

CHAPTER 7

Recognition and vesting of Forest Rights

Enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, (FR Act) constituted an important milestone for the socio-economic welfare of the forest dwelling tribal population. Audit reviewed the implementation of various provisions of the FR Act, in the six sampled districts and the significant audit observations thereon, are as follows:

- *The pace of disposal of cases for forest claims, was found to be tardy in the Baripada Tahasil, where 1,154 claims had been pending for disposal, since 2017-18.*
- *Of the 2,20,494 Individual Forest Right titles, issued in the six sampled districts, in 59 per cent cases, the Records of Rights had not been corrected and, in 15 per cent cases, demarcation of allotted lands had not been made.*
- *217 (92 per cent) out of 236 forest villages, in the sampled districts, had not been converted into revenue villages.*
- *In the Sundargarh and Koraput districts, certificates under the FR Act (FRA certificates) had been issued for diversion of 1,409 Ha of forest land, for non-forest use, either without obtaining the consent of Gram Sabha, or by disregarding the views of the Gram Sabha.*

7.1 Salient features of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

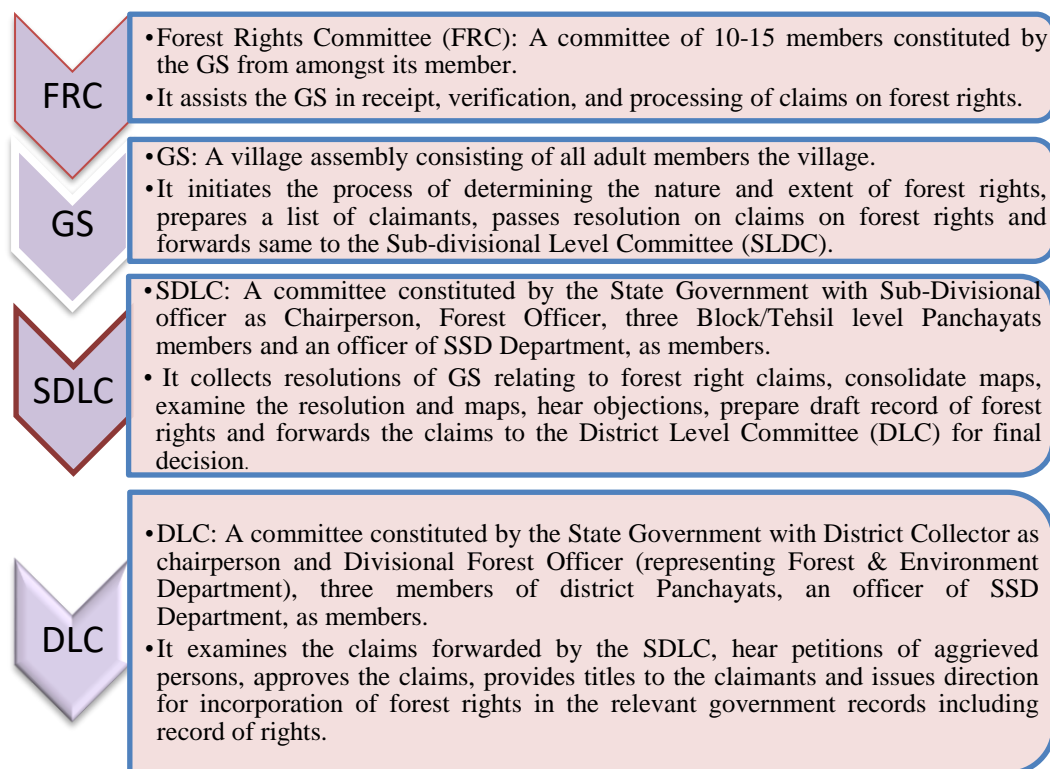
GoI enacted the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, termed as the Forest Rights Act (FR Act), creating a mandate on the State Governments, to recognise and vest forest rights to the forest dwelling Scheduled Tribes and Other Traditional forest Dwellers(OTFDs), who had occupied forest land, before 13 December 2005. As per Section 3 (1) of the Act, forest rights, *inter alia* include: (a) right to hold and live in forest land, under individual or common occupation, for habitation or for self-cultivation for livelihood; right to ownership; and access to collect, use and dispose of minor forest produce⁷⁶, (b) community rights, (c) habitat rights for primitive tribal groups and pre-agricultural communities and (d) right to protect, regenerate or conserve or manage any community forest resource, which they have been traditionally protecting and conserving for sustainable use. The Act

