

Assessment of Implementation of Panchayats Extension to Scheduled Area (PESA) Act in Andhra Pradesh – A Case Study of Scheduled Village in Andhra Pradesh

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Abstract

The Panchayats Extension to Scheduled Area (PESA) Act 1996 was enacted to provide self autonomy to tribals in Vth Scheduled Areas of the country. The paper examines whether the well intentioned PESA Act has created any impact on self autonomy to tribal communities. The paper highlights the constitutional framework of Scheduled V Areas and the evolution of PESA Act 1996 and its background. An attempt is made to identify the gaps in compliance of other statutory State Laws with the PESA Act 1996. The paper assesses the status of implementation of PESA Act based on a field study in a Scheduled Village- Manturu of Devipatnam Mandal in East Godavari District, Andhra Pradesh. The paper examines the possibility of organising a Gram Sabha within the existing rules frame work. The paper is based on both primary and secondary sources of data. A thorough review on literature based on secondary sources and peoples perception was captured through Focussed Group Discussions.

Key words: Schedule V Areas, self autonomy, PESA Act

Introduction

The Scheduled Tribe population in the State of Andhra Pradesh is 26.31 lakhs as per 2011 census. They constitute 5.53% of the total population of the State. There are (19) Scheduled Tribes, out of which (6) tribal groups are categorized as Particularly Vulnerable Tribal Groups (PVTGs) like Kondh, Kondareddi, Savara, Gadaba, Chenchu and Porja etc. The Scheduled Areas in Andhra Pradesh is covered under the provisions of V Schedule of Constitution of India. In the State the scheduled areas extend over 14132.56 Sq. Kms in (5) districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, covering (4,444) villages. The total mandals covered by Panchayats Extension to Scheduled Area Act is 35 of total 660. The PESA Act is applicable to 588 Gram Panchayats of the total 12919.

Context

Under Article 40 of the Indian Constitution, the Indian state made a commitment to establish Panchayat Raj system as the basis of self-governance. The 73rd and 74th amendments to the Constitution were not extended to the Scheduled Areas, significantly the first time ever that the Parliament did not extend a law in a routine manner to cover the Scheduled Areas. They had the clear injunctions to exclude the Fifth and Sixth Schedule areas from its purview under Article 243 M of the Constitution. The Parliament was to make separate enactments. The exceptions and modifications in Part IX of the Constitution were made its application to the Scheduled Areas.

The Central Government enacted Panchayats Extension to Scheduled Area (PESA) Act 1996 following the recommendations of the Bhuria Committee Report in 1995. The Bhuria Committee favoured democratic decentralization in scheduled areas. All states with Scheduled Areas were to enact a suitable legislation within a year that are consistent and not in contradiction to PESA, the central Act. AP State brought PESA Act in the year 1998. Further the Government of Andhra Pradesh also brought PESA Rules 2011 giving an effect to the State PESA Act. The Government of Andhra Pradesh also notified the Gram Sabhas under the Rules in 2013.

Gram Sabha is the nucleus for all development activities in the Scheduled Areas under PESA Act. PESA declares that every Gram Sabha is competent to safeguard and preserve the traditions and customs of the people, their cultural identity. As per the PESA Act, Gram Sabhas or Panchayats at the appropriate level shall be consulted before making the acquisition of land in the scheduled areas for development projects and before settling or rehabilitating persons affected by such projects.

The state is acquiring land for projects in the scheduled areas. PESA stipulates that Gram Sabha is the approval authority for the socio-economic plans, programs and projects. It is also expected that the Rules will help the Gram Sabhas to function in effective manner. These rules provide an opportunity to the members of Gram Sabha and elected representatives to play different roles in various fields including various development programmes, decision making in respect of resource management, record keeping, motivation and communication etc. On the other hand there are reports which say that the role of Gram Sabha is undermined and sometimes marginalised by bureaucratic institutions. The reason for tardy implementation of PESA Act is also attributed to legal wrangles in the provisions of law. Thus the role of Gram Sabha is very important.

The tribal communities are traditionally self-governed. These communities have unique social, cultural, economic and political systems which they have sustained over centuries. They also have their own customary laws and mechanisms of local dispute resolution.

A literature survey on implementation of PESA Act

The legislature of a State shall not make any law inconsistent with the basic features of the Panchayats Extension to Scheduled Area (PESA) Act 1996. The “Village” shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets. Further every such village shall have a Gram Sabha. As tribal societies are mostly homogeneous and monolithic, a participatory democracy constitutionally provided through Gram Sabhas is very appropriate for them. Keeping this in view, the Bhuria Committee has recommended making Gram Sabhas the fulcrum of the entire scheme of decentralized governance, planning and development in tribal areas (Mahipal, 2006). Further, provisions of the landmark legislation “Panchayats Extension to the Scheduled Areas (PESA) Act 1996” also direct the State Government to create tribal autonomous councils empowering them for self-rule in the Scheduled Areas.

