

# OUR LAWS- OUR RIGHTS



## Module-1



**Tribal Welfare Dept.,  
Andhra Pradesh, Amaravati**

# OUR LAWS - OUR RIGHTS

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Tribal Welfare Department  
Andhra Pradesh, Amaravati

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## **OUR LAWS - OUR RIGHTS....**

### Index

Forewords		v
1. Introduction: The laws for Scheduled Areas- Tribal Rights	-	1
2. Legal Administration in Agency Areas- Civil Courts	-	8
3. Administration in Scheduled Areas- Special Constitutional Rights.	-	16
4. Scheduled Area Land Transfer Regulations.	-	26
5. Integrated Tribal Development Agency (ITDA) - Development Policies	-	39
6. Scheduled Area Money Lenders Regulations 1960	-	44



## 1) Introduction: The laws for Scheduled Areas-Tribal Rights

**S**cheduled Tribes (STs) are those notified by the President of India under the Constitution for the purpose of ‘administering’ certain specific constitutional privileges, protection and benefits for specific section of peoples, historically considered disadvantaged and backward. The Scheduled Tribe status is conferred on the basis of birth to a person into a Scheduled Tribe. Though STs are not coterminous with either the socially and historically accepted term ‘Adivasi’ (meaning indigenous or original people) or ‘tribal’, by and large it is accepted that the STs include mostly ‘indigenous peoples’ in the Indian context. They inhabit mostly the forests, but also the plains, desert and coastal areas also.

There are as many as 34 such tribes declared as above in the state of Andhra Pradesh.

These tribes have distinct culture, traditions and in many cases language too. The way of life, and the livelihood is related to the land, forests and water.

### Do You Know?

Scheduled Tribes are notified as Scheduled Tribes by the President of India under 342 (1) of the Constitution of India. The Scheduled Tribes thus declared have certain educational, political and other constitutional privileges.

As per 2011 census, the tribal population in Andhra Pradesh is 27.39 lakhs constituting 5.53% of the total population in the state.



The Scheduled Tribes who are mostly depend on pre-agricultural practices or food gathering are administratively recognised as Particularly Vulnerable Tribal Group (PVTG) for providing special attention. In our state, Konda Reddy, Savara, Porja, Gadaba, Chenchu, and Kondu Tribes are recognised as PVTGs.

The “Scheduled Areas” are areas declared by the President of India on recommendation of the Governor of the State under Article 244 of the Fifth Schedule of the Constitution. The well established criteria for declaring an area as Scheduled Area are :

- (a) preponderance of tribal population;
- (b) compactness and reasonable size of the area;
- (c) a viable administrative entity such as district, taluk ; and
- (d) marked disparity in economic standard of the people

Special rules have been made for the administration of these Scheduled Areas under Article 244 of the Constitution.

Scheduled Areas are also called Agency Areas in Andhra Pradesh. The Scheduled Areas are spread over the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari and West Godavari in Andhra Pradesh.

The people who are other than the Scheduled Tribes are called non-tribals. The non tribals, will have no rights to acquire the lands in the Scheduled Areas. The Tribals will have special rights on the lands in the Scheduled Areas. Special Regulations were made to protect the land rights of tribals in the Scheduled Areas.

The British Government enacted Land Transfer Act to protect the land rights of the tribals way back in the year 1917. After independence, the Government amended the Act in 1959 and subsequently enacted the Land Transfer Regulations in 1970. These

`regulations prohibit transfer of land not only between tribals to non tribals but also among the non-tribals in the Scheduled Areas.

In spite of these regulations, non tribals are still enjoying the lands of tribals. Thus, the very survival of the tribals has become often a question. Non tribals continue to migrate from general areas to Agency Areas. They continue to cultivate the lands that originally belong to tribals. The loopholes in the laws, lack of strong mechanism to enforce the laws and lack of awareness among tribals about their rights are the major reasons for the deprivation of their lands.

The Forest Rights Act is one among the other Land Laws. The Government of India enacted Forest Rights Act 2006 recognising the individual and community rights of the tribals and traditional forest dwellers over the forest lands. This law applies to the whole of the state. Tribals shall be in occupation of forest lands by the cut off date i.e, 13<sup>th</sup> December 2005 in order to claim rights on the forest lands. The law recognises the competency and authority of Gram Sabha to manage forest land resources.

The Government of India enacted ‘The Provisions of the Panchayat (Extension to Scheduled Areas) Act in 1996 (PESA) for the local governance in Scheduled Areas. Complying with this central law, the Government of Andhra Pradesh amended the Andhra Pradesh Panchayat Raj Act 1994 in 1998 to incorporate the provisions of PESA for the local governance in the Scheduled Areas. Special powers and functions are entrusted to the Gram Sabhas, Gram Panchayats and Mandal Praja Parishads as a part of this Act. Gram Sabha, Gram Panchayat and Mandal Praja Parishads are called as local bodies.

Broadly they are: 1) Managerial powers over common property resources, minor water bodies, minor forest produce, village markets etc. 2) Regulatory powers including prevention of tribal



land alienation, control over money lending, excise matters, and local institutions. 3) Administrative powers in relation to approval of socio-economic schemes, issuance of utilisation of certificates for government expenditure on projects and schemes implemented, granting of mining licenses, communicating decisions on land acquisition and Rehabilitation & Resettlement etc. The powers conferred on the Gram Sabhas are vital in the local governance. There is every need for the tribal people to understand the laws which are intended for their self-rule and development. We will come to know in detail about these laws in further chapters.

### **Do you know?**

International Day of the World's Indigenous Peoples is observed on 9<sup>th</sup> August.

Despite several provisions for the advancement of tribals and protection from exploitation, they are not implemented properly.

## **Evaluation**

### **Key words**

Tribals, Non-tribals, Article of the Constitution, Scheduled Area, Compactness, Preponderance, Laws, Rules, Rights, Community forest rights, Transfer of land, Common property resources, Water bodies, Self rule, Administrative powers, Managerial powers, Regulatory powers, Administrative powers.

## Improve your learning:

### Fill in the blanks:

1. Tribals are called ..... as per the Constitution.
2. Scheduled Tribes are notified as per the Article..... of the Constitution.
3. There are..... Scheduled Tribes in our state.
4. Criteria for declaring the Scheduled Areas 1).....2).....
5. Scheduled Areas are declared by.....on recommendation of the Governor.
6. ....the Constitutional provisions will apply to the administration of Scheduled Areas.
7. Scheduled Areas are located in..... districts.
8. Tribals mainly depend on .....and ..... for their livelihood.
9. Tribal lands in the Scheduled Areas are in occupation of .....people.
10. The Regulations that prohibit the transfer of land between Tribals and Non-Tribals are.....
11. The reason for the alienation of tribal land are ....
12. Forest Rights Act was enacted in .....

