

A report submitted by Sri P.P Mathur and Sri Damodar Sarangi on the status of implementation and enforcement of the Forest Right Act 2006, the SC/ST (Prevention of Atrocities) Act 1989, the OLR Act 1960 and the ORV Act 1975, and the working of PDS and various other programmes / schemes, launched by the central and the state governments for the welfare of the ST Communities in Kandhamal District.

As approved by the Commission in their memo No. 29/2-18/2013-Coord(P) dated 13th July 2015, we visited Kandhamal District on and from 17.08.2015 to 19.08.2015, to verify the status of implementation and enforcement of the Forest Right Act 2006, the SC/ST (Prevention of Atrocities) Act 1989, the OLR Act 1960 and the ORV Act 1975, and the working of PDS and various other programmes / schemes, launched by the central and the state governments for the welfare of the ST Communities in the District.

In course of our tour to the District, we visited a few tribal settlements in three of the 12 blocks of the district and interacted with the villagers. We also visited a few primary schools, an Anganwadi, and one CHC. Members of the public, including right activists met us and expressed their grievances particularly in regard to the alleged tardy implementation of the Forest Right Act 2006 in the district. Our field visit notes and the gist of grievances presented to us are summarized below.

i. Gangapadar Primary School in Kudutuli GP of K. Nuagam Block

We visited the school on 18.09.2015. There are five classes (class I to class V) and two class rooms in the school. Of the 11 enrolled children (class I-2, class II-2, class III-2, class IV-1 and class V-4), on the date of our visit 7 were present. All of them were herded into one class room even though the other class room was vacant and both the sanctioned teachers were present. Of the two tube wells, one was lying out of order. Of the two sanctioned workers for the midday meal scheme, one was present. The other is reportedly suffering from prolonged illness. Worker Narangi Mallick stated that she is getting her remuneration in time. Remuneration for July 2015 had however not been paid till the date of our visit. The remunerations of the cook and the helper are abysmally low (Rs. 1000/- per month) and there is a strong case for enhancement of the same. There is a toilet but no running water.

ii. Sanaketa Primary School

Of the 31 enrolled students, 23 were present. All were herded into one class room. Of the four teachers sanctioned for the school, one (the Headmaster Pradip Kumar Pradhan) was found absent. The villagers complained that the Headmaster remains frequently absent on one plea of other. One teacher was on CL.

The tube well in the school premises is lying out of order. Water for cooking midday meal is fetched from an open dug well. There is no toilet. A toilet is under construction. The school has no compound wall.

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iii. Sanaketa Anganwadi

Of the 14 enrolled children, 11 were present. The Anganwadi worker is absent for the last 11 months. She is reportedly ill. The AWH was in charge. The Anganwadi building requires immediate repair. There is no toilet or functional tube well in the Anganwadi premises. The children were found wearing uniforms issued by the government. Rice and Dal were found stocked in the store. Some toys/house games have been purchased but are not in use.

iv. Kudutali Girls High School

This is a residential school run by the SC/ST Development Department. Of the 480 enrolled students, 458 were present on the date of our visit. Of the 21 members of the staff, only one that is the Headmaster is on regular employment. The rest are on contract and are paid salaries which are considerably lower. While the Headmaster's gross salary is about Rs. 50,000/- a month, the salaries of the remaining staff, including assistant teachers are less than Rs. 10,000/- a month. Most of the assistant teachers have MA (B.Ed.)/MSC (B.Ed.) degree. To keep them contractually engaged on payment of such meager remuneration is bound to affect their morale and performance.

There are 7 class rooms. Proper hostel accommodation with toilet facilities are available. 10 staff quarters are available. The school however does not have a science laboratory or a room for the library. Only one computer is available in the school which has no internet link. No accommodation is available for NCC/NSS/Scout & Guide/ sports activities, for guidance and counseling and for common rooms for students.

The student strength in some of the classes is more than 100. The average teacher student ratio is 1:52. It may be desirable to split some of the classes to sections of 40 students each. That would require sanction of additional teachers.

Medical checkup is being arranged twice a month. There is no provision for supply of sanitary pads.

All the 88 students who appeared in the School Final Examination 2015, were declared passed. None of them obtained grade A1. Four were placed in grade A2, 39 in grade B1, 41 in grade B2 and 4 in grade C. The performance of the students was at best mediocre. The Headmaster informed that they are arranging for special coaching for the improvement of academic standards of the students.

v. Rabingia Project Upper Primary School

We visited the school on 19.08.2015. The class wise enrolment and attendance figures and the details of teachers posted to the school are reproduced below;

Class	Total enrollment	Present in the date of our visit
Class I	11	09
Class II	15	06

Class III	26	21
Class IV	22	21
Class V	31	22
Class VI	65	52
Class VII	45	31
Total	215	162

Teachers posted in the school

Sl. No.	Name of the Post	Name of the teacher
1	Headmaster -Regular	Rabindra Nath Muni (B.A., B.Ed.)
2	Assistant Teacher -Regular	Susant Kumar Digal (I.A. CT)
3	Ganasikhshak	Smt. Sanjukta Subudhi (I.A.)
4	Ganasikhshak	Sanjay Kumar Kahnar (B.A)
5	Sikhya Sahayak	Bai Chandra Mallick (I.A. CT)
6	Multi Lingual Education (M.L.E.)	Smt. Sanju Kahnar
7	Education Volunteer	Smt. Rantamala Kahnar

Both the Headmaster and the Assistant Teacher, who are on regular employment, were found absent. The Headmaster reached the school towards the close of our visit and pleaded that he was busy with work connected with the organization of a science exhibition. The asst. teacher had left a CL application which was neither registered nor had received the approval of the Headmaster. This is a common practice in many primary schools in Odisha to write a leave application for planned absence which was to be destroyed if the absence is not detected before his return. One of the Ganasikhak was on tour to attend a training course.

