

**Government of India  
Ministry of Tribal Affairs**

**Some of the important issues raised by the States relating to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the clarifications given thereto.**

S. No.	Issue	Clarification
(i)	Implications of the phrase "primarily reside in and who depend on the forests or forest lands for <i>bona fide</i> livelihood needs" appearing in Section 2(c) and 2(o) of the Act.	<p>The implication of using the word 'primarily' is to include the Scheduled Tribes and other Traditional Forest Dwellers who have either habitation, or patches of land for self-cultivation for livelihood, and would, therefore, be primarily spending most of their time either in temporary make shift structures or working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land. Therefore, such Scheduled Tribes and other Traditional Forest Dwellers who are not necessarily residing inside the forest but are depending on the forest for their <i>bona fide</i> livelihood needs would be covered under the definition of "forest dwelling Scheduled Tribes" and "other traditional forest dweller" as given in Sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.</p> <p>[MoTA's letter No.17014/02/2007-PC&amp;V (Vol.II) dated 9<sup>th</sup> June, 2008, addressed to all States/UTs, except J&amp;K]</p>
(ii)	Constitution of various Committees under the Act in Jharkhand where the Panchayat elections had not been held.	<p>In the absence of Panchayati Raj Institution in the State of Jharkhand, the State Government was directed to arrange meetings of the Gram Sabhas and ensure representation in the Sub-Divisional Level Committees, District Level Committees and the State Level Committees in consultation with the Department of Panchayati Raj and the Nodal Department of State Government on Forest Rights Act.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol.VII) (pt) dated 9<sup>th</sup> July, 2008, addressed to Government of Jharkhand]</p>

(iii)	<p>Consideration of the revenue land under the occupation of forest dwelling Scheduled Tribes and other traditional forest dwellers for determining the limit of an area of 4 hectares of forest land for habitation or for self-cultivation, referred to in 4© of the Act.</p>	<p>The term "forest land" is defined in section 2(d) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the said definition does not include revenue land. Therefore, the revenue land under the occupation of forest dwelling Scheduled Tribes and other traditional forest dwellers is not to be taken into account for determining the limit of an area of 4 hectares of forest land for habitation or for self-cultivation, referred to in Section 4(6) of the Act. The area of encroachment of forest land shall, however, be included in the limit of 4 hectares, prescribed in section 4(6) of the Act.</p> <p>However, section 3(1)(a) of the Act refers to "the right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for <b>livelihood</b> .....", while rule 2(1) (b) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 notified on 1.1.2008 defines "bona fide livelihood needs" as "fulfillment of sustenance need of self and family ....." . As the basic objective of the Act is to <b>provide livelihood means</b> to forest dwelling Scheduled Tribes and other traditional forest dwellers, the livelihood aspect also needs to be kept in view, while considering the maximum limit of an area of 4 hectares of forest land for recognition and vesting of forest rights. If the forest dwellers do not primarily reside on the forest land in their occupation and depend on the revenue land or the area of regularized encroachment of forest land for their <i>bona fide</i> livelihood needs, then they should not get title to the forest land in occupation.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Gujarat]</p>
(iv)	<p>Since 3 months time has been provided under Rule 11(a) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest</p>	<p>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 provide that the Gram Sabha shall call for the claims and authorize the Forest Rights Committee to accept the claims. Such claims are to be made within a period of</p>

	<p>Rights) Rules, 2008 for filing the claims, whether the Gram Sabha can consider the clear cases immediately or the Gram Sabha has to consider the cases only after the expiry of 3 months period.</p>	<p>three months from the date of such calling of the claims. The period of three months for filing the claims is thus to be reckoned from the date of calling of claims after the constitution of the Forest Rights Committee. Gram Sabhas can consider undisputed cases provided the procedure as laid down in the Rule has been followed.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to all State/ UT Governments except J&amp;K, Harayana, Nagaland and Lakshadweep]</p>
(v)	<p>Whether the forest villages can be converted into revenue villages by administrative decision and whether claims have to be filed for the same before the Gram Sabha.</p>	<p>The State Government can convert the forest villages into revenue villages as per the guidelines issued by the Ministry of Environment &amp; Forests, vide their letter No.13-1/90/FP(5) dated 18.9.1990. Action for conversion of such forest villages into revenue villages can also be taken by the State Government when the forest dwelling Scheduled Tribes and other traditional forest dwellers filed their claims for recognition of this right before the Gram Sabha, to be ultimately decided upon by the District Level Committee.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Madhya Pradesh]</p>
(vi)	<p>Whether powers can be delegated to the Revenue Divisional Officer for signing the claimant rights Pass Books i.e, title deeds, instead of District Collector and whether facsimile signature of the District Collector could be permitted in the claimant rights Pass Books i.e, title deeds.</p>	<p>As per Annexure-II &amp; III of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, the title for forest land and community forest rights are to be signed by the District Collector/ Deputy Commissioner. Therefore, this power can not be delegated to the Revenue Divisional Officers. The facsimile signature of the District Collector can also not be permitted on the title deeds.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Andhra Pradesh]</p>

