



Panchayat Extension in Schedule Area (PESA) in Jharkhand



Santhal paintings

New Delhi- 18/11/2021

DEPARTMENT OF PANCHAYAT RAJ & DEPARTMENT OF WELFARE
GOVERNMENT OF JHARKHAND

Context of Jharkhand (1/4)



- Jharkhand was carved out as the 28th state of India from the erstwhile part of Bihar in 2000.
- The **Scheduled Tribe (ST)** population of Jharkhand State is as per 2011 census **constituting 26.2 per cent** of the State.
- Among all States and UTs, **Jharkhand holds 6th and 10th ranks** terms of the ST population and the percentage share of the ST population to the total population of the State respectively.
- Highest population of Adivasi people from **32 different tribes**, including the eight Particularly Vulnerable Tribal Groups (PVTG). Major tribes, **Santhal** (34 per cent), **Oraon** (19.6 per cent), **Munda** (14.8 per cent) and **Ho** (10.5 per cent) are among the major tribes in terms of numbers.

Context of Jharkhand (2/4)

Jharkhand is home to following ST & PVTGs groups

Sl.No.	Tribes
1	Asur (PVTG)
2	Baiga
3	Banjara
4	bathudi
5	Bedia
6	Binjhia
7	Birhor(PVTG)
8	Birjia (PVTG)
9	Chero
10	Chick Baraik
11	Gond
12	Gorait
13	Ho
14	Karmali
15	Kharia, dhelki kharia, hil kharia, Dudh kharia
16	kanwar

Sl.No.	Tribes
17	Kharwar
18	Khond
19	Kisan, nagesiya
20	Kora, mudi kora
21	Korwa (PVTG)
22	Lohra
23	Mahli
24	Mal Paharia (PVTG)
25	Munda
26	Oraon
27	Paharia (PVTG)
28	Santhal
29	Sauria Paharia (PVTG)
30	Savar (PVTG)
31	Bhumij
32	Kol



Santhal tribes



Munda Tribe



Oraon Tribe

Context of Jharkhand (4/4)

