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प्रति 29.7.13.
 प्र.सू.प.सं. 29/7
 म.प्र. 29/7

नर्मदा घाटी विकास प्राधिकरण,
 59, अरेरा हिल्स, नर्मदा भवन, सोडाल-म.प्र.

क्रमांक: नि.स/2013/172
 प्रति,

सोडाल, 28 जुलाई 2013

अन्तर्गत संशोधनपूर्ण

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 मध्यप्रदेश शासन,
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2. प्रधान मुख्य वन संरक्षक,
 म.प्र., सतपुड़ा भवन,
 भोपाल ।

विषय :- भारत सरकार, विधि एवं विधायी कार्य मंत्रालय द्वारा Harmonisation of other Central Laws with the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 का प्रेषित किया गया प्रतिवेदन ।

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 29-7-13

भारत सरकार विधि एवं विधायी कार्य विभाग के आदेश क्रमांक 140/2011 दिनांक 14.12.2011 के द्वारा सचिव, विधि एवं विधायी कार्य मंत्रालय, भारत सरकार की अध्यक्षता में उपरोक्त विषय में कार्यवाही करने हेतु एक समिति का गठन किया गया था । अधोहस्ताक्षरकर्ता को इस समिति का सदस्य मनोनीत किया गया था । इस समिति के द्वारा कई बैठकों के उपरांत अपना प्रतिवेदन तैयार करते हुये दिनांक 22.7.2013 को इसे मान. प्रधानमंत्री कार्यालय को प्रेषित किया गया है । इसकी प्रति पत्र के साथ परिशिष्ट-1 के रूप में संलग्न है ।

समिति के प्रतिवेदन के अन्तर्गत निम्नलिखित अधिनियमों में व्यापक आवश्यक संशोधन किया जाना प्रस्तावित है :-

1. भारतीय वन अधिनियम, 1927
2. वन (संरक्षण) अधिनियम, 1980
3. वन्य प्राणी (संरक्षण) अधिनियम, 1972

इस प्रतिवेदन के अन्तर्गत भारतीय वन अधिनियम 1927 में व्यापक संशोधन प्रस्तावित है । इस प्रस्तावित संशोधनों का व्यापक प्रभाव मध्यप्रदेश वन विभाग तथा वन क्षेत्रों में प्रस्तावित अधोसंरचना के विकास पर होने की संभावना है ।

इसके साथ ही Mines and Minerals (Development and Regulation) Act, 1957; Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 में अधोसंरचना विकास की परियोजनाओं के कार्य तथा लघु वनोपज के संबंध में व्यापक संशोधन प्रस्तावित है । Coal Bearing Areas (Acquisition & Development) Act, 1957 तथा Petroleum And Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 में भी व्यापक संशोधन प्रस्तावित किये गये हैं ।

PCCE (Int)

प्र.सू.प.सं.
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उपरोक्त संभावित संशोधनों से मध्यप्रदेश राज्य में कोयले की परियोजनाओं विशेषकर वन स्वीकृति के प्रकरणों पर तथा वन क्षेत्रों में नई जाने वाली पाईप लाईन परियोजना भी प्रभावित होने की संभावना है ।

कृपया उपरोक्त प्रचलित कार्यवाही से अवगत होना चाहेंगे ।

Ravindra Khande
26/7/13

(आर.एन.सक्सेना)

सदस्य (पर्या.एवं वन)

नर्मदा घाटी विकास प्राधिकरण

R.N. SAXENA
Member (E&F)
NVDA, Bhopal

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सत्यमेव जयते

**Report of the Committee
on
Harmonisation of other Central Laws
with the Provisions of the Panchayats
(Extension to the Scheduled Areas)
Act, 1996**

**Government of India
Ministry of Law and Justice
Department of Legal Affairs
New Delhi**

2013

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(Chairman)

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Shri R.K. Upadhyaya, IFS,
Chief Conservator of Forests,
Government of Tamil Nadu and