The Expert Committee (Ministry of Panchayat Raj, 2013) recommends that in view of the 12th plan assessment that “PESA has been very poorly implemented across the nine States, the Union Government took recourse to the Fifth Schedule to ensure the implementation of PESA in letter and spirit, as the Prime Minister has desired, by either invoking paragraph 3 of the Fifth Schedule or having the necessary directions issued under paragraph 5 by the Governor.

Even in the most peaceful of times the state has often failed to uphold the law in tribal areas. Schedules V and VI of the Constitution provide for a substantial degree of self-governance in the districts where *Adivasis* are in a majority. Yet, their clauses protecting tribal rights in land and

forests, curbing the activities of moneylenders, and mandating the formation of village and district councils have been honored only in the breach. These schedules provide for local councils to share in the royalties from minerals found on tribal land; what happens in practice is that the *Adivasis* do not get to see or spend a paisa from mining, who proceeds are shared between the contractors and the state-level (and usually non-tribal) politicians (Guha, 2007).

The Ministry of Panchayat Raj¹ (MoPR) directed all the PESA States to take steps for the effective implementation of PESA Act 1996. The directions including, adoption of model PESA Rules circulated by MoPR; amendment to the State PESAs in consonance with central PESA and also related laws, rules and executive instructions on Mines, Minor Forest Produce (MFP), Excise, Money Lending etc.,

The National Advisory Council also recommended the constitution of gram sabha, power to constitute committees at the hamlet level, mandating ‘prior informed consent’ as a pre requisite for land acquisition and licensing for minor minerals, reinforcing the need to align Central and State laws in conformity with PESA, enabling the state government to make rules². In fact Andhra Pradesh is the first PESA State which has brought the rules in 2011.

The key amendments proposed by MoPR to PESA 1996 were that “consultation” referred in PESA law should mean a mandatory consultation and “Panchayat at appropriate level” means lowest tier of PRI, procedure for notifying a village, protection from migrant tribals etc.

States are indulging in the exploitation of mineral resources, and are taking up several projects in the resource rich tribal areas. The decision of gram sabha shall have a bearing on the policy of States in relation to exploitation of mineral wealth and other resources in Schedule V Areas. Usually higher level Panchayat raj Institutions are headed by elected representatives. The elections to these higher Panchayat raj bodies are political and party based. If key powers are given to higher level bodies, that would be easy to ruling political parties to manage the decisions of PRIs with its political clout and influence over such bodies whereas, the gram sabha is a non-political entity under the constitutional frame work of PESA Act. If key powers are given to gram sabha it would be difficult for the Governments to manage the decisions of the gram sabha. Usually the external

¹Ministry of Panchayat Raj (GoI) Letter No. N-11012/1/2007-PESA (Pt), dated 26th, May 2010.

²Recommendations of National Advisory Council (NAC) on Panchayat (Extension to the Scheduled Areas) Act, 1996, Govt of India. Can be accessed at: <http://fra.org.in/document/NAC%20Recommendation%20on%20PESA,%201996.pdf>

influences would be minimal at the functioning of gram sabha. Thus the States are unwilling to assign powers to gram sabha in key subjects under PESA Act.

Non-compliance of Central PESA Act: Key concerns

This chapter examines the non-compliance of central PESA Act in respect of key powers and functions endowed with gram sabha or Gram Panchayat as the case may be in Schedule V Area of the country.

The non-conformity of the state laws of the PESA Act fell for consideration before Bombay High Court (Vikram Singh vs the State of Maharashtra, 2008) which held that Sections 12(2)(b) and 58(1-B)(b) of ZPPS Act are in conflict with first proviso to Section 4(g) of PESA. Similarly, Second proviso to each of the Sections 42(4)(a) and 67(5)(a) of ZPPS Act are in conflict with the second proviso to Section 4(g) of PESA. Proviso to Rule 4 (2) of 1996 Rules is also in conflict with first proviso to Section 4(g) of PESA. Hence, it is desirable for Law Departments of State and the Union to have a dialogue to remove the discrepancy. State Election Commission cannot deny responsibility of implementation of PESA in the field.

In the light of the Judgement it is pertinent to know the AP State provisions which are not inconformity with the Central PESA Act.