(vii)	<p>Whether the Principal Secretary of the Autonomous Councils in certain districts in the States governed under the provisions of the Sixth Schedule to the Constitution of India can be made the Chairperson of the SDLCs and DLCs under the Act.</p>	<p>As per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, Sub-Divisional Level Committees and the District Level Committees are to be headed by Sub-Divisional Level Officers or equivalent officers and District Collector or Deputy Commissioner respectively. During the review meeting of the State Secretaries/ Commissioners of Tribal Welfare held on 11.11.2008, it was informed that SDOs and District Magistrates were available in the six districts of the State, which were under the Sixth Schedule provision. Therefore, the District Level Committees and Sub Divisional Level Committees have to be constituted as per the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 even if the forest and land revenue matters are managed by the Council authorities. These Rules do not provide for making the Principal Secretary of the Autonomous Councils as the Chairperson of these Committees.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II dated 3.12.2008, addressed to Government of Assam]</p>
(viii)	<p>Definition of the term "State Government" in relation to the Union Territories with reference to the Act.</p>	<p>The expression the "State Government" has not been defined either in the Act or in the Rules. Section 3 of the General Clauses Act, 1897 provides that the definitions given therein shall apply to this Act, and in all Central Acts and Regulations made after the commencement of this Act. These definitions are intended for a proper interpretation of all Central Acts made after the commencement of this Act and are subject to any context being repugnant. Clause (60) of section 3 defines the "State Government" as under:</p> <p>'(a) as respects anything done before the commencement of the Constitution, shall mean, in a Part A State, the Provincial Government of the corresponding Province in a Part B State, the authority or person authorized at the relevant date to exercise executive Government in the corresponding acceding State and in a Part C State, the Central Government;</p>

		<p>(b) as respects anything done after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a Part A State, the Governor in a Part B State, the Rajpramukh, and in a Part C State, the Central Government;</p> <p>(c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean, in a State, the Governor, and in a Union territory, the Central Government;</p> <p>and shall, in relation to functions entrusted under Article 258-A of the Constitution of the Government of India, include the Central Government acting within the scope of the authority given to it under the Article.'</p> <p>In the light of the above legal position, the expression the "State Government" used in the Act and the Rules shall mean the "Central Government" in so far as the Union Territory of Daman &amp; Diu is concerned. Therefore, the functions and powers of the State Government under the Act may be validly exercised by the Central Government in this Union Territory.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol.VII) (pt.) dated 9.1.2009, addressed to Administration of Daman &amp; Diu]</p>
(ix)	<p>Tribals in some settlements are demanding that land under cultivation should be assigned in their common name. Whether this is permissible as per the Act? If yes, then is the ceiling of 4 hectares applicable on the communal allotment of land, or is the applicable ceiling 4 hectares x no. of families? i.e. can 100 acres under common cultivation be so assigned to a community</p>	<p>Section 3(1)(a) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognises the right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers. The said Section, thus, permits the recognition and vesting of the right over the forest land under common occupation for cultivation in the name of a community of tribals. However, in view of the provisions of Section 4(6) of the Act, such</p>

