How misinterpretation of FRA by officials lead to the denial of social benefits to Tamil Nadu's tribals

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SUMMARY

Tamil Nadu boasts of relatively high human development indicators. But it has also created obstructions that prevent some of its most vulnerable citizens from making a living.

- The state government has failed to initiate measures for the convergence of FRA titles with other state schemes, leading to harassment of the few tribals who do manage to get titles issued. The lack of clarity among the revenue, forest and tribal welfare departments about their responsibilities lead to stalemates and inter-departmental blame games.

- The state continues to be among the worst when it comes to the implementation of the Forest Rights Act, 2006 (FRA). It was only in January 2018, more than a decade after the act was introduced, that the state finally issued its first FRA land titles.

- There is a need to conduct awareness campaigns to educate the officials to make them aware of the true intent and goal of the act.

- Increasing coordination between states and sharing of best practices needs to be focused on. The state bureaucracies working in silos is a continuing problem as solutions found elsewhere still awaits discovery in states like Tamil Nadu.
BACKGROUND

Tamil Nadu is the fifth-worst among 20 major states in the number of individual titles granted under FRA.

According to the latest data from November 30, 2022, out of the 33,775 individual applications received at the Gram Sabha level, only 8,144 individual titles have been issued so far. This rejection rate is much more than the national average of 50%.

As per the latest available data, no new individual FRA titles have been issued by Tamil Nadu since November 2020. Even when land titles are issued, lack of supporting measures means that the tribals seldom enjoy their assured rights.

a. Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006

Enactment of the 2006 Act, referred to as the Forest Rights Act, 2006 was meant to decriminalise the livelihood of tribals in India and undo the historical injustice done to the forest-dwelling communities. Under the provisions of FRA, tribals and forest-dwelling communities could legally own forest land.

Under the act, Tribals who had been residing in the forests prior to December 13, 2005, and the non-tribals who had been residing in the forests for three generations i.e., for 75 years as on December 13, 2005, should be given land rights titles.

b. Objection in the Madras High Court

In February 2008, the Madras High Court ordered the state not to issue any pattas under FRA in response to a writ petition challenging the act.

Later, in April 2008, the court clarified that the state could go ahead with the implementation of the act. However, it directed that “before the certificate of title is actually issued, orders shall be obtained from this Court”.

While similar restrictive orders in states such as Andhra Pradesh and Odisha were challenged by the governments and vacated in 2009, Tamil Nadu treated the order as a stay on FRA itself.

It was only in 2015 that the Adi Dravidar and Tribal Welfare Department of Tamil Nadu filed an interlocutory application before the Supreme Court to remove the stay. This happened at the urging of the Union Tribal Affairs ministry, which had petitioned for all such cases to be shifted to the apex court.

c. FRA implementation in Tamil Nadu
In February 2016, the Supreme Court set aside the Madras High Court’s order of April 2008. According to a government press release, the court said that “when the FRA is being implemented across the entire country, there is no need for such an order to restrict its operation in only one State”.

But despite the removal of restrictions, the implementation of FRA in Tamil Nadu remained poor. A 2017 assessment found that Tamil Nadu was the worst-performing state in the country when it came to the implementation of FRA—it had not issued any titles at all under the act till then.

d. Blocked social benefits
Since the issuance of FRA titles, tribal farmers, aspiring to pursue farming have been approaching different departments to avail benefits extended to farmers such as free electricity for agricultural motor pump sets.

Confusion is rampant on the ground even when FRA titles are issued. Forest officials misinterpret the act and claim that the title only confers some rights, not full ownership. Other departments plainly refuse to recognise the titles themselves.

Tribals are denied housing benefits otherwise provided by the state or even roads to the hamlets they reside in.

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EMERGING ISSUES
THE IMPACT OF POLICIES ON THE GROUND

- The delay in the issuance of FRA titles is a continuing problem apart from the high rejections of claims filed by tribals.

- The inimical attitude of the forest department toward FRA applicants continues to be a problem on the ground.

- The state government has failed to initiate measures for the convergence of FRA titles with other state schemes, leading to harassment of the few tribals who do manage to get titles issued.

- The lack of clarity among the revenue, forest and tribal welfare departments about their responsibilities lead to stalemates and inter-departmental blame games.

- With time and increasing dependents, claims under FRA have become untenable.

- The ongoing legal challenge in the Supreme Court aiming to stall the implementation of the act has the potential to derail any possible progress in Tamil Nadu as well as across the country.
RECOMMENDATIONS

• Lack of awareness on the process to be followed for FRA implementation is a major hurdle. There is a need to conduct better awareness campaigns, first, to educate the officials and then the tribals themselves.

• Strictly following the roles allotted to Grama Sabhas, sub-district level committees (SDLCs) and district level committees (DLCs) with a focus on the paramountcy of the grama sabhas will help avoid erroneous rejections.

• Forest officials take a disproportionate role in deciding matters related to FRA on the ground and Tamil Nadu’s tribal welfare department is seen as a powerless coordinating agency. The department officials need to be encouraged to take a more proactive role.

• Coordination between states for sharing the best practices remains crucial. Odisha has devised ways to ensure that FRA title holders can access government schemes by bringing rules for the execution of the same. It is unheard of by Tamil Nadu’s bureaucracy.

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