Role of Gram Sabha –A critical review:

There is a clear mandate under Section 4 of PESA that the legislature of a State shall not make any law inconsistent with the basic features of the central law. The basic feature of central law is that the village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets. Further every such village shall have a gram sabha. However the State PESA Act remains silent by not defining the 'village' and 'gram sabha'. In the absence of a definition for 'gram sabha' the 'gram sabha' under A P Panchayat Raj Act 1994 means the Gram Panchayat. As per section 4 of A.P. Panchayat Raj Act, "Gram Panchayat shall be deemed to have been constituted for a village". Under this, the 'village' consists of a large number of hamlets with too large a population for participatory democracy as envisaged under PESA. However, the Govt. of Andhra Pradesh has brought Rules in 2011 adopting the definition of gram sabha under PESA Act 1996, in practice the constitution of gram sabhas is not according to the definition. For example, a Gram Panchayat, 'Pullangi' in Maredumilli Mandal, of Andhra Pradesh, consisting of 11 habitations with around 1050 voters, was notified as a single gram sabha. The legislative empowerment of the gram sabha

in India is a political development of utmost importance, because it marks the clearest break from the most dominant political orthodoxy of the 20th century (Mander, 1999).

The National Institute of Rural Development & Panchayat Raj (NIRD & PR) study observed that “the various provisions of the central PESA empower the gram sabha, but such empowerment is found to be limited (Singh, 2005)”.

It may be mentioned here that gram sabhas have been held responsible at the Panchayat level for the determination of forest rights of tribals and other forest dwellers instead of at the hamlet or habitation level as contemplated under The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 for Scheduled Areas. This is a gross violation of the Forest Rights Act. The administrative ‘village’ under the AP Panchayat Raj Act at the Gram Panchayat level was adopted for the purpose of implementing the Forest Rights Act. This poses the problem of unwieldy gram sabha which cannot function as required, particularly in passing any resolution on the claims with two-thirds quorum as required under the Forest Rights Act (Reddy et al., 2010).

The definition of ‘village’ in PESA is in terms of its natural community-centric character. The PESA authorises gram sabha to restore all unlawfully alienated land to the rightful owners. However, in none of the States the original jurisdiction of gram sabha under PESA to exercise this important power has been conferred on them. In case of non-compliance of the orders of gram sabha, the role of revenue authorities to support and implement the orders of the gram sabha has not been clarified. Only when this is done the powers of gram sabha become operational. This would go a long way in mitigating land related discontent in tribal areas (Planning Commission, 2008).

As the successful operationalization of PESA hinges on adopting the operational definitions of Gram Sabha and Village, it is necessary that the identification of the ‘village’ and delineation of its geographical limits in conformity with PESA is done. This would enable it to function as envisaged under the law. The neglect of this effectively precludes the functioning of a ‘face to face’ community as imagined under PESA and eliminates the likelihood of the functioning of gram sabha, which could shoulder the responsibilities of a unit of self-governance (Ministry of Panchayat Raj, 2013).

PESA declares that every gram sabha is competent to safeguard and preserve the traditions and customs of the people, their cultural identity. But AP PESA contradicts this by saying that the functions of Gram Sabha shall be subject to other laws in force as under 242C(1) of the State Act

“without detriment to any law for the time being in force”. The PESA Rules are also silent in operationalization of this provision.

PESA insists recommendations by Gram Sabha or Panchayat prior to grant of prospective license or mining leases. The State law violates this provision and does away with these provisions entirely by addition of ‘*made in such manner as may be prescribed...shall be taken into consideration prior to*’ the grant of leases or licenses. In effect, the AP PESA requires that such recommendation to be only ‘*considered*’ and not mandatory for grant of concession for the exploitation of minor minerals by auction. But in practice the Mining Department grants leases, licenses and also conducting auctions for excavation and transport of minor minerals from the Scheduled Areas without any reference to the concerned Gram Sabhas and Gram Panchayats. A Public Interest Litigation was moved by Kunjam Radha, a Tribal Sarpanch of Chinaarkur Gram Panchayat, in Kunavaram Mandal of present East Godavari district in the High court of Andhra Pradesh challenging the actions of Government in conducting auctions of sand quarries in the Scheduled Areas bypassing the provisions of AP PESA, has been pending for consideration.

PESA requires that both the Gram Sabhas *and* the Gram Panchayats shall be “endowed” with such powers to function as self-government. But AP PESA provides an either or option between Gram Panchayat and Gram Sabha and that too ‘*as may be prescribed*’. There is no such option in PESA.

“The Polavaram project should in fact have been a test case for the constitutional law of self-governance in the scheduled areas. While nine mandals will be affected, all of them in the Scheduled Areas, and the mandal Praja Parishad (the middle tier of the panchayat system) are the “Panchayat at the appropriate level” that has to be consulted for land acquisition and rehabilitation, not a single one of the nine has been consulted. But the work on the project is proceeding apace, notwithstanding serious opposition from the Adivasis. (K. Bala Gopal (2007).

