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Scheduled Tribes - Governance in the Scheduled Areas



Dr. PALLA TRINADHA RAO

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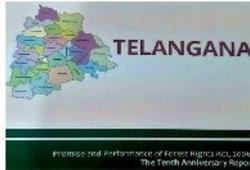
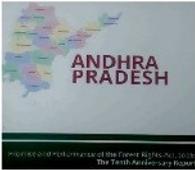
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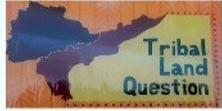
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A Hand Book

Scheduled Tribes - Governance in the Scheduled Areas



Dr. PALLA TRINADHA RAO

A Hand Book
SCHEDULED TRIBES -
GOVERNANCE IN THE SCHEDULED AREAS
by Dr. Palla Trinadha Rao

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A Hand Book
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IN THE SCHEDULED AREAS

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Tribal Welfare Dept.,
Government of
Andhra Pradesh

Legal Awareness empowers the Scheduled Tribes to demand justice and accountability. Legal knowledge helps the functionaries of the various institutions at all levels to implement the ST protective laws and policies in letter and spirit, and ensure that the Scheduled Tribes obtain justice. The officers posted to the Scheduled Areas may not have clear understanding of the laws specially made for the Scheduled Areas and concerning the Scheduled Tribes.

Land and Forests are the key resources for the survival of Scheduled Tribes. The implementation of the Land Transfer Regulations to prevent tribal land alienation and to restore the alienated lands in the Scheduled Areas are very important functions of both the Tribal Welfare and Revenue Department officials. Similar is the recognition of forest rights under the Recognition of Forest Rights Act. All the development officers should have clear legal knowledge of the role of Gram Sabha and other Panchayat Raj Institutions in the Scheduled Areas under Panchayats Extension to the Scheduled Areas (PESA) Act for effective local governance.

The book **“Scheduled Tribes- Governance in the Scheduled Areas”** is written by Dr Palla Trinadha Rao, a practicing advocate working for the rights of Scheduled Tribes. This book contains information on various laws specially made for the administration of Scheduled Areas and protection of Scheduled Tribes. Dr. Trinadha Rao is also assisting the Tribal Welfare Department to bring out Scheduled Tribes related policy and legislations.

I hope that this book will be useful for the Tribal Welfare and other officers concerned to enforce the ST protective laws and administer the Scheduled Areas as well as other non government agencies working for the welfare of tribals.

With best wishes

Dt. 5.12.2019


R.P. Sisodia

P. Ranjit Basha, I.A.S.
Director of Tribal Welfare



Office of the
Director of Tribal Welfare
Government of
Andhra Pradesh

The Regulatory functions of the officials working in the Scheduled Areas are very important, both for the protection of tribals from exploitation and their development. The provisions of Fifth Schedule to the Constitution are applicable to the administration of the Scheduled Areas. The Government, from time to time, is bringing special legislations to address the tribal issues of land, forest and governance. There are special legal provisions that are applicable to the Scheduled Areas for better administration.

The Tribal Welfare Department has setup two separate State Level Projects Units to monitor the implementation of land and forest rights of tribals as well as the implementation of PESA Act for effective local governance in the Scheduled Areas.

The book “Scheduled Tribes- Governance in the Scheduled Areas” written by Dr. Palla Trinadha Rao, will be helpful to Tribal Welfare Officials as well as other officers who are working for the welfare of tribals to understand the legal aspects. The book is also useful for the non government groups who are engaged in Training Programs that aim to educate the tribals on laws.

With best wishes

Dt. 15.12.2019

P. Ranjit Basha.

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

The State of Andhra Pradesh has two distinct regions of contrasting ecological and topographic features. On the one hand the state is endowed with plain landscape and on the other high altitude of hills and forests with elevated Eastern Ghats. Andhra Pradesh is a traditional habitat for 34 tribal communities.

Scheduled 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.

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 Notification of Scheduled Tribes communities are State specific. The identification of Scheduled Tribes is done on the basis of being either or all the following characteristics (i) primitive traits; (ii) distinctive culture; (iii) geographic isolation; (iv) shyness of contact with the community at large; and (v) backwardness

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 other 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, 13th 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 9th August.

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

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 tribals 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 Government 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 general 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:**

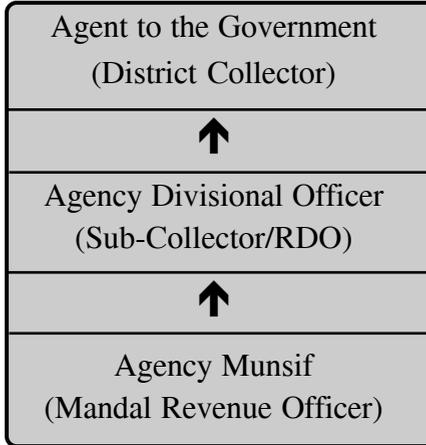
Jurisdiction : The Revenue Divisional Officer/ Sub-Collector is known as Agency Divisional Officer. In this court, the value of civil suits between Rs 500/- and Rs 5000/- will be settled. The cases from one lower court to him can be transferred to another lower court by the Agency Divisional Officer. 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 held 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	

3.Administration in Scheduled Areas- Special Constitutional Rights

The 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 areas 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 scheme of administration of Scheduled Areas under the Fifth Schedule visualizes a division of responsibility between the State Government and the Union Government. The State Government is charged with the duty of screening legislation unsuitable for extension to the tribal areas of framing regulations for their peace and good governance with particular reference to the protection of tribal land, and protection from exploitation by moneylenders. It has also to implement special schemes for the welfare of the Scheduled Tribes living within its boundaries as well as schemes for their general development. The Union Government’s responsibility extends to providing guidance in regard to the administration of the Scheduled Areas the standard of life of the tribal communities. The Union Government has power also to give directions to the State Governments regarding the

implementation of particular schemes, laying down priorities in their implementation and in regard to the general administration of the tribal 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.

AP State ST Commission:

Both the Andhra Pradesh State Legislative Assembly and Legislative Council passed two Bills that enable setting up of separate Commissions for Scheduled Castes (SCs) and Scheduled Tribes (STs) in December, 2019. The AP State ST commission is to safeguard the rights of Scheduled Tribes in the State. The State Commission will act in the State of AP on the similar lines of the National Commission for STs in the country.

In addition to these, the Government of India and the State Governments appoint Commissions and Committees from time to time to assess and report to the concerned authorities regarding the implementation of welfare schemes and related matters. Every year the Commissioner for the Scheduled Tribes is authorized to lay before the Houses of Parliament the Annual Report. The

Commission analyses the programmes and schemes for tribal welfare and reports to the President. The Ministry of Home Affairs and the Planning Commission also appoint working groups/ Task Forces/ Committees to study the problems of tribal.

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 Constitution of the Indian Republic provides series of safeguards for the tribal People. General and special provisions are also applicable to tribal communities. Article 15 (Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth), Article 16 (Equality of opportunity in matters of public employment), Article 17 (Abolition of untouchability), Article 23 (Prohibition of traffic in human beings and forced labour), Article 38 (Securing a social order for the promotion of the welfare of the people) and Article 29 (Protection of the interests of the minorities). These articles of the Constitution, though general in nature, touch the core of the tribal issues and problems.

Economic and political guarantees include special care for the economic and educational interests of the STs and to protect them from social injustice and all forms of exploitation (Art.46), special grants for development of STs or Scheduled Areas (Art. 275(i)), maintenance of efficacy of administration (Art. 335), reservation of seats in the House of People, Legislature and Panchayats (Art. 330, 332, 243D) and extension of the 73rd and 74th Amendments of the Constitution to the Scheduled Areas through the provisions of the Panchayats Extension to the Scheduled Areas Act, 1996 to ensure effective participation of the tribals in the process of planning and decision making.

4. Integrated Tribal Development Agency (ITDA) - Development Policies

The tribal policy adopted by the British Government was to isolate the community from the mainstream population and exclude them from the purview of normal administration. “Segregated isolationistic” approach has its roots in the Government of India Act, 1870 which intended to specify tracts as “Scheduled Tracts”.

Initially, Government of India (GOI) was in favour of continuing the policy of isolation with the indigenous people. However, the Planning Commission objected to it ‘as no longer practicable’ and insisted to develop a positive policy of assisting the tribal people to develop their natural resource base and evolve a more productive economic life without exposing the schemes to exploitation at the hands of economic interests. Another diametrically opposite approach of the Isolation was the ‘policy of assimilation’ of tribal culture and population into the mainstream of national life as early as possible.

Striking a balance between the rival policies a moderate view was visualized by Jawaharlal Nehru. This was a policy of slow and steady assimilation of tribal culture and life in the national mainstream without disturbing the healthy features of tribal life and this change should be on their (tribal people’s) own initiative and their willing consent. The Principles are called Panchaseel.

“People should develop along the lines of their own genius. We should try to train and build up a team of their own people to do the work of administration and development. Tribal rights to land and forests should be respected. We should not over administer these areas or overwhelm them with multiplicity of schemes. We should judge results, not by statutes or the amount of money spent, but the quality of human character that is evolved”.

Organisations for Tribal Development:

A team of experts headed by R.S.Malayappan was appointed by Government in 1949 to formulate plans for development of Andhra Agency areas. The Committee suggested a network of multipurpose cooperative societies to purchase minor forest produce from tribals and root out middlemen exploitation. Functioning of Multiple Cooperatives started in tribal areas did not yield expected results. In 1957 Scheduled Tribes Cooperative Finance and Development Corporation (FDC) came into existence to operate as a single window for credit as well as marketing. It expanded its operations to Telangana region in 1969. The Girijan Cooperative Corporation (GCC) was given development orientation in course of time and developed linkages with credit institutions like Land Development Bank, District Cooperative Central Banks and the like. The GCC was given monopoly over minor forest produce to avoid the exploitation by middlemen in marketing tribal minor forest produce collection.

The Tribal Cultural Research & Training Institute (TCRTI) was set up in 1962-63. Subsequently a separate Tribal Welfare Directorate from Social Welfare wing was created in 1966 exclusively for upliftment of tribals. As part of implementation of the recommendations of the Balwanth Rai Mehta Committee (1957), 4 Special Multi-purpose Blocks were in Andhra Pradesh.

As per the recommendations of the Dhebar Commission Report a separate Tribal Welfare Directorate (TWD) from Social Welfare Department (SWD) was created in the year 1966 exclusively for tribals to uplift the economic, educational and social conditions of the tribals. In the year 1969, 24 Tribal Development Blocks were created and several Economic Support Schemes were implemented under the control of Panchayat Raj Department (PRD). The Group on Administrative arrangements and personal policies in tribal areas headed by Maheswar Prasad (1978) recommended for an integration of administrative unit in the area

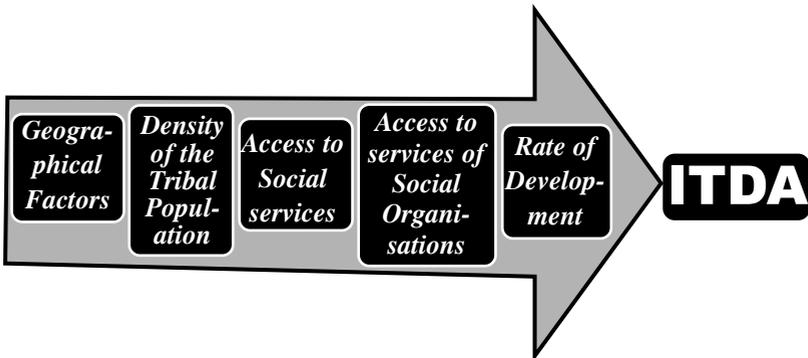
of Integrated Tribal Development Project (ITDP) to ensure a rational line of command.

Integrated Tribal Development Agency (I.T.D.As):

Girijan Development Agency (GDA) is a project sponsored by the Ministry of Agriculture, GoI operating in Srikakulam district in 1972. Perhaps this was created by Government in consequence of Naxalite movement in 1969 in northern Andhra. These GDAs were converted into ITDAs in 1979.

Ever since the beginning of the Integrated Tribal Development Programme during Fifth Five Year Plan, the Government of Andhra Pradesh has adopted a four point criteria on the basis of the recommendations of Government of India for implementation of the programme.

Prime Indicators for the establishment of ITDA:



The Integrated Tribal Development Agencies (ITDA) in Seethampet (Srikakulam district), Parvathipuram (Vizianagaram District). Paderu (Visakhapatnam district), Rampachodavaram and Chintur (East Godavari District) and KR Puram (West Godavari District) are in operation in five districts. Apart from this there is one ITDA for Chenchus in Srisailam and one for Yanadies in Nellore exclusively. A plain area ITDA is in operation to develop the tribal people who are not covered by these ITDAs.



At the district level a Governing Body for each ITDA is formed with all district level heads of general sector departments as Members and Project Officer (PO) of ITDA as Secretary.

In order to streamline the administration in tribal areas, Single Line Administration was introduced since 1986. Officers and staff working in the tribal Sub-Plan area, connected with regulatory and developmental programmes are placed under the administrative control of the P.O of ITDA.

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 Tribal Sub-Plan areas cover pockets of tribal concentration taking the development block as the back unit. In the Fifth Plan it was noticed that certain areas of tribal concentration outside the Tribal Sub-Plan area were still left out of the Tribal Sub-Plan strategy. During the Sixth Plan it was decided that pockets of contiguous villages/pockets having a minimum of 10000 total populations of whom at least 50 percent are scheduled Tribes should be identified for integrated development. This approach to tribal development which emerged during the Sixth Plan is known as the Modified Area Development Approach (MADA) under the Tribal Sub-Plan.

There are 12 MADA pockets in Andhra Pradesh. Still smaller pockets of relative tribal concentration were identified as Tribal Clusters for adoption of MADA for the development of tribals in the MADA and Cluster Areas. 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.

5. 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.

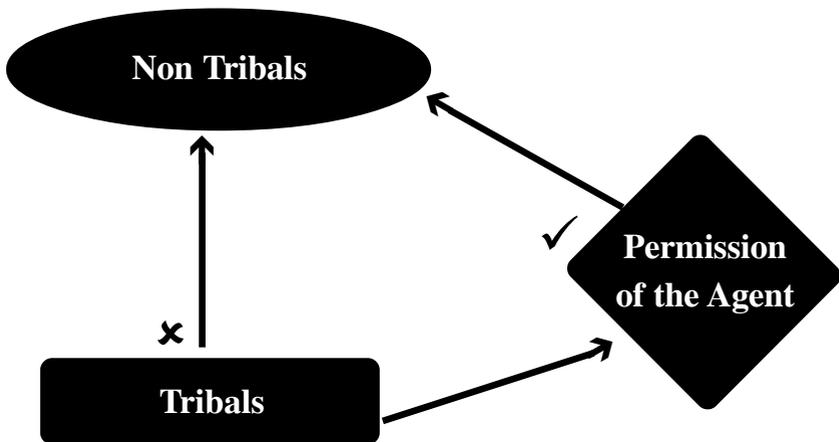
After independence, the Government framed many rules to protect the land right of the tribals. But are these laws and rules able to deliver justice to tribals? To what extent are they able to protect tribals? All these are the main questions that we have before us.

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



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).

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.

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

competent authority is illegal. Where a transfer of land is made in favour of a non tribal, the Agent/ Agency Divisional Officer/ or Special Deputy Collector on application by any interested person can restore the land to the tribal or his heirs.

2. The immovable property of the tribals shall not be attached and sold in execution of a money decree without permission from the Agent or Agency Divisional Officer. Such immovable property shall be sold only to tribals but not to non-tribals.
3. If the tribal transferor or his heirs are not willing to take back the property or where their whereabouts are not known, the Agent or the Agency Divisional Officer or Special Deputy Collector (Tribal Welfare) may assign or sell the property to other tribals. The High Court of Andhra Pradesh upheld the Land Transfer Regulations 1/59 to be constitutional in the year 1969.

3) The AP Scheduled Area Land Transfer Rules 1969:

1. The enquiry officer can issue a notice to the non tribals who are in occupation of land in violation of Land Transfer Regulations (LTR) on a petition from any interested person, information by a public servant or any reason to be believe that a transfer of land has been made in violation of LTR.
2. District Collector/ Project Officer (ITDA)/ Sub Collector/ Special Deputy Collectors are the competent authorities to try of such cases involving land transfers.
3. The preliminary enquiry officer can serve a show cause notice to the non-tribals who are in possession of land

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.

The Trial Courts in the cases of Land Transfers

The Government (Tribal Welfare) (Revision)



District Collector/Project Officer ITDA (Appeals)



Special Deputy Collector, Tribal Welfare/ Sub-Collector/
RDO(Primary Enquiry)

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:

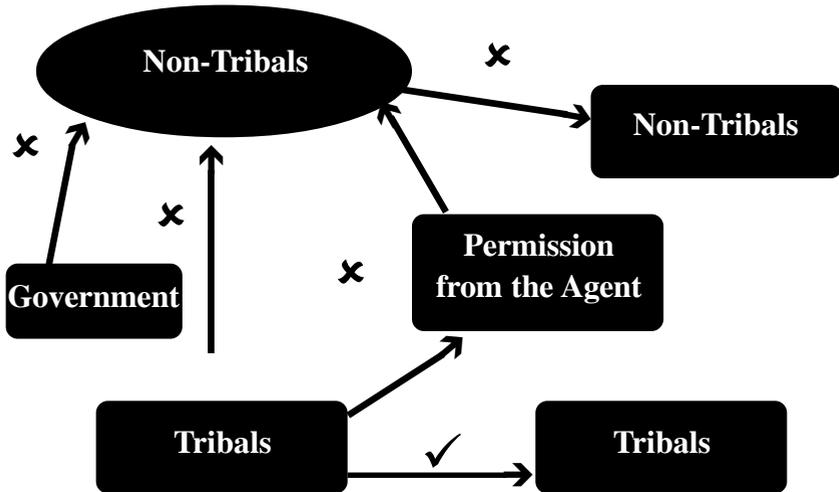
1. The Transfer of Lands in the Scheduled Areas between tribals and non-tribals are illegal. Similarly, the transfer of lands between non-tribals and non-tribals are also illegal.

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.

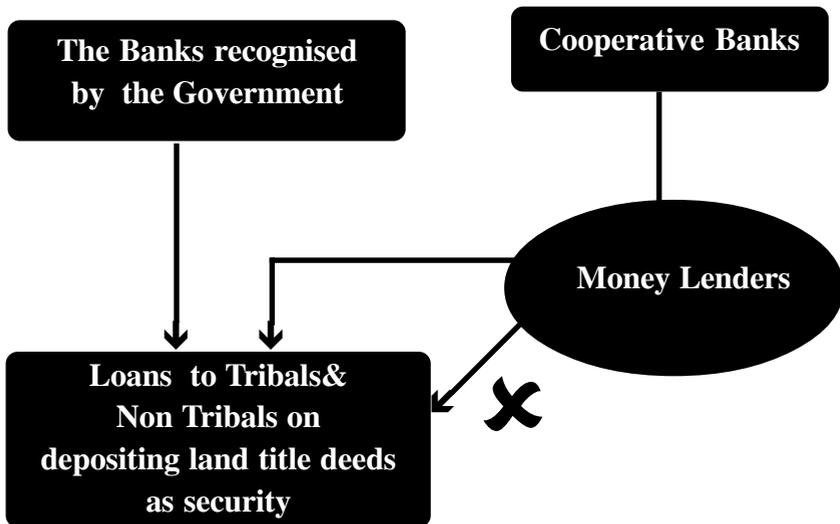
5. Land transfers, including the selling or buying through execution of a court decree, by non tribals and also tribal benami land transfer are illegal.
6. The land transfers between non-tribals before the commencement of Land Transfer Regulations 1 of 70 stand legal and hence valid.



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).

6. Forest Rights Act

The Government of India enacted a law in 2006 recognizing the forest rights of the tribal and other traditional forest dwellers (non-tribals). Known as “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, (in short Forest Rights Act) applies to both the Scheduled and general areas in the country.

Historically, both the tribals and other traditional forest dwellers have been subjected to injustices by successive governments by not recognizing their rights on forests. This law was enacted to correct the historic injustice done to tribals and other traditional forest dwellers. The prime objective of this law is to recognise the forest rights of these people. Broadly two sets of rights are recognised. The first is individual forest land rights and the second is Community Forest Rights. Along with these, the Act also empowers the community to conserve, generate and manage the Community Forest Resources. The Forest Rights Act 2006 came into force on 31-12-2007. The Rules were notified on 01-01-2008 onwards.