⁷⁶ "minor forest produce" includes all non-timber forest produce of plant origin, including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like

laid down a framework for recognition and vesting of individual forest rights⁷⁷ (IFR), community rights⁷⁸ (CR) and community forest resource rights⁷⁹ (CFR). GoI framed rules⁸⁰ in 2008, for carrying out provisions of the FR Act, outlining the procedure and evidence required for conferring forest rights.

The SSD Department, is responsible for enforcement of the FR Act in the State. The various stages of the claim recognition process and documentation, required under the Act and Rules, are given in **Chart 7.1**.

Chart 7.1: Process of recognition of forest rights



After completion of the process of settlement of rights and issue of titles, the RDM Department and the Forest and Environment Department, are required to prepare a final map of the forest land⁸¹ so vested and the concerned authorities are to incorporate the forest rights, so vested, in the revenue and forest records,

⁷⁷ Rights on forest land for habitation or self-cultivation and allied activities ancillary to cultivation

⁷⁸ Right to ownership, access to collect, use and dispose of minor forest produce, which has been traditionally collected within or outside village boundaries and uses or entitlements fish and other products of water bodies, grazing and traditional seasonal resource access

⁷⁹ "Community forest resource", means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape, in the case of pastoral communities, including reserved forests, protected forests and protected areas, such as Sanctuaries and National Parks, to which the community had traditional access

⁸⁰ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, subsequently amended in 2012

⁸¹ Forest land means land of any description, falling within any forest area and includes unclassified forests, undemarcated forests, existing deemed forests, protected forests, reserved forests, Sanctuaries and National parks

as the case may be, within the specified period of record updation, under the relevant State laws or within a period of three months, whichever is earlier.

7.2 Pendency of Individual Forest Rights claims

In pursuance of the order (February 2019) of the Hon'ble Supreme Court, to review all rejected IFR claims, the SSD Department instructed (March 2019) all the District Collectors to review the same and submit compliance by 30 June 2019. Audit noticed that:

- From the records of the Sub-Collector, Baripada, it was found that 3,025 claims had been rejected by the SDLCs, during FY 2017-18. In pursuance of the instructions of the SSD Department, the rejected cases were referred to the concerned Tahasils, for re-verification. On re-verification, 1,869 claims (62 *per cent*) were rejected and 1,156 claims (38 *per cent*) were accepted for reconsideration, in six Tahasils⁸². Of the 1,156 claims accepted for reconsideration, the Tahasildars submitted their recommendations only on two claims, to the SDLC. The remaining 1,154 claims remained pending at the Tahasils (December 2022).

In reply, the Sub-Collector, Baripada, stated that the Tahasildars had assured that they would submit their recommendations on the IFR claims, at the earliest.

- The DLC, Mayurbhanj, returned (November 2019) 296 IFR claims, to SDLC, Baripada, on grounds of non-availability of GS resolution, geo-tagged maps, *etc.* However, the same had not been resubmitted by the SDLC, as of December 2022, due to which, the titles could not be conferred.

In reply, the Sub-Collector, Baripada, stated that the 296 IFR claims had been sent (December 2019) to the Divisional Forest Officer (DFO), Baripada Sub-Division, for signature of the Assistant Conservator of Forest, as the cases related to the Reserve Forest⁸³ category, with a request to return the cases to the SDLC, at an early date, for onward transmission to the DLC, for its approval. However, the cases were pending with the DFO, Baripada.

The reply furnished by the Sub-Collector, Baripada, was not correct, as the DFO, Baripada, had returned (February 2020) the cases to the SDLC and they were pending at the SDLC level.