As per the PESA Act, gram sabhas or Panchayats at the appropriate level shall be consulted before making the acquisition of land in the scheduled areas for development projects and before settling or rehabilitating persons affected by such projects. The union of India issued orders to describe the modalities of consultation with the gram sabha or Panchayats and the procedure to be followed for acquisition of the land in the V scheduled areas. No such procedure is followed in the case of Polavaram Project in Andhra Pradesh (Palla Trinadha Rao 2006).

On the other hand PESA stipulates that Gram Sabhas or Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects.

But the AP PESA provides consultation is required only at the level of Mandal Praja Parishad. Even the word ‘consultation’ used in the State law does not mean that participation of all the incumbents by deliberations is necessary in the absence of any specific procedure laid down for the same, observed by the High court of Andhra Pradesh in Writ Appeal No 678 of 2009.

On the whole, the AP PESA has endowed the Mandal Parishad with more powers whereas PESA lays down a more vigorous and predominant role to the gram sabha. The emphasis on the grassroots unit of gram sabha as a competent forum for participatory democracy and community control of resources will definitely promote common good for the tribal society in general. Nevertheless, it all depends upon how the good intentions are translated into positive action. 4 (*S. K. Singh 1997*).

“The result has been that despite PESA being in force for last 15 years, tribal people continue to be deprived of their rights including their right to self-governance as recognised in PESA, and from their life sustaining natural resources in the Fifth Schedule Areas. Dislocation of the communities and their disaffection and distrust of the government has further increased.” (Ministry of Panchayat Raj, 2010).

While PESA stipulates benefiting the consultation process for the ‘persons affected’ by projects also for purpose of rehabilitation, the AP PESA provides only for the ‘person evicted’ leaving out other categories of affected persons such as the landless, those dependent on the natural resources for livelihood, workers etc. However the persons affected were covered under PESA Rules 2011.

Approval of Socio Economic Programs

PESA stipulates that gram sabha is the approval authority for the socio-economic plans, programs and projects. The State diabolically created parallel structures to the Panchayat Raj bodies to delimit the role of local bodies with an intention to safeguard its imperialist frame. The Government created parallel structures such as the Village Tribal Development Authorities (VTDA) to counter the Gram Sabhas under Panchayat Raj Act. Similarly many committees like Water Users Association, Educational Committees, Vana Samrakshana Samithis (VSS) under World Bank assisted Forestry Projects, Village Organisations (VO) under Ministry of Rural Development etc., are in operation which negates and violates the powers of Panchayat Raj Bodies in order to illegally perpetuate the bureaucratic control of the Government.

This has not only weakened the traditional cohesiveness of villages but has also fragmented the villages introducing conflicts and often violence. The political feuds for dominance between and within political parties and the non-governmental organizations operating in these villages play an active role in promoting these conflicts. The village order is in disarray and traditional consensus decision making amongst the tribals are being intentionally destroyed making peace and development a casualty.

Reservations

Reservations of seats in PESA are in proportion to the population of communities for whom reservation is sought. AP PESA while providing for reservation at gram Panchayats and mandal Parishads in the scheduled areas, the district level body has been left out. Similarly, the post of chairperson of Panchayats at all levels is to be reserved for the Scheduled Tribes, but in the State law seats have been reserved for the Sarpanches of the Gram Panchayats and the president of the Mandal Parishads only. The de-reserving of the posts of ward members of Gram Panchayat and Territorial Constituency members at both Mandal and District level for the Scheduled Tribes in the Scheduled Areas poses a serious threat to the envisaged objective Tribal self-rule. The enforcement of the general laws in the Scheduled Areas has virtually eclipsed the rights of Adivasis.

PESA envisages the nomination of such tribes which are unrepresented in the intermediate level or district level panchayat. But nominations of such persons have been provided only for the Mandal level in the State Act. There are no even corresponding rules in PESA.

Access/ownership/control over Minor Forest Produce

PESA endows power over ownership of minor forest produce to the gram sabha along with Panchayat appropriate level. Most of the states are not in conformity with the provision of Central PESA Act. There are currently extensive state legislations and administrative rules governing the non-timber forest products (NTFP) and their marketing involving state monopolies for many products and transit rules. For example the monopolisation of NTFP and marketing by the Girijan Co-operative Corporation (GCC) which is a sole agent under the A.P. Scheduled Areas Minor Forest Produce (Regulation of Trade) Regulation, 1979. This monopoly right continues despite the provisions of AP PESA in force, which empowers Gram Sabha to ownership and control of Minor Forest Produce as well as the subsequent Forest Rights Act 2006 which further reinforces this provision in detail. The PESA Rule 2011 empowers the GCC to continue the monopoly power of Girijan Cooperative Corporation under the A.P. Scheduled Areas Minor Forest Produce

(Regulation of Trade) Regulation, 1979 for procurement of Minor forest Produce on contrary to the PESA law.

