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GOVERNMENT OF MAHARASHTRA

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Land Alienation and Restoration of Land of Scheduled Tribes Persons in Maharashtra

BY

TRIBAL RESEARCH & TRAINING INSTITUTE
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LAND ALIENATION AND
RESTORATION OF LAND
OF SCHEDULED TRIBES
IN MAHARASHTRA

BY

TRIBAL RESEARCH & TRAINING INSTITUTE,
MAHARASHTRA STATE, PUNE.

PREFACE

The "Study of Land Alienation and Restoration of Land to Scheduled Tribes in Maharashtra State" was undertaken by Dr. P.R.Sirsalkar, Chief Research Officer during the year 1978-79. Shri S.N.Kulkarni, Senior Clerk, Shri S.R.Dhotre and Shri D.T.Pore, Investigators assisted him in collection, tabulation and analysis of data collected from the selected tahsils of Thane, Nashik, Dhule and Chandrapur, district.

This report will be helpful to the Government in Revenue Department in understanding the loopholes of the Acts and suggestions to speed up the implementation of these Acts. It will also be useful to those who are closely associated with the problem of Land Alienation and Restoration of Land to Scheduled Tribes in Maharashtra.

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CHAPTER ONE

I N T R O D U C T I O N

The study of Land Alienation and Restoration of Land to Scheduled Tribes persons in Maharashtra State has been taken with the following objectives.

- 1) To assess the progress made by the Acts
- 2) To identify the issues and anomalies in the implementation of these Acts
- 3) To suggest measures to deal with these issues and anomalies, and
- 4) To assess the impact of these Acts on the economic life of the transferors.

Research Design : Procedure and size of the sample

a) The information in the prescribed schedule "A" and "B" was called from all the Collectors and the Tahsildars by mail.

b) The detailed study was conducted in the Thane, Nashik, Dhule and Chandrapur districts of Maharashtra.

These districts were selected for the following reasons:-

i) These districts have the largest number of Scheduled Tribes population (59.46%) of the total Scheduled Tribes ~~persons~~ persons in the State.

ii) These districts have experienced growing incidence of agitation by the tribal people on the issue of land problem.

iii) Area representation was also considered while selecting districts.

c) The implementing officers of these districts i.e. the Collectors and the Tahsildars of selected Tahsils were interviewed and their difficulties and suggestions have been considered in the report. The respondents of the study belonged to the following three groups : (a) The Scheduled Tribes transferors, (b) Non-Adivasi transferees, and (c) Officials responsible for administering Land Legislation and policies at the taluka and district levels.

d) Due to paucity of time at the disposal for the study, 100 cases of selected districts - (50) of legal and (50) cases of illegal transferors - were interviewed with a view to assess the impact of these Acts on the economic life of these people. For this interview method, Schedule "C" was used.

Land Alienation

Transfer of tribal land to others is taking place in a number of ways which include the following:-

- i) Transfer of land in accordance with the laws.
- ii) Acquisition of land for capital projects.
- iii) Acquisition for secondary and tertiary activities in the hinterland of new projects, and
- iv) Illegal transfers by fraud or forcible occupations and encroachments.

This problem was reviewed by the State Ministers Conference held at New Delhi in April 1975 and it was Resolved that:-

a) Legislation for prevention of land alienation should be undertaken immediately, if such a legislation does not exist in a State. Where such legislations are already there, a review should be done to find the loop-holes for rectification. This work should be done as early as possible and in any case within a period of six months. What is more important is the implementation of the legislative measures for prevention of land alienation and restoration of alienated lands. A crash programme for effectively implementing these laws within two years may be prepared in each State clearly setting targets for each year which should be periodically reviewed.

b) In case of acquisition of land for public purposes, there should be a simultaneous programme for comprehensive rehabilitation as a part of the project itself.

Under the Maharashtra Land Revenue Code 1966 certain restrictions were put on transfers of land held by the tribals. It was, however, noticed that inspite of those provisions, their lands continued to pass into the hands of non-tribals. The Government in the Revenue and Forests Department appointed a Committee in March, 1971 to inquire into and report to the State Government inter-alia on how far the provisions of the Maharashtra Land Revenue Code, 1966 and the relevant Tenancy Laws have been effective in giving protection to persons belonging to Scheduled Tribes and to suggest among other things, suitable amendments therein, if any, of the existing provisions if found to be inadequate. The Committee submitted its report to the Government in April, 1973.

The Committee recommended that provisions should be made for restoring to persons belonging to Scheduled Tribes the lands which have been duly transferred to other persons. After considering the aforesaid recommendation of the Committee, the Government of Maharashtra took necessary Legislative measures.

(i) The Maharashtra Land Revenue Code and Tenancy Laws (Amendment) Act, 1974

Under this Act which has come into force with effect from 6th July, 1974, restrictions on transfer of tribals land have been further tightened up.

(i) The new restrictions apply to all tribals irrespective of the fact whether they hold land in the Scheduled Areas or outside such areas.

(ii) The Collector can permit transfer of tribals land to a non-tribal only where the transfer is by way of a lease or mortgagage not exceeding 5 years.

(iii) In all other cases the Collector will have to obtain prior approval of Government before granting permission for transfer, sale, exchange etc. of a tribal's land in favour of a non-tribal.

(iv) No sale or transfer of a tribal's land in favour of a non-tribal can be sanctioned unless a tribal, residing within a radius of 5 kilometres is unwilling to purchase the same.

(v) Where land of a tribal is transferred to a non-tribal in contravention of the above provision, the transfer is declared as invalid and on such a declaration

the land vests in Government. The said land thereafter is granted to the tribal on his application to the Collector subject to the condition that his total holding does not exceed an economic holding. These provisions make it almost impossible for the non-tribals to oust the tribals from their lands by taking advantage of their ignorance, indebtedness or poverty.

The other important provision in the above mentioned Act is regarding restoration to the original tribal land-holders all their lands which have gone into the hands of non-tribals prior to July 6, 1974, as a result of illegal transactions i.e. transactions effected in contravention of any law for the time being in force. For this the tribal or his successor-in-interest is required to make an application to the Collector within 3 years i.e. on or before 6th July, 1977. The Revenue Officers have, however, been empowered to start enquiries suo-motu for this purpose, with the result that the revenue officers can initiate proceedings on their own even after the 6th July, 1977. In order to facilitate collection of information about such illegal sales/or transfer of ~~tribals~~ tribals land "Tribal Cells" have been set up in all tahsils and sub divisional offices, where social workers and others interested in solving land problem of the tribals can give information about the illegal transfers.

The provisions of both the above enactments are applicable to the entire State irrespective of fact whether

the tribals reside in the Scheduled Areas or not. These provisions are being pursued with vigour in the Tribal Sub Plan Areas through the Collectors, who have been designated as Deputy Tribal Commissioners. In spite of the legal restrictions in the past, the moneylenders, traders and other exploiters have been successfully circumventing the provisions of law by capitalising the tribal's ignorance, indebtedness and above all their high value for truth and honesty.

(ii) The Maharashtra Restoration of land to Scheduled Tribes Act, 1974

This Act came into force with effect from 1st November, 1975 and it provides for restoration to the original tribals their lands:-

(a) Which have gone into the hands of non-tribals between the period from 1st April, 1957 to 6th July, 1974 as a result of transfers (including exchanges) effected validly; and,

(b) Which are purchased or deemed to have been purchased by non-tribals between the aforesaid period under the provisions of the Tenancy Act. (These also include acquisitions of land which have been regularised on payment of penalty under the tenancy law).

The important provisions of the Act are as under:-

2) 1) Transfer in relation to land means the transfer of land belonging to a tribal made in favour of a non-tribal during the period commencing on the 1st day of April, 1957 and ending on the 6th day of July, 1974, either:

(a) by act of parties, whether by way of sale, gift, exchange, mortgage or lease or any other disposition made or

(b) under a decree or order of a court or

(c) for recovering any amount of Land Revenue due from such tribal or for recovering any other amount due from him as an arrear of land revenue or otherwise under the Maharashtra Cooperative Societies Act, 1960 or any other law.

3) 1) Where due to transfer:

(a) The land of a tribal transferor is held by a non-tribal transferee or

(b) The land acquired in exchange by a tribal transferor is less in value than the value of the land given in exchange, and the land so transferred is in possession of the non-tribal transferee and has not been put to any non-agricultural use on or before the 6th day of July, 1974. The Collector, either suo-motu at any time, or on the application of a tribal transferor made within three years from the commencement of this Act shall after making such enquiry as he thinks fit direct that:-

(i) The lands of the tribal transferor and non-tribal transferee so exchanged shall be restored to

each other and the tribal transferor or as the case may be the non-tribal transferee shall pay the difference in value of improvements.

(ii) The land transferred otherwise than by exchange be taken from the possession of non-tribal transferee and restored to the tribal transferor free from all encumbrances.

Where land is transferred by a tribal transferor in favour of a non-tribal transferee before the 6th July, 1974, after such transferee was rendered landless by reason of acquisition of his land for a public purpose, then only half the land so transferred shall be restored to the tribal transferor.

