



Final Shape Given to PESA Law in Jharkhand

Why In News?

On September 24, 2023, the Jharkhand government finalized the PESA Rule-2022, taking a rational decision on all the objections and suggestions.

Key Points:

- In the PESA rule, a provision has been made to make the Gram Sabhas 'Powerful' and 'Empowered'. Under this, only traditional heads like Manki, Munda etc. will preside over the meetings of the Gram Sabha.
- The Panchayat Secretary will work as 'Gram Sabha Secretary'. To complete a quorum in meetings, the presence of 1/3 of the members is necessary. To complete the quorum, presence of 1/3rd of the prescribed number of women is also necessary. The Chairman of the Gram Sabha has been given the right to expel from the meeting any member who misbehaves or breaks discipline in the Gram Sabha meeting.
- Land cannot be acquired without the consent of the Gram Sabha. The decision of the Gram Sabha will be final. Even in the matter of buying and selling land of tribals, the consent of the Gram Sabha will be mandatory.
- With the aim of restoring law and order in the village, the Gram Sabha will be able to impose a penalty ranging from a minimum of Rs 10 to a maximum of Rs 1000 on those committing crimes under a total of 36 sections of the IPC.
- The penalty will be appealed directly to the High Court after the traditional higher level. While determining the role of the police in the PESA rule, it has been made mandatory to inform the Gram Sabha about the reasons for the arrest within 48 hours (about 2 days) of someone's arrest.
- It is noteworthy that objections and suggestions were sought till August 31 on the draft PESA rule issued by the state government. Considering this, many organizations had lodged objections to the draft of the rule. Many suggestions were also given.
- The government has rejected the objections and suggestions, which were contrary to the provisions of the High Court, the Supreme Court and the PESA Act, Jharkhand Panchayat Raj Act-2001. Also, PESA Rule-2022 has been finalized by accepting the relevant suggestions. It has a total of 17 chapters and 36 sections.
- In the PESA rule, there is a provision to establish a fund in the Gram Sabha. It will be known as food fund, labor fund, commodity fund and cash fund. Donation, incentive amount, penalty, fee, royalty from forest produce, amount received from lease of pond, market etc. will be kept in the cash fund. Only a maximum of Rs 10,000 will be kept in a box in the Gram Sabha. The amount deposited more than this will be kept in the bank account.
- According to the PESA Rule, Gram Sabhas will decide the grants to be received under Article 275 (1) of the Constitution and the schemes to be implemented from the District Mineral Development Fund (DMDF). The beneficiaries of the scheme will be selected through Gram Sabha. The schemes run by the department will have to be discussed by the Gram Sabha.
- In case the provisions of PESA rule are contrary to social, religious and custom, the Gram Sabha will have the right to register an objection to it. In such cases, the Gram Sabha will pass the resolution and send it to the State Government through the Deputy Commissioner.
- The government will form a high-level committee within 30 days (about 4 and a half weeks). This committee will submit its report to the government within 90 days. Based on the report the government will take a decision and inform the Gram Sabha.

- The Gram Sabha will manage natural resources within its traditional limits. Gram Sabha has been given rights over forest produce. Also, all non-timber forest products of plant origin have been included in the list of forest produce.
- The list of forest produce includes bamboo, brushwood, stump, cane, tussar, cocoon, honey, wax, lacquer, char, Mahua, Harra, Bahera, Karanj, Sarai, Amla, Rugra, Tendu, Kendu leaves, besides medicinal plants and Herbs are included.
- Gram Sabha has been given the right to mine minor minerals. Gram Sabhas will control community resources through traditional methods and practices of the community. However, during this time, other laws including Wilkison Rules, Chotanagpur Tenancy Act, Santhal Pargana Tenancy Act will be kept in mind.

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