

(a) whether Government has taken any fresh measures to promote public awareness about tiger conservations through art called Artiger; and

(b) if so, the details thereof?

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRI JAIRAM RAMESH): (a) No Sir.

(b) Question does not arise.

Recommendation of N.C. Saxena panel on forest rights Act

624. SHRI M. P. ACHUTHAN:

SHRI D. RAJA:

Will the Minister of ENVIRONMENT AND FORESTS be pleased to state:

(a) whether the N.C. Saxena panel appointed to review implementation of the Forest Rights Act has submitted its report; and

(b) if so, the details of the recommendations made and Government's decision thereon?

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRI JAIRAM RAMESH): (a) and (b) Yes Sir. Various details are given in the Statement.

Statement

Details of the Recommendations

Recommendation I

(a) Given the adverse impacts of artificial deadlines and targets, the Ministry of Tribal Affairs (MoTA) should issue a circular/direction to all the States and UTs that no such deadline exists as on today, and should give this circular widest publicity. Though the Act does not and should not provide any deadline for completion of the process, States should expedite recognition of rights within an appropriate time frame which is to be decided in consultation with the forest dwellers and civil society, so that governments do not slacken off on implementation.

- (b) All State Governments should recognize the Gram Sabha at the individual settlement (hamlet or revenue village) level, or PESA Gram Sabha where applicable, to enable much more effective processing of the FRA.
- (c) MoTA should issue directions that, wherever FRC (Forest Rights Committee) have been incorrectly formed, i.e., at Panchayat level or without adequate representation of different sections of the community or without following a democratic process, these FRCs are to be reconstituted through open elections at level of PESA or revenue village-level Gram Sabhas, with clear instructions so that officials do not usurp powers and functions of the FRCs. However, where there has been satisfactory processing of claims and vesting of rights despite faulty FRC formation, this should not be undone. The reconstituted FRCs should only review where there has been improper rejection or acceptance, or denial of the possibility of making claims, etc. and properly process new claims.
- (d) MoTA should issue a clarification that OTFDs as defined under the FRA are all those who can prove 75 years of residence in the area (not necessarily on the plot being claimed), and dependence on the forest land as of December 2005. MoTA should also clarify what kinds of evidences may be used as proof of 75 years of residence and how these are to be made available to the villagers. Finally, MoTA should clarify that no disqualifications on the basis of possession of additional revenue land or jobs, or location of residence on revenue land, etc. are permissible under the FRA.
- (e) A special set of guidelines need to be worked out for the proper use of spatial technology in the delineation, location, and status verification of claims filed, so as to ensure reliability, objectivity and transparency. Best practices identified and techniques developed in Maharashtra should be incorporated; financial support, equipment and training should be provided at all levels, especially the FRCs, and field verifications done with involvement of claimants. This activity should be part of work of the proposed National Forest Right Council.
- (f) State Governments should review their SLMCs, DLCs, and SDLs, including the problems identified in this report regarding their composition, functioning, public interface, and transparency, and issue directions for necessary correctives in each of these institutions.

- (g) There is an urgent need for involvement of civil society organizations with concerns for human rights as well as conservation, networks and forums at all level of implementation, as advisor and watchdogs. The state-level Monitoring Committee also needs to include key persons from such groups.
- (h) MoTA should clarify the procedure to be followed for ensuring that rights certificates issued under the FRA (both individual and community rights) are entered in the record of rights, land settlement and forest settlement records of each State. Specifically, it should (in consultation with the Ministry of Finance) issue instructions to ensure that the lands with settlement and cultivation rights [u/s 3(1)(a)] may be treated on par with fully private lands for the purpose of receiving financial support, including bank loans. It should also clarify whether these [3(1)(a)] lands are to be converted into revenue lands or not.
- (i) MoTA and MoEF need to work out a set of instructions for ensuring that evictions do not take place in violation of FRA [section 4(5)], and at the same time ensuring that fresh encroachments do not take place.
- (j) MoTA needs to considerably enhance its role as the nodal agency, by more closely monitoring progress, gathering more robust and disaggregated data on implementation, commissioning independent studies, issuing clarificatory circulars including those suggested in this report, directing states to take action on officials who are obstructing or violating the FRA, taking action on violations such as relocation/displacement of people without the FRA process having been completed or without Gram Sabha consent, and other aspects of poor or improper implementation.
- (k) MoEF needs to move urgently towards the governance reforms suggested in this report, ensure that its circular regarding development projects on forest land get legal backing in FRA/FCA, halt all relocations from protected areas that are illegal, ensure that the FRA process is respected in all afforestation/plantation programmes, encourage the CWH(Critical Wildlife Habitats) declaration with due process, and move towards reforming the MFP/NTFP collection and trade regimes as suggested in this report.