- Subsequent to the review of 3,021 claims, rejected earlier in 2017-18, pertaining to two SDLCs, *viz.* Kaptipada (1,282) and Champua (1,739), all these claims had been rejected again. Audit examined 48 of these rejected claims and noticed that, in 32 claims, the grounds for rejections were occupation of non-forest land, non-eligibility of claimants, *etc.* In case of the remaining 16 claims, the claims had been rejected on grounds of occupation of non-forest land by the claimants. Audit ascertained the

⁸² Baripada, Bangiriposi, Suliapada, Shamakhunta, Saraskana and Kuliana

⁸³ A most restricted forest area, notified under the provisions of the Orissa Forest Act, 1972, having full degree of protection

category of land from the ‘Bhulekh’⁸⁴ portal and found that the category of land, occupied and claimed for conferment of rights by the claimants, was ‘Gramya Jungle’ (Village forest). Hence, rejection of claims on the grounds of occupation of non-forest land was incorrect and irregular, due to which the displaced persons were deprived of getting forest rights.

The Sub-Collector, Kaptipada, assured that appropriate action would be taken in the matter, while the Sub-Collector, Champua, did not furnish any reply.

7.3 Grant of Forest Rights

In the six sampled districts, 2,22,683 IFRs and 1,820 CFRs/ CRs, had been approved by the DLCs, since the implementation of the Act (2006), till the end of March 2022. Of the total 2,24,503 rights approved by the DLCs, 2,21,737 rights (99 *per cent*), comprising 2,20,494 IFRs and 1,243 CFRs/ CRs, had been issued, as of March 2022. The status of approval and issue of rights, in the six sampled districts, as of March 2022, is shown in **Table 7.1**.

Table 7.1: IFRs/ CFRs issued in the sampled districts

District	No. of claims approved by DLC		No. of claims rejected	No. of titles issued		Balance to be issued	
	IFRs	CFRs/ CRs		IFRs	CFRs/ CRs	IFRs	CFRs / CRs
Kalahandi	10,934	321	658	10,925	185	9	136
Keonjhar	59,881	511	15,297	59,881	331	0	180
Koraput	29,492	137	2,587	29,492	137	0	0
Mayurbhanj	53,305	595	8,799	52,881	536	424	59
Nabarangpur	44,564	54	0	44,564	54	0	0
Sundargarh	24,507	202	16,864	22,751	0	1,756	202
Total	2,22,683	1,820	44,205	2,20,494	1,243	2,189	577

(Source: Records of the Offices of the test-checked Collectors and Sub-Collectors)

7.3.1 Non-correction of RoRs and non-demarcation of land in regard to titles issued under the FR Act

In Annexure II of Rule 8 (h) of the FR (Amendment) Rules, 2012, it was provided that the title of the forest land shall bear, *inter alia*, the area, *khata* and Plot No., along with a description of the boundaries, by prominent landmarks. The RDM Department instructed (December 2018) that the Tahasildar, on receipt of copies of titles of forest rights, shall pass necessary orders for correction of RoR and map, in favour of the forest right holder and upload the same in the Bhulekh and Bhunaksha⁸⁵ portals. A free copy of the RoR and sketch map, so prepared, is to be provided to the FR holder. The concerned RI is to demarcate the land, as per the sketch map.

⁸⁴ Website of RDM Department, Odisha, to check the Khata, Plot and Tenant details of land parcels, present in the State.

⁸⁵ A web based application software, developed by National Informatics Centre, on behalf of RDM Department, for correction of digitised cadastral maps, which has been integrated with Bhulekh.

Audit examined the updation of RoRs, maps and demarcation of land rights, issued under the FR Act. Out of the 2,20,494 IFR titles issued to the beneficiaries, RoRs and maps in regard to 1,29,205 IFRs (58.60 *per cent*), had not been corrected, while demarcation of land in 33,471 IFRs, as detailed in **Table 7.2**, had not been done.

