

Reminder I

**Government of India
Ministry of Environment Forest and Climate Change
(Forest Conservation Division)**

Indira Paryavaran Bhawan,
Jor Bagh Road, Aliganj,
New Delhi-110003

Dated: 24.06.24

To
The Additional Chief Secretary (Forests),
Government of West Bengal,
Aranya Bhawan, Block LA-10A,
Sector-III, Salt Lake,
Kolkata- 700106

Subject: Request for withholding forest clearance and halt on change of land-use in light of violation of FC conditions for Turga PSP, West Bengal-regarding.

Madam/Sir,

I am directed to enclosed herewith a copy of the Ministry's letter of even no. dated 16.08.203 vide which the Ministry enclosed a copy of self explanatory representation dated July, 2023 as received from the president/member(s) of Forest Right Committee, Purulia District, West Bengal. The Ministry therein requested the State Govt. to examine the matter and take appropriate necessary action on the representation as per law and furnish action taken report to this Ministry at the earliest.

However, as on date, no reply is received from the State Govt. It is once again requested, to examine the matter and take appropriate necessary action on the representation as per law and furnish action taken report to this Ministry at the earliest.

Yours sincerely

Encl. as above Signed by
Dheeraj Mittal

Date: 24-06-2024 10:28:55

(Dr. Dheeraj Mittal)

Assistant Inspector General of Forests

Copy to:

1. PCCF (HoFF), Government of West Bengal, Kolkata.
2. Nodal Officer (FCA), O/o the PCCF (HoFF), Government of West Bengal, Kolkata.
3. DDGF (Central), Regional Office, Bhubaneswar,
4. Sub- Office, MoEF&CC, Kolkata.
5. Shri Sukram Murmu, President, Forest Right Committee, Hapania village,

Post Office- Ranga, Purulia District, West Bengal.

Government of India
Ministry of Environment Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Jor Bagh Road, Aliganj,
New Delhi-110003

Dated: August, 2023

To,

Additional Chief Secretary (Forests),
Government of West Bengal,
Aranya Bhawan, Block LA-10A,
Sector-III, Salt Lake,
Kolkata- 700106

Subject: Request for withholding forest clearance and halt on change of land-use in light of violation of FC conditions for Turga PSP, West Bengal-regarding.

Sir,

I am directed to enclose a copy of representation dated July, 2023 as received from the president/member(s) of Forest Right Committee, Purulia District, West Bengal. The representation is self-explanatory and may kindly be seen.

In view of the above, Government of West Bengal is requested to examine the matter and take appropriate necessary action on the representation as per law and furnish Action Taken Report to this Ministry at the earliest.

Yours faithfully

Encl. as above

Signed by

Suneet Bhardwaj

Date: 16-08-2023 15:04:43

Sd/-

(Suneet Bhardwaj)

Assistant Inspector General of Forests

Copy to:

1. The Principal Chief Conservator of Forests (HoFF), Government of West Bengal, Kolkata.
2. The Nodal Officer (FCA), O/o the PCCF (HoFF), Government of West Bengal, Kolkata.
3. The Deputy Director General of Forest (Central), Regional Office, Bhubaneswar,
4. Sub- Office, MoEF&CC, Kolkata.
5. Shri Sukram Murmu, President, Forest Right Committee, Hapania village, Post Office- Ranga, Purulia District, West Bengal.

10/08/2023

2. The Principal Secretary (Forest),
Government of West Bengal,
Block LA-10A, Sector – III, Salt Lake City,
Kolkata – 700106

Sub: Request for withholding forest clearance and halt on change of land-use in light of violation of FC conditions for Turga PSP, West Bengal

987411/2023/CR

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The project was granted final forest clearance by the MoEFCC by letter No. 8-51/2017-FC dated 13.10.2022 subject to certain conditions. The first among these is as follows, **“A(i) The State Government shall ensure that the compliance of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has been completed in accordance with the relevant Rules and Guidelines issued by this Ministry in this regard, before handing over of forest land to the user agency.”**

