

GOVERNMENT OF INDIA
MINISTRY OF TRIBAL AFFAIRS
LOK SABHA
UNSTARRED QUESTION NO- 2005
TO BE ANSWERED ON- 13/03/2023

RIGHTS OF SCHEDULED TRIBES

2005. SHRI ACHYUTANANDA SAMANTA:

Will the Minister of TRIBAL AFFAIRS be pleased to state:

- (a) whether the Government is planning to take steps to ensure rights of Scheduled Tribes and forest dwellers under the Act of 2006, that are being impacted by businesses and development industries;
- (b) whether any social impact assessment will be taken up before approval of projects for these industries; and
- (c) whether the Government is planning to create village level councils under local Government institutions for jurisdiction on such cases to provide remedy to the victims?

ANSWER

MINISTER OF STATE FOR TRIBAL AFFAIRS
(SHRI BISHWESWAR TUDU)

(a) to (c): To address the issue of displacement of tribals, Constitutional and legal provisions for safeguarding the rights of tribals to land, which are already in place, are as under:-

- i. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, in section 4 (5) states that save as otherwise provided, no member of a forest dwelling Scheduled Tribes or Other Traditional Forest Dweller shall be evicted or removed from the Forest Land under his occupation till the recognition and verification procedure is complete.
- ii. The Panchayats (Extension to Scheduled Areas) Act, 1996 in Section 4(i), also provides that the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas or development projects and before resettling 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. The states which have formulated specific PESA rules as a means of effective local level governance are in a better position to safeguard rights of tribals.
- iii. Constitutional provisions under Schedule-V also provide for safeguards against displacement of tribal population because of land acquisitions etc. The Governor of the State which has Scheduled Areas is empowered to prohibit or restrict transfer of land from tribals and regulate the allotment of land to members of the Scheduled Tribes in such cases.
- iv. Constitution provides protection to Acts and Regulations specified in the Ninth Schedule.

2. Land and its management falls under the exclusive legislative and administrative jurisdiction of States as provided under the Constitution of India [Seventh Schedule – List ii (State List) – Entry No. (18)]. Whenever land is acquired for any Infrastructure project, it is the responsibility of the state to ensure compliance of The RFCTLARR Act, 2013. The RFCTLARR requires

(i). in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and

(ii). provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and

(iii). for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto.

3. The RFCTLARR Act also lays down procedure and manner of social impact assessment, rehabilitation and resettlement. The First Schedule of the RFCTLARR Act provides for compensation for land owners. As per Section 3(r)(ii) of the RFCTLARR, 2013, ‘land owner’ includes any person who is granted forest rights under FRA, 2006 (2 of 2007) or under any other law for the time being in force. The Second Schedule provide for element of rehabilitation and resettlement for all the affected families (both land owners and the families whose livelihood is primarily dependent on land acquired) in addition to those provided in the first Schedule. Similarly, the Third Schedule provide for infrastructural amenities for a reasonably habitable and planned settlement in the resettlement area. RFCTLARR Act, 2013, provides safeguards to the right holders under FRA against displacement under Sections 41 and 42.
