

## Forest Act notified, tribals unhappy

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NEW DELHI: The UPA government's new year gift of finally operationalising the long pending Forest Rights Act has, ironically, left tribal groups dejected and the wildlife lobby grinning.

The government, after more than a year of hectic lobbying, political interventions and bureaucratic twists, on Tuesday notified the rules of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act.

Reacting immediately, tribal groups condemned the drastic changes in rules (compared to the draft version that was put out for public comment) while the wildlife lobby seemed relieved about some dilution of the final version of the rules.

The Campaign for Survival and Dignity (CSD), the group that was at the forefront of pushing for the law, said rules "undermine key elements of this legislation". "Since the time of the Joint Parliamentary Committee's historic unanimous recommendations in favour of democratic recognition of forest rights, it has been the consistent effort of the government to reduce the scope of this law and to retain its powers over forests and their resources. The rules continue this trend," CSD said.

When the draft rules were submitted, three members of the technical support group — Nandini Sundar, Smita Gupta and Kumar Shiralkar — had put in a note of dissent. The final rules may also be equally controversial.

Sanjay Upadhyay, Supreme Court lawyer and a member of the technical support group, said, "The rules redefine gram sabha (the first level of the rights recognition process) to turn it into an eyewash, besides taking away key elements like detailing out rights and duties of forest-dwellers which would have aided the communities and government in enforcing the Act meaningfully."

The CSD pointed out that while the Act gives gram sabha power over forest resources, the rules define gram sabha as the gram sabha of the panchayat, which includes multiple hamlets and settlements. "This will mean that democratic functioning will become impossible and in many areas, forest-dwellers will be in minority," CSD said, pointing out that section 2 (P) of the Act clearly states that in scheduled areas at least, the gram sabha should be that of the hamlet.

SC lawyer Ritwick Dutta said, "Limiting the rules to merely delineation of rights for forest-dwellers (when compared to the draft version that also mentioned strict criteria for creating inviolate wildlife habitats) has legroom for the government to build the conservation agenda in the Act."

With the rules and the Act now going silent on what constitutes a critical wildlife habitat, the environment ministry's internal guidelines on the issue could gain primacy and exclude the role of tribal affairs ministry and other stakeholders in the process, Upadhyay pointed out.

While keeping boulders and local mining outside the purview of the definition of forest produce might have got different reactions from opposing camps, the government's rejection of a clause in the rules — as recommended by the expert group — that those who use hired labour, contractors, traders etc should be excluded from being eligible for forest rights has got everyone livid. CSD also pointed out that there was no procedure for non-ST forest-dwellers to establish that they fulfilled the Act's requirements.

Barring a small mention, the rules do not dwell on community conservation powers. "The pro-formas attached to the rules entirely leave out the right over community forest resources," CSD said.

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