13. Forest Rights Act recognises the .....and ..... Rights.
14. Expansion of the word “PESA” .....
15. 1).....2).....are broad powers conferred on local bodies.
16. Mention any two specific regulatory powers that the local bodies have under the PESA.

**Fill in the Table:**

- 1) Fill in the following table. Collect the relevant information with the help of your teachers and other sources.

Region	Total Population	Population in the District	Total Tribal Population	Percentage of Tribal Population in the total Population
Country				
State				
District				
Mandal				

- 2) Prepare a table showing the differences of powers of the local bodies in the Scheduled Areas and the general areas and exhibit the same in your classroom.

### 3) Project:

Collect the outline maps of India and State of Andhra Pradesh. Mark the Scheduled Areas in those maps with green colour. Identify the percentage of Tribal population. Show the figures in a table, in ascending order.

Tribals have been given special rights through special Acts. Do the tribals really need them? If so, say why should we know about the special Acts?

## 2. Legal Administration in Agency Areas-Civil Courts

The British rulers appointed Non-Tribals as their agents to exercise control over the resources. They provided facilities for them so that they can settle in tribal areas. The British thought that their interests would be better served if the non-Tribals settled in the tribal areas.

The non tribal settlers started exploiting tribals by taking advantage of their innocence. Over a period of time, the non tribals took control of lands with the support of Government machinery and availing loopholes in laws.

This led to many tribal revolts. The Government subsequently had to enact various Acts and Rules for the benefit of Tribals. Important among those is:” The Administration of law in Tribal Areas”.

### **Ganjam, Vizagpatnam Act 1839:**

This is the earliest Act as far as the Agency Areas are concerned. The object of the Act was to provide the administration of civil and criminal justice and for the collection of revenue. The powers of the Agent to Governments, namely the District Collectors, included dealing with matters of civil, criminal cases and collection of revenue.

### **Scheduled Districts Act 1874:**

Since it was very difficult to oversee the existing Acts and Rules in force in various parts of India, the Government enacted the Scheduled Districts Act in 1874. This Act gave powers to demarcate the Scheduled Tracts, altering or continuing the existing

laws of the local Governments. This Act also gave the power to make rules for continuing legal administration. As a part of that, the rules pertaining to legal administration were framed in 1924.

### **Legal Administration in the Agency Areas of Andhra Pradesh:**

The Agency Areas of Ganjam, Visakhapatnam and Godavari districts were reorganised and the Agency rules were implemented since 13-8-1924. These rules were mainly intended to act as guidelines to the District Collectors who were the agents to the Government, govern agency administration and for powers in the Agency Area.

They were originally applied to Ganjam, Vizagpatnam and Godavari districts; later they were extended to Khammam, Adilabad, Warangal, Mahaboob Nagar districts of Telangana in 1963 through an amendment.

As per these rules, the district Collector will act as the District Magistrate, District Judge and Agent to the state Governments in the Agency Areas of those respective districts. These rules are still in force in the Scheduled Areas of Andhra Pradesh.

### **Agency Rules- Important Points :**

By virtue of these rules, many facilities became accessible to Tribals. They have separate administrative mechanism in place. They are exempted from paying the court fee and filing civil suits. Permission of Collector is a must in order to implement the decrees issued by courts of plain areas( outside of the Scheduled Areas).

1. Agency courts were established for adjudication of civil disputes.
2. There are certain exemptions in the court fee and valuation of civil suits.

3. If the court believes that a plaintiff or the appellant is not in a position to pay the court fee, they will be exempted from the payment of court fee in the cases of compensation, loss of cattle, being accused of abuse and rioting.
4. The decrees passed by the courts of the general area can only be implemented in the Agency Areas with the permission of the District Collector.
5. No other rules are applicable for the trial of civil cases in the Agency Area except the Andhra Pradesh Agency Rules and the provisions of Civil Procedure Code (CPC) that were specially mentioned there in.
6. The District Collector has the power to issue Sanad (Grant) enabling a person to practice as a pleader in the Agency Courts.
7. The Agency Rules provide elaborate powers to the High Court including to hear appeals, and revision petitions. It also has supervisory role over the functioning of Agency Courts.

### **The Structure and Agency administration:**

Agency Areas have no special Judicial Department. It is part of the Revenue Department only. Revenue officials will hold three-tier courts to deal with civil cases. The civil courts are manned by the revenue officials, and their designations and jurisdiction of courts are as follows:

### **Agency courts have the following structure.**

#### **1) Agent to the Government (District Collector) Court :**

**Jurisdiction:** Any civil case that exceeds the suit value of Rs. 5000/- will be taken up by the District Collector. The District Collector is competent to deal with cases of appeals on the

judgements given by Agency Divisional Officer / Revenue Divisional Officer.

The District Collector has the power to transfer the cases pending from one subordinate court to another. In the cases of protection of properties, the District Collector has also the powers to issue interim orders appointing Receiver to attach the properties and selling such properties if desired. He has also power to grant temporary injunction orders restraining a person not to do an act or acts in the interest of parties in civil cases.

The judgements given by this court can be challenged by appealing to the High Court within a period of three months. District Collector acts as the District Magistrate. In the capacity of Magistrate the District Collector has special powers in the matters of maintaining law and order.

## **2) Agency Divisional Officer(Sub Collector/RDO) Court:**

**Jurisdiction :** The Revenue Divisional Officer/ Sub-Collector is known as Agency Divisional Officer. In this court, the value of civil suits between Rs 500/- and Rs 5000/- will be settled. The cases from one lower court to him can be transferred to another lower court by the Agency Divisional Officer. By way of interim orders, the Agency Divisional Officer can appoint a Receiver to attach the property and sell it. He can also pass interim orders for grant of ‘Temporary Injunctions’ to protect the interest of parties in civil cases.

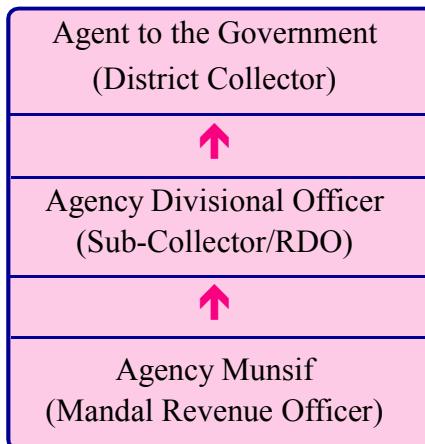
**Note :** The Government has also set up mobile courts. These courts are not managed by either the Sub Collector or the RDO. These courts are manned by the special officers appointed to adjudicate civil cases. They are also executive officials not judicial. For example, special mobile court established in Rampachodavaram, East Godavari district.



