionally protected protective legislation under Article 15(4) of the Constitution of India which specifically empowers the state to make special provision for the advancement of socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

43. The relationship between tribal and forest dwelling communities and the forests has been recognised by the Supreme Court in numerous decisions. In Banwasi Seva Ashram v State of U.P. & Ors. (1986) 4 SCC 753 the Supreme Court directed protection of tribal forest dwellers who were being ousted from Reserve Forest land. The Court observed that:

“It is common knowledge that the Adivasis and other backward people living within the jungle used the forest area as their habitat...and for generations had been using the



jungles around for collecting the requirements for their livelihood--fruits, vegetables, fodder, flowers, timber, animals by way of sport and fuel wood". (@ page 754)

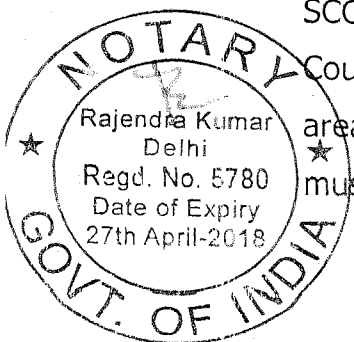
44. In Animal and Environmental Legal Defense Fund v Union of India & Ors. (1997) 3 SCC 549 the Supreme Court held that:

"while every attempt must be made to preserve the fragile ecology of the forest area, and protect the Tiger Reserve, the right of the tribals formerly living in the area to keep body and soul together must also receive proper consideration." (@ page 553).

45. In the specific context of tribals, the right to socio-economic development has been recognised in the landmark judgment Samatha vs. State of Andhra Pradesh & Ors. (1997) 8 SCC 191 as follows:

"India being an active participant in the successful declaration of the Convention on Right to Development and a party signatory thereto, it is its duty to formulate its policies, legislative or executive, to accord equal attention to the promotion of, and to protect the right to social, economic, civil and cultural rights of the people, in particular, the poor, the Dalits and Tribes as enjoined in Article 46 read with Articles 38, 39 and all other related articles read with the right to life guaranteed by Article 21 of the Constitution of India." (@ para 75).

46. The role of the Gram Sabha in the protection, conservation, regulation and management of community forest resources has received affirmation from this Hon'ble Court in Orissa Mining Corporation vs. Ministry of Environment and Forests & Ors. (2013) 6 SCC 476 where these aspects of the law were directly in issue. The Court was pleased to direct that Gram Sabhas in the surrounding areas of a proposed bauxite mine in the Niyamgiri Hills of Odisha must be consulted with regard to pre-existing habitat, religious and



cultural rights in the area of primitive tribal groups. The Court observed:

"The Statement of Objects and Reasons of the Act states that forest dwelling tribal people and forests are inseparable and that the simplicity of tribals and their general ignorance of modern regulatory framework precluded them from asserting their genuine claims to resources in areas where they belong and depended upon and that only recently that forest management regimes have initiated action to recognize the occupation and other right of the forest dwellers. Of late, we have realized that forests have the best chance to survive if communities participate in their conservation and regeneration measures. The Legislature also has addressed the long standing and genuine felt need of granting a secure and inalienable right to those communities whose right to life depends on right to forests and thereby strengthening the entire conservation regime by giving a permanent stake to the STs dwelling in the forests for generations in symbiotic relationship with the entire ecosystem." (@ para 42)

47. The Gujarat High Court in *Action Research in Community Health & Development vs. State of Gujarat & Ors.* (Writ Petition PIL No. 100 of 2011, dated 3.5.2013, unreported) addressed a plethora of issues regarding the implementation of the Forest Rights Act. While giving detailed directions to the State government on the implementation of the Forest Rights Act, the High Court held that:

"We are of the opinion, having regard to the object of the Act and the purpose for which the same has been enacted, that to demand from such a class of citizens strict proof as regards their rights would frustrate the very object with which the Act has been enacted. Needless to say that the Act 2006 is a social piece of legislation and the legislative intent is to protect the rights of the Scheduled Tribes dwelling in the forests. The objective of such social welfare measures, no



doubt is to provide better, efficient and meaningful life to such forest dwellers. The primary duty of the Court, while interpreting the provisions of such Act, is to adopt a constructive approach to achieve the purpose of the Act. Any other interpretation that would defeat the very purpose of the Act is not permissible in law." (@ para 42)

48. It is unfortunate that the Applicant/ Petitioner did not see fit to place this rich jurisprudence which has evolved over several decades before this Hon'ble Court.

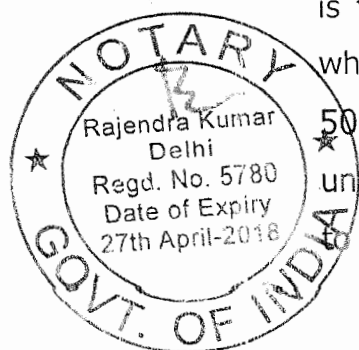
HISTORICAL CONTEXT OF THE FOREST RIGHTS ACT

49. In *Zameer Ahmed Latifur Rehman Sheikh vs. State of Maharashtra* (2010) 5 SCC 246, the Supreme Court cited with approval the following passage from the landmark decision in *RBI vs. Peerless General Finance* (1987) 1 SCC 424:

"Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word.....No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place".

The Court accordingly opined that no provision or word in a statute is to be read in isolation, and that the statute has to be read as whole and in its entirety. (@ para 74).

50. In the aforesaid context, the basic premise of the Application under reply, namely, that forest dwelling communities are a threat to the conservation and preservation of wildlife, biodiversity, forests



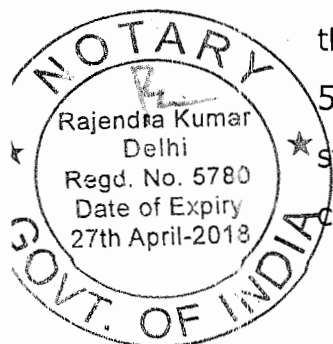
and forest resources, runs contrary to international best practice, constitutional mandate, as well as the statutory provisions. Indeed, the notion that tribal and forest dwelling communities are a threat to environmental conservation has been discarded as outdated, especially in the context of a culturally diverse and civilizationally evolved country such as India where the symbiotic relationship between tribals and forests goes back many centuries.

51. The importance of the symbiotic relationship between forests and forest dwelling communities finds recognition in the National Forest Policy, 1988, which states:

"Having regard to the symbiotic relationship between the tribal people and forests, a primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forest." (@ para 4.6)

52. In this context it is also pertinent to note that the participation and active involvement of local forest dwelling and forest dependent communities in decision-making processes relating to development is in keeping with the current understanding of good environment and wildlife conservation practice at the international level as well. The close relationship between forest dwelling communities and the protection of the environment is recognised by a host of international conventions, including the Universal Declaration on Human Rights, the UN Declaration on Rights of Indigenous People (Article 26), the Convention on Biological Diversity (Article 8 (j)), the Rio Declaration on Environment and Development (Principle 22) and the Convention on Right to Development.

53. International conservation organisations in recent years have strongly advocated respect for the relationship between communities and forest conservation. For instance, in 1999 the



IUCN World Conservation Union – the world's largest conservationist organisation – and the WorldWide Fund for Nature issued a joint document titled "Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas" which under Principle 2, Guideline 2.2 states:

"the following indigenous and other traditional communities' rights should be respected in relation to the lands, territories, waters, coastal seas and other resources which they traditionally own or otherwise occupy or use, and which fall within protected areas:

a) rights with regard to sustainable, traditional use of their lands, territories, waters, coastal seas and other resources that fall within protected areas,

xxx

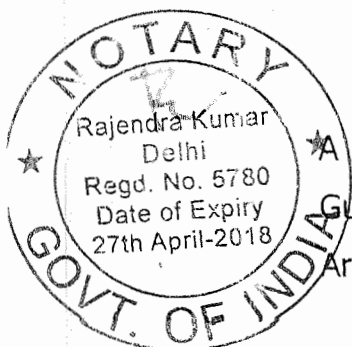
e) rights to use their own traditional institutions and authorities to co-manage their terrestrial, coastal/marine and freshwater areas, as well as to defend them from external threats, subject to agreements with the agencies in charge of national protected area systems,

f) rights to require that States obtain the free and informed consent of the respective communities, prior to the approval of any project affecting their lands, territories, waters, coastal seas or other resources,

xxx

i) rights not to be removed from the zones they have traditionally occupied within protected areas. Where their relocation is considered as an exceptional measure, it should take place only with the free and prior, informed consent of the indigenous and other traditional peoples affected, and with appropriate compensation."

A true copy of the Joint Policy Statement entitled "Principles and Guidelines on Indigenous and Traditional Peoples and Protected Areas" issued by IUCN (World Conservation Union), WCPA (World



Commission on Protected Areas) and WWF (World Wide Fund for Nature) in 1999 is annexed herewith and marked as **Annexure R/8** (pgs 104-114).

54. That the Forest Rights Act was enacted by Parliament after a rigorous and democratic consultative process, including examination by a Joint Parliamentary Committee. As stated earlier, the Petitioner/Applicant has not chosen to participate in any of these consultative processes or discussions, and has instead chosen to challenge the constitutional validity of the Forest Rights Act by way of a writ petition under Article 32, and subsequently sought to bring the implementation of the statute to a standstill after 8 years of its implementation through the Application under reply.

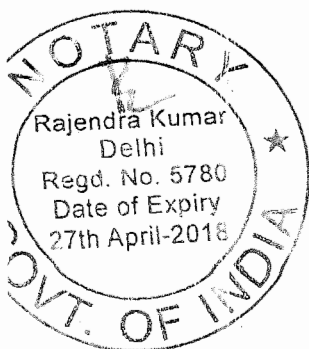
THE SCHEME OF THE FOREST RIGHTS ACT

55. The Preamble of the Forest Rights Act states, inter alia, as follows:

"WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;...

"AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognized in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystems;

"WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest

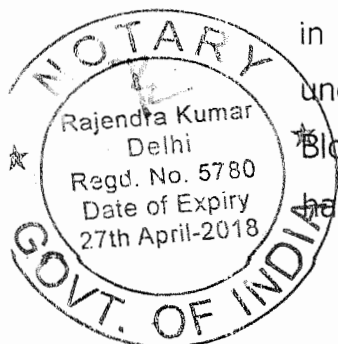


dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to state development interventions."

56. The Forest Rights Act provides clear and strict definitions of the classes of persons that constitute the forest dwelling Scheduled Tribes and the Other Traditional Forest Dwellers. Section 2(c) defines the term "forest dwelling Scheduled Tribe" and Section 2(o) defines the term "Other Traditional Forest Dweller". Section 4(1) of the said Act then recognises and vests, among others, a range of forest rights in forest dwelling Scheduled Tribes, in the areas where they are Scheduled as Tribes, and in Other Traditional Forest Dwellers, including, inter alia:

- a. Recognition of usufructory rights to minor forest produce, products of water bodies, grazing areas, and seasonal resources (sections 3(1)(b), 3(1)(c), and 3(1)(d)).
- b. Vesting of a right to habitat for primitive tribal groups and pre-agricultural communities (section 3(1)(e));
- c. Vesting of rights and powers to conserve and protect forests, wildlife, biodiversity, catchment areas and natural / social heritage (sections 3(1)(i) and 5);
- d. Vesting of right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity (section 3(1)(k)).

57. The first important component of the Forest Rights Act is the vesting and recognition of forest rights. It is noteworthy that the vesting and recognition of the said rights is "notwithstanding anything contained in any other law for the time being in force", thus overriding laws of any nature which are contrary to such vesting (see Section 4(1)). A three-tiered rights recognition process, in fulfillment of the Constitutional mandate for self-governance under Part IX and IX-A of the Constitution, is provided at the Village, Block and District level. This mechanism, which positions the village/hamlet level Gram Sabha at the core of the process, offers rigorous



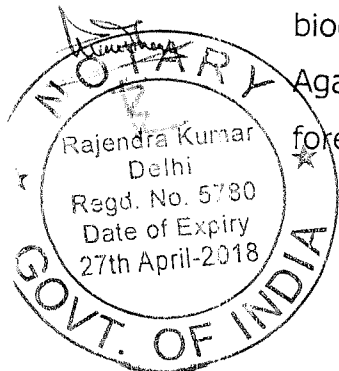
checks and balances against arbitrariness (Section 6 read with Rules). Since the forest rights are vested upon the date of the Forest Rights Act coming into force, namely 31st December 2007, under Section 4(5) any removal of forest dwellers from forest land without completion of the rights recognition process is contrary to statute, which is reiterated in Clause (v) of the Guidelines.

58. The second, and equally important component, of the Forest Rights Act is the delineation of the role of forest dwellers in forest management and conservation. Different provisions of the law, when read together, clearly indicate the legislative intent to not only vest the forest dwellers with a right to protect and conserve their community forest resources, but also vest in them a power to ensure that these community forest resources are managed and preserved in a sustainable manner. It is important to state that without this second component, the Forest Rights Act would fall short of the intention and objective of the statute as articulated in its Preamble, which states that the forest dwellers have the "responsibility and authority" to ensure sustainable use, conservation of biodiversity and maintenance of ecological balance of the forests.

59. This objective finds reflection in Section 3(1)(i), which includes in the definition of 'forest rights' the 'right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use'. Further, Section 5 of the Forest Rights Act empowers the holders of forest rights, the Gram Sabha, and the village level institutions to protect forests, water catchment areas, biodiversity and the 'cultural and natural heritage of forest dwellers.

Again, this power is inherent in every Gram Sabha in an area with forest dwellers. It is useful to cite the said provision at this stage:

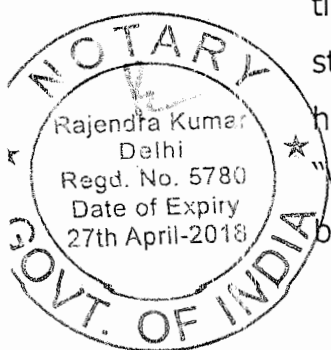
"5. The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to-



- (a) protect the wildlife, forest and biodiversity;
- (b) ensure that adjoining catchment areas, water sources and other ecologically sensitive areas are adequately protected;
- (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;
- (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with."

60. This provision is further amplified and strengthened in the Forest Rights Rules. Rule 4 (1) (e) and (f) of the Rules provide for the constitution of a Committee "for the protection of wildlife, forest and biodiversity" which shall function under the monitoring and control of the Gram Sabha, and prepare conservation and management plans for the community forest resources. Rule 6 of the Rules, inter alia, enjoins the Sub-Divisional Level Committee (SDLC) to provide information to each Gram Sabha about their duties and duties of holders of forest rights and others towards protection of wildlife, forest and biodiversity with reference to critical flora and fauna which need to be conserved and protected. Further, Rule 12-B(3) makes it the duty of the District Level Committee to ensure that the forest rights under Section 3(1)(i) of all villages with forest dwellers under its geographical jurisdiction are recognised.

61. It is submitted that not only are there adequate safeguards in the Forest Rights Act for protection and conservation of forests, environment and biodiversity, it also represents a wholesome and timely step towards sustainable management of forests which will stand the test of time. The efforts of the Petitioner/ Applicant, however, appear to be geared toward the now out-dated "wilderness approach" to wildlife conservation, which has been all but abandoned in India and other parts of the world for decades.



62. It must be reiterated that in large parts of the country, declaration of forest areas and protected areas took place in the past without recognition and settlement of rights, leading to a lack of trust between the forest dwellers and the administration. Stressing the need to explore more options for collaboration and co-existence between forest dwelling communities and wildlife, the 2005 Report of the Tiger Task Force constituted by the Government of India, entitled 'Joining the Dots' which observed:

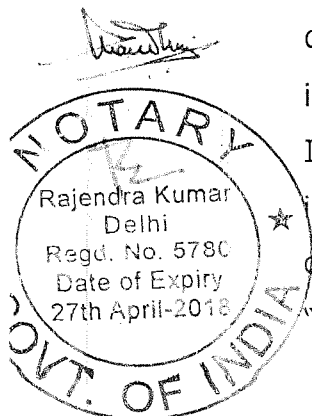
- "The protection of the tiger is inseparable from the protection of the forests it roams in. But the protection of these forests is itself inseparable from the fortunes of people who, in India, inhabit forest areas".

It is also a pressing reality that most relocation of forest dwelling communities in the past from protected areas does not result in land-for-land compensation, and in a majority of cases cash compensation is given, which does not provide a sustainable alternative for such tribal and forest dwelling peoples.

63. It is respectfully submitted that the Petitioner/ Applicant has failed to place before this Hon'ble Court this plethora of facts and rich jurisprudence, in a transparent attempt to prejudice the mind of this Hon'ble Court, and for this reason the Application under reply ought to be rejected.

PARAWISE REPLY

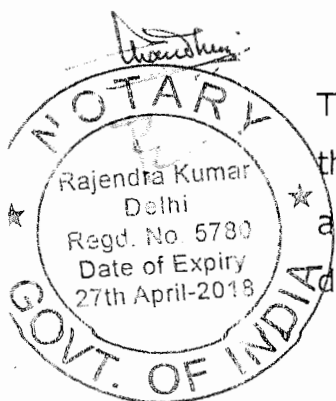
64. The contents of para 1 of the Application under reply, insofar as they are not a matter of record, are denied as wrong, baseless and designed to prejudice the mind of this Hon'ble Court. It is denied that the implementation of the Forest Rights Act has resulted in any threat to the forest and wildlife conservation in this country. It is further denied that the Forest Rights Act has resulted in indiscriminate, or any, distribution of forest lands or created commercial rights thereunder. It is denied that there is any "scientifically accepted" proposition that forest dwelling communities



are a threat to the nation's invaluable biodiversity. The Answering Respondent takes strong objection to the averment of the Petitioner/ Applicant that the Forest Rights Act is giving "freebies" to ineligible and bogus claimants or is driven by "political expediency" of any kind as alleged or at all. The use of such terminology to describe the rights of a vast section of marginalized citizens of this country demonstrates the negative prejudice of the Petitioner/ Applicant to the poor and marginalized tribal peoples of this country. The following key aspects of the Forest Rights Act must be pointed out in this regard:

- a. The Forest Rights Act aims to recognise and vest pre-existing rights of forest-dwellers, rights which have existed for generations and in a large number of cases pre-date even the colonial government.
- b. The purpose is to correct a historical injustice to forest dwellers as a result of failure to recognise and record their rights while declaring forests.
- c. This historical injustice has been the subject of numerous Government reports and initiatives in the past, and has also been recognised in judicial precedent.
- d. The statute does not cover rights to all kinds of forest produce, but rather only to minor forest produce that "has been traditionally collected" (Section 3(1)(c)).
- e. A detailed three-tier mechanism for the vesting and recognition of rights has been provided in the statute.
- f. The Forest Rights Act contains detailed and specific provisions for the creation of Critical Wildlife Habitats (Section 4(2)) which apply in situation where inviolate areas are required to be created.

There are more than 100 million tribals and forest dwellers who are the potential beneficiaries of this landmark legislation, all of whom are entitled to the protection of the law and the Constitutional dispensation as citizens of India. The Answering Respondent as the

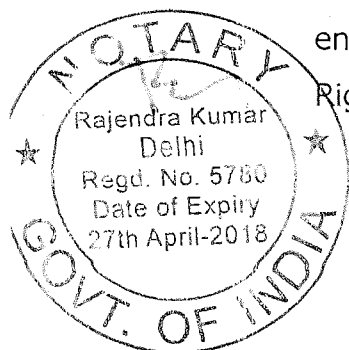


Ministry of Tribal Affairs, and the Nodal Agency under Section 11 of the said statute, is duty bound to protect and promote the rights of tribals and forest dwellers.

65. The contents of paragraph 2 are a matter of record. It may be pointed out, however, that the description of the Petitioner/ Applicant and its involvement in forest related activities over the last several years does not make it a domain expert on the governance of tribals and forest dwellers. Nor does it detract from the fact that the Application under reply is faulty in law and on facts and ought to be rejected outright. It may also be pointed out that Petitioner Nos. 2 and 3 in the writ petition have not joined as applicants in the Application under reply.

66. With regard to paragraph 3, and having gone through the video-documentary at Annexure A/1, the Answering Respondent submits that the experience of the Petitioner/ Applicant relating to voluntary rehabilitation of 900 tribal and forest dwelling families cannot be scaled up and replicated at an all India level for a variety of reasons. For one thing, there are well over 100 million Scheduled Tribes in India and it is not possible to replicate this experiment across such a huge population. More importantly, it is well documented that relocation of forest dwelling populations is not a necessary pre-condition for all wildlife conservation initiatives, and a one-size-fits-all approach can be counter-productive to the very purpose of conservation itself. However, there can be situations where inviolate areas free of human interference are imperative to a protection of a particular species. In such situations, the Forest Rights Act lays down a procedure under Section 4(2) for the declaration of Critical Wildlife Habitats with the active involvement and participation of the local forest dwelling community, which ensures the success of such initiative. Section 4(2) of the Forest Rights Act states:

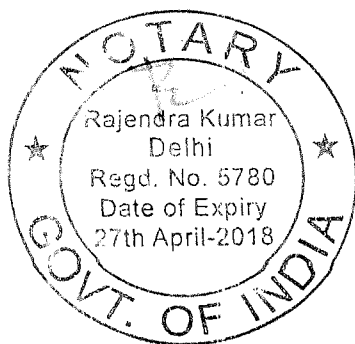
" (2). The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may



subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely :-

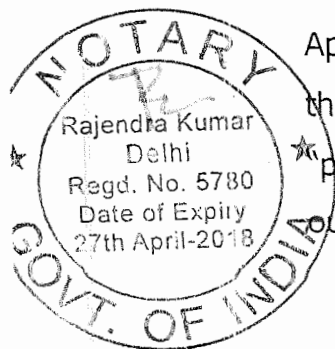
- (a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;
- (b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 (53 of 1972) that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;
- (c) the State Government has concluded that other reasonable options, such as, co-existence are not available;
- (d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;
- (e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained writing;
- (f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package:

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses."



67. The contents of para 4 are denied insofar as they are contrary to record. The Forest Rights Act came into force on 31st December 2007 and not on 29.12.2006. It is denied that there has been large scale depletion of forest cover as a result of the Forest Rights Act, as alleged or at all. It is further submitted that the recognition and vesting of rights commenced in January 2008 and has been ongoing for the last almost 8 years, and is continuing even today. However, to say that this process has been going on for long enough, and needs to end displays an inordinate hurry on the part of the Petitioner/ Applicant which has no foundation in the socio-political reality of tribal and forest dwelling communities or in historical fact. The process of declaration of forests commenced in India during the middle of the 18th century under the British colonial government, but the rights of forest dwellers could not be recognised. The primary reason for this is that forest dwelling and tribal communities tend to be unfamiliar with legal processes and it is well known that their naiveté and lack of worldliness has resulted in their exploitation by other communities. The Forest Rights Act attempts to undo a historical wrong which persisted for more than 150 years. The State governments and implementing authorities have required and continue to require considerable hand-holding, monitoring, and course correction, which the Answering Respondent Ministry has made efforts to provide. The Petitioner/Applicant's insistence that a process of historical injustice over one-and-a-half centuries should have been corrected within a short span of 8 years demonstrates its lack of experience in governance, and in democratic governance in particular.

68. With regard to para 5, the Answering Respondent strongly objects to the tone of the averments therein. The Petitioner/ Applicant only demonstrates its own vested interests by asserting that the implementation of the Forest Rights Act is under the "pretext" of social justice, and that 19 lakh hectares (based on an outdated report of 2013) of forest land have been "handed over to



people in the form of individual and community and further ownership rights for commercial exploitation". This is a complete misrepresentation of the process. As stated earlier, the Forest Rights Act sets out to recognise and vest forest rights which are pre-existing, in forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers who are already exercising these traditional rights. No new rights are created as alleged or at all. As per the latest Monthly Progress Report which consolidates the data relating to implementation of the Forest Rights Act from across the country, a total of 8,15,004 titles have been distributed till May 2014 covering 8,68,912.14 hectares (21,47,105.56 acres) of forest land. This includes individual claims, community claims, as well as lands utilized for village development activities under Section 3(2) of the statute (such as for village schools, dispensaries, anganwadis, drinking water supply, and so on). At this point it must be pointed out that according to Section 4(4) these rights "shall be heritable but not alienable or transferable", and therefore the titles do not confer full ownership rights on the forest dwellers.

A true copy of the Monthly Progress Report entitled Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [for the period ending 31st May, 2014] is annexed herewith and marked as **Annexure R/9** (pgs 115-155).

69. The contents of para 6 are denied as false, misleading and incomplete, and it is submitted as follows:

- a. The Petitioner/ Applicant has relied upon, and appended, one single page (being page 24) from a complex 322 page report produced by Respondent No. 2, Ministry of Environment and Forests, Government of India, which draws upon the expertise of a plethora of scientists, administrators, economists, and other experts. The manner in which the Petitioner/ Applicant has cherry-picked information from such a complex document; and arrived at wild and unsubstantiated conclusions regarding the



reasons for depletion of forest cover, casts a serious doubt on its self-avowed assertion of expertise in the area of forest protection and conservation. In the preceding paragraph of the same section of the same report, which the Petitioner/ Applicant did not see fit to share with this Hon'ble Court, it is stated:

"2.10 Forest Cover in Tribal Districts

Tribal communities have lived in a symbiotic relationship with forest through ages. Forests play a very significant role in tribal economy and all their socio-cultural practices are woven around forests. As such, it is very important to monitor and analyze the forest cover situation in the tribal areas. In this section, an overview of forest cover in the tribal districts of the country has been presented. In all, there are 188 tribal districts in 26 States/ UTs as identified by the Government of India under the Integrated Tribal Development Programme (marked with superscript 'T') in the district-wise Table of forest cover in Chapter 9. Table 2.10.1 presents a summary of forest cover in tribal districts of the country." (@ page 23)

b. After making this statement regarding the need to protect forest cover in tribal areas since it is intrinsic to the survival of the tribals, the Report goes on to examine the status of forest cover in different States. Stating quite clearly that the data relates to 2009 assessment year, the Report notes that the assessment shows a decrease of 679 square kms in forest cover in these 188 tribal districts. It does not, however, even hint that the reason for such decline in the forest cover is the implementation of the Forest Rights Act. Decline in forest cover can result from a host of factors, such as diversion of forest land for commercial and developmental activities (such as mining, construction of highways and dams), encroachments by industrial estates, illegal timber trade, natural calamities, and so on. On the contrary, the report makes note of the fact that in several States where there has been an increase in forest cover, one



contributory factor has been the effort of community based forest management committees. It is clear that the Petitioner/ Applicant is attempting to mislead this Hon'ble Court by making unsubstantiated assertions that the decline in forest cover has resulted from the implementation of Forest Rights Act, which is, quite simply, untrue.

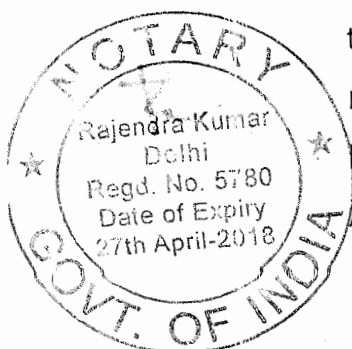
c. In any event, the most recent "India's State of Forest Report 2013" reveals that in 189 tribal districts in the country, there has been a net increase in forest cover of 2,396 square kilometers during the assessment period. A true copy of an extract from "India's State of Forest Report 2013" dated July 2014 is annexed herewith and marked as **Annexure R/10** (pgs 156-158).

70. The contents of para 7 are wrong, misleading and alarmist, clearly aimed to prejudice the mind of this Hon'ble Court, and it is further submitted as follows:

a. It is denied that Annexure A-4, which is a letter dated 16.7.2008 addressed by the PCCF, Andhra Pradesh to the Special Chief Secretary Environment and Forests, documents illicit felling and destruction of forests for cultivation in the Kawal Sanctuary as alleged or at all. In fact, this letter which is dated, a mere six months after the Forest Rights Act came into force, merely records the discussions held in a village level briefing regarding the Forest Rights Act.

b. That the Answering Respondent takes strong objection to the manner in which the Petitioner/ Applicant has placed satellite images in Annexure A-5 (colly) relating to the same Kawal Wildlife Sanctuary and the Nagarjunasagar Tiger Reserve as evidence of 'destruction of intact forests'. To begin with, as has been pointed out in the Forest Survey Report 2011 relied upon by the Petitioner/ Applicant itself, reliance upon satellite imagery for measurement of forest cover is an imprecise science, and cannot be relied upon without thorough ground-truthing exercises.

Admittedly, the Petitioner/ Applicant has not conducted any such

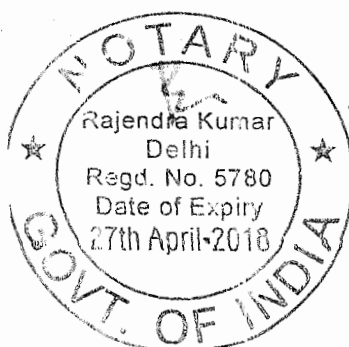


ground-truthing exercise at all in the areas whose satellite images are placed before the Court. There could be a variety of reasons why there appears to be a decline in forest cover in those areas, including, but not limited to:

- Difference in the seasons during which the different satellite images are taken (summer vs. winter);
- Difference in the quantity of precipitation resulting from rainfall in the area at different points of time;
- Cloud cover over certain parts of the satellite image;
- Failure to distinguish between thick grass cover or bushes, and tree cover;
- Relocation of villages from core areas to buffer areas, or relocation as a result of de-fragmentation initiatives by the State Government;
- And last of all, encroachment by non-forest dwelling and/or non tribal or dominant groups which have nothing to do with Forest Rights Act.

Any one or more of these reasons could be responsible for what appears to be reduced tree cover to the naked eye. The Petitioner/ Applicant has, however, with inexplicable alacrity, jumped to the conclusion that there is tree cover decline and this is a result of the Forest Rights Act. No such thing is apparent from the satellite images annexed as Annexure A-5 (colly).

c. It is necessary to draw the attention of this Hon'ble Court to the fact that even if claims under the Forest Rights Act have been filed, as alleged, and even if these claims have received the recommendation of the Gram Sabha, the claims still have to go through two tiers of examination at the sub-division level (before the Sub-Divisional Level Committee) and at the District Level (before the District Level Committee) before these are finally approved and only thereafter are these claims translated into 'forest rights' and entered into the Record of Rights. Even thereafter, any instances of misuse or abuse of the statute which

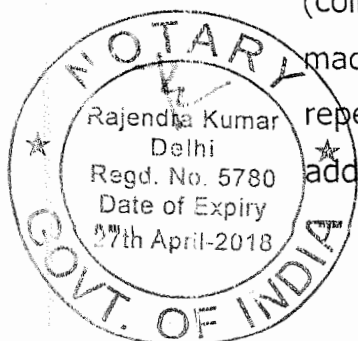


come to light are subject to examination by the concerned High Court under Articles 226 and 227 of the Constitution, and nothing prevents the Court from setting aside titles which have been wrongfully granted. But it is legally untenable to draw generalized conclusions at a macro-level regarding widespread misuse of the Forest Rights Act across the country, based upon these micro-level examples, and thereby set aside the 8,15,004 forest rights already granted to forest dwelling families. Indeed, such an approach would be contrary to the constitutional right under Article 300-A of the Constitution.

