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PANCHAYATI RAJ & D.W. DEPARTMENT

NOTIFICATION

The 10th November, 2023

S.R.O. No.776/2023— The following draft of the Odisha Grama Panchayats Extension to Scheduled Areas Rules, 2023, which the State Government proposes to make in exercise of the powers conferred by Section 150 of the Odisha Grama Panchayats Act, 1964 (Odisha Act 1 of 1965) is hereby published, as required under sub-section (1) of the said section for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the expiry of a period of two months from the date of publication of this notification in the *Odisha Gazette*.

Any objection or suggestion, which may be received from any person in respect of the said draft before expiry of the period so specified above will be considered by the State Government.

Draft

1. Short title, Extent and Commencement.— (1) These rules may be called the Odisha Grama Panchayats (Extension to Scheduled Areas) Rules, 2023.

(2) They shall extend to the Scheduled Areas in the State.

(3) They shall come into force on the date of their publication in the *Odisha Gazette*.

2. Definitions.—(1) In these rules, unless the context otherwise requires,–

(a) "Act" means the Odisha Grama Panchayats Act, 1964;

(b) "Community resources" means land, water, forest, minerals and other resources located in the territorial domain of the Grama;

(c) "Grama Sabha" means the meetings of the Grama Sasan as referred to in Section 5 of the Act;

- (d) "human right" means the human right as defined in the Protection of Human Rights Act, 1993(10 of 1994);
- (e) "intoxicant" means the intoxicants as defined in clause (t) of Section 2 of the Odisha Excise Act, 2008(Odisha Act 10 of 2013);
- (f) Traditional Liquor / Local Liquor means any substance used by the local people in the scheduled areas in the State as Traditional Liquor / Local Liquor.
- (g) "Minor Forest Produce" means the forest produce as listed in the Schedule to the Odisha Grama Panchayat (Minor Forest Produce Administration) Rules, 2002;
- (h) "Minor water bodies" means water bodies of stationary water used for fetching drinking water, check dams, irrigation structures irrigating to an extent of 40 hectare land;
- (i) "Panchayat Samiti Act" means the Odisha Panchayat Samiti Act, 1959(Odisha Act 7 of 1960);
- (j) "Panchayat Samiti" means a Panchayat Samiti constituted under the Panchayat Samiti Act 1959;
- (k) "Scheduled Areas" means the Scheduled Areas of Odisha notified under paragraph 6 of the Fifth Schedule to the Constitution of India;
- (l) "Village" means a village as defined in the Act and includes any area with a habitation or group of habitations or a hamlet or group of hamlets comprising a community or communities and managing its affairs in accordance with tradition and customs;
- (m) "Zilla Parishad Act" means the Odisha Zilla Parishad Act, 1991 (Odisha Act 17 of 1991); and
- (n) "Zilla Parishad" means a Zilla Parishad constituted under clause (l) of Section 2 of Zilla Parishad Act, 1991.

(2) All other words and expressions used but not defined in these rules shall have the same meaning as assigned to them in the Act.

3. Declaration of Villages in Scheduled areas.-(1) If at any time it appears to the State Government that a separate Grama is to be constituted comprising a community or habitation or group of communities or habitations, the State Government may, by declaration notified in the Gazette under sub-section (1) of Section 3 of the Act constitute such Grama.

(2) The office and headquarters of such Grama Sasan shall be situated within the limits of such Grama as may be determined by the State Government under sub-section (3) of Section 4 of the Act.

4. Grama Panchayat to be the Executive Authority of Grama Sasan.-The Gram Panchayat shall be the Executive Authority of Grama Sasan as provided in Section 7 of the Act and the Sarpanch shall be the Chairman of the Grama Sabha.