- (l) GOI should establish a National Forest Rights Council which can regularly and systematically monitor the FRA implementation, guides states to take necessary action, and hold or authorize the holding of public consultations and independent assessments.

Recommendation 2

- (a) All States need to address afresh the problem of omission: areas where FRA implementation is not happening, settlements, groups or individuals that are being left out, and so on.
- (b) Title deeds of land for individual possession should be given only after the physical measurement has been accurately done on the ground and demarcated with permanent boundary marks in the presence of all stakeholders (claimant and the bordering claimants as well as field forest and revenue officials in charge of the area and selected responsible members of FRC) to avoid future land disputes.
- (c) Survey and mapping of the forest land where IFR (Individual Forest Rights) are to be exercised is crucial to the whole process of IFR. It is essential that a short orientation/training is given to all stakeholders involved with FRA implementation with knowledge about different methods used in preparing the map such as GPS/PDA and imageries of satellites. It should only be after some members of FRC or others in the village are made familiar with it; the claimants must also mandatorily be involved at the stage of field verification.
- (d) The problem of wrongful rejections needs to be thoroughly addressed. States should hold public hearings for grievance redressal at all taluka levels, so as to proactively identify problems and areas of poor implementation.

Any claims rejected on the basis of missing documents or other procedural shortcomings should not be treated as rejected and should be remanded to the Gram Sabha for reconsideration and re-submission, as done in Orissa. Claims that have been wrongly rejected at the SDLC or DLC level on other grounds mentioned above should be re-opened and re-examined at the SDLC or DLC level. Special attention must be given to the claims of members of minority or marginalized sections of communities. The circular issued by MoTA on 4 March 2010 needs to be modified to facilitate this re-examination.

- (e) The Ministry of Environment and Forests should issue necessary clarification that the claims filed by individuals under FRA in the protected areas are eligible for consideration notwithstanding the declaration of the Critical Wildlife Habitat. These newly recognized right holders will have similar status to the existing settlements in CWH.
- (f) MoTA should clarify how the special case of both STs and OTFDs displaced without compensation by development projects is to be handled, in terms of proving residence and illegal displacement.

Recommendation 3

- (a) Given the serious inadequacies in implementation of CFRt (Community Forest Rights) at all levels, there is a need for a 2nd phase implementation of FRA in all States with primary focus on CFRt. Such a course of action is already indicated in a letter of 20 July 2010 of MoTA. It is important for MoTA and all state nodal agencies to go beyond this by issuing clarifications and instructions on various issues. Both MoTA and MOEF need to take the lack of implementation of CFRt with the seriousness it deserves.
- (b) The Committee is of the view that CFRt given under Section 3(1)(i) to "protect, regenerate or conserve or manage" should extend to entire area falling within the community forest resource (CFRe) as defined in Section 2(a) that are in the day-to-day regular use or management or protection of the community. If necessary, this should be clarified by MoTA to States, or an amendment to Section 3(1)(i) should be carried out to make it clear. Additionally CFR boundaries need to be as per the definition of community forest resource, and not constrained by JFM or other externally introduced boundaries.
- (c) A massive exercise in creating awareness about CFRt, amongst communities, officials and civil society groups, is needed. This must be in local languages and should involve various media including radio, television/cable, and print media. Particular attention is needed to CFRe and habitat rights, and to the needs of special disadvantaged groups such as PTGs, nomads, shifting cultivators, and women.

