



# **The Scheduled Tribes & Other Traditional Forest Dwellers**

**(Recognition of Forest Rights Act, 2006)**

**Forest Rights Act, 2006**

**Implementation considering Nature and Extent of Rights**



**Jammu and Kashmir Forest Department  
Government of Jammu and Kashmir**

**FRA Series No. 03  
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The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or Forest Rights Act has been extended to the Union Territory of Jammu & Kashmir with the objective of recognizing and vesting the individual as well as community forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers as defined in the FRA, 2006 (reproduced below) residing in the forests for generations but whose rights could not be recorded.

1. Forest Dwelling Scheduled Tribes (FDST) i.e., Members or community of the Scheduled Tribes who primarily reside in and who depend on the forests or forest lands for bona fide livelihood needs, including, the Scheduled Tribe pastoralist communities.
  2. Other Traditional Forest Dwellers (OTFD) i.e., any member or community who has for at least three generations prior to the 13th day of December 2005 primarily resided in and who depend on the forest or forests land for bona fide livelihood needs.
- The Act provides a framework for recording of forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

### Rights under the Act

The Act encompasses rights of self-cultivation and habitation which are usually regarded as Individual rights; and Community Rights such as Grazing, Fishing and access to Water bodies in forests, Traditional Seasonal Resource access of Nomadic and Pastoral community etc. Further the Act also provides for Right over Community

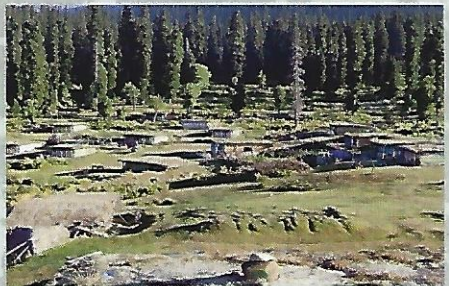


Forest Resources. The rights recognized by this Act can be classified as under:

#### 1. Individual Forest Rights (IFR):

**Important individual rights provided under the Act are as under:**

- Right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood.
- Rights in or over disputed lands under any nomenclature in any State where claims are disputed.
- Rights for conversion of or leases or grants issued by any local authority or any State Government on forest lands to titles.
- Right to *in situ* rehabilitation including alternative land in cases where the





Scheduled Tribes and Other Traditional Forest Dwellers have been evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December 2005.

### **Extent of Individual Forest Rights:**

The recognition and vesting of forest rights under this Act to FDST and OTFDs in respect of forest land and their habitat shall be subject to the condition that such FDSTs or OTFDs had occupied forest land before the 13th as of December 2005 Sec 4(3); such land shall be under the occupation of an individual or family or community on the date of commencement of the Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares Sec 4(6)..

### **Evidences:**

As per Forest Rights Rules, 2008 the following evidences could be provided by the claimants.

- (a) Public documents, Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of rights by whatever name called, pattas or leases, reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions.
- (b) Government authorized documents such as voter identity card, ration card, passport, house tax receipts, domicile certificates.
- (c) physical attributes such as house, huts and permanent improvements made to land including levelling, bunds, check dams and the like;
- (d) quasi-judicial and judicial records including court orders and judgments;
- (e) research studies, documentation of customs and traditions that illustrate the enjoyment of any forest rights and having the force of customary law, by reputed institutions, such as Anthropological Survey of India;
- (f) any record including maps, record of rights, privileges, concessions, favours, from erstwhile princely States or provinces or other such intermediaries;
- (g) traditional structures establishing antiquity such as wells, burial grounds, sacred places;
- (h) genealogy tracing ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time;
- (i) Statement of elders other than claimants, reduced in writing.

**One or more evidence required to approve a claim, i.e., at least 2 [Ref:Rule 13]**

## **2. Community Forest Rights (CFR)**

Community rights conferred by the Act under (Section (3) (b,c,d& k) are as follows:

- Community Rights such as Nistar etc. including right used in erstwhile Princely States, Zamindari or such intermediary regimes.
- Right of ownership, access to collect, use and dispose Minor Forest Produce which has been traditionally collected.
- Use of Water bodies, fishing, Grazing rights, Right for Pastoralist community and traditional resource access of nomadic tribes.





