

Tribal Development and Welfare Through Panchayats : The Experience of PESA in Eastern Madhya Pradesh

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Publication Info

Article History:

Received: 00-00-2022

Accepted: 00-00-2022

DOI: 10.35210/jhssi.1.1.1

Keywords:

Self-Governance, Welfare, Development, Panchayati Raj Institution, Traditional Panchayat, PESA, Gram Sabha, Representative, Social audit

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Abstract

The Panchayat (Extension to Scheduled Areas) Act, 1996, which is popularly known as PESA, has been termed by many academicians and grassroots tribal organizations as progressive, revolutionary and historic law. This Act is the most important piece of legislation for the scheduled areas and it gives radical governance powers to the tribal community. The main rationale behind the Act is to protect the tribal community from exploitation with an active involvement of the gram sabha. Thus, it can be said that Gram Sabha of the Scheduled Areas has been made fundamental machinery for implementation of all the activities related to village development under the PESA, Act. This act again empowers the Gram Sabha to develop, manage and conserve the natural resources of their areas such as water, forest and land. Under the PESA Act, tribal communities have received the opportunity to play an important role in deciding their own destiny. Overall, it can be said that PESA Act is a significant and revolutionary law for establishing democratic governance at the grassroots level in the areas of the tribal community that have been cut off from the mainstream of society for years and has been standing on the last ladder of social, economic and political development. The Madhya Pradesh is a pioneer state which has firstly implemented PESA Act in 1997. More than 25 years have passed since this Act was implemented in Madhya Pradesh and five terms of Panchayats under this Act have also been completed. In addition to this, at present the Government of Madhya Pradesh has also notified necessary rules for the implementation of the PESA Act. With the notification of these rules, it is expected that the whole process of development of the tribal community will be speeded up by the Gram Panchayats and their traditional institutions of self-governance will be strengthened again. This paper explains the ground realities of the implementation of PESA Act in Eastern Madhya Pradesh. The main objectives of this study are to examine and analyze the grassroots realities of PESA; the effectiveness of PRIs in the scheduled areas of Madhya Pradesh not only in promoting tribal development and capacity building but also in fostering the cause of social justice and equitable growth. Apart from this, to identify the hurdles in the way of execution of the PESA Act and provides some suggestions for removing the hurdles. This study is based on both primary and secondary data collected for research projects sponsored by the Indian Council of Social Science Research, New Delhi.

INTRODUCTION

The concept of Panchayati Raj is an ancient one and has a long history in our country. The existences of panchayats are seen as the oldest administrative institutions in entire India. The Vedic and the Epic period, Manu Smriti, Kautilya's Arthshastra and other ancient literature have given sufficient evidence to existence of panchayat system in India. These traditional panchayats played the vital role in maintaining socio-ethical norms and order, and dispensing justice. Further, panchayats took decisions on behalf of village community for welfare and development of villages.

On the other hand, when we talk about the existence of village panchayat system in tribal areas, then we find very rich system of self-governance in these areas. Because almost all the tribal peoples were equal, no hierarchy, no disparity did exist. It is assumed that social and political system of tribal community

is more democratic than non tribal society (Sharan, Singh and Sahu : 1999:287-301). They have a rich administrative system since years. They have developed their own institutions of panchayats like- Tribal Head, Council of the elders and inter-village panchayat for establishing peace, law and order, for resolution of disputes and augmentation and proper management of the resources (Madhu:2022:83). The system remained unchanged till Mughal period. The Britishers tried to change the system in the colonial interest but they could not succeed in their attempt due to the resistant of the tribal to the changes. Many tribal movements started to protest against these changes. Therefore, the British government realized and made separate provisions for administration of tribal areas. In the year 1874, the British government introduced the Scheduled District Act to provide administration in the scheduled district. According

to this Scheduled District Act, special officers were appointed in the scheduled district to look into the matters related to civil and criminal cases and to provide justice to the inhabitants of the area (Ratho:2007:3). Attempt was also made to collect taxes for providing better administration in the area. In this Act, there was provision to extend the Scheduled Areas. In year 1919, the British government introduced another Act. Tribal areas coming under Scheduled District Areas were divided into two categories: (I) Fully Excluded Area and (II) Corrected Excluded Area (Upadhyay and Pandey:2002:14-25). Again, through the Government of India Act of 1935, Tribal Areas were classified into two categories, namely (I) Excluded Area and (II) Partially Excluded Area. Excluded areas were placed under the provincial rule of the governor acting in his discretion and the Partially Excluded areas were within the field of ministerial responsibility. The governor exercised a special responsibility in respect of administration of these areas and had the power in individual judgment to overrule the ministers, if thought fit to do so. No Act of federal or provincial legislature applied to any of these areas, but the governor had the authority to apply such Acts with such modifications as he considered necessary.

The cabinet mission statement of 16 May 1946, mentioned that excluded and the partially excluded areas require special attention of the Constituent Assembly. The advisory committee on fundamental rights and minorities, consequently set up three sub-committees (I) the excluded and partially excluded areas in Assam, (II) the tribal areas in the NWFP and Baluchistan, and (III) the excluded and partially excluded areas in the provinces other than Assam (Menon and Sinha:2003:3-6). Both the Committees, relevant to India, had studied the position of excluded and partially excluded areas of the erstwhile British Government. The committees made several recommendations. One of the important recommendations was that the state should bear the responsibility of the tribal people. It laid emphasis on the protection of tribal land and prevention of exploitation by moneylenders. The committee felt that geographical inaccessibility of these areas was largely responsible for exclusion and the backward condition of these areas. The committees recognized that the ultimate solution to the problem of backward areas lies in development, not their isolation. The Thakkar committee had recommended that the constitution should provide for setting up of a body in each province, which would keep the provincial Government constantly in touch with the welfare of the tribals in general and the needs of the aboriginal tracts in particular (Rajput:2021:12).

