

**GOVERNMENT OF INDIA
ENVIRONMENT, FORESTS AND CLIMATE CHANGE
LOK SABHA**

UNSTARRED QUESTION NO:580

ANSWERED ON:26.11.2014

CHANGES IN FOREST RIGHT ACT

Patil Shri Shivaji Adhalrao;Shrirang Shri Chandu Barne

Will the Minister of ENVIRONMENT, FORESTS AND CLIMATE CHANGE be pleased to state:

(a) whether the Union Government has decided to bring changes to diminish the applicability of Forests Rights Act (FRA) for seeking statutory forests clearance for projects;

(b) if so, the details thereof;

(c) whether the Union Government has exempted plantations in forest area not having tribal population as per 2001 and 2011 census;

(d) if so, the extent to which the aforesaid move will ease approval process for projects coming up near green areas not recorded as forests and not having tribal population since 2001; and

(e) whether the aforesaid notification has failed to recognize rights of other forests dwellers and if so, the response of the Union Government thereto?

Answer

MINISTER OF STATE (INDEPENDENT CHARGE) FOR ENVIRONMENT, FORESTS AND CLIMATE CHANGE (SHRI PRAKASH JAVADEKAR)

(a) to (e) Ministry of Environment, Forests and Climate Change (MoEFCC) 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 Forest Rights Act, 2006 (FRA) and the rules framed thereunder for recognition and vesting of forests rights is initiated and completed. The reasons for the same are as below:

(a) Clause (o) of the section 2 of the FRA provides that a person should have primarily resided and depended on forests land for bonafide livelihood needs for atleast 75 years prior to 13th day of December 2005 to be classified as an Other traditional forest dweller (OTFD). No person living in such plantations which were notified as forest less than 75 years prior to 13th December 2005 will thus be eligible to be classified as OTFD.

(b) 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 FRA. The question of recognition of forest rights on such forests will thus not arise.

The MoEFCC therefore, in their guidelines dated 28th October 2014 informed the States and Union Territories that in further modification of the Ministry's letter dated 3rd August 2009, proposals seeking prior approval of the Central Government under the FC Act 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 OTFDs stipulated in clause (a), read with clause (d) and clause (g) in second para of the Ministry's letter dated 3rd August 2009.

It has further been stipulated in these guidelines that 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 the Ministry's letter dated 3rd August 2009.

These guidelines will not in any way affect interest of the Scheduled Tribes or OTFD, as the same will not be applicable in the villages having even a single Scheduled Tribe or OTFD as its resident.