	with 40 families in the Form at Annexure II of the Rules?	<p>forest land under the occupation of the community of tribals shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II dated 15.1.2009, addressed to Government of Kerala]</p>
(x)	How is the Annexure II Title to be assigned to a couple who are married intercaste?	<p>Section 4(4) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 inter alia provides that a forest right conferred under the Act shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next-of-kin. There is no bar in the Act to the registration of the forest right conferred under the Act jointly in the name of both the spouses who are married inter-caste, provided the applicant is an ST or if not an ST, fulfils the criteria for a traditional forest dweller.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II dated 15.1.2009, addressed to Government of Kerala]</p>
(xi)	There are cases of tribals from Kerala requiring regularization of their rights under the Act in the forests of Karnataka, and vice versa. There could be similar cases with Tamil Nadu also. How is this to be tackled?	<p>Section 4(1) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognises and vests forest rights in (a) forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes, and (b) the other traditional forest dwellers. The terms "forest dwelling Scheduled Tribes" and "other traditional forest dweller" are defined in Sections 2(c) and 2(o) of the Act.</p> <p>Further, Section 4(3) read with section 4(6) of the Act requires that the following two conditions should be satisfied for recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers in respect of forest land and their habitat:</p>

		<p>(i) they had occupied forest land before the 13<sup>th</sup> day of December, 2005; and</p> <p>(ii) they were in occupation of such land on the date of commencement of the Act, i.e., 31.12.2007.</p> <p>The Scheduled Tribe status is State-specific and the forest dwelling Scheduled Tribes in Kerala would not carry their Scheduled Tribe status in Karnataka and vice versa. As all the conditions prescribed in Sections 2(c), 4(1)(a), 4(3) read with Section 4(6) of the Act would not be satisfied in the case of forest dwelling Scheduled Tribes in Kerala claiming recognition of forest rights in the forests of Karnataka, they would not be eligible for recognition and vesting of forest rights under the Act in the forests of Karnataka, and vice versa.</p> <p>Most important, the recognition of rights and the processing thereof has to be initiated by the concerned Gram Sabhas. The Gram Sabhas of one State cannot recommend the claims for recognition of forest rights over forest land in another State.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II dated 15.1.2009, addressed to Government of Kerala]</p>
(xii)	<p>Relaxation of the quorum of two-thirds of all members of the Gram Sabha for the meeting of the Gram Sabha in Rule 4(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008.</p>	<p>The provision for the quorum of two-thirds of all members of the Gram Sabha for the meeting of the Gram Sabha in Rule 4(2) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 has been made with a view to ensure true representation of all the members of the Gram Sabha in such meetings so that the decisions taken therein are impartial and cater to the real objective of the meeting. These Rules do not permit relaxation of this requirement of quorum.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II dated 21.1.2009, addressed to Government of Kerala] &amp;</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 4.3.2010, addressed to UT Administration of Daman &amp; Diu, Moti Daman]</p>

(xiii)	Processing of the claims of the occupants of forest land in Municipal and Panchayat Areas of Korba district of Chhattisgarh.	<p>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 prescribes the Gram Sabha as the authority to initiate the process of determining the nature and extent of forest rights which are to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers. The term 'Gram Sabha' is defined in Section 2(g) of the Act and the term 'village', referred to in Section 2(g), is also defined in Section 2(p) of the Act. In case, the Municipal and Panchayat areas of Korba District of Chhattisgarh, which are having forest land, have Gram Sabhas within the meaning of Section 2(g) read with Section 2(p) of the Act, then the claims of the occupants of forest land in such areas for recognition and vesting of forest rights over the forest land under their occupation can be considered as per the procedure laid down in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008. In case these areas do not have Gram Sabhas within the meaning of Section 2(g) read with Section 2(p) of the Act, then the occupants of forest land in those areas would not be eligible for recognition and vesting of forest rights under the Act.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II dated 21.1.2009, addressed to Government of Chhattisgarh]</p>
(xiv)	Whether the cut off date of 13.12.2005 will be applicable for all forest dwelling Scheduled Tribes, irrespective of their State of origin, on migration from one State to another State.	<p>The Scheduled Tribes of one State, on migration to another State, do not carry their ST status in the State of migration, unless they are notified as Scheduled Tribes in that State also. Therefore, the forest dwelling Scheduled Tribes who have migrated from another State to Orissa, would be eligible for recognition vesting of forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 only if they are declared as Scheduled Tribes in the State of Orissa. Otherwise, they have to be treated as "other traditional forest dwellers" and will need to satisfy the condition of three generations of stay as on 13.12.2005 for recognition and vesting of forest rights under the Act and</p>



