

No.19020/4/2013-FRA  
Government of India  
Ministry of Tribal Affairs  
(FRA Division)

Shastri Bhavan, New Delhi-110001  
Dated, the 24<sup>th</sup> July, 2013

To

The Chief Secretary,  
Government of Odisha,  
Bhubneshwar

Subject: Implementation of the Hon'ble Supreme Court Judgement dated 18<sup>th</sup> April, 2013 in WP (Civil) No.180 of 2011 in Orissa Mining Corporation Vs Ministry of Environment and Forests.

Sir,

I am directed to refer to the Government of Odisha letter No. 17913/SSD (TD-II(FRA)-35/2013) dated the 5<sup>th</sup> July, 2013 regarding conduct of Gram Sabha in Rayagada and Kalahandi Districts pursuant to the judgement of Hon'ble Supreme Court in Writ Petition No. 180 of 2011. It has been stated that the State Government will hold Gram Sabha in 12 villages (5 in Kalahandi and 7 in Rayagada Districts) as per schedule indicated.

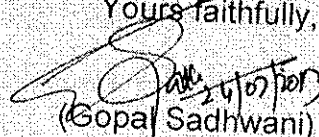
2. In this regard reference is invited to this Ministry's letter of even number dated the 2<sup>nd</sup> May, 2013 conveying directions under Section 12 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in the subject matter. It was, inter alia, stated therein that the list of villages will include all such villages from where people access the forest area of Niyamgiri falling in the BMP area either as habitat or for collecting MFPs, or whose religious rights would be affected by the diversion of forest area for mining. The Ministry of Tribal Affairs had also sought the opinion of the Ministry of Law & Justice, Government of India regarding holding of Gram Sabha by the State Government in only twelve villages. The Ministry of Law & Justice has agreed with the position of Ministry of Tribal Affairs, as earlier communicated to the State Government vide this Ministry's D.O. letter of even number dated the 7<sup>th</sup> June,

2013. The Ministry of Law has opined that the scope of filing the claims is open for the entire District of Rayagada and Kalahandi and there is nothing in the Judgement of Supreme Court to restrict the same to the 12 villages. It was also mentioned in this Ministry's letter dated 7.6.2013 that the Ministry is in receipt of copies of several claims under FRA for various rights including religious and cultural rights claimed over Niyamgiri forest and sacred areas from villages over and above 12 villages selected by the State Government.

3. The Ministry of Tribal Affairs has, in compliance with the Supreme Court Judgement, decided to constitute a Team to assess evidence regarding claims in villages beyond 12 villages selected by the State Government in Rayagada and Kalahandi Districts and submit a report to the Ministry of Tribal Affairs. It may not be out of place to mention that the Supreme Court Judgement has also ruled that Ministry of Tribal Affairs would assist the Gram Sabha for settling of Individual as well as Community Claims. An Order constituting the Committee is enclosed.

4. The Team is scheduled to visit Rayagada and Kalahandi Districts from 4.8.2013 to 8.8.2013. It is requested that all logistics and other support required by the team be provided to them and a representative nominated to assist the Committee in its work. The detailed itinerary for the visit to the selected villages shall be worked out by the Team and intimated to the State Government shortly.

Yours faithfully,



(Gopal Sadhwani)

Deputy Secretary to the Government of India

Tele. 23383965

Email: sadhwani.gopal@nic.in

Copy to : Shri Santosh Kumar Sarangi, Commissioner-cum-Secretary, SC & ST Development Department, Government of Odisha, Bhubaneswar-753001

No.19020/4/2013-FRA  
Government of India  
Ministry of Tribal Affairs  
(FRA Division)

Shastri Bhavan, New Delhi-110001  
Dated, the 24<sup>th</sup> July, 2013

**ORDER**

Subject: Constitution of a Team to assess the claims in the villages in Rayagada and Kalahandi District of Odisha in terms of Hon'ble Supreme Court of India judgement dated 18<sup>th</sup> April, 2013 in W.P(Civil) No. Writ Petition (Civil) No. 180 of 2011 in Orissa Mining Corporation vs Ministry of Environment and Forests.

