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MoEFCC refuses to put new forest conservation rules on hold, says do not dilute forest rights act

New rules do away with Gram Sabha consent, National Commission on Scheduled Tribes had flagged last year in letter to ministry

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The Union Ministry of Environment, Forest and Climate Change (MoEF&CC) said January 3, 2022 it is not legally possible to put the new Forest Conservation Rules, 2022 on hold as demanded by the National Commission on Scheduled Tribes (NCST).

The Forest Conservation Rules, 2022 were notified in the last week of June 2022 to implement the Forest Conservation Act (FCA), 1980.

NCST had written to MoEF&CC in October 2022 saying the new FCA rules will dilute Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006, also known as the Forest Rights Act, 2006 (FRA). This is because the new rules eliminated the need for Gram Sabha consent before Stage II clearance of projects on indigenous land, the commission noted.

They urged Union Environment Minister Bhupender Yadav to put the new rules on hold so that NCST can discuss the details.

The MoEFCC, however, observed January 3 that FCA and FRA are ‘parallel statutory processes’ and the new rules do not dilute the FRA.

NCST Chairperson Harsh Chouhan said on the same day that the commission’s stand on the matter will remain the same and it will continue discussions with the ministry.

The new rules state: The state government or Union territory administration, as the case may be, after receiving the ‘final’ approval of the central government under Section 2 of FCA and after fulfilment and compliance of the provisions of all other acts and rules made thereunder, as applicable including ensuring settlement of rights under FRA, shall issue order for diversion, assignment of lease or de-reservation, as the case may be.

NCST, in its letter, had said the new FCA rules will have “serious” impacts on the rights of scheduled tribes and other traditional forest dwellers (OTFD). The commission had expressed its displeasure at being kept out of such an important decision.

Chouhan wrote in the letter:

The current Rules have done away with the requirement of seeking consent altogether and have left the process of recognition of rights to be carried out after Stage I clearance or even Stage II clearance.

Last year, Tribal Affairs Minister Arjun Munda had accused the Indian National Congress party of “trying to mislead the nation by making frivolous and baseless allegations” on the microblogging site Twitter. “The Ministry of Tribal Affairs is totally committed to the upliftment of the tribal communities and at no point, the provisions of FRA 2006 have been diluted,” he added.

To this, Chouhan told news agency Press Trust of India, “The commission is a constitutional body having the powers of a civil court. We are not a political entity and have taken a stand (on the new forest conservation rules).”

The NCST’s objective is to evaluate policies and inform the government about any violations of tribal rights through the President, the NCST chairperson added.

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