



F.No. 1/9/2016- Coord.
Government of India
National Commission for Scheduled Tribes
6th Floor, 'B' Wing, Lok Nayak Bhawan,
Khan Market, New Delhi-110003
Date: 16th September, 2016

To,

1. Dr. Rameshwar Oraon, Chairperson,
2. Shri Ravi Thakur, Vice- Chairperson

Subject: Summary Record of discussions of 88th Meeting of the Commission held on 16.00 Hrs on 23.08.2016.

Sir,

I am directed to refer to the subject mentioned above and to say that 88th Meeting of the National Commission for Scheduled Tribes (NCST) was held on 23.08.2016 at 16:00 Hrs in the Conference Room of NCST, 6th Floor, Lok Nayak Bhawan, New Delhi. The meeting was presided over by Dr. Rameshwar Oraon, Chairperson, National Commission for Scheduled Tribes. A copy of the Summary Record of discussions of 88th meeting is enclosed for information and record.

Yours faithfully,

(K.D.Bhansor)Mrs.
Director

Copy of the Summary Record of discussions of the 88th meeting of NCST forwarded to the following officers with the request that information about action taken on the decision taken in the meeting concerning each Unit / Office may be furnished to Coordination Cell by 03.10.2016 positively.

1. Director
2. Under Secretary (Coordination & Estt.)
3. AD (RU-I & RU-II)
4. AD (RU-III & RU-IV)

Copy of the Summary Record of discussions of the 88th Meeting forwarded for information to:-

1. PS to Chairperson
2. PS to Vice-Chairperson
3. Sr. PPS to Secretary, NCST
4. Office of the Joint Secretary, NCST
5. Director/Assistant Director in Regional Offices of NCST at Bhopal/Bhubaneswar/ Jaipur/ Raipur/Ranchi and Shillong.
- ✓ 6. NIC, NCST, for uploading on the website.

(K.D.Bhansor)Mrs.
Director

NATIONAL COMMISSION FOR SCHEDULED TRIBES

(File No.1/9/2016-Coord)

SUMMARY RECORD OF DISCUSSIONS OF 88th MEETING OF NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST)

Date: 23-8-2016

Time: 16:00 Hours

Venue: Conference Room of NCST, 6th Floor, Lok Nayak Bhawan, New Delhi-110003.

In Chair: Dr. Rameshwar Oraon, Hon'ble Chairperson, NCST

List of participants :


1. Shri A.K.Agarwal, Secretary, NCST
2. Shri Ashok Pai, Joint Secretary, NCST
3. Smt. K.D.Bhansor, Director,
4. Shri D.S.Kumbhare, Under Secretary,

Details of agenda items discussed and resolved are follows:

Agenda Item -I	Letter No. 23/25/2016-Judl & PP dated 09.08.2016 received from MHA regarding Meeting to be chaired by the Additional Secretary (Le) to review the State Legislations received in MHA for Presidential Assent- received from State Governments and presently pending with Ministries/departments for comments.
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Pursuance of discussion held in the 87th meeting of NCST on 17-8-2016 on the Ministry of Home Affairs Meeting Notice No. 23/25/2016-Judl & PP dated 09.08.2016 regarding review the State Legislations received in MHA for Presidential Assent- received from State Governments and presently pending with Ministries/departments for comments. A copy of proposed ordinances (i) the Chotanagpur Tenancy Act, 1908 (Amendment) Ordinance, 2016 (CNTA) ;and (ii) the Santhal Pargana Tenancy (Supplementary Provisions) Act, 1949(Amendment) Ordinance, 2016 (SPTA) were received from Ministry of Tribal Affairs vide letter No 16016/2/2016-FRA dated 18-08-2016 for views /comments of the Commission.

2. The Commission after due examination of the proposed amendments has observed as follows:


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Constitutional issues.