### 3) Agency Munsif / Mandal Revenue Officer :

**Jurisdiction :** The Mandal Revenue Officer will act as the ‘Agency Munsif’ to decide the civil suits of value lower than Rs 500/-. With the permission of the District Collector, the Agency Munsif can appoint a receiver to attach or sell the properties and also direct the receiver to deposit the money. He has also the power to issue Temporary Injunction orders as in the case of other Agency Courts.

#### The Courts established to settle civil cases under AP Agency Rules.



#### Do you know?

What is Agency Area? The area without any application of general laws in force is called by the British Government as Agency Areas. The Government kept such areas under the control of District Collectors (Agents). These areas are also called Agency Areas as they are governed through the Agents.

### Do you know?

Every district has Judicial Courts and Judges. They are responsible for judicial administration in the district. But, these judicial courts or judges do not have the jurisdiction over civil matters arising from the Scheduled Areas of the District. In Scheduled Areas, only the Revenue officers have the judicial powers and functions to settle civil disputes.

### Civil Cases:

Judge	Designation	The cases taken up
1. Agency Munsif	Mandal Revenue Officer	Civil Cases
2. Agency Divisional Officer	Sub-Collector	
3. Agent to Government	District Collector	

### Evaluation:

Key words: Civil suits, Appeals, Receiver, Court fee, Interim orders, sanad, pleader, Judicial Court, Jurisdiction, Attachment of properties, Decree, Appeal, Revision, judgement, High Court, Rules, Agent, injunction order.

### Improve your learning:

1. What benefit did the British Government expect from first Act of Scheduled Areas Act the 1839 Ganjam, Vizagpatnam Act ?

2. Who is an Agent ?
3. Mention two important aspects of AP Agency Rules framed by the British Government.
4. Mention two important aspects of AP Agency Rules framed by the British Government.
5. What are mobile courts ?
6. In the property disputes the Agency courts can appoint..... to attach the property and sell it.
7. Andhra Pradesh Agency Rules came for implementation in the year .....
8. The courts of the .....will have no power to take up the civil cases of Agency Areas.
9. The judgement given by the Agent to Government court can be appealed to .....
10. The officer who takes up the civil suits value which is lower than Rs 500/- is .....
11. The Mandal Revenue Officer who decides civil suits is called .....
12. The officer who decides the civil suits of value between Rs 500/- and Rs 5000/-is.....

Proje

13. The officer who takes up the value of civil suits above Rs 5000/- is the .....

14. What are injunction orders ?

Civil disputes	Suit Value	Which Court has jurisdiction to try the civil suits as per the suit values
Land Partition disputes, declaration of rights	Rs 400/-	
Payment of Compensation	Rs 4000/-	
Injunction orders restraining the other from cultivating lands of owner.	Rs 6000/-	

**Project:**

1. Prepare a skit on the Courts of the Agency Areas with the help of your teacher and present it.
2. Invite the local lawyer to your school with the help of your Headmaster and request him to explain the Agency Legal System in the Tribal areas and record the details.
3. Discuss what are the possible subjects of civil disputes in the agency area. Prepare a chart to include the type of cases registered in any Agency Court nearer to your school.

### **3.Administration in Scheduled Areas- Special Constitutional Rights**

**T**he Tribal Areas were called as Backward Tracts during British rule. The general administrative laws of British India were not extended in those areas. They were either partially or totally excluded from the operation of the laws. Those areas were directly administered under the executive orders of the British Government. The reasons for the special administration was due to the distinct social, cultural and traditional background of the tribals which are quite different from the rest of the country.

However the special administration in tribal areas continued even after independence of India. Let us try to understand the historical changes that came in law over a period of time in tribal areas.

#### **Government of India Act 1919:**

Through this law, the Governor General of India was given the powers to declare any area in British India as “Backward Tract”. Powers were also given to make and apply law to those Backward Tracts with certain exceptions and modifications.

The Governor General has also the power to direct that the law shall not apply or shall apply with certain exemptions or modifications to the Backward Tracts. He has also power to issue similar directions regarding the Local Legislature also.

#### **Government of India Act 1935:**

This Act also provides for the administration of the areas that were totally or partially excluded from the general administration and the rule of law.

In the matters of tribal areas, the Governor used to act as the agent to the Governor General. Though the administrative

responsibility of the partially excluded areas was vested with the Governor General, the special responsibility had to be discharged by the Governor with his discretionary powers.

This Act enabled the Governor to bring regulations for the peace and good governance with the assent of Governor General. The Governor had also the powers to repeal or amend the law of the Federal or the Provincial legislature. No law made by the Federal or Provincial Legislature was applicable to the excluded or partially excluded areas without public notification of the Governor.

After independence, in general, the partially excluded areas from general administration were included in the Fifth Schedule to the Constitution and areas that were totally excluded from the general administration were included in the Sixth schedule to the constitution.

The villages that are notified under the Fifth schedule of the Constitution are found in Srikakulam, Vizianagaram, East and West Godavari Districts and are called 'Scheduled Areas'.

### **Administration of Scheduled Areas: Article 244 of the Constitution:**

The Fifth Schedule of the Constitution of India is about the administration and control of the Scheduled Areas and Scheduled Tribes. The Union Government has executive power to give directions to the State Governments for the administration of Scheduled Areas.

The Governor has to send annually a Report on the administration of the scheduled area to the President of India or whenever the President of India calls for such Report. A 'Tribes Advisory Council' has to be constituted with the tribal members of the legislature or representative members of those tribes. The

Governor has the powers to make rules for providing peace and good governance. As part of this power, the Governor may make Regulations prohibiting or restricting the transfer of land by or among tribals and also regulate the allotment of land to tribals in the Scheduled Areas. The Governor may also regulate the money lending business activity in the Scheduled Areas. The Governor has to obtain the advice from the 'Tribes Advisory Council' before taking up such decision. The Regulations framed by the Governor will come into effect only after they are approved by the President of India. Similarly, the Governor can modify the laws made by the Parliament or Assembly, or withhold its application to the Scheduled Areas.

The president has the power to declare any part of the state as Scheduled Area under the Article 244 of the Indian Constitution in consultation with the Governor of the State. The changes or the Rules framed under the article 244 of the Constitution are called "Regulation".

