

**Title:** Need to withhold assent to Bihar and Orissa Excise (Orissa Amendment) Bill, 2000 passed by Orissa Legislative Assembly-Laid.

SHRI K.P. SINGH DEO (DHENKANAL): The Orissa Legislative Assembly passed the Bihar and Orissa Excise (Orissa Amendment) Bill, 2000 on 2.8.2000. This Bill seeks to set up a Corporation for carrying on wholesale trade and distribution of foreign liquor and country liquor throughout the State including the Scheduled Areas.

Part IX of the Constitution of India deals with Panchayats. Article 243 (m) excludes the application of this Part to Scheduled Areas and Tribal Areas. However, Article 243 (m) (4) (b) empowers Parliament to extend the provisions of this Part to the Scheduled and Tribal Areas with exceptions and modifications specified in the law. In accordance with this provision the Parliament enacted "The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996. Section 4 of this Act prohibits the State Legislature from enacting a law which is inconsistent with certain powers vested in Panchayats in Scheduled Areas *inter alia* to regulate or restrict the sale and consumption of any intoxicant. The impugned Act passed by the Orissa Legislative Assembly extending its operation to the Scheduled Areas is a clear violation of this prohibition.

Under Article 254 of the Constitution if a State Law or any provision thereof is repugnant to a Central Law, the latter prevails. The Orissa Act is repugnant to the Central Law and therefore has no validity under the Constitution.

Article 256 of the Constitution enjoins upon the State authority to ensure compliance with the laws made by Parliament. The Orissa State Executive has not followed this mandate of the Constitution by bringing such a legislative proposal before the legislature. I would request the Union Government to advise the Governor of Orissa to withhold assent to the Bill.