As would appear from the above table, 53 of the 215 enrolled students (almost 25% of the enrolled strength) were absent from school. The toilets in school did not have running water.

vi. Rabingia village

112 villagers have received FRA titles. Some of the villagers complained that in many cases, they have been given titles over land which was not under their occupation. Land on which they depended for their livelihood, has been settled in favour of others. It was alleged that the local revenue officials arbitrarily distributed forest land without verifying who was in occupation of which land. In some cases, land allocated has not been demarcated, nor has any assistance been given for development of the land. Some land in Gorapadar Mouza has been allocated in favour of Rabingia villagers. The land is mired with disputes and the beneficiaries have not been able to get possession. In a few cases, titles have been issued in favour of only a few of the legal heirs and the rest have been left out.

IAY housing units have not been sanctioned in favour of FRA beneficiaries. It was alleged that the PRI members are demanding bribes for recommending the allocation

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of IAY units. Even though NREGA wages are being transferred to their bank account, middlemen are still troubling them and extorting part of the wages.

The president of the Forest Rights Committee complained that some of the eligible beneficiaries identified in the Gramsabha and by the FRA Committee to be eligible for issue of titles, have been excluded from the benefit. The local revenue officers carried away the proceedings of the Gramsabha and the FRC, and no copy of these proceedings are available in the village.

A copy of the proceedings of the FRC was retrieved from the office of the Collector from which it would appear that the FRC forwarded a list of 121 persons whom it considered fit for award of IFR.

21 persons from Rabingia complained that though they have been given titles under FRA, their prayer for IAY units have not been granted so far.

1. Indramani Kanhar s/o Juginga
2. Kirswan Kanhar s/o Juginga
3. Sudarsan Kanhar s/o Chapana
4. Rabindra Kanhar s/o Dabeswar
5. Juguneswar Kanhar s/o Tutuka
6. Tunia kanhar s/o Biki
7. Pushpabati Kanhar w/o Gubuna
8. Ramesh Kanhar s/o Matta
9. Kartikeswar Kanhar s/o Matta
10. Batakrushna Kanhar s/o Birunga
11. Bibhisan Kanhar s/o Krushna
12. Bhaskar Kanhar s/o Munda
13. Gopinath kanhar s/o Batuula
14. Prunakrushna Kanhar s/o Budha
15. Tapan Kanhar s/o Syamsingh
16. Ajibana Kanhar s/o Duguni
17. Bhubana Kanhar s/o Jaladhar
18. Pradeep Kanhar s/o Duguni
19. Natubana Kanhar s/o Mahata
20. Mahata Kanhar s/o Dinana
21. Dayanidhi Kanhar

Eleven persons listed below, claimed that they have not been extended PDS support. 10 of them have submitted application for their registration as NFSA beneficiaries. One, Sri Ramanath kanhar has not applied for NFSA cover.

1. Rabindra Kanhar s/o Debeswar Kanhar
2. Pratap Kanhar s/o Dengu Kanhar
3. Juguleswar Kanhar s/o Tutuka
4. Bhuban Kanhar s/o Jaladhar Kanhar
5. Tapan Kanhar s/o Syamasingh Kanhar
6. Namaratna Kanhar s/o Subarsingh Kanhar
7. Lala Kanhar s/o Sukuna Kanhar
8. Lipu Kanhar s/o Gurupi Kanhar
9. Nibas Kanhar s/o Gadenga Kanhar

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10. Gopinath Kanhar s/o Batula Kanhar

11. Ramanath Kanhar s/o Pama Kanhar

Ramanath Kanhar s/o Pama Kanhar claimed that he has paid Rs. 10,000/- (in two installment of Rs. 5000/- each) to the local ward member Naini Digarta for facilitating the sanction of an IAY unit to him.

The villagers also complained that the executive officer of Nuapadar panchayat is demanding Rs. 10,000/- per case for processing IAY application. They also alleged that the Gram Sathi is extorting part of their NREGA wages. The villagers complained that the local authorities are reluctant to issue acknowledgements in support of the receipt of application demanding work under NREGA.

The local BDO assured that he will visit the village in the 1st week of September and sort out their grievances.

vii. Sirubali tribal hamlet in Barakhamba G.P.

We visited the hamlet on 18.09.2015. There was no serious complaint regarding the settlement of forest land except that the land has not been properly demarcated. No assistance has however been received for the development of the title land. There are 5 tube wells in the village. These are of no use as ground water is not available. Villagers complained that the Medical Officer of Badakhamba CHC is demanding money from the patients, before treating them. Availability of work under NREGA is short of demand. Payment of wages is late.

viii. Interaction with villagers of Mundargaon

Most tribal households have been issued individual Forest Right titles. They however complained that in many cases, the title land is not the same as was in their possession. One Lachhman Pradhan s/o Simara Pradhan complained that the land which was under his occupation and on which he has constructed his house has been settled in favour of other villagers and he has been allocated some land in the foothills, far away from his house. The local Tahasildar was requested to verify the allegation. A copy of his report is enclosed at **Annexure - 1** to this report. The report, in substance, supports the grievances of Lachhman Pradhan.

As has been confirmed in the report, plot No. 485/09 and 485/04 which are under the occupation of Lachhman have been settled in favour of Jadav Pradhan and Madan Pradhan. One of the four plots settled in favour of Lachhman is occupied by Debraj Pradhan, two other plots (apparently those located away from the village) are lying vacant. The district administration may take corrective actions.

Some like Rajendra Pradhan, Nagendra Pradhan, Karuna Pradhan and Jadav Pradhan complained that they have been deprived of FRA titles.

Of the 86 households, 58 have been provided PDS support (BPL beneficiaries-43, AAY beneficiaries-4 and Poor Left Out beneficiaries-11). The local BDO (BDO K. Nuagaon) reported that all the households including the left out beneficiaries who are presently not getting PDS support have been enrolled as prospective beneficiaries of the NFSA-

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2013. New ration cards will be issued to them by September 2015. A copy of the report received from BDO, K. Nuagaon is enclosed at **Annexure-2** to this report.

ix. CHC Phiringia

We visited CHC Phiringia on 19.08.2015. Against a sanctioned strength of 5 medical officers, only one (Dr. Sanjit Mahapatra MBBS) was posted in the hospital.

Most of the indoor patients were suspected to be suffering from Malaria. Almost all of them had to purchase medicines from a private medicine store functioning within the premises of the hospital for which they had to pay from their pocket. The shop owner did not issue any receipt.