- (d) A simple, 'how-to' guide on CFRt needs to be produced by MoTA, which can be adapted by state nodal agencies as appropriate, and issued in large numbers to communities and relevant officials. This guidebook has to include all relevant clarifications on CFRt for processing and facilitation of claims.
- (e) State Governments should constitute technical support groups for clusters of villages (e.g. those set up in Orissa for FRA, or a many States for watershed development programmes) consisting of Civil Society Organizations and officials, which have a history of working with communities, to enable communities to carry out boundary demarcation and mapping of CFRt. These groups can also help to resolve any inter-village or other boundary disputes that may arise. GPS could be used for demarcating the boundary if necessary.
- (f) CFRt titles should be issued in the name of the Gram Sabha, while respecting specific rights to specific families or user groups of forest-dwellers as claimed and vested in the CFR area.
- (g) GS committees or institutions set up under the FRA need to have clear power and authority, combined with defined responsibilities and duties, to carry out their role as specified in the Preamble, Section 3(1)i (where CFRt is claimed) and Section 5. This would require appropriate Rules under FRA, or an amendment if the Rules cannot provide such empowerment.
- (h) For PTGs and other pre-agriculture groups it is essential that FRA/MOTA should elaborate the definition of 'habitat' and 'habitation' especially on the kind and extent of the area it should extend and what precisely the right means. The FRA also needs to be amended to explicitly mandate the traditional governance institutions of PTGs (Particularly Vulnerable Tribal Group) to carry out all the procedures of FRA that are given to Gram Sabhas, even in States where Panchayat raj institutions exist.
- (i) Given the lack of capacity to deal with the formal procedures of the external world by PTGs, MoTA and State Governments should to *suo moto* identify all of them, collect all relevant records pertaining to their customary rights and boundaries, contact their traditional institutions, and actively facilitate the process of obtaining rights, by involving them and helping them build capacity to handle this as also the post-rights phase, using PTG

languages. This would also require special training and orientation programmes for Government officials working in PTG areas on the special needs of these groups and the provisions of the FRA.

- (j) Once the PTG obtains the right to 'habitat', 'habitation', and other CFRt and IFR, it will have a particularly challenging task ahead. This is especially so where the PTG habitat is now inhabited by or used by several other communities, Government agencies, and private actors, and where the PTG itself has entered into wider market, political, and social relations. Learning and building capacity, at a pace suited to tribal way to life, and leading to clear articulation of what it means to be a PTG in the current context will be essential.

Recommendation 4

1. The first and foremost task in context of implementation of FRA is to identify and list, State-wise, the various tribes and communities of nomadic pastoralists.
2. The rights of nomads need to be recognized as community rights.
3. States should make possible the constitution of FRCs from amongst the nomadic communities themselves, and/or their representation in resident village FRCs where the nomads have customary grazing access, to enable them to make claims.

Recommendation 5

The committee recommends that practitioners of shifting cultivation be enabled to claim CFR rights (as explained in Chapter 4) and practice this customary agricultural practice. MoTA needs to issue a clarification that currently fallow lands which are part of the shifting cultivation cycle will be included in the community cultivation rights under 3(1)(a) and permitted to be brought under cultivation in the future as part of the shifting cultivation cycle.

Recommendation 6

- (a) Though MoEF/MoTA have issued directive to States during September 2010 that forest rights need to be recognized first in the national parks and sanctuaries before undertaking any

process for resettlement and that there is no provision in the FRA to defer the process of vesting of forest rights till critical wildlife habitats are determined and notified, these directives need to be followed up by States issuing directions to their district and sub-divisional committees and other relevant departmental officers and staff.

- (b) All notifications or steps relating to Tiger Reserves, Critical Tiger Habitats, and Critical Wildlife Habitats that have been undertaken in violation of the FRA (and in some cases even in violation of the WLPA (Wildlife Protection Act) subsequent to 1.1.2008 need to be reviewed, and fresh process started that follows the due procedures under FRA, WLPA, and MoEF's guidelines relating to CWH.
- (c) MoTA and MoEF/NTCA should also issue clarifications that Tiger Reserves are not exempted from the processes of the FRA. It should also be clarified that and even if relocation programmes in a particular PA have been going on prior to the promulgation of FRA such PA is not exempted from FRA process for families and villages that remain inside it.
- (d) A consortium of Civil Society Organizations and research institutions have proposed some guidelines of MoEF related to CWH which addresses key issues like the definition of some important terms, criteria and processes related to the declaration of CWHs and CTHs (Critical Tiger Habitat); prescribed time frames for the processes and consultation and involvement of local communities; processes for co-existence, co-management, and relocation/resettlement. It is recommended that these be urgently considered for adoption by MoEF and States.
- (e) Cares is needed to avoid or minimize fragmentation or other serious ecological damage in the case of development facilities (under Section 3(2)) that will be extended to resident populations within protected areas.