Scheduled Areas of Jharkhand are governed by two special laws (which apply to two different geographical areas of the state) proposed for amendments. The primary focus of both the laws is land ownership, tenancy, transfer (includes sale, mortgage etc) and governance of Scheduled Areas. They are core to host of rules, regulations, notifications, guidelines relating to land and governance in these Scheduled Areas. Even though both the legislations date back to Colonial Government they have been granted Constitutional protection under Article 31 (B) (Validation of certain Acts and Regulation) by including them in IXth Schedule of the Constitution at Sl No. 209 & 210.

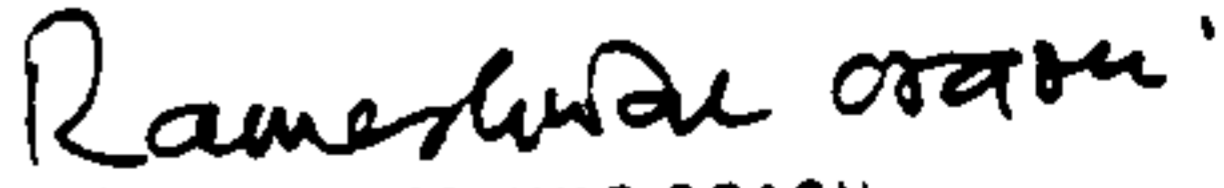
In addition, the Constitution of India has continued with special governance mechanism for Scheduled Areas as provided under Article 244 read with Fifth and Sixth Schedule of Constitution of India. For peace and good government of Scheduled Area under Fifth Schedule, Governor of the State has been vested with powers to make regulations. One of the major areas of power in Para 5 of the said Schedule is to "prohibit or restrict transfer of land by or among members of the Scheduled Tribes in such areas"

By proposed amendments, it would permit:-

- (a) non-agriculture uses of tribal lands by owners/ tenants, where at present agriculture and allied use of land permitted.
- (b) transfer of tribal land without mandatory prior written permission of the Deputy Commissioner (DC) for a variety of commercial purposes which are at present prohibited.

The commercialisation of land use and the lifting of constitutional and statutory restrictions on land transfer in Scheduled Areas run contrary to constitutional norms. The importance of protection of tribal land rights in Scheduled Areas has been emphasised by the Constitutional courts through various judgements. There are numerous such laws such as SPTA and CNTA, which prohibit / restrict alienation of tribal lands and require restoration of lands illegally transferred. These laws are consistence with Article 15(4) "Special provisions of advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes" Hence, they have stood judicial/ legal scrutiny.

In a leading case of Samatha vs State of Andhra Pradesh & others (1997) 8 SCC 191, the Supreme Court has highlighted that the object of Para 5 of the V Schedule to establish egalitarian social order ensuring socio-economic empowerment to the Scheduled Tribes. It has highlighted ensuring customary and traditional rights protection and strict enforcement of state regulations for protection of tribal lands from alienation. Further, it has held that executive power under Article


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298 and the legislative power under Article 245 to dispose of government property are subject to Para 5 of the said Schedule.

To prevent tribal land alienation in Scheduled Areas, constitution has provided high level of protection to both the laws and the Bihar Scheduled Areas Regulation, 1969 by including them IXth Schedule (Article 31B) of the Constitution of India at Sl. No. 209, 210 and 211 respectively.

In view of the above, the Governor while exercising under Article 213 seems to have not considered these important points for peace and good government in Scheduled Areas; particularly preventing alienation of tribal land. Even if considered papers sent do not speak of it or give rationale for the proposal.