Many of the patients belonged to BPL families and were also covered by RSBY and are entitled to get free medicine. The hospital stores have enough stock of approved medicine.

The attending doctor however prescribed certain brands of medicines which were not available in the store and marketed by the private chemist mentioned above. In some cases, medicines and other accessories required for treatment which were available in the stock were push sold to the patients. (For example each of these patients had to purchase injection syringes from the private store, though more than 200 packets were available in the hospital's stock. We were told that the state administration had asked the stores to move out of the hospital land. But the owner of the store obtained a stay order from the Hon'ble High Court and continues to run his business which apparently is being patronized by the doctors of the CHC.

The RSBY outlet functioning in the hospital building is closed since 4th July 2015 after the desertion of the employee engaged by the Insurance Company. Most BPL families have to pay for x-ray and pathological tests in the hospital on the plea that they could not show the BPL or RSBY cards. The fact that of the 361 patients whose x-ray was taken in the hospital during 2014-15, 346 were charged the prescribed fees suggests that the government's intention to provide free treatment to the poorer sections of the society has largely been frustrated by the lack of sensitiveness on the part of the hospital administration. Since April 2015, 235 patients have been x-rayed, of whom 230 had to pay the fees. It appears the hospital authorities are taking no interest in verifying the socio-economic status of the patients, before charging them.

Annual bed occupancy rate is around 25%. Percentage of Institutional Delivery stands at 78.5% of the total number of births. Of the 22 sub centres, 14 are functioning from govt. building and 8 from rented accommodation.

Of the 3 PHCs located within the supervisory jurisdiction of the CHC, one is running without a single allopathic doctor. The lone medical officers of two other PHCs are serving the CHC on deputation (for two days every week). The medical officer of govt. hospital Balandapada has also been deputed to the CHC.

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2. Gist of public complaints received by us, are reproduced below;

At Bhubaneswar, Sri Manohar Chauhan a member of Campaign for Survival and Dignity (CSD) Odisha met us and submitted a 7 point memorandum on the alleged violations of Forest Rights in Kandhamal District which are summarized below;

i. The SDLCs and the DLC of Kandhamal District are bypassing the Gram Sabhas in deciding issues connected with the IFR and CFR. The SDLC which is supposed to help the gram sabha/FRC members in deciding IFR and CFR claims are dominating the field verification process. All copies of the Gram Sabha resolution are being taken to the SDLC directly. Copies of the resolutions are not maintained at the Gram Sabha level.

ii. IFR/CFR titles have been issued without demarcation of the land on the ground. Most of the IFRs relate to revenue forest land, khata and plot nos. of which are available with the RI and Tahasildars. IFR titles are being issued against such khata and plot nos. without identifying the same on the ground.

iii. None of the OTFDs (Other Traditional Forest Dwellers) has been granted IFR title on the specious ground that none of them has provided documentary evidence in support of their being in occupation of the land for more than 75 years (on or before 1930).

The Act recognizes the right of OTFDs on the basis of 'written statements from elders', geographical attributes and genealogical tracing.

iv. The district administration has failed to recognize habitat Rights of Kutia Kandha PTG/PVTG of the district.

v. The Forest Department continues to bring IFR land under plantation thereby depriving the beneficiaries of their right over such land. It has also been claimed that former project Authority ITDA in her letter dated 20.12.2014 had herself confirmed that 'massive teak plantation has taken place in IFR land in Kutia Kandha Area in Belghar GP'.

vi. The SDLCs and DLCs have failed to inform the status of the claims filed by aggrieved IFR claimants and maintain that their claims have been rejected by the Gram Sabha.

In the entire district only 930 appeals have been registered based on suo motu complaints.

vii. No action has been initiated for the conversion of forest villages/un surveyed/old habitation to revenue villages required for recognition of IFR/CFR.

In course of our visit to the district, a number of potential beneficiaries of the FRA met us and submitted petitions of grievances. The gist of their petitions are given below;

II. Petitions from Debaki Kanhar and 52 others, all women.

The grievances highlighted in their petition include the following.

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- a. IFR titles issued to the beneficiaries do not always record the name of the women members of the household.
- b. The measure of the forest land in respect of which IFRs are issued is usually less in area than what is actually in the possession/use of the beneficiaries.
- c. Spinsters and widows are being deprived of their IFR.
- d. The views of women members of the gram sabha are being overlooked.
- e. Issue of IFR over reserved forest land is being delayed etc.

III. Petitions from Prafulla Behera and 25 others of village Betinipada

In their petition, they have highlighted the following grievances;

They are Other Traditional Forest Dwellers who are residing on forest land for over twenty generations. They have applied to the Sub Collector requesting him to initiate action for the issue of IFR to them. Whereas IFRs have been issued in favour of members of the Scheduled Tribes, they have been deprived.

IV. Representation from Members of Self Help Group from village Madikhol under Phulbani Block

The members, all tribal women represented that they had been eking out a living by collecting minor forest products from forest land in regard to which CFR has been issued. The forest department, they alleged, are planning to start planting of teak saplings on the CFR land.

3. At the district HQs, we interacted extensively with officers of the line departments of the district administration, shared with them the information gathered in course of our field visits and obtained their views on the same, besides collecting relevant documents. On return to Bhubaneswar we met the Chief Secretary and other senior officers of the state government and discussed the matter with them in considerable detail.

Based on the information gathered in course of our field visits, our interaction with the district and the state administration, and scrutiny of the connected documents, we proceed to record our observations as follows;

A. Implementation of the Forest Right Act, 2006

58.72% of the population of Kandhamal District belongs to ST communities. Forest land accounts for 71.21% of the geographical area of the district. On either count the implementation of the Forest Right Act 2006 assumes vital importance. The Forest Right Act 2006 was passed in the Parliament of India in December 2006. Forest Right Rules were formulated in December 2007. The Act came into effect w.e.f. January 2008. According to the district administration, so far 57657 beneficiaries have been conferred Individual Forest Right (IFR) over 35181.684 Hectare of land. 5445.209 Hectare of this land falls within reserve forest and 29736.475 hectare in revenue forest areas.