Recommendations 7

- (a) Four major situations arise when the provisions of CFR are implemented. In situation A where community forest resource (CFRe) claims have been accepted, and where section 5 of the FRA is deemed to be applicable as a result of other rights claimed under section 3, including

section 3(1)(i), in situation B where neither CFRe claims have been accepted nor selection 5 is applicable but JFM committees are in existence, in situation C where system of community forest management already exists and CFR claims are not made/accepted and in situation D where neither FRA rights, nor JFM nor pre-existing community management systems are in place, but there is still substantial use of forests by local communities.

- (b) Where management claims are accepted under FRA, the management committee formed under Rule 4(e), to be named as Community Forest Resource Management Committees (CFRMC) should carry out functions on behalf of the Gram Sabha. If JFMCs exist in these villages their functions and resources (forest area, funds) should be transferred to the corresponding CFRMCs.
- (c) GS will be primarily responsible for ensuring sustainable use, conservation and protection, for which it will be suitably empowered. GS shall have powers to make rules regarding use, harvesting, protection, regeneration, etc. and shall generate revenue and receive and spend grants for forest related activities but will not be permitted to make profit. CFRMC office-bearers will be vested with power to prevent forest offences and penalize offenders/violators as given to Van Panchayat office bearers in Uttarakhand.
- (d) Timber rights will be limited only to domestic needs, unless specifically recognized under section 3(1)(j) or (l) of the FRA. Over and above this, any timber-sharing arrangements that were prevailing under the JFM programme will continue with the permission of Gram Sabha.
- (e) FD will be responsible for providing Protection and Technical support to the Gram Sabhas and shall be empowered to carry out Forest Monitoring, *i.e.*, the extent of compliance with sustainable use and conservation regulations in the community-managed areas. It will also be responsible for taking action on any violations and will continue to exercise additional powers to implement regulatory provisions of the Wild Life Act and other State-level and Central Acts.

- (f) State and national level Forest Governance Councils should be constituted to be chaired by the respective ministers and will include FD officials, representatives of forest committees, and representatives from PRIs, civil society and academia. These councils will provide direction to overall forest governance in the State, including by overseeing monitoring, state/national planning, and regulation. The Council should also suggest the setting up of appropriate district level committees with public representation for monitoring and guiding forestry activities at the district, sub-district, and village levels.
- (g) In respect of PAs where community forest rights have been claimed and vested, communities will become a rightful part of protection and management system. This would entail a joint or co-management institution of equitable decision-making involving the forest department and GS committees. For every district where such community based or co-managed PAs exist, an additional Honorary Wildlife Warden will be appointed from one of the GS committees falling within or adjacent to a PA.
- (h) Amendments may be needed to the Wildlife Protection Act 1972 to provide for the community-based, and joint management institutions mentioned above, to provide for the current 'settlement of rights' process by the process of recognition of rights mandated under the FRA wherever applicable, and to otherwise harmonize it with the provisions of the FRA while retaining its focus on conservation.
- (i) There is an urgent need for change in the mind set of forest officials so that they have greater interaction with forest dwellers ensuring their all-round economic and social development, involving them at all stages of planning and implementation of forestry programmes run by the Department, and supporting their own planning and implementation of community-based forestry programmes. Forest Officials should be more adaptive, participatory and transparent in planning processes, based on robust research that is open to independent expertise and knowledge including from local communities.
- (j) NTFP will play the most important role in the economic wellbeing for the forest dwelling communities. In order to ensure that the communities are able to derive full benefits on a sustained basis, the Government should adopt market friendly policies, facilitate private trade,

provide price support and act as a watchdog to ensure community benefits and ecological sustainability, rather than eliminate the trade. It should encourage local bulking, storage and processing, and bring large buyers in touch with the gatherers, so as to reduce the number of layers of intermediaries. The proposed policy change towards liberalization and de-regulation of NTFP trade from time to time needs to be strengthened.

- (k) Investments to improve the productivity of forest lands under forest rights should be increased by using Tribal Department funds so that sustainable exercise of forest rights can be ensured through sustainability of forest resources.