### **The National Commission for Scheduled Tribes:**

The National Commission for Scheduled Tribes was created by a constitutional amendment in 2004 bifurcating the existing National Commission for Scheduled Castes and Tribes which itself was constituted in 1990. Article 338A of the Constitution defines the Commission's functions and powers as essentially those of an ombudsman, with the role of monitoring measures for ST welfare, investigating atrocities and violations of rights against STs and suggesting measures to safeguard ST resource rights, livelihoods and so on. It can summon witnesses, require production of documents and so on. The central and State Governments are to consult the Commission on all policy matters relating to STs. The Commission has five members and its reports are tabled before Parliament on an annual basis.

The National Commission is competent to recommend for the implementation of tribal welfare schemes and their rights. It can undertake any other task assigned by the President within the frame work of the Acts made by the Parliament and other rules in force.

The National Commission for STs, have similar powers as the Civil Courts during conduct of enquiry on any complaints of violation of tribal rights. It has powers to serve notice to individuals, order them to produce records before the commission, record evidence and other such things which are usually done by civil courts of law.

The tribals will also come under the category of other socially, educationally and economically backward people. So, all the constitutional provisions made for such classes will also apply to tribals. There are special constitutional safeguards for the advancement of tribals, and their protection.

The Articles of the Constitution are shown in the table below.

<b>Article</b>	<b>Explanation</b>
15	Government can make special provisions without any restriction for the advancement of the socially, educationally backward classes particularly to Scheduled Castes and Scheduled Tribes.
16	When the Government feels that the backward classes are not getting adequate representation in the Government services, it can make special provisions for the reservation of appointments in favor of backward classes.



Article	Explanation
46	This article makes it clear that the Government should protect the people of backward sections, more particularly the Scheduled Castes and Scheduled Tribes, from all forms of exploitation and social injustice.
244	Pertains to the administration and control of Scheduled Areas and Scheduled Tribes.
275	Enables the State to meet costs of the tribal development programs with the approval of the Government of India from the Consolidated Fund of India.
330 332, 334	Provides for reservations of seats in Parliament and Assembly Constituencies for Scheduled Tribes.
335	Reservations in the employment of Central and State Government services for the Scheduled Tribes.
338	The President may call for a Report on the implementation of different Protective measures taken for the Scheduled Tribes , by the Government by appointing a Special Officer.
338A	Constitution of the National Commission for the protection and development of Scheduled Tribes.
339	A Commission may be appointed by the President for submission of a Report on the Administration of Scheduled Areas and the welfare of Scheduled Tribes.
342	Empowers the President of India to specify the tribes or tribal communities as Scheduled Tribes for the purpose of the Constitution.

## Evaluation:

### Key Words:

Reservations, Regulations, Scheduled Areas, Constitution, President, Governor, Articles, Tribes Advisory Council, Parliament, Assembly, Enquiry, Proceeding, National Commission for ST, Union Government, Fifth and Sixth Schedule of the Constitution, Administration, Exceptions, Modifications.

#### Do You Know ?

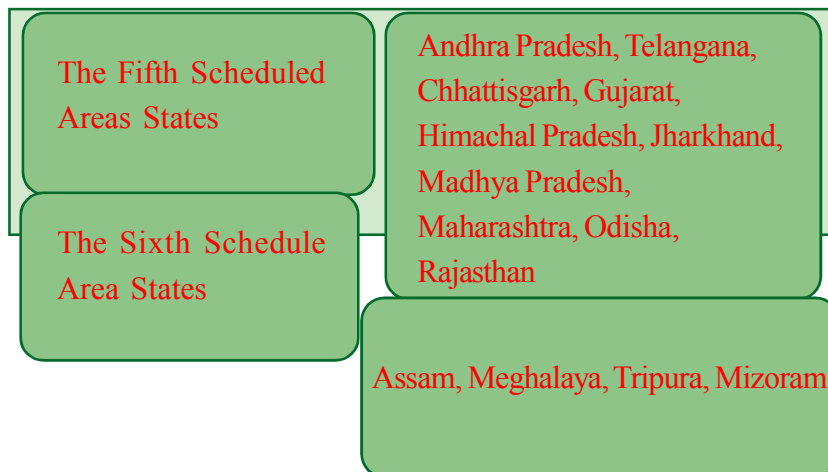
In our Constitution there are 25 parts, 12 schedules, 448 articles

#### Do You Know ?

The Tribes Advisory Council (TAC) consists of the tribal MLAs (Members of Legislative Assembly) and other tribal members appointed by the Government. This is a constitutional advisory body in relation to the welfare and advancement of tribals. The total number of members in the TAC should not be more than 20.

The articles mentioned above provided reservations of the seats in Parliament, Assembly, Employment and in education etc. to tribals. Special powers have been conferred on the Governor and National Commission of Scheduled Tribes for the welfare and protection of tribals. Discuss in your classroom how these are implemented.

The States where special Laws are implemented.



#### Do You Know ?

There are special Acts to the aboriginals (The people like our tribals) of Australia. Fishing is prohibited in the areas of aboriginals. Special protections to their habitations, reservations in legislative bodies were made as a result of special Acts.

#### Improve your learning:

1. What is meant by Constitution?
2. Who make laws in general for the State?
3. Who has special constitutional power to make laws to the Scheduled Areas.?
4. Who implements the laws?

5. Are laws applicable uniformly throughout the country ?
6. Law making power of the Governor is under the ..... of Constitution.
7. What is meant by Scheduled Areas? Why are they called so?
8. What are the general regions?
9. Who are the non-tribals?
10. What way is the Article 244 beneficial to the tribals?

**Fill in the blanks with suitable answers.**

1. The administration of the Scheduled Area and Scheduled Tribes is covered by the Article ..... of the Constitution.
2. “.....” is to be constituted to advise on the welfare and advancement of tribals
3. The power to declare any area as Scheduled Areas is vested with the .....
4. The appointment of tribals in Government services may be done according to the Article.....
5. The Article that speaks on the protection of backward sections from exploitation and social injustice is .....
6. The article that speaks on prohibition and restriction on transfer of land and allotment of land to tribals is.....

7. The special privilege given to tribals to contest in Parliament and Assembly elections is under..... of the Constitution.
8. What is regulation? And how it is different from Act ?
9. What is the objective of the National Commission for STs ?
10. The National Commission for ST was established in .....under the Article....