CFR (Community Forest Right) has been conferred in 2221 cases. A status report on the distribution of CFR & IFR titles is reproduced below;

Sl. No	Name of the Sub Division	Name of the Tahasil	No. of GP	Total no. of Revenue villages	Villages in which IFR titles prepared and distributed	IFR				CFR				
						Reserve Forest		Revenue Forest		No of titles distributed	Area in Hect.	Total no. of CFR approved	Total no. of titles distributed	Title not distributed
						No. of beneficiary	Area in hec.	No. of beneficiary	Area in hec.					
1	Baliguda	Baliguda	14	253	233	344	157.330	4182	1521.388	4526	1678.718	235	232	3
2	Baliguda	K.Nuagaon	11	213	180	105	39.921	4604	2441.212	4709	2481.133	202	200	2
3	Baliguda	Chakapada	10	162	125	258	266.968	2384	1280.170	2642	1547.138	140	140	0
4	Baliguda	Kotagarh	11	144	145	540	501.002	5740	5828.549	6280	6329.551	119	119	0
5	Baliguda	Tikabali	12	143	137	160	153.904	4173	1097.353	4333	1251.257	130	130	0
6	Baliguda	Daringbadi	24	287	258	2537	2393.149	9672	6923.548	12209	9316.697	218	218	0
7	Baliguda	Raikia	10	148	117	468	280.140	2893	1580.907	3361	1861.047	140	110	30
8	Baliguda	G.Udaygiri	8	83	78	110	116.306	2621	1242.260	2731	1358.566	59	0	59
9	Baliguda	Tumudibandh	9	218	226	2031	1345.284	2915	1810.494	4946	3155.778	176	174	2
10	Phulbani	Phulbani	11	212	204	88	65.394	2610	1457.838	2698	1523.232	206	205	1
11	Phulbani	Khajuripada	13	249	171	82	60.417	2165	1058.496	2247	1118.913	211	210	1
12	Phulbani	Phiringia	20	420	439	541	65.394	6434	3494.260	6975	3559.654	385	342	43
Total		12	153	2532	2313	7264	5445.209	50393	29736.475	57657	35181.684	2221	2080	141

As transpired in course of our interaction with DFO Phulbani, effective implementation of the Forest Right Act 2006 is burdened with the following problems which require to be urgently addressed

i. IFR titles issued to the beneficiaries merely mention the area under occupation of individual title holder but actual demarcation on the ground and rectified maps with RoR have not been issued. The result being that the title holders are often in dispute with one another regarding the actual boundaries of the land. In the absence of demarcation and ground maps they are also prone to get into disputes with the forest department.

ii. Cases in which FRA title holders have their land in Reserve Forest Blocks or Protected Forest Blocks, the GPS location of the title land boundaries is very much required, as these areas need to be mapped by the forest department in the RF and PRF maps. The relevant maps are not available with the revenue department. As of today the GPS coordinates of the titles issued in RFs and PRFs are not available.

iii. In case of community rights the maps prepared basing on the customary boundaries do not have the description of the boundaries/landmarks. The pillars of the boundary lines should have been identified in the maps based on the locally identified landmarks by the community.

In the absence of the landmark description, the area demarcated for the community rights title may lead to disputes. The area under each community right title is not yet specified in the absence of GPS coordinates of the landmarks. There is an urgent requirement of mapping the community titles after clearly identifying the landmarks.

iv. Many of the titles already issued have erroneous entries regarding the area of the land, the details of all legal heirs etc. The DLC may take cognizance of the matter and issue rectification orders.

In course of our interactions with potential beneficiaries, the district and state administration and forest right activists, the following problems were identified which, in one way or the other are adversely impacting the successful implementation of the Forest Right Act 2006.

i. In many cases, the title land has not been physically identified/ demarcated.

ii. In many cases, beneficiaries have not been given titles in respect of the land, they were depending on for their livelihood. Instead they have been allocated land in unfavourable locations and of poor quality away from their houses at the "whims of the revenue officials". In some cases, the extent of the land allocated to them is less than the acreage which was under their possession/use.

iii. Forest land in respect of which title has been issued continues to be under the control of the Forest Department who are planting trees over the same. In some cases, the Forest Department has empowered Vana Surakhya Samities (VSS) for maintaining the title land and enjoying the fruit thereof.

We dwelt upon one such allegation in some depth. This relates to the alleged violation of Forest Rights of the Kutia Kandha families of Dulapadar in Burlubaru Hamlet in Belghar GP of Baliguda Sub Division of the district.

Based on a complaint received from the President 'Kui Kula' Samiti, Baliguda to the effect that the Forest Department have planted teak saplings engaging outside labour in the forest land in respect of which IFR titles were issued to the eligible beneficiaries as early as in the year 2010, the local programme authority of ITDA Phulbani was asked to conduct an enquiry. A copy of the report submitted by her is enclosed at **Annexure - 3** of this report.

In her report, the Project Administrator, ITDA, Phulbani has claimed that Kutia Kandhas traditionally grow paddy, Finger millets, Kueri, Mustard seed, horse gram, turmeric, pulses and other millets on these lands. However forest dept. have taken up Teak plantation on the forest land, which was under traditional possession by the kutia kandhas. IFR titles have been issued since 2010. Even after issue of the title, forest department has done teak plantation out of non JFM and 13th finance commission funds and that out of 166 plots conferred under FRA, teak plantation has been taken up in 49 no. of plots by Forest Department.

On his part DFO-cum-DMU Chief Baliguda Forest Division Baliguda, while confirming that plantation activities have been taken up during 2009 with the help of Vana Samrakhshan Samity, claims that VSS has been formed after "thorough discussion with the villagers and conducting PRA exercises and that plantation activities have been taken up in 2009 whereas IFR titles were distributed after 2009. So there is no case of forcible plantation in their title area. A copy of the report of the DFO is enclosed at **Annexure-4** to this report for ready reference.

On receipt of the report from the PA ITDA, the Commissioner-cum-Secretary SC&ST Development Department wrote to the Development Commissioner-cum-Additional Chief Secretary Forest & Environment Department requesting him to intervene in the matter. Relevant extracts from his letter are reproduced below;

"Following the above correspondence, PA ITDA, Phulbani had made a visit to the hamlet on 18.12.2014 and has furnished his enquiry report which reveals that forest officials have forcibly planted teak over some portions of the land allotted to the beneficiary under Forest Rights Act, 2006 for their bona-fide livelihood. The PA ITDA has furnished the detail list of title holders and number of plots where teak plantation has been exercised (copy along with enclosure thereto is sent herewith for needful reference).