Recommendations 8

- (a) For over all development of the forest dwelling communities convergence of various developmental schemes operating in areas of education, training, health, employment etc. to achieve higher "happiness index" is essential. The forest lands granted under FRA should be developed so that such lands are utilized to the optimum level of production on sustained basis along with creation of basic infrastructure (road, electricity, public and veterinary related hospitals, schools, water harvesting structures etc.) for a decent way of life. The monitoring system should be put in place such that both at the district as well as State level all proposed services to the right holders are delivered speedily and smoothly. Officers with the right aptitude should be posted on a long term basis with proper training and members of Civil society should be inducted in the monitoring committees at all level and also at the implementation level.
- (b) The vocational training should be provided on priority basis to the right holders and their family members. The emphasis should be given to such trades which may create employment opportunities in and around their habitation. However, if any right holders or his family members want to get training in such trade which can get them any better employment outside their habitation, the facilities should also be created for such training. Some of such trades can be computer training, food and vegetable preservation, jewellery, tailoring, electrical repair,

motor winding, mushroom cultivation, cooking, carpet making, vehicle repair, sericulture, handicrafts, fish rearing, fabrication, welding, driving, building works masons making etc. The fund for training should be provided by the Ministry of Tribal Affairs, Government of India to various State Governments on priority basis.

- (c) Every attempt should be made to avoid delay in transfer of benefits to the right holders or their family members under various schemes of development. For meeting this end, the attempt by Maharashtra TRTI of integrating the data base of all forest right holders on GIS platform by giving a thirteen digit code to all claimants could be studied and used with local level modifications, as required.
- (d) All development, educational, health and other inputs must be ecologically and Culturally sensitive, and must be such that they create self-sufficiency and self-governance rather than continued dependence on outsiders. This is also likely to involve a review and modifications of existing schemes and programmes for such areas and communities. Focus should be on options like renewable decentralized energy, organic farming, small-scale industry, integrated (traditional and modern) health and educational facilities, and so on.
- (e) MoTA needs to considerably enhance its role as the nodal agency, by more closely monitoring progress, gathering more robust and disaggregated data on implementation, commissioning independent studies, issuing clarificatory circulars including those suggested in this report, directing States to take action on officials who are obstructing or violating the FRA, taking action on violations such as relocation/displacement of people without FRA process having been completed or without Gram Sabha consent, and other aspects of poor or improper implementation.
- (f) MoEF needs to move urgently towards the governance reforms suggested in this report, ensure that its circular regarding development projects on forest land get legal backing in FRA/FCA, halt all relocations from protected areas that are illegal, take action or direct action to be taken on officials obstructing or violating the FRA, ensure that the FRA process is respected in all afforestation/plantation programmes, encourage the CWH declaration with

due process, and move towards reforming the MFP/NTFP collection and trade regimes as suggested in this report.

- (g) GOI should establish a National Forest Rights Council which can regularly and systematically monitor the FRA implementation, guide states to take necessary action, and hold or authorize the holding of public consultations and independent assessments.

Pollution by LPG vehicles

†625. SHRI UPENDRA KUSHWAHA: Will the Minister of ENVIRONMENT AND FORESTS be pleased to state:

(a) whether it is a fact that according to a survey carried out by Government to gauge the level of pollution in six cities of the country along with Delhi, it has been reported that, diesel vehicles caused 7 per cent and LPG vehicles caused 51 per cent pollution in Delhi;

(b) whether it is a fact that the Centre for Science and Environment has expressed objections to the said report; and

(c) if so, the factual position and the action being taken to check pollution?

THE MINISTER OF STATE OF THE MINISTRY OF ENVIRONMENT AND FORESTS (SHRI JAIRAM RAMESH): (a) and (b) The Central Government has undertaken a study, *i.e.*, 'Air Quality Monitoring, Emission Inventory and Source Apportionment Study for (six) Indian Cities', namely, Delhi, Kanpur, Pune, Mumbai, Chennai and Bengaluru with the help of premier institutions like, IIT-Bombay, IIT-Kanpur, IIT-Madras, NEERI-Nagpur, TERI-New Delhi and ARAI-Pune for identifying the various mobile and stationary sources of dust and the extent of their contribution to ambient air pollution. The study was coordinated by the Central Pollution Control Board. The main focus of study was on PM₁₀ (particulate matter less than 10 micron) in ambient air. International peer review has been done for this study.

Vehicular emission is one of the identified sources of dust. Based on the study conducted, the approximate contribution of transport sector to dust in residential areas varies between 9.8 to 48.3 per cent in the cities. Re-suspension of road dust due to movement of vehicles is also a prominent source. Based on limited measurements, contribution to PM_{2.5} (fine dust particles having size less than 2.5 micron) in ambient air was about 40 to 60 percent from LPG combustion and 6 to 22

†Original notice of the question was received in Hindi.