Each State has its own minor forest trading laws and specific definition to the word “Minor Forest Produce” (MFP) which varies in each State. However the PESA Act 1996 provides an elaborate scope for the word ‘Minor Forest Produce’. Thus the State laws are limiting the scope of collection of Minor Forest Produce and sell it outside.

These administrative structures have been very obstructive to tribals in securing their rights and to the implementation of self-rule law. Thus, there is a need to harmonize the various legislations and government policies being implemented in tribal areas with the provisions of PESA. The laws that require harmonization are the Indian Forest Act, 1927, the Forest Conservation Act, 1980, Wild Life Protection Act, MFP Trading Regulations etc.,

State and Central Subject Laws relating to Mines and Minerals, Forests, Excise, Land Acquisition etc., are not PESA compliant. In spite of the efforts by MoPR, requisite action has not been taken. Formulation of some sections of the PESA have been interpreted against the spirit of the Act³

Control over institutions

PESA endows ‘Panchayats at the appropriate level and the Gram Sabha’ to exercise control over institutions and functionaries in all social sectors. But the AP PESA denies this to the Gram Sabha and restricts the power to Mandal Parishad and that too ‘in such manner and to such extent as may be prescribed’ which provides ample room for the bureaucracy and the government to manipulate and coerce.

PESA endows ‘Panchayats at the appropriate level and the Gram Sabha’ with this power to control over local plans and resources including Tribal Sub Plan. But AP PESA denies this to the gram sabha and hands over to the higher structure namely the Mandal Parishad which is specifically prohibited under PESA and that too ‘in such manner and to such extent as may be prescribed’. Once again this provides full scope to the bureaucracy and the government to exercise full and illegal control.

³Ministry of Panchayat raj, Govt. of India, D.O. No. N-J IOI2/3/2010-PESA

While PESA endows the Panchayats and Gram Sabha the power of control over money lending to the scheduled tribes, the Government departments continue their authorities in violation of PESA either under Scheduled Area Money Lending Regulations 1960 or the recent Andhra Pradesh Microfinance Institutions (regulation of money lending) Ordinance, 2010.

Finally, PESA stipulates that the 'state legislature shall endeavour' to follow VI Schedule pattern, the AP PESA does not attempt to do so. The AP PESA has simply been inserted into the State Panchayat Raj Act and in subordination to the general Panchayat raj structures with various prescriptions to ensure that it is the Mandal Parishad which is, in effect, endowed and that too restrictively/partially and subject to the whims and fancies of the government. The gram sabha is made nominal and invisible. Therefore it follows that all mention of Gram Panchayat and Mandal Parishad in its entirety in the AP PESA is inconsistent to and are in violation to the letter and spirit of PESA.

Neither the traditional tenure acts nor PESA/PRA gives the local communities appropriate and sufficient powers to offset these state interventions nor is fresh legal and political thinking needed if one is to advance beyond the past experience of the fifth schedule (Sundar, 2005).

Thus the provisions of State PESA are not in conformity with Central Act. The PESA Rules further weaken the spirit of the Central Legislation in some aspects. Therefore there is a need to bring adequate changes to the present State Legislations.

A case study-A scheduled village “Manturu”

The tribal area of the East Godavari District in Andhra Pradesh is the habitat for 2.36 lakh scheduled tribe population spread over in 15 mandals including 4 sub plan mandals which are out of the boundaries of Scheduled Areas in the East Godavari District. The Integrated Tribal Development Agency (ITDA) with its head quarter located at Rampachodavaram covering total 741 villages. Konda Reddis are categorised as Particularly Vulnerable Tribal Group (PVTG) whose population was 40 percent of the total Scheduled Tribe population as per 2011 census. The Scheduled Area of the study district spreads over in **11** mandals in Two Revenue Divisions (Rampachodavaram and Yetapaka) and ST Population is **220245 (66.68%)** of the total population **330281**.