### Project

1. The following table has information of Scheduled Areas in different districts. Collect the information of Mandals in Districts and fill in the

Sl. No.	District	Total Scheduled Area Mandals.	Partial Scheduled Area Mandals.
01.	Srikakulam		
02.	Vizianagaram		
03.	Visakhapatnam		
04.	East Godavari District,		
05.	West Godavari District		

2. Collect the details of the Government orders/ provisions of Articles that are aimed at benefitting the Tribals from your teachers and others and also fill the table

Sl. No.	The benefits being derived	Article / relevant articles
1.	Opportunity has been given tribals to get elected to the Parliament or the Assembly	
2.	100% employment opportunities for the local tribals in the scheduled areas	
3.	Scholarships in education, facilities to meals, residence, hostel, residential schools, and exemption from paying fee etc.	
4.	To protect land rights of the tribals such as 1/70 were made.	
5.	Relaxation of educational qualifications and age limit for accommodating tribals in Government jobs.	
6.	The Governor's power to regulate the law to prevent exploitation of tribals by Money lenders.	

## 4. Scheduled Area Land Transfer Regulations

The British policies to uplift the tribals could not succeed in ending the exploitation by the non-tribals. The condition of tribals was gradually deteriorating and migrations from plain areas to scheduled areas increased. This hastened alienation of tribal land. Laws were also made during the British rule to stop exploitation by non-tribals and to protect tribal rights including land rights to tribals.

After independence, the Government framed many rules to protect the land right of the tribals. But are these laws and rules able to deliver justice to tribals? To what extent are they able to protect tribals? All these are the main questions that we have before us.

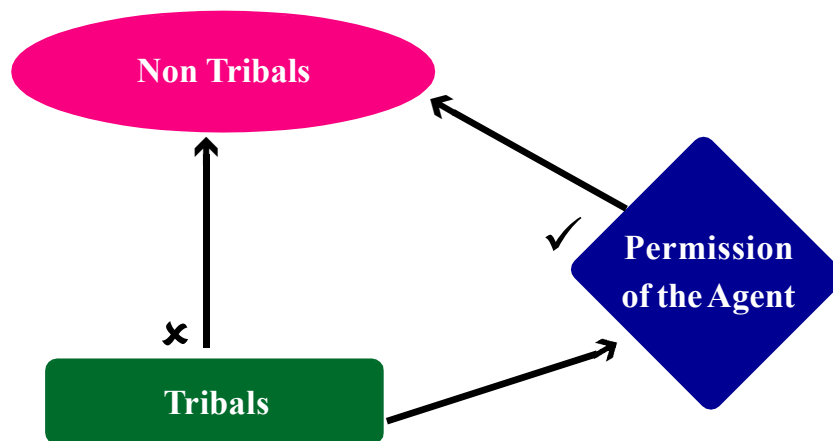
Before taking these points for discussion, let us try to know what are all the laws made about the lands in Scheduled Areas.

### 1. **The Agency Tracts Interest and Land Transfer Act 1917:**

This Act came into force on 14-08-1917. The Act regulates the rate of interest on debts and transfer of lands in the Agency Areas. The interest charged on debts against tribals shall not be more than 24% per annum. The total interest shall not exceed the principal amount of debt. Interest shall not be compounded. Land, ornaments, crop or any such thing should not be taken as security for loan.

Land transfers between tribals to non tribals are restricted. If it is a transfer of land between a tribal and non-tribal, a written permission of the Agent or the Sub Collector is essential. All the disputed cases in land transfer should be referred to only Agency Courts. The authorities have the powers to enquire into the petitions

and restore the land to the tribals if land transfer was effected against the 1917 Act. After the Land Transfer Regulation 1 of 1959 came into force, some provisions of the 1917 Act were repealed.



### What Is Transfer?

Sale, lease, mortgage with or without possession, gift, exchange or other any other dealing with immovable property not being a testamentary disposition (Will).

## 2. Andhra Pradesh Scheduled Area Land Transfer Regulations 1/59

These regulations came into force on 4-3-1959 in the Scheduled Areas of Srikakulam, Vizianagaram, Visakhapatnam, and East and West Godavari districts. The Regulations were extended on 1-12-1963 to the Adilabad, Warangal, Khammam, Mahbubnagar districts of Telangana region.

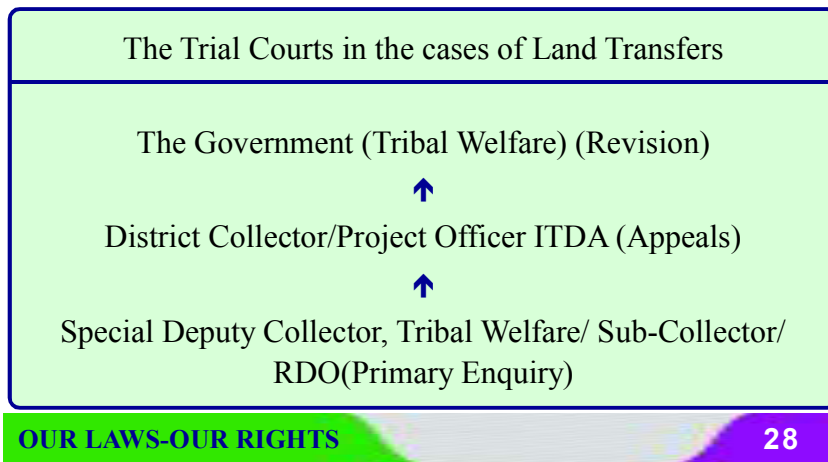
### Salient Features:

1. The transfer of immovable property between tribals and non-Tribals without previous sanction of the



and call for explanation from them. If it is proved that the land is in occupation of non tribals and it is in violation of Land Transfer Regulations, the enquiry officer can evict them from such land and restore the same to the concerned tribals or assign the land to eligible land less tribals if the concerned tribals were not traced.

4. If any person is aggrieved by the order of the enquiry officer, an appeal can be filed to the District Collector or the Project Officer, ITDA. We have previously seen that the District Collector is the Agent to the Government. The Project Officer ITDA is called as 'the Additional Agent' to Government.
5. If any person is aggrieved by the orders given by the District Collector or the Project Officer, ITDA, he may approach the Government (Tribal Welfare) for seeking revision of the orders.
6. No party shall be entitled to be represented by legal practitioners without the permission of the Agent or Agency Divisional Officer.



#### 4) Land Transfer Regulations 1/70

These Regulations came as a result of amendment was made to 1/59 Regulations and came into force from 3-2-1970.