3) The tribal transferor shall be entitled to restoration of land under this section only if he undertakes to cultivate the land personally and to pay such amount to the non-tribal transferee as the Collector may determine.

Whereas the first Act enables the tribals to secure the lands illegally usurped by the non-tribals, the second one goes further and provides for restoration of their lands acquired by the non-tribals by legal methods. The provisions of both the enactments will not apply to the lands which have been transferred in favour of non-tribals and which have been put to non-agricultural use prior to 6th July, 1974 or lands which have gone into the hands of third parties. In the case of valid transfers,

however, such of the lands which have gone into the hands of third parties after 15th March, 1971, will also come within the purview of this Act.

The Government is anxious to see that the implementation of the aforesaid two measures is attended to promptly and that the work of restoring land to the Adivasis is completed expeditiously. Most of the enquiries are to be made suo-motu by the Collectors/Deputy Collectors because the adivasis, being generally ignorant and illiterate may not come forward to make necessary applications. For this purpose the following action was suggested to be taken immediately in the districts, where there is a ~~sizeable~~ sizable population of Adivasis:-

- (1) To bring the record of rights up-to-date,
- (2) To collect information regarding transfers of land from Adivasis to non-Adivasis and to prepare two separate lists,
 - (a) regarding invalid transfers which would come within the ambit of the Maharashtra Act No. (35) of 1974; and
 - (b) regarding valid transfers made between the period from 1-4-1957 to 6-7-1974, which would be covered by this Act.
- (3) In the case of invalid transfers to hold suo-motu enquiries for restoration of land to Adivasis.

The social workers and others interested in solving the problem of Adivasis were asked to come forward to furnish information about instances regarding transfers of lands of Adivasis to non-Adivasis. In order to facilitate collection of such information "Adivasi Cell" is set up in each tahsil and sub-divisional office.

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CHAPTER TWO

Implementation of Land Restoration Acts

No actual assessment of the alienation of the tribal land could be made and it is therefore not possible to report the number of cases and area involved in such alienations. However the progress made in the disposal of inquiries under the two measures is given briefly as under:-

The procedure of Restoration of Land to Scheduled Tribes can be summarised in the following important stages:-

- (i) Registration of cases
- (ii) Scrutiny of registered cases and acceptance of the cases for restoration of land
- (iii) Issue of orders of restoration of land to Scheduled Tribes, after drop out of cases of transfer of land
- (iv) Actual possession of restored land to the tribal transferors.

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The analysis of the data given in Table No.(1) and (2) reveals the following facts.

Maharashtra 35 of 1974

Out of 14,770 cases registered under invalid transfers in 14,201 cases i.e. in 96% of the registered cases, after preliminary investigation of cases, it was observed that these are the fit cases to order restoration of land to Scheduled Tribes. But after detailed scrutiny of these cases in 6,267 cases i.e. in 44% of the cases,

decided the area of 13,076 hooctares to 7,545 Adivasis was ordered to be restored and 7,934 cases i.e. 56% of decided cases were dropped as it was observed that in these cases the transfer was noticed from tribal to tribal. Out of (6267) cases, actual possession of land has been given in (4895) cases i.e. in 78% of the cases in which land has been ordered to be restored. In (1372) cases actual land ~~was~~ could not be restored as in (107) cases stay has been ordered by Collector/Commissioner; in (279) cases stay has been given by Maharashtra Revenue Tribunal; in (198) cases stay has been given by High Court and in (3) cases stay has been ordered by Supreme Court. In (19) cases the tribals refused to take possession of land and in (766) cases possession is still to be handed over. Thus, it is seen that in 9% of the cases in which area has been ordered to be restored, stay has been given at various levels and in 12% of the cases the possession is still to be handed over. On the basis of the above statistics it is seen that the progress of disposal of cases under this Lot is satisfactory.

In Bombay Division out of 9408 cases registeres in 9302 cases i.e. 98% of the registered cases preliminary scrutiny has been made. Out of 9302 cases, in 3888 cases i.e. in 41% of the decided cases, land has been ordered to be restored and 5414 cases i.e. 59% has been dropped after detailed investigations. (7615) hectares of land has been ordered to be restored to (5084) Adivasis, out of which (7231) hectares of land has been actually restored to

(4672) Adivasis. Out of 3888 cases in (305) cases i.e. in 7% of the cases ordered, possession is still to be handed over to the Adivasis. These statistics reveal that the progress of disposal of cases is satisfactory in Bombay Division. In Thane district out of (904) cases in which area has been ordered to be restored, only in 37 cases the possession is still to be handed over and in (867) cases actual possession of an area of 1460 hectares has been given to 994 Adivasis. In Nashik district out of 805 cases in 151 cases, i.e. in 18% of the cases, in which area has been ordered to be restored, the actual possession of land is to be given. In Dhule District out of (1106) cases in which area has been ordered to be restored in 86 cases actual possession of land is to be given. Thus it is observed that in Thane, Nashik and Dhule districts the progress of disposal of cases under this Act is satisfactory.

In Pune Division out of 433 cases in which area has been ordered to be restored in 19 cases, i.e. in 21% of the cases ordered, the actual possession is to be given. In Aurangabad Division out of 177 cases in 100 cases, i.e. in 56% of the cases ordered, the actual possession is to be restored. Thus it is seen that the progress of implementation of this Act is not satisfactory because of stay ordered in majority of cases ordered for possession of land. In Nagpur Division out of 1769 cases in which area has been ordered to be restored, in 876 cases, i.e. in 50% of the cases the actual possession of land has to be given. In Chandrapur district out of 799 cases ordered in 678 cases, i.e. 84% of

the cases ordered, actual possession of land is to be restored. In Yavatmal district out of (55) cases in which area has been ordered to be restored, in (52) cases actual possession of land is to be given. In Bhandara out of (181) cases in which area has been ordered to be restored in (89) cases i.e. in 50% of the cases the area has not been given in possession due to various reasons. Thus, it is seen that in Aurangabad Division and Nagpur Division the progress of the Implementation of the Act does not appear to be satisfactory as in a number of cases stay has been ordered. In Pune and Bombay Division the progress of the disposal of cases is satisfactory.

Maharashtra 14 of 1975

Out of (31,404) cases registered under this Act, 7680 cases i.e. 24% of the registered cases were pending as on 28-2-1979. Out of (23,724) decided cases in 9,347 cases i.e. in 39% of the decided cases area has been ordered to be restored and 14,377 cases has been dropped after detailed investigations. Out of 9,347 cases ordered in 6,404 cases, i.e. in 68% of the cases ordered actual possession of land is to be given. Thus, it is noticed that at the State level the progress of the implementation of this Act, due to stay and other reasons, does not seem to be satisfactory.

In Bombay Division out of (3,360) cases in which area has been ordered to be restored to 4,320 Adivasis covering 7,231 hectares of land, actual possession has been given to 3,184 Adivasis with an area of 5,174 hectares.

In (843) cases, i.e. in 25% of the ordered cases actual possession is to be given. In Thane district out of (326) cases in which area has been ordered to be restored, in 164 cases i.e. in 50% of the ordered cases actual possession of land has to be given. In Dhule district out of (870) cases in which area has been ordered to be restored in 167 cases i.e. in 19% of the ordered cases, actual possession of land is to be restored. In Nashik district out of 917 cases in which area has been ordered to be restored, in 362 cases i.e. in 39% of the ordered cases, actual possession of land is to be given. The statistics reveal that the progress differs from district to district even in the same division.

In Pune Division out of 198 cases in which area has been ordered to be restored in 69 cases, i.e. in 34% of the ordered cases the actual possession of land has to be given. In Aurangabad Division out of 288 cases in which area has been ordered to be restored in 226 cases, i.e. in 78% of the ordered cases actual possession of land is to be given. In Nagpur Division out of (5,501) cases in which area has been ordered to be restored in 5366 cases, i.e. in 97% of the ordered cases, actual possession of land has to be given. In Chandrapur district out of (2367) cases in which area has been ordered to be restored, in (1851) cases, i.e. in 77% of the ordered cases, actual possession of land has not been given. In Bhandara district out of 820 cases in which area has been ordered to be restored, in (689) cases, i.e. in 84% of the ordered cases, actual possession

of land is to be given. In Yavatmal out of (1,391) ordered cases in 1,072 cases i.e. in 76% of the ordered cases the actual possession is to be given to the tribal transferors.

Thus, it is observed on the basis of above mentioned statistics that the progress of the implementation of this Act does not seem to be satisfactory in Aurangabad and Nagpur Divisions and in Thane, Nashik, Dhule, Chandrapur, Bhandara and Yavatmal districts of Maharashtra State. The progress of disposal of cases appears to be satisfactory in Bombay and Pune Divisions of Maharashtra State.

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Table No. (1)

Statement showing the progress of disposal of cases regarding invalid transfers of Adivasis' land registered under the Maharashtra Land Revenue and Tenancy Laws (Amendment) Act, 1974 (Maharashtra. 35 of 1974) for the fortnight ending on 28th February, 1979.

