

National Commission for Scheduled Tribes flags alleged discrepancies in Forest Rights Act compliance for Great Nicobar Project

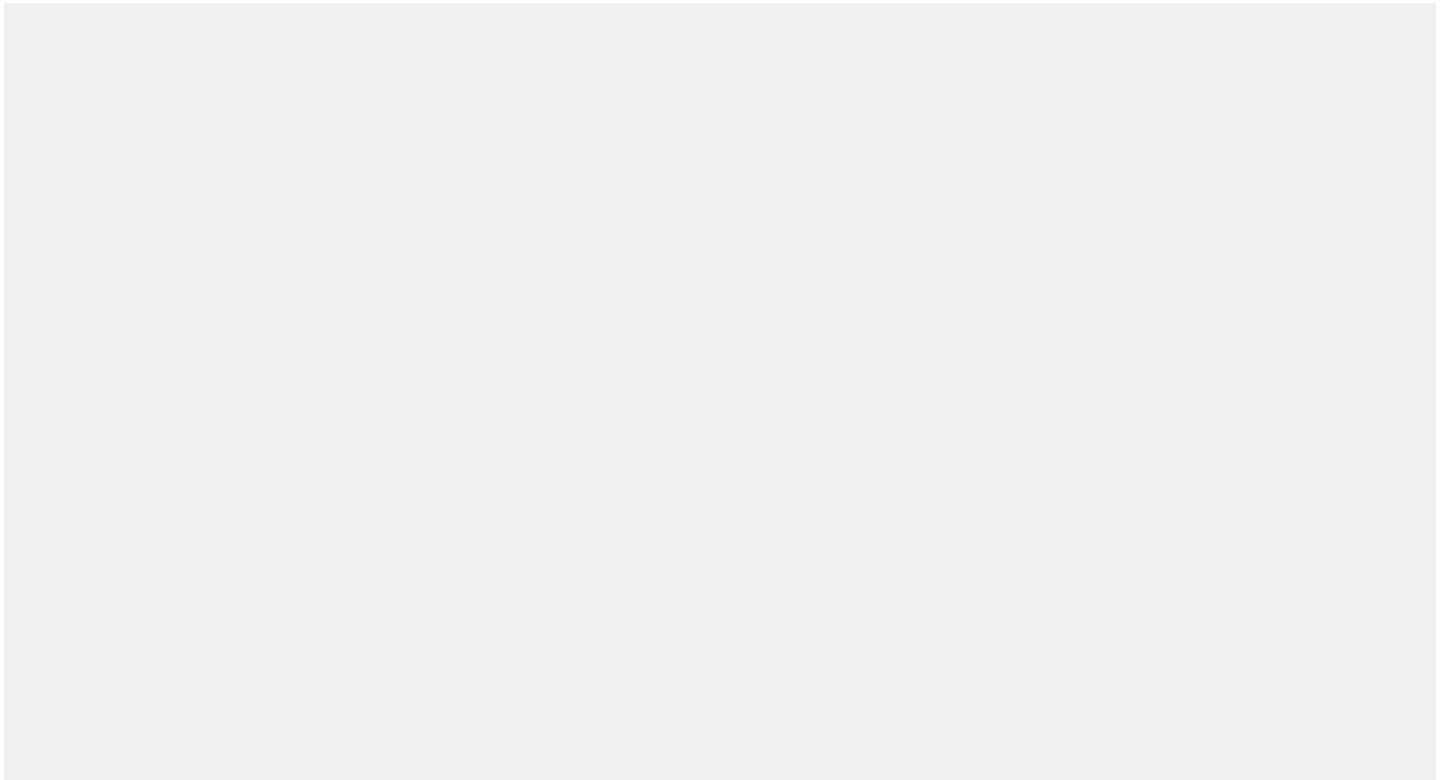
Retired bureaucrat writes to Scheduled Tribes panel; government records show no FRA implementation in the Andaman and Nicobar islands

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ABHINAY LAKSHMAN

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The Stage-1 clearance for the project was granted in October 2022, two years after the application was received.

The project being implemented by the Andaman and Nicobar Islands Integrated Development Corporation (ANIIDCO), includes a transshipment port, airport, power plant and greenfield township, for which more than 8 lakh trees are set to be felled.