##### Salient Features:

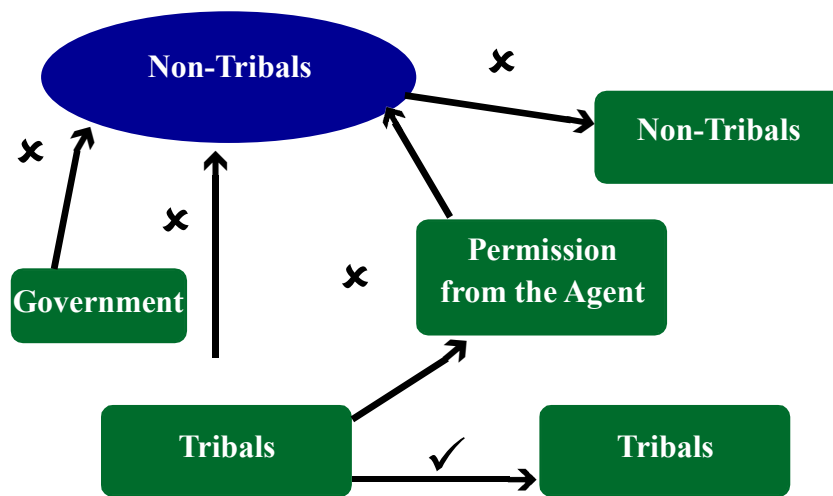
1. The Transfer of Lands in the Scheduled Areas between tribals and non-tribals are illegal. Similarly, the transfer of lands between non-tribals and non-tribals are also illegal.

##### Do You Know?

The Supreme Court of India in Samata Vs Mining Company case held in 1997 that the transfer of Government land in favor of non tribals is also illegal in the Scheduled Areas, while considering the Government is also a person other than the member of ST for the purpose of implementation of Land Transfer Regulations.

2. The burden of proof lies on the non-tribal to prove that the land in his occupation did not come to him in violation of Land Transfer regulations during the enquiry.
3. If the non-tribals are willing to sell their land to tribals, if no tribal is willing to purchase it, then the land has to be acquired by the Government on payment of compensation. The compensation will be paid to the non-tribal as per the provisions of the Andhra Pradesh Ceiling on Agricultural Holdings Act 1961.
4. The non-tribals cannot acquire the immovable properties in the Scheduled Areas.

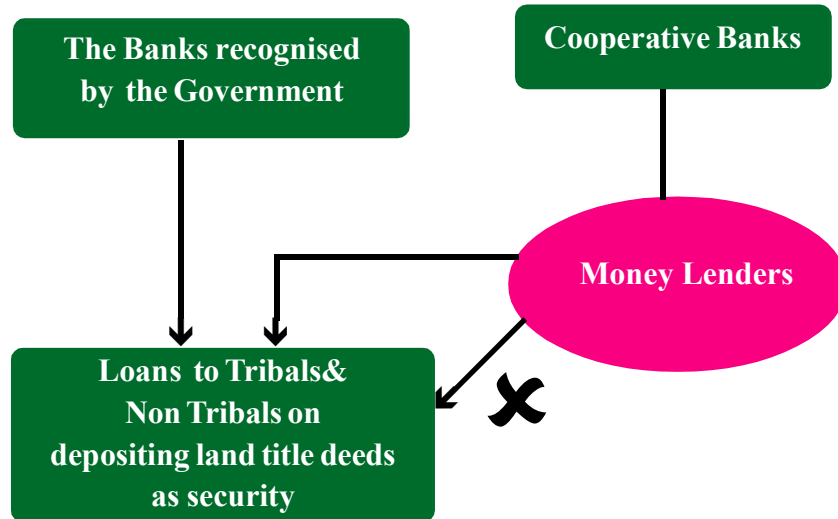
5. Land transfers, including the selling or buying through execution of a court decree, by non tribals and also tribal benami land transfer are illegal.
6. The land transfers between non-tribals before the commencement of Land Transfer Regulations 1 of 70 stand legal and hence valid.



### 5) Land Transfer (Amendment) Regulations 1/71

#### The Salient Features:

- 1) Both tribals and non tribals can avail the credit facility by mortgaging their lawfully owned immovable properties in the Co-operative Societies, including land mortgage banks or any other banks or financial institutions approved by the Government.
- 2) In the event of the mortgaged lands being brought to sale in default of payment of mortgage money, the said property shall be sold only to the tribals or Co-operative Societies composed solely of tribal members.



## 6) Land Transfer (Amendment) Regulations 1/78

### Important Points:

1. No document relating to land transfers in the Scheduled Areas shall be registered by the Registering Authorities under Registration Act 1908 without any verification certificate from the Agent to Government.
2. If the non-tribals acquire any immovable property in the Scheduled Areas in contravention of the Land Transfer Regulations or continues in possession of land after a decree(order) of eviction passed against him shall be liable for the punishment for a term which may extend to one year rigorous imprisonment or fine of Rs 2000/- or both.
3. All the offences under Land Transfer Regulations are cognizable. That means the complaint given to the Police shall be registered as First Information Report (FIR).

## Evaluation:

### Key Words:

Transfer, sale, lease, gift, mortgage, exchange, immovable property, legal, benami, execution of decree, order, co-operative societies, banks, financial institutions, imprisonment, land registration, cognizable offence.

### Improve your learning:

1. Preliminary enquiry officer of land transfer disputes between tribals and non-tribals is .....(District Collector/Special Deputy Collector(Tribal Welfare )
2. According to Land Transfer Act 1917, the land transfers in the Agency Area without the permission of \_\_\_\_\_ are illegal.
3. The main purpose of Land Transfer 1/59 is to restore the land from the possession of .....
4. The Regulations that prohibit land transfers between non tribals also are.....
5. According to 1/70 Regulations, the burden of proof lies on ..... in land transfer cases.
6. If the tribals don't come forward to buy the land from non-tribals, the Government can acquire the such lands from the non-tribals on payment of compensation under .....Regulations.
7. According to Regulations 1 of 78, the non tribal who is in possession of land illegally is liable for the punishment of

imprisonment for a term. .... and fine of .....  
Or.....

8. Collect the particulars of tribal-tribal land disputes in your area.
9. If the tribal land is in the possession of non tribals, under what provisions of law the enquiry officer will initiate action?
10. If non-tribals are in the possession of land legally, can the land be sold now? If sold, who can buy the land?
11. The Special Deputy Collector passed orders against a tribal. He did not agree to it. What are the legal ways available for the tribal, in such situation?
12. A tribal has some land. He was in need of some loan amount. In the same village, there was a rich non tribal. There was a co-operative bank in the village. What should the person do for getting loan?

**Fill in the Table:**

Observe the following disputes in the Scheduled Areas, and give your opinion in the given table on its legal validity.

Sl. No.	Dispute	Whether legally valid ?	Under which rule or act ?
01.	A tribal sold two acres of agency land to a non-tribal in 1936 with the permission from District Collector.		

02.	3 acres of Agency Land was bought by a non-tribal in the name of a tribal in 1960.		
03.	Loan amount was raised from a Bank on mortgage of his land by a non-tribal.		
04.	A non-tribal encroaches upon a tribal land or Government land.		
05.	Land transfers took place between non-tribals in 1976.		
06.	The land transfer that took place between a non-tribal before 03-02-1970.		
07.	Issuance of assignment patta to a non-tribal on Government land in 1980.		
08.	The land sold to a tribal Tribal Cooperative by a tribal.		