The aforesaid final forest clearance was notified by the Governor, West Bengal through Order No. 1526-For/O/L/10T-12/2017 dated 20.10.2022 under Section 2 of the FCA, 1980 with the attendant condition that **“1. Compliance of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has to be completed in accordance with the relevant Rules and Guidelines, before handing over of Forest land to the User Agency.”**

These conditions are not mere afterthoughts, but rather in compliance of the law of the land as laid down by the Hon'ble Supreme Court of India in *Orissa Mining Corporation vs. Ministry of Environment and Forests* (2013) 6 SCC 467, and also the Circular dated. 03.08.2009 issued by the Central government. As such, these above conditions are unequivocal in putting a restriction on transfer of land and change in land use prior to settling of rights under the Forest Rights Act, 2006.

under the Forest Rights Act, 2006

ACF C. Rajar Kr / Patal J 10/08/2023
in Vikas

10/08/23.

Presently 61 individual forest rights claims and one community forest claim submitted by villagers are pending before the SDLCL. Over 72 other individual forest rights claims have been lodged through the government. The IFR and CFR claims submitted by the villagers cover an area of 504 ha with a large portion overlapping the proposed project area.

Further, a Gram Sabha held in Barujara, Bandhghutu, Dulgubera of Baghmundi Panchayat on 26.05.2023, attended by 121 members including 62 women has adopted unanimous resolutions and submitted the same to the SLMC, Government of West Bengal. And the same unanimous resolution and representation to SLMC Westbengal has been sent from Ranga Barelaha gram sabha and Tarpania Gram Sabha on 26.05.2023. Both Ranga Barelaha and Tarpaniya gram sabhas are part of Ajodhya Gram Panchayat. The Gram Sabhas has stated that while a certificate regarding compliance with the Forest Rights Act, 2006 was submitted by the DM dated 13.06.2007, on the basis of NOC submitted by the Gram Panchayat Pradhans of Baghmundi and Ajodhya gram Panchayat, the affected forest dwellers have not received any comprehensive report in the vernacular of the project and its impact on the environment, culture and livelihood of the area and have never been consulted with regard to the desirability and impact of the project. The Gram Sabha has resolved to file an FIR against officials involved in such misrepresentation under Section 8 of the Forest Rights Act, 2006. The Gram Sabhas have also passed a unanimous resolution that they do not want the Turga PSP to be constructed in the forest and non-forest land managed by the community.

It may be pointed out that interference with forest rights or any attempt to dispossess the forest dwellers is a violation of Section 7 read with Section 4(5) of the Forest Rights Act, 2006, and also a criminal atrocity under Section 3(1)(g) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Such failure to comply with the statutory conditions also amounts to an offence under the Forest Conservation Act, 1980.

However, the above legal constraints notwithstanding, the user agency West Bengal State Electricity Distribution Company Limited has proceeded to issue tenders for Felling of Trees and Construction of Boundary walls for the project on 15.06.2023 and for Main Civil Works on 26.05.2023. In gross violation of the law, tenders for construction activities have been issued by the user agency even as the process of settlement of existing forest rights claims remains far from complete.

The tenders for the felling of trees and construction of boundary walls stipulate that work must be completed within 120 days of receipt of work order with the last date for submission of bids being 31.07.2023. The same makes it evident that the user agency deems to already have "possession" of the forest land or gain such possession in the immediate future, without complying with the statutory and legal conditions described above. This is a clear violation of the first condition of the grant of final forest clearance from both the central and the state governments and therefore vitiates the very regulatory mechanism under both the Forest Conservation Act, 1980 and the Forest Rights Act, 2006. Copies of the tenders issued, the Gram Sabha resolution and representations sent to the SLMC are attached herewith.

It should also be noted that the Ajodhya range is home to pristine forests with a huge diversity of flora and fauna and is also home to the Marang Buru mountain and two jaher than the sacred grove, which are of spiritual and religious significance to the local forest dwelling and Adivasi communities. The area earmarked for the project is also an Elephant Corridor for a herd of 14 elephants. Last but not the least, these forest lands are the means of subsistence for our traditional forest dwelling communities constituted primarily of Scheduled Tribes. The land proposed to be diverted is therefore of great ecological, cultural, social and economic significance.

