

No. 23011/28/2008-SG-II(FRA)

Government of India
Ministry of Tribal Affairs

Shastri Bhawan, New Delhi

Dated: 1.9.2011

To

Santosh Sarangi
Commissioner-cum-Secretary,
ST & SC Development Department,
Government of Orissa,
Bhubaneswar

Sub: The Scheduled Tribes and Other Traditional Forest Dwellers
(Recognition of Forest Rights) Act, 2006 – clarification on certain issues

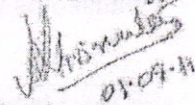
Sir,

I am directed to refer to Chief Secretary, Government of Orissa's letter No. TD-II-32/08-40490/CS(STSC), dated 21.10.2010 on the above subject and to say that issues raised therein have been examined in this Ministry in consultation with the M/o Environment & Forests, M/o Panchayati Raj and M/o Law & Justice and are clarified as under:-

S.No.	Issues	Clarifications
1.	<p>In cases where there are no villages inside Reserve Forest areas or unsurveyed forest areas, but the Scheduled Tribes/ OTFD, irrespective of where they stay, graze their cattle, or claim to collect MFP etc, then which Gram Sabha and at what distance from the concerned forest land should initiate action for settling the community rights of ST/ OTFDs in such forest areas which are beyond the limits of a village boundary.</p> <p>Also, in the case of forest diversion proposal, which Gram Sabha, at what distance from the concerned forest land should initiate action to enable the State Government to issue a certificate as required under a circular issued by MoEF on 3.8.2009 that the proposal for diversion of forest land has been placed before each Gram Sabha of forest dwellers under the FRA.</p>	<ul style="list-style-type: none">➤ In such cases, the claimants have to file their claims for community forest rights before the concerned Gram Sabha of which they are the members.➤ To decide the claims the procedure laid down in Rule 12 and particularly Rule 12(3) of the Forest Rights Rules, 2008, would need to be followed.➤ Further, in the case of a forest diversion proposal in a situation of this type, the certificate as required under the circular issued by MoEF on 03.08.2009 will need to be taken from all the concerned Gram Sabhas to which of such a forest area is common.

2.	Since, individual or community rights conferred under Section 4(4) of FRA, 2006 are heritable, but not alienable or transferable, whether after vesting of forest rights of STs and OTFDs on a particular forest areas, can the same forest area be diverted for non-forest use for developmental project or not under the Forest (Conservation) Act, 1980. If diversion of such forest land is permissible, whether the vested forest rights need to be compensated for and if 'yes' how? Is there any norm to compensate such forest rights? Can the forest rights be suspended, acquired or taken away by the State if situation demands?	<p>▶ The Forest Rights Act, 2006 has been enacted for conferment of defined forest rights, prescribing the procedure to be followed while conferring such rights and matters incidental to and connected therewith.</p> <p>▶ The Forest Rights Act, 2006 does not deal with the issue relating to diversion of forest land for non-forest use after vesting of forest rights of FDSTs and OTFDs.</p>
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Yours faithfully,



(A.K. Srivastava)

Director

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