Let us know the forest rights that are recognised by the law, in brief. The tribals and Other Traditional Forest Dwellers can seek the forest land patta for the forest lands which were in their occupation prior to 13th December, 2005. In the case of Other Traditional Forest Dwellers, they need to have resided in the region for a period of 75 years, prior to the 13th December, 2005.

We know that the Scheduled Area Land Transfer Regulations 1 of 70 does not permit the non tribals to claim right over the government lands. Thus, the present Forest Rights Act also does not permit the non tribals to seek recognition of forest lands in their occupation in the Scheduled Areas of Andhra Pradesh.



The other set of rights, Community Rights, includes nistar; right of ownership, access to collect, use, and dispose of non timber forest produce, fishing in water bodies, grazing rights, access to biodiversity, intellectual property and traditional knowledge, habitat rights of Particularly Vulnerable Tribal Groups, rights over disputed lands and conversion of Pattas or leases etc issued on forest lands to titles, conversion of all forest village settlements into revenue villages, right to in situ rehabilitation including alternative land in cases where the Scheduled Tribes or other traditional forest dwellers have been illegally evicted or displaced from forest lands prior to the 13th day of December, 2005.

Critical wildlife:

The forest rights recognised under this Act in critical wildlife habitats of National Parks and Sanctuaries shall not be affected for the purposes of creating inviolate areas for wildlife conservation, unless the coexistence of human population and wild life is impossible. The free informed consent of the Gram Sabha in relation to the proposed resettlement and the package is a pre

condition for the relocation. No relocation shall take place until facilities and allocation of the land at the resettlement place are complete as per the promised package and after ensuring secure livelihood.

<p>Individual Forest Rights</p>	<p>Right to seek recognition of forest land occupations by tribals and Other Traditional Forest Dwellers for dwellings and cultivation.</p>
<p>Community Forest Rights</p>	<ol style="list-style-type: none"> 1) Right to collect, use, transport, sell the non timber forest products. 2) Right to fish in the water bodies. 3) Right to graze Cattle. 4) Traditional sites, sacred trees and path ways. 5) Habitat rights of PVTGs/ Pre Agricultural communities. 6) Right to development. 7) Right to convert the unsurveyed lands and forest villages as revenue villages. 8) Right to rehabilitation or alternative land for the land they parted with. 9) The right to protect the traditional knowledge, bio-diversity, and intellectual property related to the forest resources.
<p>Right to manage the Community Forest Resources</p>	<p>Gram Sabha is to manage the forests through a committee appointed by it for the conservation of forest resources, restoration, and maintenance.</p>

The Forest Rights Act does not recognize the hunting as a right in the forests unless it is a prior recognized rights by the State.

Right to Development:

Infrastructure can be developed in villages with the permission of Grama Sabha, by removing trees not exceeding than 75 per hectare. That means forest land can be used for the development of infrastructure like schools, dispensary or hospital, anganwadi, ration shop, electricity, telephone, ponds, and drinking water facility, roads, community centres, and minor irrigation canals.

Eligibility for seeking recognition of Rights on Forest Land:

To be eligible, the claimants will have to be Scheduled Tribe in the area through community certificate while the other traditional forest dwellers will have to prove that they and their forefathers were residing in the region for three generations amounting to 75 years prior to 2005. The tribals and other traditional forest dwellers have to provide two evidences that the forest lands were in their occupation prior to the 13 December 2005.

Title deed for individual rights, not exceeding an area of four hectares (Ten Acres) of actual occupation, will be issued jointly in the name of both the spouses in the case of married persons, and in the name of the single headed person in the case of single headed family. This recognized forest land is heritable but not transferable. In the absence of direct heir to the rightful holder, the next to kin will get rights on that land. The applicants can claim right over the forest lands in their actual occupation,. In the case of Community Rights (CR) and Community Forest Rights (CFR), the title will be in the name of the Village/Gram Sabha.

Management of Forest lands and Conservation :

Apart from enjoying the forest land rights, the rightful holders have certain duties in managing community forest resources. They are empowered to 1. Protect the wildlife, forests and the bio-diversity 2. Protect the bio-sphere 3. Conserve the habitats from any form of destructive practices affecting their culture and natural heritage 4. Regulate access to Community Forest Resources and take steps to prevent destruction of forests, bio diversity etc.

The lands that come under the meaning of Forest Lands:

The forest rights are to be recognized on lands of any description falling within any forest area and includes un classified forests, un demarcated forests, deemed forests, protected forests, reserve forests, wildlife sanctuaries, national parks.

Do You Know?

The Government should recognise the forest rights of tribals and other traditional forest dwellers, and obtain the written consent of the Gram Sabha before diverting any forest land for non forest purposes (For example, for construction of projects)

Committees to determine forest rights:

The claims of the applicants for forest rights recognition will be adjudicated at three levels. The title deeds will be issued only by the District Level Committee. They are:

1. Grama Sabha, 2. Sub-Division Level Committee 3. District Level Committee

There will be a State Level Monitoring Committee to monitor the process of recognition and vesting of forest rights and issue the guidelines if desired for the implementation of the Forest Rights Act.

Gram Sabha:

Gram Sabha will be at the habitation or hamlet level the plain areas as well as Scheduled Areas. The Gram Sabha is vested with the powers to constitute a 'Forest Rights Committee' with 10-15 members. There will be a Chairman and Secretary for the Forest Rights Committee.

Functions of the Forest Rights Committee:

Receiving applications from individuals who seek the recognition of forest rights, collecting relevant evidences, conducting field enquiries and placing the claims with relevant documents before the Gram Sabha for taking decision through a resolution; Further the duty of the Forest Rights Committee is to prepare maps, records, recording statements, and verifying them in the presence of the applicants.

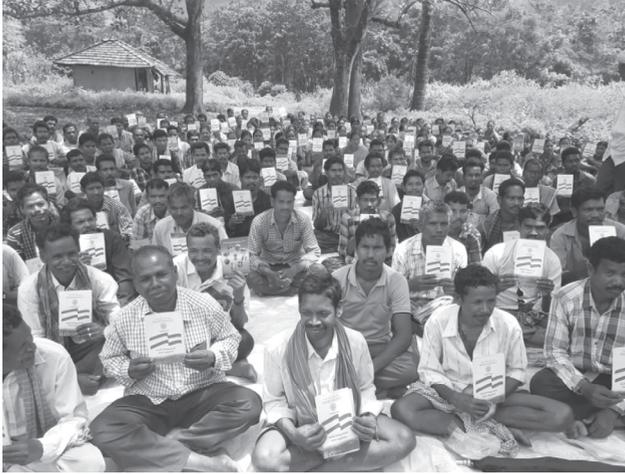
If there are inter village/hamlet disputes that are not solved mutually by the concerned Gram Sabhas, then these are to be resolved by the Sub Division Level Committee. It has to make available all the records and information of the village to the Gram Sabha.

Functions of the Grama Sabha:

Conducting enquiry on the claims received, determining forest rights and their extent, and sending them as a resolution to the Sub-Divisional Committees. Maintaining the Register of Applicants and their claims, and appointing the Management Committees of Bio-Diversity are also the duties of Gram Sabha.

The claims are accepted for a period of three months from individuals or family from the date of notification for the determination of forest rights. The time limit for filing claims may be extended if so desired by the Gram Sabha. The rights so

determined by the Gram Sabhas are sent to the Sub Divisional Committee. Persons aggrieved by the decision of the Gram Sabha can appeal to the Sub-Divisional Level Committees within 60 days for resolution.



2) **Sub-Divisional Level Committee:**

The Sub-Divisional Level Committee is composed of three members of the Mandal Parishads appointed by the Zilla Parishad, and the District Tribal Welfare Officer/ Assistant Welfare Officer in non-ITDA areas as Member-Convenor and headed by the Sub-Collector as Chairperson.

Functions of the Sub-Divisional Level Committee:

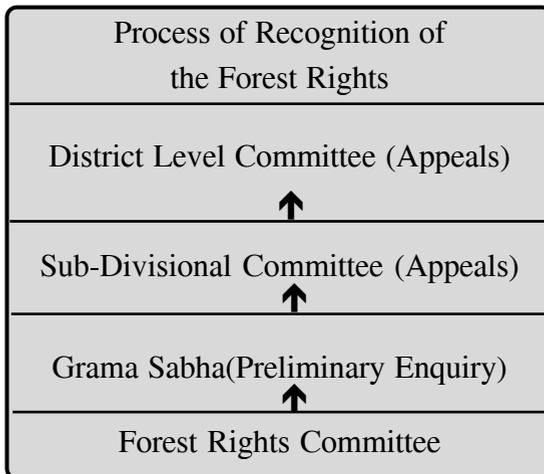
Sharing of the information and maps with the Gram Sabhas and Forest Rights Committees; Compilation of the resolutions of Gram Sabhas; and Verifying whether the Gram Sabha resolutions with the other documents and the maps are in order; Hearing appeals from the aggrieved and resolving them. Coordinating with the other Sub-Divisional Level Committees; Preparing the draft records on the forest rights and sending them to the District Level Committees

for final decision; These are the key functions of the Sub-Divisional level Committees.

The claimants who disagree with the decision of the Sub-Divisional Level Committee can file an appeal to the District Level Committees within 60 days. The Chairperson, ITDA Project Officer or the Tribal Welfare Officer as the member secretary and three members of Zilla Parishads and District Forest Officer are its members.

Functions of the District Level Committee:

Taking final decisions on the draft resolutions forwarded by the Sub-Division Level Committee on the forest rights; Accepting or rejecting the resolution of the Sub-Divisional Committee or sending the resolution back to the Sub-Division Level Committee or the Gram Sabha for its review; Entertaining the petitions, or appeals against the resolution of the Sub Divisional Level Committee; Maintaining co-ordination with the other District Level Committees; Issuing orders from time to time to record the recognised forest rights in Government land records; Publication of the recognised forest rights; Issuing the Forest Rights Title Deeds (Pattas) are the functions of the District Level Committee.



The Evidences required for recognition of forest land rights:

The claimants of forest rights have to submit more than one evidence along with the claim form. The evidences can be any of the following:

Government records, gazettes, population census, survey records, maps, satellite pictures, forest enquiry reports, forest department records, pattas, lease deeds, Government committee reports,, Government orders, Government notifications, resolutions, voter identity cards, ration cards, house tax payment receipts, residential certificates, houses, huts, check-dams, court judgements, documents prepared by the Government survey institutions, the maps prepared during the erstwhile princely states, record of rights, privileges , concessions, genealogy , the proofs of residence, Statements of the elderly person etc.

The Evidences required to determine Community Forest Resource:

Community Forest Resource area is the customary ara which the village has been traditionally accessing for various purposes. These include traditional grazing grounds, areas of gathering of roots, tubers, fodder, wild edible fruits, and minor forest produce, fishing grounds, irrigation structures, sources of water, places for collection of medicinal plants, remnant structures, sacred trees, groves, burial grounds, etc.

How do we get Forest Rights :

We have to make a claim for the recognition of forest rights to the Gram Sabha with required evidences. The Forest Rights Committee makes an inquiry and submits their findings with the recommendation to the Gram Sabha based on which the Gram Sabha passes a resolution accepting or modifying or rejecting the claim. The claimants who do not agree with the resolution of Gram

Sabha can file an appeal to the Sub-Division Level Committee within 60- days who will then hold a hearing. The date of hearing will be intimated to the concerned Gram Sabha and the claimant through a 15 days prior notice.

In case the Sub-Divisional Committee does not accept the appeal, it may remand back the claim to the Gram Sabha for its re consideration stating their observations. If the claim is accepted by the Gram Sabha within 30 days, the problem will be solved. If the Gram Sabha rejects the claim and send the resolution to the Sub Division Level Committee, then it may accept or reject it. If there are disputes in the matters of rights among the Gram Sabhas , those will be resolved by the SDLC through meetings. If any resolution is passed by the SDLC against the claim, the SDLC is to provide reasons for the rejection or modification to the claimant so they can file an appeal with the District Level Committee within 60 days. The District Level committee will hear the appeal with a 15 days prior notice to the Gram Sabha and the applicant. In case the District Level Committee does not accept the appeal then it may remand the matter back to the Sub-Divisional Committee or the Gram Sabha for its reconsideration. The decision made by the Sub-Committee may be accepted or rejected or modified by the District Level Committee. If there are differences between Sub-Divisional Committees over claim of rights, then they will be resolved through meetings. The decision of the District Level Committee is final. The DLC then directs for entering these rights in the record of rights in the Government records.

The duration for making claim for Forest Rights:

Claims for forest rights can be made up to 3 months' time from the date of notification. The time may be extended by the Gram Sabha if required.

Appeal on the District Level Committee Decisions:

The decision made by the District Level Committee is final. There cannot be any further appeal against the decision of the District Level Committee. The aggrieved can file writ petitions in the High Court or the Supreme Court challenging the decision.

Offences and Penalties:

Any authority or committee or officer who contravenes any provision of the Forest Rights Act or rules concerning the recognition of forest rights is committing an offence under the act. The offender is liable for the punishment with fine which may extend to one thousand rupees. He/she will not be liable for the punishment if he/she proves that the offence was committed without his/her knowledge or he/she had exercised all due diligence to prevent the commission of such offence.

A Scheduled Tribe in case of a dispute relating to a resolution of a Gram Sabha, or the Gram Sabha is to give sixty days notice to the State Level Monitoring Committee through a resolution against any higher authority to initiate action. If the State Level Monitoring Committee do not proceed against such authority, then the aggrieved can go to the court for justice.

Do You Know?

1. If any member of the family is employed by the Government, the others will not forfeit their forest rights. There is no compulsion that the entire family should depend on forests only.
2. The tribals will not lose their forest rights even if they change their residence.
3. The forest rights can be given individually and collectively to the Gram Sabha.

4. The permits to transport the non timber forest produce from the recognised forest areas should be given by the Gram Sabha only.
5. Community Forest Right Titles will be issued in the name of Gram Sabha.
6. The Gram Sabha has to certify that the process for recognition of forests rights is completed, for diversion of any forest land for any project and give a written consent for diversion.
7. No claimant should be evicted from the forest land until a final decision is taken regarding his claim.
8. The Gram Sabha or the Committees have to give reasons in the case of rejections of the claims.

7. The Local Self Government Institutions - PESA

The Government of India enacted the Provisions of the Panchayats (Extension to Scheduled Areas) Act” in 1996 (PESA) for local self governance in the Scheduled Areas of the country. PESA provides village self rule by empowering the Gram Sabhas.

Andhra Pradesh amended The AP Panchayat Raj Act 1994 to incorporate PESA for extending the special provisions for the local self governance to the Scheduled Areas of the State in 1998. The rules were notified in 2011 to operationalise the Act.

Definition of Village: The village under PESA Act and the AP amendment is “A village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs”.

The Government also declared the list of villages in 2013 for the purpose of notifying the Gram Sabhas in the Scheduled Area for effective village administration. The power to declare villages lies with the Commissioner of Tribal Welfare Department. Each of these villages will have a Gram Sabha. In a Gram Panchayat there can be any number of villages.

We have to know about the powers and functions of Panchayatraj Institutions including Gram Sabhas.

Panchayat Raj bodies are the Village Panchayats, Mandal Praja Parishads and Zilla Parishads. Let us first know about the functioning of Gram Sabha, and its powers and functions.

Do You Know?

The expansion of PESA is “The Provisions of The Panchayats (Extension To Scheduled Areas)” Act.

Do You Know?

The States to which PESA applies: Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan, and Telangana. It applies to only the scheduled areas of these states.

Gram Sabha:

The Gram Sabha comprises of all the registered voters in the notified Village. The Village Sarpanch will be the president of the Gram Sabha. The Vice-President and Secretary should be elected from amongst the members of Gram Sabha. Vice-President and Secretary should essentially belong to Scheduled Tribes. The tenure of their post will be for 5 years.



The quorum of the Gram Sabha is 1/3 of the total members of the village. Of them 50 percent should belong to Scheduled Tribes.

Gram Sabha should be conducted at least two times a year. In addition to this, Gram Sabhas can be conducted any number of times if desired. The Gram Sabha meetings shall be conducted in a suitable place and time. The Secretary/Vice Present should take the signatures or thumb impressions of the President of Gram Sabha and other members of the Gram Sabha who attended the Gram Sabha.

After the discussions in the Gram Sabha, the decisions of the Gram Sabha should be readout to the members. Every resolution should be written in full and got approved separately. The members express their approval by raising hands. The resolutions adopted by Gram Sabha should be entered in a register.

Do You Know?

The issue discussed in Gram Sabha may be one. The resolution may be entered differently. So, we have to be cautious.

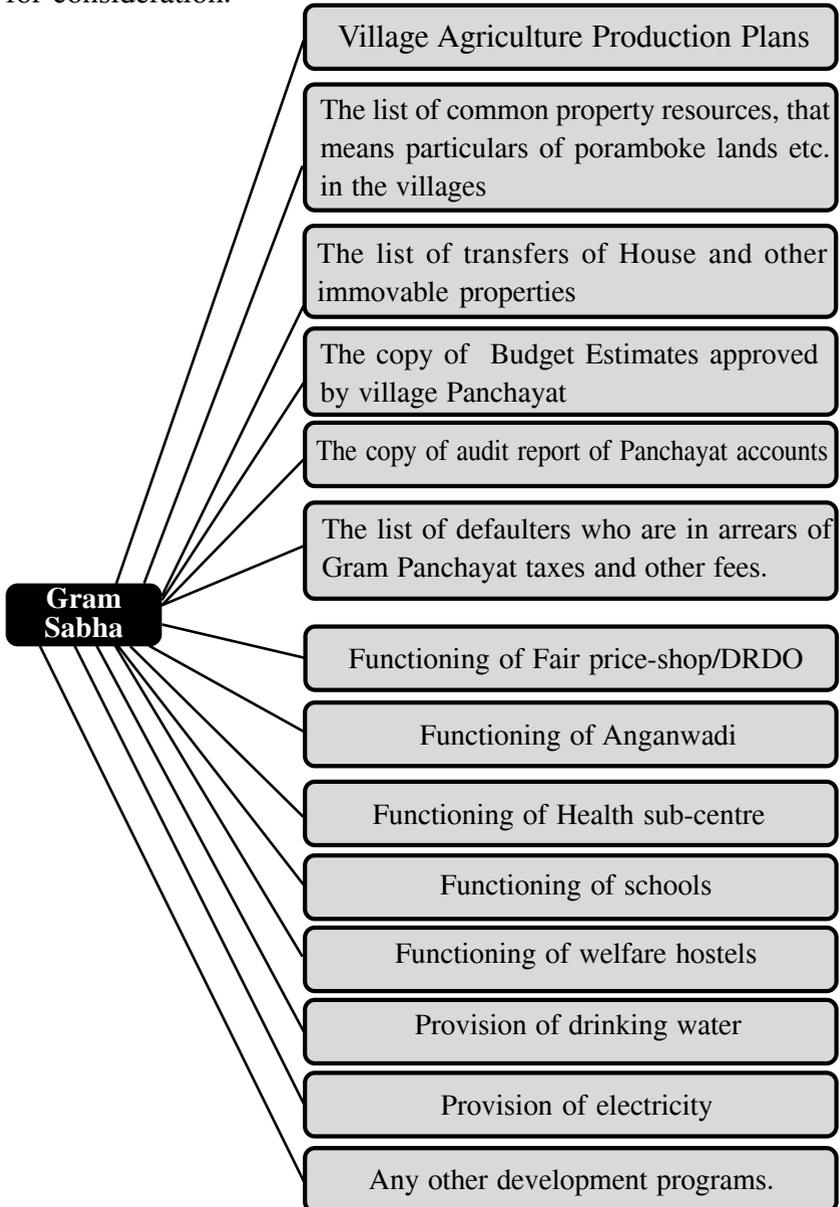
The Gram Sabha Secretary has to send the resolutions to the concerned Government departments/ institutions.

Do You Know?

The members of the Gram Sabha may be asked for thumb impressions or signatures to cheat the members. So, they need to be careful.

1) Powers and Functions of Gram Sabha

The following subjects have to be placed before the Gram Sabha for consideration.



Other Functions and Powers of Grama Sabha:

Village development Schemes:

Prior approval of the Grama Sabha is needed for taking up any development schemes/programs at the village level by the Panchayats. Gram Sabha will be responsible for identification and selection of beneficiaries under poverty alleviation programmes and other developmental programs.

The Utilization Certificates for the money spent by Gram Panchayats on developmental activities have to be obtained from the Gram Sabhas. The Gram Sabhas shall be involved in identifying the individual and community developmental activities, and implementing them.

