

No. 23011/3/2016- FRA
Government of India
Ministry of Tribal Affairs
FRA Division

Shastri Bhawan, New Delhi
Dated: 27th June, 2018

29th June 2018

To,
(Chief Secretaries of all concerned States)

Subject: FRA Implementation – progress review – resolving pendency and rejection etc.

Sir/Madam,

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (in short FRA) has been enacted to recognize and vest Forest Rights to the Forest Dwelling Scheduled Tribes and Other Traditional Forest Dwellers whose rights could not be recognized and recorded. Ministry of Tribal Affairs being nodal Ministry for the Act closely monitors its implementation.

2. Ministry of Tribal Affairs has continuously been exhorting State Governments to take all necessary steps towards effective implementation of FRA, 2006. It has held Regional Review-cum-Consultation meetings with State and UT Government Officers, in which various issues concerning FRA implementation were clarified, analysis of data was shared, thrust areas identified and also further reporting requirements were listed. Following issues were highlighted for early resolution.

- i. High pendency of claims at various levels.
- ii. High rate of rejection of claims including claims for Community Rights and CFR Rights.
- iii. Non-communication of rejection of claims; and when communicated, it is without reasons as speaking order.
- iv. Early review of rejected claims including *suo motto* reviews.
- v. List of all Gram Sabhas (as per FRA definition) in which FRA is implemented (district and Sub Division wise) and constitution of FRCs in each such GS to be supplied to MoTA and made public.
- vi. Maintaining segregated data for FDST and OTFD for all claims received, disposed, claims admitted and land granted as also the rejected claims.
- vii. Sensitization of forest department staff regarding FRA implementation and also on not raising frivolous objections.
- viii. Holding SLMC meetings regularly and making its proceedings available to MoTA.

3. MoTA vide its letter dated 7th June 2018 reiterated the need to have data on pending claims at each level (Gram Sabha, SDLC and DLC) and place it in public domain. Since pendency causes claims being neither approved nor forwarded to next level nor being rejected, the process of vesting of rights under FRA stagnates. Hence, it would be highly appreciated if the claims filed under FRA are processed and disposed of at a faster pace. Status of pending claims at each level with segregated data on FDST and OTFD must be provided to MoTA for monitoring purposes.

4. Further, non-communication of rejection and when conveying rejection not assigning reasons for rejection at each level results in preventing the claimants from exercising their right to appeal/review. In this regard, MoTA vide its letter No. 23011/24/2009-FRA dated 15.7.2010 has requested the States to provide the reasons for rejection of claims to claimants and also directed States to cite the same in Quarterly Progress Report sent by the State Governments to MoTA. Hence, while rejecting the claims, reasons must be cited by concerned authorities and communicated to the claimants as a speaking order.

5. It has recently come to notice of MoTA that state forest authorities move immediately to evict people whose claims under FRA are rejected without waiting for decision on review or appeal or allowing time for filing appeal/review ostensibly under the garb of the Order of March 2018 from hon'ble Apex Court in CWP No. 50/2008 with other bunched CWPs. Such an action while depriving aggrieved persons the opportunity to prefer appeal before SDLC or DLC, as the case may be, violates the spirit of FRA 2006 besides creating grounds for unrest and agitation and also fuels extremism. In such cases, aggrieved person must be given due opportunity and time to file appeal before authority. Moreover, as discussed during Review cum Consultation meeting, States are to undertake *suo motto* review of rejected claims. Hence, it may be ensured that no eviction of FRA claimants takes place during pendency of review or appeal/review.

6. It has also revealed in the consultation meetings that forest staff keep raising frivolous objections causing rejection and prolong pendency. For instance, in Kerala a new ground for raising objection has been 'invented', terming the forestland claimed by FDST/OTFD as Ecologically Fragile Land (EFL), which is not tenable in terms of FRA, Rules thereunder and the Guidelines. Claims cannot be withheld or rejected on such invalid grounds. You may be aware that NTCA order of March 2017 has also been withdrawn and the


FRA process in Tiger Reserves has been restored. CWH identification process for all NPs and WLSs has been initiated, which needs to be expedited under your close supervision.

7. There is a need for awareness and sensitization of forest authorities/field staff about the FRA, Rules thereunder and Guidelines and symbiotic relationship of FDST and OTFD with forests and forest ecosystems besides vulnerabilities of their lives and livelihoods. The training curriculum (new recruitment, induction, MCT and regular refresher courses) of FLS and Forest Range Officers may be revised to include this important aspect of their working.
8. It is also reiterated that under FRA, 2006 the Gram Sabha as defined under Section 2 (g) read with Section 2 (p) shall be the authority to initiate the process for determining the FRA Rights. Further, Rule No.3 of FRA Rules provides that Gram Sabha in its first meeting shall constitute the Forest Rights Committee (FRC) to assist the Gram Sabha in recognition and verification of claims under FRA 2006. Hence, the very first step to ensure the implementation of FRA, 2006 is the convening the meeting of Gram Sabha as defined under FRA, 2006 and the constitution of FRC. Hence, you are requested to inform Ministry of Tribal Affairs about number of such Gram Sabhas as per FRA and constitution of FRC through Monthly Progress Report. A proforma is being attached in this regard. Similarly, conversion of Forest Villages, unsurveyed villages etc to Revenue Villages deserves to be brought in focus.
9. As Chairperson of the SLMC, I am sure you are regularly reviewing the progress of FRA implementation and resolving all issues. I request you to send the proceedings of such meetings on due dates to MoTA besides making positive outcomes public.

I request you to review and send a report in ten days on the above listed issues.

Enclosure: As above.

Your sincerely,



(Leena Nair)

29/6/18

Chief Secretaries of all concerned States and UTs

PROFORMA

Name of State-

STATUS REPORT OF IMPLEMENTATION OF RoFR ACT (BASIC INFORMATION)
AS ON.....

	District	Status of convening Gramsabhas in forest interface Grampanchayats		
		No. of Gram Panchayats having forest interface	No. of Gram Sabhas constituted by SDLCs (as defined in FRA, 2006)	No. of Forest Rights Committees constituted in Gram Sabhas
<u>1</u>				
<u>2</u>				
<u>3</u>				
<u>4</u>				