5. Power and Functions of the Grama Sabha.-(1) The Grama Sabha shall have the power of supervision and control on the following subjects: -

- i. agriculture strategy plan;
- ii. conduct of social audit of all welfare schemes implemented in Grama Panchayat;
- iii. the list of defaulters who are in arrear of payment of taxes due to the Gram Panchayat;
- iv. functioning of fair price shop and price monitoring of essential commodities;
- v. functioning of Anganwadi Kendras, school feeding programme, functioning of sub-centers, functioning of schools, functioning of welfare centers, management of drinking water;
- vi. identification of beneficiaries under different schemes of the State Government in the Grama Panchayat;
- vii. consultation with the Panchayat Samiti for required assistance as may be required by the Grama Sabha in preparation of village development plan and prioritizing the benefits and schemes;
- viii. ensuring that the Grama Sabha furnishes certificate of utilisation of funds in time to the concerned Agency or Government Department for the funds released to the Grama Panchayat;
- ix. ensuring permissions to the villagers to use minor minerals and also to decide the extent of use of local materials such as stone, sand for making pucca houses and payment of royalty by the villagers as imposed by the Grama Sabha;
- x. ensuring consultation of the appropriate authorities administering steel and mines concerning minor mineral productions within the Grama having commercial feasibility; and

xi. ensuring that the Departments of the State Government give relevant information regarding environmental hazards likely to take place in production of minor minerals.

(2) Notwithstanding anything contained in sub-rule (1), a Grama Panchayat shall be competent to operate fair price shop under the public distribution system on its own at the Panchayat headquarters.

(3) The Sarpanch shall have the power to issue instructions to Concerned Authorities for compliance of sub-rule (1) and every such instruction issued by the Sarpanch shall be placed before the Grama Panchayat in its next meeting.

6. Acquisition of Land.- (1) Whenever land has to be acquired by the State Government, the concerned Land Acquisition Officer shall consult the Grama Panchayat on the proposed acquisition of Land providing a complete outline of the proposed project including possible impact on the area and society, proposed plan of land acquisition, new people likely to settle in the village, the proposed amount of the compensation, proposed participation, job opportunity for the people of the village, rehabilitation of the displaced person, if any, to the Grama Panchayat.

(2) After receipt of such proposal, the Sarpanch shall take steps for convening the meeting of the Grama Sabha and place the matter in the meeting and submit the recommendation of the Grama Sabha to the Zilla Parishad within a reasonable time, not exceeding a period of one month.:

Provided that in case of urgency and if it is not possible to convene the meeting of the Grama Sabha at short intervals, the Sarpanch may place the matter before the Grama Panchayat for a decision under rule 16.

(3) The recommendation of the Grama Sabha shall be communicated by the Sarpanch to the Zilla Parishad for transmission to the Land Acquisition Officer for further action at his level within a reasonable time, not exceeding a period of one month.

(4) In case the Land Acquisition Officer does not agree with the recommendations of the Grama Sabha and of Zilla Parishad, he may send the case again to the Zilla Parishad for reconsideration of the Grama Sabha under sub-rule (2) which the Grama Sabha shall consider and recommend within a reasonable time, not exceeding a period of one month;

(5) The Land Acquisition Officer shall after considering the decision of the Gram Sabha or Zilla Parishad forward the same with his comments to the State Government:

Provided that where the Land Acquisition Officer does not agree with the decision under sub-rule (4), he may prefer appeal under rule 17 of these rules.

(6) In case of industrial projects, covering more than one Grama, all the GramaSabhas that are affected by such projects shall be consulted by the Zilla Parishad; and

(7) The progress of rehabilitation plan shall be communicated to the concerned Grama Panchayat to be placed before the Grama Sabha after every 3 months from the date of notification for land acquisition.

7. Management of Minor Water Bodies in the Scheduled areas.- (1) Subject to the provisions of clause (c) of sub-section (6) of Section 3 of the Zilla Parishad Act, the Grama Sabha shall be responsible for planning and management of minor water bodies for the common benefit of general public where such water bodies fall within the area of the Grama.

(2) On the direction of the Zilla Parishad under clause (c) of sub-section (6) of Section 3 of the Zilla Parishad Act, minor water bodies, within a Grama Panchayat shall be managed by the Grama Panchayat and those extending to more than one Grama Panchayat shall be managed by the Panchayat Samiti:

Provided that minor water bodies extending to more than one Block shall be managed by the Zilla Parishad.

