

F. No. 11- 09/ 98-FC (pt.)
Government of India
Ministry of Environment, Forests and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi - 110 001
Dated: 28th October, 2014

To

The Principal Secretary (Forests),
All State / Union Territory Governments

Sub: Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 - ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

Sir,

I am directed to refer to this Ministry's letter of even number dated 03.08.2009 wherein this Ministry issued detailed guidelines on submission of evidences for having initiated and completed the process of settlement of rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

In consideration of representations received from Ministries in the Central Government, this Ministry after obtaining concurrence of the Ministry of Tribal Affairs informed the States and Union Territories vide letter of even number dated 5th February, 2013 that the proposals seeking prior approval of Central Government under the Forest (Conservation) Act, 1980 for projects like construction of roads, canals, laying of pipelines/ optical fibres and transmission lines *etc.* where linear diversion of use of forest land in several villages are involved, unless recognized rights of Primitive Tribal Groups and Pre-Agricultural Communities are being affected, are exempted from the requirement of obtaining consent of the concerned Gram Sabha(s) as stipulated in clause (c) read with clause (e) and clause (f) in second para of this Ministry's said letter dated 03.08.2009.

This Ministry after further examination of the matter observed that in case of plantations which were notified as "forest" on a day less than 75 years prior to the 13th day of December 2005 and are located in villages having no recorded population of Scheduled Tribes, as per the Census-2001 and the Census-2011, no forest rights are likely to be recognised, even if the process stipulated in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the rules framed thereunder for recognition and vesting of forests rights is initiated and completed. The reasons for the same are as below:

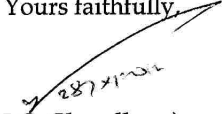


- (i) As per the clause (o) of the Section 2 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, no person residing in such forests will be eligible to be recognised as Other Traditional Forest Dweller (OTFD)'.
- (ii) Such villages will therefore, not have any person belonging to both the categories, viz. Scheduled Tribes and OTFD, whose rights can only be recognized over the forest land in accordance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Question of recognition of forest rights on such forests will thus not arise.

Accordingly, I am directed to say that in further modification of this Ministry's said letter of even number dated 3rd August 2009, proposals seeking prior approval of the Central Government under the Forest (Conservation) Act, 1980 for diversion of plantations which were notified as "forest" on a day less than 75 years prior to the 13th day of December 2005 and are located in villages having no recorded population of Scheduled Tribes, as per the Census-2001 and the Census-2011, are exempted from the requirement of initiation and completion of process for recognition and vesting of forest rights of Scheduled Tribes and Other Traditional Forest Dwellers as stipulated in clause (a), read with clause (d) and clause (g) in second para of this Ministry's said letter of even number dated 3rd August 2009. In such cases a certificate from the concerned District Collector to the effect that the forest land proposed to be diverted is plantation which was notified as "forest" less than 75 years prior to the 13th day of December 2005 and is located in villages having no recorded population of Scheduled Tribes, as per the Census-2001 and the Census-2011, will only be sufficient to meet requirement of clause (a), read with clause (d) and clause (g) in second para of this Ministry's said letter of even number dated 3rd August 2009.

This issues with approval of the Competent Authority.

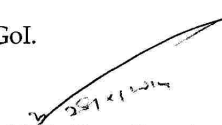
Yours faithfully,


(H.C. Chaudhary)
Director

Copy to:-

1. Prime Minister's Office (*Kind attn.:* Shri Santosh D. Vaidya, Director), North Block, New Delhi.
2. The Secretary (Coordination), Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
3. Secretary, Ministry of Tribal Affairs, Government of India, Shastri Bhawan, New Delhi.
4. Secretary, Ministry of Mines, Government of India, Shastri Bhawan, New Delhi.
5. Secretary, Ministry of Coal, Government of India, Shastri Bhawan, New Delhi.

6. Chairman, Railways Board, Rail Bhawan, New Delhi.
7. Secretary, Ministry of Road Transport and Highways, Government of India, Transport Bhawan, New Delhi.
8. Secretary, Ministry of Power, Government of India, Shram Shakti Bhawan, New Delhi.
9. Chairman, Railways Board, Rail Bhawan, New Delhi.
10. The Secretary (Coordination), Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
11. Principal Secretary (Forests), all State/UT Governments.
12. Principal Chief Conservator of Forests, all State/UT Governments.
13. Nodal Officer, the Forest (Conservation) Act, 1980, all State/UT Governments.
14. All Regional Offices, Ministry of Environment, Forests and Climate Change (MoEFCC), Government of India (GoI).
15. Joint Secretary, Impact Assessment Division, MoEFCC, GoI.
16. All Assistant Inspector General of Forests/ Directors in the Forest Conservation Division, MoEFCC, GoI.
17. Director, Regional Offices Headquarters Division, MoEFCC, GoI.
18. Sr. Director (Technical), NIC, MoEFCC, GoI with a request to place a copy of this letter on website of this Ministry.
19. Sr. PPS to the Secretary, Ministry of Environment, Forests and Climate Change, GoI.
20. Sr. PPS to the Director General of Forests & Special Secretary, MoEFCC, GoI.
21. Sr. PPS to the Addl. Director General of Forests (Forest Conservation), MoEFCC, GoI.
22. PS to the Inspector General of Forests (Forest Conservation), MoEFCC, GoI.
23. Guard File.


(H.C. Chaudhary)
 Director