71. The averments contained in para 8 are denied for the reason that once again the Petitioner/ Applicant has selectively chosen a portion of the cited documents, and in an inexplicable leap of imagination, has reached insupportable conclusions which are not just baseless, but are not supported by the very documents it seeks to rely upon. It is submitted that:

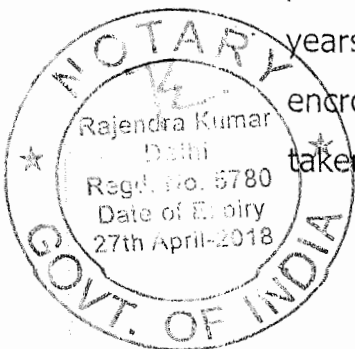
a. Annexure A-6, being letter dated 2.2.2011 of the Deputy Conservator of Forest, Hunsur, far from demonstrating the failure of the Forest Rights Act, is in fact an excellent example of the efforts being made by officers at the block and district level to ensure that the implementation of the statute occurs properly, to identify gaps in implementation, and suggestions on how to ensure better implementation so that eligible forest dwellers obtain their forest rights. The Answering Respondent craves leave to refer to and rely upon the aforesaid letter dt. 2.2.2011 to demonstrate that the Forest Rights Act, through the attention to detail of officers of the government, is being implemented in its proper spirit.

b. With regard to the satellite imageries annexed at Annexure A-7 (colly), the Answering Respondent seeks to refer to submissions made in paragraph 70 supra, the contents of which are not being repeated in the interests of brevity. It may only be said, in addition, that even according to the Petitioner/ Applicant the



claims filed in relation to the forest lands in these images were rejected, which demonstrates that the three-tier mechanism for examination, recognition and vesting of rights is robust enough to reject claims which are ineligible, unsubstantiated or false. It is not clear how the Petitioner/ Applicant seeks to assert that the rejection of claims in these areas evidences any inherent or implementation defect in the Forest Rights Act.

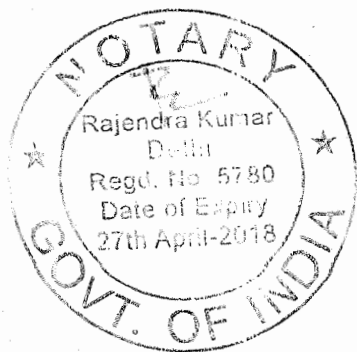
72. The contents of para 9 and the Annexure-8 thereto are wrong and denied. It is submitted that the Report entitled 'Manthan' submitted by the Joint Committee of the Ministry of Environment and Forests and the Answering Respondent Ministry of Tribal Affairs, was headed by Dr. N.C. Saxena who is a former Chairperson of the Planning Commission of India and an economist and social scientist of international repute. Other members of this Committee are renowned domain experts in their own right. Together they submitted a 232 page report containing a frank and fair assessment of the implementation of the Forest Rights Act, examining its strengths as well as the areas for concern, and giving detailed recommendations for improvement in implementation. Based on these recommendations, the Answering Respondent drew up detailed amendments to the Forest Rights Rules, which were notified in 2012. But the Petitioner/ Applicant, in its eagerness to tarnish the Forest Rights Act, has chosen to quote selectively, and therefore inaccurately, from the said Report. He has failed to place before this Hon'ble Court the observations of the Joint Committee regarding the satellite imageries at Annexure A-8. The Committee has pointed out that FRA claims over standing forest are not necessarily resulting in immediate deforestation, and some of them are emerging from political movements which pre-date the Forest Rights Act by several years: It also points out "that some of what is reported as fresh encroachments may have been attempts to reclaim cultivated lands taken over by the government for plantations in the last few years".



A true copy of the Introductory Chapter of "Manthan- Report of the National Committee on Forest Rights Act", Government of India, dated December 2010 is annexed herewith and marked as **Annexure R/11** (pgs 159-164).

73. The contents of paras 10 and 11 are misleading, incorrect, alarmist and an obvious attempt to present selective and outdated information before this Hon'ble Court. It is further submitted that:

- a. The conclusions and assertions made by the Petitioner/ Applicant in the paragraphs under reply are most vehemently denied. It is submitted that the Petitioner/ Applicant is making these allegations in a barely concealed attempt to prejudice the mind of the Court through statements which are unable to withstand the most superficial scrutiny, designed to create an atmosphere of alarm and panic, for reasons best known to itself.
- b. There is no explanation given for selection of only five States, when comparative data for 14 States is readily available. In addition, the information is based on outdated data of 2013, even though current data in the form of Monthly Progress Reports is regularly compiled by the Answering Respondent and is available in the public domain through its official website www.tribal.nic.in. Unsurprisingly, after using such patently defective methodology to make a statistical analysis, the Petitioner/ Applicant arrives at conclusions which are completely off the mark and not based on reality.
- c. Based upon the most recent Monthly Progress Report available regarding implementation of the Forest Rights Act upto 30th May 2014, the Answering Respondent has made a thorough statistical analysis of the disposal of claims between the three-tier mechanism under the Forest Rights Act, namely, the Gram Sabha, the Sub-Divisional Level Committee, and the District Level Committee. A true copy of the said tabulation entitled "Claims filed and approved under FRA by GS, SDLC and DLC for select

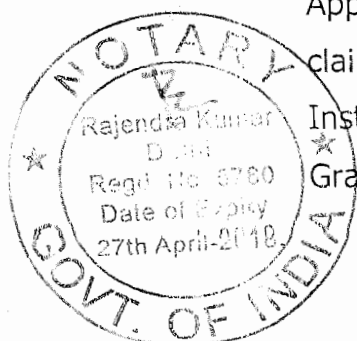


States, upto May 2014" dated nil is annexed herewith and marked as **Annexure R/12** (pgs 165).

d. The said table analyses current available data relating to implementation of Forest Rights Act in all 14 States where such data is available, whereby the following conclusions emerge:

- 3,733,730 claims were received by the Gram Sabhas under the Forest Rights Act, across 14 States. This includes claims to individual cultivation claims, minor forest produce claims, community forest rights claims, as well as applications for village developmental activities under Section 3(2) of the said Act.
- Of these, a total of 2,506,334 were recommended for approval and forwarded to the SDLC. This means that 67% of the claims were forwarded by the GS to the SDLC, while a total of 1,227,396 claims (or 33%) were rejected at the level of the village Gram Sabha itself;
- After duly examining the claims forwarded to it by the Gram Sabhas, the SDLC forwarded for approval 1,878,932 claims to the DLC. This means that at this second tier of examination 75% of the claims were forwarded, while 627,402 claims (or 25%) were recommended for rejection;
- The DLC, in turn, examined the claims which were forwarded to it by the SDLC and has approved 1,488,930 claims. This indicates that the approval ratio of DLC over the SDLC claims is 79%. Percentage of total claims allowed by the DLC as a proportion of claims before the GS is 59%. It must be noted that, for a variety of reasons, titles have not been issued in all these approved claims.

74. The above analysis belies the allegation of the Petitioner/Applicant that "the Gram Sabha...has largely failed to filter out false claims due to lack of capabilities and also due to conflict of interest". Instead, a faithful and rigorous analysis of the data reveals that the Gram Sabhas have proved to be more than capable of rejecting

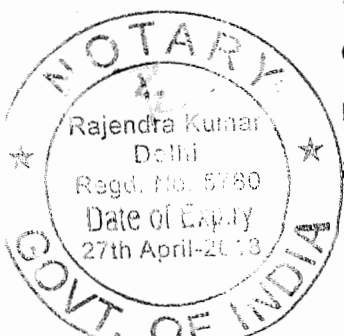


claims which are found not to be in accordance with law, and the faith of the Parliament in the lowest rung of constitutional democracy has been vindicated. It further demonstrates that the three-tier mechanism for decision-making of claims under the Forest Rights Act is fully functional for correction of errors, if any. It is submitted that the Petitioner/ Applicant has knowingly or unknowingly revealed its inherent bias against democratic governance in the vague, misleading, and prejudiced allegations made by it based on manipulated statistical data in the paragraphs under reply.

75. The contents of para 12 and 14, and of Annexure A-9 thereto, are categorically and vehemently denied, being a blatant manipulation of data, incredible assumptions, prejudicial presumptions, leading to fantastical results. It is submitted that:

a. At the outset, it is necessary to state that the 'rejection' of a claim does not mean that the occupation of forest land is illegal, or even, for that matter, that there is any occupation of the forest land at all, since there are a myriad types of usages and usufruct which constitute forest rights. Such claim may simply be invalid or ineligible under the Forest Rights Act while being lawful and eligible under some other statute at the Central or State level. It is humbly submitted that the repugnant legal principle, unfortunately adopted by certain non-democratic nation-states, that failure to establish a case in a court of law results in an adverse inference of falsehood against the claimant, has never been adopted or applied in a constitutional democracy such as India.

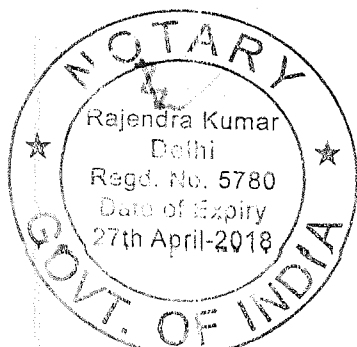
b. It is also necessary to state that according to Section 4(7) of the Forest Rights Act, the forest rights conferred thereunder are free from the statutory requirement of obtaining forest clearances and payment of net present value. This provision is not in the nature of an 'exemption', but rather an acknowledgement that forest dwellers are part of the forest



ecology, and the exercise of forest rights by them is part of the sustainable use of forests. (See Preamble). For this reason, recognition and vesting of forest rights does not amount to diversion of forest land for non-forest purpose within the meaning and intent of Section 2 of the Forest Conservation Act, 1980.

c. The Answering Respondent, after making a preliminary analysis of the paragraphs under reply, is listing below some of the more obvious errors of statistical analysis made by the Petitioner/ Applicant. The Answering Respondent craves leave to make a more detailed submission in this regard if so required by this Hon'ble Court:

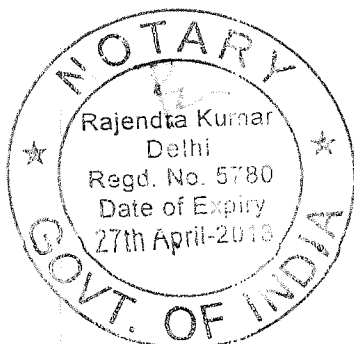
- The analysis is based on an outdated Monthly Progress Report of May 2013, when more updated reports are readily available in the public domain (the most recent being of May 2014);
- The analysis is based on data relating to 5 selected States (being Gujarat, Karnataka, Maharashtra, Tripura and Odisha) even though data at the same level of detail is available for at least 14 States in the country;
- No explanation is given why these 5 States have been selected for analysis, or what method of selection has been adopted, far from an approved statistical methodology;
- Based upon the aggregated data available for the total area of forest land for which claims have been allowed (being 12,40,279 acres) and the number of claims allowed (being 5,83,675 titles) the Petitioner/ Applicant has divided one by the other to arrive at an "average" figure of 2.12 acres of forest land granted per title;
- It is a well known principle of statistical analysis that "average" or the statistical mean is a very poor indicator of anything. For even a remotely reliable analysis, the more advanced methods of median and mode should be



adopted; even these give rough indications at best, and a truly rigorous analysis requires differential calculus;

- It is also a well established principle that a process of differentiation of data is a basic preliminary to any statistical analysis. The Petitioner/ Applicant, on the other hand, has put data relating to individual cultivation claims, community forest resource claims, and applications under Section 3(2) together--- each of these categories of claims is inherently distinct from the other at multiple levels, and therefore cannot be analysed unless disaggregated;
- Be that as it may, the Petitioner/ Applicant has then proceeded to arrive at an even more incredible conclusion that the "average acreage" forest land per title granted, is exactly the same as the average forest land per claim rejected. This presumption is nothing short of fantastic.
- Based upon this presumption, the Petitioner/ Applicant multiplies the number of claims rejected (5,59,123) with the "average acreage" per forest claim allowed, to arrive at the "estimate" of forest area for which claims have been rejected as 11,85,340 acres. This figure is a concoction.
- It is then alleged that this 11,85,340 acres is the area under "illegal occupation" by "encroachers" whose claims have been rejected; the Petitioner/ Applicant again fails to advert to the fact that this concocted figure must, due to its method of 'calculating' it, include not only claims for individual cultivation but also claims for community forest resource rights and developmental initiatives under Section 3(2), for each of which the application of Net Present Value would differ;
- Nor does the Petitioner/ Applicant allow for the fact that 'rejection' of a claim is not equivalent to a 'false' claim or 'illegal occupation' or 'encroachment';

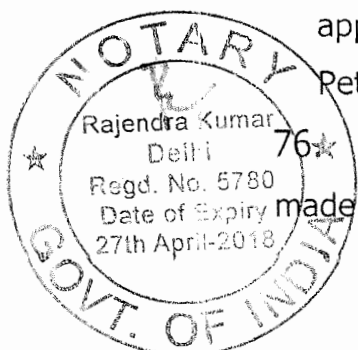
Handwritten signature



- The Petitioner/ Applicant does not even allow for a scenario which it has itself placed before this Hon'ble Court at Annexure A-7—where a claim has been made over a forest area over which there is no cultivation or exercise of forest rights or occupation, and such claim has been rejected resulting in no loss to anybody;
- The quantum of NPV "lost" is projected on the basis of this concocted figure at Rs. 50,003 crores (on the high side) and Rs. 21,101 crores (on the low side), which is a projection in fantasy being based on no concrete information or data or substance;
- Perhaps the most absurd calculation of all is the "mean NPV...for just five states" which according to the Petitioner/ Applicant works out to Rs. 35,520 crores. The fallaciousness of using an "average" to arrive at this figure at such an elevated level of speculation beggars belief.

d. In light of the above preliminary analysis, that the assertion of the Petitioner/ Applicant that "(s)uch a presumption is logical" is completely wrong. On the other hand the analysis demonstrates that the Petitioner/ Applicant has based its entire analysis upon presumptions and speculations, which are so illogical, that they cannot withstand the most rudimentary interrogation. It is most respectfully submitted that the averments made by the Petitioner/ Applicant in the paragraphs under reply clearly demonstrate that far from approaching this Hon'ble Court with clean hands, which is a necessary precondition for public interest petitions under Article 32 in public interest, the Petitioner/ Applicant has knowingly set out to mislead this Hon'ble Court and pervert the process of justice. On this ground alone, the present application under reply, and the Writ Petition filed by the Petitioner/ Applicant, ought to be dismissed with heavy costs.

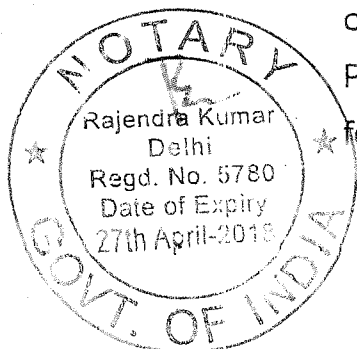
76* The contents of para 13 are denied, and the submissions made therein are quite baseless. It is wrong and denied that the



Answering Respondent has been receiving reports of "large scale destruction of forests" during the pendency of the writ petition 109 of 2008 before this Hon'ble Court, or that it has amended the Forest Rights Rules in 2012 for the purpose of converting filing of claims in to a "never ending process". The point that is attempted to be made by the Petitioner/ Applicant in quoting the provision of Rule 2A(c) of the Amended Forest Rights Rules is obscure and cannot be replied to. In any event, it is reiterated that the Petitioner/ Applicant has not amended its Writ Petition to include a challenge to the amended Forest Rights Rules on any part thereof, and it is not open to it to challenge Rule 2A(C) or any other provision through an averment in an interlocutory application.

77. The contents of para 14 are denied as false, prejudicial and baseless in law and on facts. It is submitted that:

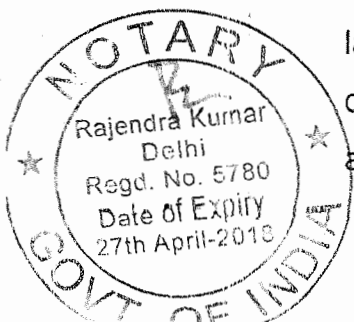
a. It is false to say that Section 4(5) of the Forest Rights Act is having a disastrous impact on forests. It is false to say that "ineligible claimants i.e. encroachers" are illegally occupying forest lands. The Answering Respondent takes strong objection to the persistent use of derogatory terminology by the Petitioner/ Applicant such as 'encroachers' to describe forest dwelling Scheduled Tribes and other traditional forest dwellers, who are beneficiaries of a historical legislation. It is further denied that the date of occupation of 13th December 2005 (as provided in Section 4(3) of the Forest Rights Act) is a "shifting of the cut-off date from 25th October 1980". The date of occupation has remained fixed at 13th December 2005 from the very beginning, and indeed predates the enactment of the statute to the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 as introduced in Parliament. At no point of time has Parliament changed, altered, amended or shifted forward the said date. The Petitioner/ Applicant is put to strict proof of the statutory foundation of the alleged "cut off date" of 25th October 1980.



b. It is further submitted that the Forest Rights Act is a beneficial legislation which is aimed to achieve constitutional objectives of removing historical injustice in tenurial rights of the most backward of socially and economically backward classes in the country, the tribals and other forest dwellers. It is incomprehensible to the Answering Respondent that the Petitioner/ Applicant holds the view that such a beneficial legislation ought to have had a provision to "evict/ remove such ineligible encroachers". Inclusion of such a provision would be repugnant to the very foundation of the statute, converting it from a beneficial legislation into a Kafkaesque abhorrence which gives with one hand while taking away with the other. It is the submission of the Answering Respondent that such a provision in the Forest Rights Act would have been vulnerable to challenge as ultra vires, and rightly so. The Petitioner/ Applicant is advised to refer to the various provisions of the Indian Forest Act, 1927 and Rules, the Wildlife (Protection) Act, 1972 and Rules, and the plethora of State level legislations which provide the procedure for removal of persons in unauthorized occupation of government lands, and which have been subjected to judicial scrutiny for strict compliance with Article 300-A of the Constitution of India.

78. With respect to the contents of para 16, insofar as they point to the death of an official of the Andhra Pradesh Forest Department, the Answering Respondent acknowledges that loss of life is certainly a tragedy. However, it is submitted that

a. It is wrong, misleading and alarmist to state that "this is not an isolated incident as many such assaults have taken place all over India". It is even more irresponsible on the part of the Petitioner/ Applicant to state that the Forest Rights Act gives any immunity, leave alone a blanket immunity to forest dwellers to launch violent attacks on forest department and other line department government servants. Far from encouraging violence, as noted in an Expert Group Report of the Planning Commission



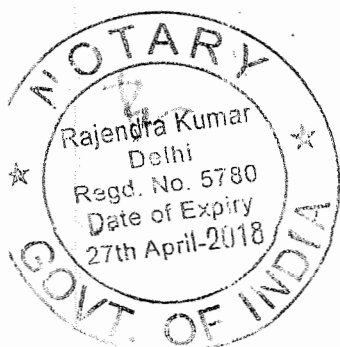
of India entitled "Development Challenges in Extremist Affected Areas" (April, 2008), the implementation of the Forest Rights Act is an important antidote to naxalite violence in tribal districts affected by left-wing extremism in India.

b. The remaining contents of para 16 and Annexure A-11 and A-12 relate to proceedings in the Karnataka High Court. It is expected that the Petitioner/ Applicant would make statements regarding orders passed by a constitutional Court in a responsible and truthful manner, given that it was Respondent No. 4 in the aforesaid litigation. However, the Petitioner/ Applicant has failed to place before this Hon'ble Court the final judgment and order dt.21.1.2014 passed by the Hon'ble Karnataka High Court in Writ Petition (Civil) No. 27390 of 2012. Taking note of the complex nature of the issue, and the prerogative of the State Government to make the necessary statutory changes, a Division Bench of the Hon'ble High Court headed by the Hon'ble Chief Justice disposed of the matter with liberty to the State Government to frame appropriate guidelines with due acknowledgement to the draft prepared by the amicus curiae.

A true copy of the final judgment and order dated 21.1.2014 passed by the High Court of Karnataka in Writ Petition No. 27390 of 2012 being Sri Veeresh Naik B.N. & Ors. vs. The State of Karnataka & Ors is annexed herewith and marked as **Annexure R/13** (pgs/66-70).

79. With regard to the contents of Para 17, the same are a distortion of the statutory law as well as judicial precedent, and are accordingly denied as incorrect. It is submitted that:

a. that Section 4(1) of the Forest Rights Act recognises and vests forests rights in forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers "(n)otwithstanding anything contained in any other law for the time being in force". The non-obstante clause aforesaid, accordingly, vests and recognises forest rights, including rights to minor forest produce in protected areas, even where such provision is contrary to any existing law.



b. It is pertinent to point out that such provision is not contrary to the Wildlife Protection Act, 1972 ('1972 Act'), as submitted by the Petitioner/ Applicant, which statute permits hunting of wildlife in certain cases (Section 11), provides for grant of permits in special circumstances (Sections 12, 17A to 17B), and protects the removal of forest produce from National Parks and Wildlife Sanctuaries for bonafide livelihood needs of people living in and around the said protected area (Sections 29 and 35(6)).

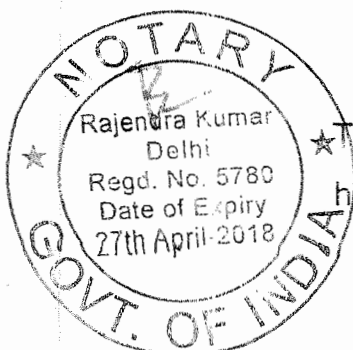
c. In recognition of the fact that local forest dwelling communities, far from being a threat to wildlife conservation, can be an invaluable resource as collaborators, the 1972 Act provides for the creation of Conservation Reserves and Community Reserves (Sections 36A and 36.B, inserted vide Amendment dated 1.4.2003), pursuant to which a wide network of Community Conserved Areas has been established in the country.

d. Further, under Section 38V(4) the statute requires that while preparing a Tiger Conservation Plan, the State Government "shall...ensure the agricultural livelihood, developmental and other interests of the people living in tiger bearing forests or a tiger reserve". Section 38V(5) goes on to delineate the method for declaration of a Tiger Reserve, categorically requiring the consent and collaboration of the local forest dwelling communities.

e. It is further pertinent to state that Section 13 of the Forest Rights Act states as under:

"13. Act not in derogation of any other law.—Save as otherwise provided in this Act and the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996; the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force."

The aforesaid provision takes a well accepted approach of harmonious construction of statutes, which approach has also

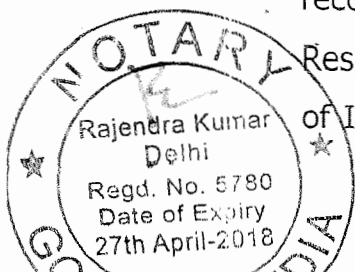


been adopted by this Hon'ble Court and the various High Courts in numerous judgments relating to the construction of the Forest Rights Acts and other existing statutes and also judicial precedents.

- f. A harmonious construction of the two statutes quite seamlessly indicates that both these statutes specifically permit the use of minor forest produce, including honey, for bona fide livelihood needs. The submissions made by the Petitioner/ Applicant regarding the order dated 14.2.2000 passed by this Hon'ble Court in Writ Petition (Civil) No. 202 of 1995 in the Godavarman case are, therefore, completely incorrect and invalid.

80. The contents of para 18 are denied as incorrect and based on partial and unscientific understanding of environmental and wildlife protection. It is surprising that the Petitioner/ Applicant, which describes itself as an expert in the field of forests and environment, has placed such erroneous and ill-considered arguments before this Hon'ble Court. It does not behove the Petitioner/ Applicant to try to project that there is a decline in bee-population in the Biligiri Rangan Temple (BRT) Sanctuary merely because a "massive quantity" of 15,301 kilograms of honey was collected in "just three years" and that collection of this quantity is "unsustainable". Further, it is completely irresponsible for the said Petitioner/ Applicant to leap to the conclusion from this that the Forest Rights Act is causing severe negative impacts on forest ecosystems in protected areas. The Answering Respondent would like to bring to the attention of this Hon'ble Court that the BRT sanctuary is the home of one of the most important Scheduled Tribes in the country, the Soligas, which have collaborated with the State Government to establish a world renowned mechanism of forest conservation and preservation.

81. The contents of para 19, insofar as these are a matter of record relating to a press release issued in February 2008 by Respondent No. 2 Ministry of Environment and Forests, Government of India, are not denied. However, it must be pointed out that this

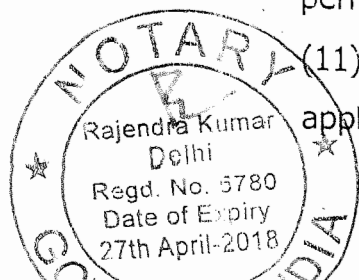


press release was issued one month after the Forest Rights Act came into force, and at a time when awareness regarding its beneficial and historical provisions was quite limited. In the nearly eight years that have passed since then, much water has flowed under the bridge, and many initiatives have been made by the Answering Respondent, Respondent No. 2 as well as a number of State Governments to harness the minor forest produce wealth of the nation in a sustainable manner and in collaboration with the local forest dwelling communities. The Answering Respondent begs leave to refer to and rely upon examples of such initiatives during the course of arguments if so required by this Hon'ble Court. For the present, it is important to point out that the information available with the Petitioner/ Applicant, or the information it has chosen to bring to the notice of this Hon'ble Court as the case may be, is limited and outdated and therefore cannot be relied upon to arrive at any conclusion in law or in fact.

82. The contents of para 20 are denied. More specifically, it is denied that the time-series satellite imagery filed by the Petitioner/ Applicant can be relied upon to reach any conclusions regarding the implementation of the Forest Rights Act, far from any identification of "ineligible claims", and it is further denied that any direction of this Hon'ble Court in this regard is required to be issued to the Answering Respondent and/or the various State Governments. Explanation 2 of Rule 12A (11) of the Forest Rights Rules states as under:

"2. The satellite imagery and other uses of technology may supplement other form of evidence and shall not be treated as a replacement."

As has been stated earlier, the Amended Forest Rights Rules have not been challenged by the Petitioner/ Applicant, and it is not permissible for it to challenge the validity of, inter alia, Rule 12A (11) Explanation 2 by way of an averment in an interlocutory application.

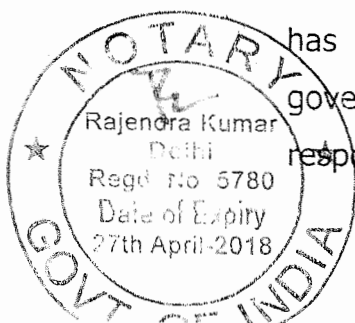


83. The Petitioner/ Applicant has been remiss in failing to bring to the attention of this Hon'ble Court that vide judgment and order dated 3.5.2013 in Action Research in Community Health & Development vs. State of Gujarat & Ors. (Writ Petition PIL No. 100 of 2011, unreported) the High Court of Gujarat has passed a detailed judgment where it has deprecated in no uncertain terms the insistence of the officers of the implementation authorities on satellite imageries as proof before forest rights claims were allowed. The High Court took serious note of the fact that till then a disproportionately large number of forest rights claims were being rejected in the State as a result of this insistence, and also took note of the fact that satellite imagery cannot be relied upon without thorough ground-truthing. The Court held:

"One should not overlook or ignore the hard fact that the claim petitions are filed by the persons who are absolutely illiterate and would hardly possess any such cogent and convincing evidence to the satisfaction of the authorities. We do not propose to say that the authorities should consider the claims in a slipshod manner but at the same time to decide the entire claim based only on satellite imageries would also not subserve the object of the Act, ignoring other pieces of evidences." (@ para 42)

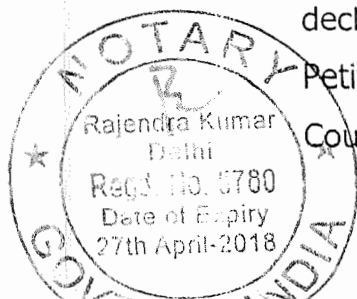
No appeal has been preferred against this judgment before this Hon'ble Court, either by the Government of Gujarat or any other party.

84. It is further denied that the rights under the Forest Rights Act are "vague" or in any way unreliable for the reason that their grant is without proper adjudication by a judicial body. It appears that the Petitioner/ Applicant holds the inexplicable view that rights are not valid unless they bear the imprimatur of a court of law, which view has no foundation in any theory of state, nor in the reality of governance in India. The State executive is, in a wide array of areas, responsible for the discharge of its welfare functions and the



effective implementation of a whole host of beneficial legislations. One such legislation is the Forest Rights Act, which is implemented in a unique collaboration between the institutions of local self governance and the state administrative machinery. To place the implementation of a legislation such as the Forest Rights Act, which potentially involves more than a 100 million people, at the doorstep of the judiciary would be to invite not only the collapse of the intended statute, but of the judicial process itself. Finally, as stated previously, the Answering Respondent as the Nodal Agency has been regularly monitoring the implementation of the Forest Rights Act under Rule 10 (c) read with Form at Annexure V of the Forest Rights Rules. There is absolutely no requirement as alleged or at all for any further monitoring as sought by the Petitioner/ Applicant.

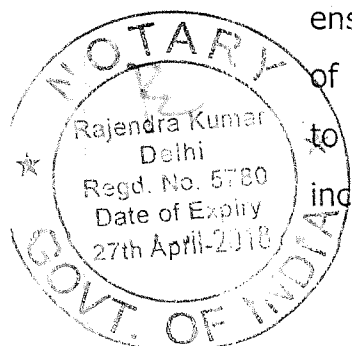
85. The contents of para 21 are a distortion of the facts and of the law. Although the allegations made therein pertain to Respondent No. 2, the Answering Respondent is duty-bound to point out certain critical errors therein. It is submitted that while the Critical Wildlife Habitat guidelines for effectuating Section 4(2) of the Forest Rights Act (wrongly cited as "Clause (b) of Section 2" in the paragraph under reply) have not been notified as yet, this does not in any manner display lack of bona fides on the part of the Union Executive, nor does it impact the validity of the aforesaid provision. As has been stated several times earlier, the Petitioner/ Applicant is repeatedly making averments challenging the constitutional validity of one or other provision of the Forest Rights Act or Rules or Guidelines, which is not permissible in the Application under reply. The Petitioner/ Applicant has also not been candid with this Hon'ble Court by failing to state that the Guidelines for Critical Tiger Habitats under Section 38 V(5) of the Wildlife Protection Act, 1972 have been operational for several years, and at least 43 Tiger Reserves have declared critical tiger habitat or core areas thereunder. Nor has the Petitioner/ Applicant revealed that a cognate bench of this Hon'ble Court is seized of a batch of matters relating to declaration of



inviolate zones in protected areas, being Special Leave Petition (Civil) No. 21339 of 2011, Ajay Dubey vs. National Tiger Conservation Authority & Ors. and the same has been coming up for hearing from time to time and detailed orders have also been passed therein. A true copy of order dated 16.10.2012 passed by this Hon'ble Court in SLP (C) No. 21339 of 2011 is annexed herewith and marked as **Annexure R/14** (pgs 171-180).

86. The contents of para 22 are denied as yet another obfuscation of the law and concoction of facts. The Petitioner/ Applicant is put to strict proof of the allegation that persons who are volunteering for relocation out of protected areas are being prevented from doing so by the Answering Respondent or at all under the guise of recognition and vesting of rights under Section 4 of the Forest Rights Act. It must be pointed out that the so-called "unreasonable condition" in the National Tiger Conservation Guidelines of 28.11.2011 is based upon the statutory requirements of Section 38V(4) and (5) of the Wildlife Protection Act, 1972 and Section 4(2) of the Forest Rights Act. Both these statutes are based upon the extant government policy based on past experience that wildlife conservation initiatives which position themselves in opposition to local forest dwelling communities are doomed to failure, and the international best practice which recognises the need for collaboration and co-existence.

