

AN IMPLICATION OF THREE TIER PANCHAYATI RAJ VS PESA-1996 IN SCHEDULED AREAS OF SUNDARGARH (A SHORT VISION OF KATANG GRAM PANCHAYAT)

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1. Abstract:

The Indian constitution is an important source of social policies formation and its development with the objectives of social justice, social security, social peace and sharing of greater properties by the greater numbers. Decentralization of powers in three tier Panchayati Raj (73rd Amendment Act of 1992) and the enactment of Panchayat Extension in Scheduled Area Act.1996 has brought glorious change in our Indian society basically in rural setting. Besides the states wise we get different Gram Panchayat Acts which plays very significant role in bringing change the life of rural Indian populations. However the provisions of above three Acts are somewhat assembled, that requires to be implemented in its specific areas. The attitude of political parties should be specific and very particular in making effective implementation of the Acts in practical basis.

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2. Composition and location of Katang Gram Panchayat:

The census 2011 present the total population of Sundargarh district is 20,93,437 out of which the tribal population figure is 10,62,394 that makes 50.75 % of total population, there are seventeen community development blocks in the district. Kutra is one of them having 80,470 numbers of total populations as per the 2011 census. The Katang Gram Panchayat is situated in the east side of Kutra Panchayat samiti having total numbers of population is 8,200 among them 6,500 are voters. The Katang Gram Panchayat is having 18 wards with three revenue villages. The revenue villages are Lanjiberna, Katang and Litibeda. There are four to five types of tribal living in the Katang Gram Panchayat, they are Kisan, Oraon, Munda, Khadia, and Bhuiyan and one category of caste population (pano) living in the Gram Panchayat boundary. The Katang Gram Panchayat belongs to the scheduled area that needs the implementation of PESA- Act-1996.

3. Historical views on decision making and community development:

During pre-independence of our motherland the Dharmasastra was the final authority, even kings and riches did not intervene in the decision of Dharmasastra, which was a social control of our Indian society. In the social sectors the village panchayats had key role to decide and develop the communities. After independence, several legislations have been enacted related to social, labour, and in other sectors contributing for national development. However some of the pockets in the state are lagging behind its development. The important questions arises why it happens and what could be the next steps to bring solidarity among the Indian population and its development through Gram Panchayats.

4. Background of enactment of PESA- Act 1996 :

From the conflict of Andhra Pradesh high court judgment held that extension of Andhra Pradesh Panchayati Raj 1994 to scheduled areas is against the constitution. Hence, the leaders at the centre felt that the parliament should enact a law to extend the provision of central Act to scheduled areas using provision of Article 243 (M). To cover scheduled area of V schedule under the provision of Part IX, the government of India formed a top level committee under the chairmanship of Dilip Sing Bhuria, is well known as Bhuria committee. The Bhuria committee recommended a bill in the parliament and passed on 19 December 1996, which was subsequently officially approved by the president on 24 December 1996. Thus the Panchayats (Extension to the Scheduled Area) Act 1996 has extended the Part IX of the constitution to the scheduled areas

of fifth schedule. The same was made mandatory for the Andhra Pradesh, Himachal Pradesh, Maharashtra, Madhya Pradesh, Gujarat, Rajasthan, and Orissa to amend existing Panchayat Acts in consonance with the extension Act within a year by 1997. Orissa is the first state who amended on 27 May 1997. Before hand the 73rd Amendment Act 1992 had mad constitutional provisions for the three tier Panchayats all over the country, except Jammu and Kashmir, Nagaland, Meghalaya and Mizoram and certain other areas including scheduled and tribal areas