(3) The Grama Panchayat or the Panchayat Samiti or Zilla Parishad, as the case may be, after consulting the Grama Sabha shall regulate the available water in the Grama for various purposes and also decide about the priority of its use and while taking such a decision the tradition and customs prevailing in the area shall be taken care of.

8. Minor minerals and Grant of prospecting license or mining lease.-(1) The Zilla Parishad shall seek the advice of the Grama Sabha before recommending a case or cases for grant of prospecting license or mining lease for minor minerals or concession for the exploitation of minor minerals in accordance with clause (a) of sub-section (6) of Section 3 of the Zilla Parishad Act and it may refer such case or cases to the concerned Grama Panchayat for consideration of the Grama Sabha;

(2) The Grama Panchayat after consultation with the Grama Sabha shall forward its approval or rejection by passing an appropriate resolution within four weeks to the Zilla Parishad.

(3) In case of Forest lands.-

- (a) excavation and use of Minor Minerals from Forest lands shall not be under the control of Grama Sabha; and
- (b) grant of concession for exploitation of Minor Minerals shall not be applicable in forest land.

9. Control over Intoxicants.- (1) The Sarpanch shall place the proposal of the Collector for establishing a unit for manufacturing or production of liquor in a village in a meeting of the Grama Sabha for their consideration and shall communicate the decision of the Grama Sabha in shape of resolution to the Collector within thirty days from the date of receipt of such proposal.

(2) The decision of the Grama Sabha in the matter as referred to under sub-rule (1) shall be final and the Collector shall act according to the decision taken by the Grama Sabha.

(3) The Procedure enumerated in sub-rule (1) and sub-rule (2) shall *mutatis-mutandis* applicable for grant of license to open liquor shop in a village within the limits of the Grama:

Provided that if the concerned Gram Panchayat fails to communicate the decision of the Gram Sabha within the stipulated period of thirty days, it shall be deemed that the concerned Gram Panchayat has accorded the required approval.

(4) The Grama Sabha shall determine the quantity of traditional liquor that may be brewed or produced by the Scheduled Tribes living in a village for their own consumption but not for sale having regard to their traditions, customs relating to consumption of local liquor during ceremonial functions, in consultation with the appropriate Excise Authority of the District.

10. Prevention of alienation of lands in the Scheduled areas and restoration of alienated lands of scheduled tribe.- (1) If there are conflicting claims in respect of possession of lands, the Grama Sabha shall in a meeting call for evidence in support of such claims from the concerned parties and pass appropriate resolutions requesting the competent authority under the Odisha Scheduled Areas Transfer of immovable property (by Scheduled Tribes) Regulation 1956 (herein after referred to as the Odisha Regulation 2 of 1956) to take appropriate action.

(2) On receipt of a complaint as to the alienation of land in favour of a non-tribal, the Sarpanch shall place the matter in a Grama Sabha meeting and communicate the decision of the Grama Sabha to the competent authority under the Odisha Regulation 2 of 1956 for taking appropriate action according to law.

(3) While restoring possession of land to tribals, the Competent Authority shall obtain the signature of a member of Grama Sabha to that extent.

11. Control over markets.-(1) A Grama Panchayat shall be competent to control and manage the markets within its local limits subject to approval of Grama Sabha.

(2) The Grama Panchayat, in the markets controlled and managed by them, shall ensure,-

- i. availability of drinking water, sheds and other facilities to the shopkeepers and the consumers;
- ii. that the inflow and sale of harmful objects are prohibited;
- iii. that the weight, measurement and payment in the transactions are genuine and updated stamping of weights and measures are used;
- iv. that information on the prices are being shared and all unfair practices including cheating or misinformation regarding prices are prohibited;
- v. that gambling, betting, testing luck, in the market or its surrounding area are prohibited;
- vi. that the price of the goods are displayed in a board in a conspicuous place of the shop in local language;
- vii. That all disputes shall be referred by the Sarpanch to the Grama Sabha for a decision.