Population Description

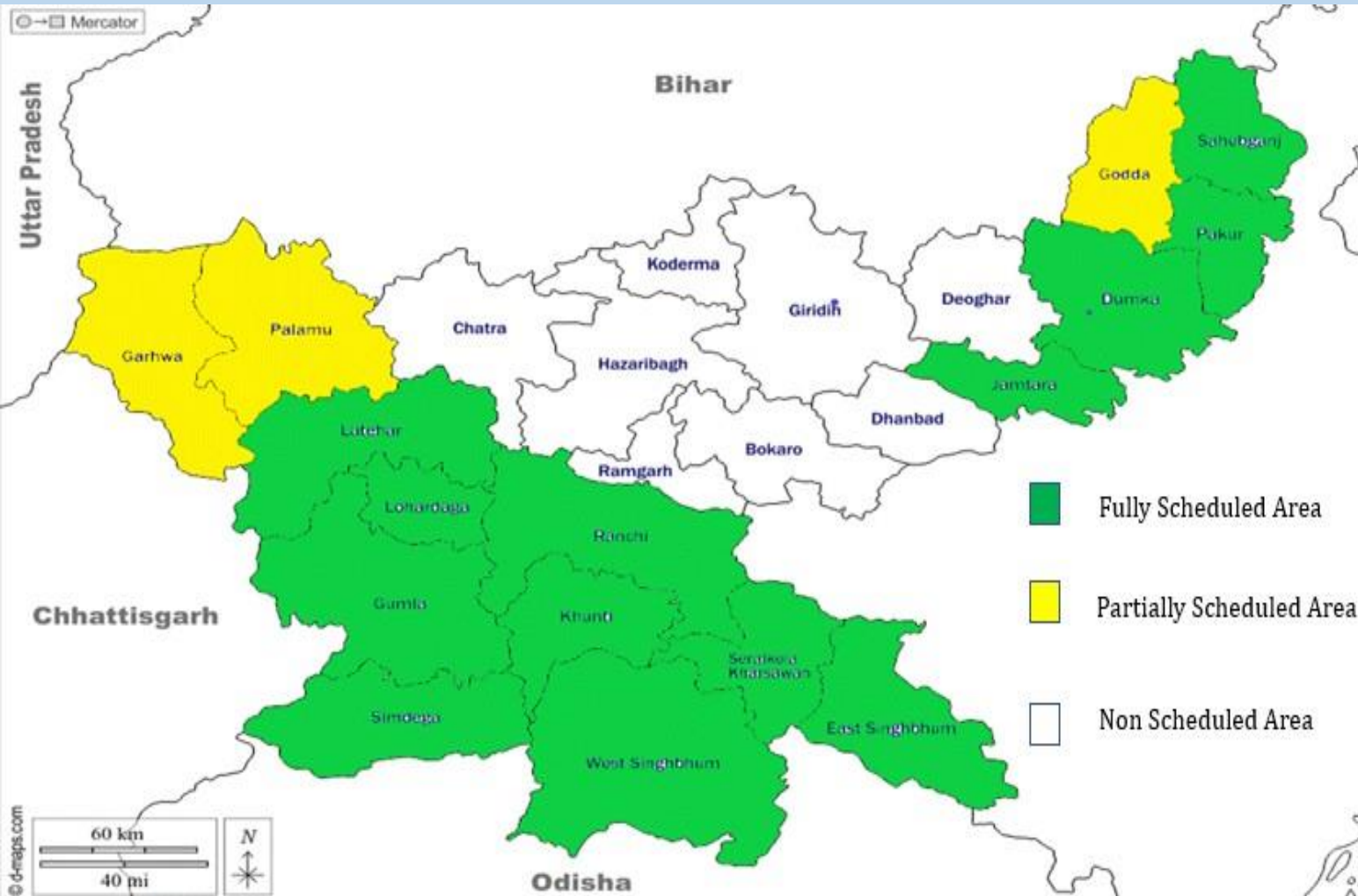


Pointers	Jharkhand (Census 2011)	India(Census 2011)
Total ST Population	86.45 lakh	10.45 cr.
Total PVTG Population	292359	10709967
ST Sex Ratio	1003	989
ST literacy rate	57.13 %	58.96 %
Gender gap in ST literacy rate	21.97	19.18

- **13 districts** and 4 blocks of **2 districts** is notified as Scheduled area with a population of 155.15 lakh having a population ratio of **44.25%**.

- There are **12164 villages** having a ST population with more than 50%

Context of Jharkhand (3/4)



State profile		
1.	District	24
2.	Total Block	263
3.	Total Gram Panchayat	4351

Schedule (V) Area		
1.	District	16
2.	Block	135
3.	Gram Panchayat	2066
4.	Gram Sabha	16028

Scheduled Area in Jharkhand: Fully & Partial

Sl. No.	District	# Blocks	# Panchayat	# Gram Sabhas
1	Ranchi	18	305	1301
2	Khunti	06	86	757
3	Gumla	12	159	944
4	Lohardaga	07	66	352
5	Simdega	10	94	453
6	West Singhbhum	18	217	1639
7	East Singhbhum	11	231	1595
8	Saraikela Kharsawan	09	132	1146
9	Dumka	10	206	3062
10	Jamtara	06	118	1074
11	Pakur	06	128	1032
12	Latehar	09	115	745
13	Sahebganj	09	162	1329
14	Garhwa (Partial)	02	10	72
15	Godda (Partial)	02	35	515
16	Palamu (Partial)	00	2	12
Total		135	2066	16028

Total Reservation for ST in the State of Jharkhand

Sl. No.	Post	Total	Reserved for ST	Percentage (%)
1	ZP Members	536	178	33
2	PS Members	5341	1773	33
3	Mukhiya	4351	2272	52
4	GP Members	53479	17060	32
Total :-		63707	21283	33

Reservation status in Schedule Area (Fully covered)-Gram Panchayat

Sl. No.	District Name	No. of Panchayats	Total No. of GP Members	Post Reserved for ST	Percentage
1	Latehar	115	1396	810	58
2	Sahebganj	162	2023	1152	57
3	Pakur	128	1704	1037	61
4	Dumka	206	2518	1462	58
5	Jamtara	118	1449	772	53
6	Lohardaga	66	803	500	62
7	Gumla	159	1947	1340	69
8	Khunti	86	990	694	70
9	Ranchi	305	3601	2092	58
10	Simdega	94	1110	770	69
11	West Singhbhum	217	2791	1940	70
12	Saraikela Kharsawan	132	1656	942	57
13	East Singhbhum	231	2748	1590	58
Total :-		2019	24736	15101	61

