

Centre defends Forest Rights Act in Supreme Court, says law restores dignity and livelihoods of forest communities

In affidavit, Tribal Affairs Ministry defends 2012 Rules, rebuts plea alleging conflict with wildlife laws.

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The ministry has submitted to the SC that the absence of a sunset clause in the law is a design element to ensure equity by not imposing arbitrary timelines. (File photo)

In a strong defence of the landmark Forest Rights Act (FRA), 2006, the Ministry of Tribal Affairs (MoTA) has sharply rebutted a plea which has challenged before the Supreme Court (SC) the legal validity of the 2012 Rules, made under the law, The Indian Express has learnt.

In a counter affidavit filed before the SC, the Centre has not only defended the legal validity of the Act but also stressed that the law goes beyond mere land ownership regularisation and aims to restore dignity, livelihoods, and cultural identity of forest-dependent communities.

It has also rebutted assertions that FRA violates the wildlife and forest protection laws, and has termed as misguided the view that rights of forest-dwelling communities conflict with wildlife and forest conservation. It cited the examples of indigenous communities such as Baiga and Santhal and said they have lived harmoniously with wildlife, nurturing and preserving them through traditional practices.

It has submitted to the SC that the absence of a sunset clause in the law is a design element to ensure equity by not imposing arbitrary timelines.

Further, it also defended a range of key provisions and rights provided under the 2012 Rules of the Act on issues such as community rights, management of forest resources by communities, disposal of minor forest produce, and powers of Gram Sabha to protect customary rights.

Enacted in 2006, the FRA seeks to recognise and vest forest rights in forest-dwelling Scheduled Tribes and other traditional forest dwellers who have lived on such lands for generations but whose rights were never formally recorded.

The Act and the Rules enunciate the process of submitting claims, recognition of individual and community forest rights, including rights over forest resources, evidence that can be submitted for claims, among others provisions.

The MoTA's submissions were filed last month in response to an interlocutory application (IA). The IA was filed by non-profit Wildlife First in 2020 to add additional grounds to a pending petition which has challenged the constitutional validity of the landmark law. The Act and the Rules under it have been challenged on the ground that they are "beyond the legislative competence of Parliament and therefore unconstitutional." The MoTA's response

was filed recently, after an urgent hearing was sought by the petitioners earlier this year.

The petitioner has raised questions over legal validity of certain provisions of the 2012 Rules in the IA, including how 'community rights' are defined, disposal of minor forest produce, vesting of rights to communities other than ST's, and pushing for use of technology to verify forest title claims.

The Centre has countered the charge that allowing forest right title holders to meet livelihood needs, including through sale of surplus produce, was leading to "commercial" and "large scale" extraction of minor forest produce. Non-timber forest produce including bamboo, brush wood, cocoons, honey, wax, lac, tendu or kendu leaves are included in the definition of minor forest produce. About 100 million tribals and other forest dwellers directly depend on minor forest produce for their subsistence and livelihood and including indirect dependence, the number is higher.

The government also fixes a [minimum support price](#) for minor forest produce and through Tribal Co-operative Marketing Development Federation Ltd, it supports Van Dhan Kendras, or tribal community-owned marketing centres.

MoTA, it is learnt, has submitted that no report or evidence was there to back the allegations of large-scale extraction. On the rights of ST's and other forest dwellers to dispose of minor forest produce, the Centre is learnt to have submitted that the law and its Rules ensure that forest produce is not monopolised by contractors or middlemen. This, it added, ensures economic empowerment of tribal communities, rather than cause exploitation.

On the petitioner's claim that the term 'community' is undefined, leading to misuse by those who are ineligible to exercise forest rights, the Centre said that the Act was clear on what constitutes a community. It pointed out that a claimant of forest rights can be an individual, group of individuals, or community, under the law.

It cited the 2013 Niyamgiri judgment that recognised the cultural, religious and community rights of the Dongria Kondh tribe over Niyamgiri Hills in Odisha, and reaffirmed that Gram Sabha has the final authority to decide on community rights or cultural affiliations.

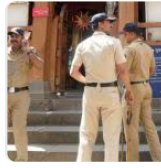
On constitutional and legislative issues, the Centre has submitted that there were no

grounds to doubt the competence of the Parliament, the supreme law-making body of the country to enact the historic legislation, it is learnt.

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