The Utilisation Certificates have to be submitted to the department or institution concerned from which funds have been released to the Gram Sabha and panchayat.

Do You Know?

Gram Sabha can submit Utilisation Certificates even without spending funds released. So, we need to be cautious.

Women and Child Welfare:

Gram Sabha has to approve the budget estimates of Anganwadi centres.

Dispute Resolution:

The Gram Sabha has the power to protect the traditions and customs of communities, and customary mode of dispute resolutions without violation of the laws in force.

Management of minor water bodies:

Gram Sabha is to manage the minor water bodies of the village. Minor water body means the natural water reserves used for fetching drinking water, and check dams irrigating up to 40 hectares of land.

Management of minor forest produce:

Ownership and mode of disposal of the minor forest produce vests in the Gram Sabha. Whenever disputes arise in the matters of access to collection, use and disposal of minor forest produce, the collectors have to bring to the notice of Gram Sabha for its settlement. We have thoroughly discussed the functions of Gram Sabha in determining the forest rights of individual and community under the Forest Rights Act in the earlier chapter.



Excise matters:

Gram Sabha has the power to enforce prohibition, or regulate or restrict the sale of consumption of any intoxicant. The decisions of the Gram Sabha in respect of permitting the establishment of a

unit for manufacturing liquor, or grant of licences to open liquor shop/ bars is final and binding on the Excise Department. The decision of the Gram Sabha is to be communicated within 4 weeks to the concerned officers. The Gram Sabha has also the power to permit brewing traditional liquor for the consumption of tribals during the marriage, social and other religious ceremonies, but not for sale.

Protection of Tribal Land Rights:

Alienation of tribal land is another problem in the Scheduled Areas. We know that the Land Transfer Regulations were promulgated prohibiting the transfer of lands in favour of non tribals, either by tribals or non tribals. Gram Sabha has the power to prevent alienation of tribal land and restoration of alienated lands of tribals wherever their lands are either encroached or alienated. It can pass a resolution in the cases of violation of Land Transfer Regulations and send to the Special Deputy Collector (Tribal Welfare)/Revenue Divisional Officer for action.

Appeal and review:

Anyone who does not accept the decision of the Gram Sabha can prefer an appeal to the Commissioner of Tribal Welfare within 60 days. The Commissioner may examine the decision as to its correctness or legality and pass orders. Any person aggrieved by the decision of Commissioner of Tribal Welfare can also file a petition for its review within in 90 days and suitable orders.

2) Powers and Functions of Gram Panchayat and Mandal Parishad:

Minor Minerals:

The Grama Panchayat is vested with the powers to grant prospecting license, mining lease for minor minerals, and

concessions through public auction. The local Scheduled Tribes/ Tribal Societies and Tribal Mining Corporation are the only eligible for obtaining licences, leases and concessions. The decision of the Gram Panchayat is final and binding on the mining department. It shall communicate its decision, either rejecting or accepting the grant of leases/licenses, within 4 weeks to the Excise officers.

Management of Village Markets:

Grama Panchayat will act as the Market Committee to manage the Village Markets and grant licenses to local tribals. As a part of the management of village markets it has power to regulate and maintain the market yards, enforce conditions of licenses, implementation of sale agreements or its cancellation, and take measures to prevent adulteration and curb malpractices in the weighments, delivery of goods and payments etc.

Women & Child Welfare:

The Grama Panchayat has the power to recruit anganwadi workers and helpers in its jurisdiction and initiate disciplinary action against them.

Management of Minor Water bodies

The Gram Panchayat has the responsibility to manage the minor water bodies located in more than one village in the Gram Panchayat for the benefit of people. The management of water bodies includes planning and maintaining. This is on the Mandal Parishad if the water bodies are located across GPs in the Mandal. If the minor water bodies are located in two or more Mandals, then the responsibility of maintaining such resources will lie on the Zilla Parishad. These Panchayat raj Institutions will have power to collect water rates and share it with water users associations. The management of water bodies includes repair, restoration,

maintenance, fixing ayacut seasons wise, levy of water rate, its collection and utilisation.

Implementation of Tribal Sub-Plan:

The Mandal Parishad Development Officer has to inform the Gram Panchayats on allocations in terms of both physical and financial as per the Tribal Sub-Plan within a month from the date of commencement of the Financial Year. Both the Gram Panchayat and Mandal Parishad shall have to review the progress of implementation of Tribal Sub Plans within its jurisdiction. The Mandal Parishads and Gram Panchayats have to send their reports on the implementation of Tribal Sub-Plan through the District Collector concerned.

Health:

Panchayat Raj institutions shall support, review and guide the Hospitals within their jurisdictions. The Gram Panchayats in villages, Mandal Parishads in Mandals and Zilla Parishad in districts is to review the implementation of health programs, supply of medicines, and their utilisation, and prevention of diseases. These institutions is to follow the suggestions given by the Health Institutions in respect of hygiene, sanitation, safe water and other matters concerning the health. The budgets of Primary Health Centres and Sub-Centres have to be approved by the Mandal Parishad. The Mandal Parishad is to call for administrative reports from these Health Centres within one month from the commencement of the financial year.

Land Acquisition in the Scheduled Areas:

The concerned officers of Land Acquisition and Rehabilitation are to place their proposals and plans with full details before the Mandal Parishad for their decisions. The Land Acquisition officers shall consider the recommendations of the

Mandal Parishad or send back them for their reconsideration. If the authorities disagree with the recommendation, they shall have to pass an order giving reasons for it. If the Mandal Parishad, in their opinion, decides that the authorities are not following the suggested measures, they can make a complaint against them to the State Government, and it will be mandatory for the Government to take action against the officers concerned.

Control over Institutions and functionaries in all Social Sectors:

Education:

The Education Budgets of all educational institutions are to be approved by 31st May before the commencement of the academic year. Mandal Parishad is to monitor the attendance and regularity of teachers and to report on disciplinary issues to the concerned officers against erring teachers. The concerned officer has to intimate the action taken on such reports. It shall have power to call for administrative reports from all the education institutions within its jurisdiction.

Maintenance of Welfare Hostels:

Mandal Parishad has power to monitor the activities of the Welfare Hostels. It shall call for administrative reports on the management of hostels twice a year from the Hostel Welfare Officers. They can recommend admission of students to Hostels. The Mandal Parishad can recommend for suitable action against the Hostel Welfare Officers and staff if they are found to be absent or indulging in mal practices. The concerned officer has to intimate the action taken on such recommendations.

Women and Child Welfare:

Mandal Parishad has the power to call for the administrative reports from the Project Officers, and ICDS Project Officer within a month from the commencement year.

8. Scheduled Area Money Lenders Regulations 1960

These 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 3/8% per annum if the loan amount is Rs.25, while 6 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.

9. Issue of Community Certificates Act

The Constitution of India has provided special privileges and reservation benefits for different communities. Andhra Pradesh enacted the A.P (S.Cs, S.Ts, and B.Cs) Regulation of Issue of Community Certificates Act 1993 for issuing community certificates to the Scheduled Castes, Scheduled Tribes and Backward Classes and prevent the issue of fraudulent certificates.

But the fact is that many who do not originally belong to the Scheduled Castes, Scheduled Tribes and Backward classes are fraudulently obtaining these community certificates thereby usurping the privileges and benefits accorded to by the Constitution and the laws denying the genuine SC,ST and BCs persons their due. Therefore, the Government made this special law for protecting the interests of genuine Scheduled Castes, Scheduled Tribes and Backward Classes candidates. The rules were notified in 1997 for implementing this Community Certificates Act.

The persons belonging to Scheduled Castes and Scheduled Tribes or Backward Classes can apply for community certificates. But they need to prove that they really belong to the community they claim to belong to for which they have to submit the relevant documents in support of their claims. That means the burden of proof lies on the claimant.

The tribals living in the Scheduled Areas can obtain community certificates from the Mandal Revenue Officer who is the competent officer to issue certificates. The tribals who live in general areas can obtain community status certificates from Revenue Divisional Officer (RDO) or Sub-Collector.

Documents and information required?

School Records, Nativity certificates, Birth Certificates, Family Trees, Community certificates obtained earlier, Court orders, traditions and customs of the tribes and statements of elderly persons from the claimed community.

If the claim for community certificate is not supported by valid evidences, the Officers can reject the claim to grant community certificates. We will now know some more facts about the community certificates to tribals.

Documents and information required?

After an enquiry by the competent authorities, the community certificates can be issued through Mee Seva Centres.



If the community certificate issuing authorities have any doubt about the veracity of the claim by any person, they can refer the case to the District Tribal Welfare Officer to get the facts. They can also seek assistance from the Tribal Culture, Research and Training Institute to arrive at the truth of the claim for community certificate.

Scrutiny Committee:

There is a District Level Scrutiny Committee (DLSC) headed by the Joint Collector as chairperson to hold an enquiry on any case referred to them by the District Collector suomotu or on a written complaint. The DLSC is to give its findings after an enquiry and submit it to the District Collector. The District Collector is the final authority, either to uphold the community certificate issued as valid or to cancel it.

Appeal and Reviews:

If any claim seeking community certificate is rejected, the aggrieved person can file an appeal before the District Collector within 30 days. Similarly, those who do not agree with the decision of the District Collector can file an appeal within 30 days to the Government which can confirm or set aside the order given by the District Collector.

The Government can review its own order if passed by them wrongly by mistake of facts or law or in ignorance of any material evidence on any application filed by the aggrieved person.

Penalties:

If anyone obtains a community certificate by furnishing false information, or by any fraudulent means, the offender is liable for a minimum 6 months up to 2 years imprisonment, and a fine of Rs 1000/ to Rs.5000/. The court can reduce the punishment if there are valid reasons.

If any person secures admission in education institution or job in the Government services by producing a false Community Certificate, he will be debarred or discharged from such institutions. If any person receives any financial benefit on the basis of false

caste certificate, then that amount would be recovered from him. The education certificates shall also stand cancelled.

Such persons shall also be liable for the punishment of 6 months to 2 years imprisonment and with fine of Rs 1000 to Rs 5000. Similar punishment will be given to the persons who secured a political posts on fake community certificates. Similar punishment will also be given to the persons who secured protection under Fifth Schedule to the Constitution on the basis of false community certificates as ST. Any officer who intentionally issues a false community certificate shall also be liable for the similar punishment.

Do you know?

- ❖ Any deviation in the list of Scheduled Tribes as declared by the President is not valid. No Government can alter it.
- ❖ Courts will not take up any cases that seek a change to the STs list notified by the President of India.
- ❖ Only the District Collector is the competent authority to confirm the community certificate issued or cancel it.
- ❖ Once the community certificate is issued, it will be in force and valid till it is cancelled.
- ❖ The caste of a non-tribal will not change if he/she marries a tribal.
- ❖ Offspring born out of wedlock of inter-caste marriages cannot claim the social status of either mother or father automatically. The specific context of the birth of the child, traditions, , and the community acceptance are also crucial to determine such cases.
- ❖ The notified STs in one state cannot become STs of another State.

10. AP SC Sub plan and ST Sub-Plan Act

The intention of the SC Sub Plan and ST Sub Plan (Planning, Allocation, and Utilisation of Financial Resources) Act is to accelerate the development of Scheduled Caste and Scheduled Tribes by earmarking funds from the total budget in proportion to the population of SCs and STs in the State. This Act is to achieve equality in all sectors including economic, social, human development, social security and social dignity of SC and STs.

The SC, ST Sub-Plan Act was enacted in 2013. The rules to implement the Act were made in 2015. The Act will be in force for next 10 years until any further decision is taken to alter it.

Do you know?

The main reason that led to the enactment of this legislation is the diversion of funds allotted to SCs and STs sub plans. The Act ensures that the funds earmarked for the SC plan and TSP shall be spent for the purpose for which they are allocated, for the development of Scheduled Castes and Scheduled Tribes only.

The funds earmarked for the implementation of Sub-Plans will have to be spent to secure direct and quantifiable benefits of these communities. There is need to identify the development gaps in SCs and STs, and prioritize their needs and formulate the Schemes accordingly to promote equity among the various social groups.

Health, education, development, sex ratio, population growth, infant mortality etc are few indicators that identifies gaps in development. Plans are to be developed to bridge these gaps

Do you know?

SC/ST habitation means where population of SCs or STs, or their combined population is not less than 40 percent of the total population of that habitation.

Each department has to prepare sub plans for the development of these SC&ST communities, and appraise the Nodal Department. The Tribal Welfare Department is the nodal department for the TSP. The Nodal Department shall, in turn, scrutinize the plans, and is satisfied, shall place before the Nodal Agency for their recommendations for approval of the State Council as the pre budget process. The Nodal agency is set up under the chairmanship of the Minister for Tribal Welfare for the Tribal Sub Plan. After approval by the State Council headed by the Chief Minister, the Nodal Agency is to communicate to the concerned departments requesting that the plan and its budget be included in the overall annual budget plans for the next financial year. Once the budget is approved by the Legislature, the budgets will be released department wise. The TSP/SC Sub Plan funds shall not be allocated to general schemes which are in any case accessible to these communities.

In the case of non divisible infrastructure works, 7 percent to SC Sub plan and 3 percent to TSP are to be allocated. If there is no village with 100 percent SC or ST population, then the funds to be allocated are to be according to their proportional population in that village.

There will be District Monitoring Committee at the District level for the SC sub plan/TSP headed by the District Collector as chairperson to monitor the implementation of plans. Project Officer, ITDA, will act as the Vice-Chairman and the Deputy Director,

Tribal Welfare will be the convener of the TSP monitoring committee. Similar committees will be set up for the SC Sub plan.

The District Monitoring Committee is to review the implementation of plans in terms of allocation, expenditure and implementation in the district will all line departments in conformity with the provisions of this Act. The implementation of the Sub-Plan should be transparent and the details of the SC subplan /TSP are to be displayed in a Webportal. Steps are to be taken for conducting social audit, identification of gaps in development, and their analysis with the human development indicators of the District and the State. The information with regard to these plans shall be made accessible to the general public.

11. Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act

This Act is to ensure prompt punishment to those who are not Scheduled Castes and the Scheduled Tribes (SCs and STs) committing atrocities on SCs and STs which also acts as a deterrent for the commission of offences of atrocities against the members of the SCs and STs by other communities. The Act provides for the establishment of Special Courts for trial of offences and also relief and rehabilitation to the victims.

Intervention to prevent the exercise of legal rights or implicating in false cases by the persons other than the SCs or STs are also offences under this Act. Treating SCs and STs as untouchables, and abusing them verbally in the name of caste are also punishable offences under this Act. The Act came into force in 1990. This act was amended time to time as of 2017.

Do you know?

The SC, ST Atrocities Act was enacted in 1989. After 25 years the amendment of 2014 provided for its effective implementation.

Which Acts are considered Atrocities?

1. Forcing SCs and STs to eat or drink inedible or obnoxious substances.
2. Dumping any filthy material/obnoxious substance at the entrance of residential premises of SCs and STs.
3. Dumping any filthy material/obnoxious substance in his neighbourhood with intent to cause insult and annoyance etc.

4. Garlands with foot wear or parades naked/semi naked a member of SCs/STs.
5. Indulging in acts as forcibly removing clothes, tonsuring of head, removing moustache, painting face etc which are derogatory to human dignity.
6. Wrongfully occupying or cultivating or transferring the lands of SCs and STs.
7. Wrongfully dispossessing the SCs and STs from their lands or interfering with their rights on land or forest or water resources or destroying their crops, or snatching away the agricultural products etc.
8. Except the services which are made compulsory by the Government, if any person makes SCs / STs to do *begar*, or other forms of forced or bonded labour etc.
9. Compelling SCs/ STs to carry dead bodies, carcasses of animals or making them to dig graves for burying dead bodies.
10. Making SC/STs to do manual scavenging, employ or permit the employment for such purposes.



11. Promoting or dedicating SC/ST women to a deity, temple etc. boards or other religious institutions as '*devadasi*' or permitting to perform such practices.
12. Forcing or intimidating or preventing the members of SCs/ STs not to vote or vote a particular person, not to file nomination or withdrawal of nomination, not to propose or second the nomination of members of SC/ST as a candidate in elections.
13. Forcing or intimidating or obstructing a member of SCs/ STs from discharging their functions as the official members of the Panchayat Raj institutions.
14. After poll, causing hurt/assault or threatens or impose social/economical boycott on SCs/STs or prevent them from availing benefits from the Government which is due to them.
15. Any offence committed against SCs/STs for having voted or not having voted for a particular candidate or having voted as per law.
16. Instituting false, malicious or vexatious cases against the members of SCs and STs.
17. Giving false information to the public servant and thereby causing him to use it to cause injury or annoyance to any member of SCs STs.
18. Intentionally insulting or intimidating with intention to humiliate any member of the SCs /STs in any place within public view.
19. Abusing any member of SCs/STs in the name of caste in any place within public view.
20. Destroying or damaging any object (Photos/Statue) which are said to be sacred for the members of SCs/STs.



21. Promoting or attempting to promote feelings of enmity or hatred against the members of SCs/STs. by talking and writing or showing signs etc.
22. Speaking or writing disrespectfully any person who is no more now, held in high esteem by the members of SCs/STs.
23. Intentionally touching a woman belonging to SC/ ST knowing that she belongs to SCs/STs when such act of touching is sexual in nature and without her consent. Similarly using words or gestures of sexual nature towards woman of SCs/ STs
24. Corrupts or fouls any spring/water resources being used by the members of SCs/STs so as to render the water less fit for the purpose for which it is ordinarily used by them.
25. Denying a member of the SCs/STs any customary right of passage to a place of public resort or obstructing them to access to such places.
26. Forcing the members of SCs, STs to leave their houses, villages or residence. Nothing will be an offence if such

actions are carried out by the government officers as per their duty.

27. Denying access to SCs and STs to the common property resources or burial or cremation grounds or obstructing/preventing the usage of tanks, rivers, streams, wells, bathing ghats, ways, public conveyance or road or passage etc
28. Obstructing /Preventing the members of SCs/STs from riding bicycles or motor cycles or wearing footwear or new clothes in public places or taking out wedding procession etc.
29. Obstructing/Preventing entry to any place of worship which is open to the public or religious processions (jataras etc)
30. Obstructing/Preventing the entry to educational institution, hospitals, or place of public entertainment or using any utensils or articles meant for public use.
31. Obstructing/Preventing practicing of any profession or the carrying on of any occupation, trade or business or employment in any job as any other members of the public does.
32. Causing physical harm or mental agony of a member of SCs/ STs on the allegation of practicing witchcraft or being a witch; or imposing or threatening a social or economic boycott of members/family/Group of SCs/STs .

Do you know?

Atrocities like tonsuring of head and removing moustache of members of SCs/STs have been added in the 2015 Amendment.

Trial and Punishments:

Any person committing any offence listed above shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

If damage is caused to the properties of members of SCs/STs, the punishment for such offence is six months to seven years imprisonment. Special Courts are established to try the offences in the District.

Do you know?

The Amended Act of 2015 states that interfering with the enjoyment of forest land rights of tribals or evicting them the forest lands unlawfully will also be considered as atrocity.

Some More Severe Punishments:

1. If false or fabricated evidence is provided by anyone who is not an SC or ST against a SC/ST so as to secure capital conviction, then the offender shall be liable for the imprisonment for life and with fine. In case if any innocent SC/ST is convicted and executed consequent to such false case, the person shall be liable for death penalty
2. If false or fabricated evidence is provided by anyone who is not an SC or ST against a SC/ST so as to secure conviction which is not a capital punishment but punishment of seven years or upwards shall be liable for imprisonment not less than six months upto 7 years or more and fine.
3. If anyone who is not an SC or ST commits mischief by fire or any explosive substance intending to cause damage to any property belonging to SCs/STs shall be imprisoned for a term not less than six months but may extend to seven years, and with fine;
4. If anyone who is not an SC or ST commits mischief by fire or any explosive substance intending to cause destruction of a place of worship or houses or place for custody of the property of SCs/STs shall be punishable with imprisonment for life and with fine;

5. If anyone who is not an SC or ST commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property shall be punishable with imprisonment for life and with fine;
6. If anyone who is not an SC or ST knowingly or having reason to believe that an offence has been committed under this Chapter, causes disappearance of any evidence with an intention to screen the offenders from punishment, or giving false information which he knows or believes to be false, shall be punishable with the punishment provided for that offence; Or being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

Punishment for neglect of duties

A public servant who is not an SC/STs wilfully neglects his duties (Registration of First Information Report (FIR), Investigation etc) shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year. Provided that the charges in this regard against the public servant shall be booked on the recommendation of an administrative enquiry. The Special Court can take cognizance of any dereliction of duty by a public servant and give direction for penal proceedings against such public servant.

