

**GOVERNMENT OF ODISHA  
ST & SC DEVELOPMENT DEPARTMENT**

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No. 7984 /SSD., Dated Bhubaneswar the, 29th April, 2019  
STSCD - FRA - CASE 1-0001-2016

From

Shri R. Raghu Prasad, IFS,  
Commissioner-cum-Secretary to Govt.

To

All Collectors.

**Sub: Review of rejected claims (Individual) under Forest Rights Act; Compliance to the orders of the Hon'ble Supreme Court of India Dtd. 13.02.2019 and 28.02.2019 in Writ Petition (C) No. 109/ 2008.**

Ref: This Department Letter No.5464 Dated. 13.03.2019, Letter No.6541 Dated. 29.03.2019, Letter NO. 7889 dated 26.04.2019, Letter No. 7893 dated 27.04.2019, Letter No. 10740/SSD Dt.16.06.2016, No.10535/ SSD Dated 05.06.2017, Memo No. 5644/SSD dated 16.03.2017, No.14010/SSD Dated 04.08.2017 and Letter No.15179/SSD Dated 23.08.2017,

Madam / Sir,

In inviting a reference to the subject cited above, I am to say that detailed instructions were issued earlier vide letters referred above for taking up appeals and reviews of all rejected claims (Individual) under the Forest Rights Act. The reviews of the rejected claims are to be under taken on a 'Mission mode' at the appellate levels, by the Sub-Divisional Committee (SDLC) chaired by the Sub-Collector and the District Level Committee (DLC) chaired by the Collector.

The relevant provisions and procedures prescribed under the *Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and Amendment Rules, 2012* shall be strictly followed, while taking up appeals and reviews of all rejected claims. Some of the relevant provisions of the FRA Act and Rules are provided at **Annexure-I**, for your reference. Further the activities to be undertaken are reiterated for your guidance:

**1. Compilation of details of all rejected claims:**

- Detailed information on all the rejected claims at the Gram Sabha, SDLC and DLC levels shall be compiled by the respective Nodal Officers. The formats for compiling the information have been communicated vide letter No.6541 dated 29.03.2019.
- Services of all PA ITDAs, DWO, ADWOs and WEOs posted in each district should be utilized for providing necessary support.
- In cases of claims rejected at the Gram Sabha level, fresh verifications by the Forest Rights Committee should be undertaken, wherever required, by the respective Forest Rights Committee. The officials of the Forest & Environment Department as well as Revenue & DM Department shall remain present during the verification of the claims and verification of the evidences on the site and shall sign the proceedings as per **Rule 12 A (1)** of the *Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012*.

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## 2. Review of rejected claims by Sub-Divisional Level Committee (DLC):

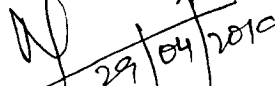
- The cases of claims rejected at the Gram Sabha level, should be reviewed at the SDLC level. Accordingly all the rejected claims along with the Forest Rights Committee (FRC) reports and Gram Sabha resolutions should be forwarded to the SDLC for review.
- The reasons of rejection of the claim by the Gram Sabha shall be communicated to the concerned claimants as per **Rule 12A (3)**.
- The SDLC shall fix a date for hearing and intimate the claimants and the concerned Gram Sabha through a notice, at least 15 days prior to the date fixed for hearing, as per **Rule 14(2)**.
- In case the claimants do not file petitions before the SDLC, then all such cases shall be reviewed by the SDLC as *Suo-motu* appeals.
- The Sub-Divisional Committee shall examine the petitions/ suo- moto appeals and pass appropriate orders, either accepting or rejecting the petition.

## 3. Review of rejected claims by the District Level Committee (DLC):

- The cases of claims rejected by the Sub-Divisional Committee, should be reviewed by the District Level Committee. Accordingly all the claims along with the recommendations of the Sub-Divisional Committee should be forwarded to the DLC for review.
- The reasons of rejection of the claim by the SDLC shall be communicated to the concerned claimants as per **Rule 12A (3)**.
- The DLC shall fix a date for hearing and intimate the claimants and the concerned SDLC through a notice, at least 15 days prior to the date fixed for hearing, as per **Rule 15 (2)**.
- The Divisional Committee shall examine the petitions/ suo-moto appeals and pass appropriate orders, either accepting or rejecting the petition.
- A copy of the order of the DLC, where the claim has been finally rejected by the DLC shall be communicated to the claimant giving details of the reasons of rejection, as per **Rule 12 A (7)**.

You are requested to look into the matter on priority and ensure that the SDLC and DLC reviews each rejected claim, by giving ample scope to the claimant for being heard, as per the provisions of the Forest Rights Act and Rules. **IT IS AGAIN REITERATED THAT THE REVIEW PROCESS SHOULD BE COMPLETED AND COMPLIANCE SUBMITTED TO THIS DEPARTMENT, SO THAT THE MATTER CAN BE FILED BEFORE THE HON'BLE SUPREME COURT.**

Yours faithfully,

  
29/04/2019

Commissioner-cum-Secretary to Govt.

