

**GOVERNMENT OF INDIA  
PLANNING  
LOK SABHA**

UNSTARRED QUESTION NO:1593  
ANSWERED ON:28.11.2001  
CONSTITUTION OF SUB-GROUP ON ST  
PRENEET KAUR

**Will the Minister of PLANNING be pleased to state:**

- (a) whether the Sub-Group constituted by the Planning Commission on policies and legislations relating to protection and development of Scheduled Tribes has submitted its recommendations;
- (b) if so, the details of the recommendations made by this Sub-Group; and
- (c) the recommendations of the Sub-Group considered by the Steering Committee of Planning Commission for empowering the STs during the Tenth Five Year Plan?

**Answer**

THE MINISTER OF STATE OF THE MINISTRY OF SMALL SCALE INDUSTRIES AND MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF PLANNING AND MINISTER OF STATE IN THE DEPARTMENT OF ATOMIC ENERGY AND DEPARTMENT OF SPACE (SHRIMATI VASUNDHARA RAJE)

- (a) Yes, Sir. The Sub-Group constituted by the Planning Commission on Policies and Legislations relating to Protection and Development of Scheduled Tribes has submitted its recommendations in its Report.
- (b) Details of the recommendations made by the Sub-Group on the Subject are given in a statement and laid on the Table of the House.
- (c) The recommendations of the Sub-Group were considered by the Tenth Plan Steering Committee on the 'Empowerment of the Scheduled Tribes', while finalizing its Report.

STATEMENT IN RESPECT OF PART (b) OF LOK SABHA UNSTARRED QUESTION 1593 FOR 28-11-2001 REGARDING DETAILS OF THE RECOMMENDATIONS MADE BY THE SUB-GROUP ON 'POLICIES AND LEGISLATIONS RELATING TO PROTECTION AND DEVELOPMENT OF SCHEDULED TRIBES'

LAND-RELATED

1. To address the problems of tribal land alienation and restoration of the alienated tribal land, the following suggestions were offered:

i) The Land Acquisition Act and Coal-Bearing Areas Act require substantial amendment, as suggested in the Bhuria Committee Report (1995) and in accordance with clauses (i) and (m) (ii) of Section 4 of the PESA Act, 1996.

ii) The existing regulations and laws enacted by the State Government should be brought in conformity with the suggestion in (i) above and the loop-holes plugged. Both the laws and their implementation should have a positive bias in favour of tribals in the interest of equity and compensation for opportunities lost.

iii) Laws relating to various aspects of land reform ensuring security of tenure, protection of tribal owners from vested interests and savings them from the harassment of unnecessary litigation should be adopted.

iv) Laws and policies relating to certain specific categories of tribals viz., shifting cultivators, forest village residents and primitive tribal groups should be made their milieu-specific.

v) Survey and settlement operation should be taken up in those areas where it has not been done to remove errors, confusion and vagueness. But the important caveat here is that the existing land-holding patterns, including communal systems, should be fully respected and no coercion should be brought to bear in this regard. Computerisation may help in the matter.

vi) The Andhra Pradesh Scheduled Areas Land Transfer Regulation placed an absolute prohibition on tribal land transfers in Scheduled Areas. Unfortunately, it has been diluted. In its original form, it is a good model to follow.

vii) On the whole, legal administrative and policy measure should be undertaken to empower tribal communities to participate in, control and guide the entire gamut of the foregoing endeavours.

viii) There is a need for strict enforcement of the existing laws and the directions of the Supreme Court in the Samatha Judgement. However, two more issues need to be attended - i) that the existing laws should be fully respected and implemented faithfully; ii) in the event of inescapability of location of a development project, the rehabilitation should be such as improves upon the earlier levels of living of the displaced tribes, particularly taking into consideration their communitarian ethos; and iii) the Tribal Sub-Plan strategy has to be modified from time to time in its many dimensions to conform to the dynamics of the changing scenario.

#### FOREST - RELATED

2. To associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forest, special attention may be given to the following :

i) One of the major causes for degradation of forest is illegal cutting and removal by contractors and their labour. In order to put an end to this practice, contractors should be replaced by institutions such as tribal cooperatives, labour cooperatives, government corporations, etc. as early as possible.

ii) Protection, regeneration and optimum collection of minor forest produce along with institutional arrangements for the marketing of such produce.

iii) Development of forest villages on par with revenue villages.

iv) Family oriented schemes for improving the status of the tribal beneficiaries

v) Undertaking integrated area development programmes to meet the needs of the tribal economy in and around the forest areas, including the provision of alternative sources of domestic energy on a subsidized basis, to reduce pressure on the existing forest areas.

