REGISTER NO.DL-(N) 04/0007/2006-08

THE GAZETTE OF INDIA

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No.2 NEW DELHI, TUESDAY, JANUARY 2, 2007/PAUSA 12, 1928

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)
New Delhi, the 2nd January, 2007/Pausa 12, 1928 (Saka)

The following Act of Parliament received the assent of the President on the 29the December, 2006, and is hereby published for general information:-

THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST TIGHTS) ACT, 2006

No.2 of 2007

[29th December, 2006]

An Act to recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded: to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognized rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognized in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

Short title and commencement:

1. (1) This Act may be called the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.

(2) In extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions:

2. In this Act, unless the context otherwise requires,---

(a) "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;

(b) "critical wildlife habitat" means such areas of National Parks and Sanctuaries where it has been specifically and clearly established, case by case, on the basis of scientific and objective criteria, that such areas are required to be kept as inviolate for the purposes of wildlife conservation as may be determined and notified by the Central Government in the Ministry of Environment & Forests after open process of consultation by an Expert Committee, which includes experts from the locality appointed by that Government wherein a representative of the Ministry of Tribal Affairs shall also be included, in determining such areas according to the procedural requirements arising from sub-section (1) and (2) of section 4;

(c) "forest dwelling Scheduled Tribes" means the members or community of the Scheduled Tribes who primarily reside in and who depend on the forest or forest lands for bonafide livelihood needs and includes the Scheduled Tribe pastoralist communities;

(d) "forest land" means land of nay description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks;

(e) "forest rights" means the forest rights referred to in section 3;

(f) "forest villages" means the settlements which have been established inside the forests by the forest department of nay State Government for forestry operations or which were converted into forest villages through the forest reservation process and includes forest settlement villages, fixed demand holdings, all types of taungya settlements, by whatever name called, for such village and includes lands for cultivation and other uses permitted by the Government;

(g) "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Pads, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;

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(h) "habitat" includes the area comprising the customary habitat and such other habitats in reserved forests and protected forests of primitive tribal groups and pre-agricultural communities and other forest dwelling Scheduled Tribes;

(i) "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;

(j) "nodal agency" means the nodal agency specified in section 11;

(k) "notification" means a notification published in the Official Gazette:

(l) "prescribed" means prescribed by rules made under this Act;

(m) "Scheduled Areas" means the Scheduled Areas referred to in clause (1) of article 244 of the Constitution;

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(n) "sustainable use" shall have the same meaning as assigned to it in clause (o) of section 2 of the Biological Diversity Act. 2002;

(o) "other traditional forest dweller" means 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 forest land foe bona fide livelihood needs.

Explanation:- for the purpose of this clause, "generation" means a period comprising of twenty-five years;

(p) "village" means-

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(i) a village referred to in clause (b) of section 4 of the Provision of the Panchayats (Extension to the Scheduled Areas) Act, 1996; or

(ii) any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or

(iii) forest villages, old habitation or settlements and unsurveyed villages, whether notified as village or not; or

(iv) in the case of States where there are no Panchayats, the traditional village, by whatever name called;

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(q)"wild animal" means any species of animal specified in Scheduled I to IV of the Wild Life (Protection)Act, 1972 and found wild in nature.

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CHAPTER II

FOREST RIGHTS

Forest rights of Forest dwelling scheduled Tribes and Other traditional forest dwellers.

3. (1) For the purpose of this Act, the following rights, which secure individual or community tenure or bot, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:-

(a) right to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation of livelihood by a member or members of a forest dwelling Scheduled Tribes or other traditional forest dwellers;

(b) community rights such as nistar, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) right of ownership, access to collect, use, and dispose of minor forest produce which has been traditional collected within or outside village boundaries;

(d) other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) rights including community tenures of habitat and habitation of primitive tribal groups and pre-agricultural communities;

(f) rights in or over disputed lands under any nomenclature in any State where claims are disputed;

(g) rights for conversion of Patta or leases or grants issued by any local authority or any State Government on forest lands to titles;

(h) rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified or not into revenue villages;

(i) right to protect, regenerates or conserve of manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) rights which are recognized under any State law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under nay traditional or customary law of the concerned tribes of any State;

(k) right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal;

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(m) right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes and other Traditional Forest Dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th of December, 2005.

