

Rajasthan Panchayati Raj (Modification of Provisions in their Application to the Scheduled Areas) Rules, 2011

RAJASTHAN

India

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Rule

RAJASTHAN-PANCHAYATI-RAJ-MODIFICATION-OF-PROVISIONS-IN- of 2011

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Rajasthan Panchayati Raj (Modification of Provisions in their Application to the Scheduled Areas) Rules, 2011Published vide Notification No. F.4(6)PESA Rules/Legal/PR/2010/ 1938, dated 1.11.2011No.F.4(6)PESA Rules/Legal/PR/2010/ 1938. - In exercise of the powers conferred by section 4 read with section 3 of the Rajasthan Panchayati Raj (Modification of Provisions in their Application to the Scheduled Areas) Act, 1999 (Act No.16 of 1999) and all other powers enabling it in this behalf, the State Government hereby makes the following rules, namely:-Chapter-I Preliminary

1. Short title and commencement.

(1)These rules may be called the Rajasthan Panchayati Raj (Modification of Provisions in their Application to the Scheduled Areas) Rules, 2011.(2)They shall extend to the scheduled areas of Rajasthan as referred to in clause (1) of Article 244 of the Constitution of India except those areas which are administered by a municipality.(3)They shall come into force on the date of their publication in the Official Gazette.

2. Interpretation.

(1)In these rules, unless the subject or the context otherwise requires,-(i)"Act" means the Rajasthan Panchayati Raj (Modification of Provisions in their Application to the Scheduled Areas) Act, 1999 (Act No.16 of 1999);(ii)"Gram Sabha" means a village assembly, comprising all persons whose

names are included in the electoral rolls for the Panchayat at the village level; and(iii)"Minor Forest Produce" means Minor Forest Produce includes all non-timber forest produce of plant origin including bamboo, brush wood, stumps, cane, tussar, cocoons, honey, wax, lax, tendu or kendu leaves, medicinal plants and herbs, roots, tubers and the like.(2)All words and expressions used but not defined in these rules have the same meanings as are respectively assigned to them in the Act.Chapter-II Gram Sabha

3. Composition.

- All the people included in the electoral rolls of a village shall be the members of the Gram Sabha of that Village.

4. Secretary of Gram Sabha.

(1)Secretary of Gram Panchayat shall be the Secretary of the Gram Sabha. In a situation where there are more than one Gram Sabhas in a Gram Panchayat, the Secretary of the Gram Panchayat shall be the Secretary of all the Gram Sabhas.(2)In absence of the Secretary of Gram Panchayat, the Vikas Adhikari of the Panchayat Samiti concerned shall nominate a Government servant to perform the duty of Secretary of Gram Sabha.(3)Gram Panchayat concerned shall be executive agency of the Gram Sabha.

5. Meeting of Gram Sabha.

(1)Every meeting or proceeding of the Gram Sabha shall be conducted in public.(2)If a meeting of the Gram Sabha is to be held in a closed building, there shall be no provision of closing the doors or prohibiting entry to the members of the Gram Sabha.(3)As far as possible, the decisions of the Gram Sabha shall be taken on consensus.Note: 'Consensus' means the people present either agree with the proposal or are neutral, and none of them is in opposition. Quorum of the meeting is compulsory for a consensus.(4)In case consensus not being assured at any issue in a meeting, such issue shall be discussed in the meeting to be held after one week or later, as decided by the Gram Sabha.(5)If there is no consensus in the second meeting also, a decision shall be taken on the basis of majority. In the absence of quorum no decision shall be taken. The issue may subsequently be decided by a majority whenever the quorum is complete.(6)The nominee of Vikas Adhikari of the Panchayat Samiti concerned shall attend meeting of Gram Sabha. He shall be responsible for correct recording of the minutes of such meetings by the Secretary of the Gram Sabha. The minutes shall be read out at the end of the meeting and shall be approved and signed by members of the Gram Sabha present in the meeting. A copy of the minutes so recorded shall be sent to the Gram Panchayat concerned.

6. Quorum.

- The quorum of a meeting of the Gram Sabha shall be one-tenth of the total number of members.

7. Presiding Officer.

- The meeting of the Gram Sabha shall be presided over by the Sarpanch of Gram Panchayat concerned, in his absence by the Up-Sarpanch. In the absence of both the Sarpanch and the Up-sarpanch, meeting shall be presided over by a member of the Gram Sabha to be elected for the purpose by a majority of the members present in the meeting.