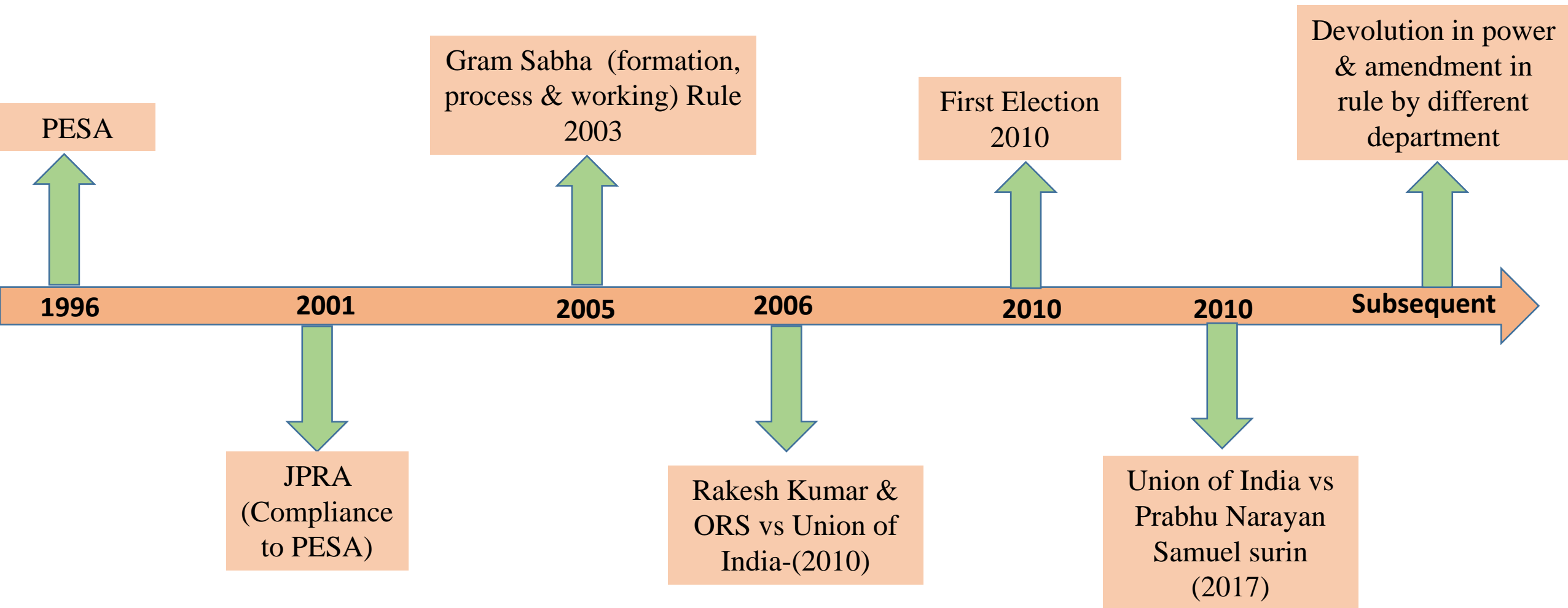
Reservation status in Schedule Area (Fully covered) Panchayat Samiti

Sl. No.	District Name	No. of Blocks	Total No. of PS Members	Post Reserved for ST	Percentage
1	Latehar	9	142	79	56
2	Sahebganj	9	203	108	53
3	Pakur	6	169	96	57
4	Dumka	10	251	136	54
5	Jamtara	6	145	75	52
6	Lohardaga	7	81	50	62
7	Gumla	12	192	134	70
8	Khunti	6	100	75	75
9	Ranchi	18	365	201	55
10	Simdega	10	111	78	70
11	West Singhbhum	18	267	182	68
12	Saraikela Kharsawan	9	168	90	54
13	East Singhbhum	11	275	146	53
Total :-		131	2469	1450	59

Reservation status in Schedule Area (Fully covered) :Zila Parishad

Sl. No.	District Name	Total No. of ZP Members	Post Reserved for ST	Percentage
1	Latehar	15	8	53
2	Sahebganj	20	10	50
3	Pakur	17	9	53
4	Dumka	25	13	52
5	Jamtara	14	7	50
6	Lohardaga	8	5	63
7	Gumla	19	13	68
8	Khunti	10	8	80
9	Ranchi	36	18	50
10	Simdega	11	8	73
11	West Singhbhum	28	20	71
12	Saraikela Kharsawan	17	9	53
13	East Singhbhum	27	14	52
Total :-		247	142	57