Felling of trees and clearing of such forest-land will be irreversible and therefore cannot be allowed to proceed in violation and non-compliance of judicial precedent, statute and various provisions of law.

We hereby request you to take necessary action against the non-compliance of the conditions stipulated in the forest clearance and **place on hold all proceedings related to issue of tenders and other project activity on the ground as long as such irregularities are not resolved.**

Our communities stand before you facing imminent and grave threat to our forests, lands, right to life and livelihoods. We urge you to take prompt and speedy action in the case with a view to safeguarding justice and due process.

Thanking you,

Sushil Murmu

সভাপতি / সহ-সভাপতি
রাসা-বাড়েলহর বন্যায়িকার কমিটি

Sukram Murmu

সভাপতি
চাঁড়গনিয়া বন্যায়িকার কমিটি
পোঃ-রাসা, জেলা-পূৰ্ণিয়া

Sunil Tudu

সভাপতি
গাংগাৰাজ বন্যায়িকার কমিটি
পোঃ-পাৰদি জেলা-পূৰ্ণিয়া

Copy to:

State Level Monitoring Committee, Government of West Bengal with request to refer to previous representations in this regard under Section 8 Forest Rights Act, 2006 (copies attached).

Date: 28/06/23

To,
The chairperson
State Level Monitoring Committee in BCW Deptt.
Government of West Bengal
Backward Classes Welfare Department
Writers' Buildings, Kolkata - 700001
West Bengal
India

Subject: Concerns over violation of the Consent Mechanism as per FRA (2006) regarding the Turga Pumped Storage Project (TPSP).

Respected Madam/ Sir,

We write this letter to express our rising concerns over the gross violation of the consent mechanism specified in FRA (2006) in Ajodhya Pahar, Purulia. The 1000 MW Turga Pumped Storage Project (TPSP) involving the diversion of 234 ha of forestland was announced in 2017.

On 12.04.2018 the Ministry of Environment, Forest and Climate Change (MOEFF) provided the West Bengal Government with an 'in-principle' Stage I forest clearance for the project following a certificate issued by the District Magistrate of Purulia on 13.6.2017 claiming that the consent procedure under Scheduled Tribes and other Forest Dwellers (Recognition of Forest Rights) Act, 2006 has been complied with.

The Forest Clearance Report (file number 8-51/12017FC) dated 13th October 2022 signed by the Assistant Inspector General of Forests (FC) also specified the need to ensure that the compliance of Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has been completed before handing over of forest land to the user agency which is WBSEDCL in this case.

However, we the members of Barujara Bandhghutu Dulgubera, Ranga Barelahar, Tarpaniya Gramsabha, Ajodhya Pahar, wanted to point out the glaring discrepancies in the narrative given by the West Bengal government about compliance with the terms of FRA (2006).

1. Although the certificate issued by the DM on 13.06.2017 had specified engagement with the concerned Gramsabhas, in reality, the concerned Gram Sabhas were not even informed by the state government about the project let alone properly following the mandates of the consent mechanism under FRA (2006). In fact, the only meeting organised with the stakeholders was one convened by the Ajodhya Gram Panchayet on 23.03.2017, at gram panchayat office, where allegedly only 21 signatures were taken. Villagers were asked to sign on a paper allegedly for keeping records of food packets distributed! Gram Sabhas from the affected villages in Ajodhya Pahar: Ranga, Tarpania, Teliabhasha, and Hathinada falling under Ajodhya Gram Panchayat were not convened. Another meeting was allegedly conducted by the Baghmundi Gram Panchayet, where no signature sheet could be instead can be found of running separate meetings with the Gram Sabhas falling under the affected mauzas: Baghmundi, Bareria, Gosaidih, and Kudna.