5. Extension of PESA Act-1996

In the year 1950 the Indian constitution is officially passed and brought Indian glory and changed of the national figure. We all should oblige and have humble respect towards the Indian constitution. The provisions given in constitution would be humbly respected. When all conform the constitution then solidarity among population would be expected indiscriminately. Therefore, there is no wrong to say proudly that the constitution is an instrument of social control. After forty-seven years passing of constitution an act provided extension of part IX of the constitution relating to Panchayats to the scheduled areas of V schedule. This Act has extended the powers of tribal self-rule to Panchayat also it is in line with the 73rd amendment Act which seeks to extend self-governance to local bodies. Currently the Act has been extended to 9 states those are Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Maharashtra, Madhya Pradesh, Orissa and Rajasthan. But only four states have framed rules for implementation of PESA, they are Andhra Pradesh, Himachal Pradesh, Maharashtra and Rajasthan according to reply to written question in Lok Sabha by the Honorable Minister of Tribal Affairs, Shri Jual Oram govt. of India.

6. Duties, Functions and powers of Three tier Panchayat Raj and PESA Act.1996:

The constitution's 73rd Amendment Act. 1992 came into force on 22.04.1993 with the objectives of empowering the three tier Panchayati raj such as district level (Zila Parishad), Intermediate level (Panchayat Samiti) and grass-root level (Gram Panchayat). The important gift of this act is one third reservation seat for women belonging to Scheduled Tribes and Scheduled Caste wherein women are given opportunity and justice to participate in Panchayats level development works. Article 243 G provides power, authority and responsibilities of Panchayats-subject to the provisions of the constitution, the legislature of a state may, by law, endow the Panchayats with such power and authority as may be necessary to enable them to function as institution of self-

government and such law may contain provisions for the decentralization of powers and responsibilities upon Panchayat at the appropriate levels with respect to (a) preparation of plans for economic development and social justice (b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the eleventh schedule.

The plans for economic development were done at Delhi before 73rd Amendment but at present in Palli level. This has given democratic autonomy to the grass-root level people to prepare their own plan for economic development. The same power and responsibilities in the grass-root level Panchayats are not enjoyed and practically done may be due to ignorance or less education of representatives, or by external pressures. It is already twenty five years of 73rd amendment but economic development of people in Gram Panchayats level including justice is lagging behind that makes population poverty and dependency on different government assistance such as one Rupee rice. It creates more dependency rather than to make them economic self-sufficiency. Construction of infrastructure work is means to economic development is given priority by the gram Panchayats. Besides other developmental works provided by the PESA Act-1992 is not associated in the Gram Panchayat level works. Numerically infrastructure development does not fulfill the concept of development unless the quality of life of people is changed with the proper balancing between have and have not. Another important gift of 73rd amendment is decision making process. The people's participation in decision making process is much essential than any other things to be activated in every Panchayat level.

7. Powers, duties and responsibilities of Gram Panchayat:

The section-44 of Orissa Gram Panchayat Act-1964 provides twenty two numbers of powers, duties and functions of Gram Panchayats. They are (a) construction, repair, maintenance, alteration and improvement of public streets, (b) lighting, watering and cleaning of public streets and other public places, (c) the removal of unauthorized obstructions, projection and encroachment in or upon public streets and other public places. (d) construction , maintenance and cleansing of drains and drainage works and all public latrines, urinals and similar convenience and the disposal of drain water and sewage, (e) construction of maintenance of works and means for supply of water for public and private purposes and regulation of sources of water supply for drinking purposes (f) scavenging, removal and disposal of filth rubbish and

