

GOVERNMENT OF INDIA
MINISTRY OF TRIBAL AFFAIRS
LOK SABHA
UNSTARRED QUESTION NO - 492
TO BE ANSWERED ON- 25/07/2024

IMPLEMENTATION OF FOREST RIGHTS ACT

492 SHRI HIBI EDEN:

Will the Minister of TRIBAL AFFAIRS be pleased to state:

- (a) whether the Ministry is aware of a study conducted by Delhi-based NGO – Call for Justice, on the implementation of Forest Rights Act across five States, wherein varying gaps were found in implementation;
- (b) whether the Ministry set up any fact finding committee to enquire into this study;
- (c) if so, the details thereof; and
- (d) the steps taken by the Government to avoid land grab and violation of other overlapping laws like Wildlife Protection Act?

ANSWER

MINISTER OF STATE FOR TRIBAL AFFAIRS
(SHRI DURGADAS UIKEY)

(a)to (c): Yes Sir, Ministry of Tribal Affairs(MoTA) is aware of the study conducted by Delhi-based NGO Call for Justice(CFJ). CFJ had presented the report on 30 th March 2024 to Hon'ble Minister of Tribal Affairs and the issues pointed by CFJ were deliberated in detail. CFJ, based on study done in select districts of five States has identified certain challenges in the implementation of FRA like pendency of claims, approval of less acreage and lack of capacity of stakeholders etc.

Ministry of Tribal Affairs, being the Nodal Ministry for monitoring and administering the legislative matters of “Scheduled Tribes and Other Forest Dwellers Recognition of Forest Rights Act 2006” (in short FRA). As the responsibility of implementing the Act is with States, Ministry has been issuing

directions and guidelines to States from time to time on various aspects to ensure the proper implementation of the Act.

MoTA has also approved many studies to State Tribal Institutes for evaluating implementation of FRA and its impact on the forest dwelling communities. In consonance with the findings of all such studies Ministry has been issuing instructions and also engaging with State Tribal welfare departments and Civil Society organizations to discuss the issues related with implementation of FRA.

In last few years, Ministry has conducted several National Level Conferences and Brainstorming Sessions, Video Conferences etc with State Officials of Tribal welfare Departments including District collectors where the members of CSOs are invited to discuss the ways to strengthen the implementation process of FRA. Pursuant to these deliberations Ministry in coordination with Ministry of Panchayati Raj has initiated capacity building programme of all stake holders including community and its leaders. Additionally, to resolve issues related to coordination with officials of forest department and to converge facilities like housing, irrigation, schools, roads, benefits of other Govt schemes etc to IFR and CFR holders MoTA and Ministry of Environment Forest and Climate Change, have issued second Joint advisory on 14th March 2024. Another Joint advisory addressed to all Chief Secretaries of States/UTs was issued on 06th July 2021.

(d): To avoid land grabs and violations, if any, due to other overlapping laws, Ministry of Tribal Affairs has issued instructions to Chief Secretaries of states having scheduled areas, reiterating the special provisions enshrined in the Constitution to protect the interest of Scheduled Tribe community and urging them to ensure that the interest of the Scheduled Tribes is guarded properly in terms of Constitutional provisions and various laws meant to provide safeguards to the STs and to provide benefits / compensation due and admissible to the STs in full measure. The provisions under different Acts and constitutional safeguards are detailed at **Annexure I.**

Annexure I

Annexure referred to in reply to part (d) of Lok Sabha Unstarred Question No. 492 for answer on 25.07.2024 regarding “Implementation of Forest Rights Act”

Special provisions in the Constitution of India to protect the interest of Scheduled Tribe community, some of them are as follows:

(1) **Constitutional provisions under Schedule - V** 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. Para 5.2 of the V Schedule of the Constitution has a predominant object of imposing total prohibition on transferring immovable property in a scheduled area to any person other than a tribal.

(2) **The Panchayats (Extension to the Scheduled Areas) Act, 1996** (in short PESA) 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 for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas".

(3) **The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act**" (in short, FRA) enacted in 2006 provides adequate safeguards to avoid any displacement of tribal population but also seeks to involve democratic institutions in the process of recognition and vesting of forest rights at the grassroots level.

a) Section 4(2)(4) of FRA stipulates that the right shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin.

b) Section 4(5) of FRA states that "Save as otherwise provided, no member of a Forest Dwelling Scheduled Tribe or Other Traditional Forest Dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete".

(4) **The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989** provides wrongfully dispossessing members of the Scheduled Tribes from their land or premises or interfering with the enjoyment of their rights, including forest rights, over any land or premises or water or irrigation facilities or destroying the crops or taking away the produce there from amount to offence of atrocities and are subject to punishment under the said Act.

(5) **The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013** (RFCTLARR Act, 2013) has special provisions for STs, which have been spelled out under Sections 41 and 42.

(i) **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.

(ii) **The Second Schedule of the RFCTLARR**, provide for element of rehabilitation and resettlement for all the effected families (both land owners and the families whose livelihood is primarily dependent on land acquired) in addition to those provided in the first Schedule.

(iii) **The Third Schedule of the RFCTLARR**, provide for infrastructural amenities for a reasonably habitable and planned settlement in the resettlement area. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and RFCTLARR Act, 2013 further spells out the procedure for identification of the affected persons/ families [sub-section (c) of Section 3], determining and calculating the compensation amount (Section 26 to 29), as well as mechanisms for developing rehabilitation and resettlement processes (Chapters V and VI).