8. Date and time of meeting of Gram Sabha.

(1)The Sarpanch or in his absence, the Secretary of the Gram Sabha shall convene meeting of Gram Sabha.(2)Notice of the day and hour of Gram Sabha meeting, as also stating the business to be transacted thereat, shall be published at least 7 days previous to the day of the meeting, by:-(i)affixing the same at one of more conspicuous places in village ; and(ii)making an announcement of such meeting by beat of drum or any sound amplifying device in village.(3)The Gram Sabha hold a meeting at least once in each quarter of the year, the Gram Sabha may decide a fixed date (means English Date) time and place of the meeting permanently and in such case, no specific notice shall be required.(4)However, if the Gram Sabha decides to fix each meeting separately, or decides to hold a meeting on a particular day, within three days of the decision, an announcement shall be made in the whole village.

9. Special meeting of Gram Sabha.

(1)Apart from its regular meetings, in the following circumstances special meetings of the Gram Sabha may be convened:(i)if it is so decided in the general meeting of the Gram Sabha,(ii)if there is a proposal in the Panchayat which needs to be considered by the Gram Sabha,(iii)on the basis of the written information given to the Secretary by at least 5 percent of total members of Gram Sabha or 25 members, whichever is more.(2)Except in situation mentioned in clause(i) of sub-rule(1), the Secretary shall call for a meeting within seven days after consulting the Sarpanch, and public information thereof shall be given in the village 3 days prior to the fixed date through public announcement and other methods: Provided that if the Sarpanch fails to do so, the Secretary shall call a meeting.Provided further that, in the absence of Secretary or lack of action to hold a meeting within a week, three members from among the people who request in writing to organize a meeting may inform the Sarpanch and organize the meeting by giving notice of at least three days.(3)The decisions taken in a particular meeting shall not be challenged anywhere else except in the next meeting and the decisions of the Gram Sabha shall be final.

10. Joint meetings of Gram Sabhas.

(1)Every Gram Sabha is competent to execute its functions in its jurisdiction, but in matters like management of resources, construction of roads etc. in which co-ordination with other Gram Sabhas is required, a joint meeting of all Gram Sabhas falling under the jurisdiction of the Gram panchayat can be conducted.(2)The joint meeting of Gram Sabhas shall be conducted as per the rules of Gram Sabha as if all the Gram Sabhas were a single entity.(3)The joint meeting shall be chaired by the

Sarpanch.(4)In the joint meeting, attendance of a minimum of 5% members or 10 members from each Gram Sabha, which ever is less, shall be mandatory. In case there is no quorum, the date of next meeting shall be finalized on the same day and same shall be informed to all Gram Sabhas.(5)The decision making process shall be the same as in the case of a single Gram Sabha meeting.(6)The area wise allocation for Government programmes in the Gram Panchayat shall be made in joint meetings for which proposal shall be made by the Gram Panchayat. The decision of the joint meeting of the Gram Sabha shall be final.Chapter-III Peace, Security and Dispute Resolution

11. Role of Gram Sabha in maintaining peace and dispute resolution.

(1)In keeping with community traditions and the spirit of the Constitution of India, law and relevant rules, it shall be the fundamental duty of the Gram Sabha to maintain peace and order in its area.(2)Gram Sabha is competent for the following action/works in its region:(i)To maintain a peaceful atmosphere where there is no fear,(ii)To safeguard self respect and maintain the freedom of expression of every citizen and(iii)Resolve disputes.

12. Peace Committee.

(1)The Gram Sabha may constitute a Peace Committee consisting twenty members, which shall have at least 33 % women, and minimum 50% Scheduled Tribes.(2)The Peace Committee shall maintain a healthy relationship with the neighboring villages and ensure that in matters of common interest and interdependence of neighboring villages, any action taken shall be based on consultation with the neighboring villages.(3)The Gram Sabha may empower the Peace Committee to:(i)inquire into incidents that breach the peace of village and report to Gram Sabha for a decision.(ii)counsel those breaking peace and arbitrate.(iii)take immediate action where necessary, and subsequently report to Gram Sabha.(iv)with the approval of the Gram Sabha make a report/ request to the Sub-Divisional Magistrate for suitable action.

