



Forest Rights Act, 2006 And The Sufferings Of Tribals Of Surguja, Chhattisgarh

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Abstract

Forest Rights Act, 2006 was adopted in 2008, to recognize and vest legitimate forest rights and vocation in forest to the Scheduled Tribes and Other traditional forest dwellers who have been residing in such forest from many generations but whose authority could not be put down on paper for record; to provide a framework for registering the rightful forest rights so conferred and characteristic of confirmation necessary for such acknowledgement and confirming in respecting of woodland land. It seeks to abrogate the injustice historically dispensed out to the communities who are dependent on forest and forest products by granting and bestowing in them the authority to make use, administer and to protect forest wealth and to lawfully hold forests land that they have been inhabited on and raising food and pets.

Keywords: Legitimate, Forest Rights, Schedule Tribe, Generations, Acknowledgement

Introduction

Surguja is the most densely forested, rural and tribal zone in the northern region of Chhattisgarh state. The region is rich in natural resources, ores and several resources. A number of coal and bauxite mines are located here. Continued mining activities (underground and surface) have affected the natural environment in varying degrees which led to various health problems in local inhabitants most of which belong to tribal community. The district of Surguja has a variety of tribes: from hunting tribes to those practicing settled agriculture. The major tribes of the district are: Oraon, Kanwar, Gond, Nagwanshi, Sawara, Kharia, Korba and Baiga. Among them Korba and Baiga are declared by the Government of India as Primitive Tribal Groups (PTG). They are designated as socio-economically the most backward communities that require special attention under the welfare schemes of the government.

The FRA (Forest Rights Act), 2006 which was withdrawn from the region on 8th Jan. 2016 and overriding the already existent PESA (Panchayat Extension Scheduled Area), 1996 has resulted in a beaoucoup of ramifications on the lives of the tribals. Despite protest from various sections of the society the State establishment did not kibosh from granting clearance to the RRVUNL (Rajasthan Rajya Vidya Utpadhan Nigam Limited), which would carry out the mining operations through Parsa Kante Collieries Ltd, a joint venture with Adani Mining Ltd. RRVUNL was granted an official approval for forest diversion on March 15, 2012 by the MoEFCC and subsequently, on March 28, by the Chhattisgarh government.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act is being implemented to ensure that the individual and community forest rights of the people residing in forest areas that “could not be recorded” are both recognised and “vested”. At the same time the Forest Conservation Act, 1980 lays out a regulatory process where existing forest land can be diverted for non-forest use, such as mining, after following a due procedure of site inspections, cost benefit analysis and expert appraisal.

Objective

To study the sufferings of the affected tribal population.

Methodology

The present study is carried out with the help of secondary sources which includes articles, journals and websites. Internet materials have been used extensively for this study.

Agony of the tribals

It is undeniable fact that the Environmental justice Organization and other supporters like Chhattisgarh Bachao Andolan (Save Chhattisgarh Movement), Jana-Abhivyaakti (People's Voice), Janhit (People's Welfare), All India Forum of Forest Movements, Hasdeo Arand Bachao Sangharsh Samiti struggled for tribals' rights has been a long one. In the era of kings and kingdoms, they enjoyed their freedom of living and livelihoods in the forest. The arrival of the British changed their fate for the worse as they were considered “encroachers” in their own land. This process of alienation of the tribals is aptly summed up as a virtual war against helpless innocents which continues to date.

The FRA has been in existence for a little over seven years now. Undoubtedly, it holds the promise to correct the historical injustices meted out to the tribals. However, there is considerable opacity regarding its implementation as is evident from the government's own statistics, news reports and research studies. There is a serious lack of awareness on the part of not only the beneficiaries but also among the concerned officials mandated to handle the implementation process on the ground. Rejection of claims made by the tribals and “other forest dwellers” on the basis of insufficient deposition of documents has often been cited as reason for the poor implementation of the act. In several places local political dynamics has not helped them in reaping the benefits of the act either.

It is observed, however, that in many regions the forest department's idea of whom to grant forest rights and the provisions of the act are not in tandem or are in conflict. The implementation of FRA has not been effective or delayed, for instance,

- (i) When the claims made by the "other forest dwellers" are numerous;
- (ii) Where the number of claims with the evidence of occupation of land in forest are either recent or after 25 October 1980;
- (iii) Where the demand for claims on the forestland is more than two and half hectares per nuclear family; and
- (iv) If the claims happen to be in the proximity of wildlife sanctuaries or parks.

The above mentioned points present an underlying pattern of the forest department's actions in sync with their consistent stance against the provisions like inclusion of "other forest dwellers" as beneficiaries alongside tribals. This was similar to its position against the extension of the cut-off date to 13 December 2005, and increasing the limit of maximum land claimable per nuclear family to four hectares. The department has also been against including protecting areas for land distribution under the FRA. The power of the forest department is formidable despite the FRA, 2006 rules notified on 6 September 2012 curtailing their role in the affairs of the act.