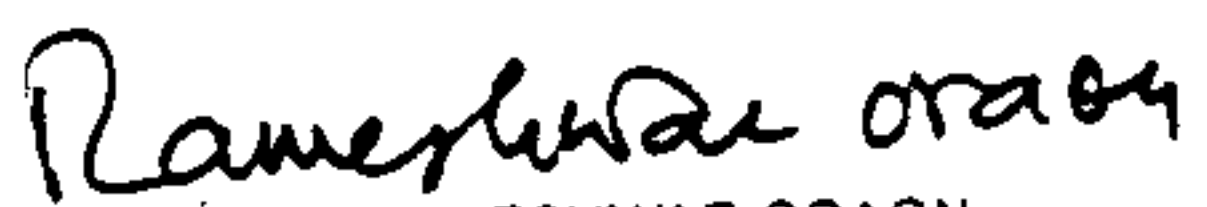
After 1969 Regulation, it is learnt that amendments to the SPTA and CNTA (for Scheduled Areas of Jharkhand) were carried out through amendments to the Bihar Scheduled Areas Regulation, 1969. (In 1972, 1974, 1983 and 1986 in CNTA and in 1972, 1986 and 1998 in SPTA (through amendments in Bihar Scheduled Areas Regulation, 1969). Proposed ordinances seek direct amendments to SPTA and CNTA, which deviates from the above norms.

Some specific comments with regard to the proposed amendments:

Proposed amendments to SPTA and CNTA seek to make substantial changes to render them ineffective in safeguarding tribal land uses Eg., Sec 13 of SPTA and Sec 21 of CNTA that prohibit non agriculture use of land by land owner/tenant, even all these very proscribe is sought to be lifted by proposed amendments Sec 13 (A) of SPTA and Sec 21 (B) of CNTA to allow non-agricultural use.

Similarly, Sections 46, 47, 48, and 240 of the CNTA, which impose restrictions on the transfer of tribal lands to non-tribals in a variety of situations without the prior written permission of the DC, remain unaltered under the proposed amendments. Transfer without such permission of the DC is restricted to two scenarios under section 49(1). It is important to reiterate that 'transfer' is widely understood to include sale, mortgage, lease, gift, contract or agreement. Also unchanged is Section 71B, which prescribes that land transfers in violation of these provisions is a criminal offence punishable with imprisonment which may extent to three years and / or fine.

Once the land use is changed from agriculture to non-agriculture the restrictions placed on transfer of tribal lands by sections 46,47and 48 of CNTA and section 20 of SPTA will cease to apply. Transfer of such non-agriculture lands will then be governed by the Transfer of Property Act and none of the beneficial


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restrictions of CNTA and SPTA will apply. Thus, the proposed amendments will open the floodgates for alienation of tribal lands.

However, the proposed amendments to Section 49(1) seeks to insert a new sub-clause (c) which permits transfer of tribal land without the written permission of the DC for a host of developmental activities “ or any public purposes/ project or activity which the State Government may add by way of notification in the official gazette”. Although there is a requirement for recommendation of the Tribes Advisory Council, such requirement appears to be optional.

A plain reading of the proposed amendment clearly demonstrates that the State executive would be vested with enormous powers to permit the alienation of tribal lands for any project or activity it may specify, thus rendering the substantive prohibitions under the body of the law otiose.


The proposed amendments fall squarely within the meaning of colourable exercise of power, thus rendering them extremely vulnerable to legal challenge in the constitutional courts.

Delegation of power

It is further observed that a substantive change in the meaning and content of the law must be made through an amendment in the statute itself (which is a legislative act) rather than through rules and notifications (which are executive acts). Even if, in certain situations, such power is delegated to the executive by the legislature, there should be clear and unambiguous guidelines on how this delegated power is to be exercised. It is well established that the failure to provide such guidelines renders such delegation of power arbitrary and excessive, and hence contrary to Article 14 of the Constitution of India (See, for instance, Agricultural Market Committee vs. Shalimar Chemical Works Ltd. (1997) 5 SCC 516; Kishan Prakash Sharma &Ors. Vs. Union of India &Ors. (2001) 5 SCC 212; K.T. Plantation Pvt. Ltd. Vs. State of Karnataka (2011) 9 SCC 1).

In view of the above, the proposed amendments would result in a paradigmatic substantive change in the extant law relating to prevention of alienation of tribal lands in the Scheduled Areas of Jharkhand. However, the proposed amendments give no guidance on what is the nature and extent of such change, delegating the power to define the boundaries of such change in the State executive.