13. Matters relating to superstition, sorcery etc.

(1)Matters related to superstition sorcery or magic shall be deliberated upon in open meeting of the Gram Sabha.(2)The matters of superstition shall be discussed in two continuous meetings of the Gram Sabha so that everyone gets an opportunity to think over the matter.(3)When such matters are discussed, any member of the Gram Sabha may make a request to the District Collector for the presence of an Observer. Upon receiving such a request, the District Collector shall depute an Observer.(4)It shall be the duty of the Observer to provide factual and scientific information about the matter to the Gram Sabha.

14. Process of dispute resolution.

(1)While resolving a dispute, the Gram Sabha or the Peace Committee shall take action as per its tradition, keeping in mind the principles of natural justice.(2)The hearing of any dispute shall take

place only in public. Before arriving at the final decision, persons from all the parties concerned and other people actively involved in the proceeding, if any, shall be given ample opportunity to express their views.(3)After hearing the views of all the people, the Peace Committee, shall concludes its proposal for further action to the Gram Sabha.(4)All the members of Gram Sabha shall have an opportunity to give their views on the conclusions and proposals of the Peace Committee.(5)After getting the views of the Gram Sabha, the Peace Committee, after making appropriate amendments if any, shall present its conclusion and proposal to the Gram Sabha again and same shall be accepted as the decision of the Gram Sabha on the basis of consensus or a majority vote as the case may be.(6)If the conclusions or proposals of the Peace Committee do not get a majority vote in the Gram Sabha, after having an informal talk with the parties, the Peace Committee shall, again present the matter in the next meeting of Gram Sabha and the decision of Gram Sabha shall be final.(7)The main objective of resolution of any dispute shall be to eliminate completely such dispute and create an atmosphere of harmony in the village.

15. Action by a person or persons not satisfied with the decision of the Gram Sabha regarding dispute resolution.

- If a person or a group of person affected by any decision of the Gram Sabha feels that there has been a violation of his/their rights and offence is committed, the affected person registers a report in the police station, then in such cases, the concerned officers shall contact the Gram Sabha or Peace Committee for full information regarding the decision.

16. Role of Police.

(1)If the local police receives information regarding a possibility of disruption of peace in the area of any Gram Sabha, then except in cases in which immediate action by the police is mandatory, the Police Officer concerned shall present a detailed report of the matter to the Gram Sabha or to the Peace Committee. Arbitration in such matters or preventive measures against any person shall be taken only with the consultation of the Gram Sabha.(2)If the police receives information regarding any crime, then except in case of serious crime or in an extraordinary situation where immediate action by the police is required, after the report is registered in the police station, a copy of the same shall be sent to Gram Sabha or Peace Committee. If necessary, an effort shall be made to resolve the matter in the Gram Sabha's special meeting or in its forthcoming meeting.Note: Those crimes shall be considered to be serious, for which there is a provision of punishment of 2 or more years in the Indian Penal Code, 1860.Chapter-IV Management of Community Resources

17. Gram Sabha to safeguard Community resources.

(1)The Gram Sabha is competent to safeguard and reserve the community resources located in its area as well as those over which it enjoys traditional rights including water, land and mineral as per local tradition and relevant laws. To fulfill this role, the Gram Sabha may play active role in their management.(2)The Gram Sabha shall ensure that resources are utilized in such a way that : (i)livelihood means are sustained,(ii)inequality among the people does not increase,(iii)resources

are not confined to a few people, and(iv)there is full utilization of local resources, in keeping with sustainability.Chapter-V Acquisition of Land, Powers to Prevent Alienation of Land and Control over money Lending

18. Consultation with Gram Sabha.

(1)When the Government considers land acquisition under any Act, the Government or the authority concerned shall submit to the Gram Sabha the following written information along with the proposal:-(i)The complete outline of the proposed project; including the possible impact of the project;(ii)Proposed land acquisition;(iii)New people likely to settle in the village and possible impact on the area and society; and(iv)The proposed participation, amount of compensation, job opportunities, for the people of the village.(2)After getting complete information the concerned Gram Sabhas shall be competent to summon representatives of the concerned authorities and the Government to examine them either individually or collectively. It shall be mandatory for all such persons summoned to furnish point-wise clear and correct information.(3)The Gram Sabha after considering all the facts, shall make a recommendation regarding the proposed land acquisition and rehabilitation plan of persons displaced.(4)The recommendation of Gram Sabha shall be considered by the Government or the authority concerned.(5)In case the Government or the authority concerned is not agree with the recommendations of Gram Sabha, it/they shall send the case again to the Gram Sabha for reconsideration.(6)If after a second consultation, the Government or the authority concerned passes an order against the recommendations of the Gram Sabha, record the reasons for doing so in writing.(7)In case of industrial projects, all the Gram Sabhas that are affected by such projects shall be consulted.

