

# The Forest Rights Act 2006 And The Land Rights Of The Forest Villagers Of Assam

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*Abstract: Forest Villages in Assam are also known as “Bon Gaon” in local terms. Those villages were come into existence as part of the colonial forest management policy in India. The establishment of forest villages was solely relating to the question of assuring labour supply to the colonial forest department. In Assam also with the same purpose the forest villages were established. However along with those forest villages Assam has witnessed the emergence of forest villages in the post-independence period also. That second category of forest villages were mainly the outcome of the rehabilitation of the flood affected people, e.g the forest villages of the Jokai Reserved Forest of Dibrugarh district are established for the purpose of rehabilitation. There is no any significant difference between the pre and post independent forest villages of Assam. They are subjected to the same terms and condition which were framed by the colonial masters. However earlier they had to render free physical service to the forest department but after independence this free labour service was abolished. But still they do not enjoy legal land rights over their land which causes so many difficulties for them. Notably the FRA 2006 which is mainly relating to the land rights of the forest village community came into force in Assam since 2008, but due to some significant reasons the implementation of this particular Act is not satisfactory in the state.*

*Keywords: Forest village, Forest Rights Act 2006, Land rights.*

## I. INTRODUCTION

By the term villages people generally refer to the revenue villages, forest villages are generally do not take into consideration. They are thought to be the subject of the Forest Department. As a result of which they are kept outside the developmental programmes. Again due to the lack of legal land rights, the forest villagers cannot take loan from the bank and other financial institution. Apart from all these, they also have to undergo untold sufferings like forceful eviction due to the forest conservation programmes. Because most of the times they are portrayed as the encroachers of the forest land. However during the 10<sup>th</sup> five year plan (2002-2007) of India, the Ministry of Tribal Affairs (MoTA) launched a programme for integrated development of the tribal people who had been living in the forest villages since long period. Assam also received fund under this special programme for the forest villages of the state but the fact is that the flow of fund was irregular in nature which made it a half hearted-approach.

Nevertheless in 2006 the notable Forest Rights Act (FRA) came into existence in India which became operative in Assam since 2008. But the current status of the Act in Assam brings to notice some disturbing factors which show that the implementation of the Act is ineffective in nature.

## II. OBJECTIVE

The main thrusting point of this article is to focus on the land rights of the forest villagers with special reference to the FRA 2006 in Assam.

## III. DISCUSSION

When Assam forestry came under the purview of the British Raj, the system of ‘forest village’ also found its existence in the province of Assam. But in Assam unlike the

rest part of the country the forest villages were mainly drawn from the peasant community. The Britishers allowed the landless local peasants to settle down within the reserved forest in exchange of their free physical labour. Notably apart from the colonial legacy some of the forest villages in the state of Assam came into existence as per the rehabilitation scheme of the government. For example: in Dibrugarh district of Assam almost all the forest villages were established as per the rehabilitation scheme of the Government. The great earthquake which took place in the year 1950 resulted in the tragic incidences of flood, soil erosion in the state of Assam which ultimately rendered a large number of people landless. Those landless people were rehabilitated in the reserved forest areas of the state by establishing forest villages.

At present in India there are in total 2,474 forest villages spread over 12 states as per the record of the Ministry of Environment and Forest (MoEF). The name of those states are-Assam, Chattisgarh, Gujrat, Jharkhand, Meghalaya, Madhya Pradesh, Mizoram, Orissa, Tripura, Uttarakhand, Uttar Pradesh and West Bengal. As per the official record, the number of forest villages in Assam is 499. But it has been claimed that unofficially the number of forest villages is more than 499.

Like the other parts of the country in Assam also during the initial phase of post independence era no any effective measures taken for the development of the forest villages. However in some states of India on the basis of the recommendation of the Ministry of Agriculture (23<sup>rd</sup> March, 1984) steps were taken for converting the forest villages into revenue villages but in Assam no such efforts were made for the forest villages. The situation of the forest villagers however became more complex with the implementation of the conservationist agenda of the country. It must to note here that the conservation of forests was started to be seen as one of the important component of national interest of India since 1970s due to the growing pressure exerted by the various environmental movements which started to come up during that period. The Chipko movement was one of such great environmental movement in India.

Since 1970s the Government of India has formulated so many policies and programmes relating to forest and wildlife conservation. Amongst all those measures, the Forest Conservation Act 1980 is a noteworthy one. It can be said that the trend of forest conservation in India got more strengthened by the enactment of the Forest Conservation Act, which came into force on the 25<sup>th</sup> October, 1980. The Forest Conservation Act 1980 made it mandatory for the state governments to seek permission from the central government before any conversion of forest lands for "non-forestry purpose". This particular Act did not recognize the rights of the forest dwelling communities who live in the forest land and dependent on the forest resources for their survival. The conservation Act of 1980 created many difficulties for the forest dwellers of the country. Because the forest conservation issue always clashed with the livelihood needs of the forest villagers.

