

Rehabilitation of Displaced Tribals

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In Lok Sabha, the Union Minister of State (MoS) for Tribal Affairs Shri Durgadas Uikey replying today to an un-starred question of Shri Rahul Gandhi informed that the Ministry of Rural Development, Department of Land Resources (DoLR) which is Nodal Ministry at the Centre for land related matters has informed that Land and its management fall under the exclusive legislative and administrative jurisdiction of States as provided under the Constitution of India (Seventh Schedule- List II (State List)- Entry No. (18).

Further, land acquisition is undertaken by the Central and State Governments under various Central and State Acts, including the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (RFCTLARR) Act, 2013. The provisions of the RFCTLARR Act 2013 are implemented by 'appropriate Government' as defined under Section 3(e) of the said Act. The data of displaced /affected families is not centrally maintained. However, the Government has been advising the State Governments with regard to safeguards available for the tribal communities under various laws. The special provisions under various laws to protect the interests of the Scheduled Tribe community are in the **Annexure**.

As informed by Ministry of Rural Development, Department of Land Resources (DoLR) with regard to the monitoring and grievance redressal mechanisms, under the RFCTLARR Act, 2013, the State Monitoring Committees are constituted by the State Governments for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans. For speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and resettlement, "the Land Acquisition, Rehabilitation and Resettlement (LARR) Authorities" are established by the appropriate Government, as per Section 51 of the RFCTLARR Act, 2013. The LARR Authorities have to dispose of reference made to them within a period of six months from the date of receipt. At National level, the National Monitoring Committee (NMC) has been constituted under Section 48 of the RFCTLARR Act, 2013 headed by Secretary (DoLR) to review and monitor the implementation of Rehabilitation and Resettlement schemes or plans for only National or Inter-State projects."

Further, the Ministry of Tribal Affairs, being the Nodal Ministry for Monitoring and administering the legislative matters of FRA, by exercising power under Section 12 of the Act, has been issuing directions and guidelines from time to time on various aspects to ensure proper implementation of the Act. Any grievances received in the Ministry related to displacement of ST community are forwarded to concerned State Government for necessary action.

Annexure

Special provisions to protect the interest of Scheduled Tribe community are as follows:

(1) Constitutional provisions under Schedule - V provide for safeguards against displacement of tribal population because of land acquisitions etc. The Governor of the State which has scheduled Areas is empowered to prohibit or restrict transfer of land from tribals and regulate the allotment of land to members of the Scheduled Tribes in such cases. Para 5.2 of the V Schedule of the Constitution has a predominant object of imposing total prohibition on transferring immovable property in a scheduled area to any person other than a tribal.

(2) The Panchayats (Extension to the Scheduled Areas) Act, 1996 (in short PESA) also provides that "The Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas".

(3) The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act" (in short, FRA) enacted in 2006 provides adequate safeguards to avoid any displacement of tribal population but also seeks to involve democratic institutions in the process of recognition and vesting of forest rights at the grassroots level.

a) **Section 4 (4) of FRA** stipulates that the right 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.

b) **Section 4 (5) of FRA** states that "Save as otherwise provided, no member of a Forest Dwelling Scheduled Tribe or Other Traditional Forest Dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete".

(4) The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 provides wrongfully dispossessing members of the Scheduled Tribes from their land or premises or interfering with the enjoyment of their rights, including forest rights, over any land or premises or water or irrigation facilities or destroying the crops or taking away the produce there from amount to offence of atrocities and are subject to punishment under the said Act.

(5) The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013 (RFCTLARR Act, 2013) has special provisions for STs, which have been spelled out under Sections 41 and 42.

(i) The First Schedule of the RFCTLARR Act provides for compensation for land owners. As per Section 3(r)(ii) of the RFCTLARR, 2013, '**land owner**' includes any person who is granted forest rights under FRA, 2006(2 of 2007) or under any other law for the time being in force.

(ii) The Second Schedule of the RFCTLARR, provides for rehabilitation and resettlement for all the affected families (both land owners and the families whose livelihood is primarily dependent on land acquired) in addition to those provided in the first Schedule.

(iii) The Third Schedule of the RFCTLARR, provides for infrastructural amenities for a reasonably habitable and planned settlement in the resettlement area. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and RFCTLARR Act, 2013 further spells out the procedure for identification of the affected persons/ families [sub-section (c) of Section 3], determining and calculating the compensation amount (Section 26 to 29), as well as mechanisms for developing rehabilitation and resettlement processes (Chapters V and VI).

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