Enhanced punishment subsequent conviction:

If any one who has already been convicted of an offence under this Chapter is convicted again a second time for the second offence or further offences, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

Forfeiture of property of certain persons:

The Court can direct that the movable or immovable property belonging to the person who has committed an offence to forfeit the same to the Government in addition to any punishment.

Removal of person likely to commit offence:

If the Special Court is satisfied upon a complaint or a police report that a person is likely to commit an offence in any area included in Scheduled Areas may direct by order to remove him beyond the limits of such area/ route and within such time, and not to return to that area not exceeding three years. The order passed can be modified also.

District Magistrate, Sub-Divisional Magistrate or Executive Magistrate or a police officer not below the rank of Deputy Superintendent of Police (DSP) has the power to take preventive measures to prevent commission of offences against the members of SCs/STs. There is no provision to seek anticipatory bail for the offences committed under this Act. The Government has to provide necessary legal assistance and financial help to the victims whenever atrocities are perpetrated.

As per the Act, the police officers not below the rank of DSP will have the power to conduct investigation and file the charge sheet.

Do you know?

The courts felt that the laws made to prevent commission of offences against the members of SCs/STs should not be misused by filing false cases against the innocents to take revenge or cause inconvenience, or get money as a compromise. If they do so, they will have to face the consequences that arise in the course of law.

The Rights of the Victims and Witnesses:

The Government has to protect the victims and the witnesses of the incidents. The petitions filed by the accused should not be taken up by court for hearing without serving notice on such petitions. The Government has to rehabilitate the victims and provide economic assistance, education, food, shelter and other arrangements, and also give information on the details of the case, the steps taken by the Government to the victims or their dependents. The victims have every right to get help from organisations or lawyers. Victims can also request the Government to appoint a Special Public prosecutor to argue their case in court.

ANNEXURE -1

Government of Andhra Pradesh Tribal Welfare Department

Guidelines to prevent Tribal Land Alienation under Land Transfer regulation(LTR)

Rc.No.24/TRI/SPMU-LTR&PESA/2017 Dt.13-10-2017

Sub : TW-TCR&TI- SPMU (LTR&PESA Act) – LTR Implementation- Guidelines pertaining to the land transactions in the Scheduled Areas of the State of Andhra Pradesh to prevent tribal land alienation-Prepared by Dr. Palla Trinadha Rao, SPMO (LTR&PESA Act) – Approved and Issued.

During the review meetings the Project Officer, ITDA, Paderu, Visakhapatnam District has expressed a concern over an increasing trend for seeking permissions for registration of land transfers for the lands situated in the Scheduled Areas, mostly from non local tribals. It is also reported in Rc.No.453/2017/SA-B. Dt:-01.06.2017 by the Revenue Divisional Officer and Special Deputy Collector, Paderu, Visakhapatnam district, that after bifurcation of the State of Andhra Pradesh, the value and importance of lands in agency area have increased due to tourism. Consequently many investors are coming to purchase lands for construction of resorts and hotels in the name of tribes.

The AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70(LTR) prohibits the transfer of lands situated in the Scheduled Areas by a tribal or non tribal to be absolutely null and void unless made in favour of tribals only. The legal presumptive clause under the Land Transfer Regulations 1 of 70 is that the land situated in the Scheduled Areas once belonged to

tribals unless the contrary is proved. The basic purpose of the LTR is to ensure that the land of the tribals should not be frittered away to outsiders by transfer.

However non-tribals adopted various ingenious and deceitful methods to circumvent the tribal protective Land Transfer Regulations 1 of 70 to acquire the land in the scheduled Areas of the State. The dubious land transactions include acquiring land through tribal women by keeping them as kept mistress and in the name of their tribal farm servants who were made to remain loyal to their non-tribal masters through evil designs. There are other machinations for tribal land alienation including purchasing or taking lands on lease or other dealings with the immovable property in the name of tribals on condition of payment of hire charges periodically by non-tribals or other ploys. Some of the non-local tribals in nexus with the non-tribals enter into clandestine transactions with local tribals in relation to immovable property situated in the Scheduled Areas for the benefit of non tribals.

The Section 3 (1) (a) of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 does not prohibit the “transfer” of lands among the tribals in the Scheduled Areas of AP. However this provision should be read with Sub clause (4) of Section 3 of APSALTR 1 of 70 which says that “for the purposes of this section, the expression ‘transfer’ includes a sale in execution of a decree and *also a transfer made by a member of a Scheduled Tribe in favour of any other member of a Scheduled Tribe benami for the benefit of a person who is not a member of a Scheduled Tribe*”.

However in view of the problems of tribal land alienation, an elaborate enquiry in every case is to be conducted under the clause (4) of Section 3 of APSALTR 1 of 70 by the authorities before permitting a local or non-local tribal to purchase the lands from the local tribals. Further a detailed verification is to be conducted

on a declaration document relating to transfer of immovable property is required to be registered under Section 3(B) by the Agency Munsif/Tahsildar under Rule 18(1)(2) of AP Scheduled Area Land Transfer Rules 1969 so as to know “whether the transfer is in violation of Section 3 of the APSALTR 1 of 70 or not” before submitting a verification report to the Addl. Agent to Government /Agent to Government/District Collector. If it is proved that a local or non-local tribal is a ‘benami’ to a non-tribal, then the proposed document for the registration of land in his favour shall not be permitted.

The Gram Sabha is also a constitutional authority and empowered under the in Section 242 I (1)(c) of Andhra Pradesh Panchayati Raj Act, 1994 as amended in 1998 “to prevent alienation of land in the Scheduled Areas and restoration of any unlawfully alienated land of a Scheduled Tribe”.

Whereas the Andhra Pradesh PESA Rules 2011 were also notified under GOMs No 66 dated 24-03-2011 for implementation of the PESA Act. As per the Rule 4(XI)(C), the concerned authorities shall place the “list of transfers of ownership of houses and other immovable property for the consideration of Gram Sabha”. The PESA Gram Sabha shall also have power under Rule (8) (III) (1) (c) to “verify as to whether the lands are purchased in the name of a tribal woman and enjoyed by a non-tribal”.

The provisions of the Fifth Schedule of the Constitution were made applicable to the Scheduled areas of Andhra Pradesh. The Article 244 contained in Part X of the Constitution entitled The Scheduled and Tribal Areas, states as under:

“Article 244. (1) The provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Area and Scheduled Tribes in any State other than the States of Assam, Meghalaya, Tripura and Mizoram.”

Article 244 provides that the administration and control of the Scheduled Areas shall be in accordance with the Fifth Schedule. The purpose of Scheduled Areas, as also recognized in several judgments of this Hon'ble Court, such as *Samatha vs. State of Andhra Pradesh* (1997) 8 SCC 191, is to preserve the tribal autonomy, their culture and economic empowerment, to ensure social, economic and political justice and for preservation of peace and good governance in the Scheduled Areas.

There is a need to protect the tribal lands in the Scheduled Areas of the State from the exploitative methods of non-tribals to appropriate lands and check tribal land alienation further, to make the LTR 1 of 70 and the provisions of Andhra Pradesh Panchayati Raj Act, 1994 as amended in 1998 functionally more effective and also to remove the difficulties in verifying the proposals for grant of permissions for registration of land transfers in favour of tribals etc. the following guidelines are proposed along with Form – K.

GUIDELINES TO PREVENT TRIBAL

LAND ALIENATION

(I) Land Consolidation Fund at ITDA:

(i) The Tribal Welfare Department shall constitute a 'Land Consolidation Fund' (LCF) at State level. Part of this fund shall be allocated to the ITDA to the Addl. Agent to Government/Project Officer, ITDA to release necessary fund to the Gram Sabha for purchase of any land within its jurisdiction that are intended to be sold to protect tribal lands by preventing its alienation.

(ii) The Gram Sabha shall Purchase at market price any land falling within its jurisdiction, owned by any resident whether a Scheduled Tribe or not, and who is desirous of selling his/her land and has made a request in writing to the Gram Sabha.

(iii) The land thus purchased shall be in the name of the Gram

Sabha of the concerned habitation.

(iv) The said land shall be put to use for common purpose by the concerned Gram Sabha on its own initiative or on the request of any Government Agency.

(v) The Gram Sabha may allocate such land, partly or wholly as the case may be, to any landless or deserving Scheduled Tribe of the habitation as the case may be, with enjoyment rights;

(vi) The Gram Sabha shall cancel such enjoyment rights if needed and reallocate the same to another landless or deserving Scheduled Tribe of the habitation or utilise the same for the common community needs;

(II) Procedure for Verification of declaration of Land Transferees:

i. The Tahsildar shall take prior permission from the Project Officer, ITDA/Addl. Agent to Government, to process the proposals of non local tribals for registration of land transfers in relation to the immovable property situated in the Scheduled Areas.

ii. The Tahsildar shall maintain a separate register for the proposals seeking permissions for registration of land transactions of immovable property situated in the Scheduled Areas in favour of tribals.

iii. The Tahsildars shall maintain a visitors book and enter the name of the tribal applicant and the person or persons who approached the Taluk office seeking permission on behalf of the tribal applicant if any or the person who accompanied the tribal applicant in the visitors book. The extract of the visitors book shall also be made available as part of the proposal file for permissions.

iv. The Tahsildar has to verify whether the non local tribal produced any endorsement from the Agency Courts that the proposed land is not involved in any case on the file of the designated or other courts in the Scheduled Areas.

- v. The Tahsildar or any other enquiry officer shall strictly comply with the provisions of Section 3(4) of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 and Rule 18(1)(2) while recommending the registration of lands in favour of local or non local tribals in order to check the benami tribal land transactions.
- vi. The Tahsildars or any other enquiry officer shall place all the proposed land transfers among the tribals in relation to the immovable property situated in the Scheduled Areas with full details before the concerned notified Gram Sabha as per the provisions of Andhra Pradesh Panchayati Raj Act, 1994 as amended in 1998 and Rules 2011 for its decision and resolution before taking any step for recommending for registration of land transfers in favour of tribals.
- vii. The Tahsildars shall verify carefully and give finding on status of the temporary /permanent residences of the tribal applicants of both land transferors and transferees basing on the Aadhaar and other legal proof of residence.
- viii. The Tahsildar shall enquire into the immovable properties owned by the tribal transferees and verify its valuation certificates which are required to be obtained from the concerned Sub registrars/ Tahsildars whether the tribal transferee has sufficient funds to enter into land transaction or merely standing as a benami to non-tribals.
- ix. The Tahsildar has to instruct the tribal transferees to produce last three years income tax returns or declaration showing all the legal sources for raising sale consideration amounts /other land transaction considerations and shall verify for the presence of any prohibited benami land transactions.
- x. The Tahsildar shall move the proposal for permission of registration with a specific finding on the status of the proposed land for transfer, whether it is a vacant land or civil structures if any on the land and the permissions granted by whom and in whose

favour earlier for the constructions and its value and the current usage of land, with the support of relevant documents for further verification and confirmation.

xi. The Tahsildar shall verify whether the land involved in the proposed transfer is a ryotwari patta land or government land or assigned land.

xii. The Tahsildar, the Gram Sabha and also the District Collector to verify and attest that the land that is being transferred is not a forest right or patta under the Forest Rights Recognition Act 2006.

xiii. The Revenue Divisional Officer shall enquire into the rightful ownership of the land transferor if he/she is non-tribal additionally under the provisions of LTR 1 of 59 as amended by 1 of 70.

xiv. The Tahsildar and the RDO, as the case may be, shall also specify whether the proposed land for transfer is for agriculture or industrial or commercial purpose on verifying the contents of the declaration or otherwise in this regard.

xv. The Tahsildar and other designated authorities shall verify whether the land which is intended to be sold is the only land owned by the tribal land transferor for his bare survival or owning any other land for the survival of his family.

xvi. The Tahsildar and authorities shall obtain a declaration in the modified form “K” under AP Scheduled Area Land Transfer Rules 1969 as per the Annexure.

xvii. The Tahsildar has to submit a report every three months to the Project Officer, ITDA on the status of the lands which were already permitted for registrations in favour of tribals under the LTR.

(III) Cancellation of permissions granted for land registration:

i. The Tahsildar on an enquiry if it is found that the land transferee has converted the usage of land other than permitted

purpose at the time of grant of permissions for the registration of the land transactions shall recommend for cancellation to the Addl. Agent /Agent to Government or issuing authority for cancellation of permission obtained for registration of land transactions.

ii. If on the verification at field level if it is found that the tribal land transferee is not in possession of the land purchased and a non-tribal person interested in land is enjoying the land then the Tahsildar shall recommend for cancellation of the permission granted.

iii. If on the conclusion of verification, the Tahsildar determines that the tribal declarant /land transferee is not a genuine tribal or permission obtained by enclosing fictitious documents to declaration form or acquisition of land for the benefit of any other person known or believed to be interested in the land or otherwise is not competent to acquire the land for any reason, the Tahsildar shall recommend in writing for the cancellation of permissions obtained by the declarant.

iv. The Addl. Agent to Government/Agent to Government suo moto or on complaint or on recommendation of the Tahsildar/RDO can initiate an enquiry on the permission obtained by the deponent/land transferee for registration of land transfers and cancel the permission granted and resume the land and take appropriate action, if it is found that the land transferee is not competent to obtain permission under LTR provisions and government instructions in force and the usage of land is contrary to the conditions of the permissions.

(IV) LTR Implementation:

(i) The Tahsildars are instructed to identify and report the illegal occupations of government or tribal lands by non tribals or violations of orders issued in favour of tribals under the provisions of LTR 1of 70 and comply with the orders issued in favour of

tribals LTR and send the compliance reports to the Special Deputy Collector (TW)/Revenue Divisional Officer/Project Officer(ITDA) immediately without any delay to prevent tribal land alienations and illegal enjoyment of lands by non-tribals.

(ii) The disobedience of the court orders or directions of designated authorities issued in favour of tribals under the provisions of LTR by the Tahsildars will be viewed seriously.

(iii) The Tahsildars have to implement the orders in favor of tribals under LTR as per the court directions and in a time bound manner. If it is found that there is delay on the part of Tahsildar that paved the way for non-tribal in securing a stay order from the higher court will be treated as indiscipline and wilful neglect of duties.

(iv) The Special Deputy Collector or any other designated authority under LTR should communicate the order passed in favour of tribals for implementation and obtain the acknowledgement from the Tahsildars and direct them to file the compliance report after implementation.

(v) The Section 6(A)- Penalty provision of LTR(Amendment) 1978, says that any person acquires any immovable property in contravention of the provisions of the LTR or continues in possession of such property after a decree of ejectment is passed shall be liable for the punishment of rigorous imprisonment for a term which may extend to one year or with fine which may extend to Rs 2000 or with both. And the offence is cognizable.

(vi) If a non tribal wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to ST or interferes with the enjoyment of his land rights is also an offence (atrocities) under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 as well, and that action can be initiated under that law, and where it is a government servant who commits or abets such offence, it is an

aggravated offence inviting harsh punishment.

(vii) All the Project Officers, ITDAs in the Scheduled Areas shall undertake review of the implementation of LTR provisions with all concerned officials once every quarter particularly on the land transfers effected between the parties and orders issued in favour of tribals under LTR.

(V) General instructions to All Line Departments to prevent Tribal Land Alienation.

(i) The High Court of Andhra Pradesh held that “allotment” of shops in Bus stands in Agency Areas by means of tenders in the form of “licence” to non-tribals falls within the expression “other dealing” under in Section 2(g) of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 and hence it is prohibited (*Adarsha Adivasi Mahila Samithi & others Vs. Agent to the Govt. Khammam & others. 2003 (5) ALD 284*).

(ii) Therefore, no license or permits or any type of allotments/ electricity /communication connections etc shall be issued by the department officials concerned to any non-tribal or local/non local tribal for the benefit of non tribals, to deal with the any immovable property situated in the Scheduled Areas of the State of Andhra Pradesh, for any purposes including construction of any building/ housing purpose or establishment of shops, restaurants, tourists cottages and other commercial and industrial units/ establishments/ outlets/enterprises, higher & technical /vocational educational institutions/endowment institutions/Ashramams etc, without seeking a prior permission from the Project Officer, ITDA/Addl. Agent to Government that the land in question legitimately belongs to the applicants. The term ‘immovable property’ under Sec. 2(d) of the said Regulation includes standing crops, timber and trees not only the land.

(iii) All the Heads of the Departments are requested to instruct

their subordinates to follow the provisions of the LTR 1 of 70 strictly in sanctioning of all types of licenses and permits etc and also grant sanctions only to the eligible Scheduled Tribes in the Scheduled Areas and in the interest of tribals only.

(VI) General Instructions: Roles and Responsibilities of Revenue Officials and Gram Sabha.

(i) Land Records:

(1) Updating of Land Records in the Scheduled Areas with active participation of tribal communities shall be undertaken by revenue officials.

(2) The Gram Sabha shall be consulted before making changes in record of rights or mutations being effected or incorporating the names of actual enjoyers.

(3) The names of actual enjoyers irrespective of their ownership over the lands shall be incorporated in cultivation accounts to check the tribal land alienation and also initiate action for the restoration of alienated lands.

(4) The updated and upgraded land records shall be made available at PESA notified Gramsabha in every Gram Panchayat in the Scheduled Areas.

(5) The Village Revenue Officer shall make available the concerned land records at the PESA notified Gram Sabha for taking any decision on a complaint or a request from the department officials for any administrative purposes.

(6) All the categories of lands including ryotwari patta lands, common use lands for various land uses within the classification of Panchayat/Revenue and Forest lands located within the boundaries of village shall be brought under the jurisdiction of PESA notified Gram Sabha for the sustainable management and prevent tribal land alienations.

(ii) Roles and Responsibilities of Gram Sabha :

(1) The Gram Sabha shall have jurisdiction over all categories of lands to carry out its function as the authority to prevent tribal land alienation and restore illegally alienated lands as per the provisions of LTR 1 of 70 and Andhra Pradesh Panchayati Raj Act, 1994 as amended in 1998 and Rules 2011.

(2) The land use and rights over common land and resources shall be determined by the Gram Sabha.

(3) Gram Sabha shall ensure that no land belonging to STs is transferred to non-STs.

(4) Gram Sabha has to verify and ascertain the information from the proposed tribal transferor of the land and submit its report in the form of a resolution to the Tahsildar/any verifying officer as and when required on the status of physical enjoyment of proposed land transferor, reasons and mode of land transfer, genuineness of the ST status of the tribal land transferor and also whether any non-tribal is seeking benefit in the name of a tribal transferee through the proposed land transactions.

(5) The Gram Sabha shall also verify whether the land which is intended to be sold is the only basis for the survival of the family of the tribal land transferor or having any others lands for their livelihood.

(6) The Gram Sabha can report/ complain about the facts and happenings in the field to the competent authorities in relation to tribal land alienations to take necessary action as per the PESA Rules 2011 and the provisions of LTR 1 of 70 from time to time.

(VII) Disciplinary action against erring officials:

i. The Project Officer, ITDA, who is also a designated authority as Addl. Agent to Government, is empowered to take necessary action as per the Go Ms no 57 (General Administration (Special-

A) Department) dated 01-03-2014 and also as per the other existing rules, against the recommending officers for permissions for registration of land transfers, or other sanctions etc involved any transaction or any other dealing with the immovable property situated in the Scheduled Areas, contrary to the provisions of Land Transfer Regulations 1 of 59 as amended by 1 of 70 and guidelines/ instructions if any on the subject and the Tahsildars who have failed to implement the orders issued in favour of tribals as per the directions of the courts or within the stipulated time period under the existing rules.

ii. The Project Officer, ITDA can also recommend necessary disciplinary action against erring officials to their Heads of the Departments for irregular grant of sanctions, licenses, permits etc to non tribals or ineligible tribals.

(This has got note approval from the Prl. Secretary to Govt. TW)

Sd/-Dr.M.Padma, I.A.S
Special Commissioner of Tribal Welfare

Sd/S.M. Sujatha
Joint Director (FAC), TRI

To

All the Project Officers (ITDAs)
All the District Collectors of Scheduled Area Districts

Copy to
The Chief Commissioner of Land and Administration (CCLA)
The Revenue (Commercial Tax) Department
The Revenue (Excise) Department
The Commissioner of PR&RD
The Commissioner of Commercial Tax
The Commissioner of Excise

Annexure
FORM – K
(See Rule 18(1))
A Modified Declaration

To
The Registering Officer,
.....