The Hon'ble Supreme Court of India vide its judgement dated 18<sup>th</sup> April, 2013 in Writ Petition (Civil) No. 180 of 2011 in Orissa Mining Corporation vs Ministry of Environment and Forests have given specific directions to the State of Orissa as well as to the Ministry of Tribal Affairs with regard to ensuring Forest Rights claims in the districts of Rayagada and Kalahandi; the process that needs to be followed in ensuring that community claims are entertained and finalized in accordance with Forest Rights Act, the role of Gram Sabha in safeguarding the customary and religious rights of the STs and other TFDs under the Forest Rights Act (para 56), the importance of PESA and specifically Section 4(d) which mandates the Gram Sabha's competence to safeguard and preserve the traditions, customs, cultural identity and community resources (Para 57). More importantly, the judgment emphasizes that the questions relating to religious rights including right of worship of the tribal communities in the Niyamgiri Hills have to be considered by the Gram Sabha (Para 58). It further observes that whether the BMP affects the religious rights especially their right to worship their deity – Niyamraja has not been placed before the Gram Sabha for their active consideration. Para 59 clearly states that *"the Gram Sabha is also free to consider all the community, individual as well as cultural and religious claims, over and above the claims which have already been received from Rayagada and Kalahandi districts. Any such fresh claims be filed before the Gram Sabha within six weeks from the date of this judgement. State Government as well as the Ministry of Tribal Affairs, Government of India, would assist the Gram Sabha for settling of individual as well as community claims."*

2. It may be relevant to mention that State Government has scheduled the Gram Sabha in the 12 villages of Rayagada from 18<sup>th</sup> July, 2013 to 19<sup>th</sup> August, 2013 and the schedule for Kalahandi is from 23<sup>rd</sup> July, 2013 to 30<sup>th</sup> July, 2013. Whereas based on several claims under FRA, for various rights, copies of which have been made available to Ministry, the Ministry of Tribal Affairs is of the view that there could be claims under



FRA for various rights including religious and cultural rights over Niyamgiri Forest and sacred areas from villages over and above the 12 villages selected by the State Government.

3. It has, therefore, been decided that a team be constituted to assess claims in villages beyond the 12 villages selected by the State Government in Rayagada and Kalahandi Districts in compliance of the Apex court judgement. The composition of the team shall be as under :-

- ✓ Shri Gopal Sadhwani, Deputy Secretary, MOTA
- ✓ Ms Shomona Khanna, Legal Expert
- ✓ Ms Sreetama Guptabhaya, Consultant, MOTA
- ✓ S/Shri Tushar Dash and Y Giri Rao - Representatives of Vasundhara, a Civil Society Organisation based in Bhubneshwar.

4. The travel and logistic arrangements shall be as per respective entitlements. However, in the case of representative(s) of Vasundhara, the entitlement shall be to travel by train in AC II tier. The other entitlements shall include hotel accommodation @ Rs. 1500/- per day, taxi charges upto Rs. 150/- per day for travel within the city and food bills upto Rs 200/- per day. However, the expenditure shall be restricted to actual or ceiling, whichever is lower.

5. The Team shall visit the Districts of Rayagada and Kalahandi at the earliest and submit its Report to the Secretary, Ministry of Tribal Affairs within 5 working days of return.

6. This issues with the approval of competent authority and IFD vide its Dy.No. 411 dated 24.07.2013

  
(Gopal Sadhwani)  
Deputy Secretary to the Government of India

Tele:23383965

Email:sadhwani.gopal@nic.in

All Members of the Committee –

Shri Santosh Kumar Sarangi, Commissioner-cum-Secretary, SC & ST Development Department, Government of Odisha, Bhubaneshwar-753001..... The State Government ~~is~~ requested to associate a representative to assist the team and provide all required support/logistics.

Copy to: PS to MTA/ PPS to Secretary (TA)/PS to JS(SR)/ IFD