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19/12/17



GOVERNMENT OF KERALA

**Abstract**

Forest & Wild Life Department - Interim order dated 04.10.2017 of the Hon'ble High Court in RP.No.584/2017 in WP(C) No 11389/2015-complied with - orders issued.

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FOREST & WILD LIFE (C) DEPARTMENT

GO(Rt) No. 475/2017/F&WLD

Dated, Thiruvananthapuram. 12.12.2017

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Read: Interim order of the Hon'ble High Court dated 4.10.2017 in RP No.584/2017 in WP(C) No.11389/2015.

**ORDER**

The Hon'ble High Court as per the interim order dated 4.10.2017 in RP No.584/2017 in WP(C) No.11389/2015 directed the Government to take a final decision on the recommendation made by the District Collector, Thrissur in pursuant to the decision taken in the meeting held in his Chamber on 02.08.2017 concerning the alternative land to be assigned to the members of Scheduled Tribe communities who were evicted for the Chimminy dam project of the Irrigation department, within six weeks from the date of receipt of a copy of the order.

In 1992 for construction of the Chimminy Irrigation Project, 17 tribal families were relocated from the dam site after obtaining their consent and they were promised an area of 20 acres outside forests. While relocation was actually effected the Revenue/Irrigation Department procured revenue land and provided 12 acres 5-8 cents in Varantharapilli Village, Nadampadam area to the displaced 17 families. The displaced tribals filed Writ Petitions No.2270/09, 2261/09 for providing all facilities as agreed to by the Government of Kerala in 1992. Subsequently, a meeting under the Chairmanship of the Hon'ble Forest Minister was held on 03.03.2016 wherein, an assurance was given that 10 acres of land would be provided from the Peechi Wildlife Sanctuary instead of 7.5 acres as per FRA as well as 1 acre for a cemetery. Based on this assurance, the petitioners filed another Writ Petition No.11389/2015 impleading the Forest Department with the prayer that the Forest Department may provide the land as assured in the meeting dated 03.03.2016. The Hon'ble High Court have directed that the assured land may be provided in the Peechi Wildlife Sanctuary.

But land could not be provided from the Wildlife Sanctuary due to the following reasons.

1. The displaced Tribals are not covered under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) as

their displacement was prior to the FRA which came into effect in 2005. In fact, they were relocated after obtaining their consent and after being provided revenue land outside forest area. Therefore, the Forest Department had no role as per FRA to provide them land or any other right within forest.

2. The balance land was to be provided by the Revenue/Irrigation Department.
3. If land had to be provided within the Peechi Wildlife Sanctuary a proposal would need to be made to Central Government for obtaining permission under the Forest (Conservation) Act, 1980 as well as permission from the National Board of Wildlife (NBWL) would need to be obtained. Compensatory afforestation and payment of Net Present Value are involved in that case.

In a meeting held by the District Collector in August, 2017, it was decided that the balance land of 7.5 acres would be procured by the Irrigation Department and provided to the aggrieved Tribals.

Government have examined the matter in detail based on the provisions of the Forest Right Act and the applicability of FRA to the relocated tribals and decided that as the tribals have been relocated after obtaining their consent to revenue lands in 1992 itself and as they do not reside in forests, they are not eligible for Development Rights and Community Rights to be conferred on them under FRA.

The interim order of the Hon'ble High Court is thus complied with.

By Order of the Governor  
Dr.V.Venu  
Principal Secretary to Government

To

The Advocate General, Kerala, Ernakulam with C/L  
The District Collector, Thrissur  
The Principal Chief Conservator of Forest & HoFF  
The Accountant General ,Audit /(A&E), Kerala, Thriuvananthapuram.  
The Water Resources Department  
The Revenue Department  
The SC/ST Development Department  
I&PRD, Web & Newmedia  
The Stock File/Office Copy.

Forwarded/By Order



Section Officer