87. The contents of para 23 are incorrect and denied, and the statement of law is incomplete and narrow, which is not the intention of the provisions of the Constitution of India which are sought to be relied upon therein. It is submitted that the Constitution of India protects the fundamental right to equality (as enshrined under Articles 14, 15, and 16), the right to life (as enshrined under Article 21 read with the various Directive Principles of Part IV), the right to freedom of religion and culture (Articles 25 to 29) and the fundamental duty to protect the natural environment including forests (as enshrined under Article 51-A(g) of the

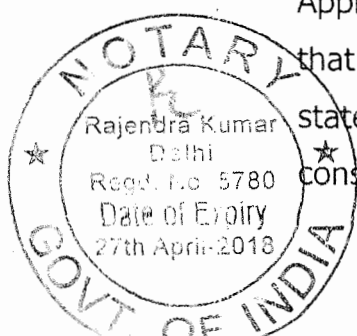


Constitution of India). The constitutional principle of distributive justice and economic equality enshrined in Articles 39(a), (b) and (c) and other Directive Principles, has been read into the right to life and dignity through a plethora of judgments. The Petitioner/ Applicant has failed to take into account these precious rights protected by the Constitution of India in the Application under reply.

88. The contents of para 24 are denied for all the reasons stated hereinabove, for the simple reason that the Application under reply is founded upon incorrect, incomplete, and self-serving presumptions and assumptions, which have naturally led to alarmist conclusions of impending apocalypse. It is specifically denied that there is any need to appoint an Independent Committee of experts of the Comptroller and Auditor General of India to examine the implementation of the Forest Rights Act as alleged or at all.

89. With regard to the Prayers, it is submitted that the Petitioner/ Applicant has not made out any cogent or coherent case for interference by this Hon'ble Court in the implementation of the Forest Rights Act, which is a beneficial statute aimed at providing much needed relief to the most marginalized and poorest-of-the-poor category of India citizens, the forest dwelling Scheduled Tribes and other traditional forest dwellers, who have been historically discriminated against for centuries as a result of a colonial forest regulation regime. The efforts of the Government of India, and the State governments to undo these historical injustices and restore the dignity, livelihood and sustainable way of life of forest dwelling peoples has resulted in national and international acclaim.

90. It is most respectfully submitted that in view of the aforesaid submissions, this Hon'ble Court ought not to entertain the Application under reply and the prayers made therein for the reason that this application is an aggregation of prejudicial and alarmist statements which are contrary to the law, facts, and the constitutional dispensation. For these reasons the Application under



reply ought to be dismissed by this Hon'ble Court with stringent costs.



DEPONENT

(रूपक चौधरी)
(ROOPAK CHAUDHURI)
उप सचिव/Deputy Secretary
जनजातीय कार्य मन्त्रालय
Ministry of Tribal Affairs
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

VERIFICATION

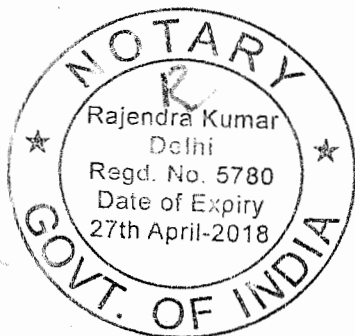
I, the deponent abovenamed, do hereby verify that the contents of paras 1 to 90, insofar as these are statements of fact, are based on the records of the case, and the remaining contents and legal submissions are based on legal advice received and believed by me to be true. No part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 9th day of July 2014.



DEPONENT

(रूपक चौधरी)
(ROOPAK CHAUDHURI)
उप सचिव/Deputy Secretary
जनजातीय कार्य मन्त्रालय
Ministry of Tribal Affairs
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi



ATTESTED

RAJENDRA KUMAR Ep 8212491692
NOTARY, DELHI-R-5780 9899446209
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
Register Pg./Sl. No. 5307

09.07.2014

पेटिशनर को इसमें उल्लिखित कथनों को समझाया गया है और वह अपने कथनों को सही मानता है और मैंने उनसे यह सुनिश्चित किया है कि वे सही हैं और मैंने उनसे यह सुनिश्चित किया है कि वे सही हैं और मैंने उनसे यह सुनिश्चित किया है कि वे सही हैं।
DEPONENT EXECUTANT WHO IS SEEMED PERFECT TO UNDERSTAND & AFFIRMED DEPOSED BEFORE ME AT DELHI ON 09.07.2014 IDENTIFIED BY J. Chaudhuri
IDENTIFY THE EXECUTANT/DEPONENT WHO HAS SIGNED IN MY PRESENCE

56

ANNEXURE - R/I

IMMEDIATE



No. 23011/32/2010-FRA [Vol.II (Pt.)]
Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi
Dated : 12th July, 2012

To

1. The Chief Secretaries of all State Governments
(except Jammu & Kashmir, Punjab, Haryana and Delhi)
2. The Administrators of all Union Territories
(except Lakshadweep)

Subject: Implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 - guidelines regarding.

Sir,

As you are aware, the historic legislation "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act" had been enacted in 2006 with the objective of remedying the historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers of the country. However, even after lapse of more than four years of its implementation, the Ministry has observed that the flow of intended benefits of this welfare legislation to the eligible forest dwellers remains constrained.

2. The Ministry has noticed several problems which are impeding the implementation of the Act in its letter and spirit, such as, convening of Gram Sabha meetings at the panchayat level in some cases, resulting in exclusion of smaller habitations not formally part of any village; non-recognition of un-hindered absolute rights over the minor forest produce (MFP) to forest dwellers; imposition of several restrictions, like, transit permit for transportation of MFPs, levy of fees, charges, royalties on sale of MFPs; exclusion of certain types of MFPs, in contravention of the definition of MFP given in the Act; continuance of monopoly in the trade of MFP, especially in the case of high value MFP, such as, *tendu patta* by the Forest Corporations in many States; non-recognition of other community rights, such as, nistar rights, conversion of all forest villages, old habitations, un-surveyed villages and other villages in forests, whether recorded, notified or not into revenue villages; non-recognition of community forest resource

57

:: 2 ::

rights relating to protection, regeneration or conservation, or management of any community forest resources under Section 3(1)(i) of the Act; etc.

3. In many areas, the tribal people and other forest dwellers are reportedly facing harassment and threats of eviction from forest lands and forced relocation or displacement from the areas proposed for development projects without settlement of their rights or due compliance with safeguards in violation of the provisions of the Act. The claims are being rejected in some States as the officials are insisting on certain types of evidences and the new technology, such as, satellite imagery, is being used as the only form of evidence for consideration of a claim, instead of using the same to supplement the evidences submitted by the claimants in support of their claims. Inadequate public awareness about the provisions of the Act, particularly the provisions relating to the filing of petitions by the persons aggrieved by the decisions of the authorities prescribed under the Act, inadequate training of the implementing officials etc. are also some of the reasons for non-implementation of the Act in its letter and spirit.

4. In order to address the above concerns and to ensure effective implementation of the Act, the Ministry has undertaken an exercise to arrive at certain provisions/ steps which will facilitate robust implementation of the Act. Certain guidelines as indicated in the **Annexure** to this letter are accordingly being issued for compliance by all the State Governments/ UT Administrations. It is requested that the enclosed guidelines may be brought to the notice of all the implementing agencies in your State/UT for strict compliance. This Ministry may also kindly be apprised of the action taken for operationalising these guidelines at an early date.

5. This issues with the approval of competent authority.

cjp.org.in

Yours faithfully,

(Sadhana Rout)
Joint Secretary to the Government of India
Tele: 23383622

Copy also forwarded to State Principal Secretaries/Secretaries in-charge of Tribal Welfare/Development Departments for urgent necessary action.

(Sadhana Rout)
Joint Secretary to the Government of India

Government of India
Ministry of Tribal Affairs

Guidelines on the implementation of the Scheduled Tribes and Other
Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 seeks to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded. The Act was notified for operation with effect from 31.12.2007 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 for implementing the provisions of the Act were notified on 1.1.2008.

Over a period of last four years of implementation of the Act, some problems impeding the implementation of the Act in its letter and spirit have come to the notice of the Ministry of Tribal Affairs, such as, convening of Gram Sabha meetings at the Panchayat level resulting in exclusion of smaller habitations not formally part of any village; non-recognition of un-hindered rights over the minor forest produce (MFP) to forest dwellers; non-recognition of other community rights; harassment and eviction of forest dwellers without settlement of their forest rights; rejection of claims by insisting on certain types of evidences, inadequate awareness about the provisions of the Act and the Rules etc.

In order to address the above concerns and with a view to ensure effective implementation of the Act, the following guidelines are issued on various aspects of implementation of the Act for compliance by all the State Governments/UT Administrations:

i) Process of Recognition of Rights:

(a) The State Governments should ensure that on receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue Departments remain present during the verification of the claims and the evidence on the site.

b) In the event of modification or rejection of a claim by the Gram Sabha or by the Sub-Divisional Level Committee or the District Level Committee, the decision on the claim should be communicated to the claimant to enable the aggrieved person to prefer a petition to the Sub-Divisional Level Committee or the District Level Committee, as the case may be, within the sixty days period prescribed under the Act and no such petition should be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

c) The Sub-Divisional Level Committee or the District Level Committee should, if deemed necessary, remand the claim to the Gram Sabha for reconsideration instead of rejecting or modifying the same, in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination.

- d) In cases where the resolution passed by the Gram Sabha, recommending a claim, is upheld by Sub-Divisional Level Committee, but the same is not approved by the District Level Committee, the District Level Committee should record the reasons for not accepting the recommendations of the Gram Sabha and the Sub-Divisional Level Committee, in writing, and a copy of the order should be supplied to the claimant.
- e) On completion of the process of settlement of rights and issue of titles as specified in Annexures II, III & IV of the Rules, the Revenue / Forest Departments shall prepare a final map of the forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the prescribed cycle of record updation.
- f) All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution/ recommendation should be in the form of speaking orders.
- g) The Sub-Divisional Level Committee or the District Level Committee should not reject any claim accompanied by any two forms of evidences, specified in Rule 13, and recommended by the Gram Sabha, without giving reasons in writing and should not insist upon any particular form of evidence for consideration of a claim. Fine receipts, encroacher lists, primary offence reports, forest settlement reports, and similar documentation rooted in prior official exercises, or the lack thereof, would not be the sole basis for rejection of any claim.
- h) Use of any technology, such as, satellite imagery, should be used to supplement evidences tendered by a claimant for consideration of the claim and not to replace other evidences submitted by him in support of his claim as the only form of evidence.
- i) The status of all the claims, namely, the total number of claims filed, the number of claims approved by the District Level Committee for title, the number of titles actually distributed, the number of claims rejected, etc. should be made available at the village and panchayat levels through appropriate forms of communications, including conventional methods, such as, display of notices, beat of drum etc.
- j) A question has been raised whether the four hectare limit specified in Section 4(6) of the Act, which provides for recognition of forest rights in respect of the land mentioned in clause (a) of sub-section (1) of section 3 of the Act, applies to other forest rights mentioned in Section 3(1) of the Act. It is clarified that the four hectare limit specified in Section 4(6) applies to rights under section 3(1)(a) of the Act only and not to any other right under section 3(1), such as conversion of pattas or leases, conversion of forest villages into revenue villages etc.

ii) **Minor Forest Produce:**

(a) The State Government should ensure that the forest rights relating to MFPs under Section 3(1)(c) of the Act are recognized in respect of all MFPs, as defined under Section 2(i) of the Act, in all forest areas, and state policies are brought in alignment with the provisions of the Act. Section 2(i) of the Act defines the term "minor forest produce" to include "all non-timber produce of plant origin, including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers, and the like".

(b) The monopoly of the Forest Corporations in the trade of MFP in many States, especially in case of high value MFP, such as, tendu patta, is against the spirit of the Act and should henceforth be done away with.

(c) The forest right holders or their cooperatives/ federations should be allowed full freedom to sell such MFPs to anyone or to undertake individual or collective processing, value addition, marketing, for livelihood within and outside forest area by using locally appropriate means of transport.

(d) The State Governments should exempt movement of all MFPs from the purview of the transit rules of the State Government and, for this purpose, the transit rules be amended suitably. Even a transit permit from Gram Sabha should not be required. Imposition of any fee/charges/royalties on the processing, value addition, marketing of MFP collected individually or collectively by the cooperatives/ federations of the rights holders would also be ultra vires of the Act.

(e) The State Governments need to play the facilitating role in not only transferring unhindered absolute rights over MFP to forest dwelling Scheduled Tribes and other traditional forest dwellers but also in getting them remunerative prices for the MFP, collected and processed by them

iii) **Community Rights:**

(a) The District Level Committee should ensure that the records of prior recorded nistari or other traditional community rights (such as Khatian part II in Jharkhand, and traditional forest produce rights in Himachal and Uttarakhand) are provided to Gram Sabhas, and if claims are filed for recognition of such age-old usufructory rights, such claims are not rejected except for valid reasons, to be recorded in writing, for denial of such recorded rights;

(b) The District Level Committee should also facilitate the filing of claims by pastoralists before the concerned Gram Sabha (s) since they would be a floating population for the Gram Sabha(s) of the area used traditionally.

(c) In view of the differential vulnerability of Particularly Vulnerable Tribal Groups (PTGs) amongst the forest dwellers, District Level Committee should play a pro-active role in ensuring that all PTGs receive

habitat rights in consultation with the concerned PTGs' traditional institutions and their claims for habitat rights are filed before the concerned Gram Sabhas.

(d) The forest villages are very old entities, at times of pre-independent era, duly existing in the forest records. The establishment of these villages was in fact encouraged by the forest authorities in the pre-independent era for availability of labour within the forest areas. The well defined record of each forest village, including the area, number of inhabitants, etc. exists with the State Forest Departments. There are also unrecorded settlements and old habitations that are not in any Government record. Section 3(1)(h) of the Act recognizes the right of forest dwelling Scheduled Tribes and other traditional forest dwellers relating to settlement and conversion on forest villages, old habitation, un-surveyed villages and other villages and forests, whether recorded, notified or not into revenue villages. The conversion of all forest villages into revenue villages and recognition of the forest rights of the inhabitants thereof should actually have been completed immediately on enactment of the Act. The State Governments may, therefore, convert all such erstwhile forest villages, unrecorded settlements and old habitations into revenue villages with a sense of urgency in a time bound manner. The conversion would include the actual land-use of the village in its entirety, including lands required for current or future community uses, like, schools, health facilities, public spaces etc. Records of the forest villages maintained by the Forest Department may thereafter be suitably updated on recognition of this right.

iv) **Community Forest Resource Rights:**

(a) The State Government should ensure that the forest rights under Section 3(1)(i) of the Act relating to protection, regeneration or conservation or management of any community forest resource, which forest dwellers might have traditionally been protecting and conserving for sustainable use, are recognized in all villages and the titles are issued as soon as the prescribed Forms for claiming Rights to Community Forest Resource and the Form of Title for Community Forest Resources are incorporated in the Rules. Any restriction, such as, time limit, on use of community forest resources other than what is traditionally imposed would be against the spirit of the Act.

b) In case no community forest resource rights are recognized in a village, the reasons for the same should be recorded. Reference can be made to existing records of community and joint forest management, van panchayats, etc. for this purpose.

c) The Gram Sabha would initially demarcate the boundaries of the community forest resource as defined in Section 2(a) of the Act for the purposes of filing claims for recognition of forest right under Section 3(1)(i) of the Act.

d) The Committees constituted under Rule 4(e) of the Forest Rights Rules, 2008 would work under the control of Gram Sabha. The State Agencies should facilitate this process.

e) Consequent upon the recognition of forest right in Section 3(i) of the Act to protect, regenerate or conserve or manage any community forest resource, the powers of the Gram Sabha would be in consonance with the duties as defined in Section 5(d), wherein the Gram Sabha is empowered to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the bio-diversity. Any activity that prejudicially affects the wild-life, forest and bio-diversity in forest area would be dealt with under the provisions of the relevant Acts.

v) **Protection Against Eviction, Diversion of Forest Lands and Forced Relocation :**

(a) Section 4(5) of the Act is very specific and provides that no member of a forest dwelling Scheduled Tribe or other traditional forest dwellers shall be evicted or removed from the forest land under his occupation till the recognition and verification procedure is complete. This clause is of an absolute nature and excludes all possibilities of eviction of forest dwelling Scheduled Tribes or other traditional forest dwellers without settlement of their forest rights as this Section opens with the words "Save as otherwise provided". The rationale behind this protective clause against eviction is to ensure that in no case a forest dweller should be evicted without recognition of his rights as the same entitles him to a due compensation in case of eventuality of displacement in cases, where even after recognition of rights, a forest area is to be declared as inviolate for wildlife conservation or diverted for any other purpose. In any case, Section 4(1) has the effect of recognizing and vesting forest rights in eligible forest dwellers. Therefore, no eviction should take place till the process of recognition and vesting of forest rights under the Act is complete.

(b) The Ministry of Environment & Forests, vide their letter No.11-9/1998-FC(pt.) dated 30.07.2009, as modified by their subsequent letter of the same number dated 03.08.2009, has issued directions, requiring the State/ UT Governments to enclose certain evidences relating to completion of the process of settlement of rights under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, while formulating unconditional proposals for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980. The State Government should ensure that all diversions of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 take place in compliance with the instructions contained in the Ministry of Environment & Forest's letter dated 30.07.2009, as modified on 03.08.2009.

(c) There may be some cases of major diversions of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 after the enactment of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 but before the issue of Ministry of Environment & Forests' letter dated 30.07.2009, referred to above. In case, any evictions of forest dwelling Scheduled Tribes and other

:: 6 ::

traditional forest dwellers have taken place without settlement of their rights due to such major diversions of forest land under the Forest (Conservation) Act, 1980, the District Level Committees may be advised to bring such cases of evictions, if any, to the notice of the State Level Monitoring Committee for appropriate action against violation of the provisions contained in Section 4(5) of the Act.

(d) The Act envisages the recognition and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers over all forest lands, including National Parks and Sanctuaries. Under Section 2(b) of the Act, the Ministry of Environment & Forests is responsible for determination and notification of critical wildlife habitats in the National Parks and Sanctuaries for the purpose of creating inviolate areas for wildlife conservation, as per the procedure laid down. In fact, the rights of the forest dwellers residing in the National Parks and Sanctuaries are required to be recognized without waiting of notification of critical wildlife habitats in these areas. Further, Section 4(2) of the Act provides for certain safeguards for protection of the forest rights of the forest rights holders recognized under the Act in the critical wildlife habitats of National Parks and Sanctuaries, when their rights are either to be modified or resettled for the purposes of creating inviolate areas for wildlife conservation. No exercise for modification of the rights of the forest dwellers or their resettlement from the National Parks and Sanctuaries can be undertaken, unless their rights have been recognized and vested under the Act. In view of the provisions of Section 4(5) of the Act, no eviction and resettlement is permissible from the National Parks and Sanctuaries till all the formalities relating to recognition and verification of their claims are completed. The State/ UT Governments may, therefore, ensure that the rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers, residing in National Parks and Sanctuaries are recognized first before any exercise for modification of their rights or their resettlement, if necessary, is undertaken and no member of the forest dwelling Scheduled Tribe or other traditional forest dweller is evicted from such areas without the settlement of their rights and completion of all other actions required under section 4 (2) of the Act.

(e) The State Level Monitoring Committee should monitor compliance of the provisions of Section 3(1)(m) of the Act, which recognizes the right to in situ rehabilitation including alternative land in cases where the forest dwelling Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land without receiving their legal entitlement to rehabilitation, and also of the provisions of Section 4(8) of the Act, which recognizes their right to land when they are displaced from their dwelling and cultivation without land compensation due to State development interventions.

64

vi) **Awareness-Raising, Monitoring and Grievance Redressal :**

a) Each State should prepare suitable communication and training material in local language for effective implementation of the Act.

b) The State Nodal Agency should ensure that the Sub Divisional Level Committee and the District Level Committee make district-wise plans for trainings of revenue, forest and tribal welfare departments' field staff, officials, Forest Rights Committees and Panchayat representatives. -Public meetings for awareness generation in those villages where process of recognition is not complete need to be held.

c) In order to generate awareness about the various provisions of the Act and the Rules, especially the process of filing petitions, the State Government should organize public hearings on local bazaar days or at other appropriate locations on a quarterly basis till the process of recognition is complete. It will be helpful if some members of Sub Divisional Level Committee are present in the public hearings. The Gram Sabhas also need to be actively involved in the task of awareness raising.

d) If any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or Gram Sabha through a resolution against any higher authority or Committee or officer or member of such authority or Committee gives a notice as per Section 8 of the Act regarding contravention of any provision of the Act or any rule made thereunder concerning recognition of forest rights to the State Level Monitoring Committees, the State Level Monitoring Committee should hold an inquiry on the basis of the said notice within sixty days from the receipt of the notice and take action, if any, that is required. The complainant and the Gram Sabha should be informed about the outcome of the inquiry.

ITEM NOS.301+303 COURT NO.1 SECTIONS XV,IVA,PIL

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A.No.2167 with I.A.1440 in 1413 IN W.P.(C)No.202/1995

T.N. GODAVARMAN THIRUMULPAD Petitioner(s)

VERSUS

UNION OF INDIA & ORS Respondent(s)

(4 th Report of CEC & Direction)

WITH

I.A.No.2217-2218 in 2167 in W.P.(C)No.202/1995

WITH

I.A.No.2166,2168,2169,2170 in I.A.Nos.1413, 1414, 1426, 1428,
1454,1459, 1460,1662-1663, 1675, 1778, 2005-2006, 2121-2125, 2127-
2128,2130-2132, 2133, 2177-2178, 2179-2180, 2181-2182, 2183-2184,
2126,2129, 2216 in 1413 IN W.P.(C)No.202/1995
(Report of CEC 3rd, 5th to 7th for constitution of FAC and orders/
directions/ modification/ clarification/ impleadment/exemption from filing
O.T.)

WITH

I.A.NO.2163 in 1413 in W.P.(C)No.202/1995(CEC 4th Report)
(for impleadment/directions)

AND

I.A.Nos.1572,1578 & 2190 in W.P.(C)No.202/1995
(For permission to carry out the project work and bringing on record the
addl.grounds and facts and recommendations of C.E.C. & Intervention)
(With file of W.P.(C)No.144/06)

WITH

CONMT.PET.(C)NO.114/2007 IN I.A.NOS.1572&1578 IN
W.P.(C)No.202/1995
(With appln.(s) for exemption from appointment of Official Translator and
impleadment)

RAJASTHAN(MINING)

I.A.No.828 with 833, 834-835, 837-838, 846-847, 893-894, 901-902, 903,
904, 1310-1310 A in I.A.No.833 in I.A.No.828, 1329, 1330, 1331-1332,
1450-1452 in 1310, 2086 in 1329-1330 in 1310 in W.P.(C)No.202/1995
(Monitoring report of C.E.C. regarding illegal mining in Aravalli Hills and
Appln. For directions/ impleadment/ modification/ clarification/
amendment in I.A./exemption from filing O.T., Intervention and permission
to file Addl.documents)

WITH
 SLP(C)NO.3353/2003 (With appln.(s) for c/delay in filing SLP and accepting English translation and permission to place addl. documents on record and exemption from filing O.T. and permission to file affidavit and c/delay and office report)
 (For final disposal)

WITH
 C.A.No.7363/2000
 (With appln.(s) for directions and permission to place addl.documents on record and office report)

C.A.No.7364/2000
 (With appln.(s) for permission to place addl.documents on record and directions and office report)

C.A.No.7365/2000
 (With appln.(s) for permission to place addl.documents on record and directions and office report)

AND
 I.A.Nos.208-209, 241-242, 245, 268-269, 1704-1706 & I.A.No.1710-1712, 2024-2026, 2027-2029, 2030-2032, 2033-2035, 2036-2038, 2039-2041, 2042-2044, 2045-2047, 2048-2050, 2051-2053, 2055-2056 in I.A.No.208-209 in W.P.(C)No.202/1995
 (For intervention, directions, stay and exemption from filing O.T., recommendation of C.E.C. & Impleadment, clarification/ direction)

WITH
 I.A.No.1692 in I.A.No.385 in W.P.(C)No.202/1995
 (For modification of order dt.5.5.98 and recommendation of C.E.C.)

WITH
 I.A.Nos.1950-1951 in W.P.(C)No.202/1995
 (For direction and exemption from filing O.T.)

WITH
 I.A.Nos.1989-1990 in W.P.(C)No.202/1995
 (For permission to reopen the Saw Mill and exemption from filing O.T.)

AND
 I.A.NO.2211 IN 1424-1425 IN W.P.(C)NO.202/1995
 (For clarification of Court's Order dt.29.2.2008)

AND
 I.A.NO.2212 IN W.P.(C)NO.202/1995
 (For impleadment/directions)

AND
 I.A.NOS.1516,1541-1542, 1543-1544, 1545-1546, 1547-1548, 1549-1551, 1552-1553 & 1554-1556
 (For impleadment, direction & exemption from filing O.T.)

AND

I.A.NO.1349 IN 1246-1247, 1378-1380, 1446-1447 & 1502 IN
W.P.(C)NO.202/1995

(Recommendation of C.E.C. in I.A.1246-47, direction,impleadment, stay
and exemption from filing O.T.)

I.A.Nos.1598-1600 in W.P.(C)NO.202/1995

(For impleadment & directions and exemption from filing O.T.)

AND

W.P.(C)NO.50/2008 (with office report)

I.A.NOS.1000 with 982-984, 1026-28 & 1123-24, 1197-99 AND 1210-11,
1250-51, 1512 IN

WRIT PETITION (CIVIL) NO(s). 202 OF 1995

(Recommendation of CEC and appln. for directions and exemption from
filing O.T. and impleadment)

I.A.Nos.1485 & 1507 in W.P.(C) No.202/1995

(For permission and recommendations of CEC)

AND I.A.Nos.1412 in I.A.No.887 in W.P.(C) No.202/1995

(For clarification of Order dt.14.7.2003 in IA 887 & report of CEC)

WITH I.A.No.1992 in W.P.(C) No.202/1995

(For clarification of order dt.4.8.2006)

WITH

S.L.P.(C) No.9241/2007

(With appln.(s) for exemption from filing O.T. and with prayer for interim
relief and office report)

WITH S.L.P.(C) No.14575/2007

(With appln.(s) for permission to file SLP and with prayer for interim relief
and office report)

AND NPV MATTERS

I.A.Nos.826 in 566 with 955 in 566, 958, 985, 1001-1001A, 1013-1014,
1016-1018, 1019, 1046, 1047, 1135-1136, 1164, 1180-1181, 1182-1183,
1196, 1208-1209, 1222-1223, 1224-1225, 1229, 1233 in 1135-1136, 1248-
1249, 1253, 1301-1302, 1303-1304, 1312, 1313, 1314, 1318, 1319 in 1137,
1325, 1364, 1365-1366, 1370-1370A, 1371, 1384, 1385-1386, 1387, 1434,
1435- 1437, 1438, 1441 with 1634, 1475-1476, 1513, 1573, 1639 in 1135-
1136 in IA 566, 1664, 1665, 1671, 1676, 1707, 1721, 1779 in 1164 in 566,
1785-1786 in IA 1441, 1980-1981, 1993, 2013, 2074-2076, 2077-2078 in
1441 & 2098 in 1233 in 1135-1136, 2145-2146, 2147-2148, 2149-
2150 & 2153-2154 in 566 in W.P.(C) No.202/1995

(Recommendation of CEC in IA No.566 and application for modification
of court's order/directions/permission to file appln. for modification/
impleadment/exemption from filing

O.T./intervention/clarification of order and report/ recommendation of CEC/urgent listing of appln. and placing on record the accompanying affidavit and permission)

WITH I.A.No.1137 in 566 in W.P.(C) No.202/1995
(For exemption from depositing NPV)

AND I.A.No.2143 in W.P.(C) No.202/1995
(Report of CEC regarding the non-utilisation of funds received towards the net present value)

AND
W.P.(C)NO.109/2008
(With appln.(s) for ex-parte stay and office report)

Date: 28/03/2008 This Petition/appln.s was/were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE Dr. JUSTICE ARIJIT PASAYAT
HON'BLE MR. JUSTICE S.H. KAPADIA

For Petitioner(s) Mr. Harish N. Salve, Sr.Adv. (A.C.)
Mr. Uday U. Lalit, Sr.Adv. (A.C.)(N.P.)
Mr. Siddhartha Chowdhury, Adv. (A.C.)

Mr. P.K. Manohar, Adv.

in SLP 9241/07: Mr.Viplav Sharma, Adv.
Mr.Amit Kr.Chawla, Adv. '
Mr. Sanjay R. Hegde, Adv.

in SLP 14575/07: Mr.Anurag Singh, Adv.
Ms. Naresh Bakshi, Adv.

W.P.(C)NO.50/08 Mr.Raj Panjwani, Adv.
Ms.Purnima Bhat Kak, Adv.

For Respondent(s)

UOI: Mr. G.E.Vahanvati, S.G.
Mr. A.Saran, ASG
Mr. P. Parmeswaran, Adv.
Mr. Harris Beeran, Adv.
Mr.D.S.Mahra, Adv.

I.A.No.2167 Mr.G.E.Vahanvati, Sol.Genl.of India
Mr.Gopal Subramaniam, ASG
Ms.Alka Sharma, Adv.

For UFDC Ms.Rachana Srivastava,Adv.
I.A.No.2163 Mr.K.K.Venugopal, Sr.Adv.

Mr.Ajit Pudussery, Adv.

For Respondent(s)

Applicant(s) in
IA 2177-78,2179-80, Mr. F.S. Nariman, Sr.Adv.

