

GOVERNMENT OF INDIA
(MINISTRY OF TRIBAL AFFAIRS)
LOK SABHA
UNSTARRED QUESTION NO. 3063
TO BE ANSWERED ON 31.12.2018

FOREST RIGHTS ACT, 2006

3063. SHRI RABINDRA KUMAR JENA:

Will the Minister of TRIBAL AFFAIRS be pleased to state:

- (a) whether plantation projects under compensatory afforestation can be taken up under the forest land without the approval of Gram Sabha, as given in Forest Rights Act, 2006 and if so, the details thereof;
- (b) whether the Government has noted an incongruence with the stance of Ministry of Environment, Forests and Climate Change (MoEF&CC) on compensatory Afforestation on lands which are either held by communities or communities who have rights of collecting forest produces;
- (c) if so, the details thereof;
- (d) whether the definition of Gram Sabha in draft rules for implementation of the compensatory Afforestation Fund Act notified by the MoEF&CC is different/ incongruent with the definition given in FRA 2006 and if so, the details thereof; and
- (e) whether the ministry raised this matter with the MoEF&CC and if so, the reasons for not raising the same?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF TRIBAL AFFAIRS
(SHRI SUDARSHAN BHAGAT)

(a) The Compensatory Afforestation Fund Rules, 2018 provides that the Annual Plan of Operation for Compensatory Afforestation should be prepared in consultations with Gram Sabha to integrate any other specific management plan of the forest prepared by the committee of Gram Sabha constituted under Rule 4(1) (e) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rule, 2007(2 of 2007). Once the Annual Plan of Operation has been prepared in consultation with Gram Sabha and approved by the State Government, the Compensatory Afforestation and other activities are under taken as per the approved plan.

(b) & (c) Rights of communities on forest produces on Compensatory Afforestation forest land are not curtailed by undertaking compensatory afforestation.

As per second proviso below Rule 5(3) (k) of Compensatory Afforestation Fund (CAF) Rules, 2018 'activities over forest land under the control of State Forest Department and being managed as per the working plan with participation of local people shall be taken up in consultation with the Gram Sabha or Village Forest Management Committee as the case may be, and shall be in consonance with the provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) and the guidelines issued thereunder, wherever applicable'.

As per third proviso below Rule 5(3) (k) of Compensatory Afforestation Rules, 2018 'in case the said activities are to be undertaken in areas not covered by the approved working plan then activities referred to in sub rule (2) and (3) shall be taken up in consultation with concerned Gram Sabha or Village Forest Management Committee or any authority having jurisdiction over that areas, as the case may be and shall be in consonance with the provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) and the guidelines issued thereunder, wherever applicable'.

(d) & (e) In the draft Compensatory Afforestation Fund Rules, 2018, which was notified on 16.2.2018, the 'Gram Sabha' had been defined that it would have the same meaning as assigned to it in clause (b) of article 243 of the Constitution. The Ministry of Tribal Affairs pointed out that the said definition was not in accordance with the definition as provided in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007). Now, in the Compensatory Afforestation Fund Rules, 2018 notified on 10.8.2018 the following has been provisioned in Rule 2 (2):-

'The word and expression used and not defined in these rules but defined in the Act, the Indian Forest Act, 1927 (16 of 1927), the Wildlife (Protection) Act 1972 (53 of 1972), the Forest (Conservation) Act 1980 (69 of 1980), the Biological Diversity Act, 2002 (18 of 2003) and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) and the rules made under these Acts shall have the meanings respectively assigned to them in those Acts and rules'.