		<p>generation has been defined a period comprising twenty five years in Section 2(o) of the Act.</p> <p>[MoTA's DO letter No. 23011/28/2008-SG-II (FRA) dated 8.5.2009, addressed to Government of Orissa, Bhubaneswar]</p>
(xv)	<p>Whether a Committee other than the Forest Right Committee and comprising persons other than the members of the Gram Sabha can be formed for assisting the Gram Sabha in discharge of its functions relating to recognition and vesting of forest rights under the Act.</p>	<p>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Rules framed thereunder do not permit formation of any Committee other than the Forest Rights Committee for assisting the Gram Sabha in discharge of its functions relating to recognition and vesting of forest rights under the Act. Constitution of a Committee comprising persons other than the members of the Gram Sabha and assigning the role of initiating the process for determining the nature and extent of forest rights to such a Committee, as proposed by the State Government, would be a direct violation of the provisions of the Act and the Rules framed thereunder. Hence, the proposal of the State Government cannot be accepted.</p> <p>[MoTA's letter No. 23011/28/2008-SG-II (FRA) dated 31.8.2009, addressed to Government of West Bengal, Kolkata]</p>
(xvi)	<p>Whether a claimant under the Act who already owns some land other than forest land or when he is engaged in some occupation and is using the forest land under occupation for agriculture in addition to his occupation is to be considered eligible for recognition and vesting of forest rights under the Act?</p>	<p>As per Sections 2(c) and 2(o) of the Act, the eligibility of the forest dwelling Scheduled Tribes and other traditional forest dwellers for claiming forest rights depends upon the following factors: -</p> <ol style="list-style-type: none"> <li>(1) Primarily residing in the forests or forest lands;</li> <li>(2) Dependence on the forests or forest lands for <i>bona fide</i> livelihood needs (fulfillment of sustenance needs of self and family)</li> </ol> <p>This Ministry has clarified vide letter No.17014/02/2007-PC&amp;V(Vol.VII) dated 9.6.2008 that implication of using the word 'primarily' in Sections 2(c) and 2(o) of the Act is to include the Scheduled Tribes and other traditional forest dwellers who have either</p>

		<p>habitation, or patches of land for self-cultivation for livelihood, and would, therefore, be primarily spending most of their time either in temporary make shift structures or working on patches of land in such areas irrespective of whether their dwelling houses are outside the forest or forest land.</p> <p>Therefore, it is for the Gram Sabha to examine, based on the findings of the Forest Rights Committee, as to whether a claimant under the Act who already owns some land other than forest land or when he is engaged in some occupation and is using the forest land under occupation for agriculture in addition to his occupation needs forest land under his occupation for the sustenance of bona fide livelihood needs of self and family, before passing a resolution and forwarding the same to SDLC for enabling the SDLC/DLC to adjudicate on the claim.</p> <p>The Ministry of Law Justice (Department of Legal Affairs) is agreeable to the view that the Gram Sabha has to examine each case individually after taking into consideration all relevant factors including the findings of the Forest Rights Committee.</p> <p>[MoTA's letter No.17014/02/2007-PC&amp;V(Vol-VII) (pt.) dated 17.11.2009, addressed to Tribal Research &amp; Training Institute, Pune] and</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VI) (pt.) dated 4.3.2010, addressed to Government of Jharkhand, Ranchi]</p>
(xvii)	<p>Whether the term "self cultivation" appearing in Section 3(1)(a) of the Act shall include the forest land under plough only, but also forest lands which are used in activities ancillary to cultivation, such as, for keeping cattle, for winnowing and for other practices that are related to post-harvest activities?</p>	<p>This Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is a welfare legislation. Keeping in view the spirit of this welfare legislation, if the agricultural operations take place adjacent to the place of actual cultivation, such operations and "self-cultivation" appearing in Section 3(1)(a) of the Act cannot be divorced. Each case has to be examined and decided individually by the Gram Sabha.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 17.11.2009, addressed to Tribal Research &amp; Training Institute, Pune]</p>

