

To
Shri Jual Oram
Ministry of Tribal Affairs
Government of India
18th Feb 2016

Subject: On the recent action of the Government of Chhattisgarh, cancelling rights of local villagers in the Hasdeo Arand Forests, recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or the Forest Rights Act (FRA),

Dear Sir

We the undersigned, are expressing our deep shock, anguish and concern about the recent move by the Government of Chhattisgarh, allegedly *cancelling* forest rights of locals of villages in Sarguja District (through an order passed on the 8th of January 2016) for asserting their legal rights under the FRA on the Parsa East and Kante Basan Coal Block of the Hasdeo Arand forests which have been handed over to Rajasthan Vidhyut Utpadan Nigam Ltd and Adani Minerals Private Ltd¹!

As you are aware, the diversion of 1898.328 ha of forest land for the Parsa East and Kante Basan coal block has been disputed for quite some time now. The Forest Clearance granted to the coal block by the Ministry of Environment, Forests and Climate Change on the 15th of March 2012 was granted despite the objections of the Forest Advisory Committee which reported that the area was very rich in biodiversity and that the rights of Gond tribal community under the FRA had not be recognized. This decision of the Ministry had been appealed against in the National Green Tribunal which cancelled the forest clearance and stayed all work on the mine in 2014. However, the SC had directed the stay to be revoked in April 2014.

Meanwhile, some affected villages had filed claims under the FRA over which they received titles in 2013. In December 2014, close to 16 villages in the area, have also passed resolutions in their gram sabhas, expressing their opposition to the mining project and asking the state government to recognize and vest their rights under the FRA and Panchayats (Extension to Scheduled Areas) Act, 1996².

In its preamble, the FRA, a legislation passed by the Parliament of India, addresses the ‘historical injustice’ on forest dwelling communities during the takeover of land for developmental activities while acknowledging the need to establish their rights-both physical and intangible, over forest areas that they have been residing in and depending on for generations.

The circular passed by the Ministry of Environment, Forests and Climate Change in August 2009³, provides for completion of the process of recognition and vesting of rights under the FRA, as well as seeking consent from the gram sabhas of all villages to be affected by a particular activity that requires forest land to be diverted, to be completed before in-principle forest clearance can be granted to the project. The Forest (Conservation) Amendment Rules, 2014, put the onus of collection of claims, and recognition and vesting on rights under the FRA on forest land to be diverted, on the District Collector, before in-principle forest clearance can be given. Thus, it is clear in the case of the Parsa East and Kante Basan Coal block that the complete process of recognition and vesting of rights, as well as seeking consent of the gram sabhas was ignored before final forest clearance was granted.

Further, the current move of the Government of Chhattisgarh is in complete violation of the FRA since, Sec 4(4) of the Act clearly states that, ‘...rights conferred [under Sec 3(1) of FRA]...shall be heritable but not alienable or transferable...’ That the Government of Chhattisgarh has cancelled the rights of people in the area

¹ See:

http://www.businessstandard.com/article/currentaffairs/chhattisgarhgovtcanceltribalrightsoverforeststofacilitatecoalmining116021601327_1.html

² See: <https://ruralindiaonline.org/articles/not-just-a-coal-block-hasdeo-arand/>

³ See: http://envfor.nic.in/mef/Forest_Advisory.pdf

under the coal block due to the villagers asserting their rights over forests in the coal block and opposing mining from taking place in the forests is also in contravention of the FRA, since Sec 5 of the FRA has mandated the gram sabhas of forest dwelling villages to ‘...ensure that the habitat...is preserved from any form of destructive activity affecting their cultural and natural heritage...’ and ‘...stop any activity which adversely affects the wild animals, forest and the biodiversity...’

We therefore urge the Ministry of Tribal Affairs, the nodal agency for implementation of the Act, to immediately direct the Government of Chhattisgarh to withdraw the order and recognize all rights of the community over the coal block.

Thanking you,

Meenal Tatpati (meenaltatpati@gmail.com) and Neema Pathak Broome (Kalpavriskh)
Purnima Upadhyay (KHOJ Melghat)
Pratibha Shinde (Lok Samanway Pratishthan)
Sanghamitra Dubey, Odisha
Krishna Srinivasan (Enviro-Legal researcher)
Viren Lobo (Convener, Sub Group on Community Control of Natural Resources, ICAN)
Rebecca S. David, Chhattisgarh
Mohan Hirabai Hiralal (Convener, Vrikshamitra)
Priya Pillai (Greenpeace, India)
Mahan Sangharsh Samiti, Madhya Pradesh
Mahesh Raut, Maharashtra
Dilip Gode (Vidarbha Nature Conservation Society)
Nitin Rai (Ashoka Trust for Research in Ecology and the Environment)
Trupti Parekh and Ambrish Mehta (ARCH-Vahini)
Soumitra Ghosh, West Bengal

CC to:

1. Shri Narendra Modi, Prime Minister, India
2. Shri Balram Das Tandon, Governor, Chhattisgarh
3. Shri Raman Singh, Chief Minister of Chhattisgarh
4. Shri Rameshwar Oraon, Chairperson, National Commission for Scheduled Tribes
5. Shri Satyanarayanan Mohanty, Chief Executive Officer, National Human Rights Commission