12. Control over money lending.-Subject to the provisions of the Act, the Grama Panchayat shall exercise control over money-lending to the Scheduled Tribes.

13. Ownership and disposal of minor forest produce.-The provisions contained in the Odisha Grama Panchayats (Minor Forest Produce Administration) Rules, 2002 shall mutatis mutandis apply for administration of ownership and disposal of minor forest produce in Schedule Areas.

14. Role of Grama Sabha in maintaining peace and Dispute Resolution.
(1) Whenever any dispute is brought to the Sarpanch by any person or persons, the

Sarpanch shall consider the dispute summarily and try to resolve the same through customary mode amicably.

(2) While considering the dispute under sub-rule (1), if the Sarpanch finds that the parties to the dispute are not agreeable to such amicable resolution, shall then be placed before the Grama Sabha in a meeting for decision.

(3) If the dispute still remains undecided or it appears to the Grama Sabha that the dispute involves cognizable offence, it shall direct the parties concerned to approach the local police for taking appropriate action under the appropriate laws.

(4) No dispute involving criminal activities of cognizable offences and violation of human rights shall be taken into consideration by the Grama Sabha or by the Sarpanch under this rule.

15. Reservation of seats and Nomination in Panchayats at Appropriate level.-(1)The reservation of seats in the Scheduled Areas at the Gram Panchayat, Panchayat Samiti, and Zilla Parishad shall be carried out respectively in accordance with the provisions specified in:

- a. Clause (a) of sub-section (3) and clause (a) of sub-section (5) of Section 10 of the Odisha Grama Panchayat Act;
- b. Clause (a) of sub-section (2) and clause (3-a) of Section 16 of the Odisha Panchayat Samiti Act; and
- c. Clause (a) of sub-section (3) of Section 6 and Clause (a) of sub-section (2) of Section 8 of the Odisha Zilla Parishad Act.

Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats in the Panchayats at appropriate level;

(2) The State Government may nominate members of Schedule Tribe to a Panchayat Samiti or Zilla Parishad as per sub-section (3-c) of Section 16 of Panchayat Samiti Act and sub-section (6) of Section 6 of the Zilla Parishad Act respectively.

(3) The members shall be nominated by rotation at every general election.

16. General.-(1) Notwithstanding anything contained in these rules, the Sarpanch, as the Chairman of the Grama Sabha, shall ensure that matters referred to him for decision of the Gram Sabha, are properly placed before the Grama Sabha in its meeting and where the Sarpanch finds that Grama Sabha meetings are not practically possible to convene at short intervals, he may place such matters before the Gram Panchayat in its next meeting for decision.

(2) Where the Grama Panchayat takes a decision on a matter in anticipation of the approval of Grama Sabha, such decision shall be placed before the Grama Sabha in its next meeting for ratification.

(3) Where the Sarpanch finds that the provisions of these rules come in conflict with any other rule or rules, he may refer the matter to the Collector for a decision.

(4) The Collector of the district shall, from time to time, advise the Grama Panchayat for smooth implementation of these rules.

17. Power of Appeal.-(1) Any person/body aggrieved by the resolution passed by the Gram Sabha or Panchayat at appropriate level may file an appeal before the Revenue Divisional Commissioner (hereinafter referred to as “Commissioner”) within sixty days from the passing of such resolution by the Gram Sabha or Panchayat at appropriate level. The Commissioner may then call for and examine the decision as to its correctness or legality and may pass such order/direction to the concerned as deemed fit and proper in the best interest of the tribals.

(2) State Government shall be the Competent Authority to review and to issue suitable directions to the concerned as deemed fit and proper in the best interest of tribals.

18. Removal of difficulties.-If any doubt or difficulty arises in giving effect to the provisions under these Rules, the State Government may, as the occasion requires, by order published in the Official Gazette, take necessary steps as it deems fit to remove the doubt or difficulty.

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By Order of Governor

SUSHIL KUMAR LOHANI

Principal Secretary to Government