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(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980, the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy -five trees per hectare, namely:-

(a) schools

(b) dispensary or hospital

(c) anganwadis

(d) fair price shops

(e) electric and telecommunication lines;

(f) tanks and other minor water bodies;

(g) drinking water supply and water pipelines;

(h) water or rain water harvesting structures;

(i) minor irrigation canals;

(j) non-conventional source of energy;

(k) skill up gradation or vocational training centres;

(l) roads; and

(m) community centres;

Provided that such diversion of forest land shall be allowed only if,-

(i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and

(ii) the clearance of such developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

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CHAPTER III

RECOGNITION, RESTORATION AND VESTING OF FOREST RIGHTS AND RELATED MATTERS

Recognition of, and vesting or, forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers

4. (1) Notwithstanding anything contained in any other law for the time being in force, and subject to the provisions of this Act, the Central Government hereby recognizes and vests forest rights in;-

(a) the forest dwelling Scheduled Tribes in States or areas in States where they are declared as Scheduled Tribes in respect of all forest rights mentioned in section 3;

(b) the other traditional forest dwellers in respect of all forest rights mentioned in section 3;

(2) The forest rights recognized under this Act in critical wildlife habitats of National Parks and Sanctuaries may subsequently be modified or resettled, provided that no forest rights holders shall be resettled or have their rights in any manner affected for the purposes of creating inviolate areas for wildlife conservation except in case all the following conditions are satisfied, namely:-

(a) the process of recognition and vesting or rights as specified in section 6 is complete in all the areas under consideration;

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(b) it has been established by the concerned agencies of the State Government, en exercise of their powers under the Wild Life (Protection) Act, 1972 that the activities or impact of the present of holders of rights upon wild animals is sufficient to cause irreversible damage and threaten the existence of said species and their habitat;

(c) the State Government has concluded that other reasonable options, such as, co-existence are not available;

(d) a resettlement or alternatives package has been prepared and communicated that provides a secure livelihood for the affected individuals and communities and fulfills the requirements of such affected individuals and communities given in the relevant laws and the policy of the Central Government;

(e) the free informed consent of the Gram Sabhas in the areas concerned to the proposed resettlement and to the package has been obtained in writing;

(f) no resettlement shall take place until facilities and land allocation at the resettlement location are complete as per the promised package;

Provided that the critical wildlife habitats from which rights holders are thus relocated for purposes of wildlife conservation shall not be subsequently diverted by the State Government or the Central Government or any other entity for other uses.

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(3) The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any State or Union territory in respect of forest land and their habitat shall be subject to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005.

(4) A right conferred by sub-section (1) shall be heritable but not alienable or transferable and shall be registered jointly in the name of both the spouses in case of married persons and in the name of the single head in the case of a household headed by a single person and in the absence of a direct heir, the heritable right shall pass on to the next - of - kin.

(5) Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed form forest land under his occupation till the recognition and verification procedure is complete.

(6) Where the forest rights recognized and vested by sub-section (1) are in respect of land mentioned in clause (a) of subsection (1) of section 3 such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.

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(7) The forest rights shall be conferred free of all encumbrances and procedural requirements, including clearance under the Forest (Conservation) Act, 1980, requirement of paying the 'net present value' and 'compensatory afforestation' for diversion of forest land, except those specified in this Act.

(8) The forest rights recognized and vested under this Act shall include the right of land to forest dwelling Scheduled Tribes and other traditional forest dwellers who can establish that they were displaced from their dwelling and cultivation without land compensation due to State development interventions, and where the land has not been used for the purpose for which it was acquired within five years of the said acquisition.

Duties of holders of forest rights.

5. The holder of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to:-

(a) protect the wild life, 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, forest and the biodiversity are complied with.

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CHAPTER IV

AUTHORITIES AND PROCEDURE FOR VESTING OF FOREST RIGHTS

Authorities to vest forest rights in forest dwelling Scheduled Tribes and other traditional forest dwellers and procedure thereof.