Memo No. 7985 .SSD dated 29-04-2019.

Copy along with enclosures forwarded to the Additional Chief Secretary, Forest & Environment Department/ Principal Secretary to Govt. Revenue & DM Department / Principal Secretary to Govt. PR & DW Department/ Principal Chief Conservator of Forests and HoFF for information and necessary action.

*ahy*  
29/04/2019

Additional Secretary to Govt.

Memo No. 7986 .SSD dated 29-04-2019.

Copy along with enclosures forwarded to all RDCs for information and necessary action.

*ahy*  
29/04/2019

Additional Secretary to Govt.

Memo No. 7987 .SSD dated 29-04-2019.

Copy along with enclosures forwarded to all DWOs, PA, ITDAs for information and necessary action.

*ahy*  
29/04/2019

Additional Secretary to Govt.

**RELEVANT PROVISIONS FOR REJECTION AND MODIFICATION OF CLAIMS UNDER THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) (AMENDMENT) RULES, 2012**

**Rule 12. Process of verifying claims by Forest Rights Committee.-**

(1) The Forest Rights Committee shall, after due intimation to the concerned claimant and the Forest Department:-

- (a) visit the site and physically verify the nature and extent of the claim and evidence on the site;
- (b) receive any further evidence or record from the claimant and witnesses;
- (c) ensure that the claim from pastoralists and nomadic tribes for determination of their rights, which may either be through individual members, the community or traditional community institution, are verified at a time when such individuals, communities or their representatives are present;
- (d) ensure that the claim from member of a primitive tribal group or pre-agricultural community for determination of their rights to habitat, which may either be through their community or traditional community institution, are verified when such communities or their representatives are present; and
- (e) prepare a map delineating the area of each claim indicating recognizable landmarks.
- (f) delineate the customary boundaries of the community forest resource with other members of the Gram Sabha including elders who are well versed with such boundaries and customary access.
- (g) prepare a community forest resource map with recognizable land marks and through substantial evidence as enumerated in sub-rule (2) of rule 13 and thereafter, such community forest resource claim shall be approved by a resolution of the Gram Sabha passed by a simple majority.

Explanation: The delineation of community forest resource may include existing legal

boundaries such as reserve forest, protected forest, National Parks and Sanctuaries and such delineation shall formalize and recognize the powers of the community in access, conservation and sustainable use of such community forest resources."

- (2) The Forest Rights Committee' shall then record its findings on the claim and present the same to the Gram Sabha for its consideration.
- (3) If there are conflicting claims in respect of the traditional or customary boundaries of another village or if a forest area is used by more than one Gram Sabha, the Forest Rights Committees of the respective Gram Sabhas shall meet jointly to consider the nature of enjoyment of such claims and submit the findings to the respective Gram Sabhas in writing: Provided that if the Gram Sabhas are not able to resolve the conflicting claims, it shall be referred by the Gram Sabha to the Sub- Divisional Level Committee for its resolution.
- (4) On a written request of the Gram Sabha or the Forest Rights Committee for information, records or documents, the concerned authorities shall provide an authenticated copy of the same to the Gram Sabha or Forest Rights Committee, as the case may be, and facilitate its clarification, if required, through an authorized officer.

**Rule 12A. Process of recognition of rights -**

- (1) On receipt of intimation from the Forest Rights Committee, the officials of the Forest and Revenue departments shall remain present during the verification of the claims and the verification of evidences on the site and shall sign the proceedings with their designation, date and comments, if any.
- (2) If any objections are made by the Forest or Revenue departments at a later date to a claim approved by the Gram Sabha, for the reason that their representatives were absent during field verification, the claim shall be remanded to the Gram Sabha for re-verification by the committee where objection has been raised and if the representatives again fail to attend the verification process the Gram Sabha's decision on the field verification shall be final.
- (3) In the event of modification or rejection of a claim by the Gram Sabha or a recommendation for modification or rejection of a claim forwarded by the Sub-Divisional Level Committee to the District Level Committee, such decision or recommendation on the claims shall be communicated in person to the claimant to enable him to prefer a petition to the Sub-Divisional Level Committee or District Level Committee as the case may be, within a period of sixty days which shall be extendable to a period of thirty days at the discretion of the above said committees.
- (4) If any other state agency desires to object to a decision of the Gram Sabha or the Sub-Divisional Level Committee, it shall file an appeal before the Sub-Divisional Level Committee or the District Level Committee, as the case may be, which shall be decided by the Committee (in the absence of the representative of the concerned agency, if any) after hearing the claimant.
- (5) No petition of the aggrieved person shall be disposed of, unless he has been given a reasonable opportunity to present anything in support of his claim.
- (6) The Sub-Divisional Level Committee or the District Level Committee shall remand the claim to the Gram Sabha for re-consideration instead of modifying or rejecting the same, in case the resolution or the recommendation of the Gram Sabha is found to be incomplete or prima-facie requires additional examination.
- (7) In cases where the resolution passed by the Gram Sabha, recommending a claim, with supporting documents and evidence, is upheld by the Sub-Divisional Level Committee with or without modifications, but the same is not approved by the District Level Committee, the District Level Committee shall record detailed reasons for not accepting the recommendations of the Gram Sabha or the Sub-Divisional Level Committee as the case may be, in writing, and a copy of the order of the District Level Committee along with the reasons shall be made available to the claimant or the Gram Sabha or the Community as the case may be.
- (8) The land rights for self-cultivation recognized under clause (a) of sub-section (1) of section 3 shall be, within the specified limit, including the forest lands used for allied activities ancillary to cultivation, such as, for keeping cattle, for winnowing and other post-harvest activities, rotational fallows, tree crops and storage of produce.
- (9) On completion of the process of settlement of rights and issue of titles as specified in Annexure II, III and IV of these rules, the Revenue and the Forest departments shall prepare a final map of the forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and forest records, as the case may be, within the specified period of