Table 7.2: Cases of Non-updation of RoRs and demarcation not having been done, in IFR titles (as of March 2022)

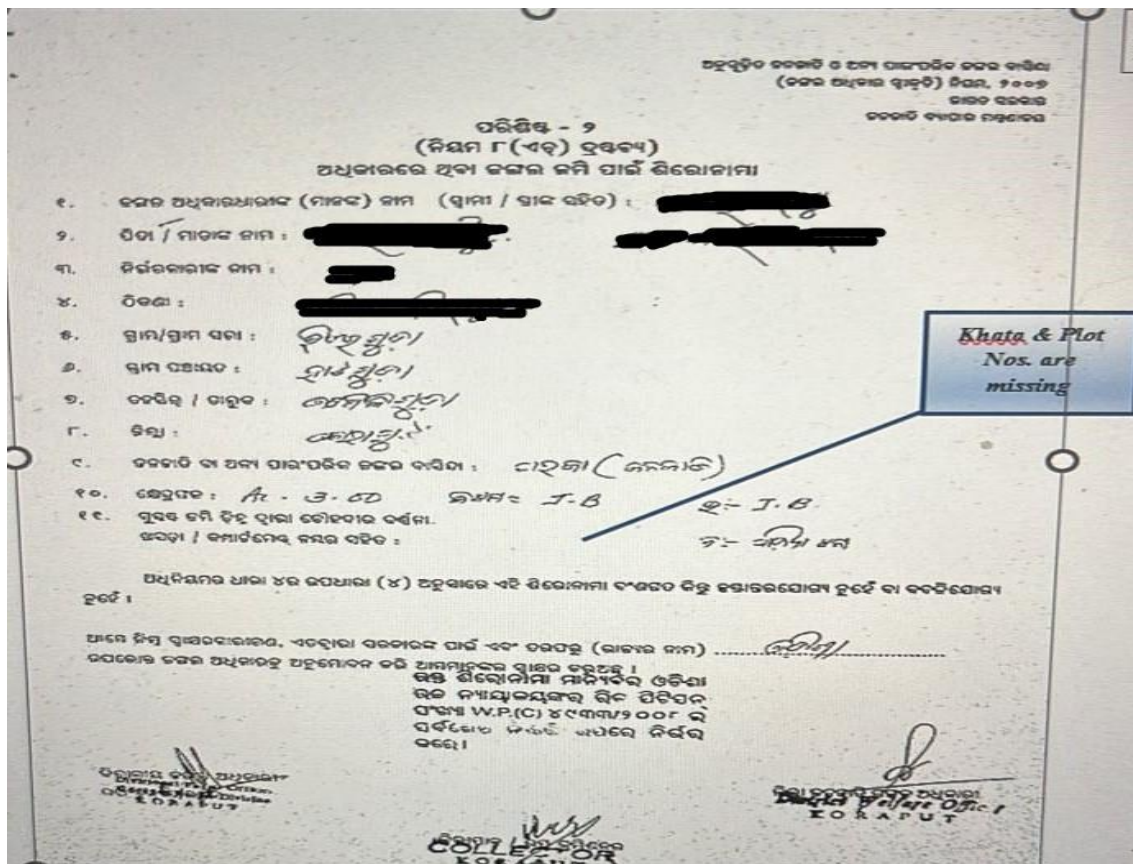
District	No. of IFR titles issued	RoRs, not corrected		Demarcation not done	
		No.	Percentage	No.	Percentage
Kalahandi	10,925	4,113	37.65	311	2.85
Keonjhar	59,881	43,950	73.40	18,394	30.72
Koraput	29,492	21,352	72.40	8,020	27.19
Mayurbhanj	52,881	28,042	53.03	702	1.33
Nabarangpur	44,564	22,016	49.40	4,772	10.71
Sundargarh	22,751	9,732	42.78	1,272	5.59
Total	2,20,494	1,29,205	58.60	33,471	15.18

(Source: Records of the Offices of the test-checked Collectors and Sub-Collectors)

While the RoRs had not been corrected in 58.60 *per cent* cases, demarcation had not been done in 15.18 *per cent* cases. On further examination, Audit noticed the following:

- In case of the Koraput district, the District Collector-cum-Chairman, DLC, had issued 29,492 IFR titles. Of these, 16,265 titles (55.15 *per cent*) had been issued without mentioning the *Khata*/ Plot numbers, which was in violation of Rule 8(h) of the FR Rules. Consequentially, the related RoRs and maps, could not be corrected/ drawn by the RIs. Later, in September 2018, June 2020 and September 2020, the Collector-cum-Chairman, DLC, of the same district, conveying the difficulty in correcting the RoRs, in the absence of *Khata* and Plot numbers of the lands issued as IFRs, requested the RDM Department to issue necessary clarifications, for correction of the RoRs. The Director, SSD Department, had also requested (October 2020) the same, from the RDM Department. No response had been received from the RDM Department, as of September 2022. A sample copy of the titles issued by DLC, Koraput, which did not contain *Khata*/ Plot numbers, is shown in **Image 7.1**.