Socio-Economic

Tribal comprises a significant number of populations. The main tribes are Nagesiya, Oraon, Baiga, Kanwar, Panika, and Dand Korwa who depends upon agriculture. On the hilly areas grains like maize, barley, kodo, mahua, kutki, bajra, and gondali are grown. Among these primitive tribes are Pando and Korwa, who are still living in forest. Historically, the Pando tribes believes themselves as the member of "Pandav" clan of epic Mahabharata and the Korwa tribes believes to be member of "Kauravs" of Mahabharata. The tribal people are dependent on the various forest products like fruits, roots of various plants, lac and honey for their survival. They even collect tendupatta, char and amla, hawai, and sal leaves and sell it directly to various government and non government organizations as well as in the open market. Withdrawal the act illegally has affected their natural habitation. They no longer can collect woods and forest products to sell in the market. Once owner of the land, became landless slave to the capitalist mongers; leading a very miserable life to survive in the cruel world of technology and competitive 21st century. The land where they had spent whole of their life on the lap of Mother Nature is no more a suitable place to live in.

IFFCO (Indian Farmers Fertiliser Cooperative Limited), a farmers' cooperative, was asking that farmers leave their land and move elsewhere! The land required for the project site was 728.41 ha, spread over five revenue villages (Premnagar, Chandanagar, Namna, Raghunathpur and Abhaypur) and would affect 1,386 families. An additional 2,301.260 ha (in Tara coal block) and 1,898.328 ha (in Parsa East and KenteNasan coal block) of forestland was proposed for diversion by the M/s Chhattisgarh Mineral Development

Corporation and M/s Rajasthan RajyaVidyutUtpadan Nigam Limited (RRVUNL) for open cast coal mining.

According to the Census report of 1991, 2001 and 2011 the population has decreased from 26.68 to 24.67 and 19.66 respectively. Experts believe that the decrease in population is because of the deforestation and counter-insurgency activities in the region. While the tribal belt is witnessing a decline, inward migration may have led to an opposite trend in the capital and a few other towns. According to the CAG report 2013, the loss of forestland and the outward migration of the tribals to the cities are due to the industrialization. The mining in the region in the region has totally crippled the indigenous way of leading life. J MarianusKujur, head of department of tribal studies of Indian Social Institute, said: “The poverty-stricken tribals whose main habitat and livelihood, the forests, are being taken over for industrial development are left with no other option but to migrate to bigger towns and become cheap labour.” The tribals who are believed to be the most oppressed and exploited are because of the malicious intention of the corporates in alliance with the government.

Binayak Sen, an activist who extensively worked on the health among the tribals in the state believes that the decrease in fertility level of the people is due to living in constant fear and turmoil. Factors like malnutrition and chronic hunger affect fertility and result in population decline in the long run.

UN Guiding Principles on Internally Displaced Persons (IDPs), 1998, defines IDPs as: “internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.” Adivasis of Chhattisgarh and Orissa are ‘internally displaced persons’ in every sense of the term. However, while there is some extensive documentation of conflict-induced IDPs of Dantewada and Bijapur and communal riots-induced IDPs of Kandhamal (annexed IDMC report on IDPs in India), there is no mention of the Maoist conflict-induced IDPs of Malkangiri, Sundargarh and Keonjhar in Orissa or industrial conflict-induced IDPs of Jashpur, Raigarh and Sarguja in Chhattisgarh. These areas are inhabited by tribals, and going by the UN explanation on IDPs, these districts have been experiencing various forms of violence, armed conflict and violations of human rights, causing the tribal people to either flee their homes permanently or temporarily.

January 19, 2009 the Navbharath Times reported that the government had retreated from Prem Nagar and was planning to go to Salka, Murgaon and Narayanpur, some kilometres east of the earlier site. Local sources narrate how Salka, where there would be a power plant, was besieged by officials and the police for three days before the Gram Sabha meeting was conducted; no news persons or outsiders could enter the village and the agenda for discussion was set by IFFCO. The people from Salka have accepted compensation for their lands. Most villages near Salka are surrounded by good sal forests and are blessed with large mango, tamarind and mahua trees, all obvious signs of wealth and antiquity. The easy money

has also breed drunken youths who has no interest in preserving age-old property inherited from their ancestors.

The National Tribal Policy (point 6), states that “Alienation of tribal land is the single most important cause of pauperization of tribals, rendering their vulnerable economic situation even more precarious. Of even greater concern is the fact that the lands lost are usually the most productive.”

Environmental Issues

The Parsa East and Kanta Basan (PEKB) Open Cast Coal Mine Project (10 MTPA) and Pit Head Coal Washery (10 MTPA) are located in the Hasdeo Arand coalfield of Udaipur tehsil in Sarguja, Chhattisgarh. The region was once a ‘no-go’ area for mining, aiming to protect and conserve high density forest cover, biodiversity and wildlife. For the Project and Washery, 2711.034 ha of land have been allotted to Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUNL) for a period of 30 years and the Mine Developer and Operator (MDO), contract is with Adani Mining Private Limited. A 135 MW reject coal based thermal power plant linked to this project has also been proposed within the mine lease. The MoEFCC had issued a forest clearance for all of the above to RVUNL vide F. No. 8-31/2010-FC dated July 6, 2011. This approval under section 2 of the Forest Conservation Act, 1980, was granted against the Ministry’s own Forest Advisory Committee (FAC)’s final recommendation dated June 22, 2011. The FAC had rejected the proposals for both Tara and PEKB coal blocks, in view of the fact that the area proposed for diversion had “high ecological and forest value and the number of trees to be felled was very high, which did not justify diversion from conservation point of view.” However, the then Minister of Environment and Forests disagreed with the recommendations and granted the Stage-I or in-principle approval for forest clearance on June 23, 2011. The environment clearance for the same project was granted on December 21, 2011, under the EIA Notification, 2006. Subsequently, the Stage-II forest clearance for diversion of 1898.328 ha was granted on March 15, 2012.