Sir,

Whereas the undersigned has accepted the transfer of immovable property bearing Survey No./House Numberextent situated at village Taluk District (here mention the description of immovable property) from its owner Sri Son of Resident of Village taluk Districtand the transferor is willing to register the deed here mention the nature of the document) and presented the document for registration of the above mentioned immovable property.

Ison ofaged.....years, occupation resident of village Mandal..... district hereby solemnly and sincerely declare that

1. I am a member of the Scheduled Tribe or a society registered or deemed to be registered under the Andhra Pradesh Co-operative Societies Act, 1964, which is composed solely of members of the Scheduled Tribes, as I belong to tribe. The relevant certificate enclosed for kind perusal and approval.
2. The proposed land transfer is intended for my benefit and family members only and no non tribal's interest is involved in any manner.
3. I am entering in land transaction through the proposed land transferor for Agriculture/Commercial/Industrial purposes.(Specify the purpose)
4. I declare that the transferred land shall be used only for the permitted purpose and continued in my physical possession and enjoyment without any further dealing with any non tribal.
5. I have sufficient funds to raise the consideration amounts required for the proposed land transfer and the sources mentioned in the income tax returns or the legal sources given below belongs to me. (Details of immovable and movable properties and income generating from them)
6. The proposed lands for transfer are not the Government or assigned land or forest right or patta granted under Forest Rights Recognition Act 2006 and no case is pending in relation to the lands in any courts.
7. The required documents are enclosed here with for kind perusal and verification. (Proposed land transfer title deeds, Possession certificate of land transferors, valuation certificates of movable and immovable properties owned by the declarant, Community Status Certificate of declarant as ST from competent authority, Income Tax returns or legal sources with relevant documents, Residence Certificate/Address Proof(Aadhaar),Endorsement from the Special Deputy

Collector(TW) and Revenue Divisional Officer stating that no case is pending in their courts or any agency courts or other courts)

8. I declare that the permission obtained for registration of land transfer can be cancelled at any time and resume the land by the issuing authority if it is found that I am ineligible to seek either permission or the contents in the declaration or the documents produced are irregular or illegal or change the usage of land without any further permission after obtaining permission.

Date:

Place:

Signature of Transferee.

The averments stated above in the declaration are read over and explained in Telugu and the deponent/land transferee understood the same on this day of month year.

Attesting Officer (Gazetted officer / Notary advocate)

ANNEXURE -2

Government of Andhra Pradesh Tribal Welfare Department

COTW-11025/3/2017-A SEC-COTW

Dt:21/06/2017

Operational Guidelines for implementation of PESA Act 1998 and Rules 2011

Sub : Implementation of PESA Act 1998 and PESA Rules 2011-Operational Guidelines to mainstream the role of Gram Sabhas and other Panchayat raj Institutions in local administration in the Scheduled Areas of AP, prepared by Dr Palla Trinadha Rao, SPMO (LTR&PESA Act) —Issue of proposed operational guidelines by the Heads of all the line departments to their functionaries-Requested-Regd.

The enactment of the PESA Act 1996 (Act 4 of 96 dated 24th December, 1996) by the Parliament is an important watershed in the history of tribal affairs and autonomy of Gram Sabha for the local self-governance in Fifth Scheduled Areas of the country. Whereas the Government of Andhra Pradesh also brought State legislation in 1998 (Act 7 of 1998 dated 16th January, 1998) as directed by the Central enactment extending the special provisions for the local governance in the Scheduled Areas of A.P. Whereas, the State PESA Act came operational through notifying the PESA Rules in 2011 vide. GO Ms No 66 dated 24th March, 2011, governing the role of Gram Sabha in the local governance.

The Gram Sabha (GS), a nucleus for all development activities, which is endowed with specific powers and functions under PESA Act and Rules 2011 include management of community resources, minor water bodies, and ownership over minor forest produce. Gram Sabha is also an approval authority for socio, economic development plans and programs, and responsible for identification and selection of beneficiaries under various poverty alleviation

programs. PESA Act further mandates the implementing agencies to seek funds utilization certificate from GS for the works executed in the village as part of the social audit. GS is also endowed with certain quasi judicial and regulatory powers including customary mode of dispute resolutions, safeguarding and preserving traditions, customs, control over money lending, local institutions, and functionaries and regulate the use of intoxicants, and prevent tribal land alienation and restoration of alienated land etc.

Whereas in 2013, the Government notified the Villages for the purposes of constituting Gram Sabhas vide. RC. No 511/2011/ TRI/PR in the Scheduled Areas and enabling them to function as a self government unit within the framework of PESA Act and Rules for effective governance.

Whereas, the primary stakeholders of GS consistently informed that the constitutional role of GS under PESA Act is neglected by the departments in the local administration, which was also mentioned during the Training Programs on PESA Act organised by the AP Human Resources Development Institute (HRDI) with the support of Tribal Welfare Department in the ITDA Areas of East, West Godavari, Visakhapatnam and Vizianagaram Districts.

Whereas, a meeting was also held under the Chairpersonship of the Special Commissioner of Tribal Welfare, with the available officials of all the line departments on 19th April 2017 in Vijayawada to discuss on the draft guidelines circulated by Dr Palla Trinadha Rao and whereas, one day consultation was also held on 8th May, 2017 to discuss further on the revised draft operational guidelines prepared by him, in the office of CIPS, Hyderabad.

Whereas, in all the discussions that took place, the following operational guidelines for effective implementation of PESA Act 1998 and Rules 2011 were considered to mainstream the Gram Sabha and other Panchayat raj Institutions (PRIs) in the local administration in the Scheduled Areas of AP.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
I	Gram Sabha			
1		<p>Furnishing Information of Government programs/Schemes etc:</p> <ul style="list-style-type: none"> ★ The duty of the Secretary of Gram Panchayat (GP) will be to help the Secretary of Gram Sabha (GS) and work in collaboration with him. ★ The Panchayat Secretaries at Gram Panchayat (GP) shall pass on information from time to time to the Secretary of Gram Sabha in relation to the government policies, instructions, programmes, plans, and projects to maintain a vital organic live link between the GS and the Gram Panchayat. ★ Where the departments have a specific village or GP level functionary or functionaries also shall perform similar functions as in the case of Panchayat Secretary in relation to the departments which have no specific functionaries at village or GP level. ★ All the village or GP level functionary or functionaries shall obtain an acknowledgement from the Secretary of GS after furnishing the requisite information to him/her. 	PESARule (4) (xiii)- GOMs No 66 dated 24-3-2011	PrI. Secretaries or Commissioners / Directors of PR & RD, Fisheries, Agriculture, Animal husbandry, Health and Family welfare, Women and Child Welfare, Tribal Welfare, BC/SC Welfare, Chief Engineer Irrigation Departments.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
2		<p>★ The above referred instructions or any other suitable instructions to Panchayat Secretaries and the concerned department functionaries may be issued to do liaison between the GP and Gram Sabha in mainstreaming the GS in local administration.</p> <p>Placing of Village Agricultural Production Plans:</p> <ul style="list-style-type: none"> ★ Village Agricultural Production Plans are to be placed before the Gram Sabha for its discussion and consideration. ★ The decisions of Gram Sabha on prevention of soil erosion, promotion of organic manures, fertilizers and other sustainable agricultural practices, type of crops need to be encouraged, bringing fallow lands in to productivity etc. are to be implemented by the department functionaries . ★ Mandal Agriculture Officer, Village or Panchayat level Agriculture Extension officer/field Asst. are to be instructed suitably. 	PESA Rule (4) (xi) (a)	Pri. Secretary or Commissioner of Agriculture and Coop Department

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
3		<p>Placing of details of Common lands:</p> <ul style="list-style-type: none"> ★ Panchayat Extension officers or Panchayat Secretary or Village Revenue Officers shall provide the gram sabha with the details of common lands or community lands such as poramboke lands, Grazing lands, tanks, grama kantam, graveyards, Crops, harvesting lands. threshing floors, traditional sites etc. ★ So that their utilization for the common benefit of the community may be discussed and planned. ★ Panchayat Secretary and Village Revenue Officer shall also help the GS in order to develop a Village Assets Register with details of community assets, present usage, changes in usage etc. ★ Gram Sabha shall take necessary steps for protection of common lands from alienation. ★ Suitable instructions are to be issued Panchayat Secretaries and VROs. 	PESA Rule (4) (b)	Pri. Secretary or Commissioner of PR&RD-and CCLA

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
4		<p>Placing of details of transfers of ownership of immovable properties:</p> <ul style="list-style-type: none"> ★ Panchayat Secretary with the help of village Revenue officer shall place the details of transfer of ownership of houses, lands, and other immoveable properties including the reasons and methods of transfer, between whom, survey No's, extent and price/ amount of sales or mortgages etc., before Gram Sabha. On that the Gram Sabha can decide whether the transactions, are legal or not and take necessary further action accordingly. ★ A consultation in the form of a resolution from the Gram Sabha shall be obtained before granting any permission by the Agent to Government/District Collector, permitting any registration of any transaction in relation to the immovable property between the tribal parties under AP Scheduled Area Land Transfer Regulations 1 of 59 and Rules 1969. ★ Suitable instructions to District Collectors, Tahsildar, M.P.D.O. Panchayat Secretaries & VROs may be issued. 	PESA Rule (4) (xi) (c)	Prl. Secretary or Commissioner of PR&RD and C.C.L.A.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
5		<p>Placing of copy of the approved budget estimates, audit reports etc .of GP/other departments:</p> <ul style="list-style-type: none"> ★ A copy of the approved budgets is to be placed before the Gram Sabha for discussion on the utilization of last year's budget/expenditure, schemes implemented etc. and on the requirements of the current year to improve the situation. ★ The Panchayat Secretaries or EORD Panchayats or MPDO shall obtain the Utilisation Certificates (UCs) from the Gram Sabhas duly explaining them the procedures and processes of utilization of funds released and schemes completed/ benefits accrued etc. which shall be a pre requisite condition for further departmental audit, if any. ★ The concerned departments shall prescribe the formats to obtain UC from the Gram Sabha for the works executed or programs implemented in the village. ★ The heads of the departments may issue further suitable instructions, to the MPDO/EO. Panchayath, Sarpanch and Panchayat Secretaries. 	PESA Rule (4) (xv)(d)& (e)	PrI. Secretaries or Commissioner of PR&RD and Commissioner of TW.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
6		<p>Placing of a list of defaulters in payment of arrears to GP:</p> <ul style="list-style-type: none"> ★ The E.O Panchayats, Panchayat Secretary shall place before the Gram Sabha, a list of defaulters so that Gram Sabha may take the responsibility of getting their arrears paid by the defaulters. ★ MPDO and E.O Panchayat, Panchayat Secretary may be instructed accordingly or any additional instructions may be issued to them. 	PESA Rule (4) (xi) (f)	Pri. Secretary or Commissioner of PR&RD
7		<p>Functioning of fair price shop/DR Depot:</p> <ul style="list-style-type: none"> ★ Review power is conferred on Gram Sabha over functioning of Fair Price Shops/ D.R. Depot under PESA Rules 2011. ★ Fair price shop dealers or the salesman or Credit cum Purchase Assistants of D.R Depot. shall present in the meetings of Gram Sabha and provide information about the holders of ration cards, item wise quantity of ration received and distributed/sold, if the stock is not received reasons for that . They shall enable the Gram Sabha to take decision on the matter to resolve the problem if any. 	PESA Rule (4) (xi) (g)	M.D. Civil Supplies and M.D.GCC

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
8		<p>★ Fair price shop dealer, salesman and credit cum purchase assistants of D. R. Depot are to be instructed suitably through District Supply Officer(DSO)andRegional Manager/Manager G.C.C concerned.</p> <p>Functioning of Anganwadi centres:</p> <ul style="list-style-type: none"> ★ Review power is conferred on Gram Sabha over functioning of Anganwadi centres. ★ The Anganwadi teacher and worker shall attend the Gram Sabha meetings and take the help of Gram Sabha in getting all the children enrolled and secure regular supply of food items from the ICDS project authorities. ★ The Gram Sabha shall approve the budget for Anganwadi centers. The ICDS authorities shall place the estimated budget for Anganwadi Centres before GS for its approval. 	PESA Rules 4 (xi) (h) and Rule (8) (VI) (iv) (a)	Pri. Secretary or Commissioner Women Development and Child Welfare.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
9		<p>Approval of socio, economic plans/programs etc:</p> <ul style="list-style-type: none"> ★ The Gram Sabha shall approve plans, programmes and projects for social and economic development before they are taken up for implementation by the Gram Panchayat at the village level. ★ The Gram Sabha shall be facilitated to assess the needs of the village and prioritize the needs of village. ★ The Gram Sabha is competent to review all the development programs of government institutions. ★ The concerned institution shall present complete information related with that program or plan, or projects before the Gram Sabha, include relevance and importance of the program, the full financial details in a language that is easily and commonly understood preferably in a vernacular language, for the decision of the Gram Sabha. ★ Therefore suitable instructions are to be issued to Gram Panchayat as well as other government institutions to present the programs, plans, projects for active consideration of Gram Sabha before its implementation and follow up with the actions suggestion by the Gram Sabha. 	PESA Rule (4) (xi) (n) and PESA Act Sec.242 C (2)	Pri. Secretary/ Commissioners/ Directors Fisheries, Agriculture, Animal Husbandry, Health and Family Welfare, Women and Child Welfare, B.C/ SC, and TW, Irrigation & Rehabilitation & Resettlement, PR&RD, etc.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
10		<p>Identification and selection of beneficiaries under development programs:</p> <ul style="list-style-type: none"> ★ The concerned departments shall ensure that a list of beneficiaries identified and selected by the Gram Sabha is obtained for the implementation of poverty alleviation schemes or programs as envisaged in the PESA Act and Rules before actually releasing the funds for the programs. ★ The Gram Sabha shall finalise the lists of beneficiaries on the basis of economic condition of the family for development programs from among the people of the village, in keeping with government rules or criteria or norms. ★ All the line department functionaries or Panchayat Secretary of GP, as the case may be, are required to be instructed to obtain the list of beneficiaries approved by the GS prior to releasing of funds. ★ Suitable instructions are to be issued to all division and district level officials in relation to departments like Fisheries, Animal husbandry, Agriculture, Horticulture, Sericulture, BC/SC and ST welfare, PR&RD, Irrigation, Women and Child Welfare, Health and Family Welfare etc. 	AP PESA Act 1998 Section (2) (ii) and PESA Rule (4) (XIII)	Prl. Secretaries or Commissioners/ Directors Fisheries, Agriculture, Animal husbandry, Health and Family Welfare, Women and Child Welfare, B.C,SC, and TW, Irrigation &RR, PR&RD, etc

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
11		<p>Functioning of Health Sub centres /Primary Health Centres:</p> <ul style="list-style-type: none"> ★ Review power is conferred on Gram Sabha over the functioning of the health sub centres. ★ The Gram Sabha shall discuss in their meetings about functioning of the sub centres such as availability of the staff in the habitation/village, supply of medicines and suggest for improvement of functioning of Health sub centres etc. ★ The Multi Purpose Health Workers, Asha Workers, and any other medical officer working in its jurisdiction have to attend the meetings of GS on its notice and appraise the functioning of health sub centres or Primary Health Centres and take suggestions, if any, given by the GS in case of the need to attend the medical aid for the villagers etc. ★ Or any other suitable instructions may be issued to Multi Purpose Health Workers, Asha Workers and Medical Officers at PHCs through DM&HO concerned. 	PESA Rule (4) (xi) (i)	Pr. Secretary or Director/ Commissioner of Public Health and Family Welfare.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
12		<p>Functioning of Schools:</p> <ul style="list-style-type: none"> ★ Review power is conferred on Gram Sabha over functioning of Schools. ★ Gram Sabha shall discuss in their meetings about functioning of school in their habitation/village especially on 100% enrolment of children and attendance of teachers and students, admission of the students into next higher classes. Students being dropped out and reasons from the parents for such dropout and possible solutions, supply of materials, accommodation, running the scheme of mid-day meals etc. ★ The Head Master or Teachers are to be instructed to attend the GS meetings as and when required by the GS and appraise the school functioning and problems, if any, for proper resolution. ★ The concerned School functionaries have to act upon the resolutions of GS to address the problems. ★ Suitable instructions to the HM and teachers to attend GS meetings may be issued through DEO (if it is govt school); MPDO/MEO (if it is ZP or PR school); PO/IWD if it is TW school or Secy AP TW REIS if TW res schools or to any other officers concerned for other educational institutions. 	PESA Rule (4) (xi) (f)	Pr. Secretary or Director/ Commissioners of School Education, PR&RD dept. S.W, and T.W departments.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
13		<p>Functioning of welfare hostels:</p> <ul style="list-style-type: none"> ★ The Gram Sabha shall discuss about the functioning of Hostels located in their village/habitation especially about presence of the warden in headquarters, admissions of all eligible students, accommodation, supply of materials, supply of food as per prescribed menu, health of the inmates, sanitary facilities like toilets, drainage, safe drinking water and power supply etc. ★ The Hostel Welfare Officers /Wardens of Tribal Welfare, B.C and S.C Welfare departments shall attend the GS meeting on its notice and appraise the functioning of hostels and also answer any queries of the GS or problems in maintaining hostel. They have to act upon the resolutions of GS and report the compliance. 	PESA Rule (4) (xi) (k)	Pr. Secretary or Commissioner/ Directors of B.C/ SC, & ST welfare.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
14		<p>Provision of drinking water schemes:</p> <ul style="list-style-type: none"> ★ Review power is conferred on Gram Sabha over functioning of protective water supply schemes. ★ The Gram Sabha shall discuss on the provision of safe drinking water through protected water supply scheme or borewell (hand pump) etc., functioning of the structure, regular servicing or repairs, chlorination of tanks and wells, provision of alternative sources and devices for water supply, especially in summer season. ★ The village concerned functionaries shall attend the GS meetings and appraise the safe drinking water schemes and take the suggestions of GS if any, and bring them to the notice of their higher authorities for further action on the resolutions. ★ Concerned functionaries under PR or RWS or T.W. Eng. dept are to be instructed suitable through Dist. Panchayat officers, MPDOs, PO of ITDA's etc. 	PESA Rule (4) (xi) (l)	Prl. Secretary or Commissioner of PR&RD dept., Tribal welfare. And Engineers Chief of. RWS, TW Engineering department.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
15		<p>Provision of Electricity:</p> <ul style="list-style-type: none"> ★ Review powers are conferred on Gram Sabha over functioning of electricity department functionaries. ★ Instructions shall be issued to the Lineman, Asst. Lineman and Helpers through the MD Transco/ or others concerned to take necessary action for providing regular power supply, new power connections to households and agricultural pumpsets etc., ★ Concerned line man or supervisor shall attend the Grama Sabha meetings and take necessary actions on resolution of G.S. Suitable instructions are to be issued to them through AE, Transco. 	PESA Rule (4) (xi) (m)	M.D.A.P. Transco/ Concerned DISCOMS
16		<p>Developing a Socio, Economic profile of families:</p> <ul style="list-style-type: none"> ★ The GS with the help of Panchayat Secretary of GP shall prepare the socio-economic profile of each family containing human and natural resources of the village, literacy levels, landless families, woman headed families, benefits so far secured with details of present status, problems and priorities 	PESA Rule (4) (xii) (xiii)	PrI. Secretary or Commissioner of PR&RD

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
17		<p>of the village etc., through PRA tools or otherwise, it shall be approved by the Gram Sabha.</p> <p>★ With the help of the socio economic profile prepared for all the families in the village/ habitation, the Gram Sabha shall be involved in the identification and implementation of individual and community development programmes.</p> <p>Prevention of alienation of lands in the Scheduled Areas and restoration of alienated lands of Scheduled Tribes:</p> <p>★ The Gram Sabha may undertake review of land records of the village in meetings to ensure that the farmer's names are correctly recorded and records are properly maintained.</p> <p>★ The revenue officials shall take note of the resolutions of Gram Sabha in making corrections or entries in the revenue records in relation to the disputed lands in order to certify that who are in actual possession of the lands in the village.</p> <p>★ The concerned revenue officials shall make available the revenue records for the just decisions of Gram Sabha in relation to the matters of prevention of alienation of lands and</p>	PESA Rule (8)(III)(2 to 10)	CCLA

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
		<p>restoration of alienated lands of tribals and also land disputes arising from the village.</p> <ul style="list-style-type: none"> ★ With regard to prevention of alienation of land and restoration of alienated land the Gram Sabha has been empowered to play a pivotal role in identification of cases of alienation, record all ownerships of land, verification of the genuineness of the ST status of the Pattadars or otherwise, whether any non-tribal has purchased in the name of a tribal woman but the fruits are enjoyed by non-tribals, physically verify the modes of alienation, approve the list of proposed ST beneficiaries under land assignment. ★ The Gram Sabha can report/ complain about the facts and happenings in the field to the competent authorities to take necessary action as per the provisions of APSALTR 1 of 1959 as amended from time to time. ★ The Gram Sabha is made a bottom level enquiry unit under PESA Rules for the better implementation of the APScheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70. 		