(xviii)	<p>Whether the quorum should not be at least 2/3<sup>rd</sup> (as against 1/3<sup>rd</sup>) as indicated in para 2.2(ix) of the procedure for seeking prior approval for diversion of forest land for non-forest purposes for certain facilities under Section 3(2) of the Act as circulated by the Ministry of Tribal Affairs on 18.5.2009 since the total number of members of the District Level Committee as prescribed in Rule 7 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 framed under the Act are just 6?</p>	<p>As per the procedure notified on 18.5.2009, the proposals for diversion of forest land for developmental projects specified in Section 3(2) of the Act are to be forwarded to the District Level Committee for a final decision only when the Divisional Forest Officer (DFO) concerned does not approve the proposal submitted by the User Agency through the Range Forest Officer (RFO). As per the said procedure, at least 1/3<sup>rd</sup> quorum of members of DLC is needed for taking a final decision in such cases.</p> <p>It may be stated that DLC comprises the following members:</p> <ul style="list-style-type: none"> <li>(a) District Collector or Deputy Commissioner – Chairperson</li> <li>(b) Concerned Divisional Forest Officer or concerned Deputy Conservator of Forest – Member</li> <li>(c) 3 members of District Panchayat</li> <li>(d) An officer of the Tribal Welfare Department in charge of the district</li> </ul> <p>This Ministry has already clarified that the officer of the Tribal Welfare Department will be the Member Secretary of DLC. So, whenever the meeting of DLC is convened, the Chairperson and the Member Secretary would be present and at least one more member – either the concerned DFO / Dy. Conservator of Forests or Member of the District Panchayat – would also be attending the meeting. The possibility of only 2 out of 6 members of DLC deciding such cases is, thus, very remote. Since the process for providing the facilities under Section 3(2) of the Act is going on, it would not be desirable to change the provision relating to quorum at this juncture.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 17.11.2009, addressed to Tribal Research &amp; Training Institute, Pune]</p>
(xix)	<p>Whether a time limit should not be fixed for processing of cases under Section 3(2) of the Act as a one-time</p>	<p>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Rules framed thereunder do not lay down any fixed tenure for the</p>

<p>exercise considering the fact that by assigning the task of final decision making in respect of section 3(2) cases to the DLC, the DLC will continue to exist even after completion of the process of recognition of forest rights and the need for reconstitution of the Committee after every election of Panchayat body?</p>	<p>District Level Committees (DLC) constituted under the Act. The DLCs can continue to exist for considering the cases relating to the diversion of forest land under Section 3(2) of the Act that are referred to it by the DFO for final decision, even after the process of recognition of forest rights is completed under the Act. Such DLCs can be re-constituted if such re-constitution is so warranted on account of election of Panchayat bodies and nomination of new members from Panchayat Institutions.</p> <p>As regards the issue whether a time limit be fixed for processing of cases under 3(2) as a one time exercise, it may be stated that Section 3(2) of the Act does not prescribe a time limit for processing cases of diversion of forest land for the developmental activities specified in that Section. There is no bar in Section 3(2) of the Act for allowing diversion of forest land on more than one occasion for any of the development projects specified therein, as long as the forest land so diverted is less than one hectare in each case and such projects are recommended by the Gram Sabha. Hence, it is not advisable to fix a time limit for processing cases of diversion of forest land under the Act.</p> <p>The Ministry of Law Justice (Department of Legal Affairs) is also agreeable to the above views.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 17.11.2009, addressed to Tribal Research &amp; Training Institute, Pune]</p>
<p>(xx) Whether the allotment of area indicated as upto one hectare in Section 3(2) of the Act is applicable to each developmental facility each time in the village or is it once only for all times to come?</p>	<p>As stated above, there is no bar in Section 3(2) of the Act for allowing diversion of forest land on more than one occasion for any of the development projects specified therein, as long as the forest land so diverted is less than one hectare in each case and such projects are recommended by the Gram Sabha.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 17.11.2009, addressed to Tribal Research &amp; Training Institute, Pune]</p>