#### SHIFTING CULTIVATION

3. The question of shifting cultivation calls for sensitive handling in the light of recent research on the subject which discourage its outright rejection as unscientific and totally harmful and particularly in view of the fact that it is a way of life with millions of Scheduled Tribe people - some place the figure at two millions.

#### FOREST POLICY RESOLUTION, 1988

4. The letter and spirit of the 1988 Forest Policy Resolution need to be followed, as a gap still exists between its principles and practice. The provisions of the Indian Forest Act also need to be scrutinized with the same end in view.

#### INDIAN FOREST ACT, 1927

5. Controversies arising out of the Indian Forest Act, 1927 but in respect of Reserved Forests and PESA Act, 1996 need to be resolved soon for two reasons. Firstly, that the Constitutional mandate in terms of 73rd and 74th Constitutional Amendments and the PESA Act 1996 are of paramount importance. In fact, Section 5 of the PESA Act is clear which states that notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this Act receives the assent of the President, which is inconsistent with the provisions of Part IX, shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President. Secondly, the seventy-decades-old colonial Indian Forest Act and even the Forest Conservation Act, 1980 should be brought in line with the realities of the present-day situation, while preserving their essentially laudable objectives. The political, economic and social developments of Scheduled Areas warrant changes in different spheres, including legislation.

#### MINOR FOREST PRODUCE (MFP)-RELATED

6. The Mid-Term Appraisal of Ninth Five Year (1997-2002) Plan document of the Planning Commission has referred to the deletion of three items namely, cane, bamboo and mahua seeds from the list of Minor Forest Produce (MFP) items on account of some legal problems. Since the livelihood of millions of tribals is connected with these items, it is essential that they be restored.

7. Large-sized Multi Purpose Societies (LAMPS) (a) purchase at reasonable prices from them of their surplus farm and forest produce (b) sale to them of some basic necessities like kerosene, sugar, salt at controlled or reasonable prices

(c) extension to them of production or consumption loan. Our information is that many of these societies have become dysfunctional. These societies operate not only at the ground level but are also of prime benefit to STs. The primary tribal cooperatives need to be paid attention to either reinvent them or reform them or even reincarnate them, in any event to put them on a healthy track. They are indispensable in any scheme of marketing tribal produce, and in that context it is imperative that they be (i) composed predominantly of ST members and (ii) linked organically to the new PESA panchayati structure.

8. The district-level credit and marketing societies should tie up with State-level tribal development cooperative corporations, tribal development corporations, forest development corporations and the latter with the national-level TRIFED etc. The practitioners have vehemently pointed out that linkages are not only illusory, but that many of the aforesaid organizations operate parallel as well as independently. But the one vital and basic objective that procurement should be directly from tribal producers and gatherers stands effectively defeated on account of the fact that the parasitic middlemen have not only been eliminated or eradicated, but have derived sustenance from some of these very organizations who have owned them for extraneous motivations, far removed from the solemn objectives enshrined in their charters.

9. In view of the above and in the light of our experience, the Scheduled Areas, at the primary level, the tribal cooperative societies having a clear and predominant majority of STs in the board of directors should function on multipurpose basis with simple procedures to extend the benefit of purchase, sale and credit to tribals. These societies may have links with district level societies and organizations. But State level and national-level organizations have proved their lack of concern for tribal interests. Direct procurement and marketing, in fact, free market operations might fetch better returns for the tribals at the two tiers. Their functions may be diverted to provide minimum price support whenever and wherever prices start falling below optimal levels in the given set of conditions. The prices should compensate the tribals for time spent in labour required for collection, processing and marketing, wastage, risk due to hazards, managerial and entrepreneurial inputs etc. The question of statutory minimum wage would need to be kept in view.

10. Apart from the task of operating as price support agencies, the State and national-level agencies could help the tribals in scientific management, training, processing, development of Hats and Bazars, organization of primary cooperatives, NGOs and self-help groups.

11. Commodity-wise inventory of MFP wealth should be prepared to enable working plans for their development in village forest, protected forests and reserve forests. Adequate resources may be set apart for MFP development and regeneration. The forest research bodies should pay adequate attention to R&D in MFP.

#### FOREST VILLAGES

12. We are still in the dark as to whether the forest villagers have been conferred certain normal rights of citizens like title to land they till, development benefits like inputs for agriculture, horticulture, education, health, drinking water, services etc. This needs to be looked into.

