

By Speed Post

**GOVERNMENT OF ODISHA
ST & SC DEVELOPMENT DEPARTMENT**

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No 18602 /SSD Dated, Bhubaneswar 19/09-2015
STSCD-FRA-MEET-0003-2015

From,

Shri R.Raghu Prasad, IFS.
Director (ST)-cum-Addl. Secy. to Govt.

To

1. Shri Balabhadra Majhi, Hon'ble M.L.A., Lanjigarh.
Quarter No. F-6/2, MLA Colony, Unit-IV, BBSR.
2. Shri Dambaru Sisa, Hon'ble M.L.A., Chitrakonda.
Quarter No. DS-8/1, MLA Colony, Unit-IV, BBSR.
3. Sri Jogesh Kumar Singh, Hon'ble M.L.A., Sundergarh
Quarter No. DS-9/1, MLA Colony, Unit-IV, BBSR.

Sub:- Proceedings of the 8th State Level Monitoring Committee (SLMC) meeting on implementation of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Amendment Rules, 2012 held on 21.07.2015

Sir,

I am directed to inform that the proceedings of the 8th SLMC meeting on implementation of forest rights Act in the State was sent to you vide this Deptt. letter No.15503/SSD dt.3.8.2015. However the Ministry of Tribal Affairs, GoI has observed the following (Copy enclosed).

1. Community Forest Resource (CFR) rights may be conferred only to Gram Sabha and not to VSS committee as per the Forest Rights Rule 8(i) (as specified in Annexure-IV to these Rules) as amended up to 2012. It is for Gram Sabha to constitute a Committee for protection of wildlife, forest and bio diversity as per Rule 4(1)(e) of the Forest Rights Rules.
2. There is no provision or scope in the Forest Rights Act or the Forest Rights Rules to co-opt any additional members.

Accordingly, the recommendations of the 8th SLMC in Para-9 and 10 are hereby modified. This is for favour of your information and necessary action

Yours faithfully,

[Signature]
19/9/2015
Director (ST)-cum-Addl. Secretary to Govt.

Memo No. 18603 / SSD Dt. 19/09-2015

Copy along with copy of the enclosures forwarded to D.C.-cum-Addl. Chief Secretary to Govt., Forest & Environment Deptt. / Principal Secretary to Govt., Revenue & D.M. Deptt./ Commissioner-cum-Secretary to Govt., Panchayati Raj Deptt./ Principal Chief Conservator of Forests, Odisha, Bhubaneswar/ Director, SCSTRTI, CRP Square, Bhubaneswar for kind information and necessary action.

[Signature]
19/9/2015
Director (ST)-cum-Addl. Secretary to Govt.

Memo No. 18604 / SSD Dt. 19th 09-2015

Copy along with copy of the enclosure sent to P.S. to Chief Secretary, Odisha/ P.S. to Commissioner-cum-Secretary to Govt., ST & SC Development Department for kind information of the concerned Authorities respectively.


Director (ST)-cum-Addl. Secretary to Govt.

Memo No. 18605 / SSD Dt. 19th 09-2015

Copy along with copy of the enclosure sent to all Collectors-cum-Chairpersons of DLCs on implementation of FRA for information and necessary action.


Director (ST)-cum-Addl. Secretary to Govt.

Memo No. 18606 / SSD Dt. 19th 09-2015

Copy along with copy of the enclosure sent to all R.D.C.s for kind information and necessary action.


Director (ST)-cum-Addl. Secretary to Govt.

Memo No. 18607 / SSD Dt. 19th 09-2015

Copy along with copy of the enclosure sent to all Nodal Officers under FRA (9 nos. of PA,ITDAs and 21 nos. of DWOs) for information and necessary action. They are requested to take necessary steps for compliance of the minutes contained in the proceedings by the stipulated timeline.


Director (ST)-cum-Addl. Secretary to Govt.

Memo No. 18608 / SSD Dt. 19th 09-2015

Copy forwarded to the Secretary, Ministry of Tribal Affairs, Govt. of India, Shastri Bhawan, New Delhi for favour of information with reference to his D.O. letter No.23011/18/2015-FRA dt.20.08.2015.


Director (ST)-cum-Addl. Secretary to Govt.

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897212170/6363

अरुण झा, भा.प्र.से.