District	Total No. of cases registered upto the end of night under report	Total No. of cases decided upto the end of fortnight under report	No. of cases pending at the end of night under report	No. of cases restored in Col. 3	Area ordered to be restored in cases in Col. 3	Area actually restored	No. of cases from Col. 5 in which possession is to be given		
1	2	3	4	5	6	7	8	9	10
Bombay Division									
B.S.D.	35	35	-	-	-	-	-	-	22
Thane	3037	3050	29	904	1043	1167	994	1460	37
Kuleba	1008	1008	-	723	723	704	720	702	6
Ratnagiri	-	-	-	-	-	-	-	-	-
Nashik	2369	2379	10	605	990	1530	841	1222	151
Dhule	2396	2334	62	1106	1796	3499	1660	3267	86
Jalgaon	493	488	5	350	513	707	449	640	27
Total	9408	9302	106	3888	5084	7615	4672	7231	305

	1	2	3	4	5	6	7	8	9	10
<u>Aurangabad Division</u>										
Aurangabad	1	1	1	1	1	1	1	-	-	1
Parbhani	-	-	-	-	-	-	-	-	-	-
Bhir	-	-	-	-	-	-	-	-	-	-
Nanded	451	430	21	176	176	512	77	245	99	-
Osmanabad	-	-	-	-	-	-	-	-	-	-
Total	452	431	21	177	177	513	77	245	99	-
<u>Pune Division</u>										
Ahmednagar	526	466	36	320	392	434	322	260	69	-
Pune	217	217	-	113	119	169	91	101	22	-
Satara	-	-	-	-	-	-	-	-	-	-
Sangli	-	-	-	-	-	-	-	-	-	-
Solapur	-	-	-	-	-	-	-	-	-	-
Kolhapur	-	-	-	-	-	-	-	-	-	-
Total	743	705	36	433	511	603	413	381	91	-

1	2	3	4	5	6	7	8	9	10
<u>Nagpur Division</u>									
Buldhane	32	29	3	17	24	44	20	36	3
Akola	55	55	-	26	26	73	5	12	21
Amravati	764	760	4	514	515	1773	514	1771	1
Yavatmal	489	465	24	55	53	163	3	8	52
Wardha	89	87	2	9	9	16	2	2	5
Nagpur	277	190	87	163	135	405	123	223	27
Bhandara	446	400	46	181	185	150	92	68	89
Chandrapur	2015	1777	233	799	825	1716	175	402	673
Total	4167	3763	404	1769	1773	4345	934	2522	876
Grand total	14770	14201	569	6267	7545	13076	6096	10379	1372

Table No. (1)(A)

District	Reasons for not										For any other reason (to be specified)					
	Total No. cases from Col. 5 of part-I in which possession is still to be handed over to tribals	No. of Area cases (H.A.)	4	5	6	7	8	9	10	11	12	13	14	15	16	17
			Cases involved in stay from Collr./COMR.	Cases involved in stay from M. R.T.	Cases involved in stay from High Court	No. Area	Cases involved in stay from Supreme Court	Cases involved in stay from Supreme Court	Cases involved in stay from Supreme Court	No. Area	No. Area	No. Area	No. Area	No. Area	No. Area	No. Area
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Bombay Division																
B.S.C.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Thane	37	54	3	2	1	1	2	-	-	-	-	-	-	-	29	45
Kulaba	6	2	-	-	-	-	-	-	-	-	-	-	-	-	6	2
Ratnagiri	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Nasik	151	316	10	18	88	173	15	39	-	-	-	-	-	-	38	86
Dhule	86	232	8	16	3	3	72	209	1	2	1	1	-	-	1	2
Jalgaon	27	67	1	2	5	28	18	26	1	4	2	6	-	-	-	-
Total	305	671	22	38	97	205	107	279	2	6	3	7	-	-	74	-

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
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Pune Division

Ahmednagar	69	154	1	1	1	37	95	18	43	-	-	-	-	-	-	13	14
Pune	22	50	1	1	1	13	44	4	2	-	-	-	-	-	-	4	40
Satara	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Sangli	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Solapur	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Kolhapur	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Total	91	212	2	2	2	50	139	22	45	-	-	-	-	-	-	17	24
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Aurangabad Division

Aurangabad	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1
Parbhani	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Bhir	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Nanded	99	267	7	18	75	208	1	1	2	-	-	16	39	-	-	-	-
Osmanabad	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Total	100	268	7	18	75	208	1	1	2	-	-	16	39	-	-	1	1
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	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
<u>Nagpur Division</u>																	
Buldhana		3	7	-	-	-	-	3	7	-	-	-	-	-	-	-	-
Akola		21	66	7	28	1	4	2	6	1	3	-	-	-	-	10	26
Amravati		1	2	-	-	1	2	1	4	-	-	-	-	-	-	32	113
Yavatmal		52	155	4	18	-	-	4	20	-	-	-	-	-	-	37	113
Wardha		5	11	-	-	3	9	2	2	-	-	-	-	-	-	2	300
Nagpur		27	179	-	-	5	48	13	76	-	-	-	-	-	-	32	9
Bhandara		89	81	31	38	2	3	14	14	-	-	-	-	-	-	57	113
Chandrapur		678	1468	34	113	45	55	22	66	-	-	-	-	-	-	577	1125
Total		876	1969	76	197	57	221	68	203	1	3	-	-	-	-	675	1551
Grand Total		1372	3120	107	255	279	773	198	529	3	9	19	46	-	-	767	1711

Table No. (2)

Statement showing the progress of disposal of cases regarding valid or legal transfers falling under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (Maharashtra 14 of 1975) for the fortnight ending 28th February, 1979.

District	Total No. of cases registered upto the end of fortnight under report	Total No. of cases decided upto the end of fortnight under report.	No. of pending cases at the end of the fortnight	Area ordered to be restored						Area actually restored		No. of cases from Col.V in which possession is to be given.
				Cases	Adivasis	Area (Hectares)	Adivasis	Area (Hectares)	Area	Adivasis	Area	
1	2	3	4	5	6	7	8	9	10			
Bombay Division												
B.S.D.	70	65	5	2	2	1	-	-	2			
Thane	3173	2240	933	326	332	665	150	321	164			
Kulaba	879	876	3	582	609	663	580	607	29			
Pentagiri	7	7	-	3	3	1	3	1	-			
Nashik	1666	1626	40	917	1118	1871	624	1126	362			
Dhule	4239	3918	321	870	1061	2506	848	2034	167			
Jelgaon	1212	1081	131	660	1198	1404	979	1085	119			
Total	11246	9813	1433	3360	4320	7231	3184	5174	843			

	1	2	3	4	5	6	7	8	9	10
<u>Pune Division</u>										
Ahmednagar	278	264	14	145	183	38	121	129	40	
Pune	66	63	3	53	53	48	24	36	29	
Satara	-	-	-	-	-	-	-	-	-	
Sangli	-	-	-	-	-	-	-	-	-	
Solapur	-	-	-	-	-	-	-	-	-	
Kolhapur	-	-	-	-	-	-	-	-	-	
Total	344	327	17	198	236	86	145	165	69	
Arrangabad	96	76	20	37	46	286	24	130	13	
Parbhani	179	117	62	64	72	164	6	13	36	
Bhair	-	-	-	-	-	-	-	-	-	
Nanded	469	300	169	196	201	785	20	72	177	
Osmarabad	-	-	-	-	-	-	-	-	-	
Total	744	493	251	288	308	1234	50	214	226	

	2	3	4	5	6	7	8	9	10	
<u>Nagpur Division</u>										
Buldhana	58	51	7	26	39	77	34	66	2	
Akola	736	663	68	2278	281	556	203	431	86	
Amravati	533	506	27	187	191	411	129	299	66	
Yavatmal	4475	3164	1311	1394	1647	4859	345	958	1072	
Wardha	1060	966	94	287	292	769	82	156	200	
Wani	1052	959	93	265	499	63	411	464	-	
Bhandara	4933	1613	3120	828	897	550	39	17	689	
Chandrapur	6223	4964	1259	2367	2475	3698	570	673	1851	
Total	19070	13091	5979	5501	6321	11553	1813	3031	5366	
Grand Total	31404	23724	7680	9348	11185	20104	5192	8504	6404	

Table No. 2(A)

Statement showing the progress of disposal of cases regarding valid or legal transfers falling under the Maharashtra Restoration of Lands to Scheduled Tribes Act, 1974 (Maharashtra 14 of 1975) for the fortnight ending February, 1979