History of PESA in Jharkhand



History of PESA in Jharkhand

Rakesh Kumar and ORS etc VS Union of India: 2006

100% Reservation in chairperson post in schedule area was challenged

- **section 4(g)** of PESA act and section 21(B), 40(B) and 55(B) of JPRA ACT 2001 are held to be constitutionally valid. Apex court also hold that sections 17(B)(2), 36(B)(2) and 51(B)(2) of the JPRA 2001 are **constitutionally valid & in consonance with PESA act 1996**. Apex court pleased to direct state government to Panchayat election ASAP.

← Prabhunandan Samuel Surin VS Union of India :2010

PIL for Constitution of panchayat in Jharkhand as per section 4 (O) of PESA act

- Petition was dismissed by apex court

State compliance to PESA- Gram Sabha constitution & others (1/2)

Constitution
of the Gram
Sabha

PESA

Section 4 (B)

Custodian of
traditions,
Customs and
Community
Resources

Section 4 (C)

Institution
for Planning

Section 4(D)

Institution to
Identify
beneficiaries
of
development
program

Section E(i)(ii)

- Jharkhand state was formed after the enactment of PESA 1996.
- Section 2(ii)(iii) 3(iii), 10.1.A, 10.1.A(V), 75.A.15 of the JPRA Act 2001 are in consonance of PESA,1996 Section 4 (b) (c)(d)(e)(i)(ii)

State compliance to PESA- Gram Sabha constitution & others (2/2)



2003, Jharkhand Gram Sabha (Constitution, meeting & executive business) rules- Schedule area

- Presided by traditional head.
- Natural habitation in the schedule area.
- Own village fund, manage market & etc.
- Approval for Social Sector Schemes.



- In schedule area, **citizen participation has significantly enhanced** - Especially women & tribal community.
- **Munda/Manki/Pradhan/Manjhi/** etc (Traditional Village headman) **presides Gram Sabha** meeting.
- **Wilkinson rule 1834:** In Kolhan area; **Superintendent** is appointed to resolve minor issues. Land revenue to be collected by Munda.
- **ST representation in PRI is 33% in the overall state.**
- **21Lakh+ beneficiaries** are getting selected by the Gram Sabha

State compliance to PESA-Fund utilised & reservation of seats

Certification of the fund
utilized

PESA

Section 4 F

Reservation of seats and
the post of Chairperson

Section 4 G

- the JPRA act 2001, section 10.5.(ii) & Sec 17 (b), 21 (b), 36 (b), 40 (b), 51(b) and 55 (b).
- Reservation in schedule area in proportion to ST population, not less than 50%.
- All chairperson post are reserved for STs.

- **Social Audit** of schemes by Gram Sabha
- Gram Sabha is **the decision making body** and Gram Panchayat is execution agency
- **21,283 seats are reserved for STs.**

State compliance to PESA-Consultation on Resources (1/2)

Consultation
for
acquisition of
Land

Planning and
Management
of Minor
Water Bodies

Recommend
ation for
licensing /
lease of
Major
Minerals

Prior
Recommend
ation for
concession
on Minor
Minerals

Provision in State acts/rules

- Jharkhand Minor Mineral Concession Rule, 2004 (amended 2014)
- JPRA 2001 Section 10 (5) ii & Section 10 (1) a (xii)- management of Minor water bodies

Next slide.....