- 2181-82&2183-84 Mr. Sunil Dogra, Adv.
Mr. S.U.K. Sagar, Ms.Bina Madhavan, Adv.
for M/s. Lawyer's Knit & Co., Adv.
- For Applicant(s) in
IA 1459,1662-63 & Mr. Sunil Dogra, Adv.
1349 Mr. S.U.K. Sagar, Ms.Bina Madhavan, Adv.
for M/s. Lawyer's Knit & Co., Adv.
- I.A.No.1516,1541-1542, Mr.L.Ngeswara Rao, Sr.Adv.
1543-1544, 1545-46, Mr.G.Ramakrishna Prasad, Adv.
1547-48,1554-1556 in Mr.Suyodhan Byrapaneni, Adv.
- W.P.(C)No.202/95 Mr.Siddharth Patnaik, Adv.
Mr.G.Arun, Adv.
- I.A.No.2129 Mr.Pratap Venugopal, Adv.
Mr.Dileep Poolakkot, Adv.
- Mr.Arun Jaitley, Sr.Adv.
Mr.Mukul Rohtagi, Sr.Adv.
Mr.Sanjeev Kumar, Adv.
Mr.Kumar Mihir, Adv.
For M/s.Khaitan & Co., Adv.
- W.P.(C)NO.50/08 Mr.Tara Chandra Sharma, Adv.
I.A.Nos.1707,932 in Mr.Mukul Rohtagi, Sr.Adv.
819-832 & 1710-12 Mr.Ajay Sharma, Adv.
Ms.Tasleem Ahmadi, Adv.
- I.A.Nos.1572&1578 Mr.V.C.Mahajan, Sr.Adv.
Mr.R.S.Jena, Adv.
- SLP(C)No.3353 Mr.Manu Nair, Adv.
Mr.Anuj Puri, Adv.
- I.A.No.566,1572&1424 Mr.Gilda, AAG
Ms.Nidhi Minocha, Adv.
Mr.Rajesh Srivastava, Adv.
- IA 1980-81: Mr. Sanjib Sen, Adv.
Mr. Ratna Kaul, Adv.
Mr. Prashant Kumar, Adv.
for M/s. APJ Chambers, Adv.
- I.A.No.1992 Mr. Viplav Sharma, Adv.
Mr.Amit Kr.Chawla, Adv.
Mr.Sanjay R.Hegde, Adv.
- IA 826: Mr. Manjit Singh, Adv.
Mr. T.V. George, Adv.
- IA 1993: Mr. Dhruv Mehta, Adv.
Mr. Harshvardhan Jha, Mr.Yashraj S. Deora, Adv.
for M/s. K.L.Mehta & Co., Adv.
- IA 2086: Mr. Dhruv Mehta, Adv.
Mr. Harshvardhan Jha, Mr.Yashraj S. Deora, Adv.
Ms.Shobha, Adv.
for M/s. K.L.Mehta & Co., Adv.
- I.A.Nos.1450-52 Mr.Pallav Shishodia, Adv.
Mr.H.D.Thanvi, Adv.
Ms.Manju Mishra, Adv.
Mr.D.N.Mishra, Adv.
- I.A.No.2213 Mr.M.L.Lahoty, Adv.(in person)

- I.A.No.1349 Mr.Bhupender Yadav, Adv.
Mr.S.S.Shamshery, Adv.
- W.P.(C)No.50/08 Mr.Parag Tripathi, ASG
Mr.P.V.Dinesh, Adv.
Ms.Sindhu T.P., Adv.
- I.A.No.1572 in 2190 Mr.A.V.Rao, Adv.
Mr.Prabhakar Parnam, Adv.
Mr.Venkateshwara Rao Anumolu, Adv.
- I.A.Nos.1598-1600 Mr.Ranjit Kumar, Sr.Adv.
Mr.Ajai Bhalla, Adv.
Ms.Abha R.Sharma, Adv.
Mr. Vikas Mahajan, Adv.
Mr. D.B. Vohra, Adv.
- M/O Defence: Mr. Wasim A. Qadri, Adv.
Mr.Jubair Ahmad Khan, Adv.
Mr. B.K. Prasad, Adv.
- IA 1000: Ms. Aruna Gupta, Adv.
Ms. Sumita Hazarika, Adv.
- IA 1485: Mr. P.S. Narasimha, Adv.
Mr. Sridhar Potaraju, Adv.
Mr. D. Julius R., Adv.
- IA 1435-37: Mr. S.C.Patel, Adv.
- TISCO: Mr.Gopal Jain, Adv.
Mr. R.N. Karanjawala, Adv.
Mrs. M. Karanjawala, Adv.
Ms. Nandini Gore, adv.
Mr. Debmalya Banerjee, Adv.
Ms. Sonia Nigam, Adv.
- IA 1233,2098,2133: Mr. R.P. Bhatt, Sr.Adv.
Mr. Dattatray Vyas, Adv.
Mrs. Mahima C. Shroff, Adv.
Mr. Chirag M. Shroff, Adv.
- IA 1475-76: Mr. Altaf Ahmed, Sr.Adv.
Mr. H.K.Puri, Adv.
Mr. S.K.Puri, Adv.
Mrs. Priyavri, Adv.
Mr. V.M. Chauhan, Adv.
- IA 1248-49: Mr. V.A. Mohta, Sr.Adv.
Mr. J.T. Gilda, Adv.
Mr. Manish Pitale, Adv.
Mr. C.S.Ashri, Adv.
- IA 2013: Mr. Nikhil Nayyar, Adv.
Mr. Ankit Singhal, Adv.
Mr. T.V.S. Raghavendra Sreyas, Adv.
- IA 1707,932 in
IA 819-821: Mr. Ajay Sharma, Adv.
Ms. Tasleem Ahmadi, Adv.
- IA 1779: Mr. S.B. Upadhyay, Sr.Adv.
Mr. R.R.Dubey, Adv.
Mr. Santosh Mishra, Adv.
Mrs. Sharmila Upadhyay, Adv.
- I.A.Nos.2126&2129 Mr.Bhavanishankar V.Gadnis, Adv.

- Ms.B.Sunita Rao, Adv.
 State of MP: Mr. B.S.Banthia, Adv.
 Mr.Vikas Upadhyay, Adv.
 : Mr. A.V. Savant, Sr.Adv.
 in IA 1229 Mr. A.P. Mayee, Adv.
 in IA 1137: Mr. A.V. Savant, Sr.Adv.
 Mr. G.Prakash, Adv.
 Mr.Mukul Rohtagi, Sr.Adv.
 Mr.Umapathy, Adv.
 Mr.N.M.Popli, Adv.
 Mrs. Asha G. Nair, Adv.
 I.A.No.2005-2006 Mr.M.P.Singh, Adv.
 Dr.(Mrs.)Vipin Gupta, Adv.
 State of Goa: Ms. A.Subhashini, Adv.
 St. of UP: Mr. Savitri Pandey, Adv.
 Mr. Mohd. Fuzail Khan, Adv.
 Mr. Anil Kr. Jha, Adv.
 St. of Karnataka: Mr. Sanjay R. Hegde, Adv.
 Mr. Amit Kr. Chawla, Adv.
 Mr. Arul Varma & Vikrant Yadav, Advs.
 St. of Manipur: Mr. KH. Nobin Singh, Adv.
 Mr. David Rao, Adv.
 Mr. Tarun Jamwal, Adv.
 Mr. S. Biswajit Meitei, Adv.
 Mr. Vijay Prakash, Adv.
 St.of Rajasthan: Mr. Aruneshwar Gupta, AAG.
 Mr. Naveen Kr. Singh, Adv.
 Mr. Shashwat Gupta, Adv.
 I.A.Nos.1549-1551, Mr.Arun Jaitley, Sr.Adv.
 1552-1553 Mr. S.U.K. Sagar, Ms.Bina Madhavan, Advs.
 for M/s. Lawyer's Knit & Co., Advs.
 St. of Punjab: Mr. Kuldip Singh, Adv.
 Mr. R.K. Pandey, Adv.
 Mr. H.S.Sandhu, Adv.
 I.A.No.1428 Mr.Anil Karnwal, Adv.
 Dr.Sushil Balwada,Adv.
 I.A.Nos.1424-1425 Mr.Mukul Rohtagi, Sr.Adv.
 Mr.E.C.Agrawala, Adv.
 Mr.Mahesh Agarwal, Adv.
 Mr.Rishi Agrawala, Adv.
 Mr.Ashutosh Garg, Adv.
 Ms.Neha Aggarwal, Adv.
 Mr.Gourav Goyal, Adv.
 State of Assam: Ms. Momta Oinam, Adv.
 for M/s. Corporate Law Group, Advs.
 State of Mizoram: Mr. K.N. Madhusoodhanan, Adv.
 Mr. R.Sathish, Adv.
 St.of Al.Pradesh: Mr. Anil Shrivastav, Adv.
 Mr. Ritu Raj, Adv.
 I.A.Nos.2121-2132 Mr.Pratap Venugopal, Adv.
 Ms.Surekha Raman, Adv.
 Mr.Dileep P., Adv.

- I.A.No.1675 For M/s.K.J.John & Co., Adv.
Mr.P.P.Rao, Sr.Adv.
Mr.Raj Kumar Mehta, Adv.
Mr.Mragank, Adv.
Ms.Nalini Pal, Adv.
- I.A.Nos.1253,1371, Mr.Raj Kumar Mehta, Adv.
1664 Mr.Mragank,Adv.
Ms.Nalini Pal, Adv.
- I.A.No.2212 Mr.Vishnu B.Saharya, Adv.
For M/s.Saharya &Co., Adv.
- For other parties:
Ms. Suchitra A. Chitale, Adv.
Mr. P.V. Yogeswaran, Adv.
Mr. Ejaz Maqbool, Adv.
Mr.P.H.Parekh, Sr.Adv.
For M/s. Parekh & Co., Adv.
Mr. V. Balachandran, Adv.
Mr. Vijay Kumar, Adv.
Mr. K.R.Sasiprabhu, Adv.
Ms. Sangeeta Kumar, Adv.
- I.A.No.1196 Mr.Rajesh, Adv.
Mr.Alok Rai, Adv.
Mr.S.Sukumar, Adv.
Mr. B.P. Singh, Adv.
Mr. Sanjeev Kumar, Adv.
Ms. Sarla Chandra, Adv.
Mr. Mukesh K. Giri, Adv.
- I.A.Nos.2167 with Mr. Kailash B., Sr.Adv.
I.A.1440 Mr.Gopal Singh, Adv.
Mr.Anukul Raj, Adv.
Mr. Ajit Kr. Sinha, Adv.
Mr. Himinder Lal, Adv.
Mr.Altaf H.Naiyak, AG
Mr. Anis Suhrawardy, Adv.
Mr.Mehedi Imam, Adv.
Mr.Ashwani Garg, Adv.
Mrs.Hemantika Wahi, Adv.
Ms.Pinky, Adv.
Ms.Jesal, Adv.
Mr. V.B. Joshi, Adv.
- I.A.No.1980-81 Mr.Sanjib Sen, Adv.
Ms.Ratna Kaul, Adv.
Mr.Prashant Kumar, Adv.
- For MCD Mr.Sanjiv Sen, Adv.
Mr.Praveen Swarup, Adv.
- I.A.No.566 Mr.S.Akbar Abbas Abdi, Adv.
Ms.Archana Singh, Adv.
Mr.Anil Kr.Jha, Adv.
Ms.Savitri Pandey, Adv.

UPON hearing counsel the Court made the following
ORDER .

I.A.Nos.1000 with 982/984, 1026-28 & 1123-24, 1197-99 and 1210-11,
1250-51, 1512 in W.P.(C)No.202/1995:

List on 23rd and 24th July, 2008 (whole day).

NPV Matters:

List the transmission lines, wind energy, Govt.project matters, public utility
project matters, Hydro-electric power project matters, hydel and irrigation
projects, construction of roads on acquired land, railways on 24th April,
2008 at 2.00 p.m.

Rest of the NPV Matters (including Mining)- list after two weeks
thereafter.

FAC Matters including 2167 and 2217-2218:

List on 4th April, 2008.

I.A.No.2163:

List on 4th April, 2008 as first item.

The report of the CEC be considered by the MoEF and it may give its
response before the next date of hearing.

I.A.No.2143:

List on 4.4.2008.

W.P.(C)Nos.50/2008 and 109/2008:

Issue notice.

Rest of the matters on board today:

Adjourned.

(G.V.Ramana)
Court Master

(Veera Verma)
Court Master

ITEM NO.15

COURT NO.1

SECTION PII

Annexure R/13 74

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

WRIT PETITION (CIVIL) NO(s). 50 OF 2008

BOMBAY NATURAL HISTORY STY. & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln(s) for direction/stay and office report)

WITH W.P(C) NO. 109 of 2008

(With appln. for ex-parte stay and permission to file addl. documents and office report)

T.P.(C) NO.414-417/2008

(With appln. for stay and office report)

T.P.(C) NO.179-180/2009

(With appln. for ex-parte stay and office report)

Date: 02/03/2009 These Petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE P. SATHASIVAM

For Petitioner(s) Mr. Raj Panjwani, Adv.
Ms. Purnima Bhat, Adv.

Mr. P.K. Manohar, Adv.

Mr. F.S. Nariman, Sr. Adv.

Mr. P. Parmeshwaran, Adv.

Mr. Navin Prakash, Adv., Mr. T.A. Khan, Adv.

For Mr. D.S. Mahra, Adv.

For Respondent(s) Mr. Tara Chandra Sharma, Adv.
Ms. Neelam Sharma, Adv.

Dr. Manish Singhvi, AAG, Raj.

Mr. Milin Kumar, Adv.

Ms. Madhurima Tatia, Adv.

Mr. Aruneshwar Gupta, Adv (N.P.)

Mr. G. Prakash, Adv

Mr. Rituraj Biswas, Adv.

For Mr. Gopal Singh, Adv

Ms. Kamini Jaiswal, Adv

Ms. Aruna Mathur, Adv.

For M/S Arputham, Aruna & Co., Adv

Mr. Ranjan Mukherjee, Adv

Mr. Anil Kumar Jha ,Adv

Mr. Vikas Upadhyay, Adv,
Mr. B.S. Banthia ,Adv

Mr. Khwairakpam Nobin Singh ,Adv

Ms. Asha Gopalan Nair ,Adv

Mr. Riku Sarma, Adv.
For M/S Corporate Law Group ,Adv

Mr. Aniruddha P. Mayee ,Adv
Mr. Sanjeev Kr. Choudhary, Adv.
Mr. Sanjay Visen, Adv.

Mr. T.V. George ,Adv

Mr. K.N. Madhusoodhanan, Adv.
Mr. M.K. Michael, Adv.

Mr. M.S. Ganesh, Sr. Adv.
Ms. Shomona Khanna, Adv.
Mr. Nikhil Nayyar, Adv.

Mr. Syed Mehdi Imam, Adv.
Mr. Tabrez Ahmad, Adv.
For Mr. Anis Suhrawardy, Adv.

Mr. Anil Shrivastav, Adv.
Mr. Ritu Raj, Adv.

Mr. Edward Belho, Adv.
Mr. Rituraj Biswas, Adv.
Mr. P. Athuimei R. Naga, Adv.

UPCN hearing counsel the Court made the following
O R D E R


Post these matter before three-Judge Bench for considering the interim order passed by the High Court in transfer petitions. The Union of India is directed to implead all the respondents who are parties before the High Court.


List in the last week of April, 2009.

Respondent States have already been served, they are permitted to file counter affidavit in the meantime.

TP (C) No. 179-180/2009

Issue notice.


(R.K. Dhawan)
Court Master


(Veera Verma)
Court Master

76

Annexure R/4

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

FRIDAY, THE FIRST DAY OF MAY

TWO THOUSAND AND NINE

PRESENT:

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE R. KANTHA RAO

W.P.M.P NO: 23208 OF 2008 AND 2566 OF 2009

IN

W.P.NO: 21479 of 2007

WPMP.No. 23209/2008:

Between:

1. J.V. Sharma, IFS (Retired), S/o Subba Rao, R/o Block 27, Flat No.7, MIG II, APHB Quarters, Baghlingampally, Hyderabad-500 044.
2. L. Lohit Reddy, S/o Kodanda Reddy, Retired Deputy Conservator of Forests Flat No.103, Divyasakthi Apartments, Godavari Block, Navodaya Colony, Srinagar Colony Post, Hyderabad-500 073.
3. A.H. Qureshi, S/o late Mohd.Qamaruddin, R/o H.No.20-4-207/1, Himmatpura, Shalibanda Road, Hyderabad.

..... PETITIONERS

(Petitioners in WP.No : 21479 of 2007

on the file of High Court)

AND

1. Government of India, represented by its Secretary, Ministry of Tribal Affairs, Sastri Bhavan, New Delhi.
2. The Government of India, Ministry of Environment and Forests, represented by its Secretary, Paryavaran Bhavan, New Delhi-110 003.
3. Director General of Forests, Ministry of Environment and Forests, Paryavaran Bhavan, New Delhi-110 003.
4. The Government of Andhra Pradesh, represented by its Principal Secretary, Environment, Forests and Science & Technology

Department, A.P. Secretariat, Hyderabad-500 004.

5. The Principal Chief Conservator of Forests, Government of Andhra Pradesh, Aranya Bhavan, Saifabad, Hyderabad-500 004.
6. Sarla Mangireddy, S/o Mutyalureddy, Schedule Tribe (Kondareddy), Sarpanch of Pameleru panchayat R/o Kutrawada, H/o Pamuleru, Maredumili (M), East Godavari
7. Suvarnapaka Narsaiah, S/o Rangaiah, Scheduled Tribe (Koya), R/o Marriguda (V & PO), Kothaguda Mandal, Warangal
8. Chanda Ramaswamy, S/o Mutyapurayudu, Scheduled Tribe (Koya), R/o Karakagudem, H/o Thatigudem, Pinapaka Mandal, Khammam District
9. Kunjam Pandu Dora, S/o Chellanna Dora, Scheduled Tribe (Koya), R/o D. Bheemavaram (V & PO), Addateegala (M), East Godavari District
10. Palla Trinadha Rao, S/o Adinarayana, Resources for Legal Action, R/o 78-10-4/3, SBI Colony, Shyamalanagar, Rajahmundry, 533103, East Godavari District
11. Girijana Sangham, Regd. Society rep by its Secretary, R. Sriram Naik, Regd. No. 242/03, 1-1-60/2, RTC Cross Roads, Hyderabad. (Respondent No. 11 is impleaded as per court order dated 21-11-2008 in WPMP.No. 28171 of 2008)

.....RESPONDENTS

(Respondents in -do-)

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in W.P the High Court may be pleased to restrain the 4th respondent from taking steps for vesting of the Forest Rights including diversion of the forest land under Act 2 of 2007, pending W.P.No. 21479 of 2007 on the file of the High Court.

WPMP.NO. 2566/2009:

Between:

Government of Andhra Pradesh, rep by its Principal Secretary to Government, Tribal Welfare Department, Secretariat, Hyderabad.

..... Petitioner
(Proposed Respondent No. 11)

And

1. J.V. Sharma, IFS (Retired), S/o Subba Rao, R/o Block 27, Flat No.7, MIG II, APHB Quarters, Baghlingampally, Hyderabad-500 044.
2. L. Lohit Reddy, S/o Kodanda Reddy, Retired Deputy Conservator of Forests Flat No.103, Divyasakthi Apartments, Godavari Block, Navodaya Colony, Srinagar Colony Post, Hyderabad-500 073.
3. A.H. Qureshi, S/o late Mohd.Qamaruddin, R/o H.No.20-4-207/1, Himmatpura, Shalibanda Road, Hyderabad.
4. Government of India, represented by its Secretary, Ministry of Tribal Affairs, Sastri Bhavan, New Delhi.
5. The Government of India, Ministry of Environment and Forests, represented by its Secretary, Paryavaran Bhavan, New Delhi-110 003.
6. Director General of Forests, Ministry of Environment and Forests, Paryavaran Bhavan, New Delhi-110 003.
7. The Government of Andhra Pradesh, represented by its Principal Secretary, Environment, Forests and Science & Technology Department, A.P. Secretariat, Hyderabad-500 004.
8. The Principal Chief Conservator of Forests, Government of Andhra Pradesh, Aranya Bhavan, Saifabad, Hyderabad-500 004.
9. Sarla Mangireddy, S/o Mutyalureddy, Schedule Tribe (Kondareddy), Sarpanch of Pameleru panchayat R/o Kutrawada, H/o Pamuleru, Maredumili (M), East Godavari.
10. Suvarnapaka Narsaiah, S/o Rangaiah, Scheduled Tribe (Koya), R/o Marriguda (V & PO), Kothaguda Mandal, Warangal)
11. Chanda Ramaswamy, S/o Mutyapurayudu, Scheduled Tribe (Koya), R/o Karakagudem, H/o Thatigudem, Pinapaka Mandal, Khammam District
12. Kunjam Pandu Dora, S/o Chellanna Dora, Scheduled Tribe (Koya), R/o D. Bheemavaram (V & PO), Addateegala (M), East Godavari District
13. Palla Trinadha Rao, S/o Adinarayana, Resources for Legal

79

Action, R/o 78-10-4/3, SBI Colony, Shyamalanagar, Rajahmundry,
533103, East Godavari District

.... Respondents

(Respondents 1 to 10 in do)

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed in W.P the High Court may be pleased to permit the implead petitioner herein to issue certificate of title to eligible Forest Dwelling Scheduled Tribes and other Traditional Forest Dwellers under the Act, pending disposal of the W.P. NO. 21479 of 2007 on the file of the High Court.

These petitions coming on for hearing, upon perusing the Petition and the affidavit filed herein and upon hearing the arguments of the SHRI G. VIDYASAGAR, Advocate for the Petitioners in WPMP.No. 23208 of 2008 and of SRI.A. RAJASEKHAR REDDY, ASST SOLICITOR GENERAL for the respondents 1 to 3 in WPMP.NO.23208 of 2008 and of the Govt. Pleader for Forests for the respondents 4 and 5 in WPMP.NO. 23208 of 2008 and of Sri K. Bala Gopal Advocate for the respondents 6 to 10 in WPMP.NO. 23208 of 2008 and of Sri. V. Raghu Advocate for the No. 11 and of the Advocate General for the petitioner in WPMP. No. 2566 of 2009 and Sri G. Vidyasagar Advocate for the petitioner in WPMP.No. 2566 of 2009 and of Sri. A. Rajasekhar Reddy, Asst. Solicitor General for the respondents 4 to 6 in WPMP. No. 2566 of 2009 and of the Govt. Pleader for Forests for the respondents 7 and 8 in WPMP. No. 2566 of 2009 and of Sri K. Bala Gopal Advocate for the respondents 9 to 13 in WPMP.NO. 2566 of 2009, the court made the following:

THE HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

THE HON'BLE SRI JUSTICE R. KANTHA RAO

W.P.M.P NOs. 23208 OF 2008 AND 2566 OF 2009

IN

W.P.NO: 21479 of 2007

ORAL ORDERS: (per Sri Justice B Prakash Rao)

In the main writ petition filed by the petitioners as Public Interest Litigation, where they sought for a writ of mandamus declaring the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No. 2 of 2007) and in particular chapters 2 to 4 of the Said Act as illegal and unconstitutional, an interim applications has been filed in W P M P No. 23208 of 2008, where a Division Bench of this Court passed an order on 19.8.2008, which reads as under;

“Heard the learned Advocates.

There is no dispute that after hearing the concerned parties on the same subject, a Division Bench of Madras High Court has passed the following order on 30-04-2008.

“ (a) if claims are made for community rights or rights to forest land and applications are submitted as per sections 3 and 4 of the Act read with Rules 11 and 12 of the Rules, then the process of verification of the claim after intimation to the concerned claimant shall go on, but before the certificate of title is actually issued, orders shall be obtained from this Court.

(b) As regards felling of trees for providing diversion of forest land under Section 3 (2) of the Act is concerned, the process shall go on till the clearance of such development projects and also the Gram Sabha's recommendation is obtained, but before the actual felling of trees, orders shall be obtained from this Court”

It has been submitted by Sri A. Rajashekar Reddy, learned Asst. Solicitor General that the Union of India would like to challenge the validity of the said order before the Hon'ble Supreme Court. However, he has submitted that as on today the said order is in force. In view of the above fact, the afore stated interim order is also passed in this application.

It is, however, clarified that during the pendency of the litigation no member of a forest dwelling scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is

completed.

In view of the above order, the application stands disposed of. “

Subsequently, the matter underwent adjournments for the purpose of filing counter affidavits. The main ground urged in the writ petition is that having regard to the National Forest Policy, which contemplates maintenance of forestry to the extent of 1/3rd of the total land area in the country, the provisions of the Act and the conferment or recognition of the certificates for those alleged to be in possession defeats the very policy. Further, these provisions also run counter to various other enactments like Wild Life Protection Act, 1972, Forest Conservation Act, 1980 etc. The petitioners gave a detailed count as to the policy and objects thereunder, hence, with these and other grounds, the petitioners sought to assail the validity of the legislation.

Further it was also pointed out that even the procedure as contemplated and the powers conferred on the Gram Sabha, Sub Divisional level Committee, District level Committee, is only a make believe one and one cannot accept the consideration of the relevant aspects vis-a-vis the objects and the National Policy and therefore any such unguided, uncontrolled powers on those authorities, is bad.

Pending writ petition, the petitioners sought interim directions against the respondents, not to give effect to the provisions of the said legislation. However, following the interim orders granted in similar writ proceeding by the Division Bench of Madras High Court dated 30.4.2008, the aforesaid interim orders dated 19.8.2008 have been passed. During the course of hearing, the learned counsel for the petitioner pointed out that subsequently in the said writ petition before the Madras High Court, orders have been passed in an interim application on 30.4.2008. The operation portion of which reads as under;

“Therefore, we issue the following directions:-

(a) If claims are made for community rights or rights to forest land and applications are submitted as per sections 3 and 4 of the Act read with Rules 11 and 12 of the Rules, then the process of verification of the claim after intimation to the concerned claimant shall go on,

but before the certificate of title is actually issued, orders shall be obtained from this Court.

(b) As regards felling of trees for providing diversion of forest land under Section 3(2) of the Act is concerned, the process shall go on till the clearance of such development projects and also the Gram Sabha's recommendation is obtained, but before the actual felling of trees, orders shall be obtained from this Court"

Therefore, it is the contention on behalf of the petitioners that unless and until the main questions are gone into and appropriate steps are taken for protecting the forestry, any consideration for grant of certificates is no use and further under the guise of grant of these certificates, several ineligible and influential persons are getting into the said land at the cost of forestry and real eligible persons.

The respondents herein have filed an interim application in WPMP No. 2566 of 2009 seeking a direction to permit them to issue certificate of title to the eligible Forest Dwelling Scheduled Tribes and other Traditional Forest Dwellers under the Act. It is contended in the affidavit filed along with the said application sworn by Mr. Asoke Kumar Tigidi, Principal Secretary to the Government, Tribal Welfare Department that after making a detailed exercise and enquiry with the assistance of the concerned department and on receipt of the total application of 3,26,328 with their respective claims to cover 11,22,408 acres spread in 22 districts and after making a survey, there is a due recommendation by the Grama Sabha to the Sub Divisional Level Committees and out of the total claims the Grama Sabhas have rejected 43,829 claims and recommended to the District level Committee for approval of 1,23,195 and rejected 10,530 claims. The District level Committee approved 1,14,329 claims and rejected 6,058 claims. It was contended that elaborate enquiry was conducted with participation of Forest and other authorities and with the assistance of NGOs and therefore now the entire exercise is over, permission as per the orders of this Court passed earlier as mentioned above, be granted.

Opposing the application and also opposing modification in regard to the earlier orders passed by this Court, the learned counsel for the writ petitioners submitted that the petitioners have not given any details or

particulars, much less the procedure followed before making any such finalization and that in view of the absence of any such details, the writ petitioners are not able to point out the various defects. In fact, it is his contention that there was no survey nor any verification much less there is due identification of the individuals in possession entitled for any such certificates vis-a-vis to establish the factum of possession by them, therefore, the question of grant of certificates, at this stage, does not arise and further it was stated that if all the particulars are furnished to the writ petitioners, they would be in a position to reply pointing out the defects, ineligibilities or to submit any other such objections.

We have heard Mr. G Vidyasagar, learned counsel appearing for writ petitioners, learned Advocate General and Mr. Balagopal, learned counsel appearing for other respondents, in detail and at length.

During the course of the arguments, it was pointed out that having regard to the pendency of similar matters in other High Courts and applications filed seeking for transfer before the Supreme Court, the main writ petition cannot be heard and orders are being awaited. In view of the same, we refrain from going into the merits in the writ petition. However, falling back, consideration of the interim applications filed from both the sides and taking into consideration the earlier orders of this Court, passed by following the orders passed by the Division Bench of Madras High Court, the main aspect which requires to be pondered over is whether the respondent authorities need to be given permission for grant of certificates of title, as sought for in the application filed by them, since according to them the entire exercise is over. Prima facie, it is to be seen that the writ petition is filed in a Public Interest with the main above object of protecting the forestry in general, spread all over India and affect of the provisions of the said legislature vis-a-vis the grant of certificates of title to those alleged to be in possession and deprivation of the forestry to the country as a whole, that apart, the entire procedure and the conferment of powers on authorities as contemplated according to the petitioner is not sufficient enough to protect the rights of the individuals who are really entitled to and to protect the forestry in general. Therefore, though initially the petitioners sought the interim direction not to give effect to the provisions of the said legislation, this Court passed the aforesaid orders following the orders passed by the

Division Bench of the Madras High Court.

It is now well established that if a legislation is under challenge on the ground of unconstitutional or otherwise, normally the Courts will be slow in granting any such directions as against the implementation of the legislation in exercise of powers conferred under Article 226 of the Constitution of India. However, apparently it is only due to the pendency of similar matters and orders passed by the other High Court, the same was followed.

In the end, the Division Bench of Madras High Court and as well this Court did make an observation that as and when the certificates are to be granted, necessary permission has to be obtained from this Court. It is at this stage now where the application has been filed by the authorities seeking for such permission, the question is as to the scope of the enquiry to be made while granting the permission. According to the respondent authorities, every enquiry has been made and verification etc vis a vis possession and of the claims have been received through at different levels of Grama Sabha, Sub Divisional Level Committee and District Level Committee and ultimately the individuals have been identified who are entitled to certificates. There is no dispute on the part of the writ petitioner as to the participation as well by several NGO organizations in the process, apart from the concerned authorities. Even the provisions of the Act, do, specifically provide for such exercise with the assistance and participation by all authorities like Revenue, Forest, etc. However, even though entire such exercise was done at several district places, there appears to be no attempt on the part of the writ petitioner to put their claims/objections of whatsoever nature in the entire process, be that as it may, since the petitioners themselves are not carrying any such rights or certificates of title under the provisions or much less denial thereof, we are of the view that in the entire process as stated on oath by the authorities, there is no reason, at this stage to doubt the same. Further it is found there have been several claims running into thousands at different parts of 22 districts and particulars of those claims have been verified and processed through and ultimately restricted to those who are found to be eligible. Even an attempt by this Court to verify correctness of those claims individually by going through, would be much against the well established principles while

exercise of the jurisdiction under Article 226 of the Constitution of India, therefore this Court would not venture to make any attempt to go into or conduct an enquiry as regards correctness thereof. However, it would suffice in the interest of justice to permit the petitioners to seek for all those details or particulars, as they may require directly from the concerned authorities or by filing appropriate applications and even by invoking the provisions under Right to Information Act. All those claims are now arising in almost 22 district of the State of A P and therefore the entire records would be available at the three tier authorities in the respective district which can be availed of by the writ petitioner.

We also take note of the fact that entire exercise as per the provisions of the Act is a basis i.e., a three tier system primarily at the Grama Sabha, secondly at Sub Divisional Level Committee and ultimately at District level Committee consisting of various authorities and it is always open for the writ petitioners to seek for information and particulars, if any ineligible person or individual is sought to be given any such certificate, it can raise all objections, which, we are sure the concerned authorities before whom such objections are filed, be it Grama Sabha, Sub Divisional Level Committee or District Level Committee, would certainly enquire into and would pass appropriate orders in accordance with law.

However, having regard to the very laudable object to protect the possession of such individuals which law tries to take care of, any denial thereof, would only prejudice to them, therefore we are of the opinion that there is no basis, as such for any apprehension on the part of the writ petitioner to assail that the entire exercise is farce one or certificate of identity by the authorities are false or in any way tainted, unless and until such thing has been specifically pointed out.

We are sure that if any such defects or ineligibility aspects are pointed out the same would be taken into consideration and appropriate orders would be passed by the authorities. Further we reiterate that in view of the safeguards provided under the very provisions and also interim orders granted earlier protecting those who are in possession, it is needless to make any further apprehension for causing inconvenience or loss, as such.