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
18		<p>★ Gram Sabha can lodge a complaint with the police under the provision of Section 6(A) of the AP Scheduled Area Land Transfer Regulations 1 of 78 (Amendment) if a non tribal continues in occupation of land although a decree/order of ejection is passed against him/her or enjoying the lands in violation of the Land Transfer Regulations as amended by 1 of 70 as part of its power to take steps for restoration of the alienated lands.</p> <p>★ Suitable instructions are required to be issued to RDOs, Special Deputy Collector (TW) in determining the rights of the parties in tribal and non tribal land disputes.</p>	PESA Rule (8) (III) (1) (e).	CCLA
		<p>Grant of Assignment land Pattas to beneficiaries:</p> <p>★ The Gram Sabha shall approve the list of beneficiaries for assignment of government lands.</p> <p>★ Therefore the concerned Tahsildars or Assignment Committee constituted by the Government is required to prepare the proposals for assignment of government lands in favour of tribals and shall place it before the GS for its approval.</p>		

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
19		<p>★ Suitable instructions are to be issued to Tahsildars and RDO in assigning the government lands in favour of tribals in the Scheduled Areas.</p> <p>Decisions on liquor shops and other Excise matters:</p> <p>★ The Excise department shall consult and act according to the resolutions of the Gram Sabha in matters relating to establishing a unit of liquor manufacture in the village; granting license to open a liquor shop in the village and determining and permitting the quantity of traditional liquor to be brewed by the scheduled tribes of the village in connection with customers practices and socio religious functions.</p> <p>★ The decisions of Gram Sabhas in relation to grant of licence for manufacture and sale of intoxicants, duration of licence, terms of renewals of licenses, number of retail outlets, time of opening, and closing of liquor shops, prohibition on sale of manufacture, and sale of intoxicants etc or any other decisions which the Gram Sabha may deem fit and necessary. The department officials shall comply the decisions.</p>	PESA Rule (8) (f) (a to d)	PrI. Secretary or Commissioner Prohibition and Excise Department.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
20		<p>★ Thus the decisions of Gram Sabha in relation to the enforcement of prohibition etc and consumption of intoxicants is final and binding as stipulated in the PESA Rules 2011.</p> <p>★ Hence the Excise Officials are instructed to follow the decisions of GS without any deviation. Or any suitable instructions may be issued in this regard following the PESA Rule to the Excise Circle Inspectors through Excise Superintendents.</p> <p>Ownership and disposal of minor forest produce:</p> <p>★ The powers of Gram Sabha is also statutorily recognised under Recognition of Forest Rights Act 2006 in determining the forest rights of individuals, community and community forest resources rights.</p> <p>★ The Forest Rights Committee should function at the Gram Sabha level but not at GP level. So that the GS will have jurisdiction to constitute its FRC for implementation of RoFR Act 2006.</p>	PESA Rule (8) (II) and Section 242 (1) (1) (b)	Managing Director GCC.andPrl. Chief Conservator of Forests.AndCommissioner of Tribal Welfare.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
		<p>★ Individual members of Gram Sabha are vested with right of ownership and disposal of MFP. Harvesting and disposal of bamboo and Beedi leaves is to be done by the forest dept. and net revenue from such disposal in the area allotted to Gram Sabha is to be passed on to that Gram Sabha which in turn is to be passed on to individual members.</p> <p>★ Gram Sabha has to maintain a register with names of MFP collector and to settle any disputes among them regarding jurisdiction ownership, access to collection etc.</p> <p>★ The GS is competent to ensure strict compliance of rules in the exploitation of MFP.</p> <p>★ The PO ITDA concerned should review all their processes and he or she should be made the chairman of the committee for management of bamboo and Tendu products.</p> <p>★ Suitable instructions are to be issued to the Forest Department, GCC and Project Officers (ITDAs),</p> <p>★ Gram Sabha can constitute a committee to manage, protect and conserve the community forest resources with the technical guidance from the Forest Department.</p> <p>★ Instructions are to be issued to GCC Manager, Forest Range Officers and ITDA Project officer.</p>		

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
21		<p>Competency to safeguard traditions and customs, community resources etc and Customary mode of dispute resolution:</p> <ul style="list-style-type: none"> ★ The GS is competent to safeguard the traditions, and customs and customary mode of dispute resolution. ★ The police or revenue authorities shall observe restraint or avoid entertaining the grievances in relation to traditional, customs and personal matters (traditional festivals, ceremonies, matrimonial matters, devolution of properties, crop destruction compensation matters etc) which are civil in nature arising from the village and refer the same to the GS which has jurisdiction for the customary mode of dispute resolution except in cases in which immediate action by the police or revenue is mandatory to maintain the public peace and tranquillity. ★ It will be the duty of the Gram Sabha to fix a date, time and place to hear the grievance and resolve the issue once a complaint is received by the member or members of Gram Sabha or any agency. 	APPEA Act 1998-Sec 242 (C) (1)	Pri. Secretary or Commissioner of PR&RD,DGP of Police and CCLA

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
		<p>★ The GS shall be very cautious while dealing the issues of the member or members of GS through customary mode of dispute resolutions. The GS shall not take any decision which is against the public policy or existing laws in force, or the cases exclusively investigated by the Police.</p> <p>★ In the case of cases registered by the Police as far as possible the concerned police officer will inform the matter to the Gram Sabha before arresting any person and also present the matter before the Gram Sabha in detail.</p> <p>★ If the police receives information regarding a possibility of disruption of peace in the area of Gram Sabha, the police shall present a detailed report of the matter to the Gram Sabha to facilitate arbitration in such matters or preventive measures against the any person with the concurrence of the Gram Sabha.</p> <p>★ Every GS shall also document the customary modes of resolutions and traditional management practices of community resources, and other social traditions and customary norms.</p> <p>★ The Gram Sabha is competent to maintain separate registers for births, deaths, marriages, festivals and migrants.</p>		

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
22		<ul style="list-style-type: none"> ★ The PS of Gram Panchayat, Village Revenue Officers, Forest Beat officers, Village level Agriculture department functionaries are to be instructed to assist the Gram Sabha in safeguarding their tradition, and customary practices. ★ Suitable instructions are to be issued to Station House Officer of Police Stations through Superintendent of Police and Tahsildars, RDOs through District Collectors. <p>Parallel functional bodies :</p> <ul style="list-style-type: none"> ★ The provisions of Part IX of the Constitution relating to Panchayats with certain exceptions and modifications were made applicable to the Scheduled Areas through enactment of PESA Act 1996. Thus the PESA Act 1996 is regarded as constitutional piece of legislation. Thus the provisions of PESA Act 1996 will override the other statutory provisions and executive orders which are contrary to its provisions. ★ The Gram Sabha may constitute Standing Committees in order to fulfil its responsibilities regarding various aspects of the working of the village, besides temporary and ad-hoc committees may be constituted as per the requirement. 	PESA Act 1996 Section 3 and 4	Pri. Secretaries to government: Agriculture and Co-Op. Public Health and Family Welfare, Women and Child Welfare, SW, BC Welfare and PR&RD, Education, Irrigation, Forest, Science and Technology dept, TW dept. MD Civil Supplies, MD-GCC etc.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
		<p>★ Therefore any committee or a body constituted by any government department the same will be treated as a Standing Committee of Gram Sabha on that subject.</p> <p>★ These committees shall play an advisory role and be accountable to the Gram Sabha. For example several functional committees like Janma Bhumi and Maa Vuru (JBMV), Vana Samrakshana Samithis (VSSs), Village Tribal Development Authorities (VTDA), Watershed Committees, Village Organisations (VOs), Water User Associations (WUA), Food Advisory Committee, Village Health Nutrition Committee, School Management Committee, Village Water and Sanitation Committee, Food Committee and Parents Committee etc, are functioning in the tribal areas.</p> <p>★ An approval from the GS may be obtained for the constitution of the functional committees at the village level.</p> <p>★ A consultation of GS may be held if the committees are to be constituted at GP level.</p> <p>★ To develop convergence between these functional committees and the constitutional body-Gram Sabha, suitable</p>		

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
		instructions are also required to be issued to all division and district level officials of the concerned departments to make the functional committees accountable to the Gram Sabha and all its proposals should be placed before the Gram Sabha for its approval.		
II	Gram Panchayat			
I		<p>Grant of Mining leases and licenses for excavation of minor minerals:</p> <ul style="list-style-type: none"> ★ Gram Panchayat is empowered to grant prospecting license or mining lease only to individual local members of STs or societies comprising exclusively of local ST members for mining minor minerals in scheduled areas. ★ Minor minerals means building stone, gravel, ordinary clay, sand, boulder, shingle, kankar, limestone used in kilns for manufacture of lime used as building material, brick earth, road metal,, stone used for making household utensils etc. ★ The mining dept. shall refer all applications to the concerned Gram Panchayat whose decision to allow or reject is binding and final. 	PESA Rule 7	Prl. Secretary or Director of Mines and Geology AndMD, AP Mineral Development Corporation.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
		<p>★ On the instructions of the GP, the mining department officials shall issue a notification contain location, size of the proposed mining area and type of minor minerals proposed for extraction, period of lease and such other particulars as it may deem necessary.</p> <p>★ The department officials also shall furnish the information to GP on its request about the conditions of quarry leases, period of lease, rehabilitation and resettlement plan for the persons displaced by proposed mining operations, if any, impact on the forest, wildlife, and biodiversity, and livelihoods of the village communities. Then the GP shall then pass a resolution deciding on the proposal of the Applicant.</p> <p>★ The Mining and Geology and APMDC officials shall follow the resolutions of Gram Panchayat without any deviation and implement the same.</p> <p>★ Suitable instructions are to be issued to the Asst. Director and Addl. Director of Mines and Geology Department, APMDC.</p>		

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
2		<p>Management of Village Markets:</p> <p>★ In Scheduled Areas, concerned Gram Panchayat of the villages where weekly markets are held is the market committee and has to perform all the functions for management of markets such as giving licenses to STs; make available water, sheds and other physical facilities to the shop keepers and consumers in the market, opening, closing and suspension of transaction, marketing of NTFFs and Agri/produce; livestock and products of livestock, settlement of any disputes between a seller and buyer, levy, recover and receive fees, subscriptions etc., to which the Gram Panchayat is entitled, conducting auctions, ensuring correct weighing, prohibiting gambling and other prohibited sports in the market or its surrounding area and prevent adulteration and implement the directions given by the government from time to time in the establishment and development of markets etc.,.</p> <p>★ The Agricultural Marketing officials, Food Adulteration officials, Weights and Measurements Inspectors are to be instructed to assist the GP in implementing the Government Rules and also act upon the decisions of the GP in maintaining the village weekly markets or shandies etc.</p>	PESA Rule (8) IV (1)	PrI. Secretaries or Director Marketing Department, Commissioner of Medical & Health Department, Commissioner of PR&RD, Director General Weights and Measurements Department.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
3		<p>★ Or any necessary instructions may be given which are deemed to be issued to the concerned officials and Gram Panchayats for effective implementation of the provision.</p> <p>Appointing and Disciplinary Authority for Anganwadi workers:</p> <ul style="list-style-type: none"> ★ The Gram Panchayat is the appointing and disciplinary authority for all Anganwadi workers i.e., helpers and workers. ★ The ICDS Authorities can prepare prospective candidates for the posts of Anganwadi workers and it shall place before the GS for its selection and approval. ★ The Mandal Praja Parishads shall see submission of administrative report from the CDPOs of ICDS within a month from the commencement of the year. ★ The CDPOs of ICDS shall submit administrative reports to MPP on the implementation of ICDS schemes and functioning of institutions working under the ICDS. ★ Suitable instructions are to be issued to Project Directors, ICDS/CDPO/supervisor concerned and Panchayat Secretaries and MPDO. 	PESA Rules (8) (VI) (iv) (c)	Prl. Secretary or Commissioners of Women Development and Child Welfare and PR&RD.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
III	Mandal Praja Parishad			
1		<p>Monitoring over the functioning of Welfare Hostels:</p> <ul style="list-style-type: none"> ★ The Mandal Parishad is empowered to monitor the day to day management of welfare hostels, to call for administrative reports twice in a year to recommend suitable action against erring Hostel Welfare Officers (HWOs) and other staff to the disciplinary authorities. ★ Therefore, suitable instructions are to be issued to district welfare officers, DDs and JDs of SW & Host Welfare Offices of all welfare departments through concerned Commissioners. 	PESA Rule (8) (VI)(ii)	Pr. Secretary or Commissioner of TW, SW and BC welfare
2		<p>Developing a Village Development Plan:v</p> <ul style="list-style-type: none"> ★ The MPP shall prepare Village Development Plan with the assistance and advice of the multidisciplinary teams constituted by the PO ITDA or other Govt agency, duly prioritizing the benefits and schemes. ★ Village Development Plan is a written document and its objective is to develop the selected village in an integrated manner. 	PESA Rule (4) (xiv)	Pr. Secretary or Commissioner of PR&RD dept and TW department.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
IV	Independent and several responsibility	<ul style="list-style-type: none"> ★ The PO, ITDA is to be instructed to constitute multi disciplinary teams as and when necessary to develop village development plans. ★ Panchayat Secretary is to be instructed to provide the required information for developing Village Development Plans. ★ Suitable necessary instruction are to be issued to the MPDOs and Panchayat secretaries of PR & RD dept and POs of ITDAs of TW dept. 		Pr. Secretary(TW) or Commissioner of TW, Commissioner of Resettlement and Rehabilitation, and Survey and Settlement & Land Acquisition, Industries dept/ APIIDC.
1		<p>Mandal Praja Parishads and Gram Sabha: Land Acquisition and Rehabilitation & Resettlement under Projects:</p> <ul style="list-style-type: none"> ★ Gram Sabha and Mandal Praja Parishad in Scheduled Area are empowered to get detailed information from the concerned authority or even from the Government about the proposed land acquisition for any project under any Act and after 	PESA Rule 5 read with Section 4 of PESA Act 1996	

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
		<p>considering all the issues keeping in view the problems due to and effects of such land acquisition and coming up of new projects on the scheduled tribe population, to suggest measures and action that will help/benefit the scheduled tribe population.</p> <p>★ Mandal Praja Parishads are also to be consulted for implementing the R&R plans by the projects authorities. Even if the project authority or the land acquisition authority is not in conformity with the suggestions/objections of the Mandal Praja Parishad in the process and procedures and after effects of land acquisition and implementation of R & R plan , it shall be the mandatory responsibility of the Govt. to take appropriate action on the suggestion of the MPP.</p> <p>★ It will be mandatory on the part of the Land Acquisition officers or Rehabilitation & Resettlement officers to furnish point wise clear and correct information at the request of GS and MPP as the case may be.</p> <p>★ They shall attend the GS and MPP on its notice and provide complete information include area proposed to be acquired, location of the area, purpose of acquisition, if land is to be</p>		

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
2		<p>acquired from non tribals then the legal status of the lands, if any and the details of the cases filed under Land Transfer Regulations 1 of 59 as amended by 1 of 70 against such lands and outcome of such disputes, type of land to be acquired, estimate number of people affected, displaced, impact on the usage of available resources and dependents livelihoods on such resources, job opportunities, sustainable livelihood plan if any, and resettlement & rehabilitation schemes etc.</p> <p>★ Therefore, necessary and suitable instructions in this regard are to be issued to the Land Acquisition authorities and R & R authorities and others concerned especially irrigation and CAD; Industries dept, R&B and mining departments/undertakings and Project Officers of ITDAs.</p> <p>Gram Sabha and Gram PanchayatControl over Money Lending:</p> <ul style="list-style-type: none"> ★ Under PESA Act, no license of money lending is to be granted to private money lending agencies. ★ The Gram Sabha or Gram Panchayat has to report/complaint to the concerned i.e., Tahsildar on the cases of such 	PESA Rule (8) (V)	Chief Commissioner of Land Administration

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
3		<p>unauthorized private money lending activities, corruption in transaction, the illegal recovery methods etc. for taking necessary action.</p> <p>★ Suitable instructions are to be issued to Revenue Inspectors, Debt Relief Tahsildars if any, or Tahsildars to take necessary action on the resolutions made by either Gram Sabha or Gram Panchayat as the case may be.</p> <p>Gram Sabha /GPMPP/ZPManagement of Minor Water bodies:</p> <p>★ It is the responsibility of the Gram Sabha, Gram Panchayat, Mandal Parishad and Zilla Parishad as the case may be to plan and manage the minor water bodies that fall in their jurisdiction for the common benefit of the people.</p> <p>★ Minor water body shall mean natural water bodies used for fetching drinking water, construction of tanks, check dams irrigating an extent of 40 hectares.</p> <p>★ The Planning and Management of minor water body includes construction of new water bodies. management of</p>	PESA Rule (6) (i) to (ix) and PESA Act .Sec.242 (G)	Prl. Secretary or Commissioner of PR&RD dept. Chief Engineer, Minor Irrigation Department.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
		<p>water bodies i.e., repairs, restoration and maintenance, fixing up of season wise extent of Ayacut, levy of water cess, its collection and utilization, coordination with water users association, if any, and getting maintenance grants from the government on Pro rata basis.</p> <ul style="list-style-type: none"> ★ The concerned irrigation department officials are to be instructed to prepare a record of size, location of minor water bodies failing within the respective jurisdictions of GS/GP/MPP or ZP as the case may be. ★ They shall take approval of the concerned GS or Panchayat at the appropriate level before regulating the supply of water from a minor water body and also provide technical advice in developing a management plan for minor water bodies. ★ The irrigation department officials shall not settle the disputes with regarding to sharing of minor water bodies or any other related problems without taking opinion of the concerned GSs or PRI at the appropriate level. ★ The irrigation officials are also to be instructed to attend the GS or other PR institution as the case may be and assist the GS to develop a management plan for water bodies. 		

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
4		<p>★ They are to be instructed to follow up of the actions suggested by the GS or other PRI as the case may be in maintaining the water bodies.</p> <p>★ Or any other suitable instructions may be issued to Panchayat Secretaries, MPDOs, CEOs-Z.P and Minor Irrigation Engineers.</p> <p>MPP, GP and District Collectorate : Control over Tribal Sub Plan and other local plans:</p> <p>The Gram Panchayats and Mandal Parishads in scheduled areas are empowered to review the allocation (physical and financial) for tribal development programs under Tribal Sub Plan (TSP) and also review the progress of implementation of TSP works undertaken by all the departments.</p> <p>★ The Mandal Parishad and GP has to submit administrative report through the district collector to the concerned.</p> <p>★ The plans at GS shall be integrated in to GP plan under TSP.</p>	PESA Rule (8) (V)	Prl. Secretary or Commissioner of PR&RD, Tribal Welfare and CCLA.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
		<p>★ All the line department officials have to attend the review meetings invited by GP or MPP as the case may be and appraise the situation of implementation of TSP programs and furnish detailed information of schemes or programs undertaken and take the action points and implement the same and report back to GP or MPP as the case may be.</p> <p>★ Or any other instruction needed may be given to the concerned functionaries by all the line departments.</p> <p>★ The District Collector is to be instructed to communicate TSP allocations mandal wise to the MPP both in physical and financial terms within a month from the commencement of the financial year as stipulated under PESA Rules 2011.</p> <p>★ Similarly the MPDO is to be instructed to communicate TSP allocations mandal wise to the GP both in physical and financial terms within a month from the commencement of the financial year as stipulated under PESA Rules 2011.</p> <p>★ Or any other suitable instructions may be issued to the District Collector/PO-ITDA/ MPDO/ CEO-ZP.</p>		

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
5		<p>Gram Sabha and ITDAs : Declaration of villages and elections to GS posts:</p> <ul style="list-style-type: none"> ★ The Project Officers, ITDAs in the Scheduled Areas shall see that elections to the unfilled posts of Vice President and Secretaries are conducted for the GS as per the detailed procedure contemplated in the PESA Rules as early as possible for the implementation of PESA Act. <p>Review of notified of Villages:</p> <ul style="list-style-type: none"> ★ If members of notified Gram Sabhas of any habitation/ hamlet desire to constitute separate village, the members of that habitation/hamlet may pass a resolution to that effect and may send the proposal to the Project Officer, ITDA. ★ The PO ITDA shall send that proposal to the Commissioner of Tribal Welfare through District Collector for re-notification of villages. ★ The PO ITDA shall also send the proposal to declare villages where no notification to declare villages was effected. 	PESA Rule 3 and 4((iii))	Pr. Secretary or Commissioner of Tribal Welfare

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
V	General Rules	<p>★ The ITDAPOs are also to be instructed to revisit the notified villages and resubmit the proposals through district collector for re-notification if notified villages are not amenable to conduct Gram Sabha in view of distance of the habitations or habitats or distinct cultural variations among the tribes in the notified village or any other reasons which are deemed to be fit and proper for re notification of already notified villages.</p> <p>★ Or any other suitable instructions may be issued to Project Officers (ITDA).</p>		
1		<p>Gram Sabha Meetings:</p> <p>Gram Sabha shall hold special meetings, if it is so decided in the general meeting of the Gram Sabha or on a proposal from Gram Panchayat or any officer's written request or at the instance of any grievance of the member of the Gram Sabha in addition to the Statutory Meetings. The GS shall also hold meetings in emergency to discuss about the issues of epidemics, natural calamities or any other seasonality issues.</p>		Commissioner of TW.