In brief, after prolonged discussions on the report of the sub-committees a consensus was formed that there is a need of different types of administrative system for the tribal areas. As per the recommendations of the committee, the separate administrative system was made in Part X of the Indian Constitution which is quite different from other state or union territory administration. The whole tribal areas were divided into 'Tribal Areas' and 'Scheduled Areas'. In article 244 of the constitution and in its Sixth Schedule, the provisions for administration of the tribal areas i.e. Assam, Meghalaya, Mizoram and Tripura were made. Similarly in the article 244 (1) and fifth schedule the provision for the administration for scheduled areas was made. Both the committees suggested notifying the tribal areas in the country for their development and protecting them from exploitation.

The Fifth Schedule under Article 244(1) of Constitution defines "Scheduled Areas" as such areas as the President may by order declare to be Scheduled Areas after consultation with

the Governor of that State. The Sixth Schedule under Article 244 (2) of the Constitution relates to those areas in the States of Assam, Meghalaya, Tripura and Mizoram which are declared as "tribal areas" and provides for District or Regional Autonomous Councils for such areas. These councils have wide ranging legislative, judicial and executive powers.

Administration in Scheduled Areas

Scheduled Areas have certain distinct provisions meant to protect and benefit tribals:

- The Governor of a State, which has Scheduled Areas, is empowered in respect of the prohibition or restriction of transfer of land from tribals; and regulates the business of money lending;
- The Governor by public notification may direct that any particular Act of Parliament or of the Legislature of the State;
- Under the section 3 of the 5th schedule, there is provision of sending report by the governor to President of India related to the administrative activities of the scheduled areas. The purpose of sending report by the Governor to the President is to assist the central government in discharging duties towards tribals of the scheduled areas.
- According to section 4 of the 5th schedule of the Indian Constitution, there is a provision for the constitution of Tribal Advisory Councils (TAC) in all states having scheduled areas. On the direction of the president, TAC can be constituted even in those states where there are no scheduled areas. Though Tamil Nadu and West Bengal do not have any scheduled area, they have TAC. The direction of the President has been conveyed to the State of Uttarakhand in 2010 for the constitution of TAC in the State even though it does not have any scheduled area (Annual Report: MoTA:2014-2015:70). TAC should have at least 20 members. Three-fourth members of the TAC should be represented by MLAs belonging to scheduled tribe community. The rest seats are to be filled up by people belonging to tribal community. In this council, some people having sufficient knowledge in tribal issues are also co-opted. The Governor shares the responsibility of formulating rules governing the TAC. The Governor may suggest the TAC to take step for the welfare of the tribals (Pandey:2003:32-34).

The important provisions regarding tribal administration were taken up after independence and before the 73rd Constitutional Amendment by the Government of India.

Panchayati Raj Institution in India before 73rd Amendment Act

Before 1992 there was no strong step has been taken by the Government of India (GOI) for vitalized of the Panchayati Raj Institution (PRI). Although, our great leader Mahatma Gandhi wished to establish strong decentralize democratic system in the country. He said that "the soul of country vested in village", so government should keep the village in centre and try to empowered village firstly. In order to respect of Gandhi's faith, the provisions regarding to establishment of PRI, were given under the directive principle of state policy in article 40 and IVth part of the constitution. Keeping in mind of ideas of the father of nation, the pt. Jawaharlal Nehru, the first Prime Minister of India, has inaugurated the PRI in Nagaur district of Rajasthan first time in the country in 1959. Same day the Government of Andhra Pradesh also started the Panchayat Raj (PR) system in

their state and almost all the states of the country had passed Panchayat Acts within year and launched PR system in their states. Meanwhile some important committees were constituted and Balwant Roy Mehta and Ashok Mehta committees were one of them. The Ashok Mehta committee (Malini Nambiar: 2001: 3114-15) noted in his report that “due to the lack of interest on the part of the office-bearers and apathy on the part of the public, the gram sabha has not been functioning satisfactorily. It can work satisfactorily, if the will to work is there. The gram sabha has an important role in activating the democratic process at the grass root level, in increasing political awareness and enabling the weaker sections to progressively assert their point of view”. During these period, apart from these committees many other committees, commissions were formed by Union and States Government to give suitable form to PR System. Overall these committees reported that all the development programmes are politicized and failed to achieve the goal of the rural people. There was realization that without the participation or involvement of the grassroots people it is not possible to fulfill the target. So there was a link of the development programmes with the PRI. The recommendations of various committees and keeping in mind of the grassroots reality of PR system the Central Government decided to give constitutional status to the PRIs and passed the 73rd Constitutional Amendment Act, 1992.

PRI in 5th Scheduled Areas after 73rd Amendment

No doubt, the 73rd Constitutional Amendment Act provided respectable spaces for the tribal community in the working of PR System but such legislation could not make the tribal communities the sole masters of their socio-political destinies in their areas. The need was always felt that the institutional structures within the fifth scheduled areas were to be in consonance with the tribal needs, ethos and tribal institutions with which these people were familiar for ages (Purohit:2002). As, the tribal community had a rich administrative system since time immemorial they developed their own institutions of panchayats like Tribal Head, Council of the elders and inter-village panchayat for establishing peace, law and order, resolution of disputes and argumentation and proper management of the resources. They have their own system of knowledge, self-governance and nationhood (Purohit and Sisodia:2005). Therefore, the importance needs to be given to the traditional governing system of the tribal community.