Dr. Ravindra Nath Saxena,
Addl. PCCF



सत्यमेव जयते

**Report on
Harmonisation of other Central Laws
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the Provisions of the Panchayats
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Act, 1996**

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Ministry of Law and Justice
Department of Legal Affairs
New Delhi**

2013

ABBREVIATIONS

MMDR Act	Mines and Minerals (Development and Regulation) Act, 1957
IFA	Indian Forest Act, 1927
FCA	Forest (Conservation) Act, 1980
PESA Act or PESA	Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996
FRA	Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
CBA	Coal Bearing Areas (Acquisition & Development) Act, 1957
PMP Act	Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962
ILI	Indian Law Institute

Preface

The enactment of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 was a laudable step taken by the Central Government to provide for the extension of provisions of Part-IX of the Constitution relating to the panchayats to the Scheduled Areas. The Second Administrative Reforms Commission, in its Seventh Report 'Capacity Building for Conflict Resolution—Friction to Fusion' (February, 2008) had noted that 'a critical issue in the implementation of PESA is to harmonize its provisions with those of the central legislations' and had, accordingly, recommended that there is a need to harmonise the various legislations being implemented in tribal areas with the provisions of PESA Act. The Report made an important observation that, 'no integrative exercise has so far been undertaken to examine the relevance of different central laws to these Fifth Schedule Areas and to harmonize them with the aims and objectives of the PESA. Such an exercise is overdue. Among the laws which warrant particular attention are the Land Acquisition Act, 1894, the Mines and Minerals (Development and Regulation) Act, 1957, the Indian Forest Act, 1927, the Forest (Conservation) Act, 1980, and the Indian Registration Act'.

2. As the need for harmonizing other central laws with the provisions of the PESA Act was time and again reiterated, the Prime Minister's Office vide its ID No. 611/2/C/134/2011 dated 9.12.2011 identified the aforesaid recommendation of the Second Administrative Reforms Commission as the thrust area which would serve as priority agenda for the Government over the next year (Annexure-I).

3. A Harmonisation Committee under the chairmanship of the Law Secretary and Dr. S.S. Chahar as Member-Secretary was accordingly set-up by the Department of Legal Affairs (Annexure-II). Representatives of Ministry of Panchayati Raj, Department of Personnel & Training and Legislative Department along with representatives of the other concerned Ministries like Ministry of Mines, Tribal Affairs, Environment and Forests and Development of North-Eastern Region also participated in the meetings of the Committee. Shri R.K. Upadhyaya, IFS, Chief Conservator of Forests, Government of Tamil Nadu and Dr. Ravindra Nath Saxena, Addl. PCCF, both experts on the issue before the Committee were co-opted as Members of the Committee.

4. The Ministry of Panchayati Raj had earlier sponsored a study by the Indian Law Institute on the aforesaid issue and the Report of the Indian Law Institute on the subject of 'Study of specific Central Laws relating to Scheduled Areas with a view to harmonise their provisions with the aims and objectives of Panchayat (Extension to the Scheduled Area) Act, 1996' was submitted by the Ministry to the Committee (Annexure-III).

5. The Indian Law Institute limited its study to examination of the following specific Central Laws:

- (i) The Mines and Minerals (Development and Regulation) Act, 1957
- (ii) The Forest Act, 1927
- (iii) The Forest (Conservation) Act, 1980, and
- (iv) The Indian Registration Act, 1908

6. Comments of all the concerned Ministries were sought on the recommendations of the Indian Law Institute on various provisions of the relevant Acts mentioned in the Report. It was decided by the Committee that Ministry of Environment and Forests and Ministry of Coal may also be requested to examine the provisions of the Wild Life (Protection) Act, 1972 and the Coal Bearing Areas (Acquisition and Development) Act, 1957 vis-à-vis PESA Act.