It is therefore sincerely requested that the matter may please be taken up with the concerned forest officials so as to sort out the grievances for furnishing factual reply/report thereto as has been called for vide RTI application dated 10.11.2014 of one Sri Gopinath Kanhar, Sartaguda, Kandhamal".

Action if any, taken by the Commissioner-cum-Secretary SC&ST Development Department is not known. Meanwhile the Project Administrator ITDA Phulbani who submitted the report confirming the allegations has been shifted out of the district.

The position taken by DFO Balliguda is clearly untenable. As would appear from the guidelines issued by the MoTA GoI "**the JFM Committees or the Vana Surakshya Samities (VSS) are not eligible for availing the Community Forest Rights as per the FRA provisions**".

iv. No title has been issued to members of Other Traditional Forest Dweller (OTFDs) on the plea that they have failed to produce evidence in support of the occupation of forest land prior to 1930 (Three generation before the Act was passed). The FRA provides for "written statement of elders" geographical attributes and genealogical tracing of three generations by the Gram Sabha as evidence enough to support their

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claims. The district administration is insisting on documentary evidence. It was also alleged that land occupied by OTFDs has been settled in favour of Tribals which has caused tension between the communities.

It appears that except for Angul and Sundargarh districts titles have not been issued to OTFDs in any other district including Kandhamal.

B. Registration and Disposal of cases under the SC/ST (Prevention of Atrocities) Act 1989

A statement showing the Disposal of cases by the police in the years 2014 and 2015(up to April 2015) are reproduced below in tables 1 and 2 respectively.

Table 1

Caste status	No. of cases brought forward from previous year with police	No. of fresh cases registered by the police	Total no. of cases for investigation including pending cases (Col 2+3)	No. of cases closed after investigation (FRT/MF/ML/False)	No. of cases in which charge sheet has been submitted	No. of cases pending investigation with police at the end of the year 2014 (col 4-5-6)
SC	15	19	34	08	12	14
ST	09	14	26	04	10	12
Total	24	36	60	12	22	26

Table 2

Caste status	No. of cases brought forward from previous year with police	No. of fresh cases registered by the police	Total no. of cases for investigation including pending cases (Col 2+3)	No. of cases closed after investigation (FRT/MF/ML/False)	No. of cases in which charge sheet has been submitted	No. of cases pending investigation with police for the year 2015 (upto 4/2015) (col 4-5-6)
SC	17	7	21	3	9	9
ST	12	7	19	1	8	10
Total	26	14	40	4	17	19

From the above statement, it would appear that 24 cases were brought forward from previous years. During the year 2014, 36 new cases were registered. Of these 60 cases, 22 ended in charge sheet and 12 in FRT (including those returned as MF, ML and False cases). At the end of the year, 26 cases were pending investigation. During the current year (upto April 2015) 14 new cases were registered and in 21 cases investigation was completed. Of the 39 cases in which charge sheet has been submitted between 1st January 2014 and 30.04.2015, compensation has been awarded only in 17 cases which suggest that in 22 cases the victims are waiting for compensation. The district administration could not furnish the number of cases which have ended in conviction. In the circumstances, it could not be verified in how many cases ending in conviction the balance compensation has been paid.

C. Implementation of ORV Act

The status of implementation of the ORV Act is summarized below;

Sl. No.	Name of the Appointing Authority	Name of the Posts	Sanctioned Posts	Posts Reserved for		Men in Position		Vacancy	
				ST	SC	ST	SC	ST	SC
1	Collector, Kandhamal, Phulbani	Head Clerk	38	09	06	18	06	0	0
2		Senior Clerk	152	34	25	07	12	27	13
3		Junior Clerk	150	34	24	32	21	2	3
4		Revenue Supervisor	12	03	02	03	01	0	01
5		Revenue Inspector	76	17	12	15	12	02	0
6		Asst. Revenue Inspector	74	16	12	16	11	0	01
7		Amin	68	15	11	07	05	08	06
8		Peon	31	07	05	04	03	03	02
Total			601	135	97	102	71	42	26

Odisha Reservation of vacancies of different Appointing Authority in respect of Kandhamal District.

Sl. No.	Name of the Appointing Authority	Name of the Posts	Sanctioned Posts	Posts Reserved for		Men in Position		Vacancy	
				ST	SC	ST	SC	ST	SC
1	S.P. Kandhamal	Constable	447	101	73	109	157	0	0
2	Dy. Director of Horticulture	Peon	2	1	0	1	0	0	0
3		Night watchman	1	1	0	1	0	0	0
		Attendant	1	0	0	0	0	0	0
		Gardener	7	1	1	2	1	0	0
		Junior Clerk	2	1	0	1	0	0	0
		Technical Assistant	1	1	0	1	0	0	0
3	Dy. Director, Agriculture, Kandhamal	VAW	41	9	7	3	3	6	4
		Junior Clerk	8	2	1	0	0	2	1
4	Asst. Director, Horticulture, Baliguda	Gardener	18	3	3	3	3	0	0
		Attendant	5	1	1	3	0	0	0
		HEW	14	3	2	2	4	1	0
5	Tahasildar, Daringibadi	Group-D	14	3	2	1	1	2	1
6	BDO, Baliguda	Peon	6	1	1	0	0	1	1
7	Suptd. Of Excise, Kandhamal	Group-C (Constable)	22	5	4	7	5	0	0
		ASI (Excise)	6	1	1	2	1	0	0
8	CDPO, Chakapada	Nil	0	0	0	0	0	0	0

As would from the said table, in the Collector's own establishment, a number of posts reserved for SC/ST communities are lying vacant. Of the 102 posts reserved for ST candidates as many as 42 are lying vacant and of the 97 posts reserved for SC candidates 26 are lying vacant.

