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SALIENT FEATURE OF THE RULES AND ISSUES / OBSERVATIONS

A. Salient features

- (1) Due care has been taken to draft the Rules (as far as practicable) consistent with the systems and practices in place in the Tribal Community and at the same time are also consistent with the provisions of the Regulation. Spirit behind Article 244 of the Constitution has also been taken note of while preparing the Rules.
- (2) No delimitation of constituency has been proposed in case of Village Council seats. The Tribals follow community living and creation of boundaries within a village by delimitation was felt as not desirable.
- (3) However, delimitation of constituency in Island Council has been proposed and this could be resorted by clubbing together villages in the island as one constituency.
- (4) The elections to the Tribal Councils are proposed to be held on apolitical lines as is the case today.
- (5) Basic unit of a tribal village is a 'tuhet' which can be broadly defined as the traditional cluster of one or more nicobarese families bound by common interest in a tribal village. This is proposed to be notified in order to prepare the rolls tuhet-wise. It would enable identification of the persons who are tribals and would also cast away duplication of names (there are similarly named persons in a village and most of the times, it is from the tuhet name that one can identify a person.)
- (6) The rules provide for holding the elections by use of ballot boxes as is the case for conduct of elections in PRIs.
- (7) The mode of election etc., is the same as in Panchayat elections with minor modifications here and there to suit local needs.

B. Issues / Observations

- (1) In the tribal community, the tribal customs and practices are closely linked to the structure-both community as well as village. For years together they have been practicing a unique system of self-rule based on their traditional system and leadership. The traditional "panchayat" system among the tribes has withstood the test of time. The community way of life and the system did not crumble despite large scale destruction encountered by the society during tsunami of 2004. The community recovered very fast from the tragedy as not seen elsewhere and the systems practiced by the community have also re-appeared after its dislocation for a brief period.
- (2) Each tribal village has its own distinctive features. Therefore, while creating a structure, care may have to be taken that tribal village, as they are today, are recognized as the tribal village under the Regulation, irrespective of population.
- (3) Section 53 (1) of the Regulation empowers the Hon'ble LG to determine the number of seats in an Island Council. However, Section 53 (2) and (3) fixes the number of seats in the Island Council virtually making Section 53 (1) irrelevant. Normally when a statute provides for an authority with a power of such determination, the manner of arriving at such a determination is either spelt out in the provisions under the Regulation or is prescribed by the Rules but does not get fixed by the provisions under the Regulation. Moreover, each First Captain of a village Council (directly elected to a village Council) becomes member of the Island Council too (the second tier of the Tribal Council). Normally a person directly elected in one body can become an ex-officio member of another tier directly above it as evidenced