- Customary rights recorded under any state law as well as any customary rights not recorded under subsection "a to k" of Section 3(1).
- Right of access to biodiversity, community rights over intellectual property and traditional knowledge related to biodiversity and cultural diversity.

### **Extent of Community Forest Rights:**

The extent of the area on which the Community Forest Rights is claimed is verified and measured by the Forest Rights Committee. This area falls within the boundary of the community forest resource of the village. The community forest resource as per definition covers the grazing area of and traditional seasonal resource access of nomadic or pastoralist communities also. Further, the quantity of traditionally collected Minor Forest Produces, entitlements such as fish and other products of water bodies have to be fixed keeping in mind the sustainability of the resource. While measuring the area under claim, the forest department personnel have to be present.

### **3. Right over Community Forest Resources (RCFR)**

The FRA recognises and vests secure community tenure on the forest land on which right under 3(1)(i) is claimed within the 'community forest resource' of the village, which is defined under section 2(a) as common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in 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.

Section 3(1) (i) of the Act provides for Rights to protect, regenerate or conserve community forest resource of the area which has been traditionally protected and conserved for sustainable use

The Committee constituted under Rule 4(1)(e) is entrusted through Forest Right Rules amended in 2012 to prepare a conservation and management plan for the area on which RCFR under section 3(1)(i) is recognized. The Plan is made in order to sustainably and equitably manage such community forest resources for the benefit of forest dwelling Scheduled Tribes and other Traditional Forest Dwellers and integrate such conservation and management plan with the micro plans or working plans and management plans of the forest department with such modifications as may be considered necessary by the committee.

### **Extent of RCFR**

Verification and measurement of boundary of forest land on which RCFR is claimed is done by the Forest Rights Committee. This is to be done in the presence of Forest department official.

#### **Evidences for the recognition of rights for CFR and RCFR**

1. Fine receipts, encroacher lists, primary offence reports, forest settlement reports, and similar documentation by whatever name called, arisen during prior official exercise, or the lack thereof, shall not be the sole basis for rejection of any claim.

2. The satellite imagery and other uses of technology may supplement other form of evidence and shall not be treated as a replacement.

An evidence for [Community Forest Resource] shall, inter alia, include - (As per sec 13 (2) of the rules)

(a) community rights such as nistar by whatever name called; (b) traditional grazing grounds; areas for collection of roots and tubers, fodder, wild edible fruits and other minor forest produce; fishing grounds; irrigation systems; sources of water for human or livestock use, medicinal plant collection territories of herbal practitioners;

(c) remnants of structures built by the local community, sacred trees, groves and ponds or riverine areas, burial

(d) Earlier or current practice of traditional agriculture.

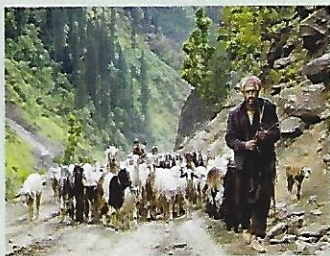




## Duties of holders of Forest Rights:

The Section 5 of the act provides for duties and empowers the holders of forest rights, the Gram Sabha and village level institutions to

- (a) Protect the wildlife, forest and biodiversity;
- (b) Ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;
- (c) Ensure that the habitat of forest dwelling Scheduled Tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage;
- (d) Ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forests and the biodiversity are complied with;



The Forest Rights Rule, 2008 4(e) empowers Gram Sabha to constitute Committees for the protection of wildlife, forest and biodiversity, from amongst its members, in order to carry out the provisions of Section 5 of the Act.