2. As per FRA (2006), Gram Sabha must be constituted at the settlement level, hamlet, or tola level. Ajodhya GP has 7 electoral booths and 10,000 voters spread over 60 villages. Conducting one Gram Panchayat meeting with only 21 signatories is a gross violation of the principle of engaging with the Gram Sabhas at the settlement level. Even in the case of a Gram Panchayat level meeting a quorum had to be fulfilled which was not seen in this case. On 23-24th September 2013 MOTA organised a

regional consultation on implementation of forest right act clarified to westbengal government that, - FRC and FRA 2006 implementation has no obligations to panchayat elections or panchayats as this has to be implemented at the village or hamlet level. There has been nearly participation of women among the signatories.

3. Completion of the process of recognition and vesting of rights including all the rights under section

3- IFR, CR, CFR rights needs to be settled before diverting the forest land. THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) AMENDMENT ACT, 2015 NO. 1 OF 2016 states in amendment of section 3 of principal act - "(g) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights, including forest rights, over any land or premises or water or irrigation facilities or destroys the crops or takes away the produce therefrom.

4. Gramsabha's consent or rejection of the forest diversion after considering all information relating to the project. No effort was undertaken by the West Bengal government to disseminate information regarding the project in the Ajodhya hills area. No notices were issued in vernacular language. More than 50% members of each gramsabha has to give consent. Which was never the case. Meetings with the stakeholders were not conducted before the DM's certificate was given or the Forest-Clearance report was issued.

5. The stakeholders are still not provided with adequate data regarding the submergence area of the project. There have been concerns regarding the submergence of the Marangburu hill near the Barelahar village, which has several important Jaher Thans, attracting devotees from villages all over the region.

In light of this injustice, we the members of baruajara bandhghutu dugubera , ranga barelahar, tarpaniya Gram Sabha, Ajodhya Pahar, Implore the State Level Monitoring Committee on FRA, WB to make sure that

1. The consent mechanism mentioned in FRA (2006) should be applied before the state government proceeds any further regarding forest land diversion for the project.

2. West Bengal Government must publish the total area under submergence and conduct meetings with all the concerned Gram Sabhas to ensure compliance with FRA (2006).

3. Completion of the process of recognition and vesting of rights including all the rights under section 3- IFR, CR, CFR rights needs to be settled before diverting the forest land if any

4. The government must take into account the need to issue notices for forestland diversion in the vernacular.

5. Consent must be taken from the women members in a Gram Sabha as well as the male members. And consent must be taken from the gram Sabha, with majority members (more than 50%)

We have resolutions in our respective gramsabhas that we want to file an FIR in this regard on officials and post holders involved referring section 8 of FRA. Copy of resolution attached with this letter. We ask State Level Monitoring Committee for help.

We have resolutions in our respective gramsabhas that we do not want Turga Pumped Storage Project (TPSP) in our community managed forest and non-forest land. We want to note again that, we never gave consent to TPSP.

We request that the State Level Monitoring Committee on FRA 2006 westbengal, take cognizance of our grievance and make sure that we are not deprived of our land and forests in an unjust manner. We ask the State Level Monitoring Committee for an immediate intervention in this project and a thorough reassessment of the situation before further steps are taken by the West Bengal government to diversify forestland for the project.

Sincerely *Mangal Marmu*

Members of সভাপতি

Baruajara Bandhghutu Dulgubera ,
Ranga Barelahar,
Tarpaniya Gram Sabha

সভাপতি

সভাপতি /সহ-সভাপতি

রাজা-বাড়েলহর গ্রামসভা

Royesh Marmu

সম্পাদক

টাড়ানিয়া গ্রামসভা

পোঃ-রাসা, মহকুমা-কালনা, জেলা-পূরুলিয়া

Copy also served to -

- ✓ 1. National Commission for Scheduled Tribes (NCST), New Delhi.
- ✓ 2. Ministry of Tribal affairs (MoTA)
- ✓ 3. Office secretary to the Governor of WestBengal . Rajbhavan Kolkata 700062
- ✓ 4. District Magistrate (DM) Purulia . Purulia WB
- ✓ 5. SDO Jhalida , Jhalida Purulia WB.
- ✓ 6. Land Reforms Commissioner , chairman Task Force on FRA 2006
- ✓ 7. westbengal Tribal advisory council chairman Mamata Banerjee
- ✓ 8. Principal secretary tribal Development Department WB