

**डा. रामेश्वर उराँव**

अध्यक्ष

(भूतपूर्व सांसद-लोकसभा)

(पूर्व जनजातीय कार्य राज्यमंत्री)

**Dr. RAMESHWAR ORAON**

Chairman

(Ex Member Parliament-LS)

(Former Minister of State for Tribal Affairs)



सत्यमेव जयते

भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग

छठी मंजिल, लोकनायक भवन,

खान मार्केट, नई दिल्ली-110003

Government of India

National Commission for Scheduled Tribes

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D.O. No.Policy-4/DEV(FRA)/MTA/2012-RUII

Dated : 01st September, 2012

*Respected Sir Deo ji,*

Please refer to your letter D. O. No. MTA/ VIP 49/29/2012 dated 23rd July, 2012 regarding the guidelines for implementation of the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 issued to the concerned States/ UTs, vide their letter No. 23011/32/2010-FRA [Vol.II (Pt.)] dated 12th July, 2012 and the draft Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Rules, 2012. I am enclosing views of the Commission on the Draft Rules. I shall be grateful if the finalized rules are notified at the earliest for the benefit of the Scheduled Tribe Forest Dwellers and this Commission is apprised of the progress.

2. The Commission appreciates the initiative taken by the Ministry of Tribal Affairs for issuing well considered and comprehensive guidelines for implementation of the FR Act. The Commission would also like to emphasize that strict compliance of these guidelines by the State Governments/ UT Administrations is necessary for effective and timely implementation of the Act. The Ministry of Tribal Affairs may consider evolving necessary monitoring mechanism for the purpose.

*With regards*

Yours sincerely,

*Rameshwar Oraon*  
(Dr. Rameshwar Oraon)

**Shri V. Kishore Chandra Deo,**  
Minister of Tribal Affairs and Panchayati Raj  
Government of India  
Shastri Bhawan, New Delhi-110001.

**National Commission for Scheduled Tribes**

Views/comments on the Draft the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 on the proposed amendments in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007:

S. No.	Proposed amendment in FR Rules, 2007	Views of NCST
1	<p>In sub-rule (1) of rule 2.</p> <p>(i) for clause (b), the following clause shall be substituted, namely:-</p> <p>(b) "bona fide livelihood needs" means fulfillment of livelihood needs of self and family through exercise of the rights specified in sub-section (1) of the section 3 of the Act and includes sale of surplus produce arising out of exercise of such rights;</p>	Agreed
2	<p>(ii) for clause (d), the following clause shall be substituted, namely:-</p> <p>(d) "disposal of minor forest produce" under clause (c) of sub-section (1) of section 3 of the Act shall include right to sell as well as individual or collective processing, value addition, transportation within and outside forest area through locally appropriate means of transport for use of such produce or sale by gatherers or their cooperatives or associations or federations for livelihood;</p>	<p>Agreed.</p> <p>However, The term "locally appropriate means of transport" may be clearly exemplified to avoid possible exploitation by the contractors/ any other person.</p>
3.	<p>In the said rules, after rule 2, the following rule shall be inserted, namely:-</p> <p><b>"2A Identification of hamlets or settlements and process of their consolidation –</b></p> <p>The State Government shall ensure that, -</p>	
	<p>(a) every Panchayat, within its boundaries, prepares a list of group of hamlets or habitations, unrecorded or un-surveyed settlements or forest villages or taungya villages, and forest fringe villages formally not part of any Revenue or Forest village record and have this list passed by convening Gram Sabha of each such habitation, hamlets or habitations included as villages for the purpose of the Act through a resolution in the Panchayat;</p>	Agreed
	<p>(b) the Sub-Divisional Officers consolidate the lists of hamlets and habitations which at present are not part of any village but have been included as villages within the Panchayat through a resolution, and are formalized as a village either by adding to the existing village or otherwise after following the process as provided in the relevant State laws and that the lists are finalised after considering public comments, if any;</p>	Agreed
	<p>(c) on finalisation of the lists of hamlets and habitations, the process of recognition an vesting of rights in these hamlets and habitations is undertaken without disturbing any rights, already recognised;</p>	Agreed
4	<p>In the said rules, in rule 3, in sub-rule (1)-</p>	
	<p>"(i) for the words "at least one-third members shall be the Scheduled</p>	Agreed