Besides, another question remained unanswered that, legal setup of the PRI has made similar in all the states of the country according to 73rd Amendment Act but the administrative setup of the Vth and VIth Schedule areas have been quite different since after independence. Therefore, it was reasonable to demand that the administrative mechanism and PR system of tribal dominated areas should be different from non-tribal areas after implementation of 73rd Amendment Act. But without making a law by the Parliament, the states like Andhra Pradesh, Himachal Pradesh and Rajasthan have extended 73rd Constitutional Amendment Act to the Scheduled Areas. This was unconstitutional step on the part of the states. Tribal leaders considered it another step by the state against the autonomy of tribal people. They mobilized tribals around this issue. The matter was also taken to the Andhra Pradesh High Court by the tribals and some activists, which had termed State Act ultra vires to the Constitution. Apart from this, the extension of the 73rd Constitutional Amendment Act, 1993 and the election process were challenged in the High Courts of some states like Odisha, Bihar and Maharashtra. Keeping in view of the agitation by the tribals and judicial verdict of the Andhra Pradesh, Odisha, Bihar and Maharashtra High Courts, a need was felt for extending the

provisions of part IX of the Constitution to the Scheduled Areas by enacting law in the parliament (Mahipal:2013:10-15).

As a result of such demands and needs of the tribal communities, a committee of parliamentarians and expert (22 members) was appointed in June, 1994 by Government of India under the chairmanship of Shri Dilip Singh Bhuria. The committee wanted traditional institution on which modern super-structure should be built because diverse tribes living in the schedule areas had their own distinctive culture and special problems, but the issues of having separate panchayat raj system came up for the first time. The main purpose of this high-level committee was to discuss and examine the issues relating to extension of the provisions of the Constitution to the Scheduled Areas (Sisodia:2005:146). The committee presented their report in 1995. Many of the recommendations of the Bhuria Committee were accepted by the Union Government and the Legislation was passed, to be known as Panchayat (Extension to the Scheduled Areas) Act, 1996. This Act was also popularly known as PESA Act. This Act extended 73rd amendment Act to the Scheduled Area mentioned under the Clause (2) of Article 244 of the Constitution. After that, it became mandatory on the part of the states to amend their existing Panchayat Acts in conformity with the Extension Act within year i.e. December 24, 1997.

At present ten states of the country comes under the scheduled areas. This Act has also made it mandatory for the states having scheduled areas to make specific provision for giving a broad range of powers to the tribals on matters relating to decision-making and development of their community.

The main provisions of this Act are:

1. Every village shall have an elected Gram Sabha and it shall be competent to safeguard and preserve the traditions and customs of the people.
2. Gram Sabha shall approve the plans, programmes and projects for social and economic development before their implementation.
3. will be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes.
4. Every Gram Panchayat shall obtain from Gram Sabha a certificate of utilization of funds for the plans, programmes and projects.
5. Reservation for the scheduled tribes shall not be less than half of the total number of seats at all tiers (i.e. Gram Panchayat, Janpad panchayat, Jila panchayat) of PRI and reservation for other communities mentioned in part IX of the Constitution shall be on the basis of proportion to the population of these communities.
6. Planning and management of minor water bodies in the Scheduled Areas shall be entrusted to panchayats at appropriate level.
7. Consultation before land acquisition for development projects and also before resettlement or rehabilitating of people influenced with these projects.
8. Control local plans, resource, and expenditure.
9. Recommendations of the Gram Sabha or the panchayat shall be mandatory for granting of licenses for mining lease for minerals and concessions for exploitation of minor minerals by auction in the Scheduled Areas.
10. Safeguard preserves the tradition and customs of the people, their culture identity and community resources and the customary mode of the dispute resolution.

11. Manage natural resources including land, water, forest, village market, cattle fare, canal etc, within the village area in accordance with their traditions and in harmony.
12. The posts of chairperson at all levels of the panchayats shall be reserved for the STs.
13. In case of STs having no representation at intermediate or district level panchayats, the state government shall nominate such under-represented STs but such nomination should not exceed one-tenth of the total elected members of that panchayat.
14. State legislatures while devolving powers and authority to panchayat to enable them to function as institution of self-government, should ensure that the panchayats at the higher level do not assume the powers and authority of any lower-level panchayats or the Gram Sabha.
15. The state legislatures shall follow the pattern of the sixth Schedule areas to the Constitution while designing the administrative arrangements for the panchayats at district level.
16. Gram Sabha has been vested with following powers:
 - power to enforce prohibition or regulate or restrict the sale and consumption of any intoxicants;
 - ownership of minor forest product;
 - Prior consultation on land acquisition matter ;
 - Power to manage village markets;
 - Control money lending to Scheduled Tribes and prevention of alienation of land ;
 - Power to control local plans and resources for such plans, including tribal sub-plan;
 - Control over institutions and functionaries in all social sectors.
 - Selection of beneficiaries under various programmes;
 - Give utilization certificate of funds used for the projects and programmes of social and economic development etc.
 - Prior recommendation for granting license or mining lease for minerals (PESA Act:1996).