**Fill in the Following Table:**

Enquiry Officer	Designation under LTR.	The type of cases taken up
1. The Government. (Tribal Welfare)		
2. Agent to Government.		

03. Additional Agent to Government		
04. Preliminary Enquiry Officer		

**Project:**

Collect the details of a case taken up by the Special Deputy Collector/  
Sub Collector's Court in your area. Display it in your class room.



## 5. Integrated Tribal Development Agency (ITDA)- Development Policies

We came to know from the earlier chapters that during the British Period the areas where Tribals are concentrated were earlier called as Backward Tracts, subsequently Agency Areas, and after the Constitution came into force these areas are known as Scheduled Areas. We also came to know that Special laws and Constitutional provisions were made applicable for the administration of these areas for the advancement of tribals and their protection.

Similarly the Government also started implementing different policies for the development of tribals. There was a prolonged debate during the British period on what approach to be taken up for the development of tribals. It was felt that there is a need to take measures to protect the tribals and develop them without any intervention of outsiders. Recognising tribal autonomy was to allow the tribals to decide their progress freely. The mainstream approach however was the “policy of assimilation” into the non-tribal dominated mainstream. However, striking the balance between these two rival approaches, a modern view was visualised by the Jawaharlal Nehru who articulated the “policy of slow and steady administration” for the development of tribals. The principles are known as *Panchaseel* which are ideal even today.

### **Nehruvian Principles of Panchaseel:**

- 1) Tribal People should develop along the lines of their own genius.
- 2) Tribal rights to land and forest land should be respected.
- 3) We should train and build them to do work in the administration and developmental activities.

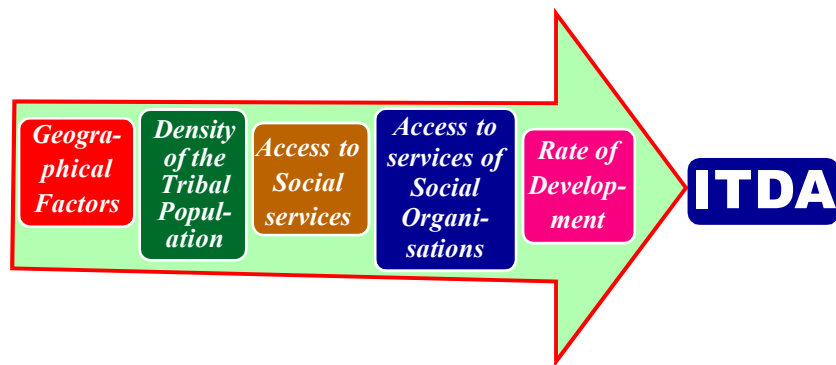
- 4) We should not over administer these areas or overwhelm them with multiplicity of programmes.
- 5) We should judge results not by the amount of money spent or the statistic figures, but the quality of human character that is evolved.

### **Organisations for Tribal Development:**

During the period of the agrarian unrest in the country and the influence of the leftwing revolutionary uprising in some part of tribal areas, the Government implemented six projects for tribal development in 1971-72. As a part of that, the tribal development organisation was established in Srikakulam of Andhra Pradesh.

The organisations thus established became Integrated Tribal Development Agencies in the State during the Fifth Five year plan in 1979. A tribal sub plan strategy was evolved for the tribal development. ITDAs were set on the basis of the geographical conditions, density of the tribal population, the social status and services of organisations and development indicators.

### **Prime Indicators for the establishment of ITDA:**

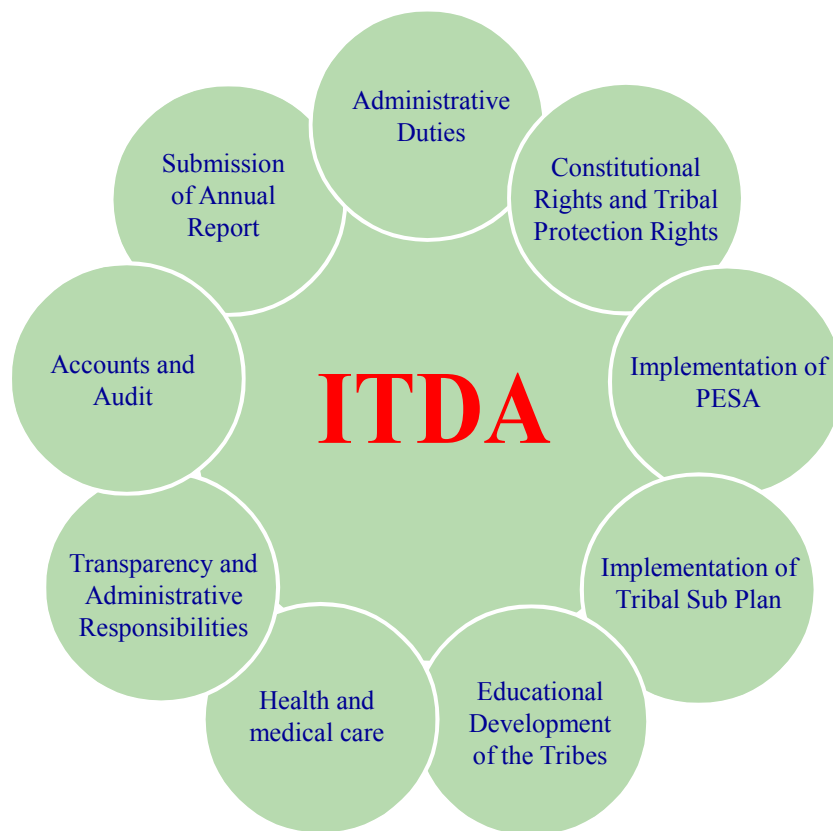


In our state, ITDAs were established in Seethampeta (Srikakulam district), Parvathipuram (Vizianagaram district), Paderu (Visakhapatnam district), Rampachodavaram, Chintoor (East

Godavari district), KR Puram (West Godavari district). While separate ITDAs were established in Srisailam (Kurnool district) for Chenchu tribes and Yanadis in Nellore, a plain area ITDA was established to develop the tribal people who are not covered by the established (8) ITDAs. A Project Officer heads each ITDA.

### Do you know?

ITDA is the Integrated Tribal Development Agency



Each ITDA has a Governing body. The Chairman of the ITDA is

the District Collector. The ITDA Project Officer acts as the Secretary. All the officers representing the different departments in the District are the members of the Governing body.