The Forest Conservation Act 1980 soon got replaced by the National Forest Policy 1988 (NFP). Unlike the Forest Conservation Act 1980, the NFP 1988 recognized the customary rights of the forest dwelling communities. In pursuance of the NFP 1988, the government of India issued a

'circular' in June 1990 for involving the village communities in the regeneration task of the degraded forest lands of the country. This step gave birth to the concept of Joint Forest Management (JFM) in India. Thus the JFM programme was not only concerned for forest regeneration activities but also at the same time gave due importance to the needs of local communities who dependent on forest for their survival. In other words the JFM scheme addressed the livelihood needs of the forest villagers by allowing them to use the non timber forest produce in exchange of their labour in forest regeneration activities. Assam also implemented this particular JFM policy in the state. But it was found that the JFM scheme was mainly confined to the afforestation activities and the needs of the forest villagers were not well addressed in the scheme.

Though the NFP 1988 and the JFM programme of 1990 took initiative for acknowledging the rights of the forest dwelling community but they failed to address the main problem of the forest villagers i.e. the issue of their right on the forest land. Regarding the land rights of the forest villagers the notable step has been taken in the year 2006 when the Government of India formulated the Forest Rights Act (FRA), which came into force in 2008. The FRA 2006 is said to be the landmark in the forest history of India, as for the first time attempt has been made for undoing the historical injustices to the forest dwellers.

The FRA 2006 has also been implemented in Assam. It must to note here that prior to the FRA 2006, the Government of Assam has passed another notable forest policy named as Assam Forest Policy (AFP) in the year 2004. In 2002 as per the order issued by the Ministry of Environment and Forest (MoEF), a large scale eviction campaign carried out in some reserved forest areas of Assam which ultimately resulted into the untold sufferings by the forest dwellers of the state. This eviction process called for a serious reprisal in the Doyang and Tengani regions of Assam which came to known as the 'Doyang-Tengani Peasant Movement'. The protesters of this movement demanded for legal land rights on the forest land.

The movement initiated by the peasants of Doyang-Tengani exerted so much pressure on the government of Assam which ultimately resulted into the formulation of a new forest policy in the state known as the AFP 2004. In order to sort out the land problem of the forest dwellers, the AFP 2004 made a provision that the government should regularize the pre-1980 settlements in the forest areas. The AFP 2004 also expressed deep concern over the forest villages of the state and stated that the Assam government should take necessary steps to convert the forest villages into revenue villages as per the guidelines of the MoEF of the government of India. But unfortunately no any asinificant effort was made as per the recommendations of the AFP 2004. Again with the implementation of the FRA 2006 in the state of Assam, the AFP 2004 became obsolete in the state. However in the year 2005 the Chief Minister of Assam, Mr. Tarun Gogoi also appealed the MoEF of centre to convert the forest villages of the state into revenue villages but his proposal was turned down by the forest department.

The FRA 2006 came into existence since 1<sup>st</sup> January of 2008 and Assam government has given the order for the implementation of the Act in the state since December 2008.

In addition to this the day of 28<sup>th</sup> February, 2009 was declared by the state government as the deadline for the submission of claims for land rights by the forest villagers and later on the deadline was extended to 7<sup>th</sup> April, 2009. Like some other parts of the country, in Assam also the implementation of the FRA 2006 was not satisfactory. The National Forest Rights Committee which was constituted on July 2010 for reviewing the FRA 2006 in the country also came to Assam for four day visit with the purpose of review of the implementation of the FRA 2006 in the state. The committee had conducted public consultations with both ST forest dwellers and OTFD community of the state and took their opinion on the implementation of the FRA 2006 in the state. Their participation in this consultation was facilitated by the Krishak Mukti Sangram Samiti(KMSS). Notably the KMSS is a nongovernmental organization which emerged in the context of Doyang-Tengani Peasant Movement

It must to note here that the Chief Secretary during the time when the committee visited Assam for reviewing the Act was very much critical about one particular clause of the FRA 2006 which advocates for conversion of the forest villages into revenue villages. He argued that the forest villagers were already availing the benefits without belong to the revenue villages. Further he argued that this particular clause will denotify the Forest Conservation Act 1980. The same type of view was also put forwarded by the then Principal Secretary of the Revenue Department of the government of Assam.

Along with the apathetic attitude of the state Forest officials, the decision of the Gauhati High Court which was delivered in the year 2009 was also responsible for the slow progress of the FRA 2006 in the state. The court given the order that in Assam there were no forest dwelling communities residing in the state and therefore the claims for rights made under FRA 2006 was invalid in the state. This particular decision of the High Court of Assam has further strengthened the forest official's unwillingness to implement the Act in the state.