Keeping in mind of the above said power and functions of the Gram Panchayat and Gram Sabha in the Fifth Scheduled Areas, it can be said that the PESA Act gives wide ranging power to Gram Panchayat and Gram Sabha. Perhaps the most progressive law passed since independence, the PESA was to enable the Gram Sabha, i.e. the collectivity of village adult and gram panchayat to take control their destinies. It empowered villages to protect community resources, control social sector functionaries, own minor forest produce, manage water bodies, give recommendation for mining lease, be consulted for land acquisition, enforce prohibition, identify beneficiaries for poverty alleviation and other government programmes and have a decisive say in all development project in the villages. The PESA Act attempted to vest legislative powers in gram sabha specially in matters relating to development planning, management of natural resources and adjudication of disputes in accordance with prevalent traditions and customs (Mahipal:2013:13). This significant legislation was expected to have far reaching consequences in the social, economic and cultural life of tribals in the scheduled areas. It is an effort of the Government to make statutory panchayat as traditional panchayat where all the decision would be taken unanimously by villagers. They need not to wait for the order of the Government, need not to go police stations or courts. All the decisions, disputes and issues could be settled by the Gram Sabha or Gram Panchayat.

Tribal Scenario in Madhya Pradesh

The Madhya Pradesh is a rich house of the tribal communities and still has the largest concentration of tribal population in the country. There are 14.7 percent tribal population of the total tribal population of the country is residing in Madhya Pradesh. Presently Madhya Pradesh has 50 districts Jhabua and Alirajpur districts have the highest tribal concentration in the state which is more than 80 percent of the district's total population. According to the 2011 census the tribal population of the state is 153.16 lakh constituting 21.1 percent of the total population of Madhya Pradesh and 33.6 percent of total geographical area notified as scheduled area. Less than 10 percent of the tribal population is a part of urban areas, while 90 percent of it resides in rural areas. The comparison of percentage of Scheduled Tribes population explains that Madhya Pradesh has higher percentage of total, rural and urban Scheduled Tribes population than India. After the formation of new districts in the state, tribal sub plan area of 35 districts (5 fully and 30 partly district) having 89 Tribal Development Blocks. Besides this, about 39.43 lacks tribals are scattered outside Tribal Sub-Plan Area, which is 32.23 percent of the total Scheduled Tribe population of the state. There are 46 Scheduled Tribes inhabiting the state. Among them, three tribal communities (Baiga, Bharia and Saharia) are notified as "particular vulnerable tribal groups (PVTGs)" in the State. According to census 2001, Bhil hold first position in term of their population (46,18,068) followed by the Gonds (43,56,918) and Kols (9,55,040). Literacy rate among the tribal comparatively the total population, is very low. According to the census 2011, the literacy among the tribal in India is 59.0 percent, while in males it is 68.5 percent and 49.4 percent in females. Thus, literacy among the tribal in Madhya Pradesh is 50.55 percent while in males it is 59.5 percent and 41.47 percent in females. It is clear that the literacy ratio among the tribal of Madhya Pradesh was low as compared to the national level.

Scheduled Areas in M.P.

The Scheduled Areas may be the entire district or partially Block, Panchayat or Villages. There are five districts and some other areas of the states have been included in the fifth Scheduled. These areas are as follows-

- Jhabua district (include Alirajpur District)
- Mandla district
- Dindori district
- Barwani district
- Anuppur district
- Sardarpur, Dhar, Kukshi, Dharampuri, Gandhwani and Manawar tahsils in Dhar district
- Bhagwanpura, Segaon, Bhikangaon, Jhirniya, Khargone and Meheshwar tahsils in Khargone (West Nimar) district
- Khalwa Tribal Development Block of Harsud tahsil and Khaknar Tribal Development Block of Khaknar tahsil in Khandwa (East Nimar) district
- Sailana and Bajna tahsils in Ratlam district
- Betul tahsil (excluding Betul Development Block) and Bhainsdehi and Shahpur tahsils in Betul district
- Lakhanadone, Ghansaur and Kurai tahsils in Seoni district
- Baihar tahsil in Balaghat district
- Kesla Tribal Development Block of Itarsi tahsil in Hoshangabad district
- Pali Tribal Development Block in Pali tahsil of Umaria district

- Kusmi Tribal Development Block in kusmi tahsil of Sheopur district
- Karahal Tribal Development Block in Karahal tahsil of Sheopur district
- Tamia and Jamai tahsils, patwari circle Nos. 10 to 12 and 16 to 19 villages Siregaon Khurd and Kirwari in patwai circle No. 09 Villages Mainawari and Gaulie parasia of patwari circle No. 13 in Parasia tahsil, village Bamhani of patwari circle No. 25 in Chhindwara tahsil, Harai Tribal Development Block and patwari circle Nos. 28 to 36, 41, 43, 44 and 45 B in Amarwara tahsil. Bichhua tahsil and patwari circle Nos. 05, 08, 09, 10, 11 and 14 in Saunsar tahsil, Patwari circle Nos. 01 to 11 and 13 to 26, and patwari circle No. 12 (excluding village Bhuli), village Nandpur of patwari circle No. 27 village Nilkanth and Dhawdikhapa of patwari circle No. 28 in pandurna tahsil of Chhindwara district.

