

No.2-1/2003-FC(Pt)

To

1. The Chief Secretary  
All the States/UTs
2. The Principal Secretary,  
All the States/UTs
3. The Principal Chief Conservation of Forests  
All the States/UTs

Subject:- Regularisation of the rights of the tribals on the forest lands

Sir,

The Government of India have been receiving a number of representation for regularisation tribal forest dwellers on forest lands in different parts of the country. The question has also been raised in various public discussions including meetings of various Standing and Consultative committees of Parliament attached to different Ministries, as also various State Governments that the tribals have been living in harmony with the forests since time immemorial, and their rights on such lands should be recognized. However while these areas were being brought under the purview of relevant Forest Acts, their traditional rights could not be settled due to number of reasons, making them encroachers in the eyes of the law. The Central Government in September 1990 vide No.13-1/90-F.P.(2)&(3) has requested the State Governments/UTs to settle the disputed claims, issue patta lease, etc of the tribal population on the forest land. But so far no such proposal has been received. Proposals have been received only under the category regularisation of eligible encroachments only from couple of states. this has been deprived the tribals of natural justice as guidelines for regularisation of encroachments are different from the guidelines for settling disputed settlement claims.

The issue has been examined in its entirety in considerable depth by the Central Government and after careful consideration, the Central Government hereby takes the following decisions with a request to the State Governments/ UT Administrations to take necessary follow up action as under

1. The State Governments/ UT Administration should recognize the traditional rights of the tribal population on the forest lands, and these rights should be concerned States/UTs by following the prescribed procedure.
2. (i) In respect of these recognized rights of the tribal forest dwellers on the forest lands, the Central Government upon the receipts of complete proposals from the State Governments/UT Administration concerned, shall consider the proposals for diversion of continuously occupied forest land under the Forest (Conservation) Act 1980, so that these tribals can get unfettered legal rights over such lands. This decision shall apply for those tribal dwellers who are in continuous occupation of such forest land at least since 31.12.93  
(ii) The diversion proposals shall, however, be considered only if an integrated tribal rehabilitation scheme forms part of the proposal to be submitted by the State/ UT, along with the financial commitments so that the tribal population are retained at that particular land, and the problem is solved once and for all. In order to ensure in situ biodiversity conservation with the rehabilitation package, the programme should be implemented by the tribal rehabilitation wing of the forest department. Where such wings do not exist, these may be created. The model adopted by the Kerala Government for rehabilitation of tribals is a case in point and the State Governments may follow this pattern.  
(iii) As the Hon'ble Supreme Court vide their order dated in encroachments, the Central Government shall approach the Court for modification of their order so that the instant decision taken in this regard by the Central Government is implemented.
3. In respect of any fresh occupation of forest land by tribals and non-tribals in forest area henceforth, the State governments/UT Administration shall hold the concerned District Magistrate and Collector, Superintendent of

Police and Divisional Forest Officer personally responsible for such encroachments and they will liable for disciplinary action in respect of any such encroachment.

4. Attention of the State Government, UT Administration is invited to this office letter -No.7/16/2002-FC dated 3<sup>rd</sup> May, 2002 in which the constitution of state level and circle encroachment monitoring committees have been suggested. Apart from this, a district level committee consisting of District Magistrate & Collector, Superintendent of Police and the Divisional Forest Officer should be constituted immediately for eviction of encroachment and monitoring the same should be done at the State Level, The Circle level and the District Level committees at quarterly intervals. The Notification constituting the Committees and action taken by them shall also be part of the diversion proposals.
5. The State Government and UTs should make sincere efforts for making available an equivalent area of non-forest land wherever feasible for inclusion of such lands as reserved forests or protected forests.
6. It is also clarified that in respect of pre-1980 eligible encroachers, the Central Government has already approached the Supreme Court in October 2002 to permit it to regularize such eligible encroachments as per the guidelines and policy of the Government.
7. The Consideration of the proposals from the State Governments/UTs shall depend on the progress achieved by the concerned State/UT Administration in eviction of all pre-1980 and post 1980 ineligible non-tribal encroachers and all encroachers post 31.12.1993.
8. It may please be noted that this issue of tribal rights must be settled in a fixed time period of one year from the date of issue of this letter and no proposals shall be entertained thereafter.
9. The State Level Committee headed by the Chief Secretary mentioned under para 4 above shall monitor the implementation of the above decisions.

Yours faithfully,

(Dr.V.K.Bahuguna)

5.2.04

Inspector General of Forest

Copy for information and necessary action to:

1. The Prime Minister's Office, New Delhi (Attn: Shri K.V.Prathap, Deputy Secretary)
2. All the Chief Conservator of Forests/ Conservator of Forests(Central), Ministry of Environment and Forests, Government of India
3. The Secretary, Ministry of Tribal Welfare, Government of India
4. Member/Adviser(Environment), Planning Commission, New Delhi.

(Dr.V.K.Bahuguna)

5.2.04

Inspector General of Forest