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## Forest dwellers have to produce evidence on paper

Sreelatha Menon

Can a tribal living in the jungles be expected to possess a passport? Or a satellite image of his house?

The government of India thinks this is possible.

Passports or satellite images are two documents among several options for tribals to produce as proof to avail of any entitlements under the Scheduled Tribes and Traditional Forest Dwellers Recognition of Forest Rights Act, 2007.

Rule 11A of the Act, which was notified yesterday, expects tribals to produce at least two pieces of documentary evidence to support any claim over the land on which they live. The options include ration cards, voter identity cards, house tax receipts or a passport.

Satellite imagery of their dwellings, research studies, maps, papers from erstwhile states and earlier land records are the other allowable options.

The Campaign for Survival and Dignity, a network of tribal rights groups, said the provision defeats the purpose of the law



Passport, please



"This will mean this Act will be misused both to take over forest land and for the government to exclude many tribals," said Campaign Secretary Shankar Gopalakrishnan.

The requirement is indicative of several other rules that seem to take away much that the law promises.

Apart from the need to produce documentary evidence, the rules state that the tribals' claims will be attended to not by the gram sabha of the claimant's hamlet but the larger gram sabha of the village panchayat.

Rule 3(1) defines the gram sabha as the gram sabha of the panchayat, which would include numerous villages. Gopalakrishnan pointed out that this would be impractical because each gram panchayat will have to attend to a large number of villages.

"This rule will make implementation of the law almost impossible in many areas," said Gopalakrishnan.

The rule also contradicts both section 2(p) of the Forest Rights Act and Panchayats (Extension to Scheduled Areas) Act, 1996, which state that in Scheduled Areas at least the gram sabha should be that of the hamlet.

In fact, a dissenting note to this effect has been submitted to the ministry of tribal affairs by Smita Gupta, who was part of the first technical support group for drafting the rules.

Gupta said there were always differences with the government over this but all government versions of the rules maintained the position that the gram sabhas concerned in this case would be of the panchayat and not the hamlet.

The Act also contains clauses that allow that exclude many real forest dwelling communities by introducing hard-to-prove criteria such as one that stipulated that tribals should "reside in forests" and prove "75 years of residence".

Tribal rights activists said most forest dwellers have been evicted from forests so, in effect, the Act puts these people outside its purview.

The rules also drop the provision that forest dwellers will have right over the water resources in the forests, a provision that was present in the draft rules.

Draft rule 14 said the community that has been traditionally using water bodies will have the right over the fish and other products while ensuring its sustainable use.

It also said, "No license shall be granted by any Government agency on such water bodies without negotiated agreement and prior informed consent."

This rule has been dropped altogether.

The rules also fail to deal with many of the procedural complexities of the Act. For instance, there is no procedure for conversion of forest villages and unrecorded settlements into revenue villages so that its inhabitants can exercise the right to rehabilitation after illegal eviction or forced displacement or the right to habitat.

There are no provisions for penalising officers who violate the Act either.