District	Total No. of cases from Col. 5 Part-I in which possession is still to be handed over to tribals	Reasons for not handing over possession												
		Cases involved in stay from M.R.T. from Collr/Comar	No. : Area : (hects)	Cases involved in stay from High Court	No. Area (hects)	Cases involved in stay from Supreme Court	No. Area (hects)	For any other reasons (to be specified)	No. Area (hects)	10	11	12	13	
		2	3	4	5	6	7	8	9	10	11	12	13	
<u>Bombay Division</u>														
B.S.D.	2	1	-	-	-	1	1	-	-	-	-	-	-	
Thane	164	337	-	-	-	9	28	-	-	-	-	155	309	
Kolaba	29	56	-	-	-	-	-	-	-	-	-	29	56	
Ratnagiri	-	-	-	-	-	-	-	-	-	-	-	-	-	
Masik	362	745	-	-	-	124	296	42	85	-	-	196	364	
Dhule	167	472	5	17	27	89	132	359	1	2	2	5		
Jalgaon	119	320	-	-	32	149	168	106	16	60	3	4		
Total	843	1931	5	17	193	563	242	550	17	62	385	738		

	1	2	3	4	5	6	7	8	9	10	11	12	13
<u>Pune Division</u>													
Ahmednagar	40	100	-	-	-	6	20	8	27	-	-	26	62
Pune	29	11	-	-	-	-	-	-	-	-	-	29	11
Satara	-	-	-	-	-	-	-	-	-	-	-	-	-
Gangli	-	-	-	-	-	-	-	-	-	-	-	-	-
Solapur	-	-	-	-	-	-	-	-	-	-	-	-	-
Kolhapur	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	69	120	-	-	-	16	20	288	27	-	-	55	73

<u>Aurangabad Division</u>													
Aurangabad	13	132	-	-	-	12	130	-	-	-	-	1	2
Parbhani	36	94	-	-	-	19	56	3	13	-	-	-	-
Manded	177	712	-	-	-	91	416	2	12	-	-	84	284
Bhir	-	-	-	-	-	-	-	-	-	-	-	-	-
Osmanabad	-	-	-	-	-	-	-	-	-	-	-	-	-
Total	226	938	-	-	-	122	602	5	25	-	-	85	286

	1	2	3	4	5	6	7	8	9	10	11	12	13
<u>Nagpur Division</u>													
Buldhana	2	9	-	-	2	9	-	-	-	-	-	16	53
Akola	86	248	-	-	45	76	25	119	-	-	-	13	53
Amravati	66	146	-	-	30	58	30	81	-	-	-	6	7
Yavatmal	1072	3900	11	44	458	1682	332	1353	-	-	-	271	822
Jardha	200	603	-	-	87	282	70	208	-	-	-	43	113
Nagpur	-	-	-	-	-	-	3	34	-	-	-	-	-
Bhandara	689	533	2	2	119	189	55	31	-	-	-	513	411
Chandra- pur.	1851	2023	-	-	222	597	432	800	-	-	-	1177	1345
Total	5366	8482	13	46	923	2733	947	2706	-	-	-	2026	2751
Grand Total	3404	11451	18	63	1248	3978	1202	3308	17	62	2551	3648	

Chapter Three

Land Restoration : Case studies

With a view to assess the impact of these Acts on the Scheduled Tribes transferors, (359) tribal transferors were interviewed from Thane, Nashik, Dhule and Chandrapur districts. The details of each district are given below.

Dhule District

(1) Sakri Tahsil:- In Dhule district maximum cases of illegal transfers were in Sakri and Akalkuwa tahsils and maximum cases of valid transfers were in Sakri and Nandurbar tahsils. (25) tribal transferors from each tahsil were contacted. The information collected had revealed the following facts.

Out of 25 tribal transferors, (23) belonged to Bhil group and (2) were Kokana. Out of non-tribal transferees (15) were Maratha, (3) were Wani and (7) belonged to O.B.C.group. In the case of (19) tribal persons the reason given for alienation of land was poor economic condition and in (6) cases the reason reported was loans taken for consumption and productive purposes. The lands reported to have been passed from the hands of tribals to non-tribals during the last ten years. In five cases the year of restoration of land was 1975, in (18) cases it was 1976, in one case it was 1977, and in one case the land has not been restored. In (24) cases the name of

the tribal persons had been entered in VII and ~~IX~~ XII Register. All the persons shown willingness to cultivate the land. Since the restoration of land, it has been reported that they had not made any efforts to improve their income through the land. In two cases the land restored is below one acre; in (17) cases it was between 1 to 5 acres and in (6) cases it was 6 and above. All the tribal people stated that they need financial assistance for the purchase of bullocks, seeds, manure etc. with a view to develop the land and increase their income.

(2) Akkalkuwa Tahsil

In Akkalkuwa tahsil 23 tribal transferors were contacted. The information collected from these revealed the following facts.

All the 23 tribal transferors belonged to the Bhil tribe. Out of non-tribal transferees (9) belonged to Christian group, (4) belonged to Gujrathi group, (5) belonged to Marwadi group and (5) belonged to O.B.C. group. The period of land alienation in ~~(2)~~ (20) cases was below ten years and in (3) cases it was between (11) to (15) years. Their poor economic condition was the main reason for alienation of land. After restoration of land only in (2) cases improvement in economic condition had been observed. The year of restoration of land in all the cases was reported as 1976. The entry of all the cases has been taken in VII and XII Register. All of them reported to cultivate the restored land. Only two persons made efforts to increase the income from land. In (10) cases

the land restored was between 1 to 5 acres and in (5) cases it was six acres and above.

(3) Sakri Tahsil

In Dhule district maximum cases of valid transfers were in Sakri and Nandurbar tahsils and hence (25) tribal transferors from each tahsil were contacted. The information collected revealed the following facts.

Out of (25) tribal transferors (19) were Bhils and (6) were Koknas. Out of non-tribal transferees (15) belonged to Maratha Caste; one belonged to Muslim group and (9) belonged to other groups. The period of land alienation in all the cases was below ten years. In all the cases the reason for alienation of land was given as poor economic condition and inability to cultivate the land. (5) tribal persons had made efforts for more income by making improvement in the restored land. The year of restoration of land to Scheduled Tribes in one case is 1972, one in 1975 (2) in 1976 and (3) in 1977. Entry of all the persons to whom the land has been restored is taken in VII and XII Register. All the tribal people has reported their willingness to cultivate the land. In one case the land restored was below one acre; in (11) cases it was between 1 to 5 acres and in (13) cases it was above (6) acres. After restoration of land in no case the improvement in economic condition has been noticed.

(4) Nandurbar tahsil

In Nandurbar tahsil out of (23) cases studied 19 were Bhils and 4 were Koknas. Among the non-tribal transferees 18 belonged to O.B.C.group and 5 belonged to

Maratha caste. It has been reported that in (12) cases the land was alienated below ten years and in (11) cases it was between (11) to (15) years. In seven cases the land was alienated for poor economic condition; in (16) cases it was alienated because of non-payment of loans taken. The year of restoration in all the cases has been reported as 1976. The entry of all the cases has said to be taken in VII and XII Register. All the tribal transferers had reported their willingness to cultivate the land. No person made efforts for more income from land during the last three years. In (14) cases the land restored was between 1 to 5 acres and in (9) cases it was six acres and above. All the tribal cultivators had insisted on financial assistance for development of agriculture.

CHANDRAPUR DISTRICT

(1) Rajura tahsil

In Chandrapur district maximum cases of ~~in~~ invalid transfers were in Rajura and Branhapuri tahsils and hence (25) tribal transferors from each tahsil were contacted. The information collected from them had revealed the following facts.

The tribal transferors reported belonging to the Gond and the Pardhan tribe. Among the non-tribal transferees (19) belonged to Kunbi group; three belonged to Scheduled Castes group and three belonged to others group. In (18) cases the period of land alienation has been reported as below ten years and in seven cases it was between 11 to 15 years. In (21) cases the reason for land alienation has been reported as poor economic condition and in (4) cases it was non payment of loans. The year of restoration of land reported was 1977 in all the cases. Entry of all persons had been taken in VII and XII register. All of them have shown willingness to cultivate the land. In all the cases no efforts have been said to be made to improve their income. In 20 cases the land restored was between 6 acres and above and in (5) cases it was between 1 to 5 acres.

(2) Branhapuri tahsil

The tribal transferors belonged to Gond and Pardhan tribe and in the non-tribal transferees (14) belonged to O.B.C.group; (9) belonged to Scheduled Castes group and (2) belonged to Lingayat caste. In (15) cases the period of land alienation has been reported as below 10 years. In (15) cases the cause for alienation of land was poor economic condition and in (10) cases it was non-payment of loans. None of them made efforts to improve the income. In (16) cases the land has been restored in 1978; in (4) cases in 1977; in (4) cases in 1976 and in (1) case the land has not been restored because of stay. In (24) cases

the entry has been taken in VII and XII Register. All of them have reported their willingness to cultivate their land and asked for financial assistance for agriculture. In (17) cases the land restored was between one to five acres; in (6) cases it was below one acre and (2) cases it was between six acres and above.