PESA

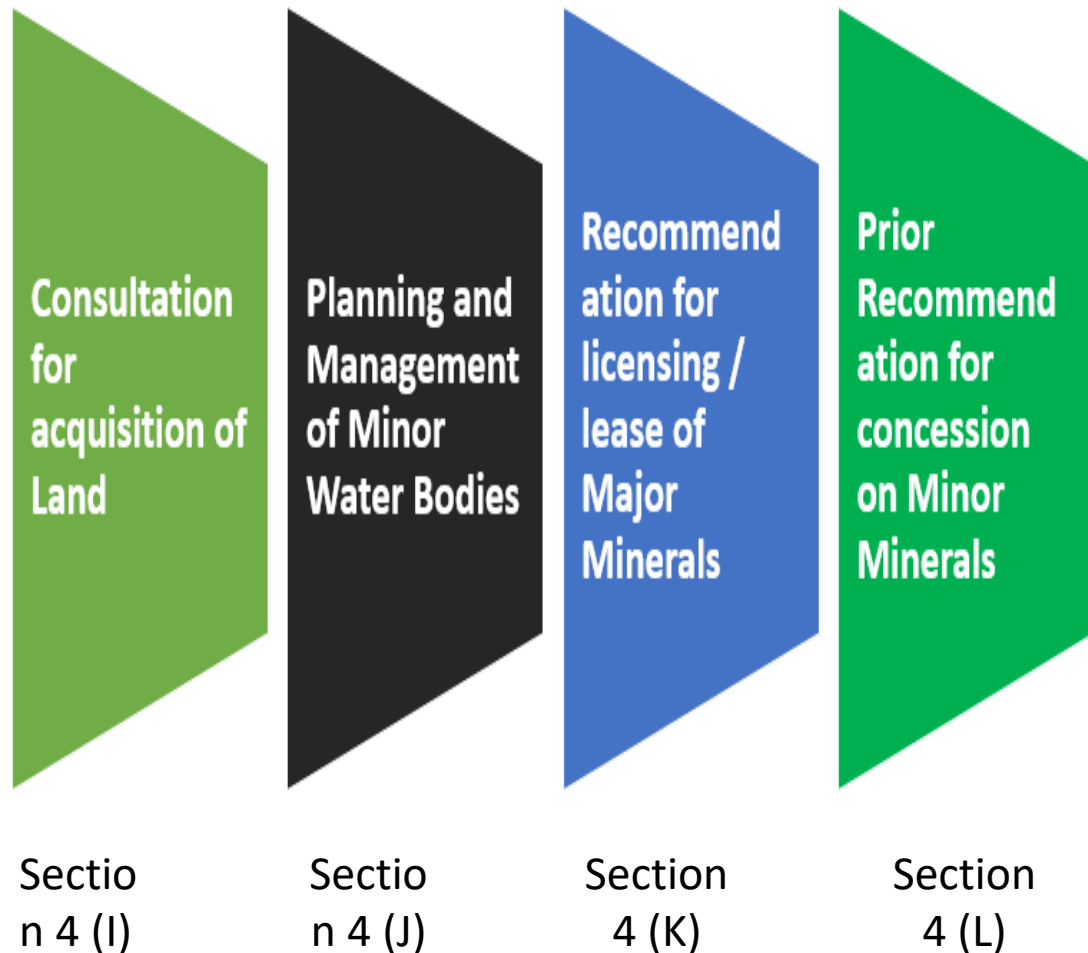
Section 4 (I)

Section 4 (J)

Section 4 (K)

Section 4 (L)

State compliance to PESA-Consultation on Resources (2/2)



- Jharkhand land acquisition, Rehabilitation and resettlement and transparency rule of 2015 rule 20 makes Gram Sabha consent is mandatory.
- JPRA, 2001 provision on managing minor water bodies, public well & ponds to Gram Sabha in **Section 10.5.ii, Section 10.1.a.(xii) & Section 10.1.a.(xv)**
- Jharkhand Minor Mineral Concession Rule (amendments) 2014 . Prior consent of Gram Sabha is mandatory for **licensing/lease or concession of minor minerals** under **Rule 5 (4)**
- **Jharkhand State Sand Mining Policy -2017** empower **GP/ LSG** for supervision & collection of taxes for **category 1** streams/river by notification 1905 dated 16/08/17.

State compliance to PESA: Power to gram Sabha



Ownership of minor forest produce

Power to manage village markets

Exercise control over institutions and functionaries

The Forest department vide notification no **4233 dated 16.09.2014** has amended section 2 (4) of Bihar forest Produce (Regulation of trade) act, 1984 by which the minor forest produce has been omitted from the state list.

Control over market by Gram Sabha- Land & Revenue department issued vide number 12/PRI/51/31376 dated 01/04/15

JPRA Section 10.1.a(x) Keeping control over such organization and such functionaries in social sectors, as have been transferred to the Gram Panchayat or appointed by the Gram Panchayat

PESA 1996 Section 4 (m) (i-vii)

State compliance to PESA: Power to gram Sabha

PESA 1996
Section 4 (m)
(i-vii)

Control over local plans and resources

Prohibition/ regulate /restrict sale/consumption of any intoxicant

Prevent alienation of land in the Scheduled Areas

Exercise control over money lending

JPR Section 10.5.(ii) the may manage the natural resources including land, water, forest within the village area according to its tradition but in accordance with the provisions of the constitution and duly keeping view.