7. The Committee received views from the following:

- (i) Ministry of Panchayati Raj with regard to (a) Wild Life (Protection) Act, 1972 and (b) Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
- (ii) The Ministry of Tribal Affairs with regard to Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
- (iii) Shri R.K. Upadhyaya, IFS, Chief Conservator of Forests, Government of Tamil Nadu with regard to (a) amendments proposed by Indian Law Institute, (b) Wild Life (Protection) Act, 1972, (c) Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and (d) Forest (Conservation) Act, 1980

An indepth study of all the comments received was carried out and the same have been given due regard while making the recommendations.

8. In respect to the core issue before the Committee, it may be noted that PESA Act derives its constitutional basis from Article 243M(4)(b), which empowers the Parliament to extend the provisions of Part IX of the Constitution (The Panchayats) to the Scheduled Areas and tribal areas referred to in Article 244 by enacting a law. Article 244(1) of the Constitution provides that the provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any State other than Assam, Meghalaya, Tripura and Mizoram and clause (2) similarly applies the provisions of the Sixth Schedule to the tribal areas in Assam, Meghalaya, Tripura and Mizoram, and is a self-contained code for the governance of tribal areas.

9. The intent behind including the Fifth Schedule in the Constitution was to provide a separate administrative scheme for Scheduled Areas in order to address the special needs of tribal communities. In the Constitution, the expression 'Scheduled Areas' has been defined to mean such areas as the President may by order declare to be Scheduled Areas [vide para 6(1) of the Fifth Schedule]. These areas are treated differently in the country because they are inhabited by aboriginals, who are socially and economically backward.

10. The object of the founding fathers of the Constitution in prescribing the prohibitory regulations and restrictive application of the Union and the State laws to the Scheduled Areas was to preserve tribal autonomy and their culture, promote economic empowerment to ensure social, economic and political justice for the preservation of peace and good government in the Scheduled Areas. The Fifth and Sixth Schedules constitute an integral scheme of the Constitution with direction, philosophy and anxiety

to protect the tribals from exploitation and to preserve valuable endowment of their land for their economic empowerment.

11. A new Part IX comprising of Articles 243 to 243-O and a new Schedule viz Eleventh Schedule had been added to the Constitution by the Constitution (Seventy-third Amendment) Act, 1992 to give effect to Article 40 of the Directive Principles of State Policy, which directs the State to take steps to organize Village Panchayats and vest them with such powers and authority as may be necessary to enable them to function as units of self-government. The object of Part IX was to introduce and strengthen grass roots democracy by strengthening the Panchayat System by giving them a uniform constitutional base, to enable the Panchayats to become a vibrant unit of administration in rural areas by establishing a strong, effective and democratic local administration, to ensure rapid implementation of rural development programs.

12. The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 was enacted to extend Part IX of the Constitution with certain modifications and exceptions to the Scheduled Areas. As per the Act, the legislatures of States are mandated not to make any law under Part IX of the Constitution which is inconsistent with the provisions of the PESA Act. Any State legislation that may be made on Panchayats shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources. Gram Sabhas and Panchayats have been vested with greater powers, which include approval of plans, programmes and projects for social and economic development, mandatory consultation before acquisition of land in the Scheduled Areas for development projects and before resettling or rehabilitating persons affected by such projects, mandatory recommendations prior to grant of prospecting licence or mining lease and grant of concessions for exploitation of minor minerals in Scheduled Areas. Panchayats and Gram Sabhas, in the Scheduled Areas, have been endowed with such powers and authority as may be necessary to enable them to function as institutions of self-government.

13. The Committee during examination of the various other central laws has kept the aforesaid Constitutional mandate for local self-government, preservation of tribal autonomy and culture and the objects of enacting PESA Act as the foundation and touchstone for making various suggestions and recommendations. The Report represents a broad consensus of the members of the Committee.

