

**GOVERNMENT OF INDIA
PANCHAYATI RAJ
LOK SABHA**

STARRED QUESTION NO:592
ANSWERED ON:07.05.2015
MODEL RULES FOR PESA
Somaiya Dr. Kirit

Will the Minister of PANCHAYATI RAJ be pleased to state:

- (a) whether the Government has formulated draft model Rules and guidelines for Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) and circulated/issued to all the concerned States for framing rules;
- (b) if so, the details thereof including the key features of the Model Rules;
- (c) the names of the States which have framed their own PESA rules and made amendments in its Panchayati Raj Act to make it PESA. compliant;
- (d) whether any initiative/awareness programme has been launched by the Government to make the tribal people aware about their rights under PESA Act. 1996; and
- (e) if so, the details thereof?

Answer

MINISTER OF PANCHAYATI RAJ (SHRI BIRENDER SINGH)

(a) to (e) A Statement is laid on the Table of the House.

Statement referred In reply to parts (a) to (e) of the Lok Sabha Starred Question No. 592 for 07.05,2015 regarding Model Rules for PESA

(a) to (c) Yes, Madam. Draft Model Rules for implementation of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) and Guidelines on implementation of PESA were prepared by the Government and circulated to all the Fifth Schedule States viz. Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa and Rajasthan for framing of rules for effective implementation of PESA Act in 2009. Key features of the draft Model Rules framed by the Government are annexed. Five States viz. Andhra Pradesh (including Telangana), Chhattisgarh, Himachal Pradesh and Maharashtra have framed their PESA Rules so far.

(d) and (e) Strengthening of Gram Sabhas to function effectively as the basic forum of people's participation, transparency and accountability within the Panchayat system has been a major area of concern for the Ministry. The Ministry has taken various steps to make the tribals aware of their rights under PESA, particularly in terms of organizing themselves and asserting their rights. The flagship programme of the Ministry of Panchayati Raj, Rajiv Gandhi Panchayat Sashaktikaran Abhiyan (RGPSA), which was launched during the Twelfth Plan, addresses the major issue concerning awareness about rights of the people in Fifth Schedule areas. The programme has, however, been delinked from Central support from 2015-16. Some of the major activities initiated under the programme are as below:

(i) Funds were provided to the ten States during 2013-15 to strengthen Gram Sabhas in PESA areas under the component of Special Support for PESA. It also provided for deployment of one Mobiliser in each Gram Panchayat area to make the Gram Sabha aware of their role under the Act. There was a provision of one Coordinator at Block/Disirict level each to coordinate these activities.

(ii) Funds have been provided for orienting Gram Sabhas on PESA related issues.

(iii) For capacity building of Gram Sabhas in Fifth Schedule areas, training modules for capacity building of elected representatives and Panchayat functionaries have been prepared by the respective State Institutes of Rural Development (SIRDs). All the Fifth Schedule States have formulated training plans under the overall guidance of the National Institute of Rural Development and Panchayati Raj.

(iv) Resource books/Handbooks for elected representatives have been prepared by the Ministry to guide the Gram Panchayats, grassroots functionaries and Gram Sabhas and community mobilises for effective implementation of PESA.

ANNEXURE

Annexure referred to in reply to part (a) of the Lok Sabha Starred Question No.592 for 07.05.2015 regarding Model Rules for PESA

Key features of the Model PESA Rules framed by the Ministry of Panchayati Raj and shared with the Fifth Schedule States are as under:

A Village has been defined as a habitation or a group of habitations, or a hamlet or a group of hamlets, comprising a community and managing its affairs in accordance with its traditions and customs.

The Gram Panchayat shall be deemed to be the Executive Committee of the Gram Sabha. The Secretary of the Gram Panchayat will be deemed to be the Secretary of the Gram Sabha and the Gram Sabha will hold a meeting at least once in two months.

A person who is a member of a Scheduled Tribe will be selected as chairperson for the meeting of the Gram Sabha for one year by consensus. In the case of non-consensus, amongst the members present, the oldest lady from the Scheduled Tribes would be the chairperson.

The quorum of the meeting of the Gram Sabha will be one fifth of the total members. There shall be a separate quorum for women, which will be one third of the general quorum.

The Gram Sabha may constitute Standing Committees, viz. Peace Committee, Justice Committee, Resource Planning and Management Committee, Intoxication Control Committee, Debt Control Committee, Market Committee, Sabha Kosh Committee and others as deemed appropriate by the Gram Sabha in order to fulfil its responsibilities regarding various aspects of the working of the village, whose members shall be elected in an open meeting of the Gram Sabha among members of the Gram Sabha. Besides, temporary and ad-hoc committees may be constituted as per requirement. The tenure of all the Standing Committees will be of one or two years as decided by the Gram Sabha.

If under any Act on any subject such as forest, irrigation management, etc., a body or committee is constituted by any government department, the same will be treated as a Standing Committee of Gram Sabha on that subject. Notwithstanding the provisions in the concerned Act, that body or committee will be accountable to Gram Sabha.

The Gram Sabha will maintain a Gram Sabha Kosh which will consist of the contribution received in any form including voluntary contributions of cash and goods and the labour of villagers; amount received through the government from minor forest produce, minor minerals, etc.; and surcharges imposed on the consumption of the resources or fines levied by the Gram Sabha. The Gram Sabha will have the complete right of its usage as per its own decisions.

Process of dispute resolution by the Gram Sabha has also been listed out in the Model - Rules.

The Gram Sabha will ensure that resources are utilized in such a way that:

- (i) Livelihood means are sustained,
- (ii) Inequality among the people does not increase.
- (iii) Resources are not confined to a few people.

The Gram Sabha will ensure that no land belonging to Scheduled Tribes is transferred to non- ST persons. It shall be competent to enquire into any land transactions, or authorize the Peace Committee to do so. on the basis of complaints or suo- motto. If the Gram Sabha is of the opinion that attempts are being made to alienate lands belonging to STs, it may issue instructions to prohibit the transaction and its decision in such cases shall be final.

Gram Sabha shall be mandatorily involved in all decision relating to land-acquisition; peace & security and dispute resolution; management of natural resources; agriculture and land; mines and minerals; intoxication control; minor forest produce; management of markets; money lending; identification of beneficiaries; approval of plans; supervision and review of social sector schemes as well as local institutions such as schools, hospitals, etc.

Gram Sabha is competent to maintain separate registers for the details of the

- (i) births
- (ii) deaths (iii) marriages
- (iv) festivals
- (v) persons going outside the village to make livelihood.

It will be mandatory for the Gram Panchayat to obtain a certification of utilization of all funds, from the Gram Sabha for works undertaken in its areas, If a Gram Sabha is of the opinion that any State Legislation is not in consonance with fee customary law, social and religious practices and traditional management practices of the community resources, it may pass a resolution to that effect, and forward it to the State Government through, the District Collector. The State Government shall take necessary action on it.