#### INTELLECTUAL PROPERTY RIGHTS

13. There is an urgent need to ensure appropriate legal and institutional arrangements for recognizing holding and preserving the rights of tribals to such resources and indigenous knowledge. There have been reports of undesirable discrimination even among social and economic classes of tribals in regard to access to even MFP. There have been further reports of bio-piracy of resources from tribal areas. Now that a Biological Diversity bill 2000 has been pending, there is need to ensure that tribal interest are adequately safeguarded. In any even as necessary the National Bio-Diversity Authority (NBDA), State Bio-Diversity Board Authority (SBDA) and Bio-Diversity Management Committees should all pay adequate attention to tribal interest and, for the purpose, they may have representation on them of tribal representative or experts.

#### FOREST DEVELOPMENT AGENCIES AND JOINT FOREST MANAGEMENT

14. There is an urgent need to ensure appropriate legal and institutional arrangements for recognizing, holding and preserving the rights of tribals to such resources and indigenous knowledge. Now that a Biological Diversity Bill 2000 has been pending, there is need to ensure that tribal interests are adequately safeguarded. National Bio-Diversity Authority (NBDA), State Bio-Diversity Board

(SBDA) and Bio-Diversity Management Committees should all pay adequate attention to tribal interest and, for the purpose, they may have representation on them of tribal representative or experts.

#### PLANNED DEVELOPMENT AND THE CONSTITUTIONALLY MANDATED EMPOWERMENT

15. Now that people's institutional infrastructure has been created starting from the grass-root level, i.e., the Gram Sabha through the Gram Panchayats, Intermediate Panchayats and district Panchayats to State and national legislatures, these institutional mechanisms should be fully utilized by the people to usher in an era of development of their own conception. The tribal people should be made fully aware of the facilities and options available to enable them to make their choices.

16. The office-bearers of the Panchayats should be trained in the art of planned development and governance. Similarly, all the functionaries working in the Scheduled and Tribal Areas should be trained for better appreciation of tribal life and culture, facilitating the progress of their transition to the changing environment.

17. PESA Act, 1996 calls for State legislations endowing `Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government` and containing `safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha`. Taking all in all, one may describe the total design as a powerful Magna Carta of democratic empowerment of the lower rungs of federal representative hierarchy.

18. In the first instance, the concerned States should enact legislation, or if already enacted and if necessary, amend the legislation to conform to the letter and spirit of the PESA Act, 1996. For the purpose, a Committee of the Central Cabinet may be constituted.

19. Elected ward members of a village Panchayat (or in the Scheduled Areas nominated or elected members of a Gram Sabha as decided) should constitute village Panchayats. Sarpanches of village Panchayats should be represented in the Panchayats Samiti at the intermediate tier. Chairpersons of Panchayat Samitis in a district should comprise the core of a Zilla Parishad. The representative relay ladder should be made for synergy and accountability, generating at each level impulses that should traverse through and up to the highest rung of the federal hierarchy.

20. Full-scale tie-ups between Panchayats at different levels and the corresponding executive machinery needs to be done. In fact, there is a multiplicity of deliberative as well as administrative and technical organizations at different levels within a district as well as within a State, creating confusion, dysfunctionality and inefficiency. This matter needs to be attended to.

21. In order to avoid the pitfalls in the financial arrangements in the Fifth and Sixth Schedule areas, both Central and State funds should devolve directly on District Panchayats and ADCs respectively, without being routed through the State Governments. These should include funds accruing from disinvestments of public sector undertakings. Further, foolproof mechanisms should be evolved so that the District Panchayats and the ADCs distribute the funds received by them equitably among the sub-district tiers. Panchayats in Scheduled Areas should be transferred subjects and funds as per the legislation.

22. Certain independent bodies should be created which should act as monitoring authorities at the State and national levels. These authorities should be independent of the executive and should be comprised of eminent ST and non-ST public men (whether legislators or not), experts, academics et al to ensure that development is really being made accessible to the people and there is accountability.

#### POVERTY ALLEVIATION

23. A full-fledged Ministry of Tribal Affairs has come into being in October, 1999. That being so, it is but logical that the nodal and pivotal role expected of Tribal Development Department in a State should be exercised at the Centre by the Ministry of Tribal Affairs. The Rules of Business of Government of India should be amended for the purpose.

24. There should be an immediate and a wholesale induction of the latest technological innovations into the tribal societies. Much will depend on their assimilative capacities and suitability for environment in which they live. Discriminate and relevant technological inductions into tribal areas and adoption by tribal communities should be attempted which will be visited by massively beneficial results.