The study was conducted in Rampachodavaram Division consists of 7 mandals spread over in 120 GPs. The Government notified 247 Gram Sabhas covering 588 habitations for the purpose of the implementation of PESA Act. The study mandal Devipatnam is having 14 GP covering 27 Gram Sabhas. Infact the GSs 27 were notified to cover the 78 habitations. The PESA Act says that the

Gram Sabha may be constituted at habitation or group of habitation level for effective local governance. Of the total 78 habitations 41 habitations are situated within the distance of 2 km to the notified GSs, 33 GSs within the range of 2 to 5 Km while 4 habitations are spread over in above 5km to 30 km. Thus the constitution of GSs are not according to the spirit of the PESA Act.

Profile of the Study Village Manturu

The total households are 8,711 in Devipatnam Mandal, covering 28,178 Population as per 2011 census (Male: 13,669; Female: 14,509; Children 2,998 (Boys: 1, 485; Girls: 1,513).Of the total Population ST Population is 16,394 and remaining covered under Other Population. Thus the non-tribals constitute 42 percent while ST is 58 percent. Manturu is one of the Schedule Villages in Devipatnam Mandal. Manturu Gram Panchayat comprises of Madipalli and Penikalapadu hamlets. The total house holds are 489 with 1290 population.

Sources of Livelihood

Agriculture is the major source of livelihood for tribals. All the ST households depend on podu cultivation as well as settled cultivation plots. There is a check dam in the village which was expected to provide irrigation facility to 100 acres of land. But the check dam has remained a nonfunctional structure due to damage to the structure. No steps were taken to get it repaired by ITDA. In 2001 the ITDA, Rampachodavaram took up a Lift Irrigation Scheme to facilitate irrigation for 200 acres of land. This scheme was washed away due to heavy Godavari floods. Therefore there is no single irrigation scheme to mitigate the problem of tribal farmers.

Employment and Migration

Mahatma Gandhi National Rural Employment Guarantee Act (MGNREA) ensures wage employment for the tribals without any restriction on the maximum number of days. However, tribals are hardly getting 100 days wage employment in a calendar year. The wage seekers are able to get Rs.100 an average wage per day. Due to lack of employment, tribals are compelled to go for migration crossing the boundaries of district and state. The phenomenon of migration started 5 years back. The migrants are mostly youth. At the time of survey it was reported that there are 50 youth in distress migration, of whom 10 are women while 40 are men. Some of the youth migrated to work in textile industries in Chennai and other places in Tamilnadu. While some youth went for fishing activity in Tungabhadra dam in Karnataka State, Mahbubnagar in Telangana State, Narmada Dam in Madhya Pradesh etc., They usually return to village during Sankranthi (Pongal-during January) festival and stay back for one or two months.

On an enquiry into the number of government job holders among the tribals in the village, an interesting fact had emerged. After the Independence till today very few people could secure

the government jobs. So far four tribal members could secure government jobs like teacher post, extra department postal worker, Auxiliary Nurse Midwife (ANM) and forest staff. The earliest posting for a tribal was reported as forest guard way back in the year 1968. There are about 50 youth in the village who have completed or discontinued their degree (15), Intermediate (15), Tenth Standard (10) and below tenth standards (10). Thus more number of youth is unemployed in the village.

Tribals used to borrow money for agriculture purposes on payment of Rs.3 interest per hundred rupees. The lenders lend money only for commercial crops to tribal farmers. Tribal farmers have to depend on private money lenders since most of the tribals do not have land deeds/pattas over their cultivated plots in the village. The following paragraph further presents what was the reason for this situation?

Land holdings and Issues

Non-tribals started entering the village during the post-independence era. Two or three non-tribals came to the village as forest contractors and grabbed the tribal lands in the year 1949. Subsequently some of the non-tribal families started coming to the village in the name of arrack business. There was a huge land struggle triggered in the year 1968-69 under the leadership of CPI ML party opposing the non-tribals' cultivations. The land struggle helped tribals to regain the lands lost to non-tribals. The left wing party distributed lands of 1 to 1 and half acres to 50 Kondareddi tribal households covering an extent of 165 acres. Now the number of original 50 tribal households swelled into 85. The lands are still under the possession and enjoyment of tribal families. However, the tribal families are not having any Ryotwari Settlement Patta or land deeds over the lands held by them to show their ownership. The ownership of the lands is still with the non-tribals. But tribals have been in continuous possession and enjoyment of land for last 46 years. The Land Acquisition Officers under Polavaram Project are paying land compensation for acquisition of lands in this village to non-tribals although the lands have been in physical possession of tribals. The actions of Land Acquisition Officers are depriving tribals to get either land to land or monetary compensation for the lands slipping from their hands. Only 4 tribal families have settlement pattas in this village. Tribals also have podu lands to an extent of 35 acres in the village. Cashew and few mango species are found in the podu fields. The average size of land holding among the tribals is 2 to 4 acres.