Implementation of PESA Act in Madhya Pradesh

Madhya Pradesh was the first state in the country to enact and implement the PR system in the true spirit of this Act. On the line of central PESA Act, Madhya Pradesh Panchayat Raj (Dwitiya Sanshodhan) Adhiniyam, 1997 was enacted by the state assembly. It received Governor's assent on December 2, 1997 and was promulgated on December 5, 1997. While redefining the powers of PRIs, the Act Adds Chapter XIV-A, which delineates the constitution of Gram Sabha, prescribes the mode of reservation of seats for them along with the powers and functions of these institutions of the scheduled areas.

Expectations from this Act

Certainly, the Panchayats of the Scheduled Areas will get the dual benefit of this Act. On the one hand, these Panchayats will take advantage of democratic decentralization and on the other hand they will also be helpful in protecting and preserving their cultural and traditions. At the same time, the social evils found in the tribal community, which cripple this community financially and fall into the trap of indebtedness, will be discussed in the Gram Sabha and it will be able to curb them. Minor disputes of the villagers will be resolved in the Gram Sabha instead of in the police stations, which will bring economic strength and harmony in the tribal community.

The PESA Act attempted to vest legislative powers in Gram Sabha specially in matters relating to development planning, management of natural resources and settlement of disputes in accordance with prevalent traditions and customs. The Gram Panchayat in scheduled areas shall work under the general superintendence, control and direction of the Gram Sabha. On the advice of the Gram Sabha, Gram Panchayat will manage the water bodies, village markets and *mela*, including cattle fair. The Gram Sabha is empowered through this Act for giving approvals for development plans, prioritizing, identifying beneficiaries, promoting active participation of people in implementing development programmes. The PESA enabled gram sabha to ensure greater participation of the people and effective implementation of tribal development programmes. Really the gram sabha is the gateway to grass roots democracy, the base of the Panchayati Raj and one of the most important institutions of the new direct democracy at the village level. Under the PESA Act, tribal communities have received the opportunity to play an important role in deciding their own destiny.

Forests have been the basis of the livelihood of this community since the very beginning. Forests are not only economically but

also culturally, socially and religiously important for the tribal community. But if one look at the post-independence history, these people have lost their right over forest and other natural resources. Forests were taken over by the government through many laws like Land Transfer Act, Mineral Mining Act, Forest and Wildlife Act, etc. This Act again empowers the Gram Sabha to develop, manage and conserve the natural resources of their areas such as water, forest and land. It is clear that the tribal community has received the power to manage its traditional resources again through this act. The gram panchayat and gram sabha can control and monitor government institutions like Schools, Anganwadi, Health centers, Patwari office etc. available in the village. It is clear that these special provisions of this Act given to the Panchayats of Scheduled Areas will provide opportunities for social and economic development and attainment of social justice. Overall, it can be comprehended that, PESA Act is a significant and revolutionary law for establishing democratic governance at the grassroots level in the areas of the tribal community who have been cut off from the mainstream of the society for years and has been standing on the last ladder of social, economic and political development.

Ground situation of implementation of this law

If one look at the ground status of the implementation of the Act, all these expectations still seem like a dream. Unfortunately, despite being a powerful Act like PESA Gram Panchayat and Gram Sabha could not become an important institution at the grassroots level because of self-interest and interference of local leadership and bureaucracy. Almost 25 years have been completed since passing of this legislation in the states of scheduled areas but emerging grassroots picture is not found to be fulfilling the expectations, there are many loopholes and anomalies that can be seen from top to bottom and vice-versa. It was expected that the PESA would lead to self-governance and empowerment of the people. However, the implementation of PESA is far from satisfactory. Most of the provisions of this Act yet could not be implemented in true spirit in various states. The Indian Institute of Public Administration, Delhi conducted study on implementation of PESA in six districts of three states i.e., Jharkhand, Chhattisgarh and Odisha. The study raised many questions regarding poor implementation of PESA. The study pointed out that 65 percent tribals of Khuti district and 26 percent of Gumla district of Jharkhand, whose land was acquired, said that neither Gram Sabha nor they themselves asked about it. The Government of Rajasthan formulated the rule of the PESA in 2011 but nothing was found to be changed at ground level. The complete analysis of PESA in Orissa is limited due to inadequate changes in the Panchayat Act without much devolution of powers to the Panchayats in Scheduled Areas (Das, Saroj Kumar:2011). The state governments of ten states need to change their laws in order to comply with PESA. Many laws relating to ownership of minor forest produce, land acquisition, excise, mines and minerals, agri-produce market, planning and management of water bodies, prevention of alienation of tribal land and money landing etc. needs to be changed. These issues have been duly recognized in the PESA Act as the traditional rights of the tribals living in the scheduled areas, have still not received warranted attention (MoTA: PESA Darpan). Every state has more or less similar story. Thus, it can be said that all the state governments enacted the law under the PESA Act but never formulated necessary rules required for the better and effective implementation of PESA Act. Other thing is that the Union Government has not given any strict time line by which the states have to frame rules. Due to this,

PESA failed to achieve its expected results. There is also the issue relating to power statutorily devolved upon Gram Sabha and the Panchayats not being matched by concomitant transfer of funds and functionaries resulting in the inability to exercise such powers.