6. (1) The Gram Sabha shall be the authority to initiate the process for determining the nature and extent of individual or community forest rights or both that may be given to the forest dwelling Scheduled Tribes and other traditional forest dwellers within the local limits of its jurisdiction under this Act by receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim to such manner as may be prescribed for exercise of such rights and the Gram Sabha shall, then, pass a resolution to that effect and thereafter forward a copy of the same to the Sub-Divisional Level Committee.

(2) Any person aggrieved by the resolution of the Gram Sabha may prefer a petition to the Sub-Divisional Level Committee constituted under sub-section (3) and the Sub-Divisional Level Committee shall consider and dispose of such petition;

Provided that every such petition shall be preferred within sixty days form the date of passing of the resolution by the Gram Sabha;

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case.

(3) The State Government shall constitute a Sub-Divisional Level Committee to examine the resolution passed by the Gram Sabha and prepare the record of forest rights and forward it through the Sub-Divisional Officer to the District Level Committee for a final decision.

(4) Any person aggrieved by the decision of the Sub-Divisional Level Committee may prefer petition to the District Level Committee within sixty days from the date of decision of the Sub-Divisional Level Committee and the District Level Committee shall consider and dispose of such petition;

Provided that not petition shall be preferred directly before the District Level Committee against the resolution of the Gram Sabha unless the same has been preferred before and considered by the Sub-Divisional Level Committee;

Provided further that no such petition shall be disposed of against the aggrieved person, unless he has been given a reasonable opportunity to present his case;

(5) The State Government shall constitute a District Level Committee to consider and finally approve the record of forest rights prepared by the Sub-Divisional Level Committee.

(6) The decision of the District Level Committee on the record of forest rights shall be final and binding.

(7) The State Government shall constitute a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and to submit to the nodal agency such returns and reports as maybe called for by that agency.

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(8) The Sub- Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee shall consist of officers of the department of Revenue, Forest and Tribal Affairs of the State Government and three members of the Panchayat Raj Institutions at the appropriate level, appointed by the respective Panchayati Raj Institutions, of whom two shall be the Scheduled Tribe members and at least one shall be a woman, as may be prescribed.

(9) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions shall be such as my be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

Offences by members or officers of authorities and Committees under this Act

7. Where any authority or Committee or officer or member of such authority or Committee contravenes any provision of this Act or nay rule made thereunder concerning recognition of forest rights, it, or they, shall be deemed to be guilty of an offence under this Act and shall be liable to be proceeded against and punished with fine which may extend to one thousand rupees;

Provided that nothing contained in this sub-section shall render any member of the authority or Committee or head of the department or any person referred to in this section liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Cognizance of offences

8. No court shall take cognizance of any offence under section 7 unless any forest dwelling Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha or the Gram Sabha through a resolution against any higher authority gives a notice of not less than sixty days to the State Level Monitoring Committee and the State Level Monitoring Committee has not proceeded against such authority.

CHAPTER VI

MISCELLANEOUS

Members of authorities, etc., to be public servants

9. Every member of the authorities referred to in Chapter IV and every other officer exercising any of the powers conferred by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith

10. (1) No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act.

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(2) Not suit or other legal proceedings shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

(3) No suit or other legal proceeding shall lie against any authority as referred to in Chapter IV including its Chairperson, Member, member secretary, officers and other employees for anything which is in good faith done or intended to be done under this Act.

Nodal agency

11. The Ministry of the Central Government dealing with Tribal Affairs or any officer or authority authorized by the Central Government in this behalf shall be the nodal agency for the implementation of the provisions of this Act.

Power of Central Government to issue directions.

12. In the performance of tis duties and exercise of tis powers by or under this Act, every authority referred to in Chapter IV shall be subject to such general or special directions, as the Central Government may, from time to time, give in writing.

Act not in derogation of any other law

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13. Save as otherwise provided in this Act and the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, the provisions of his Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power to make rules

14. (1) The Central Government may, by notifications, and subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely;-

(a) procedural details for implementation of the procedure specified in section 6;

(b) the procedure for receiving claims, consolidating and verifying them and preparing a map delineating the area of each recommended claim for exercise of forest rights under sub-section (1) of section 6 and the manner of preferring a petition to the Sub-Divisional Committee and sub-section (2) of that section;

(c) the level of officer of the department of Revenue, Forest and Tribal Affairs of the State Government to be appointed as members of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee under sub-section (8) of section 6;

(d) The composition and functions of the Sub-Divisional Level Committee, the District Level Committee and the State Level Monitoring Committee and the procedure to be followed by them in the discharge of their functions under sub-section (9) of section 6;

(e) any other matter which is required to be, or maybe, prescribed.