In view of the aforesaid reasons, the W.P.M.P. No. 2566 of 2009 is

order as under;

- a) The authorities are permitted to issue certificate of title to the eligible forest dwelling Scheduled Tribes and other Traditional Forest Dwellers under the Act.
- b) Any grant of such certificates will be subject to the result in main writ proceedings challenging the legislation,
- c) Further the said certificates are also subject to their enquiry or verification on the objections pointed out by the petitioners or otherwise,
- d) Petitioners are permitted to seek details and particulars and obtain the necessary copies in different places and raise their objections,
- e) On receipt of such objections, the authorities, especially the District Level Committee concerned shall go into the same, enquire, verify the correctness and pass appropriate orders on merits and in accordance with law.
- f) The certificates granted above, shall be subject to the orders that may be passed as mentioned in clause (e) above.
- g) Further the person in possession of any of the lands shall not in any way disturb or evicted till the disposal of the writ petition.

(Sd./-)

ASSISTANT REGISTRAR

// TRUE COPY //

87
Annexure R/5

ITEM NO.53 COURT NO.7 SECTION XIA

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).14438-14439/2009

(From the judgement and order dated 01/05/2009 in WPMP No.23208/2008

and WPMP No. 2566/2009 in WP No. 21479/2007 & of The HIGH COURT OF JUDICATURE OF A.P. AT HYDERABAD)

J.V.SHARMA & ORS.

Petitioner(s)

VERSUS

GOVT.OFINDIA & ORS.TR.SEC.

Respondent(s)

(With appln(s) for exemption from filing c/c of the impugned Judgment and with prayer for interim relief)

Date: 15/06/2009 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

HON'BLE MR. JUSTICE AFTAB ALAM

(VACATION BENCH)

For Petitioner(s) Mr.Vijay Kumar, Adv.

Mr. D. Mahesh Babu,Adv. ¹

For Respondent(s)

UPON hearing counsel the Court made the following

ORDER

The Special Leave Petitions are dismissed.

(Satish K.Yadav)

(Vinod Kulvi)

Court Master

Court Master

ANNEXURE R/6
28

W.P. (C) No. 4933 of 2008

[O.H.C. - 98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
24.	12.8.2009	<p><u>Misc. Case No. 10825 of 2008</u> <u>Misc. Case No. 1902 of 2009</u> And <u>Misc. Case No.5192 of 2009</u></p> <p>Heard learned counsel for the parties.</p> <p>2. In order to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded and to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land, the Government of India enacted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The said Act conferred on the members or community of the Scheduled Tribe who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs and include the pastoralist communities, certain forest rights as mentioned in Section 3 thereof. The forest rights granted by the said Act, inter alia, included right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled tribe or other traditional forest dwellers, right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries; rights including community tenures of habitat and habitation for primitive</p>	

[O.H.C. - 98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>tribal groups and pre-agricultural communities; rights for conversion of pattas or leases or grants issued by any local authority or any state Government on forest lands to titles; rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages; right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use; right to access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity; any other traditional right customarily enjoyed by the forest dwelling Scheduled tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) of Chapter II but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal. Chapter III of the Act contains provisions relating to recognition, restoration and vesting of forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers. Section 5 of Chapter III deals with the duties of holders of forest rights. It empowers the Gram Sabha and village level institutions in areas where there are holders of any forest right under the Act to (a) protect the wild life, forest and biodiversity; (b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected, (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional</p>	

		<p>forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage and also (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with. Chapter IV provides for the authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and the procedure for such vesting. It has provided a three-tier system. The Gram Sabha has been conferred with the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled tribes and other traditional forest dwellers within the local limits of its jurisdiction by receiving claims and after undertaking such exercise pass a resolution and forward a copy of the same to the Sub-Divisional Level Committee. Person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee and thereafter to the District Level Committee if aggrieved by the resolution of the Sub-Divisional Level Committee. Chapter V deals with the offences and penalties and Chapter VI contains miscellaneous provisions.</p> <p>3. The present writ petition was filed by the Society of Retired Officers, Orissa, in the shape of public interest litigation, praying to declare the aforesaid Act, i.e. the Scheduled Tribe and other Tribal Forest Dwellers (Recognition of Forest Right) Act, 2006 (Act 2 of</p>
--	--	--

[O.H.C. - 98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
------------------	---------------	----------------------	---

2007), more particularly Chapters II, III and IV thereof, as ultra vires the Constitution of India. The ground urged in the writ petition is that having regard to the National Forest Policy which contemplates maintenance of forestry to the extent of 1/3rd of the total land area in the country, the provisions of the Act and the conferment or recognition of the certificates for those alleged to be in possession of forest defeats the very policy. Further the provisions also run counter to various other enactments like Wild Life Protection Act, 1972, Forest Conservation Act, 1980.

4. On 1.7.2008 while directing for service of extra copies of the writ petition on the Assistant Solicitor General and the learned Additional Government Advocate, this Court dismissed the stay application as it was not inclined to pass any interim order. Again the matter was listed on 23.7.2008 when the Court directed for issue of notice to the Advocate General as well as the learned Solicitor General and adjourned the matter to the week commencing 1st of September, 2008 for final disposal requiring the opposite parties to file counter within three weeks. The applications filed by one Kui Samaj Seba Samiti and some tribal forest dwellers to be impleaded as parties to the writ petition were allowed and they were impleaded as opposite parties 7 to 11. On that day Misc. Case No. 10825 of 2008 praying to direct the opposite parties not to undertake any felling of trees and not to alienate any forest land by issuing patta or by any other manner pursuant to the provision of the Act from out of

OGP-MP-PTS-U1 (H.C.)19-2,00,000-8-8-2008

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>the sanctuaries, National Parks and Biospheres (Reserve area) on the ground that unless the same is stayed, the writ petition will become infructuous and irreparable loss and injury would be caused to the public at large, was filed on behalf of the petitioner in Court. The said application was taken up that day and this Court after hearing, passed the following order”</p> <p>“In the meantime, the opposite parties are directed not to undertake any felling of trees and not to alienate any land by issuing patta or by any other manner pursuant to the provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act 2 of 2007) particularly from out of the sanctuaries, National Parks and Biospheres (Reserve Areas) until further orders.”</p> <p>On 2.9.2008, the matter again came up when this Court clarified that above order does not include the process of identity and recognition of the persons etc. which are not covered in the interim order. Accordingly, the Court directed that the process regarding identity and recognition may go on but the final decision shall not be taken without leave of this Court. Thereafter the matter underwent adjournments either for the purpose of filing counter or on the request of the learned counsel and ultimately came to be listed on 18.3.2009 when it was ordered that since counter and rejoinder have been exchanged the matter should be listed in the first week of May,2009 for final disposal. In the meantime Transfer Petition (Civil) Nos. 179-180 of 2009 were filed by the Union of India before the Hon'ble Supreme Court for transfer of this writ petition to the</p>	

93

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>Supreme Court to decide on merit with T.P. © No. 414 – 417 of 2008 already pending before the Supreme Court. In view of the aforesaid, this Court on 1.7.2009 directed this writ petition to be listed in the week commencing 17.8.2009. The present misc. case was filed on 1.5.2009 with a prayer to vacate the interim order passed on 23.7.2008 in Misc. Case No. 10825 of 2008 as the said order tends to cause unnecessary delay affecting the interest of a large number of marginalized forest dwellers like the petitioner who are waiting to get the benefit under the Act with high expectation. It is the further case of the petitioner that as per the statement released by the Ministry of Tribal Affairs many of the States like Andhra Pradesh, Chhatisgarh, Madhya Pradesh and West Bengal have already issued titles to the forest communities, whereas the Government of Orissa has expressed its inability to extend similar benefits because of the stay order although the District Level Committees have approved 29,816 number of claims. It is contended by the applicant that the apprehension of the writ petitioner that the implementation of the Act would lead to felling of trees or destruction of forests is baseless and imaginary. In support of such contention, the applicant has taken aid of the letter dated 21.11.2008 of ST & SC Development Department of Govt. of Orissa in which while answering the frequently asked question: Does the Act not have the danger of destroying our forests and environment?, the State answered as under:</p>	

OGP-MP-PTS-U1 (H.C.)19-2,00,000-8-8-2008

- 7 -

[O.H.C. – 98]

94

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>“Definitely not. We need to see that even in the earlier framework of Forest Conservation Act, there were provisions and procedures for regularizing old habitations. The earlier framework did not have express scope for participation of the people. The present Act mandates that Gram Sabha (i.e. Pali Sabha in Orissa context) is the authority to initiate and decide the claims. The cut-off date was earlier fixed as 25.10.1980. It is now 13.12.2005 for members of the Scheduled Tribes and 13.12.1920 for other traditional forest dwellers. The Act only recognizes existing occupations; it does not envisage fresh destruction of forest. It seeks basically to recognize de jure the already existing de facto position on the ground. Therefore, there is no danger really to the forests. Deforestation is mostly due to commercial interests and not due to bona fide livelihood requirements of the poor people. We must see that by having the ordinary people living legitimately in the forest areas on our side, the forest machinery can do a better enforcement work. They can get better intelligence about the movement and activities of the timber mafia. Therefore, sincere implementation of the Act will protect the forests and our environment.”</p> <p>5. The applicant of Misc. Case No. 5192 of 2009 has also brought to the notice of this Court the fact that the validity of the impugned Act has been challenged before the Hon’ble Supreme Court in W.P. (C) No. 50 of 2008 (Bombay Natural History sty. & others v. Union of India and others) and in W.P. (C) No. 109 of 2008 and although stay of implementation of the impugned Act has been sought in the aforesaid writ petitions, the Hon’ble apex Court has not passed any interim order so far. By way of an additional affidavit the applicant has sought to bring</p>	

95

[O.H.C. - 98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>certain facts to the notice of the Court which has bearing on the prayer of the applicant. Enclosing some newspaper clippings to the additional affidavit, the applicant has brought to the notice of the Court that the recent unrest in the areas of Narayanpatna and Bandhugaon in Koraput has been attributed to the callousness of the Govt. towards settlement of the rights of the forest dwellers. Such unrest, according to the newspaper reports, occurred due to the tardy progress in giving land rights to forest-dwellers, mostly tribals, under Forest Rights Act is fuelling disturbance in tribal dominated districts, which are subsequently turning into fertile ground for left-wing extremists. The applicant has further stated that the Ministry of Tribal Affairs, Government of India, in its notification dated 18.5.2009 has laid out a detail procedure for seeking prior approval for diversion of forest land under sub-section (2) of Section 3 of the Act thereby imposing reasonable restrictions before diversion of Forest land. Therefore, the apprehension of the petitioner that the implementation of the provisions of the Act will result in felling of trees and destruction of large forest has no leg to stand on. The applicant has also brought to our notice that the validity of the impugned Act was challenged before the Andhra Pradesh High Court in W.P. No. 21479 of 2007 (J.B. Sharma and others v. Government of India and others) in which an interim order had been passed on 19.8.2008 directing that if claims are made for community rights or rights to forest land and applications are submitted as per sections 3 and 4 of the Act read with Rules 11 and 12 of the Rules, then the process</p>	

OGP-MP-PTS-U1 (H.C.)19-2,00,000-8-8-2008

96

[O.H.C. - 98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>of verification of the claim after intimation to the concerned claimant shall go on but before the certificate of title is actually issued, orders shall be obtained from that Court. The A.P. High Court further directed that during the pendency of the litigation no member of a forest dwelling scheduled tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is completed. The aforesaid order was modified by order dated 1.5.2009. the Court inter alia permitted the authorities to issue certificate of title to the eligible forest dwelling Scheduled Tribes and other traditional forest dwellers under the Act with the condition that the same will be subject to the result in main writ proceedings challenging the legislation.</p> <p>6. While modifying / vacating the interim order, the High Court took note of the following:</p> <p>“...Even the provisions of the act do specifically provide for such exercise with the assistance and participation by all the authorities like Revenue, Forest etc. However, even through entire such exercise was done at several district places, there appears to be no attempt on the part of the writ petitioner to put their claims / objections of whatsoever nature in the entire process. be that as it may, since the petitioners themselves are not claiming any such rights or certificates of title under the provisions or much less denial thereof, we are of the view that in the entire process as stated on oath by the authorities, there is no reason, at this stage to doubt the same. Further it is found there have been several claims running into thousands at different parts of 22 districts and</p>	

97

[O.H.C. - 98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>Particulars of those claims have been verified and processed through and ultimately restricted to those who are found to be eligible”.</p> <p>“.....We also take note of the fact that entire exercise as per the provisions of the act is a basis. i.e.. a three tier system primarily at Grama Sabha, secondly at Sub-divisional Level Committee and ultimately at District Level Committee consisting of various authorities and it is always open for the writ petitioners to seek for information and particulars, if any ineligible person or individual is sought to be given any such certificate, it can raise all objections, which, we are sure the concerned authorities before whom such objections are filed, be it Grama Sabha, Sub-Divisional Level Committee or District Level Committee, would certainly enquire into and would pass appropriate orders in accordance with law.</p> <p>However, having regard to the very laudable object to protect the possession of such individuals which law tries to take care of, any denial thereof, would only prejudice them, therefore we are of the opinion that there is no basis, as such for any petitioner to assail that the entire exercise is farce one or certificate of identity by the authorities are false or in any way tainted, unless and until such thing has been specifically pointed out.”</p> <p>The Court further observed:</p> <p>“Further we reiterate that in view of the safeguards provisions and also interim orders granted earlier protecting those who are in possession, it is needless to make any further apprehension for causing any inconvenience or loss, as such.”</p>	

99

[O.H.C. - 98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>7. It may be mentioned here that the S.T. & S.C. Development Department of the Government of Orissa has filed a petition numbered as Misc. Case No. 1902 of 2009 stating that the District Level Committees have finalized and identified 9337 number of persons to be awarded for issue of title and the State Government may be permitted to issue the certificate of title.</p> <p>8. After hearing learned counsel for the parties, we are of prima facie opinion that fool-proof safeguards have been made in the Act to check any kind of illegal vesting. The procedure prescribed for vesting involves consideration of the claim at various levels as mentioned in Section 6 (Chapter IV). There is provision to constitute Sub-divisional Level, District Level and State Level Monitoring Committees. Various penalties have been prescribed for contravention of the provisions of the Act. If any deviation is noticed, the petitioner can very well raise objection. Be that as it may, it has been brought to our notice that matters challenging the validity of the Act is pending before the Hon'ble apex Court. Judicial discipline requires that the High Court should not entertain a writ petition in respect of the subject matter that is pending before the Supreme Court. Application for transfer of the instant writ petition is pending before the Hon'ble Supreme Court which stood posted to 4.8.2008. Therefore, we refrain from going into the merits of the writ petition at this stage. But since according to the petition filed by the S.C. & S.T. Development Department 9337 number of cases have become ready for issue of certificate of title, there is no</p>	

99

- 12 -

[O.H.C. - 98]

Sl. No. of Order	Date of Order	ORDER WITH SIGNATURE	Office note as to action (if any), taken on Order
		<p>necessity that the interim order should remain in operation. We, therefore, following the order passed by the Andhra Pradesh High Court vacate the interim order dated 23.7.2008 and permit the authorities to issue certificate of title to the eligible forest dwelling scheduled tribes and other traditional forest dwellers under the Act which shall be subject to the result of the main writ petition.</p> <p>All the aforesaid three misc. cases are accordingly disposed of. Issue urgent certified copy.</p> <p>Copy of the order be handed over to Mr. C.A. Rao, learned counsel appearing for the Forest Department of the State Government.</p>	<p>Sd/- I.M. Quddusi, ACJ Ed/- Sanju Panda, J</p>

OGP-MP-PTS-U1 (H.C.)19-2,00,000-8-8-2008

cjp.org.in

ANNEXURE R/7

100

PESA, 1996

THE PROVISIONS OF THE PANCHAYATS (EXTENSION TO THE SCHEDULED AREAS) ACT, 1996 No. 40 OF 1996

(24th December, 1996)

An Act to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:-

Short title

1. This Act may be called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

Definition

2. In this Act, unless the context otherwise requires, "Scheduled Areas" means the Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution.

Extension of part IX of The Constitution

3. The provision of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4.

Exceptions and modifications to part IX of The Constitution

4. Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:-

(a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;

(b) a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;

(c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;

(d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;

(e) every Gram Sabha shall-

i. approve of the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;

ii. be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;

(f) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause(e);

(g) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution;

Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats;

Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes;

(h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level:

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;

(i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;

- (j) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;
- (k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;
- (l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;
- (m) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with-
- (i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;
 - (ii) the ownership of minor forest produce;
 - (iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;
 - (iv) the power to manage village markets by whatever name called;
 - (v) the power to exercise control over money lending to the Scheduled Tribes;
 - (vi) the power to exercise control over institutions and functionaries in all social sectors;
 - (vii) the power to control over local plans and resources for such plans including tribal sub-plans;
- (n) the State Legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;

(o) the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

Continuance of existing laws on panchayats:

5. Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this Act receives the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President;

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State.

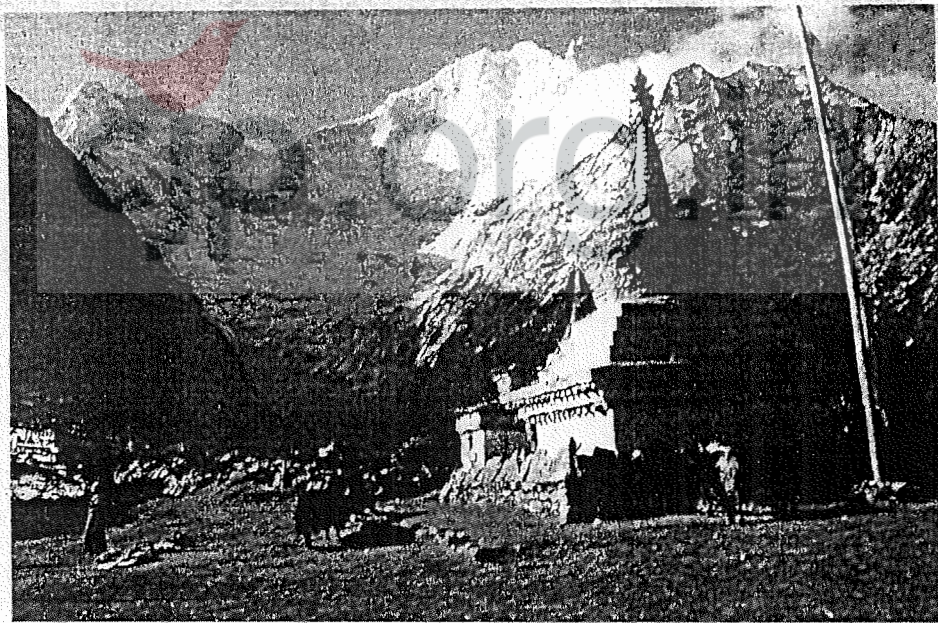
K.L. MOHANPURIA,

Secy. To the Govt. of India


cjp.org.in

Indigenous and Traditional Peoples and Protected Areas Principles, Guidelines and Case Studies

Edited by **Davidson S. G. Brown**
and **John D. Taylor**



Best Practice Paper No. 10

WORLD BANK

UNION

Foreword

These principles, guidelines and case studies respond to WCC Resolution 1.53 on Indigenous Peoples and Protected Areas, adopted at the IUCN World Conservation Congress in Montreal, October, 1996, which

“requests the Director General, the Secretariat and technical programmes, Commissions, members, and Councillors of IUCN, within available resources, to endorse, support, participate in and advocate the development and implementation of a clear policy in relation to protected areas established in indigenous lands and territories”. (for full text, see Annex 1 in **Part A**).

Resolution 1.53 is based on recommendations from the IV World Congress on National Parks and Protected Areas (Caracas, Venezuela, 1992), calling for the development of policies for protected areas that safeguard the interests of indigenous peoples, and take into account customary resource practices and traditional land tenure systems.

While the process of developing this document was accelerated after the resolution from Montreal, work began in 1995 between the IUCN Co-ordinator for Indigenous Peoples, the Programme on Protected Areas, and the World Commission on Protected Areas (WCPA). In parallel, WWF had been developing their own ideas, building on a series of regional and national workshops with indigenous peoples' organisations. Since many of the same issues emerged in both the WWF and IUCN consultations on this subject, it was decided to work together in developing a common position. The **principles** and **guidelines** were adopted by IUCN and WWF during 1999. They are presented as **Part A** of this publication.

In order to fill out this advice, and demonstrate the many ways in which indigenous peoples and protected areas interact in practice, a set of eleven **case studies** was prepared at the request of IUCN by the UNEP-World Conservation Monitoring Centre. Substantial support for this work was offered by WWF International, who contributed information and draft texts for several case studies. The results of this work are presented in **Part B**.

Adrian Phillips

Introduction

IUCN defines a protected area as:

An area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means [emphasis added]. (IUCN, 1994(a)).

This reference to “associated cultural resources” reflects a view of conservation that can accommodate the social, economic and cultural interests, values, rights and responsibilities of local communities living in and around protected areas.

It is sometimes assumed that protected areas must be in conflict with the rights and traditions of indigenous and other traditional peoples on their terrestrial, coastal/marine, or freshwater domains. In reality, where indigenous peoples are interested in the conservation and traditional use of their lands, territories, waters, coastal seas and other resources, and their fundamental human rights are accorded, conflicts need not arise between those peoples’ rights and interests, and protected area objectives. Moreover, formal protected areas can provide a means to recognise and guarantee the efforts of many communities of indigenous and other traditional peoples who have long protected certain areas, such as sacred groves and mountains, through their own cultures. Sometimes, indeed, these communities now require outside support to defend such valued places against external threats – support which protected areas can provide.

Specifically, what many indigenous and other traditional peoples’ organisations have demanded is that protected areas established on their terrestrial, coastal/marine and freshwater domains:

- effectively protect those domains, as well as the people and cultures they contain, from external threats, and in particular reinforce traditionally protected areas;
- recognise indigenous and other traditional peoples’ rights to their lands, territories, waters, coastal seas, and other resources;
- recognise their rights to control and co-manage these resources within protected areas;
- allow participation of traditional institutions in co-management arrangements within their terrestrial, coastal/marine and freshwater domains;
- recognise the rights of indigenous and other traditional peoples to determine their own development priorities – as long as these priorities are compatible with protected area objectives;
- be declared only at their initiative, and/or with their free and prior informed consent;
- incorporate sustainable use of natural resources using methods that maintain the integrity of the ecosystem and that have been used traditionally by indigenous peoples.

Indigenous and Traditional Peoples and Protected Areas

These claims can be reconciled with the objectives of protected areas, as defined by IUCN, particularly those under Categories V and VI (see Annex 2). However, they require that governments, that have not already done so, put in place policies and strategies to help establish effective, sustainable partnerships between conservation agencies and indigenous and other traditional peoples. Indigenous peoples should participate in the co-management of their traditional land and territories and have equal opportunities to members of other groups, as well as other stakeholders interested in the conservation of that area. All decisions passed by co-management organisations should ensure that the maintenance of the ecological integrity of protected areas remains the highest priority. Partnerships between indigenous peoples and protected area management agencies should be based on a sound understanding of the social, economic, and cultural needs of individuals, peoples, and nations, as well as of the complex interplay of factors driving resource-use patterns.

In line with current understanding of the concept of sustainable development, as well as with the Convention on Biological Diversity, ILO Convention 169 (see Annex 3), Agenda 21, and the Rio Declaration on Environment and Development, WWF and IUCN recognise that:

- protected areas will survive only if they are seen to be of value, in the widest sense, to the nation as a whole and to local people in particular;
- the territorial and resource rights of indigenous and other traditional peoples inhabiting protected areas must be respected by promoting and allowing full participation in co-management of resources, and in a way that would not affect or undermine the objectives for the protected area as set out in its management plan;
- knowledge, innovations and practices of indigenous and other traditional peoples have much to contribute to the management of protected areas;
- governments and protected area managers should incorporate customary and indigenous tenure and resource use, and control systems, as a means of enhancing biodiversity conservation.

In WCC resolution 1.53, IUCN has acknowledged that indigenous peoples have the right "to participate effectively in the management of the protected areas established on their lands or territories", and therefore agreements should be reached with them "prior to the establishment of protected areas in their lands or territories". This resolution also requests all components of IUCN to "endorse, support, participate in and advocate the development and implementation of a clear policy in relation to protected areas established in indigenous lands and territories". This action is to be based on the recognition of land/territorial and resource rights, the necessity for prior agreement on the establishment of new protected areas on their lands or territories, and rights to effective participation in protected area management (the full text of the resolution is at Annex 1).

The IUCN system of protected area management categories was first published in 1978 (IUCN, 1978). Following comprehensive review, including through a workshop at the IVth World Congress on National Parks and Protected Areas (Caracas, Venezuela, 1992), a revised version of the guidelines was adopted, by Resolution 19.4, at the IUCN General Assembly in Buenos Aires in 1994 (IUCN, 1994b), and published later that year (IUCN, 1994(a), see Annex 2). Most of these revised categories explicitly recognise that indigenous and local communities may occupy and/or use such areas. The system as a whole has the potential to accommodate a range of models of protected areas, according

to the degree of human intervention, in a way that both indigenous and other traditional peoples' rights and conservation objectives can be respected.

In its Statement of Principles on Indigenous Peoples and Conservation, WWF declares that:

“WWF will not promote or support, and may actively oppose, interventions which have not received the prior, free and informed consent of affected indigenous communities, and/or would adversely impact – directly or indirectly – on the environment of indigenous peoples' territories, and/or would affect their rights. This includes activities such as:

- economic or other development activities;
- natural resources exploitation;
- commercially oriented or academic research;
- resettlement of indigenous communities;
- creation of protected areas or imposition of restrictions on subsistence resource use;
- colonisation within indigenous territories”.

Based on the advice in the protected areas management categories, on established WWF and IUCN policies on indigenous peoples and conservation, and on conclusions and recommendations of the IV World Congress on National Parks and Protected Areas, the two organisations, WWF and IUCN/WCPA, have adopted the following Principles and Guidelines on Indigenous/Traditional Peoples and Protected Areas. These provide a basis upon which to develop partnerships between indigenous and other traditional peoples and protected area planners and managers. This will facilitate the establishment and management of protected areas which overlap with ancestral indigenous and other traditional peoples' areas, and/or include indigenous and local communities traditionally using their resources.

In addition, case studies have been prepared (Part B) which demonstrate experience around the world in natural resource management within protected areas which overlap with indigenous and other traditional peoples' lands, territories or areas. The case studies are intended to provide examples and information that can be used to develop and strengthen partnerships for protected area management.

The principles and guidelines proposed in this document should be considered as a framework aimed at providing guidance, not as a blueprint. Thus, they should be adapted to the particular situation, legislation, and policies of each country, and used together with other complementary approaches and tools, to ensure effective management of protected areas in partnership with indigenous and other traditional peoples living within or around their borders.

The definition of indigenous peoples used in this document is that adopted by the ILO (see Annex 3).

Principles and guidelines on protected areas and indigenous/traditional peoples

Principle 1

Indigenous and other traditional peoples have long associations with nature and a deep understanding of it. Often they have made significant contributions to the maintenance of many of the earth's most fragile ecosystems, through their traditional sustainable resource use practices and culture-based respect for nature. Therefore, there should be no inherent conflict between the objectives of protected areas and the existence, within and around their borders, of indigenous and other traditional peoples. Moreover, they should be recognised as rightful, equal partners in the development and implementation of conservation strategies that affect their lands, territories, waters, coastal seas, and other resources, and in particular in the establishment and management of protected areas.

Guidelines

- 1.1 In cases where protected areas overlap with indigenous and other traditional peoples' lands, territories, waters, coastal seas, and other resources, agreements should be sought between the respective communities involved and conservation agencies, without prejudice to any other existing treaty or legal arrangement involving indigenous and other traditional peoples. Such agreements should: establish common objectives and commitments to the conservation of protected areas; define responsibilities for conservation and sustainable use of biodiversity and natural resources contained in them; and be the basis for management objectives, standards, regulations, etc. Agreements should be streamlined so that they create the minimal bureaucracy necessary to ensure efficient co-management of resources;
- 1.2 Development of such agreements should be framed within national protected area objectives, plans and policies, and within the framework of national laws and regulations. This is necessary to ensure that such agreements are consistent with national objectives and obligations towards the protection of the natural and cultural heritage of a given country, including any relevant international obligations (e.g. under international conservation agreements);
- 1.3 The formulation of protected area management plans should actively incorporate indigenous and traditional knowledge, experiences and practices for ecologically sustainable use of local resources, together with contributions and tools derived from other knowledge systems, including those of the natural and social sciences;

- 1.4 The mechanisms for monitoring indigenous and other traditional peoples' terrestrial, coastal/marine and freshwater zones within protected areas should also integrate traditional knowledge and practices relevant to biodiversity conservation and sustainable use, and tools derived through other knowledge systems;
- 1.5 As far as possible, there should be harmony between national protected area legislation and the system of international protected area categories advocated by IUCN (Annex 3). Being fully compatible with these principles and guidelines, this system offers useful options for the interests of indigenous and other traditional peoples, and for resolving disputes concerning protected areas.

Principle 2

Agreements drawn up between conservation institutions, including protected area management agencies, and indigenous and other traditional peoples for the establishment and management of protected areas affecting their lands, territories, waters, coastal seas and other resources should be based on full respect for the rights of indigenous and other traditional peoples to traditional, sustainable use of their lands, territories, waters, coastal seas and other resources. At the same time, such agreements should be based on the recognition by indigenous and other traditional peoples of their responsibility to conserve biodiversity, ecological integrity and natural resources harboured in those protected areas.

Guidelines

- 2.1 Agreements between representatives of the respective communities and conservation agencies for the establishment and management of protected areas should contribute to securing indigenous and other traditional peoples' rights, including the right to the full and effective protection of their areas, resources and communities. At the same time, such agreements should define the responsibilities of both parties to conserve and sustainably manage the resources of those communities, and which protected areas are intended to safeguard;
- 2.2 As part of the development of such agreements, the following indigenous and other traditional communities' rights should be respected in relation to the lands, territories, waters, coastal seas and other resources which they traditionally own or otherwise occupy or use, and which fall within protected areas:
 - a) rights with regard to sustainable, traditional use of their lands, territories, waters, coastal seas and other resources that fall within protected areas,
 - b) rights to participate in controlling and managing their lands, territories, waters, coastal seas and other resources, in compliance with agreed management regulations and plans,
 - c) rights to participate in deciding on issues, such as technologies and management systems, affecting their lands, territories, waters, coastal seas and other resources, subject to agreed management regulations and plans,
 - d) rights to participate in determining priorities and strategies for the development or use of their lands, territories, waters, coastal seas and other resources, in the context of agreed management regulations and plans,

- e) rights to use their own traditional institutions and authorities to co-manage their terrestrial, coastal/marine and freshwater areas, as well as to defend them from external threats, subject to agreements with the agencies in charge of national protected area systems,
 - f) rights to require that States obtain the free and informed consent of the respective communities, prior to the approval of any project affecting their lands, territories, waters, coastal seas or other resources,
 - g) rights to improve the quality of their lives, and to benefit directly and equitably from the conservation and ecologically sustainable use of natural resources contained in their terrestrial, coastal/marine and freshwater areas,
 - h) collective rights to maintain and enjoy their cultural and intellectual heritage, particularly the cultural patrimony contained in protected areas, and the knowledge related to biodiversity and natural resource management,
 - i) rights not to be removed from the zones they have traditionally occupied within protected areas. Where their relocation is considered necessary as an exceptional measure, it should take place only with the free and prior, informed consent of the indigenous and other traditional peoples affected, and with appropriate compensation;
- 2.3 The establishment of new protected areas on indigenous and other traditional peoples' terrestrial, coastal/marine and freshwater domains should be based on the legal recognition of collective rights of communities living within them to the lands, territories, waters, coastal seas and other resources they traditionally own or otherwise occupy or use;
- 2.4 However, since legal recognition of rights does not fall within the mandate of protected area managers, managers should promote interim arrangements with the respective indigenous and other traditional communities. Such arrangements, while fully respecting the rights and claims of such peoples and communities, and not interfering with the respective legal processes underway to determine these, should ensure that protection measures are put quickly into place, based where needed on management or co-management agreements;
- 2.5 In cases where indigenous and other traditional peoples' rights within protected areas are not yet recognised by a government, and until the process leading towards such recognition is completed, the concerned communities should still be guaranteed access to the resources existing in their terrestrial, coastal/marine and freshwater areas, insofar as they are necessary for their livelihoods. Any access restrictions should be agreed on with the communities concerned, and appropriate compensation should be given in cases where such restrictions are considered necessary by all parties, to ensure appropriate conservation of the resources contained within the protected area.