record updation under the relevant State laws or within a period of three months, whichever is earlier.

- (10) All decisions of the Sub-Divisional Level Committee and District Level Committee that involve modification or rejection of a Gram Sabha resolution or recommendation of the Sub-Divisional Level Committee shall give detailed reasons for such modification or rejection, as the case may be:

Provided that no recommendation or rejection of claims shall be merely on any technical or procedural grounds:

Provided further that no committee (except the Gram Sabha or the Forest Rights Committee) at the Block or Panchayat or forest beat or range level, or any individual officer of any rank shall be empowered to receive claims or reject, modify, or decide any claim on forest rights.

- (11) The Sub-Divisional Level Committee or the District Level Committee shall consider the evidence specified in rule 13 while deciding the claims and shall not insist upon any particular form of documentary evidence for consideration of a claim.

Explanation:

1. Fine receipts, encroacher lists, primary offence reports, forest settlement reports, and similar documentation by whatever name called, arisen during prior official exercise, or the lack thereof, shall not be the sole basis for rejection of any claim.
2. The satellite imagery and other uses of technology may supplement other form of evidence and shall not be treated as a replacement.

#### **Rule 14. Petitions to Sub-Divisional Level Committee.-**

- (1) Any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.
- (2) The Sub-Divisional Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Gram Sabha in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing.
- (3) The Sub-Divisional Level Committee may either allow or reject or refer the petition to concerned Gram Sabha for its reconsideration.
- (4) After receipt of such reference, the Gram Sabha shall meet within a period of thirty days, hear the petitioner, pass a resolution on that reference and forward the same to the Sub-Divisional Level Committee.
- (5) The Sub-Divisional Level Committee shall consider the resolution of the Gram Sabha and pass appropriate orders, either accepting or rejecting the petition.
- (6) Without prejudice to the pending petitions, Sub-Divisional Level Committee shall examine and collate the records of forest rights of the other claimants and submit the same through the concerned Sub-Divisional Officer to the District Level Committee.
- (7) In case of a dispute between two or more Gram Sabhas and on an application of any of the Gram Sabhas or the Sub-Divisional Level Committee on its own, shall call for a joint meeting of the concerned Gram Sabhas with a view to resolving the dispute and if no mutually agreed solution can be reached within a period of thirty days, the Sub-Divisional Level Committee shall decide the dispute after hearing the concerned Gram Sabhas and pass appropriate orders.

**Rule 15. Petitions to District Level Committee.-**

- (1) Any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision of the Sub-Divisional Level Committee file a petition to the District Level Committee.
- (2) The District Level Committee shall fix a date for the hearing and intimate the petitioner and the concerned Sub-Divisional Level Committee in writing as well as through a notice at a convenient public place in the village of the petitioner at least fifteen days prior to the date fixed for the hearing. 22 Inserted by Rule 12 (2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September, 2012) 26 Forest Rights Act, 2006: Act, Rules and Guidelines
- (3) The District Level Committee may either allow or reject or refer the petition to concerned Sub-Divisional Level Committee for its reconsideration.
- (4) After receipt of such reference, the Sub-Divisional Level Committee shall hear the petitioner and the Gram Sabha and take a decision on that reference and intimate the same to the District Level Committee.
- (5) The District Level Committee shall then consider the petition and pass appropriate orders, either accepting or rejecting the petition.
- (6) The District Level Committee shall send the record of forest rights of the claimant or claimants to the District Collector or District Commissioner for necessary correction in the records of the Government.
- (7) In case there is a discrepancy between orders of two or more Sub-Divisional Level Committees, the District Level Committee on its own, shall call for a joint meeting of the concerned Sub-Divisional Level Committees with a view to reconcile the differences and if no mutually agreed solution can be reached, the District Level Committee shall adjudicate the dispute after hearing the concerned Sub-Divisional Level Committees and pass appropriate orders.