

# Himachal Van Adhikar Manch

*Village- Nagan; PO- Kharanal; Thesil- Baijnath; Distt- Kangra-176115*

## **Recommendations of Himachal Van Adhikar Manch to resolve forest land occupations by landholders in the light of the State Government's constitution of a High Level Committee to deal with 'eviction' from 'encroachments**

**(as per resolution passed on 5th February 2017, at Shimla)**

The Himachal Van Adhikar Manch, a state level forum of social organisations advocating the implementation of the Forest Rights Act 2006, welcomes the decision of the State Government to constitute a High Level Committee to review and resolve the issue of eviction of encroachment of less than 10 bigha cases in Himachal.

It is our due submission that the implementation of the Forest Rights Act 2006, is the key legal option that can be utilised by the government to provide the required protection to the eligible occupants of forest land. Last month the Himachal Van Adhikar Manch petitioned the Chief Minister of Himachal Pradesh with the same submission. (A copy is attached.)

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, provides the much needed relief to those who had years of “occupations” on forest land for their bonafide livelihood need, but were under threat of evictions because of Forest legislations in the country, like the Forest Conservation Act 1980, the Wildlife Protection Act 1972 and other orders of the Supreme Court which made diversion of forest land for non forest purposes impossible without permission of the Central Government.

In Himachal, the call by the Government in 2002 to 'regularise' forest occupation was untenable given this legal context and any future efforts on similar line can be challenged under any court of law, as it happened to the 2002 régularisation Policy. In the light of the government's appreciable decision to resolve the contentious encroachment issue, it is imperative for the government to note that **the FRA is the only legal option available to the state government to provide relief to land occupiers facing the threat of eviction because of the Shimla High Court Order of April 2015. However, it's important to note that this Act is neither meant to distribute land nor to regularize the encroachments. The Act provides legal title (heritable but no right of sale) to the individuals and communities over the access and usage of forest resources.**

The other important feature of Forest Rights Act 2006, was to empower the local communities to be able to give permission for village development activities under Section 3 (2) of the said Act. Section 3 (2) of the Act has already been implemented by the State of Himachal Pradesh with a clear instruction from the Chief Minister in the whole of Himachal, as per the guidelines from MoTA., (letter dated 14<sup>th</sup> December 2015). **In a similar way, the state government should show it's commitment to implement the section 3(1) of the Act which recognizes individual and community rights for their bonafide livelihood needs.**

Even in a developed state like Kerala where forest area is 11309.74 sq kms, less than Himachal, 24,599 individual titles that have been issued for 33,018.12 acres of forest land. In Himachal which has a huge population of approximately more than 1.5 lakhs families of Gaddis, Gujjars, and other pastoral communities and medicinal plant collectors who are directly dependent on forest land for livelihood and 1.65 lakh families who have applied under 2002 encroachment regularisation policy

*Contact details: Akshay Jasrotia- 9805030820;; Uma Mahajan; - 9806000003; Kuldeep Verma 9816980644  
Prakash Bhandari- 8627085766*

## Himachal Van Adhikar Manch

*Village- Nagan; PO- Kharanal; Thesil- Baijnath; Distt- Kangra-176115*

of Himachal Government are possible beneficiary under this Act, so there is a huge scope for the implementation of the Act. It is unfortunate that Himachal has lagged behind in the implementation of this Act so far. It is high time that the government does a course correction in the matter.

According to the Act, the State government has constituted Forest Right Committees (FRCs) in all the villages in Himachal. But some of the bottlenecks in the implementation of the Act are as follows; first, Absence of any knowledge of the Act at not only at community but at the line department also; second, where there is some understanding of the Act still people are not filing claims because of fear of the eligibility criteria which was issued by the government in 2011 (and is against the provision of the Act) and third, wherever communities have filed their claims under the Act, no action has been taken and the claims are pending at the SDLC and DLC level for the last 3 to 4 years, which is highly demoralizing both for the community members and the line staff department involved in the implementation of the Act.

**For speedy and synergetic implémentation of the Act, be it with a view to expedite the resolution of the encroachment issue or streamline the implementation process, Himachal Van Adhikar Manch request the following action from the Government side:**

1. The government should withdraw the eligibility guidelines under FRA 2006, which were circulated through minutes of the meeting held under the chairmanship of ACS (Forests) to the Government of HP on 7<sup>th</sup> March 2009. In this guideline the Forest Department had set 7 point criteria, which is in contravention of the FRA, 2006. We request that the matter be put forth to the Cabinet and directions for withdrawal be issued as early as possible.
2. Under FRA 2006, it is the responsibility of the State Government to provide all necessary information and resource materials related to the Act and it's procedural aspects to all FRCs and gram sabha members. The State Government should conduct the required trainings for the dissemination of all relevant information and resource material at the earliest.
3. The government should issue clear instructions to the chairpersons and members of SDLCs and DLCs of Kangra, Sirmour, Chamba, Bilaspur, Kullu and Kinnaur and others districts to take action and settle claims received under FRA 2006.

Thanks and Warm Regards

Akshay Jasrotia

Himachal Van Adhikar Manch

Village- Nagan

PO- Kharanal

Thesil- Baijnath

Distt- Kangra-176115

*Contact details: Akshay Jasrotia- 9805030820;; Uma Mahajan; - 9806000003; Kuldeep Verma 9816980644  
Prakash Bhandari- 8627085766*