Image 7.1: FRA title sheet without Khata and plot numbers



- In the Rasgobindpur Tahasil of Mayurbhanj district, an IFR, over 1.25 acres⁸⁶, had been issued, in favour of a tribal forest-dwelling family, in 2009. The Tahasildar, Rasgobindpur, however, did not correct the related RoR. For construction of the Katuni Minor Irrigation System⁸⁷, the EE, Jambhira Canal Division, Department of Water Resources, Morada, while acquiring (September 2019) land for the project, also acquired 0.55 acre, out of the 1.25 acres that had been granted as IFR. Since the allotted land had not been recorded in the names of the beneficiary family and was still in the name of the Government, no amount, towards compensation for land acquired, was paid to the beneficiary family. As such, the beneficiary family lost the land, received as IFR, without any consideration. Audit also noted from the records of the RDM Department that, due to non-correction of the RoR, the beneficiaries faced problems in selling paddy at the minimum support price and were deprived of getting benefits under PM Kisan Scheme.

Similarly, RoRs and maps in regard to 1,243 CFR/CR titles issued, had not been corrected. Demarcation of land in regard to 667 CFRs/ CRs⁸⁸ had not been done.

⁸⁶ Village: Musamari, Khata No. 167, Plot No. 225/1

⁸⁷ A part of the Subarnarekha Minor Irrigation System

⁸⁸ Kalahandi: 185, Keonjhar: 331, Koraput: 97 and Nabarangpur: 54

In reply, the Deputy Collector (Revenue), Collectorate, Kalahandi, stated (January 2023) that, after receiving the reply from the District Welfare Officer, Kalahandi, the same would be intimated to Audit. The PA, ITDA, Baripada, Mayurbhanj, stated that, since FRA was an ongoing process, demarcation and correction of RoRs were under process and were about to be completed. Collectors of Koraput and Sundargarh districts, replied that instructions had already been issued to the Tahasildars and Divisional Forest Officers in this regard. The reply is not tenable, as IFRs had been issued, without mentioning the *Khata* and Plot numbers, in violation of the provisions in the FR Act.

Recommendation 7.1: Pending Forest Rights Claims, may be settled, expeditiously.

Recommendation 7.2: In regard to Individual Forest Rights (IFRs) issued, the corresponding RoRs should be corrected in the names of the IFR holders and the allotted forest lands should be demarcated.

7.3.2 Non-conversion of forest villages into revenue villages

A village/ habitation earns the legal status of a village, upon grant of ‘revenue village’ status. Financial assistance, under various schemes/ programmes of Central/ State Governments, is allocated on the basis of the revenue villages. Thus, getting recognition as a revenue village, facilitates the development of the village, as well as the villagers therein. Settlement and conversion of all forest villages⁸⁹, old habitations and un-surveyed villages, *etc.*, into revenue villages, was recognised as one of forest rights, under Section 3(1) (h) of the FR Act, 2006. The RDM Department issued (February 2017) guidelines for conversion of all forest villages, old habitations, un-surveyed villages and other villages in forests, whether recorded/ notified or not, into revenue villages.

There were 236 forest villages, in the six sampled districts (as of February 2017). Subsequently, out of these, only 19 (8 *per cent*) had been converted into revenue villages, as of March 2022, while the remaining 217 forest villages (92 *per cent*), as detailed in **Table 7.3**, had not been converted into revenue villages, as of March 2022.