To illustrate, the proposed Section 13(A) of the SPTA and the proposed Section 21(B) of the CNTA both enable the State executive to “regulate the non-agricultural use of the land in such geographical areas and for such uses as notified from time to time by the State Government” (emphasis added). There is no indication, however, how such uses and areas are to be determined.


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In addition, the proposed sub-clause (c) to Section 49(1) of the CNTA vests the State Government with sweeping powers to exempt "any public purposes/ project or activity which the State Government may add by way of notification in the official gazette on the basis of the recommendation of Tribes Advisory Council in the State of Jharkhand or for any other purposes which the State Government may by notification declare to be subsidiary thereto or for access to land used or required for any such purpose." (emphasis added). There are no guidelines on how the State executive shall determine which projects shall be thus notified except the requirement of the Tribes Advisory Council's recommendation. Even this requirement is unhappily worded and appears to be optional.

It is clear from the above that the substantive content of the change is completely delegated to the State executive through the framing of Rules for this purpose and/or notifications. There are no guidelines in the proposed amendments for the exercise of such delegated power; on the contrary it could be argued that such delegation is vague, excessive, and therefore contrary to Article 14 of the Constitution.

It is also inexplicable that the proposed amendments vest such sweeping rule-making powers in the state executive without proposing any amendment to the statutory provisions which vest the State Government with rule-making powers in the first place, being Section 71 of the SPTA, and Section 264 and 266 of the CNTA.

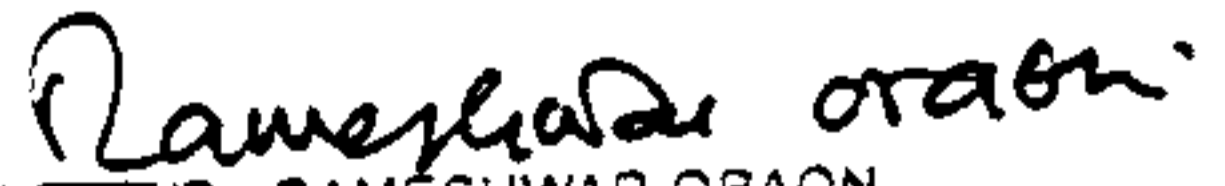
Conformity with Central Legislations

Another area of concern is the potential conflict between the proposed amendments to the SPTA and CNTA, where such field is already occupied by pre-existing Central Legislations which are also applicable to Scheduled Areas.

The Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) is an important legislation enacted in terms of the mandate of Article 243-M (4) of the Constitution of India, with respect to governance in Scheduled Areas "notwithstanding anything in this Constitution". Thus, PESA has overriding effect over the various provisions of the Constitution, including those relating to division of legislative powers between the Centre and the State.

PESA requires that the State Government shall make laws relating to panchayats which are "in consonance with the customary law, social and religious practices and traditional management practices of community resources" (Section 4 (a)) and shall further ensure that the Gram Sabha are "Competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution" (Section 4 (d)).

With regard to economic development, PESA requires that the Gram Sabha should approve of the plans, programmes and projects for social and economic


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development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level" (Section 4 (e) (i)). Section 4 (i) further requires "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".

Specific to the issue at hand is Section 4 (m) (iii) of PESA, which requires that "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 "should be vested in the Gram Sabha.

The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) has been enacted by Parliament in exercise of its legislative power under Entry 17-A and 17-B of List III of the Seventh Schedule, and it is further provided in the legislation itself that has overriding effect (Section 4 (1) and 13 of FRA). The role of the Gram Sabha in decision-making regarding its customary forest and resources under FRA has received the imprimatur of the Supreme Court of India in Orissa Mining Corporation vs. Ministry of Environment and Forests (2013) 6 SCC 476.


The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR Act), enacted by Parliament in exercise of its powers under Entry 42 of List III of the Seventh Schedule, also recognises the special status of tribal lands in Scheduled Areas. This is specifically states in Section 2 (2) of LARR Act as under:

"Provided also that no land shall be transferred by way of acquisition in the Scheduled Areas in contravention of any law (including any other or judgment of a court which has become final) relating to land transfer, -prevailing in such Scheduled Areas."

