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Updated on Aug 26, 2009 08:46 PM IST

Many development projects have been opposed by local communities and the green lobby. But for the most part these protests were brushed aside, even by the courts. Ashish Kothari examines.



HT Image

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By Ashish Kothari

In a potentially revolutionary move, the Ministry of Environment and Forests (MoEF) in July "invited the attention" of states to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, and directed that its provisions be adhered to while considering any diversion of forest lands for development projects. It has also asked for multiple documents as evidence that this has been done, when any state applies for clearance of forest land under the Forest Conservation Act 1980 (FCA).

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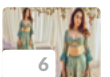
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If applied properly, this step could put a check to the ecological and social damage that is caused by projects that use forest land. Such projects have increased in the last few years, and the FCA has just become a rubber stamp process with the MoEF unwilling or unable to resist pressure from fellow ministries, states and corporations to give up huge areas of forests.

A number of these projects have been opposed by forest-dependent communities and environmentalists. But for the most part these objections were brushed aside, even by the courts. A classic example of this is the mining project planned for the Niyamgiri hills of Orissa, where the multinational Vedanta has bulldozed local adivasi protests about the sacrilege of a sacred site, and ecologists' objections about it being high in biodiversity value. Neither Orissa nor the MoEF, and not even the Supreme Court was willing to listen to these arguments and gave permission to Vedanta.

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The MoEF circular implicitly recognises that many such clearances have been illegal ever since the Forest Rights Act (FRA) came into place. Since 2006 over 3,000 projects have been cleared, on over 2 lakh hectares of forest land. In a bid to correct this anomaly, the MoEF has asked that states "initiate and complete" the process under the FRA, and present the following kinds of evidence while submitting proposals under the FCA:

A state government certificate that the process for identification and settlement of rights under the FRA has been carried out for the entire forest area proposed for diversion, with a record of all consultations and meetings held.

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A state government letter certifying that proposals for such diversion (with full details of the project and its implications, in vernacular/local languages) have been placed before each gram sabha concerned of forest-dwellers, who are eligible under the FRA.

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A letter from each of the gram sabhas concerned, indicating that all formalities/processes under the FRA have been carried out, and that they have given their consent to the proposed diversion and the compensatory and ameliorative measures if any. The circular lays stress on the need to specially protect "primitive tribal groups and pre-agricultural communities", whose habitat rights are specifically provided for in the FRA.

Additionally, the FRA also provides for communities to avail of small-scale development facilities, and the state is required to provide evidence that any diversion of forest land needed for this has been discussed with the gram sabha, which has consented to or rejected such diversion.

If this circular had been in force since the FRA was operationalised, it is more than likely that the Vedanta clearance would never have been given, since the gram sabhas would have refused consent. The same would be true for other projects.

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Too often have circulars like this been ignored in the past, and this one too could gather dust. But the current Minister of State for Environment and Forests appears to be serious about not allowing blatant violations of procedures, and it is to be hoped that he will set a good precedence by strictly applying this circular.

*Ashish Kothari is Member, Kalpavriksh Environment Action Group*

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