19. Prevention of land alienation.

- The Gram Sabha shall ensure that no land belonging to Scheduled Tribe is transferred to non Scheduled Tribe persons.

20. Powers of ejectment.

- The powers of the Tehsildar, under section 183B of the Rajasthan Tenancy Act, 1955(Act No. 3 of 1955) for summary ejectment of trespassers from the land held by a member of a Scheduled Tribe in the Scheduled Area, shall be exercised by the Panchayat Samiti, according the provisions under the Rajasthan Land Revenue Act, 1956(Act No. 15 of 1956).

21. Powers of Panchayat as Assistant Registrar.

- Panchayat / Panchayat Samiti shall be competent to restrict and regulate business of money lending in Scheduled Area as per the provisions of the Rajasthan Money Lenders Act, 1963 (Act No. 10 of 1964);

22. Powers of Panchayat as Assistant Registrar.

(1) Gram Panchayat shall exercise all the powers of Assistant Registrar as per the provisions of the Rajasthan Money Lenders Act, 1963 (Act No. 1 of 1964); (2) In case of any irregularity or non-compliance of rules, Gram Sabha or Village Panchayat shall send a written complaint recommending to Panchayat Samiti for imposing fine or for cancellation of license or for filing a case in the court, as the case may be. Recommendation of Gram Sabha shall be binding on the Panchayat Samiti concerned.

23. Powers of Panchayat Samiti as Registrar.

- Panchayat Samiti shall exercise all the powers of Registrar as per the provisions of the Rajasthan Money Lenders Act, 1963 (Act No. 1 of 1964).

24. Power of Commissioner Tribal Area Development as Registrar General.

- Commissioner Tribal Area Development shall exercise all the powers of Registrar General as per the provisions of the Rajasthan Money Lenders Act, 1963 (Act No. 1 of 1964). Chapter-VI Minor Forest Produce

25. Minor Forest Produce.

- The Gram Sabha shall be the owner of minor forest produce falling within its jurisdiction subject to following conditions: (i) Ownership of minor forest produce does not include ownership of land, trees and/or wild life found in the area; (ii) No person shall cut grass from any part of the forest land which is closed to grass cutting; (iii) Grass from forest land shall not be cut in any period of the year except from 1st October to 31st January; (iv) No person shall graze cattle except in such parts of the forest as are opened from time to time for grazing by Divisional Forest Officer; (v) No person shall fell, uproot, tap, girdle, saw or convert any standing tree while enjoying the ownership rights of minor forest produce; (vi) No minor forest produce shall be removed from the forest land after sunset and before sunrise unless specifically permitted by Divisional Forest Officer; (vii) No person shall kindle, keep or carry any fire within 200 meter of the forest land during the period from 15th July to 30th September every year except as may be specifically permitted by the Divisional Forest Officer; (viii) No minor forest produce shall be removed from the Protected Areas, Sanctuaries, National Parks, Conservation Reserves, Community Reserves, or Critical Tiger Habitats without specific permission of the Chief Wild Life Warden.

26. Collection and marketing of Minor Forest Produce.

(1) Collection and marketing of Minor Forest Produce other than Bamboo and Tendu Pata shall be undertaken as under: (i) Gram Sabha shall be responsible for organizing collection of all minor forest produce from its area through the Village Forest Protection and Management Committee (VFPMC) or RAJAS Sangh or Cooperative Societies constituted for this purpose; (ii) Gram Sabha shall ensure

