



# PESA Act

## Why in News

Recently, the Chhattisgarh government has formulated draft rules under [Panchayat Extension to Scheduled Areas \(PESA\) Act, 1996](#), terming it the **Chhattisgarh Panchayat Provisions (Extension of the Scheduled) Rules, 2021**.

- Tribals in Chhattisgarh have been **demanding the enactment of PESA rules** for some time, as it would give them more power over their resources.
- The bill envisages instituting **devaluation of power, and strengthening the gram sabhas** at the village level.
- Six states (Himachal Pradesh, Andhra Pradesh, Telangana, Rajasthan, Gujarat, Maharashtra) have formed the PESA laws, and Chhattisgarh would become the seventh state if the rules are enacted.

## Key Points

### ▪ About PESA Act 1996:

- **Background:** To promote local self-governance in rural India, the [73<sup>rd</sup> constitutional amendment](#) was made in 1992.
  - Through this amendment, a three-tier Panchayati Raj Institution was made into a law.
  - However, its application to the scheduled and tribal areas under **Article 243(M) was restricted**.
  - After the **Bhuria Committee recommendations in 1995**, PESA Act 1996 came into existence for ensuring tribal self-rule for people living in scheduled areas of India.
- **Role of State Government:** PESA, was enacted by the Centre to **ensure self-governance through gram sabhas (village assemblies)** for people living in scheduled areas.
  - State governments were required to amend their respective Panchayat Raj Acts without making any law that would be inconsistent with the mandate of PESA.
- **Objective:** It legally **recognises the right of tribal communities**, residents of the scheduled areas, to govern themselves through their own systems of self-government.
  - It acknowledges their traditional rights over natural resources.

### ▪ Importance of Gram Sabha in PESA Act:

- **Democratic Decentralisation:** PESA empowers gram sabhas to play a key role in approving development plans and controlling all social sectors. This includes management of :
  - Resources over jal, jangal, zameen (water, forest and land)
  - [Minor forest produce](#)
  - Human resources: Processes and personnel who implement policies

- Managing local markets
- Preventing land alienation
- Regulating intoxicants among other things
- **Preserving Identity:** The powers of gram sabhas include **maintenance of cultural identity and tradition, control over schemes** affecting the tribals, and control over natural resources within the area of a village.
- **Conflict Resolution:** The PESA Act thus **enables gram sabhas to maintain a safety net over their rights** and surroundings against external or internal conflicts.
- **Public Watchdog:** The gram sabha would have the powers to monitor and prohibit the manufacturing, transport, sale and consumption of intoxicants within their village limits.
- **Issues Related to PESA:**
  - **Partial Implementation:** The state governments are supposed to enact state laws for their Scheduled Areas in consonance with this national law.
    - This has resulted in the partially implemented PESA.
    - The partial implementation has worsened self-governance in Adivasi areas, like in Jharkhand.
  - **Administrative Hurdles:** Many experts have asserted that PESA did not deliver due to the lack of clarity, legal infirmity, bureaucratic apathy, absence of a political will, resistance to change in the hierarchy of power, and so on.
  - **Followed in Letter Rather than Spirit:** Social audits conducted across the state have also pointed out that in reality different developmental schemes were being approved on paper by Gram Sabha, without actually having any meeting for discussion and decision making.

## India's Tribal Policy

- In India, most of the tribes are collectively identified under Article 342 (1&2) as "**Scheduled Tribes**".
- Their right to self-determination is guaranteed by Part X: The Scheduled and Tribal Areas - Article 244: Administration of Scheduled Areas and Tribal Areas.
- That is, **Fifth** and **Sixth Schedules** of the Indian Constitution.
- The Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 or PESA.
- The **Tribal Panchsheel Policy**
- **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006** concerns the rights of forest-dwelling communities to land and other resources.

## Way Forward

- PESA, if it is implemented in letter and spirit, **will rejuvenate the dying self-governance system in the tribal area.**
- This will also **give an opportunity to correct the loopholes** in the traditional governance system and make it a more gender-inclusive and democratic space.

Source: [IE](#)