

Madhya Pradesh

National Conference on PESA Act.
session I : Legislative and Administrative
Framework Under PESA

(18 Nov. 2021)

Basic statistics

i.	Total No of Villages	:	54903
ii.	No of PESA Villages	:	12350
i.	Total no of GPs	:	22816
ii.	No of PESA GPs	:	05212
i.	Total No. of Blocks	:	313
ii.	No of PESA Blocks	:	89
i.	Total No. of Districts	:	52
ii.	No. of fully covered PESA Districts	:	06
iii.	No. of Partially covered PESA	:	14

Gram Sabha

Provision of PESA	Existing Provisions
4(b) a village shall ordinarily consist of 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 traditions and customs;	1. Section 129-A has been added to M.P. Panchayat raj and Gram Swaraj Act. 1993. 2. M.P. Gram Sabha of Schedule area (Formation of Gram Sabha, procedure and conduct of meeting) rules, 1998 are notified

Gram Sabha

Provision in PESA	Provision in State Act.
4(c) every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the panchayat at the village level;	Section 129-A has been added to M.P. Panchayat raj and Gram Swaraj Act. 1993.

Approval of plans, programmes, projects/ identification of beneficiaries

Provision in PESA	Provision in State Act.
<p>4(e) every Gram Sabha shall-</p> <ul style="list-style-type: none">i. approval of the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;ii. be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;	<p>Section 7- M.P. Panchayat raj and Gram Swaraj Act. 1993. empowers the Gram Sabha for Approval of plans, programmes, projects/ identification of beneficiaries.</p>

Certification of utilisation of funds

Provision in PESA	Provision in State Act.
4(f) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause(e);	Section 7(1)(b)(e) M.P. Panchayat raj and Gram Swaraj Act. 1993. empowers the Gram Sabha for Certification of utilisation of funds .

Reservation of seats

Provision in PESA	Provision in State Act.
<p>4(g) the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat for whom reservation is sought to be given under Part IX of the Constitution; Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats; Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes:</p>	<p>Section 129-E(1) added to M.P. Panchayat raj and Gram Swaraj Act. 1993. for reservation of Seats of Sarpanch and President.</p>

Nomination in Panchayats

Provision in PESA	Provision in State Act.
<p>4(h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level: Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;</p>	<p>Section 129-E (2) added to M.P. Panchayat raj and Gram Swaraj Act. 1993. for nomination at intermediate level and district level</p>

Acquisition of land

Provision in PESA	Provision in State Act.
4(i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;	Rule 16 of M.P. Bhumi arjan, punarvasan aur punarvyavsthan me uchit pratikar aur pardarshita ka adhikar niyam, 2015. (Provision of consent and public hearing - before acquisition of land)

Planning and management of minor water bodies

Provision in PESA	Provision in State Act.
4(j) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;	Section 7 (1) (tt) of M.P. Panchayat raj and Gram Swaraj Act. 1993.

Intoxicants

Provision in PESA	Provision in State Act.
4(m) (i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;	M.P. Excise (amendment) Act. 1997 of M.P. Excise Act. 1915

Alienation of land

Provision in PESA	Provision in State Act.
4(m) (iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;	Section 170(2-a) of M.P. Land revenue code 1959

Village markets

Provision in PESA	Provision in State Act.
4(m) (iv) the power to manage village markets by whatever name called;	Section 80 of M.P. Panchayat raj and Gram Swaraj Act. 1993

Money lending

Provision in PESA	Provision in State Act.
<p>4(m) (V) the power to exercise control over money lending to the Scheduled Tribes;</p>	<p>Section 2 and 11 (b) of M.P. Money lenders Act. 1934 :</p> <ul style="list-style-type: none"> -Permission shall not be given for money lending. -M.P. Anusuchit janjati sahumkar Viniyam (Sanshodhan) Viniyam, 2021 [M.P. Anusuchit janjati sahumkar Viniyam, 1972 : - Sec. 24A Any loan advanced or interest charged thereon money Lender without obtaining a license shall be infructuous and irrecoverable and no legal proceedings shall be admissible in respect of such loan and interest in any court of law

control over institutions, local plans and resources

Provision in PESA	Provision in State Act.
4(m) (vii) the power to control over local plans and resources for such plans including tribal sub-plans;	Section 129-C (vi) of M.P. Panchayat raj And Gram Swaraj Act. 1993 empowers gram sabha to control local plans, resources and expenditure for such plans including tribal sub-plans.

Dispute resolution

Provision in PESA	Proposed Provision
4(d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;	Proposed

Minor minerals – licence, lease, auction

Provision in PESA	Provision in State Act.
<p>4(k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;</p> <p>4(l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;</p>	Proposed

Minor forest produce

Provision in PESA	Provision in State Act.
4(m) (ii) the ownership of minor forest produce;	Proposed

control over institutions and functionaries

Provision in PESA	Provision in State Act.
4(m) (vi) the power to exercise control over institutions and functionaries in all social sectors;	Proposed

Provisions regarding PESA in Forest rights act. 2006

Section 2 (p) Village means-

- (i) A “**village**” referred to in clause (b) of section 4 of Provision of the Panchayats (Extension to the Scheduled Area) Act, 1996; or
- (ii) Any area referred to as a village in any State law relating to Panchayats other than the Scheduled Areas; or
- (iii) Forest villages, old habitation or settlements and un surveyed villages, whether notified as village or not; or
- (iv) In the case of states where there are no Panchayats, the traditional village, by whatever name called;

Section 13 Act not in derogation of any other law- Save as otherwise provided in this Act and the Provisions of the PESA Act. 1996, provisions of this act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Challenges

- Coordination with different departments.
- Awareness among tribes .
- Awareness among government functionaries and their training.
- Research and collection of data regarding traditions and customs of different tribes.

Thanks