Section 41 of the LARR Act proscribes the acquisition of land in Scheduled Areas, and where such acquisition is absolutely necessary, their prior consent of the Gram Sabha is a pre condition Section 42 further requires the compensation resettlement of forest rights under the FRA, where such rights are to be acquired under the LARR Act.

It is stated that the proposed amendments to the SPTA and the CNTA are being made in exercise of prior under Entry 18, List II of the Seventh Schedule.

The proposed amendments make no reference to the aforesaid or any other Central legislations, nor conform to the requirements of these legislations. There is no provision for safeguarding the rights of the community as a whole over the lands which would become open to


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commercial non-agricultural use and transfer, whether through consultation with the Gram Sabha, the village headman, or any other mechanism. Nor is there any provision for the involvement of the Gram Sabha in the decision-making process when lands are transferred for development activities, or prior consent when such lands are acquired. Indeed, the existing controls, which are limited in nature, are also sought to be dismantled.

The proposed amendments, in so far as these are contrary to the Central legislations which already occupy the field, would be beyond the legislative competence of the State Legislature, and therefore of the Governor also.

Legislation through an Ordinance


An ordinance under Article 213 of the Constitution is subject to judicial review in the same manner as any legislation, namely, on the grounds of lack of legislative competence, colourable exercise of power, and violation of fundamental right (see, for instance, *Sat Pal and Co. Vs. Lt. Governor Delhi* (1979) 4 SCC 232; *T. Venklata Reddy vs. State of Andhra Pradesh* (1985) 3 SCC 198; *Gurudevadatta VKSS Maryadit vs. State of Maharashtra* (2001) 4 SCC 534).

Under Article 213 of the Constitution, the satisfaction of the Governor that "circumstances exist which render it necessary for to take immediate action" is not subject to judicial review. It is necessary, however, that the Governor should have satisfied himself that such circumstances exist, and the facts and materials in this regard are justiciable (see *A. K. Roy vs. Union of India* (1982) 1 SCC 271). The materials available in the present case do not demonstrate that such circumstances exist.

According to information available in the public domain, the proposed amendments were discussed by the Tribes Advisory Council in January, 2016, and thereafter were approved by the State Cabinet in May 2016. The Jharkhand Vidhan Sabha, which was in session till recently, will reconvene shortly for its next session. There does not appear to be any factual basis for promulgating these far-reaching amendments through Ordinances under Article 213 of the Constitution, when in a few short weeks the same will have to be placed before the Vidhan Sabha, and subjected to the scrutiny of the elected representatives.

For the reasons, it may be prudent not to adopt the procedure under Article 213 to bring amendments to the SPTA and the CNTA, choosing instead present the same in the form of Bills before the State Legislature instead.

Given the sensitive nature of protection of land rights of tribals in Fifth Scheduled Areas, and the complex architecture of constitutional and legislative provisions as well as judicial precedent on the subject, and for the reasons stated in above paragraphs the Commission has recommended that assent of the Hon'ble


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President of India may not be accorded to the proposed Ordinances till they are revised thoroughly in order to bring these in conformity with the letter and the spirit of the Constitution and the Laws made thereof.

3. The Commission decided that the above views alongwith Annexure-I on the subject, may be conveyed to Ministry of Home Affairs and Ministry of Tribal Affairs. Commission also decided to convey its views to Hon'ble Governor of Jharkhand.