Recommendations of the Committee with respect to various other Central Laws vis-à-vis the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

As the Indian Law Institute had already conducted a study of specific Central Laws relating to Scheduled Areas with a view to harmonizing their provisions with the aims and objectives of the PESA Act, the Committee felt that it would be useful for the Committee to take the aforesaid Report as the basis for its examination. After examining the suggestions made in the ILI Report, the proposed amendments in various related laws pending before the Parliament and the suggestions made by the representatives of various Ministries and experts on the issues, the recommendations made by the Committee in other Central Acts are as under:

1. The Indian Law Institute after examining the provisions of the **Indian Registration Act, 1908**, has in its Report observed that PESA Act has no bearing on this Central Act and hence made no suggestion in respect to the Act. The Committee agrees with the suggestion of the ILI.
2. The Committee examined the provisions of the **Wild Life (Protection) Act, 1972** and the amendments proposed therein by the administrative Ministry. The **Wild Life (Protection) Amendment Bill, 2012**, to amend the Act was proposed to be introduced in the last session of Parliament. However, the same could not be introduced during the last session. Various amendments in the Act have been proposed by the administrative Ministry and approved by the Cabinet, to make the provisions of the Act compliant with the provisions of PESA Act (Annexure-IV). Accordingly, no further recommendations are being proposed in respect of the said Act by the Committee.
3. In the **Land Acquisition, Rehabilitation and Resettlement Bill, 2011** various amendments have been proposed by the administrative Ministry and approved by the Cabinet. The Committee is of the view that the various amendments have been proposed by the administrative Ministry in the Bill pending before the Parliament, to make the provisions of law relating to Land Acquisition, Rehabilitation and Resettlement compliant with the provisions of PESA Act (Annexure-V). Accordingly, no further recommendations are being proposed in respect of the said Act by the Committee.
4. In respect to the **Forest (Conservation) Act, 1980**, the Committee agrees with the suggestion of ILI and recommends that a proviso may be added in section 3 of FCA to provide that the Advisory Committee constituted under the section to advise the Central Government with regard to grant of approval under section 2 and any other matter connected with the conservation of forests '*shall have a representative of the Panchayat or Gram Sabha of a Scheduled Area.*'

5. In respect to the Indian Forest Act, 1927, the Committee agrees with the suggestions of the IJI in its Report and recommends the following:
- (A) In section 2 of the IFA (Interpretation Clause), the definition of 'Minor Forest Produce' may be inserted to provide that it *includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lac, tendu or kesku leaves, medicinal plants and herbs, roots, tubers, and the like.*
 - (B) A proviso may be inserted in section 3 of IFA, which gives power to the State Government to constitute any forest-land or waste-land, which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, as a reserved forest. The proviso may provide that *'where such forest-land or waste-land or the whole or any part of the forest-produce of such forest-land or waste-land contributes towards the community resources of the Scheduled Areas, the State Government shall consult the concerned Gram Sabha before constituting any such forest-land or waste-land a reserved forest.'*
 - (C) A proviso may be added in section 4(1) of the IFA, which makes a provision for the issue of a notification by State Government, whenever it has been decided to constitute any land a reserved forest. The proviso may provide that *'in the Scheduled Areas, the ownership of minor forest produce shall vest in the Gram Sabha and the Panchayats at the appropriate level.'*
 - (D) Two provisos may be added in section 12 of the IFA, which provides that in the case of a claim to rights of pasture or to forest-produce, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part. The first proviso may provide that *'nothing in this section shall affect the right of pasture of the Gram Sabha in the Scheduled Areas'*. The second proviso may provide that *'in the Scheduled Areas, the ownership of the minor forest produce shall vest in the Gram Sabha and the Panchayats at the appropriate level.'*
 - (E) Section 14 of the IFA provides the procedure to be followed in cases where the Forest Settlement-officer admits the claim under section 12. The clause suggested by the IJI to be inserted in section 14 is *'Notwithstanding anything contained in this section, in the Scheduled Areas, every Gram Sabha shall be competent to safeguard and preserve the community resources'*. The same may be inserted in the form of a proviso in the section.
 - (F) Section 25 of the IFA provides that the Forest-officer may, with the previous sanction of the State Government, stop any public or private way

or water course in a reserved forest. A proviso may be inserted in the section to provide that *in the Scheduled Areas, prior consultation with the Gram Sabha shall be mandatory before stopping any public or private way or water-course in a reserved forest under this Section*.