other obnoxious polluted matters, (g) reclamation of unhealthy locality, the removal of noxious vegetation and generally the abatement of all nuisances, (h) measures for preventing and checking the spread of epidemic or infectious and other dangerous diseases, (i) regulation and abatement of offensive or dangerous trades or practices, (j) the registration of birth, death and marriage and maintenance of registers, (k) the protection, maintenance and development of Gram Panchayat, (L) establishment, management and maintenance of common grazing ground and lands for common benefit of the people of Grama, (m) maintenance of records relating to cattle census, population census and other statistic as may be prescribed, (n) registration of animals sold, (o) regulation and control of movement of cattle for protection of crops, (p) destruction of stray and ownerless dogs, (q) rendering all reasonable assistance to the Samiti in matter of establishment and maintenance of schools for primary education, (r) supervision and maintenance of village and field boundary marks and maintenance of village records when so required by the state government, (s) supervision and maintenance of soil conservation works, (t) regulation of melas (fairs) and festivals and establishment, maintenance and regulation of markets, hats and cart stand including stand for carriage or vehicles Act-1939 and registration of sales of animals in such markets, hats and fairs within the Grama, (u) preparation and execution of plans to advance agricultural conditions including improved methods of agriculture and control and eradication of pest and (v) fulfillment of any other obligation imposed by or under this Act or any other law for the time being in force.

8. Roles and involvement of political parties in Three tier Panchayat level:

The India is a Sovereign, Secular, Socialist, Republic and Democratic country wherein the political parties play a major role to govern country. The Indian polity is a discipline that includes a wide range of topics such as the development of the constitution, citizenship, fundamental rights, Directive principles, the executive, the President, the Prime Minister and council of Ministries, Judiciary, state Government, local Government, election system and many more. In a current scenario the role of political parties is an important factor to influence the public with view to public policies and opinion with their philosophies, ideals and objectives. The members of the same political party share its common goal, aim and objectives and compete with other parties. Therefore, in a democratic country political parties are indispensable and the democracy of country cannot function without existence of political parties. One has to be very cleared about the philosophical functions of political parties, before joining or involved in any

political party. It would be worthwhile to say the following are the major functions of the political parties. (i) assessment of problems of the country and develop strategies for its solution, (ii) political parties educate the public with regards to the problems and convince them, (iii) evaluate the policies and programmes of the country (iv) mobilizing people to participate in governmental decision making process etc.

The involvement of political parties in three tiers Panchayat Raj is permissible in upper level (Zila Parishad) Panchayati Raj to contest with respective political symbol. The sitting MLAs, MPs, and elected Zila Parishad members are the members of upper level Panchayati Raj. Other two levels such as Panchayat Samiti (Block level) and Gram Panchayat (grass-root) level are excluded from the political banner which is a sign of decentralization of power in three tiers Panchayati raj system wherein other populations are given opportunities to be involved in rural communities' development and decision making process. The study says that, the involvement of political parties giving background support in Panchayat Samiti and Gram Panchayat level is more active in influencing the people to win seat in the name of a particular political party. So it creates a gap in decision making process in grass-root level Panchayati raj. The money power and political power are all dominating factors in bottom level Panchayat raj in which likeminded people in development are deprived from enjoying Panchayati Raj system that may lead slow and steady development of rural village communities.

9. Present status of Katang Gram Panchayat:

Among these powers, duties and functions few things are done by the Gram Panchayats may be due to inefficiency ignorance of the representative. Most of the Gram Panchayat representatives are elected in the name of particular political party without evaluating their work efficiencies and intelligence. The person who is casting votes do not exercise his intelligence about the candidates efficiencies, this is what majority of Gram Panchayats not yet superlatively developed. The burning needs and issues in Gram Panchayat level populations is to get old age pension, widow pension, antodaya, to get housing under IAY and receiving of rice @ of 1.00 etc. the tribal belongs to such Gram Panchayat expect such facilities is enough and do not change the attitude of willingness to develop themselves economically.

The 73rd amendment Act of 1992 provided guide lines and a three-tier structure of local governance to protect tribal, economies, tradition and customary law etc. and the same is emphasized in PESA-1996 are all lagging behind in this present political system. The institution like Gram Sabha have devolved powers and be vested with authority on land , water and minor resources, develop projects and minor forest produces as per Panchayat Extension in Scheduled Area Act.1996 is not activated in the grass-root level Panchayats in scheduled areas. There is a reciprocal relationship between the 73rd amendment Act of 1992 and PESA- 1996. Both Acts provides equal importance of Gram Sabha and Palli-Sabha as a key to develop tribal rural communities. There are some conflicts particularly in implementing power, duties and responsibilities between Orissa Gram Panchayat Act.1964 and Panchayat Extension to Scheduled Areas Act.1996. With the observation it is found that the Panchayat Extension to Scheduled Areas Act is not framed in scheduled areas, specifically at Katang Panchayat of Kutra block in Sundargarh district. Henceforth the issues relating to land acquisition, dispute resolution, selling and consumption of alcohol etc. are common problems arising in throughout the district.