Agenda Item - II	Draft Cabinet Note on the Prevention of cruelty to Animals (Amendment) Bill, 2016 of the Ministry of Environments, Forests and Climate Change (Animal Welfare Division).
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Ministry of Tribal Affairs, vide letter No 15025/1/2016 C&LM-II dated 11-8-2016 enclosed a copy of the letter No 1/3/2010-AWD dated 15-6-2016 of Ministry of Environments, Forests and Climate Change (Animal Welfare Division) seeking comments of NCST on Draft Cabinet Note on the Prevention of Cruelty to Animals (Amendment) Bill,2016

2. On discussion, Commission agreed to support the Bill and suggest to add/ insert following in the proposed Bill appropriately for safeguarding the interest of Scheduled Tribes:-

“ Provided that event so organised by scheduled tribes in a manner prescribed by the religion or practiced traditionally under the customs or as a part of culture shall be held with prior approval of the gram sabha / gram panchayat / headman of the community concerned and shall be duly monitored by them”

Agenda Item - III	Process by NITI Aayog for preparing 15 Year Vision Document, 7 Year strategic Plan, 3 Year Action Plan for the “Social Inclusion” chapter, which will include Scheduled Castes , Scheduled Tribes , OBCs, NT-SNTs and Minorities etc.
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Advisor, Social Justice and Empowerment, National Institute for Transforming India (NITI) Aayog, vide letter dated 17-08-2016 has sought inputs of NCST for preparation of Vision, Strategy and Action Plan Documents for the “Social Inclusion” chapter, which will include Scheduled Castes , Scheduled Tribes , OBCs, NT-SNTs and Minorities etc.

2. The Commission observed that as per Article 338A of the Constitution, the Union/ State Govt. are mandated to consult the Commission on all major policy matters affecting the Scheduled Tribes. Accordingly, Niti Ayog may consult the Commission once draft chapters on “Social Inclusion” has been prepared by them.

Rameshwar Oraon

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Additional Agenda Item

Additional Agenda Item - I	Draft tour report of Shri Anil Kumar Agarwal, IAS, Secretary, National Commission for Scheduled Tribes, New Delhi in respect of his tour to Karnataka from 16 th to 20 th July, 2016 and to Andaman & Nicobar Island from 26 th May to 3 rd June, 2016.
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The Commission considered and approved both the tour reports of the Secretary, NCST as mentioned in the heading under this Additional Agenda Item. The copies of the approved tour reports are at Annexure-II and Annexure-III.

The Commission also decided that, henceforth, the tour reports of the Secretary, NCST are to be submitted to the Chairperson, NCST for favour of consideration and approval.

Additional Agenda Item-II	Appointment of Joint Secretary, NCST as Chairman of the Committee to examine and recommend further course of action regarding granting Scheduled Tribes status to eleven communities namely, Bhujel, Gurung, Manger, Newar, Jogi, Khas, Rai, Sunwar, Thami, Yakha (Dewan) and Dhimal living in Sikkim and other Gorkha inhabited States and areas" constituted by the Ministry of Tribal Affairs, vide letter No. 12016/6/2001-C&LM- I(Pt) dated 17.06.2016.
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Ministry of Tribal Affairs, vide letter no 12016/6/2001 C&LM-I (Pt) dated 17-6-2016 has re-appointed Shri Ashok Pai, Joint Secretary, NCST as Chairman of "Committee to examine and recommend further course of action regarding granting Scheduled Tribes status to eleven communities namely, Bhujel, Gurung, Manger, Newar, Jogi, Khas, Rai, Sunwar, Thami, Yakha (Dewan) and Dhimal living in Sikkim and other Gorkha inhabited States and areas" constituted by the Ministry of Tribal Affairs on his transfer from Ministry of Tribal Affairs to NCST

Commission desired that Ministry of Tribal Affairs may be conveyed that NCST is set up under Article 338A of the Constitution and under its mandate, the Commission is to advice on the policy issues of, inter-alia, exclusion/ inclusion of communities to the Scheduled Tribes lists. Ministry of Tribal Affairs may appoint another officer (not from the Commission) as Chairman of the Committee in place of Shri Ashok Pai, Joint Secretary, NCST.