Principle 3

The principles of decentralisation, participation, transparency and accountability should be taken into account in all matters pertaining to the mutual interests of protected areas and indigenous and other traditional peoples.

Guidelines

- 3.1 Within indigenous and other traditional peoples' terrestrial, coastal/marine and freshwater domains included in protected areas, authorities representing indigenous and other traditional peoples, as well as indigenous and other traditional peoples' decision-making mechanisms and processes, should be recognised and respected, within the framework of national legislation and policies. To this end, the legal and institutional structure of protected area systems should be reformed as appropriate, so as to accommodate these institutions and decision-making mechanisms and processes in a co-management framework;
- 3.2 Management of protected areas should occur through a formal mechanism, which recognises both rights and responsibilities, for example by management and co-management agreements and by jointly devised management plans. Indigenous and traditional institutions which co-manage those areas, as well as the respective local, provincial, or national protected area agencies, should be mutually accountable for the fulfilment of the agreed objectives and plans;
- 3.3 Mutual assessment of performance should be encouraged through regular monitoring and transparent reporting by both protected area agencies and indigenous and other traditional peoples' organisations;
- 3.4 New protected areas within indigenous and other traditional peoples' terrestrial, coastal/marine and freshwater domains should be established only on the basis of voluntary declaration, and/or on agreement between representatives of the respective communities and the local, provincial, or national government;
- 3.5 The process of establishing new protected areas on indigenous and other traditional peoples' terrestrial, coastal/marine or freshwater domains should fulfil the following procedures:
 - a) collaborative research with the indigenous and other traditional peoples concerned for the identification of the features that make the area suitable for protection,
 - b) initiation of formal processes to give legal recognition to indigenous and other traditional peoples' land and resource rights, if such legal recognition does not yet exist,
 - c) agreement on the designation and management of the protected area, involving the respective organisations and communities, relevant government agencies, non-governmental conservation agencies, and other stakeholders, including arrangements which will ensure mutual accountability,
 - d) collaborative development of a management plan between the respective government and non-governmental conservation bodies and the communities concerned;
- 3.6 In developing solid partnerships with indigenous and other traditional peoples for protected area management, government agencies and non-governmental conservation organisations should *inter alia*:
 - promote open dialogue with indigenous and other traditional peoples' organisations and communities, based on these and other appropriate principles and guidelines,

- promote and support the necessary legal and policy changes,
 - develop conflict-resolution processes whenever necessary, and
 - encourage and develop capacity-building actions for indigenous and other traditional peoples' organisations and communities;
- 3.7 Governments and non-governmental organisations should provide resources to develop campaigns directed at the national population, aimed at increasing public awareness about indigenous and other traditional peoples' cultural and spiritual values and rights. This is to help ensure that the society as a whole recognises the rights of indigenous and other traditional peoples to exercise management of their terrestrial, coastal/marine and freshwater domains, and understands the environmental benefits of respecting these rights.

Principle 4

Indigenous and other traditional peoples should be able to share fully and equitably in the benefits associated with protected areas, with due recognition to the rights of other legitimate stakeholders.

Guidelines

- 4.1 In order for co-management agreements between indigenous and other traditional peoples and protected area managers to be effective, governments should guarantee the provision of such benefits as:
- effective defence of territories against external threats,
 - support and legal protection of territories,
 - consolidation of territories, including their demarcation,
 - technical, financial and political support for indigenous and other traditional peoples' own management activities, and
 - sustained capacity-building actions and processes for indigenous and local communities, in order to help them to manage their areas and resources effectively;
- 4.2 Governments should design and implement economic and other incentive systems for conservation and sustainable use of indigenous and other traditional peoples' terrestrial, coastal/marine and freshwater domains contained in protected areas;
- 4.3 Governments should ensure that indigenous and other traditional peoples benefit fully from the economic and employment opportunities associated with the existence of protected areas, e.g. from income generated by tourism, and by employment in protected area management.

Principle 5

The rights of indigenous and other traditional peoples in connection with protected areas are often an international responsibility, since many of the lands, territories,

Indigenous and Traditional Peoples and Protected Areas

waters, coastal seas and other resources which they own or otherwise occupy or use cross national boundaries, as indeed do many of the ecosystems in need of protection.

Guidelines

- 5.1 Where indigenous and other traditional peoples' lands, territories, waters, coastal seas, and other resources are located within trans-frontier protected areas, governments should adopt instruments to guarantee that protected area management respects and supports the integrity of the respective indigenous and local communities;
- 5.2 In order to guarantee both conservation objectives and indigenous and other traditional peoples' rights in areas which have been subject to armed conflict or dispute, governments (singly or in partnership with their neighbours in the region), and other relevant institutions, should develop agreements and measures to ensure that indigenous and other traditional peoples' terrestrial, coastal/marine and fresh-water domains within protected areas are treated as zones of peace and reconciliation.



Government of India
Ministry of Tribal Affairs

Status report on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 [for the period ending 31st May, 2014]

1. Status of Court cases filed against the Act:

Action taken in each court case is indicated in **Annexure-I**.

2. Readiness of the States in the implementation of the Act:

- (i) An updated status of State-wise implementation of the Act is given in **Annexure-II**. As per the information collected till 31st May, 2014, 37,64,315 claims **have been filed** and 14,36,290 titles **have been distributed**. Further, 34,421 titles **were ready for distribution**. A total of 30,57,126 claims have been disposed of (81.21%). Pending population of the web-site (www.forestrights.gov.in), a statement on claims received and distribution of title deeds in various states, as in **Annexure-III**, is being maintained.

- (ii) State wise details of claims received, titles distributed and the extent of forest land for which titles distributed (individual and community), as on 31.05.2014, in major States, is as indicated below:

States	No. of claims received	No. of titles distributed	Extent of forest land for which titles distributed (in acres)
Andhra Pradesh	4,11,012 (4,00,053 individual and 10,959 community)	1,69,370 (1,67,263 individual and 2,107 community)	14,56,542
Assam	1,31,911 (1,26,718 individual and 5,193 community)	36,267 (35,407 individual and 860 community)	77,609.17 for 34,286 titles#
Bihar*	2,930	28	Not Available
Chhattisgarh	7,56,062	3,12,250	6,01,831.71
Gujarat	1,91,592 (1,82,869 individual and 8,723 community)	42,752 (40,994 individual and 1,758 community)	51,570.79 for 40,994 titles#
Himachal Pradesh	5,692	346	0.3548
Jharkhand	42,003	15,296	37,678.93
Karnataka	2,54,577 (2,50,002 individual and 4,575 community)	7,058 (6,962 individual and 96 community) distributed	35,388.70 (9,140.69 individual and 26,243.01 community)
Kerala	37,535 (36,140 individual and 1,395 community)	24,599	33,018.12
Madhya Pradesh	5,16,189 (4,88,498 individual and 27,691 community)	1,87,392 (1,75,136 individual and 12,256 community) distributed and 15,413 are ready for distribution.	11,34,487.90
Maharashtra	3,46,230 (3,41,085 individual and 5,145 community)	1,03,797 (1,01,426 individual and 2,371 community)	7,98,630.70 (2,36,633.28 individual and 5,61,997.42 community)
Orissa	5,63,154 (5,51,109 individual and 12,045 community)	3,33,110 (3,29,805 individual and 3,196 community)	6,77,864.90 (5,21,354.31 individual and 1,56,510.59 community)
Rajasthan	69,775 (69,123 individual and 652 community)	34,147 distributed (34,082 individual and 65 community)	51,886.70 (51,406.97 individual and 479.73 community)

States	No. of claims received	No. of titles distributed	Extent of forest land for which titles distributed (in acres)
	community)	65 community)	community)
Tripura	1,82,617 (1,82,340 individual and 277 community)	1,20,473 distributed (1,20,418 individual and 55 community)	4,16,555.58 (4,16,498.79 for individual and 56.79 for community) for 1,16,100 titles#
Uttar Pradesh	92,433 (91,298 individual and 1,135 community)	17,705 distributed (16,891 individual and 814 community)	1,39,778.04
West Bengal	1,38,640 [1,35,442 individual and 3,198 community]	31,809 15,285 ready	16,891.556

Total of 5 States [Chhattisgarh, Maharashtra, Orissa, Rajasthan and West Bengal]

Individual (8,09,372 titles) = 5,77,945.00 Hac (14,28,117.82 Acres)

Community (5,632 titles) = 2,90,967.14 Hac (7,18,987.74 Acres)

Total: 8,15,004 titles = 8,68,912.14 Hac (21,47,105.56 Acres)

Total of 9 States (Andhra Pradesh, Assam, Gujarat, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Tripura and Uttar Pradesh)

Individual + Community (6,13,146 titles) = 13,68,919.35 Hac (33,82,636.98 Acres)

Grand Total: 14,28,150 titles = 22,37,831.49 Hac (55,29,742.54 Acres)

*The Government of Bihar has not furnished information regarding extent of forest land for which titles have been distributed

The Governments of Assam, Chhattisgarh, Gujarat, and Tripura have not furnished updated information regarding the extent of forest land in respect of all the titles that have been distributed.

- (iii) Progress in implementation of the Act relating to the number of claims received and the number of titles distributed in the LWÉ affected States has separately been shown in **Annexure-IV**.

(iv) A list of States/UTs that are not uploading the website is at **Annexure-V**. A list of States/UTs that have not distributed any title so far is also given in Annexure-V. Annexures II, III, IV and V are being put up on the Ministry's web-site.

3. Clarifications sought by the States, if any:

Nil.

4. Matters relating to the Act pending at the level of Government of India

Nil.

Annexure-II

Statement showing State-wise status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

(As on 31.05.2014)

Name of the State/UT	Activities	Status	
Andhra Pradesh	1) Appointment of a Nodal officer	Yes	
	2) Status of formation of various Committees	(a) SDLC	Yes
		(b) DLC	Yes
		(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes	
	4) Creation of Awareness about the provision of the Act and the Rules	Yes	
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes	
	6) Constitution of Forest Rights Committees by the Gram Sabhas	3,744	
	7) No. of claims filed at Gram Sabha level	4,11,012 (4,00,053 individual and 10,959 community)	
	8) No. of claims recommended by Gram Sabha to SDLC	2,44,910 (2,41,440 individual and 3,470 community)	
	9) No. of claims recommended by SDLC to DLC	1,95,926	
	10) No. of claims approved by DLC for title	1,77,769	
	11) Number of titles distributed	1,69,370 (1,67,263 individual and 2,107 community)	
12) Extent of forest land for which title deeds issued (in acres)	14,56,542		
13) No. of claims rejected	1,65,466		

	14) Projected date for distribution of title deeds	-
	15) <u>Problems/Remarks:</u> Land records	
Arunachal Pradesh	1) Appointment of a Nodal officer	No. However, Department of Social Welfare has been selected as the Nodal Department for implementation of the Act in the State.
	2) Status of formation of various Committees (a) SDLC	Yes
	(b) DLC	Yes
	(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	-
	4) Creation of Awareness about the provision of the Act and the Rules	-
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	-
	6) Constitution of Forest Rights Committees by the Gram Sabhas	-
	7) No. of claims filed at Gram Sabha level	-
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	-
	12) Extent of forest land for which title deeds issued (in acres)	-
13) No. of claims rejected	-	
14) Projected date for distribution of title deeds	-	

	<p>15) <u>Problems/Remarks:</u></p> <p>State Govt. has informed that though they have constituted the SDLC, DLC and SLMC under the Act but unlike the other States where the STs and other traditional forest dwellers are in minority, Arunachal Pradesh is wholly domiciled by various ethnic tribal groups whose land and forests are specifically identified with natural boundaries of hillocks, ranges, rivers and tributaries. Barring few pockets of land under wildlife sanctuaries, reserved forests, most of the land in entire State is community land. Territorial boundaries of land and forest belonging to different communities or tribes are also identified in the same line leaving no scope for any dispute over the possession of land, forest and water bodies among the tribes. Therefore, Forest Rights Act does not have much relevance in Arunachal Pradesh.</p>	
Assam	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees	Yes
	(a) SDLC	Yes
	(b) DLC	Yes
	(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Is being done
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	1,31,911 (1,26,718 individual and 5,193 community)
8) No. of claims recommended by Gram Sabha to SDLC	1,23,330 (1,18,535 individual and 4,795 community)	
9) No. of claims recommended by SDLC to DLC	72,891 (69,224 individual and 3,667 community)	
10) No. of claims approved by DLC for title	-	

	11) Number of titles distributed	36,267 (35,407 individual and 860 community)
	12) Extent of forest land for which title deeds issued (in acres)	77609.17 Acres for 34,286 titles
	13) No. of claims rejected	37,669
	14) Projected date for distribution of title deeds	31-12-2011
	15) Problems/Remarks: 1. Disputes in settling claims get converted into law and order problem which adversely affects the pace of implementation. 2. Claims from false claimants under the category of other traditional forest dwellers are being received.	-
Bihar	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	9 13 1
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	-
	4) Creation of Awareness about the provision of the Act and the Rules	Is being created in a limited way through advertisements in local newspapers
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Out of 390 Gram Sabhas, training has been completed in about 50 Gram Sabhas
	6) Constitution of Forest Rights Committees by the Gram Sabhas	1299
	7) No. of claims filed at Gram Sabha level	2,930 (1019 ST and 1911 OTFDs)
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-

	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	28 (28 ST)
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	1,644
	14) Projected date for distribution of title deeds	-
	15) Problems/Remarks:	Not reported.
Chhattisgarh	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes
		Yes
		Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Going on in a large scale
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	7,56,062
	8) No. of claims recommended by Gram Sabha to SDLC	3,37,140
	9) No. of claims recommended by SDLC to DLC	3,17,640
	10) No. of claims approved by DLC for title	3,15,190
	11) Number of titles distributed	3,12,250
	12) Extent of forest land for which title deeds issued (in acres)	6,01,831.71 Acres
13) No. of claims rejected	4,01,784	
14) Projected date for distribution of title deeds	31.12.2013	

	15) <u>Problems/Remarks</u> Out of 85 blocks, at least 40 blocks are affected by naxalism and this had slowed down the pace of implementation of Forest Rights Act.	
Goa	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	(a) Yes (b) Yes (c) Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Work in progress.
	4) Creation of Awareness about the provision of the Act and the Rules	Done.
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Training to PRI Institutions has been imparted.
	6) Constitution of Forest Rights Committees by the Gram Sabhas	So far 91 FRCs have been constituted.
	7) No. of claims filed at Gram Sabha level	Nil
	8) No. of claims recommended by Gram Sabha to SDLC	Nil
	9) No. of claims recommended by SDLC to DLC	Nil
	10) No. of claims approved by DLC for title	Nil
	11) Number of titles distributed	Nil
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	Nil
	14) Projected date for distribution of title deeds	
	15) <u>Problems/Remarks:</u> Claims in CRZ areas are to be processed. There are objections from OBC population. Progress, therefore, is lagging behind.	
Gujarat	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	18 12 01

3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
4) Creation of Awareness about the provision of the Act and the Rules	Yes
5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
6) Constitution of Forest Rights Committees by the Gram Sabhas	5,775 FRCs have been constituted.
7) No. of claims filed at Gram Sabha level	1,91,592 (1,82,869 individual and 8,723 community)
8) No. of claims recommended by Gram Sabha to SDLC	1,89,161 (1,82,018 individual and 7,143 community)
9) No. of claims recommended by SDLC to DLC	50,156 (48,175 individual and 1,981 community)
10) No. of claims approved by DLC for title	40,029 (38,421 individual and 1,608 community)
11) Number of titles distributed	42,752 (40,994 individual and 1,758 community)
12) Extent of forest land for which title deeds issued (in acres)	51570.79 Acres for 40,994 titles
13) No. of claims rejected	19,613 (14,573 individual and 5,040 community)
14) Projected date for distribution of title deeds	30.11.2012
15) <u>Problems/Remarks:</u>	
<ol style="list-style-type: none"> 1. Member of Gujarat Tribal Advisory Council had raised concern over high rate of rejected claims and the matter was discussed in the meeting held on 01.06.2011 and it was decided to review all rejected claims at various level. Following the decision of GTAC, Government of Gujarat has created a special review cell on 01.08.2011 and circulated procedure to review all rejected claims. 2. As a result, number of claims disposed of has been reduced considerably. 	

Haryana	The State Govt. has informed that there are no Scheduled Tribes and other traditional forest dwellers living in the forests of Haryana	
Himachal Pradesh	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes
		Yes
		Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	No need
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes, in all 151 Gram Sabha
	7) No. of claims filed at Gram Sabha level	5,692
	8) No. of claims recommended by Gram Sabha to SDLC	2,888
	9) No. of claims recommended by SDLC to DLC	1097
	10) No. of claims approved by DLC for title	346
	11) Number of titles distributed	346
	12) Extent of forest land for which title deeds issued (in acres)	0.3548
	13) No. of claims rejected	2,144
14) Projected date for distribution of title deeds	-	
15) <u>Problems/Remarks:</u>		
	<ol style="list-style-type: none"> 1. Pace of implementation of Forest Rights Act in this State has been considerably affected by migration of tribal population from snow-bound areas during winter season last year; 2. Promulgation of Model Code of Conduct from March to May last year for the Elections; 3. Sowing season in May and June. 	
Jharkhand	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes
		Yes
	Yes	

	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	20,484
	7) No. of claims filed at Gram Sabha level	42,003
	8) No. of claims recommended by Gram Sabha to SDLC	23,617
	9) No. of claims recommended by SDLC to DLC	17,046
	10) No. of claims approved by DLC for title	16,351
	11) Number of titles distributed	15,296
	12) Extent of forest land for which title deeds issued (in acres)	37,678.93
	13) No. of claims rejected	16,958
	14) Projected date for distribution of title deeds	-
	15) <u>Problems/Remarks:</u> Forest areas are affected by left wing extremism.	-
Karnataka	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC	Yes
	(b) DLC	Yes
	(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Has been undertaken
	6) Constitution of Forest Rights Committees by the Gram Sabhas	3,184 FRCs have been constituted

	7) No. of claims filed at Gram Sabha level	2,54,577 (2,50,002 individual (33,957 STs and 2,16,025 OTFDs) and 4,575 community)
	8) No. of claims recommended by Gram Sabha to SDLC	48,266
	9) No. of claims recommended by SDLC to DLC	6,899
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	7,058 (6,962 individual and 96 community)
	12) Extent of forest land for which title deeds issued (in acres)	35,383.70 (9,140.69 individual and 26,243.01 community)
	13) No. of claims rejected	1,59,116 (1,56,877 individual and 2239 community)
	14) Projected date for distribution of title deeds	31-01-2014
	15) Problems/Remarks:	<i>Not reported</i>
Kerala	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees	Yes
	(a) SDLC	Yes
	(b) DLC	Yes
	(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes	
6) Constitution of Forest Rights Committees by the Gram Sabhas	510 FRCs have been constituted	
	7) No. of claims filed at Gram Sabha level	37,535 (36,140 individual and 1,395 community)

	8) No. of claims recommended by Gram Sabha to SDLC	32,962 (32,468 individual and 494 community)
	9) No. of claims recommended by SDLC to DLC	26,894
	10) No. of claims approved by DLC for title	25,683
	11) Number of titles distributed	24,599
	12) Extent of forest land for which title deeds issued (in acres)	33,018.12
	13) No. of claims rejected	7,889
	14) Projected date for distribution of title deeds	28.02.2014
	15) <u>Problems/Remarks:/Remarks:</u> Due to high density in forest, only manual survey is feasible. This takes much time.	-
Madhya Pradesh	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Yes Yes Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	5,16,189 [4,88,498 individual and 27,691 community]
	8) No. of claims recommended by Gram Sabha to SDLC	5,00,933
	9) No. of claims recommended by SDLC and sending to DLC	4,95,033
	10) No. of claims approved by DLC for title	2,02,805 [1,85,087 individual and 17,718 community]

	11) Number of titles distributed	1,87,392 (1,75,136 individual and 12,256 community) distributed and 15,413 title deeds are ready for distribution.
	12) Extent of forest land for which title deeds issued (in acres)	11,34,487.90
	13) No. of claims rejected	2,81,396 (ST-40.03 %) (OTFD-97.14 %)
	14) Projected date for distribution of title deeds	31.05.2014
	15) <u>Problems/Remarks:</u>	Not reported
Maharashtra	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees	
	(a) SDLC	Yes
	(b) DLC	Yes
	(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes	
7) No. of claims filed at Gram Sabha level	3,46,230 (3,41,085 individual and 5,145 community)	
8) No. of claims recommended by Gram Sabha to SDLC	2,95,755 (2,90,678 individual and 5,077 community)	

	9) No. of claims recommended by SDLC to DLC	1,17,240 (1,14,032 individual and 3,208 community)
	10) No. of claims approved by DLC for title	1,09,596 (1,06,737 individual and 2,859 community)
	11) Number of titles distributed	1,03,797 (1,01,426 individual and 2,371 community)
	12) Extent of forest land for which title deeds issued (in acres)	7,98,630.70 2,36,633.28 individual and 5,61,997.42 community)
	13) No. of claims rejected	2,33,720 (2,31,641 individual and 2,079 community)
	14) Projected date for distribution of title deeds	June 2010 (over)
	15) <u>Problems/Remarks:</u> Large number of false claimants have filed claims.	
Manipur	Reasons why no action has been initiated for implementation of the Act are not available nor were they forthcoming in the Review Meeting held on 11.11.2008 and also during the Conference held on 4 th and 5 th November 2009. <u>Problems/ Remarks:</u> In tribal communities and tribal chiefs are already holding ownership of forest land as their ancestral land in non-Reserved Forest Area. Therefore, implementation of the Forest Rights Act is perceived minimal in Manipur.	NO RESPONSE
Mizoram	1) Appointment of a Nodal officer	Yes

	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	Monitoring Committees at District and Sub-Divisional levels have been set up. The SLMC has been constituted.
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	No
	4) Creation of Awareness about the provision of the Act and the Rules	No information available
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	No information available
	6) Constitution of Forest Rights Committees by the Gram Sabhas	No information available
	7) No. of claims filed at Gram Sabha level	-
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	-
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	-
	14) Projected date for distribution of title deeds	No projected date fixed so far by the State Government.
	15) <u>Problems/Remarks:s</u> 96% of forest land is owned by clan / community / individuals. Implementation of the Act has, therefore, limited scope.	
Mizoram	1) Appointment of a Nodal officer	No
	2) Status of formation of various Committees (a) SDLC (b) DLC (c)SLMC	(a) Yes (b) Yes (c) Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Is being made

	5) Arrangements made for the training of PRI officials, SDLC, DLC members	No
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	-
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	-
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	-
	14) Projected date for distribution of title deeds	No projected date fixed so far by the State Government.
	15) <u>Problems/Remarks:</u> The Act was to be approved by the State Legislative Assembly as per the Article 371 (G) of the Constitution. In the sitting on 29.10.2009 of its Fourth Session, the Sixth Legislative Assembly of Mizoram has resolved that the Forest Rights Act shall be adopted in the entire State of Mizoram with effect from 31.12.2009. The same has also been notified by Govt. of Mizoram on 3.3.2010.	
Nagaland	Government of Nagaland has informed that the land holding system and the village system of the Naga people is peculiar in that the people are the landowners. There are no tribes or group of people or forest dwellers in the State of Nagaland. Hence, the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 per se may not be applicable to the State of Nagaland. However, a committee has been constituted to examine the applicability of the Act in Nagaland as per provision of Art. 371(A) of Constitution of India	
Orissa	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	(a) Yes (b) Yes (c) Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes

5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
7) No. of claims filed at Gram Sabha level	5,63,154 (5,51,109 individual and 12,045 community)
8) No. of claims recommended by Gram Sabha to SDLC	4,56,373 (4,51,052 individual and 5,321 community)
9) No. of claims recommended by SDLC to DLC	3,61,592 (3,56,436 individual and 5,156 community)
10) No. of claims approved by DLC for title	3,52,622 (3,49,426 individual and 3,196 community)
11) Number of titles distributed	3,33,001 (3,29,805 individual and 3,196 community)
12) Extent of forest land for which title deeds issued (in acres)	6,77,864.90 (5,21,354.31 individual and 1,56,510.59 community)
13) No. of claims rejected	1,35,937 (1,35,264 individual and 673 community.)
14) Projected date for distribution of title deeds	Balance certificate of title to be distributed within next two months.
15) <u>Problems/Remarks:</u> Certain forest land in the State is unsurveyed & detailed maps/records are not available;	

Rajasthan	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	(a) Yes (b) Yes (c) Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
	7) No. of claims filed at Gram Sabha level	69,775 (69,123 individual and 652 community)
	8) No. of claims recommended by Gram Sabha to SDLC	45,656 (45,546 individual and 110 community)
	9) No. of claims recommended by SDLC to DLC	33,626
	10) No. of claims approved by DLC for title	34,172
	11) Number of titles distributed	34,147 (34,082 individual and 65 community)
	12) Extent of forest land for which title deeds issued (in acres)	51,886.70
	13) No. of claims rejected	33,515
	14) Projected date for distribution of title deeds	-
	15) Problems/Remarks:	Not reported.
Sikkim	<p>The Government of Sikkim has issued a notification dated 28.1.2008 regarding constitution of an Expert Committee for identification of Critical Wildlife habitats in Protected Areas (PAs) and have also constituted the various Committees under the Act namely SDLC, DLC and SLMC, but has not sent any report regarding the progress of implementation of the Act in the State so far.</p> <p><u>Problems/ Remarks:</u> In Sikkim, there are no Forest Dwelling STs and Other Traditional Forest Dwellers in the true sense of the terms. Most of the STs of Sikkim hold revenue land in their own name and they are not solely dependent on the forests for their livelihood.</p>	

Tamil Nadu	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC	Yes
	(b) DLC	Yes
	(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Has started in a limited way
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	-
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Work of setting up FRCs has started. Gram Sabha meetings convened on 15.08.2008
	7) No. of claims filed at Gram Sabha level	21,781 (18,420 individual and 3,361 community)
	8) No. of claims recommended by Gram Sabha to SDLC	Number not available
	9) No. of claims recommended by SDLC to DLC	Number not available
	10) No. of claims approved by DLC for title	3,723
	11) Number of titles distributed	3,723 ready
	12) Extent of forest land for which title deeds issued (in acres)	Not Available
	13) No. of claims rejected	-
14) Projected date for distribution of title deed	31-12-2009 (over)	
15) <u>Problems/Remarks:</u>		
	<p>Title deeds would be distributed after the vacation of restrictive order of Madras High Court.</p> <p>As the High Court of Madras has not yet vacated the stay, distribution of titles deeds could not be executed. In fact, High Court of Madras have now passed orders on 22.4.2010 in W.P. No. 4533 of 2008, 2762 and 2839 of 2009 and M.P. Nos. 1 & 3/08 & M.P. No. 1/2009 in W.P. No. 2762/09 and formed a Committee to verify the correctness of beneficiaries numbering 2312 by visiting the districts.</p>	

Tripura	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC	Yes
	(b) DLC	Yes
	(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Workshop organized for the officials of PRI/SDLC/DLC.
	6) Constitution of Forest Rights Committees by the Gram Sabhas	1,040
	7) No. of claims filed at Gram Sabha level	1,82,617 (1,82,340 individual and 277 community)
	8) No. of claims recommended by Gram Sabha to SDLC	1,49,008 (1,48,906 individual and 102 community)
	9) No. of claims recommended by SDLC to DLC	1,32,472 (1,32,376 individual and 96 community)
	10) No. of claims approved by DLC for title	1,20,473 (1,20,418 individual and 55 community)
	11) Number of titles distributed	1,20,473 (1,20,418 individual and 55 community).
12) Extent of forest land for which title deeds issued (in acres)	4,16,555.58 (4,16,498.79 individual and 56.79 community) for 1,16,100 titles	
13) No. of claims rejected	21,384 (21,164 individual and 220 Community)	

	14) Projected date for distribution of title deeds	Not Given
	15) Problems/Remarks:	Not reported.
Uttar Pradesh	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC	43
	(b) DLC	17
	(c)SLMC	01
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	No need
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	1107
	7) No. of claims filed at Gram Sabha level	92,433 (91,298 individual and 1,135 community)
	8) No. of claims recommended by Gram Sabha to SDLC	19,064 (18,208 individual and 856 community)
	9) No. of claims recommended by SDLC to DLC	17,705
	10) No. of claims approved by DLC for title	17,705
	11) Number of titles distributed	17,705 (16,891 individual and 814 community)
	12) Extent of forest land for which title deeds issued (in acres)	1,39,778.04
	13) No. of claims rejected	73,028 (72,754 individual and 274 community)
	14) Projected date for distribution of title deeds	31.08.2012
	15) Problems/Remarks:	Not reported.