The Government took a decision of Single Line Administration for the development of Tribals in 1986. All Government Departments should work under the control of ITDA. The role of ITDAs is crucial in the preparation of plans for the multidimensional development of tribals.

### **The Tribal Sub-Plan:**

Tribal Sub-Plan was introduced nationally in the Fifth Five Year Plan (1974-1979). It was intended to serve two major objectives: First, an overall socio-economic development of tribals and to raise them above the poverty level. Second, the protection to the tribals from various forms of exploitation. The Government felt that the special measures are to be taken for the advancement of tribals otherwise, the differences in the levels of development between tribals and non-tribals will continue.

As per the Tribal Sub Plan strategy, funds from the State Plan should be allocated for tribal development based on the tribal population ratio in the total population in the state. This is the main principle in planning. However, the Government brought in the SC, ST Sub-plan Act in the year 2013 to accelerate the tribals and schedule caste people in the State. Let us discuss this SC-ST Sub-plan Act in later chapters.

Modified Area Development Approach (MADA): The Government noticed during the Fifth plan that certain villages and tandas where the tribal population was significant, did not become a part of the tribal Sub-plan strategy. The process of identifying such areas and developing them is called "MADA". This approach was introduced in the Sixth Five year plan. If the pockets of contiguous villages / tandas having a minimum of ten thousand population, of whom at least 50 % belong to tribals population, then those pockets should

be identified for development of tribals.

There are 4 “MADA”s of this kind in the state. Smaller similar pockets of relative tribal concentration were identified as Tribal Clusters for adoption of MADA for the development of tribals. If such pockets having a minimum of 5 thousand population of whom at least 50% belong to the tribal population, then those small pockets should be identified as Tribal Clusters. This is called “Cluster policy”. There are six such clusters in the State of Andhra Pradesh.

### **Evaluation:**

#### **Key words:**

Revolutionary Lef, Five-year plan, Integrated Tribal Development Agency, Panchaseel, multi dimensional development, MADA, Clusters, Tanda, Differences in Development, Tribal Sub-Plan, Assimilation, Isolation.

#### **Improve your Learning:**

1. Developing tribals without any intervention of outsiders is called.....approach,.
2. Developing tribals by bringing them in to mainstream of national life is called .....approach.
3. Mention two principles of Nehruvian Panchaseel, 1).....2).....
4. What did the agrarian unrest of the country and the revolutionary left in some tribal regions lead to?

5. Tribal Development Agency was established in.....Five-year Plan in ..... District.
6. Expand the word “ITDA”.
7. State the five main factors that led to the establishment of ITDA.
8. Indicate the duties does an ITDA perform?
9. ITDAs were established during ..... Five-Year Plan in the ..... year.
10. Exclusive ITDA for Chenchus is located in ..... District and ITDA for Yanadis is located in ..... District.
11. Who acts as the Chainman and Secretary of the ITDA Governing body.
12. If all Government Departments work under the control of ITDA that mode of administration is called.....
13. Expand the word “MADA”.
14. What is the basis for establishing MADA?
15. What are “Clusters”?
16. There are.....MADAs and .....Clusters in the state of A. P.

### Fill in the Table

Particulars	State the Importance of the different Aspects
1971-72	
Srikakulam	
Nellore	
ITDA Chairman	
ITDA Project Officer	
Single Line Administration	
Fifth-Five Year Plan	
Duties of ITDA	
MADA	
Clusters	

### Project:

Visit the nearest ITDA. Find out how many Development Departments are there in it. Prepare a chart with the details and display it in the class room.





## **6. Scheduled Area Money Lenders Regulations 1960**

**T**hese Regulations were framed by the Government to curb the exploitation of tribals by the money lenders taking advantage of the innocence and illiteracy of the tribals. As per the Regulations, the Money lender means a person who advances loans, includes a Mandy Merchant, land lord lending grain as Namu to his farm servant, pawn broker etc. In the Agency Area there are 'Namu' and 'Sirinamu' ( 'Namu' is two bags for one bag and 'Siri Namu' is one and a half bag for one bag) ways of giving loans to tribals on the crops. Similarly loans are given pledging gold ornaments, articles. This money lending activity is regulated by the Government.

As per the rules, the interest shall be simple interest and shall not exceed 12% per annum on the unsecured loans, and 9% on the secured loans. If money is advanced against a pledge, the rate of interest chargeable is  $9\frac{3}{8}\%$  per annum if the loan amount is Rs.25, while  $6\frac{1}{4}\%$  when the loan amount exceeds Rs 25.

The Money Lender shall obtain license from the RDO/Sub Collector to do money lending business in the Scheduled Areas. Money lending without proper license from the competent authority is prohibited. The money lenders without license are liable to be punished with 6 months of imprisonment or a fine of Rs 1000/ or both.

The money lenders who subject the tribal barrowers to detention or intimidate them or interfere with the enjoyment of their lands for the recovery of the loan amount, shall also be liable for the punishment of one year imprisonment or Rs 1000/- or both.

The money lender cannot recover the loan amount by filing a civil suit in the court, if he has not obtained license from the competent officer. As per the rules the licensed money lenders shall give the loans to the borrowers on execution of a promissory note, attested by two witnesses, one of them should be the village Sarpanch. The Courts will not take up the case for recovery of the loan amounts for enquiry if these rules are violated by the money lender. The Money lender shall maintain the registers by noting all the details of the loan amounts.

Petitions can be lodged with the Tahsildar or the Sub-Collector against the money lenders who operate illegally in the Scheduled Areas. The Panchayat raj Extension (Scheduled Area) Act (PESA Act) prohibits the grant of license to the money lending agencies in the Scheduled Areas.

## **Evaluation**

### **Key Words:**

Mandy merchant, Money lenders, Simple Interest, License, Pledge, Namu, Sirinamu, Promissory note, Register.

### **Improve your learning:**

1. What are the factors that contribute to the growth of money lending in Agency Area?
2. What rules should be followed to undertake money lending business in Agency Area?
3. What are the circumstances for the court to reject the suits for recovery of loan amounts in agency area?
4. .... is necessary to undertake money lending in agency area.

5. Money lenders without license are liable for a punishment of ..... imprisonment and a fine of .....
6. The money lenders who threatened or detained the tribals for the recovery of the loan amounts is liable for the punishment .....of imprisonment or of Rs..... fine.
7. One of the attesters of the promissory note should be .....
8. The money lenders should maintain the .....that has the particulars of loan amounts.

### **Project**

Prepare the list of money lenders in your area. Collect the license particulars from the office of Sub Collector. Know the rate of interest charged, the conditions imposed and the methods of recovery from your teacher. Prepare a report with the help of your teacher.