In May 2015, Janabhivyakti, a non-governmental organisation (NGO) along with the Centre for Policy Research (CPR)-Namati Environmental Justice Program, and affected village representatives from the Hasdeo Arand Bachao Sangharsh Samiti (HABSS) initiated a community-led ground truthing process in the area impacted by mining operations. Once operations started, however, people in the area began facing severe impacts such as:

- An increased rate of road accidents caused by speeding trucks involved in the transportation of coal,
- Dust pollution, not only from the increased vehicular traffic, but also the unchecked burning of coal and
- Contamination of common water sources, e.g. rivers and streams, due to the discharge of mine waste from the project site.

The continuous generation of ash has affected all the villages in the periphery of the plant, spilling into the rice fields, polluting sources of drinking water, with no practical solution in sight. The Atem river also got polluted.

Question on the existence of Local Governance

The people of the Surguja district are concerned with the existence of the Gram Sabha and its importance before the eyes of the establishment. When it is already mentioned in the PESA, 1996 and FRA, 2006 that before implementing any policies in the villages the consent of the Gram Sabha is must, then why the authorities overlooked the existence of Gram Sabha?

Out of the blue, in March 2010, Premnagar's Gram Panchayat was notified as a Nagar Panchayat or city council. The people of Premnagar were no longer villagers! This entailed that the 'wide, special and significant powers of the Gram Sabha to which they belong, which are spelled out in the PESA Act,' no longer applied to them. Though such a change of status cannot legally happen without the consent of the Gram Sabha the notification had come and there was nothing to do but appeal against such action. When the village people objected to their Gram Panchayat being converted to a Nagar Panchayat, the additional collector stated that the notification of change had been published in Chhattisgarh Rajpatra (Gazette) on July 30, 2009; any objections were to have been raised within a month from that date. It is not difficult to link the fact that the people of Premnagar tehsil, in the special Gram Sabha Parishad created for the purpose opposed the establishment of the power plant and the coal mining in their region. The chief minister visited Ambikapur on July 8, 2009 and during the "janadarshan programme" at the guest house announced that the Gram Panchayat Premnagar will be changed to Nagar Panchayat, as a "gift" to the people of Premnagar. This declaration which in itself is totally unconstitutional was published in the local newspapers and was the first intimation to the concerned villagers about their changed status which would leave them without the protection of the Gram Sabha. That the move was directly related to the Gram Sabha's opposition to the power plant was anybody's guess. In Chhattisgarh a total of 67 Gram Panchayats has already been converted into Nagar Panchayats. Some of them have been clubbed together with neighbouring Panchayats – in order to comply with the norms of the Nagar Panchayat, such as a minimal population of 5,500 – which has affected about 150 Gram Panchayats in about 300 villages, almost all of them in PESA areas.

Ghatbarra village had claimed community rights over eight forest compartments. Of these, the tribals received title deeds for only three compartments. The remaining five compartments were under the Prasa East and Kete Besan coal blocks allocated to Rajasthan Vidyut Utpadan Nigam Limited (RVUNL) and operated by Adani Minerals Private Limited. Gram Panchayat of the Ghatbarra appealed to the State Level Monitoring Committee (SLMC) against the exclusion of the five compartments, but the committee took no action on the complaint.

Conclusion

The Forest Rights Act, 2006 was viewed as a revolutionary legislation in the Indian history which would address the agonies of the tribals who were deprived and denied of their fundamental rights. It was passed by the Parliament with the aim to restore the lost dignity of the tribals who are 'the poorest of the poor' in the country. But the very objective of legislating this act couldn't be achieved, particularly in Surguja. People are denied of their birth rights and they still continue to suffer the brunt of the Chhattisgarh government, who cancelled the already existing forest rights from the villagers of Ghatbarra, Surguja. Obstruction in the better implementation of the act has varied – Political interference, Bureaucratic ignorance and Non-State actor's pressure on the executing agency. The political interference is immense.

The violation of the provisions of the various acts such as the FRA, 2006 and PESA, 1996 has severely affected the tribals and so following suggestions can be taken into consideration for restoring the rights of the tribals over their land: -

1. The provisions of the FRA and PESA should be carried out in the strictest sense.
2. The lands which were illegally taken away from them should be returned.
3. A better rehabilitation policy should be framed for the affected families.

Political elites should refrain from interfering in the implementation of the Act and at the same time tribal-friendly bureaucrats should be posted to the area for better management of the public affairs.

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