25. A vital component of the poverty-alleviation strategy among tribals is prevention of erosion of their subsistence-based economy and restoration to them of their land, forest, river, sea, water, pasture and air life-support systems. Other components could, of course, be added: education, vocational education, health, nutrition, safe drinking water, housing, sanitation, hygiene. The primary priority should be assigned to prevention of exploitation. Second, the environment should be conserved. Other measures should supplement.

#### THE DISSONANCE, DISPLACEMENT AND DISTRESS

26. The proposal for establishment of any project which involves displacement of village communities and tribal communities disrupting age-old life-support systems and ethos, should not be taken lightly and, indeed, should be given the most earnest and careful consideration. Depending on the cost of the project, approval-according hierarchical authorities should be set up, including the panchayat bodies. They should weigh each proposal carefully particularly in terms of human costs involved.

27. While subscribing to the view that both underground and over ground immense wealth of these areas cannot lie untapped for a length of time, there is need for a strategy that enables both the tribal people and the tracts they occupy develop step-in-step. This can happen only if the strategy, however big or small in concept and intent, is worked out by the local self-governing bodies - Panchayats hierarchies that in concert with the planners. The terms and provisos should largely be set by the former. For instance, they may lay down the pace of industrialization which suits them; it may be made compatible with the pace of the vocationalization of the local youth to enable their participation. Another condition they might specify is that the local people be made partners in the ventures projected with explicit rate of accrual of annual returns. A third may relate to limitation on lease periods. These are some off-hand suggestions.

#### PROBLEM OF INDEBTEDNESS

28. The existing laws have failed to prevent the extortion of money-lenders. In fact, some states have not enacted laws on the subject, while the money-lending laws of some other Scheduled Areas states contain loopholes which need to be plugged. The legal frame is provided by Para 5(2)(c) of the Fifth Schedule of the Constitution and Section 4(m) (v) of the Provisions of the Panchayats (Extension to Scheduled Areas) Act 1996. Fool-proof laws should be enacted by concerned state governments in conformity with them.

29. No subsidy-cum-loan scheme should be operated in tribal areas. But, provision should be made for consumption credit on easy terms through primaries and LAMPS which should be revitalized through total democratization of their board of directors and other structural set up. The co-operative law should be reoriented in favour of giving the primary cooperatives more freedom to act responsibly.

#### PRIMITIVE TRIBAL GROUPS (PTGs)

30. The 75 Primitive Tribal Groups are diverse in character and live in totally different environments. Hence the first requirement is to understand them. Which means each of these groups - each being small, their total population being 15-16 lakhs - should be studied in detail by competent teams and be profiled. Their livelihood strategies and identification of soft entry points would need to be delineated.

31. With the passage of PESA Act 1996, efforts should be made to organize the Panchayats, youth organizations, women's groups, self-help groups or the members of these small tribal societies. Should these endogenous groups materialize, it may be the best way of them formulating their own programmes as well as executing them. It needs emphasis that the starting point should be a well-conceived project report or action plan.

32. By way of general approach, the Sub-Group recommends the following action-steps of - (a) provide safe drinking water sources within reasonable physical distance; (b) Conserve, preserve and promote their eco-systems; (c) Prevent their exploitation; and (d) Make health and education (the modes which suit them) as entry points, both cardinal and for gaining their confidence.

## THE NORTH EASTERN REGION

33. As ready-made programmes and schemes of planned development may not fill the bill in the north-east, some changes have come about, but many more have to be brought in. For instance, credit flow should conform to the local land-holding patterns. Further, the state and local administrations should play a more positive role in evolution of programmes and schemes that would answer the local felt needs. The other issues that need attention include :

(i) The Sixth Schedule calls for detailed scrutiny and some amendments in the light of experience of the past decades. The Home Ministry should pay attention.

(ii) The deserving cases of scheduling of some north-eastern groups should be delinked from the mass of other groups and processed expeditiously in the Ministry of Tribal Affairs.

(iii) In the light of the guidelines of the Supreme Court in regard to the implementation of the Forest Conservation Act 1980, further necessary action should be taken by the concerned Ministries.

(iv) Survey and settlement operations do not seem to have taken place in many areas of the region. The matter should be discussed with the state governments. A caveat to be entered here is that due sensitivity should be shown to the local land-holding systems, customs, traditions etc.

(v) Inter-ethnic clashes like Kuki-Naga, Bodo-tea garden labour have to be handled carefully and impartially by the local administration.