- (G) A proviso that *the rules made by the State Government for Scheduled Areas shall be in consonance with the traditional management practices of community resources*, may be inserted in sub-section (2) of section 28 of the IFA, which provides for the formation of village-forests and grants power to the State Government to make rules for regulating the management of village-forests.
- (H) Section 29 of the IFA provides for the declaration of any forest-land or waste-land as a "protected forest" by the State Government by notification in the Official Gazette. The clause suggested by the ILI to be inserted in the section is *Notwithstanding anything contained above, where such forest-land or waste-land or the whole or any part of the forest produce of such forest-land or waste-land contributes towards the community resources of any village, the State Government shall consult the concerned Gram Sabha before constituting any such forest-land or waste-land in the Scheduled Areas, a protected forest.* The same may be inserted in the form of a proviso in the section.
- (I) Section 30 of the IFA gives power to the State Government to issue notification reserving trees in a protected forest and declare any portion of such forest as closed. A proviso may be inserted in the section to provide that *in the Scheduled Areas, the Gram Sabha shall be consulted before declaring any portion of such forest closed and the State Government shall ensure that the remaining portion of such forest is sufficient and reasonably convenient for the exercise of right of pasture and ownership of minor forest produce.*
- (J) A proviso may be inserted in section 32 of the IFA, which gives power to the State Government to make rules for protected forests. The proviso may provide that *while making such rules, the State Government shall ensure that the Panchayat at the appropriate level and the Gram Sabha in the Scheduled Areas are endowed specifically with the ownership of minor forest produce.*
- (K) Section 35 of the IFA provides for the protection of forests for special purposes. A proviso may be inserted in the section to provide that *prior recommendation of the Gram Sabha or the Gram Panchayat at the appropriate level shall be made mandatory prior to issuing of notification in relation to protection of forests for special purposes by the State Government in the Scheduled Areas.*

(L) A proviso may be added to section 37 of the IFA, which makes a provision for expropriation of forests in certain cases. The proviso may provide that *'in the Scheduled Areas, the land shall be acquired after due consultation with the Gram Sabha.'*

(M) Section 41 of the IFA gives power to State Government to make rules to regulate transit of forest-produce. An explanation and a proviso may be inserted in the section, as under:

'Explanation: Nothing in this section shall affect the ownership rights of the Gram Sabha or the Panchayat in a Scheduled Area over minor forest produce.'

Provided that the State Government shall consult the Gram Sabha or the Panchayat prior to issuing a notification to regulate the transit and possession of all minor forest produce in a Scheduled Area.'

(N) The Government may consider insertion of the following proviso to section 69 of the IFA, which raises presumption that forest-produce belongs to Government:

'Provided that any minor forest produce obtained from a reserved forest, protected forest or village forest notified under the Act or under a state forest Act, shall be presumed to be the property of the Panchayat and the Gram Sabha in the Scheduled Area.'

(O) The following proviso may be added in section 80 of the IFA, which provides for management of forests that are the joint property of the Government and other persons:

"Provided that where such forest-land or waste-land or the whole or any part of the forest produce of such forest-land or waste-land contribute towards the community resources of any village, the State Government shall consult and have due regard to the traditional management practices of community resources of the concerned Gram Sabha before undertaking the management of such forest, waste-land or produce or before issuing any regulations or notifications regarding them."

