

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

LOK SABHA
UNSTARRED QUESTION NO. 2920
TO BE ANSWERED ON 28.12.2018

Forest Rights Act

2920. DR. SHRIKANT EKNATH SHINDE:
SHRI DHARMENDRA YADAV:
DR PRITAM GOPINATH MUNDE:
SHRI SHRIRANG APPA BARNE:
SHRI ADHALRAO PATIL SHIVAJIRAO

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

- (a) whether according to his Ministry projects seeking to divert forest lands do not need to comply with Forest Rights Act (FRA) for initial clearance;
- (b) if so, whether the Ministry of Tribal Affairs has raised concerns thereon and the response of his Ministry;
- (c) whether the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 clearance is not required for initial stage of Forest Conservation (FC) approval, if so, the details thereof;
- (d) whether FC process, according to the Forest Conservation Act (FCA), 1980, is carried out in two stages- Stage I, the in-principle approval and Stage II, the final approval;
- (e) if so, whether later stage requirement for FRA would be a *fait accompli* as by the second stage, project proponents would have progressed and Tribals living therein area would be at great disadvantage and if so, the facts in this regard; and
- (f) the measures taken by the Union Government not to violate the spirit of FRA?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
(DR. MAHESH SHARMA)

- (a)&(b) The proposals of the State Governments seeking diversion of forest land under Forest (Conservation) Act, 1980 require that FRA certificate from collector of the District must be submitted before final approval is granted by the Ministry. The Certificate are given on prescribed Performa certifying that all rights of Schedule Tribes and other traditional forest dwellers are settled as per the provisions of Schedule Tribe and Other Traditional Forest Dwellers (Reorganisation of Forest Rights) Act 2006 and the Gram Sabha has given its consent for the projects as per the provision of Forest Right Act, 2006. These certificates have been made mandatory for all proposals under Forest (Conservation) Act in consultation with Ministry of Tribal Affairs.
- (c)&(d) Forest Clearance under Forest (Conservation) Act, 1980 is granted in two stages. In stage I in principle approval is granted by the Central Government on the

recommendation of Forest Advisory Committee/Regional Empowered Committee for which the certificate of the Collector under Forest Right Act is not mandatory as per the Forest Conservation (Amendments) Rules, 2016 dated 6th March, 2017. However under these Rules certificate of the Collector under Forest Right Act is mandatory in stage II (final) approval under Forest (Conservation) Act, 1980.

- (e)&(f) The Compliance of the Forest Right Act, 2006 is the responsibility of the concerned State Government submitting the proposal for forest diversion in the State for development projects. Stage-I (in principle) clearance is granted subject to fulfilment and compliance of the conditions referred in stage-I (in principle clearance). No activities related to diversion of forest land can be done by the State Government without the stage-II (final) approval and subsequent order issued by State Government for diversion of forest land in this State. Therefore stage-I Clearance does not create *fait accompli* situation on diversion of forest land granted by the Central Government.

The stage I and subsequent Stage-II clearance granted by Central Government does not violate the spirit of Forest Right Act. The State Government has to comply the provision of Forest Right Act before diversion of Forest land for the purpose of developmental activities on forest land of State.