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
		<ul style="list-style-type: none"> ★ The decisions of the GS may be directive or advisory in nature depending on the nature of powers given to it in relation to the subjects assigned to it under the PESA Act. ★ The place and time of meeting of the GS shall be convenient to its members. The members of the GS only are eligible to sit in the GS or any other individual or official only at the instance of GS either to take expert opinion on the agenda subjects or seek required information or for any other reasons specified by the Gram Sabha. ★ The Sarpanch of the Gram Panchayat shall be the president of the Gram Sabha. ★ In the absence of Vice President of Gram Sabha or lack of action to hold a meeting of Gram Sabha, the Sarpanch can convene it. ★ Similarly in the absence of Secretary of Gram Sabha or lack of action in discharging the duties as Secretary, the members of GS can unanimously nominate a tribal or support any tribal member of the Gram Sabha to act as Secretary for the GS meetings till the election to the posts conducted by the Commissioner of Tribal Welfare. 		

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
2		<p>Attendance of Government Functionary or Functionaries:</p> <p>★ On a prior notice, all the village level institutional functionaries of government institutions in respect of the subjects covered by the PESA Act shall attend the GS as and when their presence is required for smooth running of official business.</p>		<p>Prl. Secretaries or Commissioners/ Directors of all line departments.</p>
3		<p>Resolutions of GS/GP/MPP:</p> <p>★ The resolutions of GS/GP or MPP as the case may be shall be respected and followed up for implementation as per the resolutions.</p> <p>★ The concerned departmental officials shall inform the action taken in a time bound manner on the resolution passed recommending any action against the erring staff in discharging their duties or actions suggested for improvement of the situation or implementation of programs, plans and projects or any other decision taken as per the provisions of PESA Act and Rules.</p>		<p>Prl. Secretaries or Commissioners/ Directors of all line departments</p>

S. No.	Panchayatraj Institutions (PRIs) and Govt. Institutions	Operational Guidelines	Relevant Section of Law	Instructions, expected from the line Departments
4		<p>Decision or Inaction of GS</p> <ul style="list-style-type: none"> ★ Any person or body aggrieved by the decision of the GS or inaction or lack of interest on the part of either Secretary or Vice President of Gram Sabha in responding to the official communications or organising Gram Sabhas or in dealing with the subjects vested in Gram Sabha under PESA Act and Rules 2011, can seek suitable orders from the Tribal Welfare Commissioner for smooth running of GS. 	PESA Rule 9	Commissioner of TW
5		<p>Cash box at Gram Sabha</p> <ul style="list-style-type: none"> ★ On the resolution of the GS the local contribution generated or external funds if any may be kept in a box under lock and key up to Rs 3000/- and in a bank for higher amounts ★ In case of the cash kept in a box, the box and the key will be kept at a tribal member or members on the consensus of the GS in the form of a resolution. ★ An Accounts register shall be maintained by the tribal member of the GS as nominated by the GS. The accounts of the GS will be produced in the monthly meetings of GS by the concerned member. 		Commissioner of TW.

Therefore the concerned Heads of all the line departments are requested to issue above operational guidelines to their filed functionaries or officials working at various levels by adopting them or with any other additional instructions if required in any form which are deemed to be fit and proper for them for effective implementation of PESA Act and Rules 2011 in the Scheduled Areas of A.P and also mainstream the role of Gram Sabha and other Panchayatraj Institutions in the local administration.

(This has got note approval from the Prl.Secretary to Government, TW)

Sd/-Dr.M.Padma, I.A.S
Special Commissioner of Tribal Welfare

Sd/ S.M.Sujatha
Joint Director (FAC), TRI

To
All the line Departments.

ANNEXURE -3

Government of Andhra Pradesh
Tribal Welfare Department

SOW03-11025/7/2018-AD3-COTW

14-02-2020

Guidelines for Implementation of Tourism Projects in the Scheduled Areas of Andhra Pradesh

Sub: TWD-TCR & TI - SPMU (LTR & PESA Act) – Issues pertaining to the implementation of Tourism Projects in the Scheduled Areas of Andhra Pradesh- Guidelines prepared by Dr Palla Trinadha Rao, SPMO(LTR&PESA Act) for implementation of Tourism Development Infrastructure Projects in the Scheduled Areas of Andhra Pradesh- Approved and Issued - Regarding.

- Ref::
1. Memo No. 1097379/TW.GCC/2018, Dt. 12.03.2018 of Prl. Sec. to TW.
 2. RC No 453/2017/SA-B dated 1-6-2017 of RDO and SDC (TW) of Paderu.
 3. RC. No24/TRI/SPMU (LTR&PESA Act)/2017 dt.13-10-2017 of Spl. Com. of Tribal Welfare, Government of AP.
 4. Written Instructions of Director of Tribal Welfare to prepare Guidelines dated 4-4-18.

Kind Attention is invited to the references cited.

Problem Perspective: In the 1st reference cited the Tribal Welfare Department, Govt. of AP forwarded the GOI Letter Along with representation of Sri. E.A.S.Sarma, Vishakhapatnam and

requested the Director of Tribal Welfare to take appropriate action in relation to the complaints with regard to the implementation of Tourism Project in Dallapalli Village of Paderu Mandal. Earlier in the 2nd reference cited the Revenue Divisional Officer and Special Deputy Collector (TW) brought the issue to the notice of Special Commissioner of Tribal Welfare that the land values have increased due to tourism, consequently investors are coming to agency areas to purchase lands for construction of resorts and hotels in the name of tribes. In the 3rd reference cited guidelines were issued to address the land related issue. But there is a need to address the issues pertaining to the implementation of Tourism Projects in the scheduled areas of Andhra Pradesh.

In this regard it is submitted that, a major area of growth within the tourism sector is ecotourism, both forest and wildlife based tourism. Being, predominantly Scheduled Tribes inhabited regions, often Scheduled Tribes culture and art forms too are showcased into the tourism package. These regions are often under the special governance regimes as PESA 1996 in Scheduled Areas and forest governance by Gram Sabhas under the Forest Rights Act 2006.

It is believed that the financial opportunities that the tourism industry would bring in also benefit the local economy and particularly the tribals. The social, environmental and political consequences that are detrimental are a result of violation of existing laws, and the absence of a dynamic mechanism to ensure that these laws are strictly followed, particularly in matters of land, forest and natural resource governance.

Legal Perspective: Therefore it is necessary that all operation of the tourism industry has to strictly comply the prevailing laws particularly relating to Scheduled Areas and Scheduled Tribes.

1. The Fifth schedule of the Constitution is applicable “to the administration and control of the Scheduled Areas and Scheduled Tribes” in the State [Article 244(1)]. Panchayats Extension to Scheduled Area (PESA) Act 1996 enacted by the Parliament has been extended to Andhra Pradesh through Act 7 of 1998 and is applicable to the Scheduled Area. This makes the notified *Gram Sabhas* under PESA Rules 2011 in the Scheduled Area as the legally empowered statutory authority for self governance.
2. Further, Section 4 (d) of PESA 1996 affirms that “every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution”;
3. Moreover, every village shall also have demarcated the territory as “Community Forest Resource” (CFR) defined under the Recognition of Forest Rights Act (RoFR) 2006 over which the concerned Gram Sabhas and their institutions “are empowered” under Section 5 of Recognition of Forest Rights Act (RoFR) 2006 to ensure that the habitat is preserved from any form of destructive practices affecting “their cultural and natural heritage”. This follows the recognition of the “right to protect, regenerate or conserve or manage any community forest resource under Section 3(1)(i) of RoFR Act.
4. It is also to be noted that the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 that came into effect on 26 January 2016 includes interference with the enjoyment of forest rights as another

category of offences of atrocity, where ‘forest rights’ is as defined under Section 3(1) of RoFR Act. Now this offence is punishable under the Prevention of Atrocities Act.

5. The Land Transfer Regulations 1 of 59 as amended by 1 of 70 is in force to prevent tribal land alienation and restoration of their alienated lands with the Gram Sabha now the legally statutory empowered authority under PESA 1996 under Section 4 (m)(iii) “ to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe”.
6. The Tribal Welfare Department has already issued guidelines for implementation of Land Transfer Regulations 1 of 59 as amended by 1 of 70 to prevent tribal land alienation in view of the increasing activity of tourism in the scheduled areas of Visakhapatnam district in 3rd reference cited.

In view of the above constitutional, legal and administrative requirements that are required to be fulfilled in the areas that fall within the jurisdiction of the Gram Sabhas, the following guidelines are issued to constitute the mechanism to operationalise the above in order to prevent tribal land alienation and protect the cultural identity of tribals.

GUIDELINES

1. All proposals and plans for tourism related activities and subsidiary activities associated with the tourism activities, whatever they may be, that fall within or carried out in or within the geographical domain (Scheduled Area plus CFR area) that is under the jurisdiction of the Gram Sabhas shall have the approval and consent of the concerned Gram Sabha. The proposals and plans shall not have any

component that may be construed as alienation or transfer of land by any means to others, whether tribal or non-tribal.

2. The Gram Sabhas shall, while consenting to the aforementioned proposal or plan shall stipulate in writing conditions that are to be followed by the proposing parties which shall expressly be agreed to by the said parties in writing to be submitted to the Gram Sabhas.
3. The ITDAs shall, through the creation of appropriate mechanism, monitor the tourism and related activities and shall issue orders from time to time as may be deemed fit strictly in accordance with the required statutory responsibilities that the Gram Sabhas are required to adhere to as well as the Tourism Project Authorities. Any violations of the conditions shall be proceeded upon strictly in adherence to the concerned laws that are in force.
4. The Tribal Department and the District authorities are required to enable and extend all assistance to the Gram Sabhas to carry out their statutory functions as may be requested by the Gram Sabhas from time to time.
5. The ITDAs and the Tourism Department are to monitor compliance with the Gram Sabha consent and related conditions as well as orders issued from time to time, and to initiate actions against the concerned as required and permissible under the relevant laws.
6. The Tourism Department and the ITDAs shall undertake adequate steps to curb the deviant and wayward tourists and their conducts and activities which are adversarial and contrary to the well established customs and usages of the

tribals.

7. The Tourism Department and the ITDAs shall ensure that the Tourism Projects shall be taken up by the tribals themselves, either individually or through Co-operative Societies composed solely of the tribes with the financial assistance of the State or its instrumentalities to improve their sources of their economic endowment and empowerment or by the State Government itself or its instrumentalities. The overall benefits of Tourism should be outweigh the negative impacts on the lives of tribals in the region.
8. All the Tourism Projects in the Scheduled Areas shall be implemented through an appropriate scheme, without disturbing ecology, forest and the cultural life of tribal people and their crops or properties. The authorities shall also pay attention to the sacred places of worship of tribals if any, while designing the tourism projects.
9. There should be caution boards displaying the prohibition of capturing the photographs of tribal women including the Particularly vulnerable tribal groups women without their consent and stepping in to the properties of tribal inhabitants without their consent for any activity of the tourists.

Therefore it is requested to follow the above guidelines to ensure the implementation of the provisions of the Panchayats Extension to Scheduled Area (PESA) Act 1996 and subsequent State legislation 1998 & Rules 2011 and Land Transfer Regulations 1 of 59 as amended by 1 of 70, Recognition of Forest Rights Act (RoFR) 2006 and also Scheduled Castes and the Scheduled Tribes

(Prevention of Atrocities) Amendment Act, 2015 while implementing the Tourism Projects in the Scheduled Areas of the State to safeguard the interest of tribals.

Yours faithfully,

Sd/-

(P.Ranjit Basha IAS.,)
Director of Tribal Welfare

To:

The Director, Department of Tourism.

The District Collectors of Srikakulam, Vizianagaram, Vishakhapatnam, East Godavari and West Godavari.

The Project Officers, ITDAs having Jurisdiction over Scheduled Areas of Seethampeta, Srikakulam District, Parvathipuram, Vizianagaram District, Paderu, Vishakhapatnam District, R C Varam and Chintoor, East Godavari District and K R Puram , West Godavari District.

ANNEXURE - 4

GOVERNMENT OF ANDHRA PRADESH REVENUE (EA & AR) DEPARTMENT

Memo.No.27030/66/2018-EA&AR-Rev

Dated:15/02/2019

Sub: - ROR-Visakhapatnam District – Paderu Division – Request "to upload the land records of Non Tribal Settlement Pattadars in agency areas of Visakhapatnam District in Webland and to issue pattadar pass books/title deeds to the eligible Non -Tribal farmers /Land owners –Regarding.

- Ref :- 1. Representation of Sri Kunisetti Chinnatataiah, Ex-Vice President, Mandala Parishat, Addakula (V), Koyyuru (M) Visakhapatnam Dist. Dt. Nil. Received through Hon'ble Dy. C.M. (Rev), Endt. No. 382/ Dy. C.M. (Rev), dt. 28.03.2018.
2. From the Spl. CS & Chief Commissioner of Land Administration, A.P., Vijayawada Letter No.LR-II/ROR2/766/2017, Dt. 28.03.2018.
3. Government Memo No. 27030/66/2018-EA & AR- Rev, dt.15.10.2018 & 24.10.2018.
4. From Director Tribal Welfare, Vijayawada, letter No. SOW03-11036/36/2018 - ADMIN - TRIPCO - COTW- dt. Nil.
1. The attention of the District Collector, Visakhapatnam is invited to the references cited (copies enclosed).
2. The District Collector, Visakhapatnam is informed that the Director Tribal Welfare, Vijayawada in his letter 4th cited has advised to give instructions to the Registering Authorities under RoR Act and other Revenue Authorities to follow the AP Agency Area Land Transfer Act 1917 and Subsequent Land Transfer Regulations 1 of 59 as amended by 1 of 70 to recognize the legal right of non tribals over the Lands situated in the Scheduled Areas of the State. Further the Revenue Authorities may be instructed to obtain a declaration from the every non tribal claimant either for seeking

Ryotwari Pass Book or Title Deed under RoR Act or uploading of land details in the official Webland, declaring that the lands in his/her occupation are not in violation of any of the provisions of AP Agency Area Land Transfer Act 1917 and Subsequent Land Transfer Regulations 1 of 59 as amended by 1 of 70 with all supporting and acceptable documentary evidences including the resolutions of Gram Sabha as per the Rule 8 (III) (i) of AP PESA Rules 2011 if any.

3. The District Collector, Visakhapatnam and CCLA & Spl. C.S, AP, Vijayawada are requested to take further action in the matter as advised by the Director Tribal Welfare, Vijayawada, A.P.

Dr. MANMOHAN SINGH
SPECIAL CHIEF SECRETARY TO GOVT

To.

The District Collector, Visakhapatnam.

The Spl. C.S. & Chief Commissioner of Land Administration.

A.P., Vijayawada.

The Joint Collector, Visakhapatnam.

The Project Officer, ITDA, Paderu, Visakhapatnam.

Copy to:

All District Collectors in the State.

The Director of Tribal Welfare, A.P., D.No. 40-6-22A, Kandhari Hotel Road, Revenue Colony, Vijayawada.

The OSD to Hon'ble Dy. C.M. (Revenue).

P.S. to Spl. C.S. (Revenue -Lands).

SF/Sc.

ANNEXURE - 5

GOVERNMENT OF ANDHRA PRADESH SOCIAL WELFARE (LTR.1) DEPARTMENT

Memo No. 3028/LTR.1/2005-1
10-2005

DATE: 28-

Sub: Tribal Welfare – Land Transfer Regulation Cases – rights of Adivasis on Lands –Certain Instructions issued in Project Officer’s Conference-Reg.

Ref: From the Project Officer, ITDA, Rampachodavaram, East Godavari District., Lr. Rc. No. T8/239/2005, dt. 11.03.2005 addressed to the Principal Secretary to Govt., (TW), Social Welfare Deptt. A.P. Secretariat, Hyd.

X-X-X

1. The Project Officer of Integrated Tribal Development Agencies in the State are requested that while examining LTR cases, all important aspects are gone into and the records thoroughly verified and specific findings mentioned. The discrepancies or contradictions if any, based on verification of various records also need to be brought out. A speaking order would obviate the litigation at various levels. A copy of speaking orders issued by Sri Solomon Arokia Raj, Project Officer, Integrated Tribal Development Agency, Rampachodavaram, East Godavari District which is comprehensive is herewith enclosed for reference. The relevant extract of Land Rights of Adivasis in Andhra Pradesh from the book by Sri P. Trinadha Rao sent by the Project Officer, ITDA, Rampachodavaram is also enclosed herewith for reference. If the veracity of the document filed by the parties in LTR cases are found to be

doubtful, they should be referred to Government Examiners / Forensic laboratories at Hyderabad under proper acknowledgement and prosecution launched against concerned if the documents are found to be forged, bogus or fabricated.

2. The Project Officers are requested to sensitive all officers and staff dealing with LTR Cases through Tribal Cultural Research & Training Institute and also ensure proper computerization of all the cases apart from undertaking computerized monitoring and effective disposal of the LTR cases.

M. CHAYA RATAN
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To

The Project Officers of all Integrated Tribal Development Agencies in the State. (w.e)

Copy to:

The Commissioner, Tribal Welfare, A.P. Hyderabad. (w.e).

The Director, T.C.R. & T.I, A.P, Hyderabad. (w.e).

ANNEXURE - 6

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare – Streamlining the administration in Tribal Sub- Plan areasto gear up implementation of development programmess – Single Line Administration – Comprehensive Orders – Issued.

GENERAL ADMINISTRATION (Special. A) DEPARTMENT

G.O. Ms. No. 57

Dated 01-03-2014,

Read the following:

- 1.G.O.Ms.No.11, SW (D) Department, dated, 13.01.1977.
- 2.GO Ms.No.302, Education (EE-2) Department, dated, 10.7.1986.
- 3.G.O.Ms.No.434, General Admn. (Spl.A) Department, dated, 14.08.1986.
- 4.G.O.Ms.No.19, Revenue (W) Department, dated, 08.01.1987.
- 5.G.O.Ms.No.460, Education (Ser.I) Department, dated, 30-3-1996
- 6.G.O.Ms.No.58 Social Welfare (J) Department, dated, 12.05.1997.
- 7.G.O.Ms.No.105 Social Welfare (L1) Department, dated, 02.08.1997.
- 8.G.O.Ms. No.193, Revenue (Ser.I) Department, Department, dated, 17.04.2002.
- 9.G.O.Ms.No.274, General Admn. (Spl.A) Department, dated, 15.06.2002.
- 10.GO Ms.No.90. HM and FW (M1) Department, dated, 17-4-2003.
- 11.G.O.Ms.No.333, General Admn. (Spl.A) Department. dated, 14.10.2004.
- 12.GO Ms.No.420, Health Medical & FW Department, dated, 27-11-2004.

