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**MOST IMMEDIATE**  
**COURT MATTER**

No.23011/22/2010-FRA  
Government of India  
Ministry of Tribal Affairs  
(FRA Unit)

Shastri Bhavan, New Delhi-110001  
Dated, the 2<sup>nd</sup> May, 2013

To

**Shri Santosh Kumar Sarangi,**  
Commissioner-cum-Secretary,  
SC and ST Development Department,  
Government of Odisha,  
Bhubaneswar

**Subject: Directions under Section 12 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights ) Act 2006 (In short Forest Rights Act) to comply to the Hon'ble Supreme Court judgement dated 18<sup>th</sup> April, 2013 in W.P(Civil) No. Writ Petition (Civil) No. 180 of 2011 in Orissa Mining Corporation vs Ministry of Environment and Forests**

Sir,

As you are aware the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 180 of 2011 in Orissa Mining Corporation vs Ministry of Environment and Forests has delivered a judgement dated April 18, 2013 wherein there are specific directions to the State of Orissa and this Ministry with regard to ensuring both, due recording of the Forest Rights as well as the protection of cultural and religious rights of STs and OTFDs over 660.749 hectares of forest land where the Orissa Mining Corporation (OMC) is proposing to undertake the Bauxite Mining Project (BMP) in the districts of Rayagada and Kalahandi.

This is to bring to your notice especially Paras 56, 57, 58, 59, 60, 62 and 63 of the said judgement that emphasize the central role of Gram Sabha (which in the case of Odisha should be read as meaning Palli Sabhas) in entertaining and adjudicating upon community forest rights claims. The judgement further emphasises the role of the Gram Sabhas in safeguarding the customary and religious rights of the STs and other TFDs under the Forest Rights Act (para 56); and the importance of PESA and specifically Section 4(d) which mandates the Gram Sabha's competence to safeguard and preserve the traditions, customs, cultural identity and community resources (Para 57). More importantly the judgement emphasizes that the questions relating to religious rights including right of worship of the tribal communities in the Niyamgiri Hills have to be considered and decided by the Gram Sabha (Para 58).

It further observes that whether the diversion of 660.749 hectares of forest land for the BMP affects the religious and cultural rights especially their right to worship their deity - Niyamraja has not been placed so far before the respective Gram Sabhas for their active consideration and decision. Para 59 clearly states that "the Gram Sabha is