

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

RAJYA SABHA
UNSTARRED QUESTION No. 839
TO BE ANSWERED ON 09.02.2023

Forest (Conservation) Rules, 2022

839. SHRI ELAMARAM KAREEM:
SMT. RANJEET RANJAN

Will the Minister of ENVIRONMENT, FOREST AND CLIMATE CHANGE be pleased to state:

- (a) whether it is a fact that the National Commission for Scheduled Tribes (NCST) had pointed out that the Forest (Conservation) Rules (FCR), 2022 have done away with the clause to mandatorily seek the consent of Gram Sabha for diversion of forest land for other purposes;
- (b) if so, the details thereof and the reasons therefor;
- (c) whether it is also a fact that the Ministry wrote to the NCST dismissing the concerns flagged by it, and has termed them as 'not legally tenable'; and
- (d) if so, the reasons therefor?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
(SHRI ASHWINI KUMAR CHOUBEY)

- (a) to (d) The Chairperson for National Commission for Scheduled Tribes (NCST) vide letter dated 26.09.2022 raised certain concerns regarding the Forest (Conservation) Rules, 2022. In response to the concerns raised by the Chairperson NCST, the Ministry has informed 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 the Gram Sabhas.

As per the provisions of Forest (Conservation) Act, 1980, prior approval of Central Government does not directly lead to non-forestry use or breaking of forest land. Process of approval for diversion of forest land culminates after issuance of final diversion order by the State Government or UT concerned which authorizes use of forest land for intended purpose and hands over the land to the user agency.

Provisions of the Forest (Conservation) Rules, 2022 under sub clause b (ii) of sub rule 6 of rule 9 provide that *“The State Government or Union territory Administration, as the case may be, after receiving the ‘Final’ approval of the Central Government under Section 2 of the Act, and after fulfilment and compliance of the provisions of all other Acts and rules made thereunder, as*

applicable including ensuring settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (No. 2 of 2007), shall issue order for diversion, assignment of lease or dereservation, as the case may be” imply that Forest (Conservation) Rules, 2022 emphasize the compliance of the provisions of all Acts and Rules.

Forest (Conservation) Rules, 2022 have been promulgated solely to implement the provisions of the Forest (Conservation) Act, 1980. Process as envisaged in the Act and the rules framed thereunder is a parallel process with other statutory processes. The Rules do not inhibit the commencement of processes envisaged in other laws like Wildlife (Protection) Act, 1972, Environment (Protection) Act, 1986, Forest Rights Act, 2006, etc. Provisions envisaged in other statutory laws can be undertaken simultaneously by the respective nodal implementing agencies.