Uttarakhand	1) Appointment of a Nodal officer	Yes	
	2) Status of formation of various Committees	(a) SDLC	Yes
		(b) DLC	Yes
		(c) SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	-	
	4) Creation of Awareness about the provision of the Act and the Rules	-	
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes	
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes	
	7) No. of claims filed at Gram Sabha level	182	
	8) No. of claims recommended by Gram Sabha to SDLC	-	
	9) No. of claims recommended by SDLC to DLC	-	
	10) No. of claims approved by DLC for title	-	
	11) Number of titles distributed	-	
	12) Extent of forest land for which title deeds issued (in acres)	-	
	13) No. of claims rejected	1	
14) Projected date for distribution of title deeds	31-12-2009 (over)		
15) <u>Problems/Remarks:</u>			
	Formation of committees could not be done earlier due to the coming into force of model code of conduct for elections. The pace of implementation of Forest Rights Act was therefore adversely affected.		
West Bengal	1) Appointment of a Nodal officer	Yes	
	2) Status of formation of various Committees	(a) SDLC	Yes
		(b) DLC	Yes
(c) SLMC		Yes	

	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	2,819 FRCs have been constituted :
	7) No. of claims filed at Gram Sabha level	1,38,640 (1,35,442 individual and 3,198 community)
	8) No. of claims recommended by Gram Sabha to SDLC	40,159
	9) No. of claims recommended by SDLC to DLC	33,812
	10) No. of claims approved by DLC for title	33,210
	11) Number of titles distributed	31,809 distributed and 15,285 ready
	12) Extent of forest land for which title deeds issued (in acres)	16,891.556
	13) No. of claims rejected	30,775
	14) Projected date for distribution of title deeds	State requires more time for completion of the process. Govt. more for
	15) <u>Problems/Remarks:</u> The State Government has informed that most of the claims have been filed in four districts namely Paschim Medinipur, Bankura, Purulia & Jalpaiguri. Due to law and order problem in these districts, the progress is very slow. Hence, more time is required for completion of the process.	
P & N Islands	1) Appointment of a Nodal officer	Yes

2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	Yes Yes Being constituted.
3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Translation has been completed but publication of the translated version yet not done.
4) Creation of Awareness about the provision of the Act and the Rules	Yes
5) Arrangements made for the training of PRI officials, SDLC, DLC members	Under process
6) Constitution of Forest Rights Committees by the Gram Sabhas	Yes
7) No. of claims filed at Gram Sabha level	-
8) No. of claims recommended by Gram Sabha to SDLC	-
9) No. of claims recommended by SDLC to DLC	-
10) No. of claims approved by DLC for title	-
11) Number of titles distributed	-
12) Extent of forest land for which title deeds issued (in acres)	-
13) No. of claims rejected	-
14) Projected date for distribution of title deeds	-

	15) <u>Problems/Remarks:</u> The Andaman & Nicobar Administration has informed that there are no non-tribal forest dwellers as defined in the Act in A&N Islands. The Act, therefore, is applicable only to the Forest Dwelling Scheduled Tribes of these islands. The area inhabited by the Scheduled Tribes of A&N Islands has been declared as reserved area under the A&N Islands Protection of Aboriginal Tribes (Regulation), 1956. The interest of the tribals in the land situated in the reserved areas is fully protected under the provision of the regulation. The tribal reserves have been notified as reserved or protected forest reserve.	
Daman & Diu	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC (b) DLC (c) SLMC	02 02 01
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of PRI officials, SDLC, DLC Members	Nil
	6) Constitution of Forest Rights Committees by the Gram Sabhas	Nil
	7) No. of claims filed at Gram Sabha level	Nil
	8) No. of claims recommended by Gram Sabha to SDLC	Nil
	9) No. of claims recommended by SDLC to DLC	Nil
	10) No. of claims approved by DLC for title	Nil
	11) Number of titles distributed	Nil
	12) Extent of forest land for which title deeds issued (in acres)	Nil
	13) No. of claims rejected	Nil
	14) Projected date for distribution of title deeds	Not Given

	<p>15) <u>Problem / Remarks :</u></p> <p>Administration of Daman & Diu has informed vide their letter no. TSP/533/2011-2012/183, dated: 17.1.2012 that the Chief Conservation of Forest, Daman and Diu, has reported that there is no forest village in U.T. of Daman Diu, However, Chief Executive Officer Dist. Panchayat Daman & Diu & Collector of Both Daman & Diu Dist have been requested to give publicity to the provision of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights), Act, 2006.</p>	
Dadra & Nagar Haveli	1) Appointment of a Nodal officer	Yes
	2) Status of formation of various Committees (a) SDLC	Yes
	(b) DLC	Yes
	(c)SLMC	Yes
	3) Translation of the Act and the Rules into the regional languages and distribution to Gram Sabha, FRCs etc.	Yes
	4) Creation of Awareness about the provision of the Act and the Rules	Yes
	5) Arrangements made for the training of IPRI officials, SDLC, DLC members	Yes
	6) Constitution of Forest Rights Committees by the Gram Sabhas	-
	7) No. of claims filed at Gram Sabha level	-
	8) No. of claims recommended by Gram Sabha to SDLC	-
	9) No. of claims recommended by SDLC to DLC	-
	10) No. of claims approved by DLC for title	-
	11) Number of titles distributed	-
	12) Extent of forest land for which title deeds issued (in acres)	-
	13) No. of claims rejected	-
14) Projected date for distribution of title deeds	No projected date fixed so far by the UT Admn.	
	<p>15) <u>Problems/Remarks:</u> The Administration of Dadra & Nagar Haveli has informed this Ministry that despite notices in advance and propaganda, it has been difficult to hold gram sabha meetings in absence of quorum of 2/3 of all members of such gram sabhas. All out efforts are being made for constitution of Forest Rights Committees in all the gram sabhas. Position in this regard will be known shortly.</p>	
Lakshadweep	The UT Administration has intimated that there are no terrestrial forests and no forest tribes or traditional forest dwellers in Lakshadweep.	

Annexure-III

(A) Statement of claims and distribution of title deeds under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

(As on 31.05.2014)

Sl. No	State	Total number of claims received up to 30.04.2014	Claims received during the current month	Total number of claims received up to 31.05.2014	Total number of titles deeds distributed/ ready up to 30.04.2014	Title deeds distributed/ ready during the current month	Total number of titles deeds distributed/ ready up to 31.05.2014
1.	Andhra Pradesh	4,11,012 (4,00,053 individual and 10,959 community)	-	4,11,012 (4,00,053 individual and 10,959 community)	1,69,370 (1,67,263 individual and 2,107 community)	-	1,69,370 (1,67,263 individual and 2,107 community)
2.	Arunachal Pradesh	-	-	-	-	-	-
3.	Assam	1,31,911 (1,26,718 individual and 5,193 community)	-	1,31,911 (1,26,718 individual and 5,193 community)	36,267 (35,407 individual and 860 community)	-	36,267 (35,407 individual and 860 community)
4.	Bihar	2,930	-	2,930	28	-	28
5.	Chhattisgarh	7,56,062	-	7,56,062	3,12,250	-	3,12,250
6.	Goa	-	-	-	-	-	-
7.	Gujarat	1,91,592 (1,82,869 individual and 8,723 community)	-	1,91,592 (1,82,869 individual and 8,723 community)	42,752 (40,994 individual and 1,758 community)	-	42,752 (40,994 individual and 1,758 community)
8.	Himachal Pradesh	5,692	-	5,692	346	-	346
9.	Jharkhand	42,003	-	42,003	15,296	-	15,296
10.	Karnataka	2,54,556 (2,49,982 individual and 4,574 community)	21	2,54,577 (2,50,002 individual and 4,575 community)	6,806 (6,712 individual and 94 community)	252	7,058 (6,962 individual and 96 community)

Sl. No	State	Total number of claims received up to 30.04.2014	Claims received during the current month	Total number of claims received up to 31.05.2014	Total number of titles deeds distributed/ ready up to 30.04.2014	Title deeds distributed/ ready during the current month	Total number of titles deeds distributed/ ready up to 31.05.2014
11.	Kerala	37,535 (36,140 individual and 1,395 community)	-	37,535 (36,140 individual and 1,395 community)	24,599	-	24,599
12.	Madhya Pradesh	5,15,032 (4,87,380 individual and 27,652 community)	1,157	5,16,189 (4,88,498 individual and 27,691 community)	1,87,324 distributed (1,75,139 individual, 12,185 Community and 14,326 ready)	68	1,87,392 distributed (1,75,136 individual, 12,256 Community and 15,413 ready)
13.	Maharashtra	3,46,230 (3,41,085 individual and 5,145 community)	-	3,46,230 (3,41,085 individual and 5,145 community)	1,03,797 (1,01,426 individual and 2,371 community)	-	1,03,797 (1,01,426 individual and 2,371 community)
14.	Manipur	-	-	-	-	-	-
15.	Meghalaya	-	-	-	-	-	-
16.	Mizoram	-	-	-	-	-	-
17.	Orissa	5,61,267 (5,50,263 individual and 11,004 community)	1,887	5,63,154 (5,51,109 individual and 12,045 community)	3,32,144 distributed (3,29,013 individual and 3,131 Community)	857	3,33,001 distributed (3,29,805 individual and 3,196 Community)
18.	Rajasthan	69,769 (69,122 individual and 647 community)	-	69,775 (69,123 individual and 652 community)	34,147 (34,082 individual and 65 community)	-	34,147 (34,082 individual and 65 community)
19.	Sikkim	-	-	-	-	-	-
20.	Tamil Nadu	21,781 (18,420 individual and 3,361 community)	-	21,781 (18,420 individual and 3,361 community)	3,723 ready#	-	3,723 ready#

Sl. No	State	Total number of claims received up to 30.04.2014	Claims received during the current month	Total number of claims received up to 31.05.2014	Total number of titles deeds distributed/ ready up to 30.04.2014	Title deeds distributed/ ready during the current month	Total number of titles deeds distributed/ ready up to 31.05.2014
21.	Tripura	1,82,617 (1,82,340 individual and 277 community)	-	1,82,617 (1,82,340 individual and 277 community)	1,20,473 (1,20,418 individual and 55 community)	-	1,20,473 (1,20,418 individual and 55 community)
22.	Uttar Pradesh	92,433 (91,298 individual and 1,135 community)	-	92,433 (91,298 individual and 1,135 community)	17,705 distributed (16,891 individual and 814 community)	-	17,705 distributed (16,891 individual and 814 community)
23.	Uttarakhand	182	-	182	-	-	-
24.	West Bengal	1,38,640 (1,35,442 individual and 3,198 community)	-	1,38,640 (1,35,442 individual and 3,198 community)	31,809 distributed and 15,285 ready for distribution	-	31,809 distributed and 15,285 ready for distribution
25.	A & N Islands	-	-	-	-	-	-
26.	Daman & Diu	-	-	-	-	-	-
27.	Dadra & Nagar Haveli	-	-	-	-	-	-
	Total	37,61,250 (36,62,861 individual and 79,715 community)	3,065	37,64,315 (36,79,966 individual and 84,349 community)	14,35,113 (14,09,515 individual and 23,014 community)	1,177	14,36,290 (14,12,712 individual and 23,578 community) and 34,421 ready for distribution

(B) Statement of claims and distribution of title deeds under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

(As on 31.05.2014)

Sl. No.	States	No. of Claims received	No. of Titles Distributed	No. of Claims Rejected	Total No. of Claims Disposed off / % respect of claims received
1.	Andhra Pradesh	4,11,012 (4,00,053 individual and 10,959 community)	1,69,370 (1,67,263 individual and 2,107 community)	1,65,466	3,34,836 (81.46%)
2.	Arunachal Pradesh	-	-	-	-
3.	Assam	1,31,911 (1,26,718 individual and 5,193 community)	36,267 (35,407 individual and 860 community)	37,669	73,936 (56.04%)
4.	Bihar	2,930	28	1,644	1,672 (57.06%)
5.	Chhattisgarh	7,56,062	3,12,250	4,01,784	7,14,034 (94.44%)
6.	Goa	-	-	-	-
7.	Gujarat	1,91,592 (1,82,869 individual and 8,723 community)	42,752 (40,994 individual and 1,758 community)	18,394 (13,252 individual and 5,142 community)	61,146 (31.91%)
8.	Himachal Pradesh	5,692	346	2,160	2,506 (44.02%)
9.	Jharkhand	42,003	15,296	16,958	32,254 (76.78%)
10.	Karnataka	2,54,577 (2,50,002 individual and 4,575 community)	7,058 (6,962 individual and 96 community)	1,59,116 (1,56,877 individual and 2,239 community)	1,66,174 (65.27%)
11.	Kerala	37,535 (36,140 individual and 1,395 community)	24,599	7,889	32,488 (86.55%)

12.	Madhya Pradesh	5,16,189 (4,88,498 individual and 27,691 community)	1,87,392 distributed (1,75,136 individual, 12,256 Community and 15,413 ready)	2,81,396 (ST-40.03%) (OTD-97.14%)	4,68,788 (90.81%)
13.	Maharashtra	3,46,230 (3,41,085 individual and 5,145 community)	1,03,797 (1,01,426 individual and 2,371 community)	2,33,720 (2,31,641 individual and 2,079 community)	3,37,517 (97.48%)
14.	Manipur	-	-	-	-
15.	Meghalaya	-	-	-	-
16.	Mizoram	-	-	-	-
17.	Orissa	5,63,154 (5,51,109 individual and 12,045 community)	3,33,001 distributed (3,29,805 individual and 3,196 community)	1,35,937 (1,35,264 individual and 673 community)	4,68,938 (83.26%)
18.	Rajasthan	69,775 (69,123 individual and 652 community)	34,147 (34,082 individual and 65 community)	33,515	67,662 (96.97%)
19.	Sikkim	-	-	-	-
20.	Tamil Nadu	21,781 (18,420 individual and 3,361 community)	(3,723 titles are ready)	-	-
21.	Tripura	1,82,617 (1,82,340 individual and 277 community)	1,20,473 (1,20,418 individual and 55 community)	21,384 (21,164 individual and 220 community)	1,41,857 (77.68%)
22.	Uttar Pradesh	92,433 (91,298 Individual and 1,135 community)	17,705 (16,891 individual and 814 community)	73,028	90,733 (98.16%)
23.	Uttarakhand	182	-	1	1 (0.54%)
24.	West Bengal	1,38,640 (1,35,442 individual and 3,198 community)	31,809 distributed and 15,285 titles are ready	30,775	62,584 (45.14%)

25.	A & N Islands	-	-	-	-
26.	Daman & Diu	-	-	-	-
27.	Dadra & Nagar Haveli	-	-	-	-
	Total	37,64,315 (36,97,966 individual and 84,349 community)	14,36,290 (14,12,712 individual and 23,578 community) and 34,421 ready for distribution	16,20,836 (16,10,483 individual and 10,353 community)	30,57,126 (81.21%)

(C) Statement showing ranking in terms of percentage of titles distributed over number of claims received in each State under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

(As on 31.05.2014)

Sl. No.	State	Total number of claims received	Total number of titles deeds distributed/ ready	% of titles distributed over number of claims received
1	Tripura	1,82,617	1,20,473 distributed	65.97%
2	Kerala	37,535	24,599 distributed	65.53%
3	Orissa	5,63,154	3,33,001 distributed	59.13%
4	Andhra Pradesh	4,11,012	1,69,370 distributed	41.20 %
5	Rajasthan	69,775	34,147 distributed	48.93%
6	Chhattisgarh	7,56,062	3,12,250 distributed	41.29%
7	Madhya Pradesh	5,16,189	1,87,392 distributed and 15,413 ready	36.30%
8	Jharkhand	42,003	15,296 distributed	36.41%
9	Maharashtra	3,46,230	1,03,797 distributed	29.97%
10	Assam	1,31,911	36,267 distributed	27.49 %
11	Gujarat	1,91,592	42,752 distributed	22.31%
12	West Bengal	1,38,640	31,809 distributed and 15,285 ready	22.94%
13	Uttar Pradesh	92,433	17,705 distributed	19.15%
14	Himachal Pradesh	5,692	346	6.07%

Sl. No.	State	Total number of claims received	Total number of titles deeds distributed/ ready	% of titles distributed over number of claims received
15	Karnataka	2,54,577	7,058	2.77%
16	Bihar	2,930	28	0.95 %
17	Tamil Nadu#	21,781	3,723 ready#	0.00%
18	Uttarakhand	182	Nil	0.00%
19	Arunachal Pradesh*	-	-	-
20	Goa*	-	-	-
21	Manipur*	-	-	-
22	Meghalaya*	-	-	-
23	Mizoram*	-	-	-
24	Sikkim*	-	-	-
25	A & N Islands*	-	-	-
26	Daman & Diu*	-	-	-
27	Dadra & Nagar Haveli*	-	-	-
	Total	37,64,315 (36,79,966 individual and 84,349 community)	14,36,290 (14,12,712 individual and 23,578 community) and 34,421 ready for distribution	38.15%

* No claims received.

High Court's restrictive order.

ANNEXURE-IV

Status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the Left Wing Extremism (LWE) affected States

(As on 31.05.2014)

S.No.	State	No. of Claims received	No. of titles distributed	No. of claims rejected	Total No of Claims Disposed & %age of disposal
1.	Andhra Pradesh	4,11,012 (4,00,053 individual and 10,959 community)	1,69,370 (1,67,263 individual and 2,107 community)	1,65,466	3,34,836 (81.46%)
2.	Bihar	2,930	28	1,644	1,672 (57.06%)
3.	Chhattisgarh	7,56,062	3,12,250	4,01,784	7,14,034 (94.44%)
4.	Jharkhand	42,003	15,296	16,958	32,254 (76.78%)
5.	Madhya Pradesh	5,16,189 (4,88,498 individual and 27,691 community)	1,87,392 (1,75,136 Individual and 12,256 community) and 15,413 ready	2,81,396 (ST-40.03%) (OTD-97.14%)	4,68,788 (90.81%)
6.	Maharashtra	3,46,230 (3,41,085 individual and 5,145 community)	1,03,797 (1,01,426 individual and 2,371 community)	2,33,720 (2,31,641 individual and 2,079 community)	3,37,517 (97.48%)
7.	Orissa	5,63,154 (5,51,109 individual and 12,045 community)	3,33,001 distributed (3,29,805 individual and 3,196 community)	1,35,937 (1,35,264 individual and 673 community)	4,68,938 (83.26%)
8.	Uttar Pradesh	92,433 (91,298 individual and 1,135 community)	17,705 (16,891 individual and 814 community)	73,028	90,733 (98.16%)
	West Bengal	1,38,640 (1,35,442 individual and 3,198 community)	31,809 distributed and 15,285 ready	30,775	62,584 (45.14%)
	Total	28,68,653 (28,08,540 individual and 60,173 community)	11,70,648 (11,49,904 Individual and 20,744 community)	13,40,708	25,11,356 (87.72%)

Annexure-VList of States/UTs that are not uploading the web-site <http://forestrights.gov.in> :

(As on 31.05.2014)

(A) List of States Not Entering Committee Data:

1. ANDAMAN AND NICOBAR ISLANDS
2. ARUNACHAL PRADESH
3. DAMAN AND DIU
4. GOA
5. GUJARAT
6. MEGHALAYA
7. TAMIL NADU
8. UTTARAKHAND
9. UTTAR PRADESH

(B) List of States Not Entering Claim Data:

1. # ANDAMAN AND NICOBAR ISLANDS
2. ARUNACHAL PRADESH
3. DADRA AND NAGAR HAVELI
4. DAMAN AND DIU
5. GOA
6. GUJARAT
7. MIZORAM
8. MANIPUR
9. MEGHALAYA
10. SIKKIM
11. TAMIL NADU
12. UTTARAKHAND
13. UTTAR PRADESH

Only Forest Dwelling Scheduled Tribes.

(C) List of States/UTs that have not distributed any titles so far:

1. ARUNACHAL PRADESH
2. GOA
3. MANIPUR
4. MEGHALAYA
5. MIZORAM
6. SIKKIM
7. TAMIL NADU (because of High Court's restrictive order)
8. UTTARAKHAND
9. DAMAN & DIU
10. DADRA & NAGAR HAVELI

154

MOST IMMEDIATE

Government of India
Ministry of Tribal Affairs

Subject: Monthly update on status of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Reference Prime Minister's Office I.D. No.560/51/C/2/08-ES.2 dated 7th May, 2008 on the above subject.

2. Status report on the implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for the period ending 31st May, 2014, as desired, is sent herewith.

[Roopak Chaudhuri]
Deputy Secretary to the Government of India

PMO (Smt. Anu Garg, JS to PM), South Block, New Delhi

M/o Tribal Affairs' I.D. No.23011/03/2013-FRA (Pt.) dated 16.06.2014

Copy to:

1. Cabinet Secretariat (Shri Alok Verdhan Chaturvedi, Joint Secretary)
2. Planning Commission (Shri Madan Mohan, Advisor)
3. Dir (NIC), Ministry of Tribal Affairs, with the request that this status report (Annex-II, Annex-III, Annex-IV and Annex-V) may be put up on the Ministry's website (www.tribal.nic.in) under an appropriate heading.

Copy also for information to:

1. PS to MTA
2. PS to MOS (TA)
3. PPS to Secretary (TA)
4. PPS to JS (A)

Subject: Monthly progress Report on the implementation of the Forest Rights Act, 2006 for the month of May, 2014.

On the basis of the information available in the Office upto 31.05.2014, a draft Monthly Progress Report for the month of May, 2014, to be sent to PMO, Cabinet Secretariat has been prepared and placed below for consideration please.

2. During the current month, we have received information regarding the number of claims received and titles distributed/ready for distribution from the States of Madhya Pradesh, Odisha, Rajasthan, Karnataka and Kerala only. No status has been changed in respect of Rajasthan and Kerala. Other States/UTs have not furnished their monthly progress reports.

3. The status of implementation of the Act till 31st May, 2014, vis-à-vis the status of the last month ending on 30th April, 2014, is indicated in the statement below:

Sl. No.	Activity	Status, as on 30.04.2014	Status, as on 31.05.2014	Increase as compared to the last month
1.	No. Claims received	37,61,250 (36,77,982 individual and 83,268 community)	37,64,315 (36,79,966 individual and 84,349 community)	3,065
2.	No. of titles distributed/ready	14,35,113 (14,11,673 individual and 23,440 community) and 33,334 ready for distribution	14,36,290 (14,12,712 individual and 23,578 community)	1,177
3.	Total no. of claims disposed of	30,56,619 (81.26%)	30,57,126 (81.21%)	507
4.	Extent of forest land for which titles distributed (in acres)	55,23,141.58 Acres for 14,26,973 titles	55,29,742.54 acres for 14,28,150 titles	6,600.96

4. The MPR for the month of May, 2014, is placed below for approval please.

ANNEXURE R/ID. 156



INDIA STATE OF FOREST REPORT 2013



FOREST SURVEY OF INDIA
Ministry of Environment & Forests
Government of India
Dehradun - 248195

2.10 Forest Cover in Tribal Districts

Tribal and their communities have been a part of the forest ecosystem and their means and methods of livelihood have been deeply influenced by the forest. Forests play a very significant role in tribal economy and all their socio-cultural practices are woven around forests. The ISFR also provides the forest cover in the tribal regions keeping in view the fact that changes in the forest cover in such

region has an influence on the tribal community. In this section, an overview of forest cover in the tribal districts of the country has been presented. In all, there are 189 tribal districts in 26 States/UTs - as identified by the Government of India under the Integrated Tribal Development Programme (marked with superscript 'T') in the district-wise table of forest cover in Chapter 9. Table 2.9 presents a summary of forest cover in tribal districts of the country.

Table 2.9: Forest Cover in Tribal Districts (Area in km²)

States	No. of Hill Districts	Geographical Area	VDF	Forest Cover (km ²)			% of Total G.A.	Change (km ²)	Change (%)
				Forest	CV	Net			
Andhra Pradesh	8	87,090	239	16,465	8,359	25,063	28.78	-238	2,364
Arunachal Pradesh	13	83,743	20,828	31,414	15,079	67,321	80.39	-89	121
Assam	16	50,137	648	4,570	6,730	11,948	23.83	-48	93
Chhattisgarh	9	92,656	3,605	24,437	11,975	40,017	43.19	-40	87
Gujarat	8	48,409	322	2,937	3,512	6,771	13.99	5	395
Himachal Pradesh	3	26,764	950	1,067	1,218	3,235	12.09	4	118
Jharkhand	8	44,413	1,705	6,006	6,590	14,301	32.20	339	320
Karnataka	5	26,597	1,248	7,642	4,249	13,139	49.40	0	55
Kerala	9	27,228	1,147	6,846	5,414	13,407	49.24	311	29
Madhya Pradesh	18	139,448	5,631	20,235	16,362	42,228	30.28	-73	2,097
Maharashtra	12	144,233	7,261	11,775	11,665	30,701	21.29	-25	2,157
Manipur	9	22,327	728	6,094	10,168	16,990	76.10	-100	1
Meghalaya	7	22,429	449	9,689	7,150	17,288	77.08	13	372
Mizoram	8	21,081	138	5,900	13,016	19,054	90.38	-63	0
Nagaland	8	16,579	1,298	4,736	7,010	13,044	78.68	-274	2
Odisha	12	86,124	5,249	14,356	14,237	33,842	39.29	544	2,472
Rajasthan	5	38,218	0	2,442	3,897	6,339	16.59	-10	903
Sikkim	4	7,096	500	2,161	697	3,358	47.32	-1	311
Tamil Nadu	6	30,720	715	2,359	3,693	6,767	22.03	25	458
Tripura	4	10,486	109	4,641	3,116	7,866	75.01	-111	66
Uttar Pradesh	1	7,680	409	475	427	1,311	17.07	-8	1
West Bengal	11	69,403	2,957	3,709	7,880	14,546	20.96	2,246	111
A&N Islands	2	8,249	3,754	2,413	544	6,711	81.36	-13	57
Dadra & Nagar Haveli	1	491	0	114	99	213	43.38	2	1
Daman & Diu	1	72	0	1	3	4	5.01	-0.01	0
Lakshadweep	1	32	0	17	10	27	84.56	0	0
Grand Total	189	1,111,705	59,890	192,501	163,100	415,491	37.37	2,396	12,591

The total forest cover in the tribal districts is 415,491 sq km which is 37.37 percent of the geographical area of these districts. The current assessment shows a net increase of 2,396 sq km out of which there is a decrease of 32 sq km inside forest (greenwash) area and increase of 2,428 sq km outside forest (greenwash) areas in all the tribal districts of the country.

2.11 Forest Cover in the North-Eastern States

North-Eastern region of the country comprising eight states namely Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura is endowed with rich forest resources. The region, which constitutes only 7.98 percent of the geographical area of the country, accounts for nearly one fourth of its forest cover. Because of its biodiversity richness, the region has been identified as one of the 18 biodiversity hot spots of the world. One distinct feature of land use is the prevalence of shifting cultivation in hilly parts of almost all the states of this region. Shifting cultivation has traditionally been the main source of

livelihood of the tribal people and is intricately linked to their socio-cultural life.

As per the present assessment, the total forest cover in the region is 172,592 sq km, which is 65.83 percent of its geographical area in comparison to the national forest cover of 21.23 percent. Very dense, moderately dense and open forests constitute 14.77 percent, 44.02 percent and 41.21 percent respectively. The current assessment shows a decrease of forest cover to the extent of 627 sq km in the North-Eastern region. The main reason for this decrease is attributed to the biotic pressure and shifting cultivation in the region. State-wise forest cover in the region, along with the changes as compared to the previous assessment is shown in Table 2.10.

2.12 Forest Cover in Different Altitude Zones

Forest cover in higher altitudes has special ecological significance. Therefore, information on distribution of forest cover in different altitude zones is useful from policy and planning perspective for hill states.

Table 2.10. Forest Cover in the North-Eastern States (Area in km²)

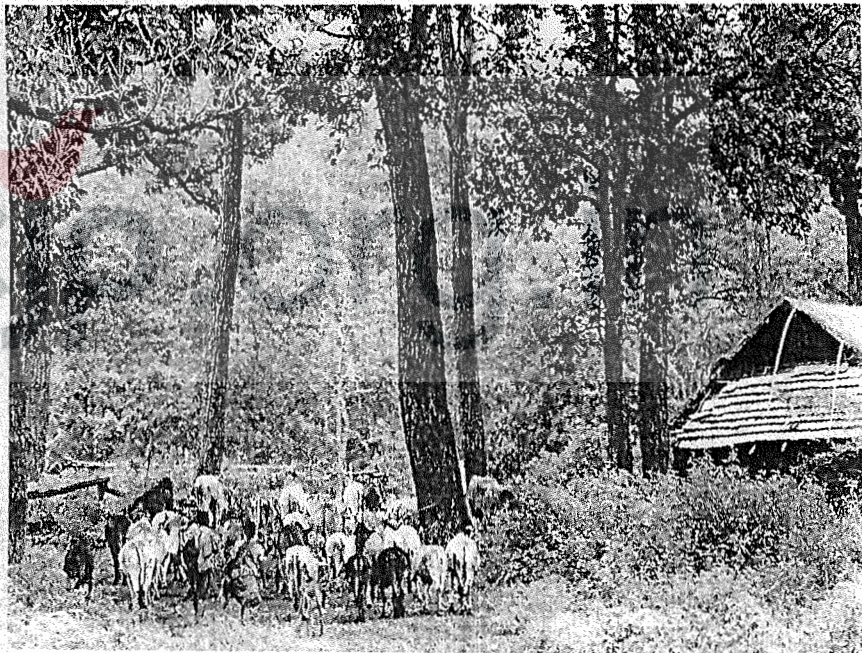
State	Geographical Area	VDF	FDL	Forest cover (sq km)	Forest cover (%)	Change in forest cover (sq km)	Change in forest cover (%)	Scrub
Arunachal Pradesh	83,743	20,828	31,414	15,079	67,321	80.39	-89	121
Assam	78,438	1,444	11,345	14,882	27,671	35.28	-2	182
Manipur	22,327	728	6,094	10,168	16,990	76.10	-100	1
Meghalaya	22,429	449	9,689	7,150	17,288	77.08	13	372
Mizoram	21,081	138	5,900	13,016	19,054	90.38	-63	0
Nagaland	16,579	1,298	4,736	7,010	13,044	76.69	-274	2
Sikkim	7,096	500	2,161	697	3,358	47.32	-1	311
Tripura	10,486	109	4,641	3,116	7,866	74.98	-111	66
Grand Total	262,179	25,494	75,980	71,118	172,592	65.83	-627	1,055



Manthan

Report
National Committee
on Forest Rights Act.

December 2010.



A Joint Committee of Ministry of Environment and
Forests and Ministry of Tribal Affairs,
Government of India

Chapter 1. Introduction

1.1 Background to FRA

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or Forests Rights Act (FRA) was published in the Gazette of India on 2nd Jan 2007, after passing in the Parliament and approval of the President of India. The enactment of FRA is a historic event, since for the first time the state formally admitted that for long, rights have been denied to forest people and the new law attempts not only to correct the 'Historic Injustice' but also gives prime importance to the role of forest communities' in forest governance and management. This also marked a watershed in the hard-fought and prolonged struggle of *adivasis* and other Forest Dwellers for recognition of community rights over forest resources.

The draft Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 were published, as required by sub-section (1) of section 14 of the Act under the notification of the Government of India¹ in June, 2007 in the Gazette of India, Part-II, Section 3, sub-section (i) of the same date, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of the period of forty-five days. The objections and suggestions received from the public in respect of the said draft rules were duly considered by the Central Government and the rules were notified as Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, on 1st January 2008.

Though the roots of the FRA lie in the historical injustice done to forest-dwellers (see 1.2 below), its more recent trigger was in May 2002 when Forest Departments launched large scale eviction drives generating a lot of opposition. By this time, all the mainstream political parties started talking about forest rights. Before 2004 general election both the Congress and BJP promised in the election manifestos that legislation for the tribal rights in the forest areas will be enacted. After 2004 election when UPA came into power this issue was included in the common minimum programme. Consequently in January 2005 the PMO decided that the Ministry of Tribal Affairs (MoTA) would draft a Bill with help of a Technical Support Group. This Group presented a draft in March 2005, and on 13 December 2005 the government tabled it in Parliament. A lot of debate took place on this issue and a Joint Parliamentary Committee (JPC) was formed with 30 members from all parties². It had consultation with various organization and individuals to make it a comprehensive legislation.

The JPC came up with inclusive definition of forest dweller that included both forest-dwelling ST and other traditional forest dwellers (OTFD), since it was felt that the classification of Scheduled Tribes category of forest dwellers and non-scheduled tribes had come into being after independence and also realizing that if rights are only given to ST then a big section of other forest dwellers will be left out posing a threat to their livelihood. Thus, the other forest dwellers were included into the legislation to ensure social and communal balance. Its draft was put to Parliament in May 2006, after which further changes were brought in by the government and the Act passed in December 2006.

During this entire process, from the time the first Bill draft became public, there was considerable and often sharply divided debate over it. A section of

¹ MoTA G.S.R 437(E) dated 19th June 2007.

