

GOVERNMENT OF INDIA
MINISTRY OF TRIBAL AFFAIRS
LOK SABHA
UNSTARRED QUESTION NO- 3673
TO BE ANSWERED ON- 08/08/2022

RIGHT OF SCHEDULED TRIBES

3673. SHRI FEROZE VARUN GANDHI:

Will the Minister of TRIBAL AFFAIRS be pleased to state:

- (a) whether the Government is planning to take steps to ensure rights of Scheduled Tribes and forest dwellers under the Act of 2006, that are being impacted by businesses and development industries;
- (b) whether any social impact assessment will be taken up before approval of projects for these industries; and
- (c) whether the Government is planning to create village level councils under local Government institutions for jurisdiction on such cases to provide remedy to the victims?

ANSWER

MINISTER OF STATE FOR TRIBAL AFFAIRS
(SHRI BISHWESWAR TUDU)

(a) to (c): Under the provisions of ‘the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (in short FRA) rights are recognized and vested to the eligible individuals and community from amongst Scheduled Tribes and Other Traditional Forest Dwellers to use forest land and resources for their livelihood. Respective State Governments / UT administrations are responsible for implementation of the provisions of the Act.

Further, land and its management falls under the exclusive legislative and administrative jurisdiction of States as provided under the Constitution of India [Seventh Schedule – List ii (State List) – Entry No. (18)]. Under the FRA, there is no specific provision to give approval to any project related to Industry by Ministry of Tribal Affairs. However State Government are required to ensure that rights of Scheduled Tribes and forest dwellers under the Act of 2006 are safeguarded and protected.

Further, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act, 2013), provides safeguards to the right holders under FRA against displacement under Sections 41 and 42. The RFCTLARR Act, 2013 also lays down procedure and manner of social impact assessment, rehabilitation and resettlement. The First Schedule of the RFCTLARR Act provides for compensation for land owners. As per Section 3(r)(ii) of the RFCTLARR, 2013, ‘land owner’ includes any person who is granted forest rights under FRA, 2006(2 of 2007) or under any other law

for the time being in force. The Second Schedule provide for element of rehabilitation and resettlement for all the affected families (both land owners and the families whose livelihood is primarily dependent on land acquired) in addition to those provided in the first Schedule. Similarly, the Third Schedule provide for infrastructural amenities for a reasonably habitable and planned settlement in the resettlement area.

To address the issue of displacement of tribals, other Constitutional and legal provisions for safeguarding the rights of tribals to land, which are already in place, are as under:-

- i. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in section 4 (5) states that save as otherwise provided, no member of a forest dwelling Scheduled Tribes or Other Traditional Forest Dweller shall be evicted or removed from the Forest Land under his occupation till the recognition and verification procedure is complete.
- ii. The Panchayats (Extension to Scheduled Areas) Act, 1996 in Section 4(i), also provides that the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas or development projects and before resettling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State Level.
- iii. Constitutional provisions under Schedule-V also provide for safeguards against displacement of tribal population because of land acquisitions etc. The Governor of the State which has Scheduled Areas is empowered to prohibit or restrict transfer of land from tribals and regulate the allotment of land to members of the Scheduled Tribes in such cases.

Section 5 of the FRA provides that the holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to –

- (a) protect the wild life, forest and biodiversity;
- (b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;
- (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;
- (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.