(3) Chandrapur Tahsil

In Chandrapur tahsil out of (25) cases studied (17) belonged to the Gond group and (8) were Fardhans. Among the non-tribal transferees (12) belonged to O.B.G. group; (9) were Kunbis and (4) belonged to other groups. In (15) cases the period of land alienation was below ten years and in (10) cases it was between 11 to 15 years. All of them reported poor economic condition as the cause of their land alienation. In (8) cases the land has been restored in 1977 and in (17) cases it was in 1978. Entry of these persons have been reported to be taken in VII and XII Register. All of them have shown their willingness to cultivate the land. No one has made efforts to improve the land. In ~~(2)~~ (20) cases the restored land was between 1 to 5 acres; in (3) cases it was below one acre and in (2) cases it was six acres and above. All of them have asked for financial assistance for agriculture.

4) Gadchiroli tahsil

In Gadchiroli tahsil (16) tribal transferees were contacted. All of them belonged to the Gond group. The non-tribal transferees reported to U.B.C. group. In all the cases the period of land alienation has been reported as below ten years. In (14) cases, poor economic condition was the reason for land alienation and in (2) cases it was non-payment of loans. In (13) cases the land has been restored in 1978 and in (3) cases it was 1979. Entry of all the persons have been reported to be taken in VII and XII Register. Out of these (16) cases, (11) tribal persons made efforts to improve their economic position through land. In (4) cases the restored land was below one acre; in (11) cases it was 1 to 5 acres and in one case it was six acres and above.

NASIK DISTRICT

(1) Nasik tahsil

In Nashik district maximum cases of valid transfers were in Nashik and Malegaon tahsils and maximum cases of invalid transfers were in Nashik and Baglan tahsils. The information was collected from (25) tribal transferees of each tahsil, which revealed the following facts.

Out of (25) cases, (19) cases belonged to the Mahadeo Kolis (6) cases were of Bhils. Among the non-tribal transferees (7) cases were of the Brahmins, and (18) cases were of the Maratha Caste. In (12) cases the land has reported to be alienated above sixteen years, in (2) cases it was below (10) years, and in one case it was between (11) to (15) years. No one reported improvement in their economic condition after restoration of land. In (12) cases the year of restoration of land was 1977, in (9) cases it was 1976 and in (4) cases it was 1978. All of them have shown willingness to cultivate the land. Their names have been entered in VII and XII Register. In all cases, they have asked for financial assistance for agriculture. In (8) cases the restored land was below one acre; in (23) cases it was (1) to (5) acres and in (4) cases it was six acres and above.

(2) Malegaon tahsil

In Malegaon tahsil, out of (24) cases studied, (21) belonged to the Bhil group and (3) were Mahadeo Kolis. Out of non-tribal transferees (14) belonged to the Maratha caste and (10) belonged to O.B.C. group. In (21) cases the land was alienated below ten years and in (3) cases it was between (11) to (15) years. In all the cases the reason of alienation of land has been stated as poor economic condition and non-payment of loans. No one reported any improvement in economic condition after the the restoration of land. In (6) cases the land was restored in 1976; in (9) cases it was restored in 1977 and in (9) cases it was restored in 1978. The entry of (18) persons have been reported to be taken in VII and XII Register

and in (6) cases the land could not be restored because of stay. All of them have shown willingness to cultivate the land and asked for financial assistance for agriculture. No person has made efforts for more income. Out of the restored land in three cases it was below (1) acre; in (14) cases it was between (1) to (5) acres and in (7) cases it was six acres and above.

(3) Baglan Tahsil

In Baglan tahsil all the tribal transferors belonged to the Bhil group. Among the non-tribal transferees (18) were Maratha and (7) belonged to O.B.C.group. In all the cases the land has been alienated between (11) to (15) years. The poor economic condition was the reason of land alienation. In (19) cases improvement in economic condition has been reported. In (18) cases the land has been reported in the year 1978 and in (7) cases it has been restored in 1976. Their names have been reported to be entered in VII and XII Register. All of them have shown willingness to cultivate the land. In (9) cases the restored land was below one acre; in (15) cases it was (1) to (5) acres and in (1) case it was six acres and above.

(4) Nashik tahsil

All of the tribal transferors studied in this tahsil reported as belonging to the Mahadeo Koli tribe. Out of non-tribal transferees (12) belonged to Maratha caste;

(4) were Brahmins; (3) were Christians and (6) belonged to O.B.C.group. The period of land alienation in all the cases was below ten years. All of them reported poor economic condition and non payment of loans as the reason of alienation of land. Only one person reported improvement in economic condition after restoration of land. In (6) cases the land has been restored in 1976; in (9) cases it was in 1977; in (5) cases it was 1978 and in (5) cases stay has been ordered and hence the land has not been restored. In (20) cases their entry has been taken in VII and XII Register. All of them have reported willingness to cultivate the land. In (7) cases the land restored was below one acre; in (17) cases it was between one to five acres and in one case it was six acres and above.

THANE DISTRICT

(1) Bhivandi tahsil

In Thane District the maximum cases of valid transfers were in Shahapur and Bhivandi tahsils and maximum cases of invalid transfers were in Bhivandi and Shahapur tahsils. (25) tribal transferors from each tahsil were contacted and the information collected had revealed the following facts.

Out of (22) cases contacted in Bhivandi tahsil (7) were Warli; (10) were Mahadeo Koli and (5) were Kathkari. Among the non-tribal transferees (17) were Makatha and (5) belonged to O.B.C.group. In (18) cases the period of land alienation was below ten years and in

(4) cases it was between (11) to (15) years. In (8) cases they reported poor economic condition as the cause of land alienation and in (14) cases they reported the cause of land as non payment of loans. In (4) cases the land has been restored in 1975; in (6) cases in (11) cases in 1977 and in one case in 1978. Entry of all the persons has been taken in VII and XII Register. All of them has shown willingness to cultivate the land. Only in (4) cases efforts have been made to improve their economic condition. In (6) cases the land restored was below one one acre, and in (16) cases it was between one to five acres.

(2) Shahapur Tahsil

In Shahapur tahsil out of (25) cases studied, (15) belonged to the Thakur tribe, five were Warlis, three were Katkari and two were Mahadeo Koli. In (14) cases the land has been alienated between ten years and in (11) cases it was between (11) to (15) years. The reasons for alienation of land reported were poor economic condition and non payment of loan. No one reported improvement in economic condition after restoration of land. In (6) cases the land has been restored in 1974; in (10) cases it was in 1975; in (7) cases it was in 1976 and in (2) cases it was in 1977. Entry of all the persons have been taken in VII and XII Register. All of them have shown willingness to cultivate the land.

In (5) cases the land restored was below one acre; in (17) cases it was to 5 acres and in (3) cases it was six acres and above.

ii (3) Ulhasnagar Tahsil

In Ulhasnagar Tahsil, all the (12) cases studied were of Thakar tribe. In ten cases the period of land alienation was below ten years and in two cases the reason of land alienation was poor economic condition and non-recovery of loan. Even after restoration of land they have not made any improvement in their economic condition. In all the cases the year of restoration of land was 1978. After alienation of land in all the cases their source of income was labour. In all the cases entry has not been taken in VII and XII Register. In five cases the land restored was below one acre and in seven cases it was between one to five acres.

(4) Murbad Tahsil

In all the (14) cases studied, the tribal transferees belonged to Thakar tribe. In three cases the land was alienated below ten years and in (11) cases it was between 11 to 15 years. In ten cases the land was alienated because of poor economic conditions. The source of income after alienation of land in (8) cases was agricultural labour and in (6) cases it was other labour. No one has made improvement after the restoration of land in the year 1978. In (12) cases entry has not been taken in VII and XII Register. In five cases the land restored was below

one acre, in six cases it was 1 to 5 acres and in three cases it was six acres and above.

The following table gives the tahsilwise details of the cases studied in Thane, Nashik, Dhule and Chandrapur districts of Maharashtra State.

Statement showing the details of the cases studied in Thane, Nashik, Dhule and Chandrapur districts of Maharashtra State

Sr. No.	Name of District	Name of Tahsil	No. of cases studied	Details of land restored										Year of restoration	Period of land alienation	Remarks if any
				Below 10 years	10 to 15 years	15 to 20 years	20 to 25 years	25 to 30 years	30 to 35 years	35 to 40 years	40 to 45 years	45 to 50 years	50 years and above			
1			4	5	6	7	8	9	10	11	12	13	14	15		
1.	Nashik	Nashik	25	8	13	4	-	9	12	4	2	11	12	-		
		Malegaon	24	3	14	7	-	6	9	9	21	3	-	-		
		Baglan	25	9	15	1	-	7	-	18	-	25	-	-		
		Nashik	25	7	17	1	-	6	9	5	25	-	-	Stay 5 cases		
	Total		99	27	59	13	-	28	30	36	43	39	12			
2.	Dhule	Sekri	25	2	17	6	5	18	1	-	25	-	-	Court stay 1 case		
		Amalhuwa	23	-	18	5	-	23	-	-	20	3	-			
		Sekri	25	1	11	13	-	20	4	1	25	-	-			
		Nandurbar	23	-	14	9	-	23	-	-	12	11	-			
	Total		96	3	60	33	5	84	5	1	82	14	-			

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
3. Chandrapur															
Rajura	225				5	20				25			18	17	
Gadchiroli	16	4	11	1		1	2	13	16						
Chandrapur	25	3	20	2			3	17	15	10					
Brahmapuri	25	6	17	2		4	4	16	15	10					Stay(1) case
Total	91	13	53	25		5	39	46	46	38					7
4. Thane															
Bhivandi	22	6	16		4	6	11	1	18	4					
Shahapur	25	5	17	3	16	7	2		14	11					
Ulhasnagar	12	5	7					12	10	2					
Murbad	14	5	6	3				14	3	11					
Total	73	21	46	6	20	13	13	27	45	20					
GRAND TOTAL	359	64	213	77	25	130	67	110	221	119	19				
	(17%)	(60%)	(23%)	(7%)	(36%)	(24%)	(33%)	(61%)	(33%)	(6%)					

Conclusions:-

1) From the discussion of the case studies it has been observed that in majority of the cases the land restored is below five acres and it is because of this reason and the poor economic condition of the tribal transferors, most of them could not improve their economic conditions or in other words the impact of land restoration to the Scheduled Tribes in majority of the cases was not visible.