Many of these vacant posts are at the induction level such as Amins, Peons and Junior Clerks. A number of posts of VAWs and Junior Clerks reserved for SC/ST are lying vacant in the establishment of the Dy. Director Agriculture. In course of our interaction with the Chief Secretary and other senior officers of the government, we were told that recruitments in class III and class IV posts were kept in abeyance since 2003 in terms of the MOU signed with the World Bank. The Chief Secretary however assured that the government will take required action for filling up the reserved posts early.

D. Restoration of Alienated Tribal Land

The district has two sub-divisions, that is Phulbani and Baliguda. Of the 559 cases filed under Regulation 2/56 in Kandhamal sub-division, 409 cases were disposed of in which restoration orders were passed in 367 cases. These orders were sent to the concerned Tahasildars (Tahasildar Khajuripada, Phulbani and Phiringia) for execution. The district administration could not furnish the number of cases in which the subject land has physically been restored and made over to the victims and if so what is the measure of the land restored.

In Baliguda sub-division, in 293 cases restoration orders has been issued involving 210.33 acres of land. But in none of these cases physical possession has been delivered to the victim.

It was also reported by the district administration that up to 31.07.2015, 803 cases were registered suo motu, involving 399.46 acres of land. 801 such cases were disposed of by 31.07.2015. Restoration order was passed in 492 cases involving 342.8 acres of land. Physical possession has been delivered only in 242 cases.

Though the legislation banning transfer of SC/ST land is more than 50 years old, the process to identify and restore such land to their rightful owners received serious attention only after the Chief Secretary's circular no. 29491 dated 24.07.2009, in which it was stipulated that within 10 months of the issue of the circular, cancellation of all illegal transfers and restoration of the land to their previous owners shall be effected. More than 6 years have passed since, and the government's directions are yet to be fully implemented.

E. PDS

Of the 121453 households identified in the 1991 census, BPL cards were issued to 90925 households in the year 1997. The number of households have gone upto 172022 in 2011 as was reflected in the census report. Thus it appears that within a span of two decades the number of households has increased by 50569. The BPL number has however remained static.

In the year 2011, following the directions from the Honourable Supreme Court, 32178 cards were issued in favour of poor left out families. Unfortunately these cards were distributed on the basis of quotas allocated up to the GP level and not on the basis of a fresh survey to objectively assess the socio economic status of the beneficiaries. It follows from these figures that 48919 (172022-90925-32178) households continue to be outside the BPL net.

Officers of the district administration informed that survey for identifying the beneficiaries eligible to be covered by the FSA 2013 is expected to be completed by September 2015 and those eligible households which have so far been left out will be covered. Every effort should be made to cover poor left out families even if it requires the withdrawal of the benefit from relatively well off families. It is common knowledge that the 1997 lists were burdened with many anomalies and many undeserving households had found their way to these lists to the detriment of the interest of many a deserving households.

F. Health Care Services

Like in many other districts in Odisha, Kandhamal District is suffering from acute shortage of Doctors and Para Medical staff. A statement showing the sanctioned strength, posted strength and vacancies in various ranks is reproduced below;

Sl. No.	Name of the Post	Sanctioned Strength	In Position	Vacancy	% of vacancy
1	Medical Officer	160	75	85	53.13
2	Pharmacist	85	59	26	30.59
3	Staff Nurse	97	85	12	12.37
4	Lab. Technician (Patho.)	25	13	12	48.00
5	Lab. Technician (Malaria)	13	10	3	23.08
6	Radiographer	11	7	4	36.36
7	MPHS (M)	44	32	12	27.27
8	MPHS (F)	29	24	5	17.24
9	MPHW (M)	141	96	45	31.91
10	MPHW (F)	236	223	13	5.51
Total		841	624	217	25.80

As would appear from the above statement, 85 of the 160 sanctioned posts of MOs are lying vacant in the district which account for 53.13% of the sanctioned posts. The overall vacancies of Medical Officers in the state does not explain such high percentage of vacancies. The Commission has reportedly advised the state government to distribute the overall vacancies proportionally among the districts. It is apparent that remote and backward districts of the state continue to bear the brunt of the overall shortage.

There are gaping vacancies in the ranks of Para Medical staff including Pharmacists, Lab Technician, Radiographer and ANMs. 15 PHCs, 2 CHCs and 1 govt. hospital, are running without a single doctor.

Of the sanctioned 55 posts of MOs for the District HQ hospital, 30 are lying vacant. No wonder, the bed occupancy rates has been poor (53.72%).

In certain PHCs like PHC Tumudibandha not a single patient has been admitted for indoor treatment in the year 2014-15. The PHC has 16 sanctioned beds. No one has been admitted for indoor treatment in PHCs Gressinga, Subarnagiri and govt. hospitals Belghar and Balandapada in the year 2014-15, though each of these institutions has six beds each. The percentage of institutional delivery was 75.54% of the total number of deliveries, which is marginally lower than the figures for 2013-14 (76.2%) and 2012-13 (76.63%).

7 persons died of malaria in 2014. This year up to June, one such death has been reported. 16 persons died of TB in 2012, 9 in 2013 and 3 in 2014. 34 new leprosy cases were detected in 2012-13. This figure shot up to 170 in 2013-14. In the year 2014-15, 24 new cases have been reported.

The number of persons tested for TB is only a fraction of the total population of the district. The number of persons tested for malaria is about 50% of the population.

G. Education

There are 1871 primary schools (including upper primary schools) in the district. 5655 teachers are in position. In an average, there are three teachers per school. The average student teacher ratio is 18:3. In all, there are 102521 children enrolled in the schools of the district. It follows from these figures that while the state is far away from providing one teacher for class, there are many schools running with enrolment figures of less than 50 per school i.e. less than 10 per class. The two primary schools we visited, have a total student strength of 14 and 31 respectively. We were told that some schools are running with student strength of less than 10. It is advisable to merge these schools with nearby schools with better infrastructure and qualified teachers. For this purpose it may require the review of the existing guide lines which require that no child should have to walk for more than a K.M. to school.

According to a statement received from the District Project Coordinator, RTE-SSA Kandhamal, they have identified 1090 out of school ST children of whom 862 have been mainstreamed under SSA programme. Likewise, out of identified 136 out of school SC children, 124 have been mainstreamed. There is however no information regarding the whereabouts of the large number of students dropping out prior to reaching class VI. It is these children who are adding to the number of child labourers.