(vi) A common source of grievance is that while the majorities in legislatures, councils, panchayats unheard. There is a provision in the Sixth Schedule for nomination of not more than four persons by the Governor in a 3-member District Council; but the complaint is that it is utilized again for major groups. To achieve the object, on the recommendation of the Bhuria Committee, the PESA Act 1996 provides in Sec 4(h) for nomination not exceeding one-tenth of the total membership in the panchayat bodies for persons belonging to such Scheduled Tribes as have no representation.... This provision should be strictly followed.

(vii) The government of Manipur has asked for extension to some tribal districts in the state of the Sixth Schedule. This may be examined expeditiously.

(viii) In Assam, consideration may be given to the representative panchayat structure in the four Tribal Council Areas set up by the state government i.e. Bodo, Mishing, Tiwa and Rabha.

(ix) Influx from Bangladesh into the north-eastern states is a vexed problem. Some of the tribal groups in the north-eastern states have been suffering on account of continuing loss of land and demographic over-run. One way of meeting the acute unrest in these states could be restoration of lands to the scheduled tribes e.g. the Reang.

## EDUCATION

34. Even considering the present trends, the number of educational institutions set up in the tribal areas of the country lag far behind the number as per the yardstick prescribed by the Planning Commission. There is need to undertake a mapping and make up the deficiency.

35. Teachers absenteeism in tribal schools has been chronic and well known. The teachers are able to get away with it on account of any local supervision. Departmental supervision is distant and ineffective. The absenteeism has to be remedied. One way could be to invest management of the educational institutions in the local tribal communities so that they can take care.

36. There has been justifiable emphasis on vocationalization of tribal education in order to enable the tribal youth to take to employment and self-employment. This needs institutionalization on a good scale. We are aware that nearly four hundred community

polytechnics exist in the country. But most of them would lack orientation towards the needs of tribal students. The syllabi and orientation would require close attention, taking into consideration the tribal milieu and needs. They should be able to avail of opportunities arising in all sectors including the electronics sector.

37. Female education among tribals is of abysmally low percentage. The government of India has already identified pockets of low literacy where effort towards raising female literacy percentage should be taken up on a special footing. While this step is welcome, perhaps there are other measures which will help.

38. There is a section among scheduled tribe population which favours teaching of English language to tribal children in the context of the growing importance of that language in trade, commerce, industry, administration etc. particularly on the international level.

39. Stipends, scholarships etc. should be distributed timely.

## HEALTH

40. The common notion that the tribal system of health and medicine is merely a bundle of mumbo-jumbo may not be entirely well-founded. It is based on the two-fold plank of psycho-somatism and herbal knowledge. In any even, it needs to be scientifically investigated for a rational evaluation. Parts of the tribal health-care system may even have relevance for general application.

41. It cannot be denied that modern allopathic medicine has been making inroads into the tribal areas. The younger generation has been especially prone to it, partly perhaps due to the pressure of propaganda in its favour. As such, all necessary steps should be taken to establish health institutions in tribal areas in accordance with the relaxed norms of the Planning Commission, taking care to see that they are properly manned and medicine-stocked at all times. In fact, their access to tribal populations should be enhanced  
(i) through further relaxation of population norms considering the difficult topography of tribal areas  
(ii) on the basis of travel time rather than merely physical distance.

42. Considering the over-all situation, both the prophylactic and curative aspects in the field of tribal health are important. But the preventive, sanitational and hygienic approach should attract priority.

43. Special features of tribal anatomy and physiology, particularly in so far as they relate to specific disorders and genetic malfunctioning, call for special attention e.g. cell-membrane diseases, enzyme disorders, G-6-PD deficiency, red-blood cell disorders, afflict them variously. Similarly, special concerns of tribal females have their own peculiarities. They should engage the activities of the national institutions. It is possible that this monumental task may help unravel the mysteries of human genomic to the benefit of the entire society, while being particularly useful to the scheduled tribes.

44. The role of tribal medicine-men like Ojha, Gunia, Dissari should be appraised and their services be availed of since they enjoy the confidence of the tribal communities. They could even be trained in some of the elementary allopathic principles and practices. Similar observation holds good for local Dais and mid-wives.

45. An intensive health education programme should be launched in the tribal areas relating to all aspects like preventive, curative, environmental, sanitational and hygienic.

## THE NEED FOR A TRIBAL POLICY

46. The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 the power to enforce revision or restrict the same and consumption of any intoxicant is vested in the Panchayats in the Scheduled Areas, they have a vital role to play in the matter. In effect, they have become the custodians of tribal human-power, particularly the youth power.