

**GOVERNMENT OF INDIA
MINES
LOK SABHA**

UNSTARRED QUESTION NO:4528
ANSWERED ON:11.08.2014
MINING IN SCHEDULED AREAS
Patle Smt. Kamla Devi

Will the Minister of MINES be pleased to state:

- (a) whether the Supreme Court had passed a Judgment in Samatha Case declaring/leasing out tribal lands to private mining companies in scheduled areas as null and void;
- (b) if so, the details thereof;
- (c) whether the Government proposes to formulate a new mining law in this regard;
- (d) if so, the details thereof; and
- (e) the time by which it is likely to be passed?

Answer

THE MINISTER OF STATE FOR MINES, STEEL AND LABOUR & EMPLOYMENT (SHRI VISHNU DEO SAI)

(a) and (b): While interpreting the A.P. Scheduled Areas Land Transfer Regulation, 1959 (Regulation) in Samatha vs. State of A. P. and Others in 1997, the Supreme Court held that the words `transfer of immovable property.....by a person` in section 3(1) of the Regulation included the transfer by way of grant of mining lease by the State Government. Section 3(1) was interpreted as prohibiting any such transfer in favour of a non-scheduled tribe and it was further declared that such transfer shall be absolutely null and void.

Thereafter, the Supreme Court in 2001 in BALCO Employees Union (Regd.) Vs Union of India & Ors. has observed that:

"While we have strong reservations with regard to the correctness of the majority decision in Samatha`s case, which has not only interpreted the provisions of aforesaid Section 3(1) of the A.P. Scheduled Areas Land Transfer Regulation, 1959 but has also interpreted the provisions of the Fifth Schedule of the Constitution, the said decision is not applicable in the present case because the law applicable in Madhya Pradesh is not similar or identical to the aforesaid Regulation of Andhra Pradesh. Article 145 (3) of the Constitution provides that any substantial question of law as to the interpretation of the provisions of the Constitution can only be decided by a Bench of five judges. In Samatha`s case, it is a Bench of three Hon`ble judges who by majority of 2:1, interpreted the Fifth Schedule of the Constitution."

(c): No Madam

(d) & (e): Does not arise in view of reply to (c) above.