Tribal farmers are lifting the water from Godavari River using plastic tubes for cultivation of their crops. They are hardly getting water for 80 acres through this privately arranged lift

irrigation tool. They grow paddy, commercial crops like maize, chilies and pulses etc. The podu lands are completely rain-fed. The shift over to commercial crops had started 30 years back and it replaced the growing of food crops -small millets.

The village is surrounded by unreserved forests. The reserved forest also exists within the customary boundary of Manturu village. Tribals used to collect beedi (tendu), Nelavemu (Andrographispaniculata), Gum karaya, Adda leaves, bamboo etc., for their sustenance. For last few years the village has been neglected by the Government due to construction of Polavaram Project since the village is expected to be submerged.

Forest Lands

Due to lack of awareness tribals failed adequately to file claims seeking both individual and community forest land rights under the Forest Rights Recognition Act 2006. Some of the tribals filed claims but were rejected saying that the claimed land is out of the reserved forest.

As per the report by March 2015, about 15 individual claims were rejected covering an extent of 30.07 acres of forest land. However, the government granted 27 title deeds in favor of VSS over the land an extent of 758.29 acres instead of community/Gram Sabha. The Ministry of Tribal Affairs already considered granting pattas to VSS as illegal and directed the authorities to withdraw the titles granted to them. Thus the ensured Act has not provided any benefit to tribals in the village.

Livestock

Most of the households have livestock like fowls etc. But about 10-15 families have goats and cows. There are 300 goats, cows around more than 1, 000 and chicks around 2, 000. Besides, 15 to 20 tribal households have fishing nets to survive on fishing in river Godavari. Tribals used to face Godavari floods during July to October months. The village will be marooned during the floods. The flood affected tribals will move to hills and come back after normal situation of the furious Godavari inundation. Tribals usually stock the food grains in advance to this flood season. Government also supplies the additional subsidized rice, kerosene, dal etc., during floods. The village will be cut off from the rest of the world during flood season.

Health

Manturu is within the limits of Kondamodalu PHC which is at 15 km distance. One has to travel by boat on river Godavari to reach Kondamodalu. There is a health sub-center in the

study village which is being operated by medical staff without any pucca building. A building was sanctioned few years ago but not yet constructed. The villagers usually go to Devipatnam mandal head quarter at 9 km distance for medical treatment. Due to lack of adequate medical facility three infant deaths were reported during last year (2 female and one male). There are 50 widows in the village. This is as a result of deaths reported due to consumption of arrack by their counter spouses. They prefer to take herbal medicines and then later try with allopathic medicine for health disorders. They prefer to meet private Registered Medical Practitioners (RMP) and if problem is not resolved then they will go to government doctors. The cost of treatment at RMP is cheaper than at Government Hospital.

Education

There is a primary school up to the 4th standard. The total strength of students is 40. Boys are 25 while Girls 15. Two teachers were posted for teaching in the school. But at present only one teacher is working on deputation. Even he is not attending the school regularly. One can guess the status of education in the village.

Status of Implementation of PESA Act

With regard to the implementation of PESA Act a Gram Sabha was notified for Manturu GP. Vice President-Chedala Veerapureddy and Secretary- M. Prasad were elected for conducting the official business of Gram Sabha. But no single meeting was conducted by them due to lack of awareness and facilitation to run the business.

Customary Mode Dispute Resolutions

The PESA Act empowers Gram Sabha to resolve traditional disputes through customary mode of dispute resolution. However, in the village there is a local forum to resolve disputes traditionally in the village but not Gram Sabha. This is nothing to do with the Gram Sabha notified under PESA Act which is empowered to resolve the disputes through customary mode of dispute resolution. Both men and women participate in the dispute resolution process. Presently the Vice President of Gram Sabha who is an elder in the village is leading this forum. This forum usually resolves matrimonial, property, traditional festival and simple quarrels etc. Villagers prefer to go to this forum for resolution of problems instead of seeking the assistance from Government Institutions. The tribal leader Chadala Veerapu Reddy who is leading the forum says that due to infiltration of non tribals and their influence over the functioning of traditional forum is often facing difficulty to

end the problem. Polygamy still exists among the Kondareddi families. But the tribal man has to ensure the livelihood of his spouses.

Socio, Economic Entitlements

An approval from the Gram Sabha is required for identification of beneficiaries as well as selection of them for the implementation of poverty alleviation programs. Government departments should also seek an approval from the Gram Sabha for the implementation of socio, economic programs under the PESA. On contrary the field staffs of government institutions or groups formed by the departments are involved in deciding the identification of beneficiaries under the schemes. Except social security schemes, MNERGS, ICDS Schemes and supply of ration to the households, no other major government schemes are implemented in the village benefitting tribals or extending economic support. Due to lack of awareness among the tribals, they had reported the age particulars to the enrollment staff at the time of enumeration. Tribals are presently deprived to access the benefits of socio, economic entitlements in view of wrong entries in the revenue records in relation to the age.

