Cutting down of Forests Right Act (FRA), 2006

What is the issue?

- There is a proposal to cut down the Forests Right Act, 2006.
- It is said that it will only weaken the conservation regime and affect the rights of forest dwellers.

What is the Forest Rights Act (FRA)?

- The FRA is a **piece of social legislation** which aims to address the historical injustice that our forest dwelling communities have had to face for nearly 150 years.
- It provides them with security of tenure over land for cultivation and habitation through **individual rights**.
- It also provides access to a variety of resources through more than a dozen types of **community forest rights**.

What do the provisions mean?

- It **empowers forest dwelling communities** to protect, regenerate, conserve and manage any community forest resource which they have been traditionally protecting and conserving.
- It has the provision for **creating critical wildlife habitats** within protected areas.

What are the legal challenges?

- The very constitutionality of the FRA was challenged in the Supreme Court in 2008 by some conservation organisations.
- The court's order of February, 2019 puts FRA in a state of temporary disuse; this highlights the very tardy implementation of the FRA by the State governments.
- One of the key arguments is that, FRA is beyond the legislative competence of Parliament as **'land' is a state subject.**
- **If this argument is accepted**, the Wildlife Protection Act and the entire architecture of forest laws will have to be dismantled as ultra vires as all of them deal with 'land'.
- The Supreme Court (SC) order directs the eviction of forest dwellers whose claims have been rejected under the FRA.

- Many State governments have admitted to the SC that their implementation of the FRA has been incomplete and flawed.
- This rejects the misguided and unmeritorious nature of this whole legal challenge becomes very clear.

What does the FRA hold in it?

- The FRA is not land distribution legislation, as how it has been criticised now.
- It very clearly states that **forest dwellers** (Scheduled Tribes or Other Traditional Forest Dwellers) are only entitled to claim both individual and community forest rights.
- It is claimed only through a clear process of submitting a claim and after its verification and subsequent approval or rejection.
- For the rejected cases, an appeal process has been outlined.
- It aims to **only confirm tenure and access rights** which in some sense the forest dwellers have been exercising de facto but under severe restrictions and control.
- It is in fact the **failure of the state** to settle pre-existing rights under existing forest and conservation laws that created the situation of historical injustice.

What are the provisions often suppressed by critics of FRA?

- The FRA **does not sanction any fresh clearance of forest**, as individual rights over land will only be granted if the forest dweller was in possession of that parcel of land on December 13, 2005.
- It also **limits the extent of land that can be granted** to the area that was occupied on December 13, 2005.
- It places an upper limit of 4 hectares per claimant for individual rights.

What can be done?

- The FRA has potential to strengthen the conservation regime across India by **recognising rights of forest dwellers** over land and community forest resources.
- **Democratising the forest governance and conservation** should be done by the providing the rights and authority to local communities and gram sabhas.
- So, the FRA will **empower gram sabhas** of the forest dwelling communities to halt the destruction of forests.
- Implementing the FRA in letter and spirit with empathy for forest dwellers will be a decisive step by India to achieve conservation justice.

Source: The Hindu