² Report of the Joint Committee on the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005, Lok Sabha Secretariat, New Delhi

conservationists took a position that such a law would destroy India's forests; while a section of human and adivasi groups wanted it to be even stronger than the various versions being presented. Within the government, the Ministries of Tribal Affairs and Environment and Forests appeared to take divergent views, with the PMO having to step in to resolve differences. In the process of the repeated changes that took place in the draft Bill, influenced by widely divergent views on various sides, the final text of the Act in places lacks clarity of concept and process, and is not always clear about its relationship with other laws on forests/wildlife. Some of these issues are brought out in this report.

1.2 Understanding Historical Injustice and Indian Forests

India has a long history of forest and conservation legislations. But understandably these were tools in the hands of pre-colonial rulers and the colonial machinery, which had enacted these laws to make sure that the forests and the wildlife including its richest assets always belonged to the rulers and not to the communities that always lived with them. This also ensured that there were constant and bitter battles fought between the local forest dwelling communities and the ruling classes such as in the western Himalaya, for the rights and independence over the natural resources.

These battles continued even after independence as these communities, who fought for their rights over forests, were either looked upon as encroachers in forests lands or as people who should be brought into and accommodated in the mainstream society from their 'primitive' existence. This was not just a negation of forest dwellers and their inalienable rights, but a constitutional insult on people who had rights over forests. It's also well known that living with forest ecosystem with and without shifting cultivation has been a way of life of 'primitive' and other tribes and has been part of the evolutionary process of human being. These tribal communities had their own system of keeping land records and doing land regulation. Even now also in many areas especially the Northeast there are no formal land record systems and the local communities have their own system of regulating the use of land in their areas.

It is for the first time that any forest related law has accepted that historical injustices were inflicted on the forest people since colonial days. However, what were these historical injustices has not been detailed in the Act.

- There is broad agreement that substantial historical injustices to the forest dwelling communities had started with the process of reservation of forests, which alienated these communities from their traditional rights and customs.
- The extraction of forest resources by British was regulated by enacting series of laws viz. the first law in 1865, second law in 1878 and third in 1927 that is known as 'Indian Forest Act' (IFA) which provided backing for massive commercial extraction and conversion, and resulted in the alienation of forest-dwelling people (*"An Act to consolidate the law relating to forests, the transit of forest-produce and the duty leviable on timber and other forest-produce."*)
- The management of Indian forested landscape began primarily with a motive of commercial exploitation of timber, to feed both the British industrial development and the expansion of colonial rule in. This resulted in large scale destruction of forests right from Himalayas to Central India and Western Ghats for expansion of railways and other uses since the middle of the 19th century.
- Some parts of India however witnessed more progressive steps by the colonial government, primarily in response to local agitation and a few forward-thinking individuals within the government. Van Panchayats in Kumaon, tribal reservations continuing the right to customary practices and

access to forests in Andhra Pradesh, Tamil Nadu, and other states, the Chhotta Nagpur Tenancy Act in central India, careful recording of nistar rights in some parts of central India, and maintaining tribal ownership of forests in parts of north-east India, are examples of this. These, however, were exceptions to the general trend of colonial take-over of forests, a trend that continued well after Independence (and in some cases became worse, e.g. with the take-over of Van Panchayats, the non-renewal of tribal reservations in many states, etc.). Post-Independence, too, there have been many progressive steps by exceptional officials, but the system as a whole continues to be top-down, exclusionary, and alienating.

- After independence, the non-implementation of land reform in the lands acquired from the erstwhile princely states and landlords, resulted in further injustice to the people. These lands (including forests) were transferred to FD to select lands appropriate for management by them and lands appropriate for people's use. But such identification remained top-down and incomplete, and lands which were occupied by or forests lands that were used by forest-dwelling communities were not transferred to them for secure occupation and/or use.
- The communities expected, through widespread peoples' movement that all their rights such as nistar rights, community rights and other customary rights recorded in pre-British records such as Wajib-ul-urz, as also the customary rights, that were never recorded, will be given back to them. In many parts of India such as Orissa, customary rights were wholesale converted even into illegal activities by the simple transformation of the legal status of land, with very inadequate settlement procedures if any.
- Even after the land reform laws came into force, the commons, village forests, scrub forest, other categories of grasslands and forests continued to be subjected to the forest settlement process. This is within the overall context of the failure of land reforms in general, which is at least partly the reason for continuing considerable dependence of communities on forests.
- The working of most government departments has remained non-transparent and non-participatory, with vital information and processes not made available to the communities. There has been an issue of lack of governance in these areas and more often, the forest department bore the brunt, being the only agency of the government present there.
- With Wild Life Protection Act 1972 and the creation of protected areas (PAs), (a) without a consultation process with resident and user communities, (b) ignoring their rights and their own knowledge and conservation practices, (c) without a comprehensive settlement process that could recognize and vest customary rights and create a fair process of changing them where required, and (d) with forcible or artificially induced displacement in many cases, this further created a wedge between communities and the FD. The local communities in many places turned enemy of the wildlife.
- Large scale deforestation and degradation took place after the 1960s with the introduction of contract system in the forestry sector. This further alienated communities, and also led to movements like Chipko and Appiko.
- Total control of MFPs remained with the FD after independence and started generating considerable revenue and exploitation of the communities on the other hand continued by giving them paltry wages.
- Large scale industrialization and appropriation of forest land to industries went unchecked and people were displaced from their homelands. Though

the Forest Conservation Act slowed this down for a period after 1980, the pace has stepped up again since the 1990s. The Forest Department has mostly been bull-dozed into accepting such diversion. At no stage in the decision-making process regarding diversion, have communities living there been consulted

- The practice of Taungya, equivalent to the bonded labour in its distorted manifestations, continued even after independence till 1980s.
- Meanwhile, as a result of both the above-mentioned policies and programmes, as also an outcome of changing governance, cultural, economic and social situations, patterns of sustainability and institutions of management amongst forest-dwelling communities have eroded. People too, in many parts of India, are responsible for forest degradation, many a times out of compulsion and desperation.
- The Forest Policy 1988, the programmes of Joint Forest Management and Eco-development, and individual innovations by many forest officials have attempted to change the above trends. But they have not managed to alter the fundamental problems of top-down governance, of alienation and dispossession of forest-dwelling communities, and of meeting the growing needs of such communities while ensuring sustainability and conservation. Hence the need for legislation that creates the conditions for such a change, moving away from the historical injustice outlined above, and responding to current conditions.
- The intention of legislation to undo a historical injustice, has unfortunately been often understood and publicized as an Act passed to distribute forest land to tribal and other traditional forest dwellers who encroached forest land on or before 13-12-2005. Many politicians, bureaucrats as well as some NGOs consider the Act as an opportunity to provide, at the fastest pace possible, forest lands to the poor tribals while the conservationists and foresters see it as the ultimate blow to the protection and conservation of forests and wildlife. Both views ignore the intent and letter of the law to provide tenurial security to communities, while also empowering and making them responsible for conservation.

1.3 Act and Rules, implementation process

As the name itself suggests, The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, commonly known as Forest Rights Act (FRA), aims at recognition of 'forest rights' of forest dwelling Scheduled Tribes and other traditional forest dwellers on forests and forest lands. This recognition process has to follow the path of preference of claim, enquiry and verification, and recording of the same in the appropriate record of rights so that the rights become known to one and all and also become enforceable by the right holders. This process has to be steered extremely carefully so that the Act is not just seen as recognizing forest rights of those who are eligible under the Act, but is also recognized as strict enough to keep out those who may attempt to use it for getting benefits that are not admissible to them under this Act.

The FRA goes much beyond the 'recognition' of forest rights. The Act provides not only for the recognition of 13 types of forest rights (individual as well as community rights) but also prescribes duties for and empowers the forest right holders, Gram Sabhas, and local level institutions in regard to protection of wildlife, forests, bio-diversity, habitat and cultural and natural heritage. These two aspects need to be blended and are required to be put firmly in place so that the rights, duties, and powers mentioned in the Act mutually support and sustain each other.

The task is difficult since right from the days, prior to birth of the Act, it was hailed as an Act to grant *pattas* of forest land. This perception unfortunately continues even today not just among masses but also amongst some of the implementers and policy makers. The Act is also widely seen as one of change of forest governance, but is unfortunately not being understood as such.

1.4 Constitution of the Committee

Ministry of Environment & Forests had constituted a sub-committee³ on 3rd February 2010 to study the implementation for Forest Rights Act and suggest necessary policy changes in the future management of forestry sector in the country as a consequence of implementation of FRA, under the Chairmanship of Dr. Devendra Pandey with ten members. However, there was considerable opposition (including from its two nominated non-governmental members), to the Term of Reference and composition of this Committee, and to the fact that MoTA was not part of its formation.

Subsequently in a meeting held on 10th February 2010 with high level representatives within Ministry of Environment and Forests and the Secretary, MOTA, it was decided that MoEF, jointly with MOTA, would constitute a high level committee of experts to look at the issue of implementation, sustainable forest management and the protection/settlement of the rights of forest dwellers in details.

Therefore, in order to study and assess the impacts of the scheduled tribes and other traditional forest dwellers (Recognition of forest rights) Act, 2006 with regards to the Sustainable Management of Forest Resources, the Ministry of Environment and Forests in consultation with the Ministry of Tribal Affairs, notified the Constitution and Terms of Reference as "The Committee to study and assess the impacts of the scheduled tribes and other traditional forest dwellers (Recognition of Forest Rights) Act, 2006 with regards to the Sustainable Management of Forest Resources."⁴ The additional terms of reference of the committee included

1. The committee shall identify the role of stake holders and beneficiaries in the conservation, restoration and regeneration of forests. It shall also prescribe measures and guidelines to involve these stake holders in forest, restoration and regeneration.
2. The committee shall identify opportunities for and recommend measures to ensure convergence of various beneficiary oriented programmes for the forest rights holders taken up by various line departments in the states.
3. The committee shall define a new role for the Forest Department vis a vis the Gram Panchayat for forest conservation and regeneration.

The Ministry of Environment & Forests subsequently decided to reconstitute the committee as a joint committee of Ministry of Environment & Forests and Ministry of Tribal Affairs under the Chairmanship of Dr. N.C. Saxena and Co-chairpersonship of Dr. Devendra Pandey, with a total of nineteen members⁵. The committee also had *ex-officio* representatives from Ministry of Environment and Forests, Ministry of Tribal Affairs, Ministry of Panchayati Raj, Govt. of India. The terms of reference of the committee were considerably broadened to define future role of the forest departments and forest governance (see 1.4 below). The order of the reconstituted committee is given in Annexure (1). Further, the Committee during its first meeting on 3rd May, 2010 decided to co-opt Ms. Roma as the specialist member of the

³ Government of India, MoEF, Ref. No. 12-1/2006-FP dated 3.2.2010.

⁴ Government of India, MoEF, Ref. No. 12-1/2006-FP dated 11th Feb, 2010

⁵ Government of India, MoEF, Ref. No. 12-1/2006-FP dated 16th April, 2010

TABLE: Claims filed and approved under FRA by GS, SDLC and DLC for select States, upto May 2014

S.NO	State (1)	Total number of claims received by GS (2)	Total claims forwarded from GS to SDLC (3)	Percentage of claims forwarded from GS to SDLC (4)	Total number of claims forwarded by SDLC to DLC (5)	Percentage of claims forwarded from SDLC to DLC ((3) as % of (5))	Total number of claims approved by DLC (7)	Percentage of SDLC claims approved by DLC ((7) as % of (5))	Percentage of total claims approved by DLC as compared to approved by GS ((7) as % of (3))	% of total claim forwarded by GS for which title distributed (O as % of H)	Total number of titles distributed (11)
1	Andhra Pradesh	4,11,012	2,44,910	60	1,95,926	80	1,77,769	91	73	69	1,69,370
2	Assam	1,31,911	1,23,330	93	72,891	59	36,267	50	29	29	36,267
3	Chhattisgarh	7,56,062	3,37,140	45	3,17,640	94	3,15,190	99	93	93	3,12,250
4	Gujarat	1,91,592	1,89,161	99	50,156	27	40,029	80	21	23	42,752
5	Jharkhand	42,003	23,617	56	17,046	72	16,351	96	69	65	15,296
6	Karnataka	2,54,577	48,266	19	6,899	14	7,058	102	15	15	7,058
7	Kerala	37,535	32,962	88	26,894	82	25,683	95	78	75	24,599
8	Madhya Pradesh	5,16,189	5,00,933	97	4,95,033	99	2,02,805	41	40	37	1,87,392
9	Maharashtra	3,46,230	2,95,755	85	1,17,240	40	1,09,596	93	37	35	1,03,797
10	Orissa	5,63,154	4,56,373	81	3,61,592	79	3,52,622	98	77	73	3,33,001
11	Rajasthan	69,775	45,656	65	33,626	74	34,172	102	75	75	34,147
12	Tripura	1,82,617	1,49,008	82	1,32,472	89	1,20,473	91	81	81	1,20,473
13	Uttar Pradesh	92,433	19,064	21	17,705	93	17,705	100	93	93	17,705
14	West Bengal	1,38,640	40,159	29	33,812	84	33,210	98	83	79	31,809
		37,33,730	25,06,334	67	18,78,932	75	14,88,930	79	59	57	14,35,916

Source: Monthly Progress Report for period ending 31st May 2014, Ministry of Tribal Affairs, Government of India

FRA= Forest Rights Act; GS= Gram-Sabha; SDLC= Sub Division Level Committee; DLC= District Level Committee

Notes: (1) The data includes both individual claims as well as community claims, since disaggregated data has not been provided by several State Governments; (2) Figures for total number of claims approved by DLC have not been provided by Assam and Karnataka, and accordingly have been extrapolated from column 11; (3) Table includes ALL states for which comparative data is available; those States where data is not provided have not been included.

IN THE HIGH COURT OF KARNATAKA AT BANGALORE
DATED THIS THE 21ST DAY OF JANUARY 2014

: PRESENT :

HON'BLE MR. D.H.WAGHELA, CHIEF JUSTICE
AND

HON'BLE MRS. JUSTICE B.V.NAGARATHNA
WRIT PETITION No. 27390 / 2012 (GM-RES-PIL)

BETWEEN

1. SRI VEERESH NAIK B N
PRESIDENT
KARNATAKA STATE RANGE FOREST
OFFICERS' ASSOCIATION
BANGALORE.
2. SRI LAKSHMI NARAYANA
KARNATAKA STATE ASSISTANT CONSERVATORS OF
FORESTS ASSOCIATION, BANGALORE.

... PETITIONERS

(BY SRI K.N.PHANINDRA, AMICUS CURIAE.)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
VIDHANA SOUDHA, BANGALORE.
2. THE PRINCIPAL SECRETARY
HOME DEPARTMENT,
VIDHANA SOUDHA, BANGALORE.
3. DIRECTOR GENERAL OF POLICE
KARNATAKA STATE, BANGALORE.
4. WILD LIFE FIRST
JAYANAGAR 4TH BLOCK, BANGALORE,

REP. BY MANAGING TRUSTEE
SRI PRAVEEN BHARGAV, BANGALORE.

5. UNION OF INDIA
REP. BY THE MINISTRY OF LAW AND JUSTICE,
SHANTI SHARVA BUILDING, NEW DELHI.
6. DIRECTOR OF KARNATAKA STATE
COMMISSION FOR SCHEDULED CASTES
& SCHEDULED TRIBES
NO. 14/3, 2ND FLOOR, CFC BUILDING,
NRUPATHUNGA ROAD, BANGALORE-560 001.

... RESPONDENTS

(BY SRI NARENDAR.G., AGA, FOR R-1 TO R-3.
SRI T.I.AEDULLA, ADVOCATE FOR
HEGDE ASSOCIATES FOR R-4.
SMT. SINCHANA, ADVOCATE FOR
SRI S.KALYAN BASAVARAJ, ASG, FOR R-5.)

WRIT PETITION [PIL] SUO-MOTU FILED PRAYING TO
STAY THE INVESTIGATION OF FALSE CRIMINAL CASES
UNDER SC/ST [PREVENTION OF ATROCITIES] ACT, 1989 AND
ALSO TO QUASH THE FIR ON FALSE COMPLAINT; DIRECT
THE STATE OF KARNATAKA AND ITS HOME SECRETARY TO
HONOUR THE PROVISIONS OF SECTION 114A OF KARNATAKA
FOREST ACT 1963; DIRECT THE STATE OF KARNATAKA TO
INITIATE NECESSARY LEGAL ACTION AGAINST THE POLICE
OFFICERS WHO HAVE REGISTERED FALSE CASES, ETC.

THIS PETITION COMING ON FOR PRELIMINARY
HEARING THIS DAY, CHIEF JUSTICE MADE THE FOLLOWING:

ORDER

D.H.WAGHELA, CJ (ORAL) :

1. The present proceedings in the nature of Public Interest Litigation were initiated on the basis of a letter dated 26.7.2012 addressed to the Hon'ble Chief Justice of this court and, in view of the grievances voiced therein, the State Government was contemplating to issue a notification and produce a draft notification before this court. That, however, could not be done so far and learned *amicus curiae* Sri Phaniindra was then requested to prepare a draft providing for, as far as practicable, some protection to the officers of the Forest Department, who were accused of the offences under the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 during the discharge of their official duties of protecting the forests and carrying out anti-poaching and anti-encroachment activities. Accordingly, a draft has been prepared by learned *amicus curiae* and copies thereof have been submitted to the authorities concerned through learned A.G.A. for their consideration.

2. In view of the legal complications involved and the concern related to investigation and prosecution of legitimate complaints under the aforesaid Act, as discussed during the course of arguments, it was suggested at the Bar that it must be left to the State Government to issue appropriate guidelines for the purpose of protection of the forest officials in the discharge of their duties. But, it may not be advisable to suggest any statutory amendment by the State Government in view of the relevant provisions of the Criminal Procedure Code as well as the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Accordingly, the petition is disposed only with the observation that the State Government may consider the draft submitted by learned *amicus curiae* and frame appropriate guidelines for the officers of the Forest Department as well as the officers in charge of investigation and prosecution of the alleged offences under the above

170

Act, and with acknowledgement of the contribution made
by learned counsel Sri K.N.Phanindra as an *amicus curiae*.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

ckc/-



ITEM NO.301 COURT NO.9 SECTION IVA

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).21339/2011

(From the judgment and order dated 19/01/2011 in WP No. 12351/2010 of
The HIGH COURT OF MADHYA PRADESH AT JABALPUR)

AJAY DUBEY

Petitioner(s)

VERSUS

NATIONAL TIGER CONSERVATION AUTH.& ORS.

Respondent(s)

(With application for permission to file additional documents, directions,
vacating stay, compliance of order, modification, intervention,
direction/modification, clarification/modification of court's order,
vacating/modification of the interim order of stay, prayer for interim
relief and office report)

[FOR FINAL DISPOSAL]

WITH

WRIT PETITION (C) NO. 387/2012

[TEHELKA & ANR. V. STATE OF UTTARAKHAND & ORS.]

(With office report)

WRIT PETITION (C) NO. 438/2012

[BRIJENDRA SINGH BUNDELA & ANR. V. UNION OF INDIA &
ORS.]

With application for exemption from filing official translation and office
report)

Date: 16/10/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK .

HON'BLE MR. JUSTICE SWATANTER KUMAR

Mr. Raj Panjwani, Sr. Adv.(A.C.)

For Petitioner(s)

in SLP 21339 Mr. Siddharth Gupta, Adv.

Ms. Prerna Mehta, Adv.

In WP 387 Mr. Chandra Uday Singh, Sr. Adv.

Ms. Sujatha Balachander, Adv.

Mr. Dhaval Mehrotra, Adv.

Mr. Subramonium Prasad, Adv.

In WP 438 Mr. S.P. Singh, Sr. Adv.

Mr. Dhirendra Parmar, Adv.

Mr. Sushil Tomar, Adv.

Mr. Anil Kumar Gupta-II, Adv.

For Applicant (s)

in IA 9-10 Mr. Tushar Thareja, Adv.

Mr. Shital Menon, Adv.

Mr. Naresh Kaushik, Adv.

In IA No. 11 & 44 Mr. S.P. Singh, Sr. Adv.

Mr. D.S. Parmar, Adv.

Mr. Susheel Tomer, Adv.

Mr. Anil Kumar Gupta-II, Adv.

In IA Nos. 12 Ms. N. Shobha, Adv.

Mr. Sriram J. Thalopathy, Adv.

Mr. V. Adhimoolam, Adv.

In IA 14 Mr. Sanjay Parikh, Adv.

Ms. Mamta Saxena, Adv.

Ms. Bushra Parveen, Adv.

Ms. Aparna Bhat, Adv.

In IA Nos. 15,16 & Mr. T. Singh Dev, Adv.

41 Mr. Gautam Narayan, Adv.

In IA No. 17, 26 & 27

Ms. Aparna Bhat, Adv.

Ms. Suveni Banerjee, Adv.

In IA Nos.3, 18 & 45 Mr. Ranjit Kumar, Sr. Adv.(IA 18 & 5)

Hotel Association Mr. C.A. Sundaram, Sr. Adv.(IA 3)

Ms. Madhavi Diwan, Adv.

Mr. R.N. Karanjawala, Adv.

Ms. Manik Karanjawala, Adv.

Ms. Ruby Singh Ahuja, Adv.

Ms. Jatin Mongia, Adv.

Ms. Shraddha Deshmukh, Adv.

Mr. Ishaan Gaur, Adv.

For M/s. Karanjawala & Co., Advs.

In IA No. 19 Mr. Dushyant Dave, Sr. Adv.

Mr. Jasbir Singh Malik, AAG.

Mr. Varun Puniap, Adv.

Mr. Milind Kumar, Adv.

In IA Nos. 20, 21 & 30

Mr. Sanjay Upadhyay, Adv.

Mr. Tushar Thaiya, Adv.

Ms. Lalitha Kaushik, Adv.

In IA Nos. 22 & 46 Dr. Aditya Sondhi, Adv.

Mr. Nidhishree B.V., Adv.

Mr. Vikas Mehta, Adv.

Ms. Aditi Bhat, Adv.

In IA Nos: 23 & .. &

... in IA 23, 47 & 50

Ms. V. Mohana, Adv.

In IA Nos. 24 & 25 Mr. Ravindra Shrivastava, Sr. Adv.

Ms. Anuradha Mutatkar, Adv.

Ms. Suvigya, Adv.

Mr. Anoop Jain, Adv.

Mr. Abhinav Shrivastava, Adv.

Mr. Anshuman Shrivastava, Adv.

Mr. Anshuman Singh, Adv.

In IA Nos. 26, 27 & 48

Mr. V.K. Gupta, Sr. Adv. (in IA 48)

Mr. Saurabh Suman Sinha, Adv.

Ms. Shilpa Singh, Adv...

in IA Nos. 28 & 29 Mr. Siddharth Gupta, Adv.

Ms. Prerna Mehta, Adv.

In IA No. 31 Mr. Bhargava V. Desai, Adv.

Mr. Shreyas Mehrotra, Adv.

In IA No. 32

Mr. Dinesh Kumar Garg, Adv.

In IA No.33 Mr. Vivek Singh, Adv.

Mr. Aseem Chandra, Adv.

Mr. Ravi Agrawal, Adv.

In IA No. 34 & 48

Tiger Terrain Trust For M/s Vidhi International, Advs.

In IA No. 35 & 51 Mr. Jaideep Gupta, Sr. Adv.

State of Assam Mr. Avijit Roy, Adv.

Mr. Navnit Kumar, Adv.

Mr. Ranjan Mazumdar, Adv.

For M/s Corproate Law Group, Advs.

In IA No. 36 Mr. Sanjay V Kharde, Adv.

Ms. Asha G. Nair, Adv.

In IA No. 37 Mr. Vivek K. Tankha, Sr. Adv.

Mr. B.S. Banthia, Adv.

Mr. Rishabh Sancheti, Adv.

Mr. Avijit Singh, Adv.

In IA Nos. 38-39 Mr. Ravindra Shrivastava, Sr. Adv.

Mr. M.K. Choudhary, Adv.

Ms. Namita Choudhury, Adv.

Mr. Yudhistir Bharadwaj, Adv.

In IA 40 & 56 Dr. M.P. Raju, Adv. (in IA 40)

Mr. P. George Giri, Adv.

In IA 43 Ms. Indra Jaisingh, ASG

Mr. Ashok K. Srivastava, Adv.

Mr. Shreekant N. Terdal, Adv.

In IA 52 Mr. Arjun Garg, Adv.

In IA 53 Mr. P.K. Goswami, Sr. Adv.

Mr. R.B. Phookan, Adv.

Ms. Neha T. Phookan, Adv.

Ms. Dharitry Phookan, Adv.

- In IA 54 Mr. Pragyan P. Sharma, Adv.
 Ms. Mandakini Shjrma, Adv.
 Mr. Rupesh Gupta, Adv.
 Mr. Gautam Dhamija, Adv.
 Mr. P.V. Yogeswaran, Adv.
- In IA 55 Mr. Abhay Kumar Adv.
 Mr. Kartik N. Shukul, Adv.
 Mr. Upendra Pratap Singh, Adv.
- In IA 57 Mr. Sanjay Parikh, Adv.
 Mr. Avijeet Bhujabal, Adv.
 Mr. Parmanand Gaur, Adv.
- In IA 58 Dr. K.P. Kylasnath Pillai, Sr. Adv.
 Mr. A. Venayagam Balan, Adv.
 Ms. V.S. Lakshmi, Adv.
 Ms. Asha Joseph, Adv.

For Respondent(s)

For Union of India/

MOEF & TCA Ms. Indra Jaisingh, ASG

 Mr. Harris Beeran, Adv.

 Ms. Jhuma Sen, Adv.

 Ms. Supriya Jain, Adv.

 Mr. B. Krishna Prasad, Adv.

For the States of

Andhra Pradesh Ms. Rumi Chanda, Adv.

 Ms. C.K. Sucharita, Adv.

Arunachal Pradesh Mr. Anil Shrivastav, Adv.

 Mr. Rituraj Biswas, Adv.

Bihar Mr. Gopal Singh, Adv.

- Mr. Manish Kumar, Adv.
Mr. Chandan Kumar, Adv.
- Chhattisgarh Mr. C.D. Singh, Adv.
Mr. Abhimanyu Singh, Adv.
- Jharkhand Mr. S. Chandrashekhar, Adv.
Mr. Jayesh Gaurav, Adv.
Mr. Manoj Kumar, Adv.
- Goa Ms. A. Subhashini, Adv.
- Haryana Mr. Manjit Singh, AAG.
Mr. Kamal Mohan Gupta, Adv.
- Karnataka Ms. Anitha Shenoy, Adv.
Mr. Saurabh Sharma, Adv.
Mr. Ritwick Dutta, Adv.
Mr. Rahul Chowdhary, Adv.
- Kerala Mr. K.K. Venugopal, Sr. Adv.
Mr. Ramesh Babu M.R., Adv
- Madhya Pradesh & Mr. Vivek K. Tankha, Sr. Adv.
- RR Nos. 3-6 Mr. B.S. Banthia, Adv.
Mr. Avijit Singh, Adv.
Mr. Vikas Upadhyay, Adv.
Mr. Sumeer Sodhi, Adv.
- Maharashtra Mr. Sanjay V. Kharde, Adv.
Ms. Asha G. Nair, Adv.
- Manipur Mr. Khwairakpam Nobin Singh, Adv.
Mr. Sapan Biswajit Meitei, Adv.
- Meghalaya Mr. Ranjan Mukherjee, Adv.
Mr. S. Bhowmick, Adv.

- Mr. S.C. Ghosh, Adv.
- Odisha Mr. Shibashish Misra, Adv.
- Rajasthan Mr. Dushyant Dave, Sr. Adv.
- Mr. Jasbir Singh Malik, AAG.
- Mr. Varun Punia, Adv.
- Mr. Milind Kumar, Adv.
- Tamil Nadu Mr. C. Paramasivam, Adv.
- Mr. B. Balaji, Adv.
- Uttar Pradesh Mr. Shiv Prakash Pandey, Adv.
- West Bengal Mr. Abhijit Sengupta, Adv.
- Mr. D. Banerji, Adv.
- Mr. B.P. Yadav, Adv.
- Mr. Faizal M., Adv.
- Uttarakhand Mr. U.K. Uniyal, AG.
- Mr. Dinesh Kumar Garg, Adv.
- Mr. Abhishek Garg, Adv.
- Mr. Dhananjay garg, Adv.
- Mr. B.S. Billowria, Adv.
- For RR No. 7 Mr. Ravindra Shrivastava, Sr. Adv.
- Ms. Anuradha Mutatkar, Adv.
- Ms. Suvigya Awasthy, Adv.
- Mr. Abhinav Shrivastava, Adv.
- Mr. Anshuman Shrivastava, Adv.
- For RR Nos. 16 & 17 Mr. Naresh Kaushik, Adv.
- Mr. Sanjay Upadhyay, Adv.
- Mr. Tushar Thaiya, Adv.
- Ms. Lalitha Kaushik, Adv.
- Mr. Abhijat P. Medh, Adv.

Mr. V.N. Raghupathy, Adv.

UPON hearing counsel the Court made the following

ORDER

Heard learned counsel for the parties.

On 24th July, 2012, this Court passed an order that till the final directions are issued by this Court with reference to the Guidelines submitted by the National Tiger Conservation Authority of India, core zone or the core areas in the Tiger Reserved Areas will not be used for tourism.

The National Tiger Conservation Authority [for short 'the Authority'] has by Notification dated 15th October, 2012 notified the Comprehensive Guidelines for Tiger Conservation and Tourism. Part B of these Guidelines are titled: "Guidelines for Tourism in and around Tiger Reserves". The Guidelines for Tourism in and around the Tiger Reserves have been framed by virtue of the powers of the Authority under Section 38(O)(1)(c) of the Wild Life Protection Act, 1972 [for short 'the Act'] which empowers the Authority to lay down normative standards for tourism activities in buffer and core area of Tiger Reserves.

Now that the Guidelines for Tourism in and around the Tiger Reserves have been notified by the Authority, we modify the aforesaid interim order dated 24th July, 2012 and direct that henceforth tourism activities will be strictly in accordance with the Guidelines for Tourism in and around Tiger Reserves notified in Part B of the aforesaid Notification dated 15th October, 2012. All the concerned authorities will ensure that the requirements in the aforesaid Guidelines for Tourism in and around the Tiger Reserves are complied with before tourism activities recommence.

We make it clear that we have not declared the Notification dated 15th October, 2012 either intra vires or ultra vires and if any party is aggrieved by the Notification dated 15th October, 2012 of the Authority it will be open to the aggrieved party to challenge the same before the appropriate forum.

It has been brought to our notice by the learned Additional Solicitor General that under sub-section (3) of Section 38(v) of the Act, the State Government is required to prepare a Tiger Conservation Plan. We direct that the respective State Governments will prepare the Tiger Conservation Plan within six months from today and submit the same to the National Tiger Conservation Authority for approval in accordance with Section 38(O)(1)(a) of the Act.

While passing this order modifying the earlier interim order, we have taken note of the submission of the learned Additional Solicitor General that tourism activities may recommence strictly in accordance with the Guidelines for Tourism in Part B as indicated above. All the applications for vacating or modification of interim order dated 24th July, 2012 stand disposed of.

The matters are released from part-heard.

List the Special Leave Petition along with other pending interlocutory applications and Writ Petition (C) Nos. 387 of 2012 and 438 of 2012 on 27th November, 2012.

[[KALYANI GUPTA]

[[[SHARDA KAPOOR]

|COURT MASTER

||COURT MASTER