Table 7.3: Conversion of forest villages into revenue villages

District	No. of forest villages identified	No. of forest villages, converted into revenue village	Forest villages, not converted into revenue villages	
			No.	Percentage
Kalahandi	10	0	10	100
Keonjhar	38	0	38	100
Koraput	87	11	76	87
Mayurbhanj	24	0	24	100
Nabarangpur	09	8	01	11
Sundargarh	68	0	68	100
Total	236	19	217	92

(Source: Records of the Offices of the test-checked Collectors and Sub Collectors)

⁸⁹ Settlements, which have been established inside the forests for forestry operations and include land for cultivation and other uses permitted by the Government

Audit noticed that:

- In regard to the Koraput district, out of 76 villages not converted into revenue villages, all processes for the conversion of four forest villages, had been completed. Further, the conversion process was underway in regard to 18 forest villages. The process had not started for the remaining 54 forest villages.
- In the Sundargarh district, survey, demarcation of land, *etc.*, had been completed in case of 32 villages, while the process had not started in regard to the remaining 36 villages.

Thus, forest rights, insofar as conversion of forest villages into revenue villages was concerned, had substantially not been given. As a result, the dwellers of these forest villages were deprived of getting the benefits of government welfare schemes.

In reply, the Collectors of Koraput and Sundargarh districts, assured that all forest villages would be converted into revenue villages. The Collectors of the Nabarangpur, Kalahandi, Mayurbhanj and Keonjhar districts, did not furnish any response (January 2023).

7.4 Diversion of forest land, without complying with the provisions of the FR Act, 2006

The Ministry of Environment and Forests, Government of India, issued (August 2009) guidelines for the diversion of forest land, for non-forest use. As per the said guidelines, the State Government was to certify (termed as the FRA certificate) that: (i) the complete process for identification and settlement of rights under the FR Act, had been carried out for the entire forest area proposed for diversion, (ii) the diversion proposal had been placed before each concerned GS of forest dwellers, who were eligible under the FR Act and (iii) a letter from each of the concerned GSs had been received, indicating that all formalities under FR Act, had been carried out and they had given their consent to the proposed diversion. A letter from the State Government, certifying that discussions and decisions on such proposals, had taken place in the meetings of the GSs, in the presence of minimum 50 *per cent* of members of the GSs, was also required.

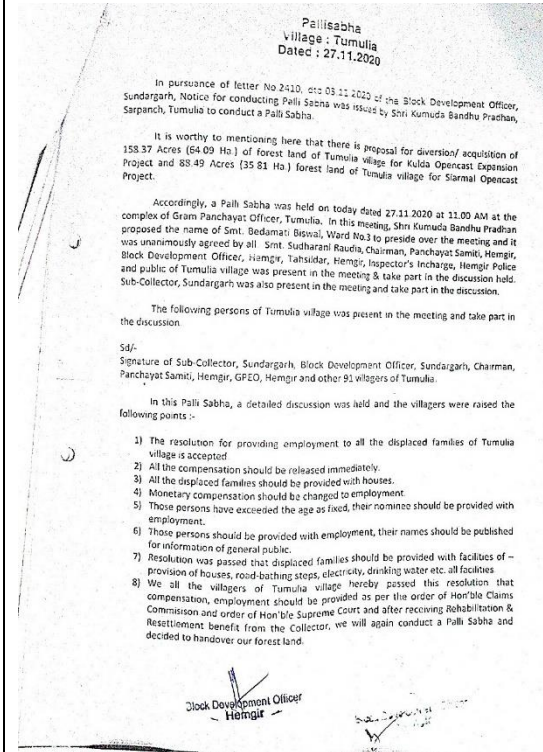
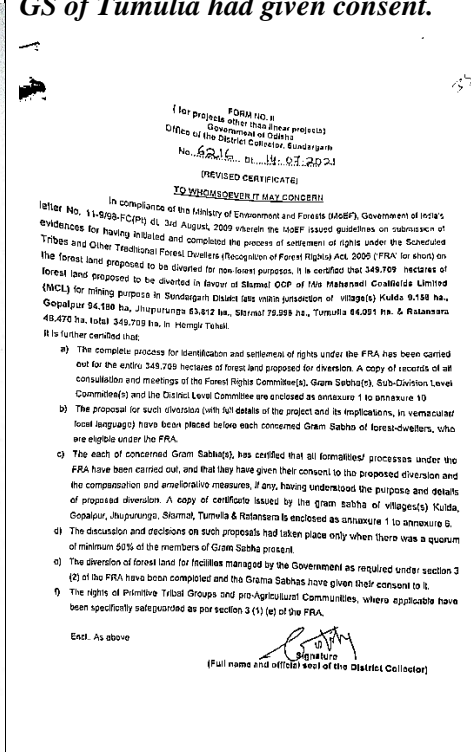
Audit scrutiny revealed that the Collectors of Sundargarh and Koraput districts had issued (2017-18 to 2021-22) FRA certificates for diversion of 1,973.5171 hectares of forest land, for different projects. Audit test-checked the FRA certificates, issued (June to November 2021) for diversion of 1,409.998 hectares of forest land, in favour of M/s Mahanadi Coalfields Limited (712.019 Ha) and M/s NALCO (697.979 Ha).