## Procedures and Processes for Claim verification in implementation of FRA, 2006-

### A. Individual Forest Rights:

The **Gram Sabha** is the authority to initiate the process for determining the nature and extent of individual or community forest rights. The Gram Sabha elects a Forest Rights Committee which receives, consolidate and verifies the claims, prepares official record of claims and evidences including maps prepared with recognisable land marks, physically visits the site and verifies claims as per the rule book, presents details of the claim before the Gram Sabha. The Gram Sabha



receives the scrutinized claims from the Forest Rights Committee and passes a resolution on them and forwards the same to Sub-Divisional Level Committee (SDLC). The SDLC examines the resolutions and the maps of Gram Sabhas to ascertain the veracity of all the claims and makes appropriate recommendations to send the claims to District Level Committee (DLC). DLC considers the claims and records related to the claims forwarded by the SDLC to ascertain the veracity of all the claims and grants final approval. Form A in Annexure I of Forest Rights rules, 2008 is used for the purpose. Title to the Forest Rights (certificate) is issued as specified in Annexure II.

### B. Community Forest Rights (CFR) and Rights over Community Forest Resources (RCFR)

The FRC accepts and scrutinizes the CFR as well as RCFR claims submitted by Communities of FDSTs and OTFDs. It also prepares claim papers on behalf of Gram Sabha in case the Gram Sabha is eligible as the claimant for a particular forest right. The FRC delineates, verifies, and measures the boundary to prepare a map with recognizable landmarks and presents its findings on the extent of claim before the





Gram Sabha for its consideration. Gram Sabha considers the same and passes resolutions on each CFR/RCFR claim.

For community rights and rights over community forest resources claimant Form B and C are to be used respectively as given in the Forest Rights rules 2007.

#### **Conflict Resolution:**

If there are conflicting claims from another village in respect of traditional or customary boundaries, or if a forest area is used by more than one Gram Sabha, then the FRCs of the Gram Sabhas of the concerned villages will meet to jointly consider the true status of enjoyment of such claimed rights and submit their findings to the respective Gram Sabhas in writing. If the Gram Sabhas are unable to resolve the conflicting claims, they will refer the matter to the SDLC for resolution. The decision of the DLC on claims for user rights to forest resources will be final and binding (Sub-section 6 of Section 6).

#### **Recording of Forest Rights:**

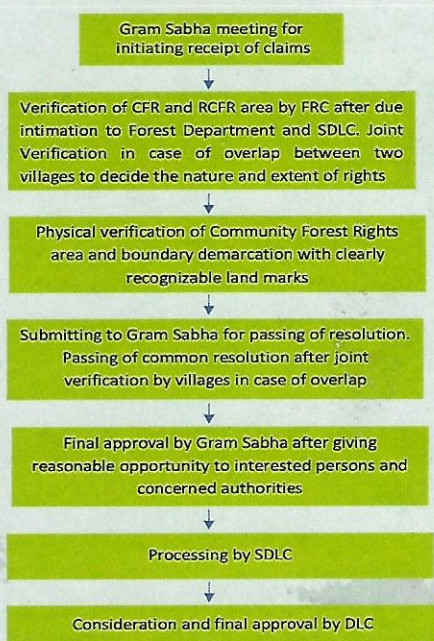
On completion of the process of recognition of rights and issue of titles as specified in Annexure of Forest Right rules, the Revenue and the Forest Department shall prepare a final map of the forest land so vested and the concerned authorities shall incorporate the forest rights so vested in the revenue and forest records, 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 as per Sec 12(A)(9) of the Forest Right rules 2007.

#### **4. Development related Rights**

The Act also provides for rights related to development or creation of certain facilities in terms of diversion of forest land for creation of 13 types of facilities such as schools, hospitals, anganwadis, drinking water supply, minor irrigation canals, etc. managed by the Government. Such development projects are required to be recommended by the Gram Sabha.

#### **Extent of Rights:**

The forest land to be diverted for the purposes mentioned above is less than one hectare in each case and such land can be permitted only if the creation of facility involves felling of trees not exceeding 75 trees per hectare.



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