Apart from the above mentioned difficulties, another major factor which causes the slow progress of the FRA 2006 in the state of Assam is the non relevancy of some of the provisions of the Act in the state. The FRA 2006 defines the forest dwellers (both ST and non ST), as those community who have been living in the forest and dependent on the forest land for bona fide livelihood needs, but this particular definition on the forest dwelling community does not hold true in case of the forest dwellers of Assam. Because in Assam, the forest dwellers (both ST and non ST) are not the gatherers whose livelihood depends primarily on the forest, rather they are the settled agriculturalist in nature. Agriculture is the main source of their livelihood and their dependency on the forest products is only supplementary. The circumstances caused by the natural calamities made them to move towards the forest land for settlement. In other words land scarcity is the main motivating factor behind such human settlement in the forest villages of Assam. Even during the colonial times also it was the landless peasants, who settled down within the reserved forest areas. But this particular relationship between the men and forest of Assam did not take into consideration while formulating the FRA 2006.

Particularly the situation of the non tribal forest villagers (Other Traditional Forest Dwellers in terms of FRA 2006) of Assam is more miserable. As mentioned earlier the definition of the forest dwellers (both ST and non ST) put forwarded by the FRA 2006 do not bear relevancy in case of Assam. But the fact is that like some other parts of the country, in Assam also the ST forest dwellers have now got land rights under the FRA 2006. But so far the OTFD community of the state is concerned; they are still lagging behind in getting their land rights. Because though the FRA 2006 stands for both ST and OTFD community but the Act has been mainly taken as the tribal development programme. In Dibrugarh district also, only the tribal forest villages are awarded land rights under the FRA 2006 till now and no arrangement has been made for granting land rights to the OTFD community of the district.

It must to note here that there is one more particular provision in the FRA 2006 which goes against the interest of the OTFD community of Assam, particularly of those forest villages, which came into existence in the post 1950 period. In other words Section 2(o) part of the FRA 2006 has defined the OTFD as that community who have been residing in forest for three generations prior to 13<sup>th</sup> December, 2005 and dependent on forest land for bona fide livelihood needs. In other words people belong to the OTFD category have to provide 75 years of residential proof (prior to 13<sup>th</sup> December, 2005) in the forest land. But it becomes impossible for the forest villagers of those lately established forest villages to provide 75 years of residential proof as most of these villages came into existence after 1950's. However this condition of providing 75 years of residential proof of FRA 2006 was objected by the National Forest Rights Act Committee which came to Assam for reviewing the implementation of the Act, but the then Director General of forest refused to accept this recommendations of the committee

Along with those controversial provisions of the Act, the conservationist group of the state also creates lot of obstacles in the path of the implementation of the FRA 2006 in Assam. They have asserted their grievances against the implementation of the Act. According to them the implementation of the FRA 2006 leads to more deforestation in Assam. However there is no denying that forest land of Assam comes under the severe form of deforestation and illegal encroachment. For example: the illegal encroachment of the immigrant muslim settlers into the buffer areas of the Kaziranga National Park (KNP) and the Bodo tribal inhabitants into some other protected areas of the state have posed a great threat for the forest lands of the State. However the issue of illegal encroachment in the forest land of the state got serious attention during the time when the National Forest Rights Committee visited Assam with the purpose of evaluating the implementation of the FRA 2006 in the state. The committee observed that illegal migrants from the Bangladesh started to occupy the land of the Protected Areas of the State particularly the Kaziranga National Park.

Thus it can be said that illegal encroachment in the forest land of Assam has posed a serious threat towards the forestry of the state. So as soon as possible it should be checked by the government. It is the duty of the state Forest department to take strict steps to stop the illegal encroachment in the forest land of the state. But at the same time it is also the

responsibility of the state forest officials to ensure the safeguard of the forest villagers while identifying the encroachers in the forest land. Because the forest villagers are not the encroachers, they are genuine settlers in the forest land. Therefore, the government should carefully shoulder the duty of differentiating between the encroachers and genuine forest villagers. Along with this the government should also look into the specificity of the OTFD community of the state and accordingly take measures so that they get their land rights. Like the other citizens they are also the citizens of this country, so denial of rights to them is the clear violation of their human rights.

#### IV. CONCLUSION

Thus it can be said that it is the urgent need of the hour to amend the FRA 2006 so that the genuine forest villagers particularly the OTFD community of the state will get their land rights. But practically it is not possible for one state to amend the Act as it is a central Act, so Assam has to individually take step for its forest villages. As already mentioned earlier the relationship between people and forest in Assam is different from the rest part of the country and this particular relationship must be taken into consideration before making any step for the forest villagers of the state. In addition to this the government of Assam should also take measures for creating alternative employment opportunities for the forest villagers as most of them are agriculturalist in nature. It will help in reducing the burden on the forest land and thereby help in forest conservation process.

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