2) It has also been revealed that the poor tribal agriculturists can not improve economic condition from agriculture unless financial assistance in package form is given to them for atleast three years from the date of restoration of land.

3) The case studies also revealed the following facts:-

(a) Most of the tribal transferors ~~xxx~~ have shown willingness to cultivate the restored land.

(b) In most of the cases entries have been taken in VII and XII Register.

(c) In most of the cases, it was informed that though the land has been restored to tribal people, actual cultivation is being done by the non-tribals.

(d) In 47% of the studied cases, the land was alienated by the Maratha caste which can be seen from the following table.

(e) It has been observed that the alienation of land from tribal to non-tribal in the studied cases was in non-cultivating castes and 27% in O.B.C.Group.

Name of District	Name of Tahsil	No. of cases studied	Caste of non-tribal transferees			
			Maratha/ Kunbi	Trading and other groups	OBC	Muslim
Dhule	Sakri	25	15	153	27	-
	Akkalkuwa	23	-	9	5	9
	Sakri	25	15	-	9	1
	Nandurbar	23	5	5	13	-
Chandrapur	Rajura	25	19	3	3	-
	Bramhapuri	25	-	11	14	-
	Chandrapur	25	9	4	12	-
	Gadchiroli	16	6	2	8	-
Nashik	Nashik	25	18	7	-	-
	Malegaon	24	14	-	10	-
	Baglan	25	18	7	-	-
Thane	Nx					
	Bhivandi	22	17	-	5	-
	Shahpur	25	11	14	-	-
	Ulhasnagar	12	-	-	-	12
	Murbad	14	11	3	-	-
Total		359	170 (47%)	81 (22%)	86 (25%)	22 (6%)

CHAPTER FOUR

Brief resume of similar Acts in other States of India

1) Andhra Pradesh

"The Agency Tracts Interest and Land Transfers Act", 1917 (Madras Act I of 1917) was passed to save the tribals from exploitation and to regulate the transfer of land of Ganjam, Vishakhapatnam and Godavari districts and other Agency areas. The salient features of the Act regarding prevention of Land alienation are as under.

(1) Under Section (4) of the Act, any transfer of immovable property, when it was made without the previous consent of the agent or any prescribed officer was made null and void unless it was in favour of another member of a Hill tribe. The definition of "Hill tribe" is the main loophole in this Act. Under this Act, any non-tribal, who was resident in the Agency tracts could acquire land from a member of a Hill tribe. The Act was used more to enable the non-tribals to acquire lands in Agency tracts with the permission of the Agent than to prevent exploitation of the tribal people.

Andhra Pradesh (Scheduled Areas) Land Transfer Regulation, 1959, repeated regulation I of 1917 and provided protection to tribals against exploitation by non-tribals. It came into force in the districts of Srikakulam, Vishakapatnam East and West Godavari. It was extended to the Scheduled Areas of Mchboobnagar, Adilabad, Warangal and Khammam districts by Regulation II of 1963. The salient feature of the Regulation

I of 1959 and Regulation II of 1963 are given below.

(i) In the Scheduled Areas, any transfer of land by a member of Scheduled Tribe to anybody other than a member of Scheduled Tribe is considered null and void.

(ii) No land situated in Scheduled Areas, owned by a member of Scheduled Tribe, shall be liable to be attached and sold in execution of a money decree.

(iii) Where a transfer of land is made in favour of any member, other than that of a Scheduled Tribe, the Agent or the Agency Divisional Officer, on application by any interested person, may restore the property to the transferor or to his heir.

Andhra Pradesh (Scheduled Areas) Land Transfer

(Amendment) Regulation, 1970 was passed to amend Regulation I of 1959. The amending Regulation substituted Sub-Section (3) of Regulation I of 1959 by prohibiting and declaring null and void the transfer of immovable property situated in the Agency tracts by any person.

The Andhra Pradesh (Scheduled Areas) Land Transfer

(Amendment) Regulation, 1971 was passed to remove the hardships of tribals. Section (3) of Regulation I of 1971, provided for the mortgaging, without possession of any immovable property, situated in the agency tracts to any cooperative society or commercial bank on the express condition that the property should be sold only to tribals or Cooperative societies, consisting wholly of members belonging to Scheduled Tribes. It prohibited lawyers from representing the non-tribals without the permission of the Agent.

(2) Gujrat

In Gujrat, the Scheduled Tribes hold land on new and impartible tenure, either as a result of confirmation of occupancy under the Bombay Tenancy and Agriculture Lands Act, 1948 or under the land to the Tiller's Act of 1957 or under the general orders of the Government relating to the disposal of waste lands. Section (73)(A) of the Bombay Land Revenue Code, 1879 prohibits the transfer of occupancy held by a tribal cultivator in Scheduled Areas and in areas where survey settlement has not been introduced, without the written permission of the competent officer.

(3) Rajasthan

Protective Legislation prohibiting transfer of land belonging to Scheduled Tribes (and Scheduled Castes) was introduced in 1956. The law prohibits the transfer of land by way of sale, gift, mortgage or otherwise, to any person, who is not a member of Scheduled Tribe.

Protective provisions for Scheduled Castes and Scheduled Tribes were added to the Rajasthan Tenancy Act by the Rajasthan Tenancy (Amendment) Act of 1956. The protective provisions of this Act are as under.

(i) Restrictions on transfer by sale, gift or bequest

Sub-Section (b) of Section (42) of the Rajasthan Tenancy Act prohibits transfer of land by sale, gift, or bequest by a member of a Scheduled Tribe in favour of a person who is not a member of Scheduled Tribes,

(ii) Restrictions on usufructuary mortgage

Usufructuary mortgage of land belonging to a member of Scheduled Tribe to any person, who is not a member of Scheduled Tribe ~~xxxxxxperxxxxxxwhexixxmt~~ has been prohibited under Section (48) of the Rajasthan Tenancy Act.

(iii) Restrictions on Sub-letting

A member of a Scheduled Tribe can not let or sub let the whole or any part of his holding to any person, who is not a member of a Scheduled Tribes.

iv) Restrictions on exchange

Section (49)(A) prohibits exchange of the holding of a member of Scheduled Tribe with land included in the holding of any person, who is not a member of Scheduled Tribe.

The remedy for illegal transfers is by way of a suit under section (175) of the Rajasthan Tenancy Act, under which by an amendment in 1971, the period of limitation for filing an application has been raised from (3) years to (12) years.

Restrictions on Registration of documents

The Registration Law has been amended to provide for refusal of registration of documents on grounds of public policy. Documents relating to transfers of land belonging to Scheduled Tribes. in contravention of the

provisions of law have been notified to be against Public policy. This has placed a curb on the registration of documents for transfers of land by tribals to non-tribals.

(4) Madhya Pradesh

Under Section 165 (6) of the Madhya Pradesh Land Revenue Code of 1959, it is provided that the right of a Bhumi-Swami belonging to a tribe shall not be transferred to a tribe without the permission of a Collector. Section 170 (1) of the Madhya Pradesh Land Revenue Code 1959 states "Where possession is transferred by a Bhumi-Swami in pursuance of a transfer, which is in contravention of subsection (6) of section (165), any person may within two years of such transfer of possession, apply to the Sub Divisional Officer the land to be placed in possession.". Section (169) of the code states that "If a Bhumi-Swami leases out for any period what so ever any land comprised in his holding in contravention of Section (168) , the rights of an occupancy tenant shall thereupon accrue to the lessee in such lands.

Section 250 of the Madhya Pradesh Land Revenue Code of 1959 provides : "If a Bhumi-swami is dispossessed of the land, otherwise than in due course of law, the Bhumi-swami or his successor in interest may apply to the Tahsildar for restoration of the possession within two years from the date of dispossession."