6. In respect to the **Mines and Minerals (Development and Regulation) Act, 1957**, the Committee agrees with the suggestions of the ILI in its Report with certain modifications and recommends the following:

(A) It is suggested that the following definition of 'Scheduled Area' may be included in section 3 of the MMDR Act, providing for definitions:

' "Scheduled Area" means the Scheduled Areas as referred to in clause (I) of article 244 of the Constitution.'

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- (B) Section 4 of the MMDR Act provides that reconnaissance, prospecting or mining operations shall be under a licence or lease granted under this Act. The following proviso may be inserted in the section:

'Provided that the recommendation of the Gram Sabha or the Panchayat at the appropriate level shall be mandatory prior to grant of reconnaissance permit, prospecting licence or mining lease for minor minerals in the Scheduled Areas.'

- (C) The following proviso may be inserted in section 5 of the MMDR Act, which provides for the restrictions on the grant of reconnaissance permits or prospecting licences or mining leases:

'Provided that in respect of any minor mineral no reconnaissance permit, prospecting licence or mining lease shall be granted without the prior recommendation of the Gram Sabha or the Panchayat at the appropriate level in the Scheduled Areas.'

- (D) Section 7 of the MMDR Act provides for the periods for which reconnaissance permits or prospecting licences may be granted or renewed. The following proviso may be added in the section:

'Provided that, in the Scheduled Areas, no prospecting licence granted in respect of minor minerals shall be renewed except with the prior recommendations of the Gram Sabha or the Panchayat at the appropriate level.'

- (E) Section 11 of the MMDR Act provides for the preferential right of certain persons for obtaining reconnaissance permits, prospecting licences or mining leases. A proviso may be added in section 11 to provide that *'the recommendation of the Gram Sabha or the Panchayat at the appropriate level shall be made mandatory prior to grant of reconnaissance permit, prospecting licence or mining lease for minor minerals in the Scheduled Areas.'*

- (F) Section 13 of the MMDR Act gives power to the Central Government to make rules in respect of minerals. Section 18 of the Act casts a duty on the Central Government to take all necessary steps for conservation and systematic development of minerals in India and for the protection of environment by preventing or controlling any pollution caused by prospecting or mining operations and for such purposes the Central Government may make such rules as it thinks fit. A proviso each may be inserted in sections 13 and 18 of the MMDR Act to provide that *'in making rules under this section, the Central Government shall have due regard to the objectives of PESA, 1996.'*

- (G) The following provisos may be inserted in section 15 of the MMDR Act, which gives power to State Governments to make rules in respect of minor minerals:

Provided that the recommendation of the Gram Sabha or the Panchayat at the appropriate level shall be made mandatory prior to grant of any quarry lease, mining lease or other mineral concession for minor minerals in the Scheduled Areas.

Provided further that, before making rules under this Section, the State Government shall have due regard to the objectives of PESA, 1996.'

7. In respect to the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Committee after examining the provisions of the Act, recommends the following:

(A) Section 3(2) of FRA provides that the Central Government shall provide for diversion of forest land for certain developmental facilities/ projects which involve felling of trees not exceeding 75 trees per hectare, mainly schools, dispensaries, anganwadis, fair price shops, etc. As per the Section, for clearance of such projects, the same are required to be recommended by the Gram Sabha. A proviso may be inserted in the section to make a provision that section 4(e) of PESA would prevail in the event of diversion of forest land for developmental projects, resulting in poverty alleviation and other programs.

(B) The Government may consider the suggestion to accord the ownership of all 'minor forest produce' to Scheduled Tribes and other traditional forest dwellers, except those available in the inviolate areas of wildlife sanctuary, national park and core of tiger reserve under FRA.

8. After examining the provisions of the Coal Bearing Areas (Acquisition & Development) Act, 1957, the Committee makes suggestions as under:

(A) In section 2 of the CBA (Definitions), the definition of 'Scheduled Area' may be included as follows:

"Scheduled Area" means the Scheduled Areas as referred to in clause (1) of article 244 of the Constitution.