	<p>Tribes". the words "at least two-third members shall be the Scheduled Tribes" shall be substituted;</p> <p>(ii) after the second proviso, the following proviso shall inserted, namely:-</p> <p>"Provided also that the process of verification of the claims already initiated or the forest rights recognised before the date of coming into force of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendments Rules, 2012 shall not affect any such process initiated or forest rights recognised".</p>	Agreed
5	<p>In the said rules, in rule 4, for sub-rule (2), the following sub-rule shall be substituted, namely:-</p> <p>"(2) The quorum of the Gram Sabha meeting shall be not less than one half of all members of such Gram Sabha:</p> <p>Provided that at least one-third of the members present shall be women:</p> <p>Provided further that where any resolutions in respect of claims to forest rights are to be passed, at least fifty per cent of the claimants to forest rights including the dependent of the claimants shall be present."</p>	Agreed
6	<p>In the said rules, in rule 6, for clause (1), the following clause shall be substituted, namely:</p> <p>"(1) ensure easy and free availability of proforma of claims to the claimants as provided in Annexure-I (Form A, B and C) of these rules;".</p>	Agreed
7	<p>In the said rules, in rule 8,</p> <p>(i) in clause (g), the word "and" shall be omitted;</p> <p>(ii) in clause (h), at the end the word "and" shall be inserted;</p> <p>(iii) after clause (h), the following clause shall be inserted, namely:-</p> <p>"(i) ensure that a certified copy of the record of community forest resource rights and title under the Act, as specified in Annexure IV to these rules, is provided to the concerned Gram Sabha or the community".</p>	Agreed
8	<p>In the said rules, in rule 10:-</p> <p>(i) for clause (c), the following clause shall be substituted, namely:-</p> <p>"(c) meet at least once in three months to monitor the process of recognition, verification and vesting of forest rights, consider and address the field level problems, and furnish a quarterly report to the Central Government on their assessment regarding the status of claims, the compliance with the steps required under the Act, details of claims approved, reasons for rejection, if any and the status of pending claims and shall ensure compilation of the above information and place the same on the website of the Central government on forest Rights Act;</p> <p>(ii) after clause (c), the following clause shall be inserted, namely:-</p> <p>"(f) monitor compliance of the provisions contained in clause (m) of sub-section (1) of section 3 of the Act, which recognise the right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been</p>	Agreed
		Agreed



	illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005, and also of the provisions contained in sub-section (8) of section 4 of the Act, which recognises their right to land when they are displaced from their dwelling and cultivation without land compensation due to State development interventions where such land has not been used for the purpose for which it was acquired within a period of five years."	
9	In the said rules, in rule 11, in sub-rule (4), for the words and letter "community forest rights in Form B" the words "community forest rights in Form B and the community forest resource rights in Form C" shall be substituted.	Agreed
10	In the said rules, after rule 12, the following rules shall be inserted, namely:- "12 A. <b>Process of recognition of rights-</b> (1) On receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue Departments shall remain present during the verification of the claims and the verification of evidences on the site.	Agreed
	(2) In the event of modification or rejection of a claim by the Gram Sabha or by the Sub-Divisional Level Committee, the decision on the claim shall be communicated to the claimant to enable the aggrieved person to prefer a petition to the Sub-Divisional Level Committee or District Level Committee as the case may be, within a period of sixty days and no such petition of the aggrieved person shall be disposed of, unless he has been given a reasonable opportunity to present anything in support of his claim.	Agreed
	(3) The Sub-Divisional Level Committee or the District Level Committee shall, if consider necessary, remand the claim to the Gram Sabha for reconsideration instead of modifying or rejecting the same, in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination.	Agreed
	(4) In cases where the resolution passed by the Gram Sabha, recommending a claim, is upheld by the Sub Divisional Level Committee, but the same is not approved by the District Level Committee, the District Level Committee shall record detailed reasons for not accepting the recommendations of the Gram Sabha and the Sub Divisional Level Committee, in writing, and a copy of the order of the District level Committee along with the reasons shall be made available to the claimant.	Agreed
	(5) Land rights for self-cultivation recognised under clause (a) of sub-section (1) of section 3 of the Act shall be, within the specified limit, including the forest lands used for allied activities ancillary to cultivation, such as, for keeping cattle, for winnowing and other post-harvest activities.	Agreed
	(6) On completion of the process of settlement of rights and issue of titles as specified in Annexures II, III & IV of these Rules, the Revenue and the Forest Departments shall prepare a final map of the forest land so vested and the concerned authorities shall incorporated the forest	Agreed

	rights so vested in the revenue and forest records, as the case may be, within the specified period of record updation under the relevant State laws.	
	(7) All decisions of the Sub-Divisional Level committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution or recommendation shall be in the form of speaking orders.	Agreed
	(8) The Sub-Divisional Level Committee or the District Level Committee shall not reject any claim accompanied by any two forms of evidences, specified in rule 13, and recommended by the Gram Sabha, without giving detailed reasons in writing and shall not insist upon any particular form of evidence for consideration of a claim:	Agreed
	(9) Fine receipts, encroacher list, primary offence reports, forest settlement reports, and similar documentation arisen during prior official exercises, or the lack thereof, shall not be the sole basis for rejection of any claim.	Agreed
11	<b>"12 B. Process of Recognition of Community Rights.-</b> The District Level Committee shall-	Agreed
	(a) in view of the differential vulnerability of Particularly Vulnerable Tribal Groups amongst the forest dwellers, ensure that all Particularly Vulnerable Tribal Groups receive habitat rights, in consultation with the concerned traditional institutions of Particularly Vulnerable Tribal Groups and their claims for habitat rights are filed before the concerned Gram Sabhas, wherever necessary by recognising floating nature of their Gram Sabhas.	Agreed
	(b) facilitate the filling of claims by pastoralists before the concerned Gram Sabhas.	Agreed
12	In the said rules, in Annexure-I, after Form B, the following Form shall be inserted, namely:-	Agreed
	Form C <b>CLAIM FORM FOR RIGHTS TO COMMUNITY FOREST RESOURCES</b>	Agreed
	In the said rules, after Annexure-III, the following Annexure shall be inserted, namely:-	Agreed
	Annexure-IV <b>TITLE TO COMMUNITY FOREST RESOURCES</b>	