(5) West Bengal

According to Section 14(c) of Chapter II A of the West Bengal Land Reforms Act, 1965, the transfer of a holding or a part of it by a member of Scheduled Tribe is permissible only in the following cases.

a) A gift or will to a person belonging to a Scheduled Tribe.

b) A simple mortgage to the Government for a ~~public purpose~~ registered cooperative society.

c) Sale or gift to the Government for a public or charitable purpose.

d) Sale or exchange in favour of any person belonging to a Scheduled Tribe and also to any person who does not belong to a Scheduled Tribe provided that the previous permission of the authorised officer has been obtained.

(6) Orissa

Regulation II of 1956 provided that transfer of immovable property from a tribal to a non-tribal without the prior permission of the competent revenue authority would be void so far as Scheduled Areas were concerned. Similar provisions were made under Sections (22) and (23) of the Orissa Land Reforms Act, 1960, in respect of non-Scheduled Areas.

The registration authorities under the revenue administration are prohibited from registering any document of alienation of tribal land without the prior permission of the Sub-Divisional Officer. Under the amended provision of Regulation II of 1956, which has been brought into force from 19-12-1975, the following amendments have been made.

i) The period of limitation for establishing title on the land transferred by a person belonging to a Scheduled Tribe has been increased from (12) to (30) years.

ii) The right of alienation of land by tribals in favour of cooperative societies, cooperative banks and other financial institutions has been restricted only for obtaining loans for agricultural purposes.

iii) Eviction of unauthorised occupation of any immovable property of a member of a Scheduled Tribe by way of trespass or otherwise and restoration of such property to the said member of Scheduled Tribe has been nullified by law and such eviction would attract rigorous imprisonment for a term which may extend to two years or five which may extend to Rs. 2000/- or both.

(7) Bihar

Section (46) of the Chota Nagpur Tenancy Act of 1908 permits temporary alienation by an Adivasi to a non-Adivasi, if the alienation is done as (a) a simple mortgage or lease for a period of 5 years. In 1969 the Scheduled Areas Regulation was passed to further tighten the provisions of the Chota Nagpur Tenancy Act regarding the

transfer of Adivasi Lands. The regulation also provides that if any land is transferred in contravention of Section (46) or any other provision of this Act or by a fraudulent method ~~is~~ is held or cultivated by any person, with the knowledge of such transfer, he shall be punished with imprisonment for a term which may extend to 3 years or with fine which may extend Rs. 1000/- or with both. Some of the other important provisions of the regulation are as follows:

- (i) The Indian Limitation Act has been ~~amended~~ amended and the period of limitation has been extended to (30) years.
- (ii) The Deputy Commissioner has been made a necessary party in all the suits for the declaration of title and possession concerning the immovable property of a tribal.

(8) Assam

To restrict transferability of land to non-tribals Regulation V of 1873 and Regulation I of 1886 were in operation. The Assam Land Revenue Regulation of 1886 was amended in 1964 to provide protection to tribals against the alienation of their lands. Laws restricting ownership of land by non-tribals have been enacted by the District Councils in the autonomous districts, under the provisions of Scheduled VI.

(9) Himachal Pradesh

The Himachal Pradesh Transfer of Land (Regulation) Act of 1969 imposes restrictions on the transfer of land by tribals to non-tribals.

(10) Mehgalaya

The Meghalaya Transfer of Land (Regulation Act 1971) provides that a prior permission of the competent authority must be obtained by the transferor.

(11) Tripura

The Government of Tripura amended the Tripura Land Reforms Act of 1960 to safeguard the interests of the members of Scheduled Tribes in respect of their lands.

(12) Uttar Pradesh

The Act No. IV of 1960 in respect of Section (157) (a) has placed restrictions on transfer of tribal lands.

Thus in this Chapter a brief resume has been taken of the protective measures taken by the State Governments in respect of transfer of tribal lands.

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CHAPTER FIVE

OBSERVATIONS AND SUGGESTIONS

(1) It has been observed that the progress of the Maharashtra Restoration of Land to Scheduled Tribes Act, 1974 is not satisfactory. One of the main reasons, which makes the implementation of the Land Transfer Regulations very difficult, is the filing of number of writ petitions by non-tribals as and when eviction proceedings are initiated. It is therefore suggested that this Act may be ~~xxxxxxx~~ brought under the purview of Schedule IX of the Constitution of the country or the Civil Courts and High Courts are barred from trying the cases under the Land Transfer Regulations.

(2) It has been observed from the collected data of studied cases of Thane, Nashik, Dhule and Chandrapur districts that the main reason of land alienation of poor economic conditions of the Scheduled Tribes. It is therefore proposed that moneylending from sahu-kars should be replaced by a suitable credit system for the salvation of the poor tribal people. Control on moneylenders should continue to be strict and effective and it may be ensured that in no way the tribal people are exploited by these moneylenders.

(3) In spite of these Acts, it has been noticed that Benami transfers in different districts are estimated to be very large in number. Unless Benami transfers are

located and covered under illegal transfers the impact of Legislation to deal with the problem would hardly touch the tip of the iceberg. Special investigation machinery, if necessary, may be set up for this purpose.

(4) It is noticed that the existing land enactments protecting the interests of the tribal in the State raise an issue of unfair and unequitable treatment to non-tribal transferees. The ordinance provides for the restoration of the illegal transferred lands to the tribals without compensating for any expenditure incurred by the non-tribal transferees on the development of such land. It has been seen that a large number of non-tribal transferees have made considerable investment in such activities as building, digging well, terracing etc. They have raised money for these investments by taking loans from government Departments, moneylenders etc., in the hope of paying these loans from the income derived from improved lands. If these lands are taken away from them without payment for these improvements, this would be unfair. It is therefore proposed that suitable compensation for development may be given to non-tribals.

(5) It has been seen that the ordinance does not provide for repayment of any portion of the loan against which the land was mortgaged or sold to the non-tribal as part of the restoration deal. To write off the debt uniformly may be too drastic measure. It is therefore proposed that the cases may be studied and some portion of the loan may be given to the non-tribals provided that they have not met that amount through the income of this land.

(6) In some cases it has been observed that the socio-economic conditions of the sizeable number of non-tribal transferees, are hardly above the survival level. Recovery of land from them, especially widow, mentally and physically handicapped and ex-servicemen, would leave them economically weak and drive them below the poverty line. It is therefore desirable to work out the percentage of the amount of compensation for capital investment when the land is restored to a tribal from a non-tribal. Such a provision on the lines of Act No. XIV of 1975, in respect of invalid transfers, to be made in the concerned Act.

(7) It has been noticed in the past that the sub-registrar, registry did not necessarily check whether the land belonged to a Scheduled Tribe or not. As a result of it, the land was alienated at this stage from tribals to non-tribals. It is therefore suggested that suitable instructions may be issued by the Revenue Department that the Sub-Registrar, Registry, is charged with the responsibility to check whether the property belonged to a tribal in executing transfer deeds. A large number of transfers of tribal land can be stopped at this stage.

In Rajasthan the Registration Law has been amended to provide for refusal of registration of documents on grounds of public policy. This will place a curb on the registration of documents for transfers of land by tribals to non-tribals. The similar action is proposed to be taken in Maharashtra State. ~~xxxxxxx~~ Documents transferring lands from tribals to non-tribals may not be registered without the consent of the Collector, Dy. Tribal Commissioner like Bihar State .

(8) It has been noticed that the work of deciding the cases of valid transfers has been very slow. It will be desirable to set up a time bound programme to settle the cases and hand over the possession of land from non-tribals to tribal people within a time limit.

(9) Repossession of land by the tribals is another important issue in the implementation of land policy. Though land is restored legally, the non-tribals may not allow the tribals to acquire possession of these lands particularly in view of the poor economic condition, ignorance and political inexperience of the tribals and the use of coercion and threats of retaliation by non-tribals. Unless tribals get possession of restored lands, all other efforts will be less than meaningful.

(10) It has been reported in Nasik district that the tribal transferors did not want land for personal cultivation in a number of cases due to the pressure on Adivasis and thus such cases were dropped. Though the State Government has passed a radical legislation, it is sad to note that the Adivasis are not aware of their rights.

(11) In the ultimate analysis, the tribal has to assert himself against exploitation. He has to straighten his back and resist oppression. A sustained propaganda is necessary in tribal areas to educate the tribal people on the protective legislation enacted for their benefit and other advantages made available to them by Government.

(12) It is necessary to provide the tribal transferors with the required inputs and other agricultural aids at least for three years so that he does not face any difficulty in starting cultivation on his land. Unless package programme is taken for the tribal transferors by the Agriculture Department through Tribal Sub Plan, no visible impact can be noticed in future.

(13) Legislation about restrictions on transfers of land belonging to Scheduled Tribes must continue to be vigorously implemented. Cases of legal transfers of land should be disposed off promptly. The Revenue Agency must be more vigilant about detection of such transfers and take prompt remedial action. Any lapse on the part of Revenue officials in this respect should be viewed seriously.