The Chief Minister of M.P. announced in a public rally in Indore on 4 November 2021 that the Government of M.P. will implement the provisions of PESA Act in a phased manner. It is a matter of great concern that state government is going to frame the rules and regulation even after 25 years of its existence (<http://timesofindia>). It is another fact that, even in states where PESA rules have been framed, the administrative machinery working as it is, nothing changed on the ground. Madhya Pradesh is the seventh state out of 10 states with fifth schedule areas to implement the law. Himachal Pradesh, Andhra Pradesh, Telangana, Rajasthan, Gujarat and Maharashtra have already formulated PESA rules to implement the 1996 central Act, while Chhattisgarh has drafted the rules and is currently in consultation process for implementation. A total of four states – Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha have not even framed the rules yet while Gujarat used the rules of the Panchayati Raj Act to manage the fifth scheduled areas. Some other reasons which is making PESA Act weak are Union Government brought many other legislations and included many provisions of PESA Act into these legislations. For instance- The Land Acquisition Act, 2013 and Forest Right Act, 2006 have empowered Gram Sabha immensely (<https://www.theweek>). This complex situation is also hampering the working of PESA.

Another study was conducted in Baiga dominated Dindori and Anuppur districts of Madhya Pradesh in 2017 (Rajput:2021). The main objective of this study was to find out the legal duties and grassroots reality of the Gram Sabha in Scheduled Areas of Madhya Pradesh. The primary data was collected from 22 Gram Panchayats of the four tribal development blocks of the two districts. It was found in this study that most of the respondents had less information about the provisions of this Act, the specific position of Gram Sabhas and its powers and functions. Along with the members of the Gram Sabha, most of the Panchayat representatives also were not aware of number of meetings of Gram Sabha are mandatory in a year. The position of the respondents was found to be similar with respect to the required quorum in the Gram Sabha. As far as the existence and functioning of the traditional tribal panchayat is concerned, it was observed during the visits of various Baiga villages that these traditional panchayats were still in existence but its functions were shrinking. Almost all the respondents were of the view that the existence of these traditional panchayats has weakened. Now most of the disputes were being resolved by the police or courts. In the villages, the role of the headmen of the traditional panchayat was also less visible. Day by day trust, respect and faith in the traditional panchayat of Baiga seem to be reducing. The importance of the village headman diminished in comparison to the Sarpanch. Anyway, the economic condition of the village headman was found to be more or less the same as that of all the villagers, but the Sarpanch had more supporters due to being more financially sound, aware, accessible to the officials and in a position to give the benefits of the schemes to the people. Due to this influential position, many times the villagers support the Sarpanch even if they do not want and now people have started considering his presence as mandatory in the meetings of the traditional panchayats. In many places, where the head of statutory panchayat (sarpanch) and the head of the traditional panchayat were different, there was a conflict situation between the two types of panchayats and the existence of traditional panchayats was negligible. But where head of

the both institutions were found to be same panchayats were relatively influential, but this number was also very less.

Women participation in Gram Panchayat and Gram Sabha meeting was found to be very low. Even if they come, they sit in one corner and do not raise their voices unless supported to do so. They were also not aware about their role and responsibilities as elected representatives. The main reason behind the less participation of women in Gram Sabha and Gram Panchayat meeting is that they have generally developed a concept that these institutions do not have capability to resolve difficulties of their lives.

Similar fact was reported for Gram Sabha Meetings which were found in records as convened but in actual sense these do not take place. In some places meetings of the Gram Sabha were taking place but mostly without prior and adequate notice. Ground reality revealed that people were not aware about the importance and functioning of the Gram Sabha. They created a framework in their mind that they have elected as a representatives and it is their duties to do all the Panchayat related work. Moreover, if some people applied for some schemes and if they do not get benefit, generally they would not come again for attending the Gram Sabha meeting. It is a matter of concern that Gram Sabha has been converted into beneficiaries' sabhas instead of social forum. Researcher attended many Gram Sabha meeting in Anuppur and Dindori Districts of Madhya Pradesh but rarely Gram Sabha meeting were taking place. The Government is deciding and circulating agenda for Gram Sabha meeting. Those who were attending Gram Sabha meeting they were also totally unaware about the agenda of the meeting.

Generally, the Gram Sabha meetings were convened during any important occasion and on very special issue, but again the quorum for such meeting was also difficult to complete. The grassroots experience reveals that a majority of the panchayat representatives and villagers were not aware of the quorum required for the Gram Sabha meetings. The required women's representation for quorum was not known to the majority of the people. It has been observed in many places that the elected members have called for proxy meetings. The sarpanch, panchayat secretary and supporters of sarpanch mobilized in a place and complete all the formalities of the Gram Sabha meeting. Afterwards they go door to door and take the signature of the villagers. The basic reasons for low attendance in the Gram Sabha meeting was mainly the engagements of people in agriculture, labour and migration, lack of information, groupism, scattered habitations, unaware of the importance of Gram Sabhas' role etc.

However, the PESA Act has empowered Gram Sabha for controlling government offices at village level i.e. School, Aganwadi, Balwadi, Health Center and Patwari office etc, but unfortunately the situation was not found satisfactory. The PR representatives and Gram Sabha members were not found capable to handle and control these institutions. In many places it was observed that the non-tribal people and government officers have decisive position and have been taking decision on all the issues without prior consent to the Gram Sabha. According to the PESA Act, natural resource management shall be done by Gram Sabha and village panchayat but unfortunately forest department has captured all the delegated powers. It has been observed that land was acquired by the government and private firm without prior consent of Gram Sabha. It is not happening only in Madhya Pradesh but also in other States like- Jharkhand and Odisha also doing the same. Many cases regarding land acquisition without taking consent from the Gram Sabha are coming from these states.

