

No. 23011/23/2017-FRA
Government of India
Ministry of Tribal Affairs
FRA Division

Dated 6th March, 2018

To

The Principal Secretary/Secretary,
All State Governments (except J&K)

Subject:- Nomination of Principal Secretary, Tribal Development Department of State Government as representative of the Ministry of Tribal Affairs in the Expert Committee for determination of Critical Wildlife habitats within National Parks and Sanctuaries.

Sir/Madam,

I am directed to refer to Ministry of Environment, Forest and Climate Change (EFCC)'s letter No. 1-23/2014 WL dated 4th January, 2018 under which guidelines for notification of Critical Wildlife Habitat have been issued (copy enclosed) on the subject cited above and to state that you may represent the Ministry of Tribal Affairs in the Expert Committee for determination of Critical Wildlife habitats as per the requirement of Section 2 (b) of Forest Rights Act, 2006, which inter-alia states as follows: -

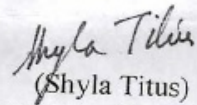
"critical wildlife habitat" means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4", within National Parks and Sanctuaries. In addition to safeguarding the interest of Tribals, the representative of Ministry of Tribal Affairs may keep following in consideration: -

2. In the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (in Short FRA) there is a provision for the said expert committee under section 2(b) of FRA. Some relevant sections regarding expert Committee are at Annexure. The FRA, rules and guidelines are available on the website of this Ministry i.e. www.tribal.nic.in. Being a

representative of this Ministry, it should be ensured that the provisions of the FRA and subsequent amendments, if any, as also the Forest Rights Rules and Guidelines are upheld during the discussions/meetings. This Ministry should also be kept apprised of the proceedings of such discussions, regularly and punctually. Any specific issue that requires coordination by Ministry of Tribal Affairs be immediately referred to the Ministry.

3. You are, therefore, requested to represent this Ministry as Member of 'Expert Committee' for determination of Critical Wildlife habitats within National Parks and Sanctuaries located in your State. It is also requested to critically examine/reiterate that the provisions of Acts and Rights of Scheduled Tribes (STs) & Other Traditional Forest Dwellers (OTFDs) are not taken away or infringed.
4. This issues with the approval of the competent authority in the Ministry.

Yours faithfully,


(Shyla Titus)

Deputy Secretary to the Government of India

Tel. 26182428

Email: s.titus@nic.in

Copy to:- Ministry of Environment, Forests and Climate Change (Kind Attn: Sh. S.P. Vashishth, Deputy Inspector General of Forests, WL), Wildlife Division, 6th Floor, Vayu Wing, Indira Paryavaran Bhavan, Jor bagh, Aliganj, New Delhi-110003 in reference to letter No. 1-23/2014 WL dated 4th January, 2018.

Some relevant sections of FRA about the Critical Wildlife Habitats within National Parks and Sanctuaries.

Sec. 2 (b):- "critical wildlife habitat" means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment and Forests after open process of consultation by an Expert Committee, **which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-sections (1) and (2) of section 4;**

The Section 4 (1) and (2) are as under:-

(1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognises and vests forest rights in –

(a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;

(b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3.

(2) The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:--

(a) the process of recognition and vesting of rights as specified in section 6 is complete in all the areas under consideration;

(b) it has been established by the concerned agencies of the State Government, in exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the presence of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government has concluded that other reasonable options, such as, co-existence are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfils the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package.

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any Other entity for other uses.

Section 5 (Duties of holders of Forest Rights). The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to-

- (a) protect the wild life, forest and biodiversity;
- (b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;
- (c) ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;
- (d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.

Definition of 'Gram Sabha' and 'Village' as given in Section 2 clause (g) and clause (p) have to be followed in the entire process.