According to District Human Development Report (DHDR) for Kandhamal District, prepared by the Planning & Co-ordination Department of the state government in the year 2012.

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"The dropout rate at the upper primary level is found to be higher than the primary level. The dropout rate of 5.70 percent in 2006-07 has come down to 1.45 percent in 2008-09 at the primary level and the same for the upper primary levels has decreased from 19.77 percent in 2006-07 to 6.78 percent in 2008-09. Out of school children, as percentage of total child population for children in 6-11 year age group, has come down from 9.10 percent to 2.66 percent and for children in 11-14 year age group from 26.31 percent to 7.36 percent during 2006-09".

As has been already brought to the notice of the Commission, computation of school dropout rates separately for the primary and upper primary students leads to highly erroneous conclusions.

Usually, a student, enrolled in primary classes remains in the roll until he or she takes a transfer certificate. It is only when one compares the figures with the enrolment figures of the upper primary schools, the magnitude of the dropout problems become manifest.

A statement showing the class wise and category wise enrolment figures for the govt. schools in the district are reproduced below;

Name of the district	Class I										Class II									
	General		SC		ST		OBC		Muslim		General		SC		ST		OBC		Muslim	
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls
Total	279	283	1857	1763	6551	5789	1272	1235	25	17	285	298	1831	1703	6192	5815	1274	1181	23	11

Name of the district	Class III										Class IV									
	General		SC		ST		OBC		Muslim		General		SC		ST		OBC		Muslim	
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls
Total	382	338	1881	1901	6120	6108	1289	1379	19	19	325	331	1881	1778	6271	5960	1499	1397	21	21

Name of the district	Class V										Class VI									
	General		SC		ST		OBC		Muslim		General		SC		ST		OBC		Muslim	
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls
Total	373	309	1747	1705	6021	5657	1399	1416	16	4	407	390	1561	1458	4225	4092	1261	1198	20	14

Name of the district	Class VII										Class VIII									
	General		SC		ST		OBC		Muslim		General		SC		ST		OBC		Muslim	
	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls	Boys	Girls
Total	362	358	1405	1377	3909	3662	1140	1220	16	12	377	317	1064	1046	2686	3358	896	968	17	32

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It will appear from the above tables that while a total of 18647 children were in the rolls of govt. schools in class V only 14626 children were enrolled in class VI (a drop of about 22%). In case of tribal students these figures are 11678 and 8317 (a drop of approximately 29%).

Attendance of the enrolled students is around 70% to 75%, as transpired in sample checks by us.

As on 18.05.2015, 156 schools were running with one teacher only. It appears the state government has posted additional teachers to these schools on 17.08.2015 with the direction that they should join by 25.08.2015.

The Commission has been repeatedly highlighting, that in the absence of a transparent transfer policy, schools in the interior areas will continue to be burdened with a higher proportion of the overall vacancies.

It is gratifying to note that the state government is running 284 schools under the supervision of SC/ST Development Schemes for the education of SC/ST students.

277 hostels have been provided for the accommodation of the students, the break up of which is reproduced below.

Sl. No.	Category of Hostels	Phulbani Sub-Division	Baliguda Sub-Division	Total
1	Ekalabya Model Residential School (EMRS)	0	1	1
2	Govt. B.Ed. College, Kalinga	0	1	1
3	Govt. DAV CT School, Kalinga	0	1	1
4	Educational complex, KKDA, Belghar	0	1	1
5	High Schools	4	7	11
6	Girls High Schools	4	10	14
7	Ashram Schools	1	5	6
8	Residential Sevashrams	3	6	9
9	100 seated ST Girls Hostels	23	52	75
10	Babu Jagajivan Ram Chhatrabash (SC)	2	4	6
11	Primary School Hostels	43	109	152
	Total	80	197	277

Pre-matric scholarships have been granted to 38296 SC/ST students (32233 SC and 6063 ST) during the year 2014-15, whereas post matric scholarships has been granted to only 7607 (5544 ST and 2063 SC) such students. The number of post matric scholarships is much lower than pre matric scholarships. In the case of ST students the percentage of post matric scholarships is about 17% of the pre matric scholarships. In the case of SC students this percentage is 34%, from which it follows that not enough number of ST students passing school are pursuing higher studies.

A comparative analysis of the matriculation results is reproduced below;

Year	No. of students appeared	No. of students passed	Division			Total pass	% of pass
			1 st	2 nd	3 rd		
2011	1209	1014	94	341	579	1014	83.87%
2012	1728	1516	456	687	373	1516	87.73%

Analysis of Matriculation result for the year 2013-14 & 2014-15

Year	No. of students appeared	No. of students passed	Grade								% of pass
			A1	A2	B1	B2	C	D	E	F	
2013-14	1846	1792	1	11	249	545	548	352	86	48	97.07%
2014-15	2186	2103	0	50	286	651	546	409	161	82	96.20%

From the above tables it would appear that the percentage of successful candidates has gone up between 2011 and 2015. It is however a matter of concern that the percentage of students getting A1 and A2 grade is still quite low.

H. NREGA

According to available information, of the 156360 households which applied for job cards, 155100 households were issued such cards. Of them only 85898 households demanded work in the year 2014-15. Of the 85898 households, 85900 households were allotted work from which it follows that two households who had not demanded for work were also provided work. Only 70271 households actually worked of whom only 7504 households got 100 days work.

Details are reproduced below.

Name of the District	Total households applied for job card	Total job card issued	Total households demanded work	Total persons demanded work	Total households allotted work	Total persons allotted work	Total households worked	Total persons worked	Total households reached 100 days
Kandhamal	156360	155100	85898	146405	85900	146408	70271	106541	7504

It is not explained why more than 15000 households who demanded work were not provided work and why only about 10% of the households who actually worked were provided 100 days work. No households was provided any unemployment allowance for the administration's failure to provide it 100 days work as is guarantee in the Act. As in other district of the state, it was claimed by the district administration that households which were not provided any work were those who did not demand any such work. During our field visits we were told that the local authorities are not acknowledging the receipt of C-I form submitted by the registered households demanding work. The local officers reported that between January and May 2015 no work was taken up as Government of India did not release any fund. Fund was released only on 18.05.2015 after which work was taken up.