A huge number of respondents accepted that discussion regarding the conservation and preservation of tribal culture was not taking place in gram sabha meeting. Maximum respondents was not agreed that gram sabha members make any effort to solve local disputes of community during the meetings. The field observation shows that almost all the tribal people were unaware about this power of the gram sabha. At first, they were in dilemma that what type of culture and tradition should be preserved and conserved and they were also confused about the utility of these provisions of the PESA Act. Almost all the youths were influenced by the non-tribal culture. They did not believe in their traditional system, culture and rituals. They want to come out from the clutches of poverty and live like non-tribal society. The paradoxical situation seems to emerge between the youth and senior persons of Baiga tribal community.

The overwhelming majority of the respondents were of the view that the issue related to indebtedness was not raised in gram sabha. In fact, most of the gram sabha members, panchayat representatives even some government officers were not aware about this provision of PESA Act. The similar findings was also derived from other study (Choudhary:2017:11) conducted in the scheduled areas of Betul district of Madhya Pradesh. The study pointed out that several important issues which are more or less related to all the tribal dominated areas such as consumption of mahua wine, poor quality of school, teaching and learning, inappropriate functioning of PDS, Anganwadi, Health Centre, deforestation, corruption and manipulation in various development schemes and so on were never discussed in Gram Sabha. No discussion was taking place on money lender, indebtedness, capacity building of tribal youth, employment and self-employment. There is lack of people's involvement and no transparency in the functioning of Gram Sabha.

Collected primary data explains that the issues related to preservation and conservation of water, forest and land was found to be discussed by limited number. The observations of the field visit suggest that the important issues like conservation of water, forest, land and the tradition, culture, customs and rituals remained untouched. Most of the gram sabha members, panchayat representatives even some government officers were not aware of these provisions of the PESA Act and also do not know the process how to conserve it. In fact, the Baiga people (including panchayat representatives) were in dilemma that forest and forest land are already protected by the Forest Department and water preservation works are done by the government then what is the role of gram sabha in it. Therefore, there is an urgent need to opt for an effective device whereby maximum people can be informed, made aware and motivated to come forward for the proper implementation and execution of PESA. There is an urgent need to break the culture of silence among tribal and to strive for capacity building, sensitisation and orientation to improve the tribal self-rule scenario (Sisodia: 2018:32).

The large number of respondents (76 percent) said that there is no role of gram sabha to manage the local market; this is so, because the weekly market does not organize in every village. Some villages where the population is more and connecting road is good, the local market was organized there. But it is fact that gram sabhas of these areas are not in position to manage local market, fair, cattle fair and other festival events, etc. These all event or activities are running through traditionally and some people like head of the village or sarpanch have important role to manage it. And most of the gram sabha members, panchayat representatives even some government officers were not aware about these provisions of the PESA Act.

It is important to understand the process of decision-making to get an insight into the status of participatory governance. The issues discussed at gram sabha were more or less same in all the studied villages. The study revealed that sarpanch and other influential people still dominate the decision-making process. Gram Sabha's decisions were mostly taken by the sarpanch and the *Sachiv* (secretary). Majority of the gram sabha members reported that they were not satisfied with the functioning of gram sabha. Various reasons like corruption, partiality in selection of beneficiaries and brotherhood had been illustrated by the members. Significantly from in-depth questioning from people who attended gram sabha meetings the fact emerged that in all 22 gram panchayats, nearly all decision making was done through a consensus. None of the gram panchayat had any experience of voting on any account. The people who were unhappy with the decision of gram sabha generally did not oppose. There was lack of awareness amongst people about the role of gram sabha. Large scale illiteracy, low awareness, inaccessibility to sources of information and unsupportive administrative environment all contribute to this problem.

The information of various government schemes should be imparted to gram sabha members but study revealed that it was not happening so. People close to sarpanch or panchayat secretary were found to be getting the concerned information. Majority of the respondents were of the view that beneficiaries for various schemes were selected by the Sarpanch and secretary. It clearly depicts that despite all provisions, the hegemony of sarpanch and panchayat representatives was still prevailing in selection of beneficiaries for various government schemes. It has been observed in some studied villages that implementation of various works or distribution of various government schemes were given to sarpanch's own village or hamlet instead of trickling down to other villages or hamlets of the gram panchayat. Majority of the interviewed gram sabha members were not aware about the role of gram sabha under Forest Rights Act to allot patta and same situation can be seen regarding MGNREGA.

Accountability was observed to be by and large poor in all studied villages. Panchayat members did not have complete information about their panchayat's income and expenditure. The PESA Act provides power to gram sabha to enquire budget allotment for the development of village but emerged picture was not satisfactory. Majority of the respondents viewed that gram panchayat do not disclose the matter regarding the sanction amount and details of spent amount on various schemes. The same situation was observed in social audit aspect. Majority of the respondents said that neither the issues like- expenditure, budget, annual village development plan, allotment of fund, prioritization of the work and spent amount on various items were discussed nor the members of the gram sabha demanded for it. The field observation disclosed that almost all the gram sabha members did not recognized the power of gram sabha.

Besides, the Gram Sabha has decisive power to implement all the Government schemes into village. The MNREGA and the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights Act, 2006) are also gigantic programmes and have been covering and influencing huge tribal population. The Gram Sabha has crucial role in execution of both programmes. Social auditing, transparency, monitoring and controlling over fund, identifying beneficiaries for other individual schemes and raise the public grievances in Gram Sabha meeting and much more powers have been devolved to Gram Sabha.