- 13.G.O Ms.No.8, Social Welfare (LTR-I) Department, dated, 23-1-2008.
- 14.G.O.Ms.No.102, SW (LTR-1) Department, dated, 06.06.2008.
- 15.GO Ms.No.953, MH&FW (D1) Department, dated, 26.7.2010.
- 16.G.O.Ms.No.66 PR & RD (MDL.1) Department, dated, 24.03.2011.
- 17.G.O.Ms.No.34 Planning (XXII) Department, dated, 01.11.2013.
- 18.G.O.Ms.No.1 PR&RD (RD.II) Department, dated, 02.01.2013.
- 19.G.O. Ms. No. 7, Planning (XXII) Dept, dated 23.02.2013
- 20.G.O. Ms. No. 10, Planning (XXII) Dept,, dated 23.02.2013

**

ORDER:

1.The Integrated Tribal Development Agencies (ITDAs) in the Districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal and Adilabad were established with the primary objective of ensuring an integrated approach towards implementation of development programmes for the tribals in the sub-plan areas. In order to facilitate better coordination among all the functionaries operating in the sub-plan areas and to meet the needs of the tribals, who can look to a single agency for redressing their grievances in developmental as well as regulatory matters, and to gear up the rapid socio-economic development of tribal people and tribal areas in an integrated manner, the departments working in the sub- plan areas independent of the ITDAs and Project Officers, ITDAs were brought under the administrative control of the Project Officer, ITDA. Accordingly, the Government have introduced the single line administration system vide G.O.3rd read above and the system has been functioning since then.

2.Government have enacted the Andhra Pradesh Scheduled Castes Sub-Plan and Tribal Sub-Plan (Planning, Allocation and Utilization of Financial Resources) Act, 2013 (Act No.1 of 2013) to ensure accelerated

development of Scheduled Tribes with emphasis on achieving equity, focusing on economic, educational and human development, security and social dignity of the Scheduled Tribes, by earmarking a portion, in proportion to population of Scheduled Tribes in the State, of the total plan outlay of the State as the outlay of the Tribal Sub-Plan of the State and ensuring effective institutional mechanisms for the implementation and for matters connected therewith or incidental thereto.

3. Therefore, the Commissioner, Tribal Welfare has brought it to the notice of the Government that the single line administrative system in the ITDA areas of the State introduced in 1986 and reiterated in 2002 requires to be further strengthened by issuing comprehensive guidelines so as to enable the Project Officers of ITDAs to exercise their responsibilities towards tribal development in a more specific manner and furnished necessary proposals accordingly.

4. Government after careful consideration of the matter and as per the proposal furnished by Commissioner, Tribal Welfare, issues the following orders:

i. To the extent possible, Project Officers of ITDAs shall be from the senior time scale of IAS. In case an IAS Officer cannot be spared for any one ITDA, a Committee under Chief Secretary, Principal Secretary, Revenue, Principal Secretary, Rural Development and Principal Secretary, Tribal Welfare would select a panel of officers from different Departments suitable for posting as PO, ITDA. Principal Secretary, TW will act as the convener of this committee.

ii. The Project Officer of the ITDAs who are in the senior time scale of IAS continue to be re-designated as PO, ITDA and Ex-officio Joint Collector (Tribal Welfare) and Additional District Magistrate.

iii. The Project Officers of the ITDA holding a rank of Special Grade Deputy Collector of lower than senior time scale of IAS shall continue to be re-designated as PO, ITDA and Ex-officio Additional Joint Collector (Tribal Welfare) and Additional District Magistrate.

iv. Every PO, ITDA will be supported by an Additional PO, ITDA, preferably in the rank of Special Deputy Collector - taken on deputation from Revenue or Development departments.

v. Such of the powers which are exercised by the Collectors/Joint

Collectors/District Revenue Officers as per G.O.Ms.No.77, Revenue, dated 22-1-1968 and shown in the annexure to this order shall be exercised by the Project Officers of ITDAs in the Districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal and Adilabad in so far as the Tribal Sub plan areas are concerned. Necessary notifications in this regard have already been issued from Revenue Department to the extent of agency powers vide G.O. Ms.No.193, Revenue (Ser.I) Department, dated 17-4-2002.

vi.To powers of District Collectors under AP (Andhra Area) Preservation of Private Forest Act (Act. XII of 1954), the AP Forest Manual, the A.P. Forest Act, 1967 (Act 1 of 1967), the AP Public Health Act, 1939 (Act. III of 1939), the Cooperative Societies Act, 1964, Weights and Measures and Fisheries, will be exercised by Project Officers of ITDA to the extent of ITDA areas. The respective Departments shall immediately issue orders delegating the powers to Project Officers.

vii.The officers in charge of DRDA and DWMA responsible for implementation of rural development progras in ITDA areas shall work under the administrative control of PO, ITDA. Principal Secretary, Rural Development shall issue necessary order/instructions in the matter and ensure that officers of appropriate background shall be posted in tribal areas. MPDOs working in the Tribal Areas shall report to POs, ITDA in so far implementation of development programs and economic support schemes. The Panchyat Raj Department shall issue necessary orders delegating the powers of CEO, Zilla Parishad over MPDOs to PO, ITDA to the extent of ITDA mandals so that single line administration works effectively.

viii.The budgets of various development/welfare activities should be bifurcated at the departmental level between TSP and non-TSP in the case of districts with ITDAs. The TSP projects/proposals of such districts shall be approved by the ITDAs concerned. PO, ITDA shall monitor the implementation of all TSP programs in the ITDA areas.

ix.All the Departments and District Collectors shall ensure that only suitable officers are deputed to work in ITDA areas through careful screening. Officer with poor record and having disciplinary action pending against them shall not be posted in ITDA areas. No officer shall be relived on transfer if a substitute is not posted.

x. There is a need to revisit the incentives provided to officers and staff working in ITDA areas. A Committee consisting of Special Chief Secretary, Planning, Principal Finance Secretary, Principal Secretary, Rural Development and Principal Secretary, Tribal Welfare shall review the staffing pattern and the incentive structure currently in place and send suitable recommendation to Government within a month.

xi. Specific powers and responsibilities as detailed in Annexure are prescribed for Project Officers of ITDAs for necessary adherence with immediate effect.

xii. All the Project Officers of ITDAs are directed to prepare Comprehensive Development Plans for ITDA areas covering activities of all development departments: infrastructure development, human development and welfare departments (including education, health, woman and child development, etc.). These plans will have to be approved by the Governing Body of ITDA and sent to respective departments for funding; the District Collectors and POs, ITDA shall undertake close monitoring and review of the plans/ development programs every quarter using the Online Monitoring Framework - Habitation Score Card prescribed by the Government and send report to the Government promptly.

5. Chief Secretary to Government shall undertake review of the implementation of Comprehensive Development Plans for ITDA areas with all concerned Secretaries once every quarter.

6. All Special Chief Secretaries/Principal Secretaries/Secretaries/Heads of Departments in the State and District Collectors of ITDA districts shall take necessary action for effective implementation of the above orders.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**DR.P.K.MOHANTY,
CHIEF SECRETARY TO GOVERNMENT**

ANNEXURE -7

United Nations Declaration on the Rights of Indigenous Peoples

(General Assembly Resolution 61/295 on 13th Sep 2007)

Article 1: Human Rights - Indigenous peoples, as a groups and as individuals, have the right to enjoy all the human rights and freedoms recognised in international law.

Article 2: Equality - Indigenous peoples are equal to all other peoples, and must be free from discrimination.

Article 3: Self-Determination - Indigenous peoples have the right to self-determination. This means they can choose their political status and develop as they want.

Article 4: Autonomy - As a form of self-determination, indigenous peoples have the right to autonomy or self government in relation to their own affairs.

Article 5: Distinct Institutions - Indigenous peoples have the right to keep and develop their distinct institutions. They also have the right, if they want, to take part in the life of the rest of the country.

Article 6: Nationality - Every indigenous person has the right to be a citizen of a country.

Article 7: Existence - Indigenous peoples have the right to live in freedom, peace and security. They must be free from genocide and other acts of violence including the removal of their children by force.

Article 8: Cultural Integrity - Indigenous peoples shall be free from forced assimilation. Government shall prevent: a) actions which take away their distinct, cultures and identities; b) the taking of their land and resources; c) their removal from their land; d) any form of forced assimilation; e) propaganda against them.

Article 9: Communities and Nations - Indigenous peoples have the right to belong to indigenous communities and nations, in accordance with their traditions and customs.

Article 10: Removal and Relocations - Indigenous peoples shall not be removed from their land by force. They shall not be relocated without their agreement. Where they agree, they should be provided compensation, and, where possible, have the possibility to return.

Article 11: Culture - Indigenous peoples have the right to their cultural traditions and customs. This includes aspects of their culture such as sacred sites, designs, ceremonies, technologies and performances. Their cultural property shall be returned to them, if was taken without their consent.

Article 12: Spiritual and Religious Traditions - Indigenous peoples have the right to their spiritual and religious traditions customs and ceremonies. They have the right to their sacred sites, ceremonial objects and the remains of their ancestors. Governments shall assist indigenous peoples to recover their ceremonial objects and the remains of their ancestors.

Article 13: Language - Indigenous peoples have the right to their histories, languages, oral traditions, stories, writings and their own names for places and people. Governments shall ensure that in courts and other proceedings, indigenous peoples can understand and be understood through interpreter and other appropriate ways.

Article 14: Education - Indigenous peoples have the right to their own schools and to provide education in their own languages. Indigenous people, especially children, have the right to the same education as all people. Governments shall assist indigenous people, especially children, who do not live in indigenous communities to learn their own culture and language.

Article 15: Information - Education and public information shall reflect the dignity and diversity of indigenous cultures, traditions and aspirations. In consultation with indigenous peoples, governments shall take measures to promote tolerance and good relations between indigenous and other peoples.

Article 16: Media - Indigenous peoples have the right to their own media in their own languages. They shall also have equal access to non-indigenous media. Government-owned media must reflect indigenous cultures.

Article 17: Employment - Indigenous peoples have rights under international and national labour laws. In consultation with indigenous peoples, governments shall take measures to protect indigenous children from exploitation and harmful work. Indigenous peoples must not be discriminated against in matters connected with employment.

Article 18: Decision-Making - Indigenous peoples have the right to participate in decisions that effect them. They can choose their own representatives and use their own decision making procedures.

Article 19: Consent - Governments shall consult with indigenous peoples in order to obtain their consent before adopting laws and policies which may affect them.

Article 20: Economic Activities - Indigenous peoples have the right to their own political, economic and social systems and to pursue their traditional and other economic activities. Where indigenous peoples have been deprived of their means of subsistence, they are entitled to compensation.

Article 21: Special Measures - Indigenous peoples have the right to improved economic and social conditions. This includes in the areas of education, employment, housing, health and social security. Governments shall adopt special measures to ensure the improvement economic and social conditions.

Article 22 : Elders, Women, Youth, Children and Persons with Disabilities - Particular attention shall be paid to the rights and needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration. Governments shall adopt measures, in conjunction with indigenous peoples, to protect indigenous women and children against violence and discrimination.

Article 23: Economic and Social Development - Indigenous peoples have the right to determine priorities and strategies for their development. They should be involved in determining health, housing and other economic and social programs and as far as possible, administer these programmes through their own organisations.

Article 24: Health - Indigenous peoples have the right to their traditional medicines and health practices. The plants, animals and minerals used in medicines shall be protected. Indigenous peoples shall have access to all social and health services without discrimination. Indigenous individuals have an equal right to the highest attainable standard of physical and mental health.

Article 25: Lands, Waters and Resources: Distinctive Relationships - Indigenous peoples have the right to keep and strengthen their distinctive relationship with their lands, waters and other resources.

Article 26: Ownership - Indigenous peoples have the right to own use and control their lands, waters and other resources. Governments shall recognise and protect these lands, waters and resources.

Article 27: Independent Process - Governments shall establish a fair and independent process to recognise and decide the rights of indigenous peoples relating to their lands, waters and resources. Indigenous peoples shall have the right to participate in this process.

Article 28: Restitution - Indigenous peoples have the right to the return of their land and resources taken without their consent. Where this is not possible, they shall receive fair compensation in the form of lands and resources or money.

Article 29: Environment - Indigenous peoples shall receive assistance in order to restore and protect the environment of their land and resource. Hazardous material shall not be stored or disposed of on the land of indigenous peoples without their consent. Governments shall take measures to assist indigenous peoples whose health has been affected by such material.

Article 30: Military Activities - There shall be no military activities on the land of indigenous peoples, unless justified by a public interest or agreed by the indigenous peoples.

Article 31: Cultural and Intellectual Property - Indigenous peoples have the right to control and develop their cultural heritage, traditional knowledge and sciences and technologies, including seeds, medicines, knowledge of flora and fauna, oral traditions, designs, art and performances. Governments shall take measures to recognize and protect these rights.

Article 32: Resource Development - Indigenous peoples have the right to determine strategies for the development of their lands and resources. Governments shall consult in order to obtain the consent of indigenous peoples before giving approval to activities affecting their lands or resources, particularly the development of mineral, water and other resources. Just compensation must be paid for such activities, and measures taken to lessen their adverse impact.

Article 33: Indigenous Citizenship - Indigenous peoples have the right to determine who are their members. They have the right to decide upon the structures and membership of their organisations.

Article 34: Indigenous Laws and Customs - Indigenous peoples have the right to their own legal systems and customs, as long as they accord with international human rights law.

Article 35: Responsibilities - Indigenous peoples can decide the responsibilities of individuals to their communities.

Article 36 : Borders - Indigenous peoples separated by international borders have the right to maintain relations and undertake activities with one another.

Article 37: Treaties and Agreements - Governments shall respect treaties and agreements entered into with indigenous peoples.

Article 38 : National Measures - In consultation with indigenous peoples, governments shall take measures to give effect to this Declaration.

Article 39: Assistance from Governments and international organisations - Indigenous peoples have the right to financial and other assistance from governments and international organisations in order to enjoy the rights recognised in this Declaration.

Article 40: Disputes - Indigenous peoples have the right to fair procedures for the resolution of disputes with States and other parties, and to effective remedies for infringements of their rights. These procedures must take account of indigenous customs and traditions.

Article 41: Assistance from the United Nations - The United Nations and other international organisations shall provide financial and other assistance in order to give effect to the rights recognised in this Declaration.

Article 42: Special United Nations Bodies - The United Nations, its bodies, including the Permanent Forum on Indigenous Issues,

shall promote respect for this Declaration.

Article 43: Minimum Standards - This Declaration contains only minimum standards for indigenous peoples.

Article 44: Men and Women - The rights recognised in this Declaration apply equally to indigenous men and women.

Article 45: Other indigenous Rights - Nothing in this Declaration affects other rights indigenous peoples presently hold or may get in the future.

Article 46: United Nations Charter - Nothing in this Declaration allows any action against the Charter of the United Nations or which harms the territorial integrity of Independent Countries.

ANNEXURE - 8

List of Scheduled Tribes of Andhra Pradesh The Scheduled Castes and Scheduled Tribes Orders (Amendment) Act, 2002

a) List of Scheduled Tribes of Andhra Pradesh

1. Andh, Sadhu Andh
2. Bagata
3. Bhil
4. Chenchu
5. Gadabas, Bodo Gadaba, Gutob Gadaba, Kallayi Gadaba, Parangi Gadaba, Kathera Gadaba, Kapu Gadaba
6. Gond, Naikpod, Rajgond, Koitur
7. Goudu
8. Hill Reddis
9. Jatapus
10. Kammara
11. Kattunayakan
12. Kolam
13. Konda Dhoras, Kubi
14. Konda Kapus
15. Kondareddis
16. Kondhs, Kodi, Kodhu, Desaya Kondhs, Dongria Kondhs, Kuttiya Kondhs, Tikiria Kondhs, Yenity Kondhs, Kuinga
17. Kotia, Bentho Oriya, Bartika, Dulia, Holva, Sanrona, Sidhopaiko
18. Koya, Doli Koya, Gutta Koya, Kammara Koya, Musara Koya, Oddi Koya, Pattidi Koya, Rajah, Rasha Koya, Lingadhari Koya (ordinary), Kottu Koya, Bhine Koya, Rajkoya

19. Kulia
20. Malis
21. Manna Dhora
22. Mukha Dhora, Nooka Dhora
23. Nayaks
24. Pardhan
25. Porja, Parangiperja
26. Reddidora
27. Rona, Rena
28. Savaras, Kapu Savaras, Maliya Savaras, Khutto Savaras
29. Sugalis, Lambadis, Banjara
30. Valmiki
31. Yenadis, Chella Yenadi, Kappala Yenadi, Manchi Yenadi, Reddi Yenadi
32. Yerukulas, Koracha, Dabba Yerukula, Kunchapuri Yerukula, Uppu Yerukula
33. Nakkala, Kurvikaran
34. Dhulia

b) List of Particularly Vulnerable Tribal Groups

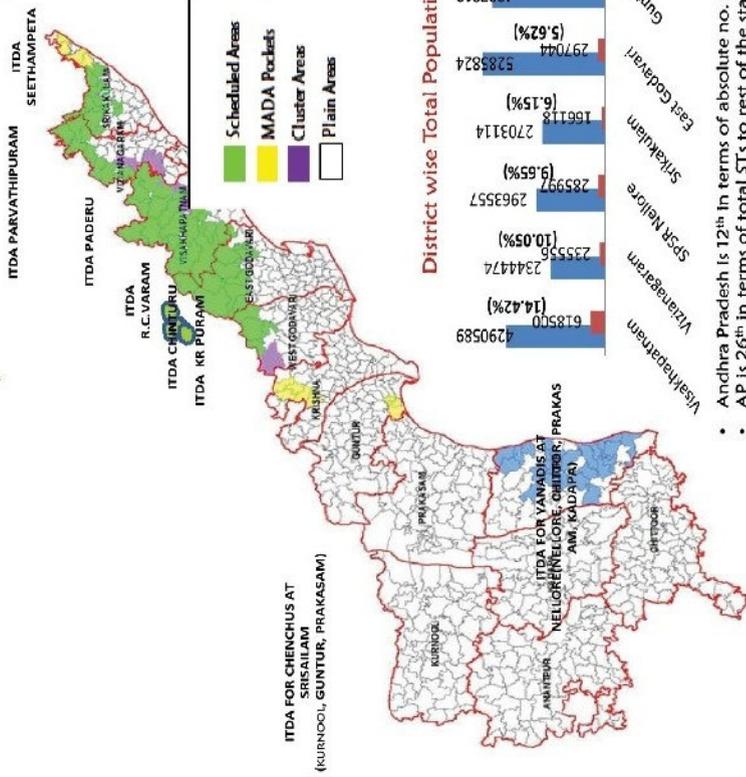
1. Chenchu
2. Gadabas, Bodo Gadaba, Gutob Gadaba, Kallayi Gadaba, Parangi Gadaba, Kathera Gadaba, Kapu Gadaba
3. Kondareddis
4. Kondhs, Kodi, Kodhu, Desaya Kondhs, Dongria Kondhs, Kuttiya Kondhs, Tikiria Kondhs, Yenity Kondhs, Kuinga
5. Porja
6. Savara

Source: Census of India 2011

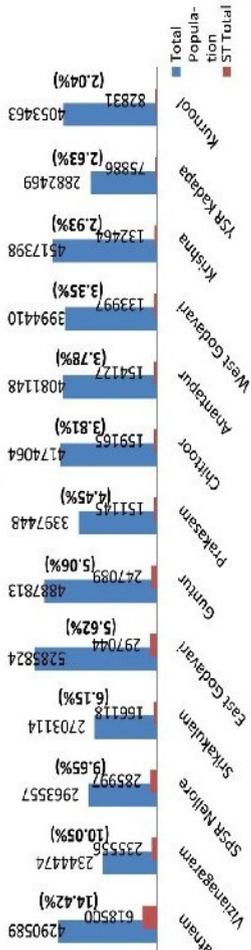
NOTES

Demography – Scheduled Tribes of Andhra Pradesh

Particulars	ITDAs	Non-ITDAs	Total
ST Population	14,51,215	12,88,704	27,39,919
House Holds	3,46,938	2,98,004	6,44,942
Habitations	8,908	3,301	12,209
Major ITDAs	5 Districts & 6 ITDAs	8 Districts & 3 ITDAs	13 Districts & 9 ITDAs
Literacy	49.05%	48.95%	48.83%
Major Tribes	Savara, Jatapu, Gadaba, Porja, Khond, Kondadora, Kondareddy & Valmiki	Yanadi, Chenchu, Sugali & Yenukula	% of the ST Population / Total Population: 5.52



District wise Total Population & ST Population



- Andhra Pradesh is 12th in terms of absolute no. of ST Population in India (2.63% of Indian STs)
- AP is 26th in terms of total STs to rest of the state population in India (5.53% of state)



Scheduled 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.