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Panchayats (Extension to the Scheduled Areas) Act, 1996

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Panchayats (Extension to the Scheduled Areas) Act, 1996

Number : 40 of 1996

Date: 24 Dec 1996

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Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

An Act to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas. BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:-

1. Short title.- This Act may be called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

2. Definition.- In this Act, unless the context otherwise requires, "Scheduled Areas" means the Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution.

3. Extension of part IX of The Constitution.- The provision of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4.

4. Exceptions and modifications to part IX of The Constitution.- Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:-

(a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;

(b) a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;

(c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;

(d) every Gram Sabha shall be competent to safeguard and preserve the traditions and

customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;

(e) every Gram Sabha shall-

i. approve of the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;

ii. be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;

(f) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause(e);

(g) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution;

Provided that the reservation for the Scheduled Tribes shall not be less than Aone-half of the total number of seats;

Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes;

(h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level:

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;

(i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;

(j) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;

(k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;

(l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;

(m) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with-

(i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;

(ii) the ownership of minor **forest** produce;

(iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;

(iv) the power to manage village markets by whatever name called;

(v) the power to exercise control over money lending to the Scheduled Tribes;

(vi) the power to exercise control over institutions and functionaries in all social sectors;

(vii) the power to control over local plans and resources for such plans including tribal sub-plans;

(n) the State Legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;

(o) the State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

5. Continuance of existing laws ND panchayats.- Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this Act receives the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President;

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State.

K.L. MOHANPURIA,

Secy. To the Govt. of India

Rajasthan Panchayati (Modification of Provisions in Their Application to the Scheduled Areas) Act, 1999

of 1999

Date: 30 Sep 1999

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Rajasthan Panchayati (Modification of Provisions in Their Application to the Scheduled Areas) Act, 1999

Be it enacted by the Rajasthan State Legislature in the Fiftieth Year of the Republic of India as follows

1. Short title, extent and commencement.- (1) This Act may be called the Rajasthan Panchayati (Modification of Provisions in Their Application to the Scheduled Areas) Act, 1999.

(2) It shall extend to the Scheduled Areas of Rajasthan as referred to in clause (1) of Article 244 of the Constitution except those areas which are administered by a municipality.

(3) It shall be deemed to have come into force on and from 26th day of June, 1999.

2. Definations.- In this Act, unless the context otherwise requires,-

(a) A "village" for the purposes of this Act shall mean a village specified as such by the Governor, by notification in the Official Gazette;

(b) "Panchayati Raj Institution" shall have the same meaning as is assigned to it under the Rajasthan Panchayati Raj Act, 1994 (Act No. 13 of 1994).

3. Exceptions and modifications.- Notwithstanding anything contained in the Rajasthan Panchayati Raj Act, 1994 (Act No. 13 of 1994) or in any other law for the time being in force, the provisions of the said Act or any other law, as the case may be, shall, as respect to the Scheduled Areas of Rajasthan, be applicable subject to the following exceptions and modifications, namely :-

(a) Every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;

(b) Every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identify, community resources and the customary mode of dispute resolution;

(c) Every Gram Sabha shall –

(i) Approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat;

(ii) Be responsible for identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;

(d) Every Panchayat shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause (c);

(e) The reservation of seats in the Scheduled Areas at every Panchayati Raj Institution shall be in proportion to the population of the community in that Panchayati Raj Institution for whom reservation is sought to be given under section 15 and 16 of the Rajasthan Panchayati Raj Act, 1994 (Act No. 13 of 1994);

Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats;

Provided further that all seats of Chairpersons of Panchayati Raj Institutions at all levels shall be reserved for the persons belonging to the Scheduled Tribes;

(f) The State Government may nominate persons belonging to such Scheduled Tribes as have no representation in a Panchayat Samiti or in a Zila Parishad;

Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayati Raj Institution;

(g) The Gram Sabha or the Panchayati Raj Institution at such level, as may be prescribed by the State Government, shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-setting or rehabilitating persons affected by such project in the Scheduled Areas, the actual planning and implementation of the projects in the Scheduled Areas shall be co-ordinated at the State level;

(h) Planning and management of minor water bodies, as may be specified by the State Government, in the Scheduled Areas shall be entrusted to Panchayati Raj Institution at such level as may be prescribed;

(i) No prospecting licence or mining lease for minor minerals in the Scheduled Areas shall be granted to any person or body of persons without obtaining prior recommendation of the Gram Sabha or the Panchayati Raj Institution at such level and in such manner as may be prescribed;

(j) No concession for the exploitation of minor minerals by auction in the Scheduled Areas shall be granted without obtaining the recommendation of the Gram Sabha or the Panchayati Raj Institution at such level and in such manner as may be prescribed;

(k) The Panchayati Raj Institution at appropriate level, or Gram Sabha as may be prescribed, in a Scheduled Area, shall have –

(i) The power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant subject to such rules as may be made by the State Government in this behalf;

(ii) The ownership of minor **forest** produce subject to such rules as may be prescribed by the State Government as to control and management of minor **forest** produce;

(iii) The power to prevent alienation of land in the Scheduled Areas and to take appropriate action in accordance with laws in force in the State, to restore any unlawfully alienated land of a Scheduled Tribe;

(iv) The power to manage village market by whatever name called subject to such rules as may be made by the State Government in this behalf;

(v) The power to exercise control over money lending to the members of Scheduled Tribes;

(vi) The power to exercise control over institutions and functionaries in all social sectors to the extent and in the manner to be specified by the State Government from time to time;

(vii) The power to control over local plan and resources or such plans including tribal sub-plan to the extent and in the manner to be specified by the State Government from time to time.

4. Power to make rules.- (1) The State Government may make rules, by notification in the Official Gazette, to carry out generally the purposes of this Act.

(2) All rules made under this Act shall, be laid, as soon as may be, after they are so made, before the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or into successive sessions, and if, before the expiry of the session in which they are so laid or of the session immediately following, the State Legislature makes any modifications in any of such rules, or resolves that any such rules should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done thereunder.

5. Repeal and Savings.- (1) The Rajasthan Panchayati Raj (Modification of Provisions in their Application to the Scheduled Areas) Ordinance, 1999 (Ordinance No. 4 of 1999) is hereby repealed.

(2) Notwithstanding such repeal, all actions taken or orders made under the Ordinance referred in Sub-sec.(1) shall be deemed to have been taken or made under this Act or any other law as modified by this Act.