

April 11, 2017

Dear Shri Narendra Modi ji,

**Sub: Order by Ministry of Environment and Forests (National Tiger Conservation Authority) March 28, 2017 which is a gross violation of the legal rights of tribals and forest dwellers in "critical tiger habitats."**

I write to you to express my deep dismay at recent developments which grossly undermine the legal provisions for the protection of forest dwelling tribal communities and other forest dwellers. I was a member of the Select Committee of Parliament on the Forest Rights Act. I was also directly involved in moving crucial amendments which became part of the Wild Life Protection Amendment Act 2006 which are of direct relevance to the matter at hand, which is why I am constrained to write to you.

The immediate issue is a directive from the Ministry of Environment, Forests and Climate Change, National Tiger Conservation Authority (NTCA), to all Chief Wildlife Wardens of all Tiger Range States dated March 28<sup>th</sup>, 2017. You may be surprised to know that this order which has wide ranging consequences has not been put up on the website of the Ministry and is a surreptitious move behind the backs of those who will be affected. I enclose a copy for your reference. There are apprehensions that this order is a prelude to the reported intention of the Government to bring amendments to the Act which will dilute the rights of tribals.

The subject matter of the order is given as 'Conferring Rights under Scheduled Tribes and Other Traditional Forest Dwellers ( Recognition of Rights) 2006, in Critical Tiger Habitats. It states: "in absence [sic] guidelines for notification of critical wildlife habitats, no rights shall be conferred in Critical Tiger Habitats... under the [Forest Rights Act]."

Please consider the following:

1. The Ministry of Environment, Forests and Climate Change and the NCTA have no jurisdiction over the implementation of the Forest Rights Act. The nodal agency for the implementation of the Act is the Ministry of Tribal Affairs,



but even its directives have to be in consonance with the Act and the Rules. Thus the MOEFCC has no right to issue such a circular in the first instance.

2. Under Section 38(O) of The Wild Life Protection Amendment Act 2006 in which the powers and functions of the NTCA are defined it is specifically stated “but no such directions shall interfere with or affect the rights of local people particularly the Scheduled Tribes.” Since the said order directly violates this provision it is illegal.

3. In Clause 38V (5) in reference to tribals and other forest dwellers living in such areas it is specifically stated no such conservation areas can be so designated “unless the process of recognition of the rights of tribals and other forest dwellers is complete.” On the other hand in clear violation, the said order stands this clause on its head and puts notification of critical wildlife habitats before the recognition of rights.

4. Under Sections 3(1) of the Forest Rights Act where the rights of tribals and other forest dwellers are defined it is stated that these rights are applicable “to all forest areas.” There are no exceptions. The said order on the other hand illegally wants to make an exception of tribal rights in areas which are designated as critical tiger habitats.

5. In areas declared as critical wildlife habitats there is a specific provision under Sec 4 (2) in the FRA. It is stated that conditional to various provisions detailed in the clause the rights of tribals and other forest dwellers may be “modified or resettled” but only after (a) “the process of recognition and vesting of rights” is complete. However the said order wants to ‘modify’ the rights of tribals and other forest dwellers without the process of recognising them in the first place, it is thus not “modification” of rights but denial of rights.

6. In fact guidelines for notification of critical wildlife habitats have nothing to do with forest rights. Whether the area is notified as a critical wildlife habitat or not, rights must be recognised in all areas designated as forest areas under the law.

7. I would also request you to review the actual process of the way that the critical wildlife/tiger habitats have been identified. Even in 2007 when the process started there were strong objections from a wide range of experts who opined correctly that the provisions of Section 4 of the Wild Life Act which details the identification process to be followed were violated. I request you to give directions that the identification of critical wildlife/tiger habitats are done



as per the provisions of law.

In sum, the NTCA's order is grossly illegal. Any officer of the State or Central government who obstructs the recognition of forest rights in this manner is committing a criminal offence under the Scheduled Tribes and Scheduled Castes (Prevention of Atrocities) Act and the Forest Rights Act and should be prosecuted.

I have previously written to you in regard to the illegal Village Forest Rules adopted by BJP-ruled Maharashtra and Madhya Pradesh, as well as the CAMPA Act that was passed despite the strong concerns of tribal organisations. This open contempt for laws that provide some protection for the rights of millions of tribals and forest dwellers is unprecedented.

I request you to ensure speedy withdrawal of this illegal order and action against the officials responsible. I also request you to ensure the full implementation of the rights guaranteed by the FRA.

With regards,

Yours sincerely,

Brinda Karat

**Shri Narendra Modi  
Prime Minister of India  
South Block  
New Delhi**

*Enclosed: 28 March, 2017, letter*



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Dated the 28<sup>th</sup> March, 2017