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(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive session, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be or no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

K.N.CHATURVEDI
Secy.to the Govt. of India

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F.No. 17014/02/2007-PC&V
Government of India
Ministry of Tribal Affairs

Shastri Bhavan, New Delhi-110001 Dated, the 12th February2007

ORDER

Sub: Constitution of a Technical Support Group for framing Rules under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

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Consequent on the enactment of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, published in the Gazette of India, Extraordinary, Part II-Section 1 on January 2, 2007, the Central Government hereby constitutes a Technical Support Group under the convenorship of the Ministry of Tribal Affairs, for framing Rules under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for carrying out the provisions of the Act. The composition of the Technical Support Group shall be as under:

Non-official

1.	Shri S.R. Sankaran,	Chairman
2.	Prof. Madhav Gadgil,	Member
3.	Shri Raman Sukumar,	Member
4.	Shri Ram Dayal Munda,	Member
5.	Prof. K.C. Malhotra,	Member
6.	Shri Sanjay Upadhyaya,	Member
7.	Shri Rangan Dutta,	Member
8.	Prof. Nandini Sundar	Member
9.	Shri D. Bandopadhyay	Member
10.	Smt. Smita Gupta	Member
11.	Shri Kumar Shiralkar	Member

Official

12.	Director General, ICFRE, Dehradun	Member
13.	Representative of Ministry of Environment& Forests (not below the rank of Joint Secretary)	Member
14.	Representative of Department of Land Resources (not below the rank of Joint Secretary)	Member
15.	Representative of Ministry of Law & Justice (Legislative Department) (not below the rank of Joint Secretary)	Member
16.	Representative of Ministry of Panchayati Raj (not below the rank of Joint Secretary)	Member
17.	Shri Serjius Minz, Principal Secretary, Forest, Government of Chhattisgarh	Member
18.	Shri S.C. Negi, Secretary, Tribal Development, Government of Himachal Pradesh	Member

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19.	Commissioner &Secretary, Welfare of Plain Tribes and Backward Classes, Government Asom, Guwahati	Member
20.	Commissioner & Secretary, Hill Areas Department, Government of Asom, Dispur, Guwahati	Member
21.	Joint Secretary, Ministry of Tribal Affairs	Member-Convenor

2. The Technical Support Group shall prepare the draft Rules for carrying out the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 within a period of 3 months from the date of constitution of the Group and submit the same to the Government.

3. The Technical Support Group shall meet and work out its action plan for drafting the proposed Rules. For this purpose, the Technical Support Group may hold consultations with the State Governments/Union Territory Administrations individually to take care of State specific differences. The Technical Support Group may also hold regional conferences with experts to finalise the draft rules.

4. For the purposes of TA/DA, then on-official Members of the Technical Support Group will be treated as equivalent to Grade-I officers of the Central Government entitled to travel by air.

(Dr. Bachittar Singh)
Joint Secretary to the Government of India
Tele 011-2307 3817

Copy to:

All Official and Non-Official Members of the Technical Support Group.
Copy for information to:

1. Prime Minister's Office (Shri R. Gopalakrishnan, JS to PM), SouthBlock, NewDelhi;
2. Cabinet Secretariat (ShriVijai Sharma, Additional Secretary), Rashtrapati Bhavan, New Delhi
3. Secretary, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, New Delhi
4. Secretary, Ministry of Panchayati Raj, Krishi Bhavan, New Delhi
5. Secretary, Ministry of Rural Development (Department of Land Reforms), Krishi Bhavan, NewDelhi
6. Secretary, Ministry of Law & Justice (Legislative Department), Shastri Bhavan, New Delhi
7. Chief Secretary, Government of Chhattisgarh, Raipur
8. Chief Secretary, Government of Himachal Pradesh, Shimla
9. Chief Secretary, Government of Asom, Dispur, Guwahati.

(Dr. Bachittar Singh)
Joint Secretary to the Government of India

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