

The Panchayats (Extension to Scheduled Area) Act, 1996, 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.

Constitutional provision under Schedule-V also provide for safeguards against displacement of tribal population because of land acquisition 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. Land being a State subject, various provisions of rehabilitation and resettlement as per the RFCTLARR Act, 2013 are implemented by the concerned State Governments.

The Scheduled castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989” has been introduced to prevent the commission of offences of atrocities against members of the Scheduled Castes and the Scheduled Tribes, to provide for the trial of such offences and for the relief of rehabilitation of the victims of such offences for matters connected therewith or incidental thereto. Wrongfully dispossessing members of Scheduled Castes or 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.

Apart from the above, a 3 judges’ bench of Supreme Court in Orissa Mining Corporation Vs. Ministry of Environment and Forest & Ors. vide W.P.(c) 180 of 2011, held that forest approval cannot be granted for a development project without the informed consent of the Gram Sabhas, given after proper consideration in a duly convened Gram Sabha and passed by resolution. The Court stated that the Gram Sabha is also free to consider all the community, individual as well as cultural and religious claim.

The Ministry of Mines, vide their letter dated 5th January, 2017 sent a letter to all State Governments regarding imposing of conditions in the lease deed in regard to FRA compliance in the cases covered under Section 10(A)(2) (c) of the Mines & Minerals (Development & Regulation) Act, 1957. In the said letter, it has been, inter-alia, mentioned that execution of lease deed shall not be construed to dilute any provision of FRA.

Further, the Ministry of Environment and Forests vide their letter dated 03.08.2009 has informed all State Governments regarding diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980. This letter includes that a letter from the State

Government certifying that proposals for such diversion (with full details of project and its implication, in vernacular/local languages) have been placed before each concerned Gram Sabha of forest-dwellers, who are eligible under the FRA.

FRA is an Act to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generation but whose right could not be recorded.

The recognition and vesting of such forest rights under FRA is subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2015.

The State Governments/UTs have been issued advisories by this Ministry from time to time to carry out the strict and speedy implementation of provisions of the Forest Right Act, 2006 and Rules there under and to ensure that while processing the claims of Forest dwellers under the Act, no eligible claim is rejected. In addition, recently a letter dated 26.03.2019 was also issued to all

States/UTs indicating various directions issued by Ministry of Tribal Affairs regarding the implementation of FRA, 2006 circulated, to facilitate necessary action by the States/UT Governments.

FRA is an Act to recognize and vest the forest rights and occupation in Forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but who right could not be recorded.

The recognition and vesting of such forest rights under FRA is subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

As per Section 4(6) of FRA “where the forest rights re-cognized and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section (I) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

This information was given by Union Minister of State for Tribal Affairs Smt Renuka Singh