

Forest Rights Act 2006: “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of) Forest Rights Act, 2006”

The object of this Act is to recognize and vest the forest rights and occupations in forest lands of the Forest Dwelling Scheduled Tribes (FDSTs) and Other Traditional Forest Dwellers (OTFDs), who have been residing in the forests for generations, but whose rights could not be recorded earlier; to provide a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting. It is clear from the object as stated in the preamble that the rights of the Scheduled Tribes and other traditional forest dwellers on their ancestral lands and habitats were not adequately recognized earlier resulting in historic injustice to them and hence recognizing and vesting of the rights of these communities was first and foremost in the minds of the framers of this Act.

Individual Land Rights: The rights recognized by this Act include individual rights over forest lands including right to hold forest land for habitation and/or self cultivation, provided that it has been under their occupation from before 13th December, 2005.

Community Forest Rights: The Act also includes community rights over forest resources, including right to own, access, use and dispose of minor forest produce, including bamboo; and also, most importantly, the rights to protect, regenerate, conserve or manage forest resources of their area as community forest resources for sustainable use. These community rights are most important as they ensure protection and conservation of forests and bio-diversity while ensuring livelihood and food security of the scheduled tribes and other traditional forest dwellers. Another important right, recognized by the Act, is the right of the communities

living in the forest settlement villages, to get their villages converted to revenue villages and lands held by them to revenue lands.

Primacy of Gramsabha and Three- tier quasi-judicial system: The Act has also established a three tier quasi-judicial system of authorities and procedures for determining the nature and extent of the rights. It recognizes *Gramsabha* (Village Assembly) as an authority to initiate the process for determining the nature and extent of individual and community rights by receiving the claims, verifying them, passing a resolution recommending approval or rejection of the same and forwarding them to the Sub-divisional level Committee (SDLC) for further action, which, after examining shall forward them to the District Level Committee (DLC) for final decision. Any person (including state agencies, like the forest department) aggrieved by the resolution of the Gramsabha can prefer a petition before the SDLC within sixty days. Similarly, any person aggrieved by the decision of the SDLC, can also prefer a petition against it before the DLC. The SDLCs and DLCs are to dispose of such petitions, with a proviso that no such petition shall be disposed of against the aggrieved person, without first giving him/her a reasonable opportunity to present his/her case. It is pertinent to note that if any authority or committee or officer or member of such authority or committee contravenes any provision of this Act or any Rule concerning recognition of the rights, they are deemed to be guilty of an offence under the Act and are liable to be proceeded against and punished with fine under Section 7 of the Act. This shows the concern of the parliament to ensure the recognition of the forest rights of the forest dwellers.

Forest Rights Rules 2008: On 1st January, 2008, exercising the powers conferred by Section 14 of the Forest Rights Act, the Ministry of Tribal Affairs, Government of India issued final notification of the Scheduled Tribes and Other Traditional

Forest Dwellers (Recognition of) Forest Rights Rules, 2007, (also known as Forest Rights Rules, 2007). These Rules provide details of procedures to be followed for verification of claims, composition of Village level, Sub-divisional level and District level Forest Rights Committees and also State Level Monitoring Committee (SLMC) and their functions.

Evidences: Rule 13 of these Rules lists types of evidences that are to be considered while determining the nature and extent of the forest rights. In addition to the various government records like forest department records, survey and settlement records, satellite imageries, etc., the list also includes various other types of evidences like physical attributes such as houses, huts or trees planted and other permanent improvements made to the land, including land leveling, bunds, check-dams and the like; quasi-judicial and judicial records including court orders and judgments; research studies and documentation by reputed institutions; genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate residents of the village at an earlier period of time; statements of village elders, etc. It may be noted that this is an inter alia list, which means that this is not an exhaustive list and other similar evidences can also be considered. This Rule further states that the Gramsabha, the Sub-divisional level Committee and the District level Committee shall consider more than one (i.e. minimum of two) of these evidences, while considering the claims.

Forest Rights (Amendment) Rules, September 2012: Four years after the implementation started, the Ministry of Tribal Affairs (MoTA), which is the nodal agency, realized that clarifications with regards to certain crucial provisions were necessary for the just implementation of the Act. Some of the main issues categorically clarified are as follows:

- **Regarding Individual Rights:**

- On receipt of intimation from the Forest Rights Committee for field verification, the officials of the Forest and Revenue departments shall remain present during the verification and if they raise any objections to a claim approved by the Gram Sabha at any later date that their representatives were absent during field verification, the claim shall be remanded to the Gram Sabha for re-verification and if the representatives again fail to attend the verification process, the Gram Sabha's decision on the field verification shall be final.
- In the event of modification or rejection of a claim or a recommendation for modification or rejection of a claim forwarded by the Sub-Divisional Level Committee to the District Level Committee, such decision or recommendation on the claim shall be communicated in person to the claimant to enable him to prefer a petition to the Sub-Divisional Level Committee or District Level Committee as the case may be, within a period of sixty days which shall be extendable to a period of thirty days at the discretion of the above said committees.

- **Regarding Community Rights:**

- "Disposal of minor forest produce" shall include right to sell as well as individual or collective processing, storage, value addition, transportation within and outside forest area through appropriate means of transport for use of such produce or sale for livelihood; and the transit permits in relation to transportation of minor forest produce shall be given by the Committee constituted by the Gram Sabha.