(B) Section 4 of the CBA makes a provision for the issuance of preliminary notification respecting intention of the Central Government to prospect for coal in any area and powers of competent authorities thereupon. Section 4(1) provides that whenever it appears to the Central Government that coal is likely to be obtained from land in any locality, it may, by notification in

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the Official Gazette, give notice of its intention to prospect for coal therein. The following proviso may be added in section 4(1) of the Act:

'Provided that the Central Government shall consult the concerned Gram Sabha or the Panchayat, at the appropriate level, prior to issuance of notification in the Scheduled Area.'

- (C) Section 7 of the Act gives power to the Central Government to acquire land or rights in or over land notified under section 4. Section 7(1) provides that if the Central Government is satisfied that coal is obtainable in the whole or any part of the land notified under sub-section(1) of section 4, it may, within a period of two years from the date of the said notification or within such further period not exceeding one year in the aggregate as the Central Government may specify in this behalf, by notification in the Official Gazette, give notice of its intention to acquire the whole or any part of the land or of any rights in or over such land, as the case may be. The following provisos may be added to section 7(1) of the Act:

'Provided that the Central Government shall consult the concerned Gram Sabha or the Panchayat, at the appropriate level, prior to issuance of notification in the Scheduled Area.'

- (D) Section 9 of the aforesaid Act makes a provision for declaration of acquisition. Section 9(1) provides that when the Central Government is satisfied, after considering the report, if any, made under section 8 that any land or any rights in or over such land should be acquired, a declaration shall be made by it to that effect, and different declarations may be made from time to time in respect of different parcels of any land, or of rights in or over such land, covered by the same notification under sub-section (1) of section 7 irrespective of whether one report or different reports has or have been made (wherever required) under sub-section (2) of section 8.

The following proviso may be added in section 9(1) of the Act:

'Provided that, in case of acquisition of any land in the Scheduled Areas, prior consultation with the concerned Gram Sabha or the Panchayat, at the appropriate level, shall be mandatory before issue of a declaration.'

9. The Committee after examining the provisions of the **Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962** makes the following suggestions:

- (A) In section 2 of the PMP Act (Definitions), the definition of 'Scheduled Area' may be included as follows:

“Scheduled Area” means the Scheduled Areas as referred to in clause (1) of article 244 of the Constitution.

- (B) Section 3 of the PMP Act provides for publication of notification for acquisition. Sub-section (1) of the section provides that whenever it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum or any mineral from one locality to another locality, pipelines may be laid by that Government or by any State Government or a corporation and that for the purpose of laying such pipelines, it is necessary to acquire the right of user in any land under which such pipelines may be laid, it may, by notification in the Official Gazette, declare its intention to acquire the right of user therein.

The following proviso may be added in section 3(1) of the Act:

‘Provided that the Central Government shall consult the concerned Gram Sabha or the Panchayat, at the appropriate level, prior to issuance of notification in the Scheduled Area.’

- (C) Section 6 of the Act provides for declaration of acquisition of right of user. Section 6(1) provides that where no objections under sub-section (1) of section 5 have been made to the competent authority within the period specified therein or where the competent authority has disallowed the objection under sub-section (2) of that section, the authority shall, as soon as may be, either make a report in respect of the land described in the notification under sub-section (1) of section 3, or make different reports in respect of different parcels of such land, to the Central Government containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government and upon receipt of such report the Central Government shall, if satisfied that such land is required for laying any pipelines for the transport of petroleum or any mineral, declare, by notification in the Official Gazette, that the right of user in the land for laying the pipelines should be acquired and different declarations may be made from time to time in respect of different parcels of the land described in the notification issued under sub-section (1) of section 3, irrespective of whether one report or different reports have been made by the competent authority under this section. The following proviso may be added to section 6(1) of the Act:

‘Provided that, in case of acquisition of any land in the Scheduled Areas, prior consultation with the concerned Gram Sabha or the Panchayat, at the appropriate level, shall be mandatory before issue of a declaration.’