सचिव

Secretary to Government
Arjun Jha, I.A.S.
Secretary

01-09-15



सत्यमेव जयते

21/9/15
भारत सरकार
Government of India
जन्जातीय कार्य मंत्रालय
Ministry of Tribal Affairs
शास्त्री भवन, नई दिल्ली-110001
Shastri Bhawan, New Delhi -110001
29/8/15

Government of India

जन्जातीय कार्य मंत्रालय

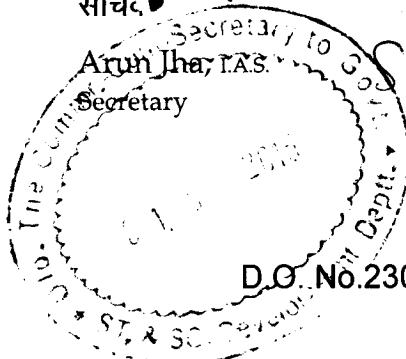
Ministry of Tribal Affairs

शास्त्री भवन, नई दिल्ली-110001

Shastri Bhawan, New Delhi -110001

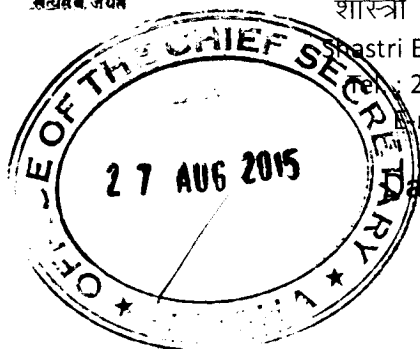
23381652, Fax : 23073160

email : arun.jha@nic.in



SSD Dept

D.O. No.23011/18/2015-FRA



Dated: 20th August, 2015

Dear Shri Pati,

The Ministry of Tribal Affairs is in receipt of the proceedings of the meeting of State Level Monitoring Committee (SLMC), Odisha held on 21st July 2015. It is observed therefrom that two of the decisions taken in the SLMC meeting are in violation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 ('Forest Rights Act' in short) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 (as amended up-to-date) ('Forest Rights Rules').

2. As per Para 9 of the proceedings "the committee observed that in Odisha, the VSS have been over the years nurtured by the F&E Department to sustainably manage and protect forest resources. Hence the committee decided that those VSS where there are no conflicts with the Gram Sabha in sustainable management of the forest resources may be identified so that Community Forest Rights can be given under FRA".

3. It may be noted that Community Forest Resource (CFR) rights may be conferred to Gram Sabha and not to VSS committee as per the Forest Rights Rule 8(i) (as specified in Annexure-IV to these Rules) as amended up to 2012. There are no Statutes that vest any authority with the VSS for CFR Rights. The processes of recognition of rights (Individual and Community, including CFR) are clearly laid down in the Forest Rights Act, 2006 and Rules. It is also important to point out that Rule 12B (4) of the Forest Rights Rules also requires that the Secretary of the District Level Committee shall record the reasons where no community forest rights are recognised in a village. It is for Gram Sabha to constitute a Committee for protection of wildlife, forest and bio diversity as per Rule 4(1)(e) of the Forest Rights Rules.

4. Further, vide Para 10 of the proceedings, it has been "decided that Superintendents of Police / Addl. SPs are to be co-opted as DLC members, while Sub Divisional Police Officers are to be co-opted at the SDLC level as Special Invitees."

5. This again is a violation of the Forest Rights Act, 2006 and the Forest Rights Rules. The Forest Rights Rules under Rule 5 and 7 clearly lay down the composition of the SDLC and the DLC respectively, detailing the officials and representatives of these Committees. There is no provision or scope in the Forest Rights Act or the Forest Rights Rules to co-opt any additional members. It may be pointed out that one of the key functions performed by the SDLC and DLC is the determination and decision on forest rights claims forwarded by the Gram Sabhas, and co-option of members in such Committees contrary to the provisions of the Act and Rules may render such decisions vulnerable to challenge.

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Dr. (1)
FRA cell
Pl. bring up

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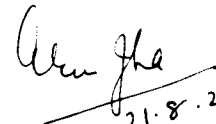
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27/9/15
Done
07/9/15

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6. The State Government of Odisha has taken many proactive steps in recognition of forest rights of the forest Dwelling Scheduled Tribes and Other Traditional Forest dwellers. The Ministry is appreciative of the work undertaken by the State of Odisha and orders and guidelines passed by the State Government are held in high regard as best practices.
7. These decisions of the SLMC as pointed out above, however, are not in the letter and spirit of the Forest Rights Act and may undo the good work done by the State so far and derail the process of vesting of forest rights in the State.
8. You are therefore requested to personally look into the matter and withdraw any such instructions, if communicated to the implementing officers.

With regards,

Yours sincerely,


21.8.2015
(Arun Jha)

Shri Gokul Chandra Pati
Chief Secretary,
Government of Odisha,
Bhubaneswar -753001.