(xxi)	Whether a final date should be fixed for receiving claims for forest rights under the Act and a calendar drawn for disposal of the claims received upto the final date.	<p>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not prescribe any time limit for recognition and vesting of forest rights of the eligible claimants under the Act. As per Rule 11(a) of the Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Act, the Gram Sabhas shall call for claims and authorize the Forest Rights Committee to accept the claims in the Form as provided in Annexure-I of the rules and such claims shall be made within a period of three months from the date of such calling of claims along with at least two of the evidences mentioned in rule 13, provided that the Gram Sabha may, if consider necessary, extend such period of three months after recording the reasons thereof in writing.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 4.3.2010, addressed to Government of Rajasthan, Jaipur]</p>
(xxii)	Whether the claims rejected by the District Level Committees can be re-investigated by the District Level Committees.	<p>The Rules notified by this Ministry on 1.1.2008 for implementing the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 lay down an elaborate procedure for recognition and vesting of forest rights under the Act. The Gram Sabhas, Sub-Divisional Level Committees and District Level Committees are required to scrutinize the claims filed for recognition of forest rights under the Act, in detail, as per the procedure laid down in the said Rules, before the District Level Committee takes a final decision on the claims.</p> <p>Claims rejected by DLCs cannot be reviewed but if the State feels that the rejections <u>at earlier levels</u> have been unduly large, then it can investigate the reasons and if it is due to an inadequate reading of the provisions of the Act and Rules, it can apply correctives. But, to repeat, cases finalized by DLCs cannot be re-opened.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 4.3.2010, addressed to Government of Madhya Pradesh, Bhopal]</p>

(xxiii)	<p>Applicability of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 in Municipal Corporation Areas</p>	<p>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 prescribes the Gram Sabha as the authority to initiate the process of determining the nature and extent of the forest rights which are to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers. As per the Act and the Rules framed thereunder, the Sub-Divisional Level Committee has to examine the resolution passed by the Gram Sabha and prepare the records of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision on the record of forest rights.</p> <p>It has been stated in the letter of TR&amp;TI, Pune, that the Sub-Divisional Level Committee and the District Level Committee cannot be formed in the Municipal Corporation areas of the State as per the provisions of the Act. In view of this, the Act cannot be implemented in the concerned Municipal Corporation areas of the State.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 4.3.2010, addressed to Government of Maharashtra, Mumbai]</p>
(xxiv)	<p>Whether there is any deadline for submitting applications for recognition of forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.</p>	<p>There is no time limit for receiving applications. Processing of applications by Gram Sabhas have to be done as per Rules especially Rule- 11 (1)(a) proviso.</p> <p>[MoTA's DO letter No. 23011/24/2009-FRA dated 10.3.2010, addressed to Government of Tripura, Agartala]</p>
(xxv)	<p>(i) How the title of forest land issued to a forest right holder under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 would be transferred to his heir(s) in the event of the death of the title holder, considering the fact that the status of the land for</p>	<p>(i) &amp; (ii): Section 4(4) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 provides that a forest right conferred under the Act shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next of kin. In the event of the death of the</p>

<p>which he was issued the title deed remained "forest land".</p> <p>(ii) What will be the inheritance provision? How the title will be divided in the event of more than one child?</p> <p>(iii) If the right holder applies for bank loan for agricultural purposes, whether the banks would provide loans?</p>	<p>title holder, the title shall be transferred to his/her direct heir or shall be divided where there are more than one child, as per the provisions of the relevant inheritance law and the Land Tenure Act applicable to the State/UT concerned.</p> <p>(iii): In view of the provisions of Section 4(4) of Act, the rights recognised and vested on the forest land cannot be pledged with a bank for receiving a loan for agricultural operations, such as, land development, sourcing inputs like fertilizers, etc. The Ministry had examined this issue in consultation with the Ministry of Finance (Department of Financial Services), in the year 2007, who had then informed as under:</p> <p>"The loans upto Rs. 50,000/- have been made collateral and margin free. This also means that even without mortgaging of land by a Tribal farmer, he can avail loan upto 100% requirement of any agriculture or allied purpose including for land development upto the limit of Rs. 50,000/- Besides, no 'No Dues Certificate' is required for such amount of loan. Further, in order to overcome the problems faced by banks in lending to landless labourers, share-croppers and oral lessees due to the absence of documents verifying their identity and status, banks have been advised to accept certificates provided by local administration/Panchayati Raj institutions regarding cultivation of crops in case of loans to landless labourers, share-croppers and oral lessees.</p> <p>Besides, the Government has taken the following steps to ensure credit disbursement for agriculture purposes:-</p> <ul style="list-style-type: none"> <li>▪ Short Term Crop loan upto 3 lakh is being disbursed @ 7% per annum at the ground level.</li> <li>▪ Commercial Banks and Regional Rural Banks have been advised to finance 50 lakhs new farmers during each of the last three years.</li> </ul>
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		<ul style="list-style-type: none"> <li>▪ The Banks have been advised to simplify the procedure for documentation for agricultural loans.</li> <li>▪ To bring the 'financially excluded' population within the formal banking system, Banks have been instructed to achieve financial outreach through provision of a General Credit Card to households, to open "No Frills" accounts with limited overdraft facilities, to extend financial outreach by utilizing services of Civil Society Organisation like Farmers Clubs, NGOs, Post Offices as Business Facilitator/Business Correspondent Model, etc."</li> </ul> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 30.3.2010, addressed to Government of Madhya Pradesh, Bhopal]</p>
(xxvi)	Whether rubber cultivation should be allowed on forest land over which rights have been recognized.	<p>Sections 2(c) and 2(o) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, which define the terms "forest dwelling Scheduled Tribes" and "other traditional forest dweller", clearly mention the conditions of "primarily residence in the forests or forest lands" and "dependence on the forests or forest lands for <u>bona fide livelihood needs</u>" for the forest dwelling Scheduled Tribes and other traditional forest dwellers to be eligible for claiming forest rights under the Act. Further, section 3(1)(a) of the Act also refers to "the right to hold and live in the forest land under the individual or common occupation for habitation or for <u>self-cultivation for livelihood</u> .....". Rule 2(1) (b) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008 notified on 1.1.2008 defines "bona fide livelihood needs" as "<u>fulfillment of sustenance need of self and family</u> .....</p> <p>In view of the above mentioned provisions of the Act and the Rules, the forest rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers are to be recognized and vested over the forest land for fulfillment of their <i>bona fide</i> livelihood needs.</p>