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Chairperson
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Template for Examination by the Line Ministries

While examining the Ordinance, the Ministry/Department concerned will examine the Ordinance in respect of the following: *(Comments' of the Ministry/Department should be objective and not subjective. There is no space for personal views having no legal or statutory backing).*

1. Whether the proposed legislation is Constitutionally valid: Yes/No

(i) Whether the subject matter of the Ordinance is ex-facie beyond the legislative competence of the State Legislature or not: Yes/No

No

(ii) If yes, how? (Pl explain with statutory provisions)

(iii) Whether its provisions derogate from the scheme and framework of the Constitution so as to endanger the sovereignty, unity and integrity of the Nation or not: Yes/No

No

(iv) If yes, how? (Pl explain with details of the provision(s) with counter arguments and with supporting documents)

(v) Whether the provisions of the Ordinance clearly violate. The Fundamental Rights or transgress into other Constitutional limitations and any other provision relating to its basic structure: Yes/No

No

- (vi) If yes, how? (Pl explain with details of the provision(s) with counter argument(s) and with supporting document(s))

However, safeguards provided under Article 244 read with Vth Schedule, for peace and good government, the Governor to make regulations to prohibit or restrict transfer of land by or among Scheduled Tribes. By proposed amendments of this Act safeguards are made redundant.

A letter is enclosed.

2. Whether there is any conflict with an existing Central Law? Yes/No

- (i) If yes, whether the conflict may be consciously permitted: Yes/No

Yes

(Remarks if any)

The proposed amendments are not in conformity with the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA), the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR). Specifically section 4(i) of PESA, 1996 requires consultation with Gram Sabha/Panchayat at the appropriate level for acquiring land in Scheduled Area and Section 4(M) (iii) also Gram Sabha/Panchayat to prevent alienation of land in Scheduled Areas etc.

Section 4(i) and 13 of FRA, the role of Gram Sabha duties mainly regarding customary forests and resources under FRA. Ref: Orissa Mining Corporation V/s. MoEF (2013) 6 SCC 426.

Section 2(2) of LARR, 2013 "provided also that no land shall be transferred by way of acquisition, in the Scheduled Areas in contravention of any law (including any order or judgment of a court which has become final) relating to land transfer, prevailing in such Scheduled Areas.

**Section 41 (1) "As far as possible, no acquisition of land shall be made in the Scheduled Areas.
(2) Where such acquisition does take place it shall be done only as a demonstrable last resort.**

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(3) In case of acquisition or alienation of any land in the Scheduled Areas, the prior consent of the concerned Gram Sabha or the Panchayats or the autonomous District Councils, at the appropriate level in Scheduled Areas under the Fifth Schedule to the Constitution, as the case may be, shall be obtained.

Which provision/provisions of the Ordinance is/are in conflict with an existing Central Law, and to what extent?

- **Proposed Sec 13(A) SPTA is contravention of para 5 of Fifth Schedule of the Constitution.**
- **No role for Gram Sabha/Panchayat, but all powers proposed to be vested with the State executive**
- **Sec 21(B) of CNTA - no role of Gram Sabha/Panchayat but to State executive.**
- **Amendment Sec 49 (I) of CNTA takes very restriction of Sec 46,47,48 & 241 of CNTA on transfer of land with prior written permission of the Deputy Commissioner.**

(ii) Whether such Central Law has been enacted or is under consideration for enactment?

(iii) Reasons due to which this conflict cannot be permitted consciously.

Art 15(4) of the Constitution read with Art 244 along with Fifth Schedule of Constitution of India.

(3) Whether the proposed State enactment involves any deviation from an existing National or Central Policy to its detriment, or would be a hindrance to enactment of uniform laws for the country: Yes/No

Yes

(i) If yes, Which provision(s) of the Ordinance involve(s) any deviation from any existing National or Central Policy, and to what extent?

Consultation/consent of the Tribal communities for land use are not provided in the proposed amendments. Further safeguards in the Constitution and status has provided to the tribes in the form of restriction land use and transfer are proposed to be done away with.

(ii) Whether this National or Central Policy has been notified or is still under consideration: Yes/No

No

(iii) Reasons due to which this deviation cannot be permitted consciously.

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