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The government has said in Parliament that the project intends to use about 7.114 sq. km of tribal reserve forest land, where the **Shompen, a Particularly Vulnerable Tribal Group (PVTG)**, and the Nicobarese reside. It insisted that locals will not be displaced for the project.

The NCST, in its notice sent this month to the island administration, has sought a detailed action-taken report on the alleged procedural lapses within 15 days. The Commission said it was taking cognisance of a complaint from retired bureaucrat E.A.S. Sarma, who was the former Tribal Affairs Secretary to the Andhra Pradesh government.

Mr. Sarma had said the Constitution mandated that the government consult the NCST on any matters involving the rights of tribespeople. He went on to allege that the panel was

not consulted for the GNI project and that there were alleged violations of the FRA as well.

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The NCST's intervention in the project comes even as Tribal Affairs Minister Arjun Munda is currently on a tour of the islands discussing ways to better implement the tribal welfare schemes and oversee the PM-PVTG Mission.

According to Rule 6(3)(e) of Forest Conservation Rules-2017 (FCR), any diversion of forest land would first require the District Collector to recognise and vest rights to locals under the FRA. Only then do the rules permit authorities to seek consent of the now-rights-holding gram panchayats for the diversion of this land - a provision envisioned to give primacy to rights of indigenous forest-dwelling communities.

However, monthly progress reports filed with the Ministry show that the district administration did not receive or process a single claim over forest land under the FRA in the 26-month period between October 2020 - when ANIIDCO first applied for clearance - and November 2022, even after clearance was granted.

Instead, a special Gram Sabha meeting was called for on August 12, 2022, with less than a day's notice to villagers of Laxminagar, Gandhi Nagar and Campbell Bay panchayats. At this special Gram Sabha, a resolution was purportedly passed, consenting to diversion of the forest land adjacent to their villages for the purpose of the project.

On August 15, the Sub-Divisional Level Committee at Campbell Bay convened, took a No-Objection Certificate from the Shompen tribespeople through the proceedings, and passed the file to the District-Level Committee. The Shompen were represented in the meeting through the administration's Andaman Adim Janjati Vikas Samiti (AAJVS).

Weeks after the Stage-1 clearance was granted, the Tribal Council at Campbell Bay withdrew the consent granted by the Gram Sabha, alleging that the minutes of the meeting were typed after securing members' signatures. Meanwhile, rights bodies and experts argued whether AAJVS could ever truly represent the Shompen, given that it is a society set up and run by the administration.

Significantly, while opposing the FCR-2022, which had done away with the consent clause altogether, the NCST had in October last year written to the Environment Ministry flagging a similar problem with FRA compliance in other projects that required diversion of forest land.

The Commission had cited a draft study conducted by the Ashoka Trust for Research in Ecology and Environment (ATREE) for this. The trust had studied 14 forest clearances for mining projects from 2014-2018 for which documentation was available. The ST panel had noted that the study showed how all sites were inhabited by forest-dwellers but nowhere was the CFR (Community Forest Rights) process completed under the FRA before obtaining the consent certificate.

Sharachchandra Lele, who led the draft study, said, “What seems to be happening in the Nicobar case is similar to what we have observed in the 14 mining cases we had studied.”

Interestingly, the Andaman and Nicobar administration had reported nil implementation of FRA ever since it had started filing its monthly progress reports to the Ministry. The justification of the administration has been that the islands have the **Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Act, 1956** (PAT56). It added that this already provides for the “full protection of the interests” of forest-dwelling Scheduled Tribes. “So there is no claim as such for settlement under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006,” the administration has said in every monthly report.

Under the PAT56, a significant portion of the forest land in Great Nicobar has been marked as a Tribal Reserve, over which local tribespeople have been given rights to use and collect resources as and when needed for their daily sustenance. However, the power of notification and de-notification of the land as a Tribal Reserve is solely with the administrator of the islands under PAT56.

But the FRA provides for the recognition of wider community rights over forest land. The legislation allows forest communities the right to control and manage the use of the forest land over which they hold titles and their consent is mandatory for diverting it.

The Ministry of Environment, Forests and Climate Change, the Ministry of Tribal Affairs, and the island administration have not yet responded to *The Hindu's* queries on allegations of discrepancies in FRA compliance.

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