In the process

State compliance to PESA: Administrative arrangement

Section 4 (0)

The State Legislature shall endeavor to follow the pattern of the Sixth Schedule-Administrative arrangements

JPRA compliant, Union of India vs Prabhu Narayan Samuel surin
2010

Case1 :

लोकहित याचिका संख्या 2549/2010 के द्वारा पेसा कानून, 1996 की धारा 4(o) के अन्तर्गत झारखण्ड के अनुसूचित क्षेत्र में झारखण्ड पंचायत राज अधिनियम लागू नहीं करने एवं संविधान की अनुसूची (vi) के अनुरूप इन



- PIL for Constitution of panchayat in Jharkhand as per section 4 (O) of PESA act

5. As cumulative effects of the aforesaid facts, reasons and judicial pronouncements, we see no reason to give any further guidance, much less a writ of mandamus, to the State of Jharkhand to carry out the provisions of Section 4 (o) of PESA Act, 1996. All care has been taken by the State of Jharkhand while enacting the Jharkhand Panchayat Raj Act, 2001 of PESA Act, 1996 as well as all the constitutional provisions as stated hereinabove.

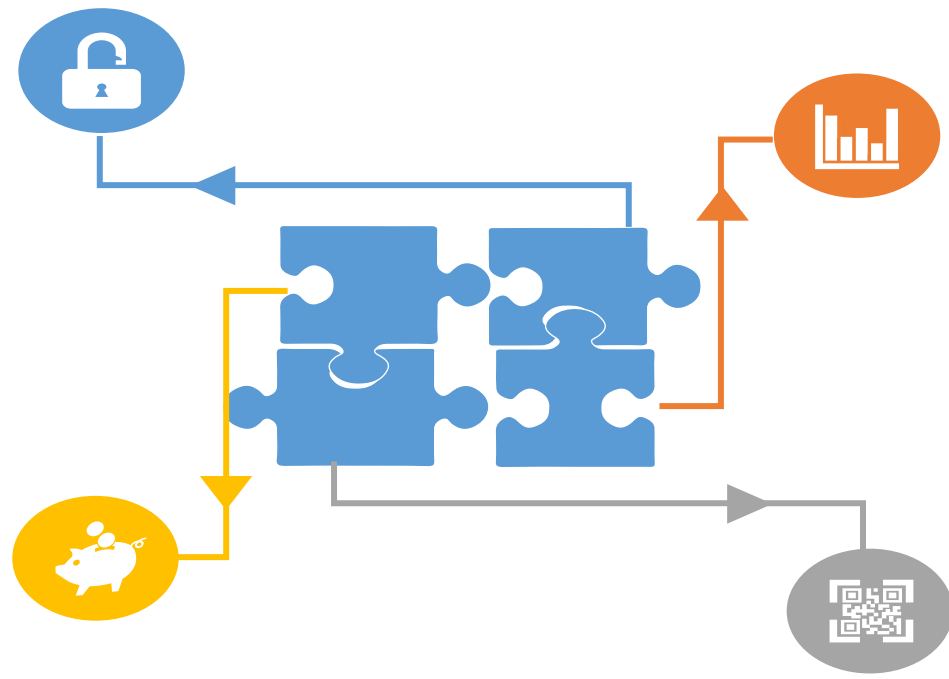
6. Hence, there is no substance in this writ petition (PIL) and the writ is therefore, dismissed.

Sd/-
Dr. N. Patel, J.
Jharkhand High Court,
Patna.

Way Forward

Compliance to Dept. of Revenue, Registration and Land & Home department

Departmental consultation



Building capacity of Gram Sabha

Building consensus

Way forward

- Meetings have been conducted with other departments and draft rules prepared.
- A committee has been constituted to oversee finalization of the draft rule.
- Dept. of Revenue, Registration and Land Reforms & Home, prison & disaster management have submitted. Their suggestion is being examined .
- Other department in the process...



Challenges

- Codification of customs & tradition of tribal community and further, recognition of it.
- Sensitization of stakeholder
- Training & capacity building of traditional headman
- Interdepartmental coordination
- Coordination between front-line functionaries and Traditional headman





Thank You