Land Acquisition Matters

Before taking up of land acquisition the authorities concerned should consult the Mandal Praja Parishad as per the provisions of PESA State law, and Gram Sabha in the case of Central Law. However, the land acquisition authorities who are acquiring the land for the purpose of Polavaram Project in the village are not consulting either the Gram Sabha or Mandal Praja Parishad. Thus the land acquisition authorities are violating the provision of PESA Law.

The operation of Gram Sabha has virtually remained as non-functional in the village. There is no difference in the situation before or after the commencement of the PESA Act. The provisions in relation to the role of Gram Sabha in relation to the implementation of Forest Rights Recognition Act are not in operational.

Conclusion and Recommendations

The review of literature reveals that the State PESA laws are not in conformity with the Central PESA Act 1996. And even rules brought by Andhra Pradesh are against the letter and spirit of the provision of central legislation in relation to empowering Gram Sabha or Gram Panchayat as the case may be over minor forest produce. Thus, the State has to bring changes to its legislations to be in conformity with the central PESA Act 1996 as it is mandatory on the part of the States to bring legislations within the frame work of central PESA legislation. The State Government also should

take steps for the implementation of PESA Act and Rules in order to administer the provisions of PESA Act. The rules must also be in conformity with the provisions of Legislations. Either rules or laws should be interpreted with broad understanding of PESA Act 1996 which seeks to enable the *Adivasis* self-rule in the Schedule V areas.

The PESA Act has remained virtually a non- starter and the tribals do not have any awareness about the provisions of the Act. This is evident from the factual situation in the study village Manturu. No training was facilitated to the elected Vice President and Secretary of the PESA –Gram Sabha so far. There is no impact of the PESA Act on any activity of the Government. The State Government is continuing its activities without taking in to consideration of the PESA Act. Several committees or forums are in operation in parallel to the constitutionally created Gram Sabha and disempowering the *Adivasis*.

No steps are taken by the concerned departments to facilitate the functioning of Gram Sabha and play a constitutional role in the local governance. Some of the development as well as revenue/land acquisition authorities are bypassing the provisions of PESA Act and undermining the role of Gram Sabha and other Panchayat raj Institutions. For instance land acquisition under Polavaram Project and implementation of socio, economic programs and implementation of Forest Rights Recognition Act has been carried out without consulting the Gram Sabha and other local governance institutions. The Government departments are functioning as usual in designing the programs without consulting the concerned Gram Sabhas as envisaged under the law. This sharp contradiction is weakening the role of constitutional bodies and affecting the empowerment of *Adivasis*. The traditional forums that are led by few leaders are not yet replaced by the broad, democratic, vibrant unit of local governance i.e. Gram Sabha in the village in relation to dispute resolution process. The field study findings are also supported by the observations of the Mungerkar Committee (Planning Commission, 2009) which asserts that ‘the irony is that enactment of PESA Act in 1996 that aimed at erasing that contradiction through creating space for the community and its tradition in the legal frame and acknowledging its competence to manage its tradition has remained virtually a nonstarter’.

Recommendations

1. Adequate training is required for the Vice President and Secretary elected for the notified Gram Sabhas. Legal awareness among all the primary stakeholders must be provided for effective functioning of the Gram Sabha. The role of women must be ensured in the decision making process at Gram Sabha.

2. Notification issued for Gram Sabha should be revisited for re notification of Gram Sabhas as per the definition of 'Village' under PESA Act and letter and spirit of the law.
3. Amendments to be made to the existing AP PESA Act 1998 in conformity with the provisions of Central Law. Similarly Rules are also to be amended in consonance with the provisions of Central PESA Act.
4. The role of Gram Sabha should be ensured in the local governance as per the provisions of the PESA Act without any executive interference and existing functional bodies of the State departments should be made accountable to the Gram Sabha. All these bodies should function by providing an additional value to the decision making process of Gram Sabha and its role and without any action detrimental to the powers and functions assigned to the Gram Sabha. Executive decisions at mandal or ITDA level in relation to the subjects mentioned in the PESA provisions shall be in concurrence with the decision of Gram Sabha.
5. There must be a written circular from the Government that all the departments should scrupulously follow the provisions of PESA Act without any deviations. The budget for any program shall be released based on an express statement of the head of the institution that in compliance of the provisions of PESA Act was attended.

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