The important features, powers, and responsibilities of PESA-1996 are hereunder, those are needed to be implemented in the scheduled areas of grass-root level Gram Panchayats particularly in Katang Gram Panchayat and others those belongs to scheduled district.

1. Panchayat legislation should be in conformity with customary law, socio-religious practices, and traditional community resource management.
2. Gram Sabha will preserve the tradition, custom, their identity, community resources and dispute resolution.

The Gram Sabha is vested power on following important points of role and responsibilities they are hereunder:

- i. Approve the developmental work in the village
- ii. Identify the beneficiaries
- iii. Issue certificate for fund utilization
- iv. Powers for controlling institutions and functionaries in social sectors, local plan

Other hand the Gram Sabha is empowered to manage minor water bodies, engage in mandatory consultation for land acquisition, resettlement and rehabilitation as well as prospecting license/mining lease for minor minerals, prevent land alienation and restore alienated land,

regulation and restriction on sale and consumption of liquor, management of village marketing, control of money lending, ownership of forest produces etc.

As the Orissa Gram Panchayat Act-1964 is enacted long years back, and the PESA- Act 1996 came into force, till today there is not found any remarkable development in economic, social and other related to human development by the respective Gram Panchayats in scheduled district of Sundargarh. During election all candidates give their assurance and commitments however after election the commitments are forgotten. The representative who is elected in the name of a particular political banner is not given second time opportunity because he/she could not do any remarkable jobs during his/her tenure. The commitment is remain commitment on which the general populations are trusting blindly and casting vote in favor of candidate. It is fact and individual right to support any political party in a democratic country. There are some groups of population who cast votes in favor of the candidate who belongs to their tribes/caste group. It happens because of illiteracy and less education that are unable to appraise the candidature of candidate. This is an important drawback of the Katang Gram Panchayat and other Gram Panchayat of Kutra Block.

10. Future prospect of Gram Panchayat:

India is a developing country which needs to be developed in different sectors of social life. The three tier Panchayat raj has decentralized the power in the Panchayat level that could contribute for the rural, state and national development. Developing per capita income of individual family through economic development programmes by three tiers Panchayati Raj is urgently required. The 73rd Amendment Act. of 1992 has become an important source of rural communities' development, if the Gram Panchayat is governed by the people, of the people and for the people. Henceforth, numbers of economic development programmes have been launched by national government for the rural communities' development. These could be implemented without discrimination only when the grass-root level political scenario and attitude of people will be changed. The following suggestions will be fruitful when we go for Panchayat development.

1. To apply democratic attitude while selecting the candidate.
2. People should be sensitized in selecting candidate
3. Avoid large numbers of candidate in contesting for a particular seat
4. To take help of village Gram Sabha and Palli Sabha to select efficient candidate.

5. The candidate should be introspected with regards to his/her efficiency
6. The need base development work could be done
7. Avoid biasness while doing village communities development
8. All representatives should be well oriented about the Orissa Gram Panchayat Act of 1964, 73rd Amendment Act-1992 and PESA-1996 before they step in the Gram Panchayat work.
9. To sensitize population there is need to have movement on implementation of PESA-1996 and generate awareness on all legislation relating to Village Panchayats development.
10. The qualitative work will be given first priority rather to have quantitative work.
11. There should be good advocacy in disseminating information about the different developmental programmes launched for the Gram Panchayat development.

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