

**GOVERNMENT OF INDIA
TRIBAL AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:831
ANSWERED ON:12.11.2010
JUSTICE TO TRIBALS
Lal Shri Kirodi

Will the Minister of TRIBAL AFFAIRS be pleased to state:

- (a) The concrete strategy evolved by the Government to provide justice to the tribals;
- (b) whether in 1996, special laws were enacted for tribals in panchayat area, if so, the reasons for not implementing it properly,
- (c) whether the Government intends to restore land taken away from the tribals and want to give legal status to the land under cultivation; and
- (d) if so, the details thereof and if not the reasons therefor ?

Answer

MINISTER OF STATE IN THE MINISTRY OF TRIBAL AFFAIRS (DR. TUSHAR A. CHAUDHARY)

(a) & (b) The Constitution of India provides several safeguards and provisions to provide justice and welfare to tribals. The enactments of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 are major steps by the Government to provide justice and welfare to the tribals. Article 243M of the Constitution, while exempting the Fifth Schedule areas from Part IX of the Constitution, provides that Parliament may by law extend its provisions to the Scheduled and Tribal Areas subject to such exceptions and modifications as may be specified in such law and no such law shall be deemed to be an amendment to the Constitution. The Parliament enacted the Panchayat Extension to Scheduled Areas Act (PESA) 1996. PESA extends Part IX of the Constitution with certain modifications and exceptions, to the Schedule V areas of 9 States viz. Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan.

The following steps for proper implementation of PESA have been taken:

1. PESA Model Rules: Draft Model Rules for PESA has been prepared by the Government and circulated to all PESA States for framing of rules for effective implementation of PESA.
2. Guidelines of PESA: Guidelines on implementation of PESA have been issued to all nine Fifth Schedule States.
3. Visits and meetings in PESA States: Field visits have been made to PESA States. Meetings were held with officials of State Departments concerned with PESA implementation viz. Panchayati Raj, Revenue, Excise, Environment and Forest and Mining, and suggestions were made to bring relevant amendments in provisions, where required, make rules and take steps towards implementation.
4. Review meeting: A meeting was held on 5th July, 2010 with all PESA States and Central Ministries concerned to further impress the need for implementation of PESA and look for solution for constraints/impediments faced.

(c)&(d) The State Governments have accepted the policy of prohibiting the transfer of land from tribals to non-tribals and restoration of alienated tribal lands to them. The States with large tribal population have enacted laws for this purpose. As per information received from the States/UTs up to July, 2010, 4.77 lakh cases of tribal land alienation have been registered covering 8.10 lakh acres of lands of which 3.78 lakh cases covering 7.86 lakh acres have been decided by the Court. 2.09 lakh cases have been decided in favour of tribals covering a total area of 4.06 lakh acres and under Section 4(m)

(iii) of the PESA the Gram Sabha and the Panchayats are endowed specifically with the power to prevent alienation of land in the Scheduled Areas.