		<p>Considering that rubber plantation is a commercial activity, this Ministry is of the view that the rubber cultivation should not be allowed on forest land over which the rights have been recognized under the Act.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 6.5.2010, addressed to Government of Tripura, Agartala]</p>
(xxvii)	<p>Whether the local bodies in the urban areas of a State having forest land can initiate the process of determining the nature and extent of individual and community forest rights to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers under Section 6 of the Act.</p>	<p>Section 6 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 prescribes the Gram Sabha as the authority to initiate the process of determining the nature and extent of forest rights which are to be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers. The term 'Gram Sabha' is defined in Section 2(g) of the Act and the term 'village', referred to in Section 2(g), is also defined in Section 2(p) of the Act. The concerned Urban Areas of the State having forest land may not have Gram Sabhas within the meaning of Section 2(g) read with Section 2(p) of the Act. If so, the occupants of forest land in such Urban Areas would not be eligible for recognition and vesting of forest rights over the forest land under their occupation under the Act.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 6.5.2010, addressed to Government of Madhya Pradesh, Bhopal]</p>
(xxviii)	<p>Whether <i>taungya</i> cultivators of Uttar Pradesh who do not fulfill the condition of occupation of forest land for three generations (75 years) at one place in the forests prior to 13.12.2005 would be eligible for recognition of forest rights under the Act.</p>	<p>Under Section 4(3) read with section 4(6) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the following two conditions are required to be satisfied for recognition and vesting of forest rights in the forest dwelling Scheduled Tribes and other traditional forest dwellers in respect of forest land and their habitat:</p> <ul style="list-style-type: none"> <li>(i) they had occupied forest land before the 13<sup>th</sup> day of December, 2005; and</li> <li>(ii) they were in occupation of such land on the date of commencement of the Act, i.e., 31.12.2007.</li> </ul>

		<p>In the case of the other traditional forest dwellers, the condition of at least three generations' stay (75 years) prior to the 13<sup>th</sup> day of December, 2005 is necessary.</p> <p>In the case of <i>taungya</i> cultivators of the State, if the above conditions are not satisfied, they would not be eligible for recognition of forest rights over forest land under their occupation under the Act.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 6.5.2010, addressed to Government of Uttar Pradesh, Lucknow]</p>
(xxix)	<p>Whether the condition regarding three generations prescribed in Section 2(o) of the Act can be relaxed in the case of other traditional forest dwellers.</p>	<p>The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 does not permit relaxation of the condition relating to three generations' residence prior to 13<sup>th</sup> day of December, 2005 in the case of "other traditional forest dwellers" for recognition and vesting of their forest rights under the Act. Hence, it is not possible to relax this condition.</p> <p>[MoTA's letter No. 17014/02/2007-PC&amp;V (Vol-VII) (pt.) dated 6.5.2010, addressed to Government of Maharashtra, Mumbai]</p>