

मंत्री
पर्यावरण, वन एवं जलवायु परिवर्तन
और
श्रम एवं रोज़गार
भारत सरकार



MINISTER
ENVIRONMENT, FOREST AND CLIMATE CHANGE
AND
LABOUR AND EMPLOYMENT
GOVERNMENT OF INDIA



भूपेन्द्र यादव
BHUPENDER YADAV



D.O. No. 11/142/2022-FC

Date: 10 November, 2022

Dear Shri Harsh Chouhan Ji,

Kindly refer to your letter dated 26.09.2022, mentioning that the Forest (Conservation) Rules, 2022 violate the provisions of Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

I would like to inform that The Forest (Conservation) Rules, 2022 have been promulgated to implement the provisions of the Forest (Conservation) Act, 1980. These rules do not abrogate the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 or the statutory powers of Gram Sabhas. A detailed note in this regard is enclosed herewith.

With regards,

Yours sincerely,

(Bhupender Yadav)

Shri Harsh Chouhan
Chairperson,
National Commission for Scheduled Tribes
6th Floor, Loknayak Bhawan, Khan Market
New Delhi-110003

FOREST (CONSERVATION) RULES, 2022

1. The Forest (Conservation) Rules, 2022 have been promulgated to implement the provisions of the Forest (Conservation) Act, 1980. These rules do not abrogate the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006. On the contrary, sub-clause (ii) of clause (b) of sub-rule 6 of Rule 9 of the Forest (Conservation) Rules 2022 mandates that State Government/ UT Administration shall issue orders of diversion of forest land only after fulfillment and compliance of all provisions, including settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006.
2. To understand the intent of notifying rules by the Ministry and to arrive at a legitimate conclusion, provisions introduced by the Forest (Conservation) Rules 2022 need to be viewed holistically. The approval process under the FC Act has evolved based on the knowledge and experience gained during last four decades of implementation of the said Act. Reforms like introduction of Project Screening Committee, Accredited Compensatory Afforestation, Creation of Land banks for raising CA, online processing etc. have been introduced in the Forest (Conservation) Rules, 2022.
3. Operation of Forest (Conservation) Rules, 2022 does not bar or infringe upon the operation of other laws mandating consent of Gram Sabhas, such as Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (FCTLARR) Act, 2013. Provisions of sections 4, 7, 11, 16, 41, 44 & 45 of the FCTLARR Act, 2013 delineate the role of Gram Sabha in land acquisition, relief and resettlement. The FCTLARR Act, 2013 provides for acquisition of rights of land owners including persons granted rights under the FRA, 2006. The FCTLARR Act also provides transparent procedure for any person to prefer claims for rights and compensation/ rehabilitation and resettlement for all interests in the land being acquired for public purpose before the Collector.
4. Robust legal framework for monitoring of settlement of rights in forest lands has been provided under sub-section (7) of the section 6 of the Forest Rights Act, 2006. This sub-section provides for constitution of a State Level Monitoring Committee (SLMC) to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as may be called for by that agency. In case any irregularity is observed in the process of recognition and settlement of rights, the same may be brought to the notice of the SLMC for appropriate action against violation of the provisions contained in section 4(5) of the FRA Act.
5. Creation of land banks, as envisaged in the Forest (Conservation) Rules, 2022 also do not infringe with the provisions of Forest Rights Act, 2006 as such land banks have been proposed to be created over lands other than lands notified under the Indian Forest Act, 1927 or under any other local laws. Therefore, apprehension that the proposed provisions of FC Rules, 2022 is violation of FRA, 2006 is not legally tenable. Moreover, ACA can be earned only after villages have been relocated from the protected areas after following due process of law and not otherwise. Therefore, the issue of violation of FRA does not arise.