The MNREGA Act authorizes the Gram Sabha to recommend works to be taken up under MNREGS, to monitor

and supervise these works, and to conduct social audits of the implementation of the Scheme. In addition, it is suggested that the Gram Sabha to be used extensively for facilitating the implementation of the Scheme. The Gram Sabha should be used as a forum for sharing information about the Scheme, for instance, to help people to apply for registration. In addition, the Gram Sabha has a crucial role to play in ensuring transparency and accountability. This involves, for instance, verifying applications for registration and conducting social audits. But the emerging grassroots pictures were very different. The Gram Sabhas were not able to do same in almost all tribal areas of the state. Panchayat representatives, Panchayat Secretary and government officers are using devolved powers of Gram Sabha.

Suggestions

It is true that PESA Act has not been implemented in true sense in not only in M.P. but also in other nine states. Many loopholes and hindrances as discussed above can be seen at grassroots level. Therefore, the Government of India, State Government and NGOs should come forward for eliminating these loopholes and hindrances. Some suggestions for better implementation of PESA Act are as follows-

1. It has been observed that the level of awareness and exposure among Panchayat Raj Representatives and as well as members of gram Sabha is very low. It is therefore important to initiate special training packages in scheduled areas. The provision of the state Act should be translated into simple Hindi and local dialect and distributed to all Panchayats. Posters can also be printed and displayed on the walls of Panchayat Bhawan, Health Centre, School and other public and accessible places. Through this process the information related to the functions, powers, responsibilities, legal entitlements decision making, importance of participation of tribes and women can be disseminated to the participants.
2. The capacity building programmes for the elected representatives need to be designed more effectively, so that knowledge about the sponsored schemes can be provided to the panchayat members periodically. This type of programs should be conducted for two-three days at least. Youth groups, SHGs, panchayat committees and panchayat representatives should participate in it.
3. Village people should be made aware of procedural aspects by organizing mock gram sabhas. Exposure visit of adarsh gram sabha can also be done for the purpose of increasing the capacity and creating awareness among the villagers and Panchayat representatives.
4. People should be prepared for the preservation and promotion of the culture of the tribal community. This thing needs to be spread in the minds of common man that they can use the Gram Sabha collectively for all the issues in the same way as done through the traditional caste panchayat.
5. The Government should appoint trained and educated secretary at the local Panchayats. The public awareness campaigns can be launched through NGOs. Electronic media (Community Television) can also be an effective medium. It has been observed through several studies that where the interventions of NGOs are more, Panchayats are working more actively and consciously. Hence, NGOs can become the harbinger of change in these areas.
6. It is also felt that there are many committees dealing with different aspects at village level such as watershed committee, Van committee, Raksha committee, but the PR system in scheduled area provides all powers to the Gram

Sabha. Therefore, the parallel committees, where they exist, need to be abolished. It will help in making the Gram Sabha a strong institution. It is also advisable that traditions and customs are documented for each tribal community through Panchayats.

7. It is true that the sustainability of the grassroots level people centered participatory and self-managed development process will ultimately depend on the capability of the people in local resource mobilization and influencing policy processes. Therefore, the Governments and NGOs should think over that.
8. People should know about the importance and functioning of the gram sabha. Knowing the importance, they should feel the need to participate in meeting of their own Gram Sabha. That is, unless all citizens get equal space for informed and effective participation in the deliberation of gram sabha, panchayat raj institution cannot function in participatory, accountable and transparent manner. Panchayat can bring desired betterment in the lives of villages only when they listen to the gram sabha and gram sabha meet, deliberate, decide, demand and monitor regularly.
9. In many cases it has been seen that the husband or relatives of the women are taking decision and presiding gram sabha meeting. Therefore, government should make it unambiguous and stringent rule to punish the guilty. Government or Gram Panchayat can organize separate Gram Sabha only for women so that women can give their ideas and views without any hesitation. These proposal and ideas can be put up in general Gram Sabha meeting.
10. The NGOs and other agencies working in the concerned village should share the progress report, strength, weakness and loopholes of the work with Gram Sabha. This type of practice shall increase participation of villagers in the Gram Sabha meeting.

CONCLUSION

It was expected that effective implementation of the PESA Act would bring strong self-governance in tribal areas; the Gram Sabha would work like the traditional institution of the tribal community; tribals would feel more comfortable in taking part in governance of the village. It was also expected from the PESA Act that it would reduce migration, poverty, land alienation, indebtedness, exploitation and corruption. It was considered that effective implementation of PESA would bring transparency in several tribal development programmes and schemes. People's participation in planning, identification of beneficiaries and control of money lending would enhance the capacity and bargaining power of the tribal community. But when one look at the ground status of the implementation of this Act, all these expectations remain unfulfilled. Therefore, it is vital to choose a powerful tool that will enable the greatest number of people to be informed, made aware of, and inspired to participate in the appropriate implementation and execution of PESA. For the better implementation of PESA Act it is required to work hard towards capacity building, sensitization and orientation.

The role of NGOs in making the community aware and empowered has to be increased further. The participation of the tribal community in the development works needs to be enhanced through Gram Sabha and the tribal community will have to adopt the process of social audit to bring transparency in the development works. If the Gram Panchayat and Gram Sabha of the Scheduled Areas will work according to spirit of the PESA Act, the situation of tribal community can be improved, the crisis

of tribal life will be solved; dream of the tribal development will be fulfilled. Finally better implementation of the PESA Act in naxal affected areas, can help to mitigate this problem upto a large extend.

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