(14) Development efforts should be intensified in the areas having tribal concentration. The tribal has to be helped to improve his economic position and get the maximum from his land. Unless helping hand is given to this weaker section, they cannot stand on their feet at this stage.

(15) It is seen that the tribals find it very difficult to meet both ends meet for many months in a year. It is therefore proposed that to develop alternative sources of credit, the scheme of consumption loan to Scheduled Tribes may be continued by the Government so that they may not approach for this purpose to local sahuikars.

(16) Efforts will have to be made in tribal communities for the eradication of social evils and the reform of social customs which have been responsible for the economic ruin of the tribal people. Social workers and voluntary organisations should be encouraged for this purpose.

(17) Drinking of liquor plays a vital role in the socio-religious life of the tribal people. It is necessary to eradicate the evil of drinking among the tribals, so that they may not lose their lands because of such evils.

(18) Land alienation over the years has been the single biggest ~~xxxxxx~~ cause of the acute backwardness of the tribal economy. With the loss of fertile lands, the holdings of the tribals generally became uneconomic and could not provide their minimum requirements. It is therefore proposed that in no case the tribal land is permitted to be alienated by the non-tribals. Only in genuine and in exceptional cases, such permission may be given by the Government in Revenue and Forest Department.

Under the Orissa Land Reforms Act of 1960, the time limit for establishing title to the lands transferred by person belonging to a Scheduled Tribe shall be thirty years in the non-Scheduled Areas of the State. Under Section (67) of the Orissa Land Reforms Act, 1960, it is however provided that no civil court shall have jurisdiction to entertain any suit or proceeding so far as it is related to any matter which any officer or other competent ~~authorit~~ authority is empowered to decide under this act.

Regulation II of 1956 of Orissa State has been amended in December, 1975. The important provisions are:-

i) The period of limitation has been increased to (30) years.

ii) The restriction on the transfer of land by way of mortgage by a member of Scheduled Tribe in favour of different financing institutions has been relaxed in order to enable a tribal to obtain a loan for agriculture purposes. On the similar lines, it is suggested that this issue may be examined by the Revenue Department and the period of limitation in Maharashtra State may also be increased to (30) years.


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From these facts it is evident that the resulting benefits of protective legislation regarding the problem of land alienation have been rather nominal. The main reasons are : (1) Lacuna in the laws, (2) Ignorance of the tribal people, and 3) Complicated legal procedures involved in land restoration.

Land ~~xxxx~~ reform programmes are found to vary from region to region and state to state and it would not be rational to follow blindly the programmes which have succeeded elsewhere without reference to the social and economic ~~back~~wgground of each society and above all to the nature of ~~its~~ Agrarian structure and its history.

Professor Gunnar Myrdal, the eminent Swedish Economist considers land reform as a planned institutional re-organisation of the relations between man and land. ~~Ms~~ However he considers that any re-organisation of ownership and tenancy to yield maximum benefit should be combined with certain policy efforts such as the improvement of the terms of Tenancy, re-organisation of credit, agricultural education, marketing, advisory services and the structure of administration in order to give the peasants a sense of participation in the task of 'improving themselves'. Thomas F. Carroll in his book "The concept of land reform" has stated that land reform can mean giving accessibility of land to the people, who have been previously denied access to it, taking land away from one person to be given to another, putting land to the most efficient use, providing rural credit and extension services, interfering with private property rights and a host of other measures. Land reform is essentially an integrated set of measures designed to eliminate obstacles to economic and social development arising out of defects in the agrarian structure.

It is often made out in underdeveloped countries that by a mere break up of landed properties and redistribution of land a great socio-economic revolution can be effected and the ends of justice met. This kind of redistribution may sometimes pay political dividends but in practice will create a miserable peasantry condemned to eak out a dismal living on very small holdings. In a labour surplus agricultural economy with a shortage of working

capital, this could well provide interim relief but it can not guarantee a productive land system nor a higher rate of growth. Unfamiliarity of independent farming and lack of initiative also can not be easily overcome. ~~Mere~~ Mere distribution of land, even with legal restrictions on subsequent transfer of title, will not transform farm workers and subsistence peasants into efficient modern farmers nor will such redistribution solve the problem of mass employment, when allotments are tiny holdings of poor land. The measure of success of land reforms ~~is~~ depend upon the extent of primary education. The examples of Japan and Taiwan, where education is widespread, establish this point. Training a large number of personnel for the supervision of the programme is necessary and is often neglected. If land reforms are not implemented quickly there is the danger of losing momentum and ~~per~~ permitting an extensive opposition to mobilise and plan defensive evasion. In developing countries the ^{agrarian} structure is  old and rigid and is thickly interwoven with the old social and economic fabric. The progress of reform therefore appears neither rapid nor impressive particularly when no integrated programme is being pushed forward with sincerity and courage.

(19) It has been noticed that in some part of Scheduled Areas of this State non-tribal outsiders are settling with a view to grab the lands of the tribal people.

It is therefore suggested that restriction on the settlement of non-tribal outsiders in the Scheduled Areas may be imposed. If government can not restrict the settlement of non-tribals it must be ensured that a ban is put on ~~grawing~~ ~~grawing~~ owning the non-tribals any land from the tribals in Scheduled Areas after their settlement in the area.

20) It has been observed that in majority of the cases the land restored to the tribal people is between 0.1 to 5 acres and which has not made any impact in improving their economic condition due to their poverty. It is therefore proposed that in the case of dry land upto 5 acres and in the case of wet land upto one acre, no case of land alienation from tribals to non-tribals may be enquired in future.

It has been also noticed that after restoration of land to tribals, some of the non-tribals have no source of livelihood and they are compelled to join the ranks of agricultural labourers. In such cases it is proposed that dry land upto 5 acres and wet land upto one acre may not be restored in future.

21) It has been observed that even after the restoration of land to Scheduled Tribes the non-tribals have kept in occupation these lands. It is therefore suggested that some punishment may be imposed for illegal occupation of tribal lands in the Restoration Act, like Rajasthan State.

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CHAPTER SIX

S U M M A R Y O F S U G G E S T I O N S

1) The Maharashtra Restoration of Land to Scheduled Tribes Act, 1974, may be brought under the purview of Schedule IX of the Constitution of the country or the civil courts and the High Courts are barred from trying the cases under the Land Transfer Regulations.

2) Money-lending from sahu-kars should be replaced by a suitable credit system for the salvation of the poor tribal people. Control on moneylenders should continue to be strict and effective and it may be ensured that in no way the tribal people are exploited by these moneylenders.

3) Benami transfers may be located and covered under illegal transfers. Special investigation machinery, if necessary, may be set up for this purpose.

4) Suitable compensation for development may be given to non-tribals under invalid transfers.

5) Some portion of the loan may be given to the non-tribals provided that they have not met that amount through the income of this land.

6) The percentage of the amount of compensation for capital investment may be worked out when the land is restored to a tribal from non-tribal.

7) Suitable instructions may be issued to the Sub Registrars, Registry, regarding check up of the property of tribals. The registration law may be suitably amended to

provide for refusal of registration of documents on grounds of public policy.

8) It is desirable to set up a time bound programme to settle the cases of valid transfers and hand over the possession of land from non-tribals to tribals, within a time limit.

9) A sustained propaganda is necessary in tribal areas to educate the tribal people on the protective legislation enacted for their benefit and other advantages made available to them by Government.

10) It is necessary to provide the tribal transferor with the required inputs and other agricultural aids at least for three years so that he does not face any difficulty in starting cultivation on his land. Unless package programme is taken for the tribal transferors no visible impact can be noticed in future.

11) Cases of legal transfers of land should be disposed off promptly. Any lapse ~~on~~ on the part of Revenue officials in this ~~regard~~ respect should be viewed seriously.

12) Development efforts should be intensified in the areas having tribal concentration. Unless helping hand is given to this weaker section of the Indian society, they can not stand on their feet at this stage.

13) The scheme of consumption loan to Scheduled Tribes may be continued so that the tribal people may not approach local traders and sahuikars for this purpose.

14) Efforts may be made by social workers and voluntary organisations for the eradication of social evils and the reform of social customs which have been responsible for the economic ruin of the tribal people.

15) It is necessary to eradicate the evil of drinking among the tribal people so that they may not loose their lands because of such evils.

16) In no case the tribal land should be allowed to be transferred to non tribal. Only in genuine and in exceptional cases the permission may be given by the Government in Revenue Department.

17) On the lines of the Orissa and Bihar State it is proposed that the issue of period of limitation may be examined by the Government in Revenue Department and the period of limitation in Maharashtra State may also be increased to thirty years.

18) Restrictions on the settlement of non-tribal outsiders in the Scheduled Areas of Maharashtra State may be imposed. If the Government can not restrict the settlement of non-tribals it must be assured that a ban is put on owning the non-tribals any land from tribals in Scheduled Areas, after their settlement in the area.

19) In the case of dry land upto one acre no case of land alienation from tribals may be enquired in future.

20) Some punishment may be imposed for illegal occupation of tribal lands in the Restoration Act, like Rajasthan State.

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