Many villagers complained that even after payment of wages through banks/post offices, middlemen are still extorting a part of their wages.

I. Anganwadis

1580 Anganwadi and 522 Mini Anganwadi centres are sanctioned for the district. As reported by the District Administration, all the 2102 Anganwadis and Mini Anganwadis are functional. 1192 Anganwadis have their own accommodation, 323 are functioning from school buildings, 53 from rented accommodation, 214 from community centres and 90 from the houses of Anganwadi Workers. The nature of accommodation available for the remaining 230 sanctioned Anganwadis has not been specified in the statement furnished by the District Administration. Only 1265 Anganwadis have toilets. The state government must strive to provide proper accommodation and toilets in all the Anganwadis.

Drinking water is available only in 1909 Anganwadis/Mini Anganwadis while 1742 Anganwadis have tube wells, 167 depend on dug wells for drinking water. It is a matter of concern that 193 Anganwadis do not have any source of drinking water.

As would appear from the data furnished by the district administration, there are 38213 children in the district who are in the age group of 3 to 6 years whereas the number of Pre School children covered by the Anganwadis and Mini Anganwadis has been shown as 37174.

The district administration has claimed that they have covered 35849 pre school children (between 3-6 years) by Supplementary Nutrition Programme (SNP). Of the 16583 pregnant/lactating mothers in the 16446 have been covered by SNP.

For 2102 Anganwadis and Mini Anganwadis there is a combined sanction of 2102 AWWs (Anganwadi Workers) and 1580 AWHs (Anganwadi Helpers).

It has been claimed that 28 posts of AWW and 22 posts of AWH are lying vacant. It would appear that each Mini Anganwadis has a sanctioned strength of one AWW only. No post of Helper is sanctioned for Mini Anganwadi. 8 sanctioned posts of AWW for the Mini Anganwadis are lying vacant which means that these Mini Anganwadis are not functional. From the data furnished by the district administration, it would appear that 60 posts of AWW and 22 posts of AWH sanctioned for the Anganwadis are also lying vacant.

4. Recommendations

i. The state government should immediately identify members of OTFD (other Traditional Forest Dwellers) of the district entitled to rights guaranteed in FRA. Where documentary evidence is not available, the statements of elders other than claimants and "genealogy tracing of ancestry to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time" may be accepted as evidence for determination of forest rights as is provided for in Section 13(1)(i) and 13(1)(h) of the Forest Rights Act 2006.

ii. The state government acknowledges the receipt of guidelines from the MoTA GoI to the effect that "the JFM Committees or Vana Surakhya Samities (VSS) are not eligible for availing Community Forest Rights".

These guidelines have been effectively nullified in a resolution passed by the State Level Monitoring Committee in their meeting dated 21.07.2015.

Paragraph 9 of the proceedings are reproduced below for ready reference.

"The MoTA, GoI had issued guidelines that the JFM Committees or Vana Surakhya Samities (VSS) are not eligible for availing Community Forest Rights as per the FRA provisions. The committee observed that in Odisha, the VSS have been over the years nurtured by the F&E Department to sustainably manage and protect forest resources. Hence the committee decided that those VSS where there are no conflicts with the Gram Sabha in sustainable management of the forest resources may be identified so that Community Forest Rights can be given under FRA".

Vesting management and control of IFR/CFR land to any committee with membership outside the title holders is palpably illegal. The resolution passed by the SLMC will result in marginalizing the title holders who are mostly poor and illiterate. The Commission may advise the SLMC to revisit the issue.

iii. The state government should immediately address the problems discussed in paragraph 3.A to ensure the effective and just implementation of the FRA.

iv. An inter departmental team comprising of representatives of revenue forest and SC/ST department should hold an enquiry to determine the status of IFR/CFR land in Belghar GP. The Chief Secretary has assured us as much.

v. The state government may be advised to organize special recruitment drives to fill up the posts lying vacant in the SC/ST quota.

vi. In August 2009, the state government had issued a circular to the Collectors to ensure that all pending cases of alienation of tribal land should be disposed of within the next 10 months. This does not appear to have happened. The state government should take appropriate action for physical restoration of alienated tribal land at the earliest.

vii. The state government may consider field monitoring of the implementation of the various welfare programmes launched by the government. As was suggested by the Chief Secretary during our interaction with him, the services of retired officers may also be utilized for the purpose.

viii. The state government may again be advised to distribute the available MOs in their rolls, proportionately to the sanctioned strength of MOs of the districts. The priority of the state government should be to fill up vacancies in remote areas.

Medical Officers, prescribing branded medicines which have the same therapeutic value as drugs available in the hospital's store, and those compelling/persuading patients to purchase drugs from Pvt. Shops should be firmly dealt with.

ix. The state government should conduct a survey to identify students dropping out from school after reading up to class V and to verify what are they doing at present.

x. Performances of the NREGA are unsatisfactory. The local officers continue to take the plea that there is not enough demand for NREGA work. This is not true as transpired in our field enquiry. There are complaints that the local officers are not acknowledging receipt of applications, demanding work.

Odisha is one of the states severely affected by interstate migration of labourers who work in conditions akin to bonded labour, in other states. This is one of the indications of the inadequate implementation of NREGS. The NREGA wages are lower than the minimum wage and require enhancement. Delay in payment of wages and extortion by middlemen continue, which require serious attention of the government.

xi. The state government may identify the reasons why, in spite of liberal grant of scholarships a large number of tribal students, after passing school are not pursuing higher studies.

xii. While undertaking the survey for identification of FSA beneficiaries, the state government must bear in mind that in the 1997 survey a large number of poor potential beneficiaries were left out from BPL list. Kandhamal is one of the 19 districts, identified by the Hon'ble Supreme Court, which was afflicted by this problem. The FSA survey should reach all such families and collect applications from them for inclusion in the FSA rolls. Special attention should be given to forest dwellers and PTGs who may not be fully informed about their entitlements.

xiii As promised by the Chief Secretary, the state government should allocate sufficient funds for organizing awareness drives in the interior areas of the district to acquaint potential beneficiaries with their entitlements.

Damodar Sarangi

P.P. Mathur