As per the certificates issued by the Collectors, the complete process, for identification and settlement of rights under FR Act, had been carried out for the entire 1,409.998 hectares of forest area, proposed for diversion, the proposals for diversion had been placed before each concerned GS, each GS had certified that all the formalities under the FRA had been carried out, all the GSs had given their consent to the proposed diversion and the discussions and decisions on the diversion proposals had taken place, only when there was a quorum of minimum 50 *per cent* of the members of GS present, *etc.* On the

basis of the certificate issued by the Collector, Sundargarh, 349.709 hectares of land had been approved (Stage-II) in November 2022 for diversion, by the Government of India.

Audit scrutinised the proceedings of the GSs, conducted during August 2015 to November 2020, in the Sundargarh district, and observed the following:

- **Issue of FRA Certificate for diversion of forest land, disregarding the views of GSs:** The GSs of five villages⁹⁰ had agreed conditionally to the proposal of diversion of forest land, measuring 423.498 hectares. There was no consensus on the diversion of forest land of 99.320 hectares, in two villages (Gopalpur and Bankibahal). In case of the Tumulia village, no consent had been given for diversion of 99.901 hectares. However, the Collector had issued FRA certificate for diversion of forest land, disregarding the views of GSs.

Image 7.2: GS proceedings of village Tumulia	Image 7.3: FRA certificate issued by the Collector
<p><i>The GS of Tumulia had resolved to conduct another meeting of the GS, to decide over the diversion of forest land.</i></p> 	<p><i>In the FRA certificate issued by the Collector, Sundargarh, it had, however, been mentioned that the GS of Tumulia had given consent.</i></p> 

- **Issue of FRA, without holding meeting of GS:** In regard to diversion of 89.300 hectares of land in the Lalma (83.240 hectares) and Jamkani (6.060 hectares) Reserve Forests of the Sundargarh district, meetings of the GS/ Pally Sabha (PS) had not been held. However, the FRA certificate had been issued, stating that the consent of the GS/ PS had been obtained.

⁹⁰ Kulda, Jhupurunga, Simal, Ratansara and Telendihi

- ***Obtaining consent of GS/ PS, without the required quorum:*** In two villages (Pottangi and Sisaguda) of the Koraput district, the percentages of participants, in the GS meetings, were 18.33 and 20.11, respectively, and the GSs were stated to have given consent for diversion of forest land, despite the fact that, in the absence of the required quorum, the proceedings of the GSs were not valid.

As such, FRA certificates, for diversion of 1,409.998 hectares of forest land had been issued, without ensuring compliance to the provisions of the FR Act, which was irregular.

In reply, the Project Administrator, Integrated Tribal Development Agency, Koraput, stated (March 2023) that the voters were out of station for seasonal work, due to which, the required quorum could not be ensured. The reply was not convincing, since the presence of a minimum of 50 *per cent* of members of the GS was mandatory for obtaining consent of GS. Collector, Sundargarh, did not furnish any reply.

Recommendation 7.3: Responsibility may be fixed on the Collectors concerned, for issue of FRA certificates, disregarding views of Gram Sabhas.