collection of minor forest produce in accordance with the Memorandum of Understanding signed by the VFPMC with the Panchayat and the Forest Department;(iii)The Gram Sabha shall be responsible for the marketing of the minor forest produce from its area and optimizing its profits;(iv)The [gross revenue] [Substituted 'net revenue' by Notification No. F. 4(6) PESA Rules/Legal/PR/2010/250, dated 27.2.2013-Rajasthan Gazette Extraordinary Part 4(C)(I), dated 1.3.2013 page 194, G.S.R. 119.] obtained shall belong to Gram Sabha. The Gram Sabha shall be free to use this revenue for undertaking community works and for augmenting production of minor forest produce;(v)Gram Sabha may decide to sell the minor forest produce collected from its area to RAJAS Sangh at minimum support price fixed by RAJAS Sangh; and(vi)The Committee constituted for fixing minimum support price for purchase of minor forest produce by RAJAS Sangh shall have representation of the Panchayati Raj Institution.(2)Collection and marketing of Bamboo shall be undertaken as under:(i)Bamboo culms shall not be cut during the time of their flowering. They can be cut with permission of Gram Sabha only after the seeds have been shed;(ii)In each clump of bamboo, at least 3 or 4 old, sound and well grown bamboos shall be left un-felled and evenly spaced along the outer periphery of the clump;(iii)Digging and extracting of bamboo rhizomes shall be prohibited;(iv)Bamboo clumps shall not be cut less than 2 inch or more than 6 inch above the ground except in the case of congested clumps where cutting may be done at the best possible point;(v)Sharp implements must be used in cutting of bamboo clumps to avoid tearing of the culms;(vi)Bambo shall continue to be harvested scientifically on a non-destructive and sustainable basis by the Forest Department for the Gram Sabha;(vii)Wherever VFPMC exists and have undertaken bamboo planting in the Scheduled Area, they may harvest it scientifically under the supervision of Forest Department and transport the produce to Forest Department's depots for auction to derive maximum benefit of the market;(viii)[The Forest Department shall transfer the gross revenue to the respective Panchayat from whose area bamboo has been harvested; and] [Substituted by Notification No. F. 4(6) PESA Rules/Legal/PR/2010/250, dated 27.2.2013-Rajasthan Gazette Extraordinary Part 4(C)(I), dated 1.3.2013 page 194, G.S.R. 119.](ix)The revenue received from bamboo harvesting shall be spent by Gram Sabha on development of community and regeneration of bamboo.(3)Collection and marketing of Tendua Patta shall be undertaken as under:(i)The trade of Tendu patta is governed by the Rajasthan Tendu Leaves (Regulation of Trade) Act, 1974(Act No.5 of 1974);(ii)The Tendu patta shall continue to be collected by the Forest Department in accordance with the Rajasthan Tendu Leaves (Regulation of Trade) Act, 1974(Act No.5 of 1974);(iii)The [gross revenue] [Substituted 'net revenue' by Notification No. F. 4(6) PESA Rules/Legal/PR/2010/250, dated 27.2.2013-Rajasthan Gazette Extraordinary Part 4(C)(I), dated 1.3.2013 page 194, G.S.R. 119.] received from collection of tendu leaves shall be transferred to respective Panchayats from whose area tendu patta is collected in the ratio of production of Tendu Patta from its area;(iv)The details of Tendu Patta collected from different Gram Sabha areas shall be compiled by the Forest Department in accordance with the procedure finalized by the Advisory Committee constituted by the Forest Department for advising the State Government on the rate at which tendu patta is collected every year;(v)The Gram Sabha shall use 50% of this revenue for infrastructure development and rest 50% on cultural operations required for augmenting the production of tendu patta in its area; and(vi)The Advisory Committee of the Forest Department shall necessarily have representation of Panchayati Raj Institutions.

Chapter-VII Control Over Minor Minerals

27. Authority to make recommendation.

- Recommendation for grant of any mineral concession in respect of a minor mineral shall be made by:-(a)the Gram Sabha concerned, where the area falls within the jurisdiction of a single Gram Panchayat; or(b)the Panchayat Samiti concerned, where the area falls within the jurisdiction of more than one Gram Panchayat; or(c)the Zila Parishad concerned, where the area falls within the jurisdiction of more than one Panchayat Samiti.

28. Procedure for obtaining recommendation.

(1)The Mining Engineer/Assistant Mining Engineer concerned shall send proposal alongwith a plan of the area superimposed on the Revenue Map and description report mentioning distance and bearing of one the corner pillars of the area with a fixed reference point in the vicinity to the recommending authority, as specified in the rule 27 above.(2)The recommending authority shall consider the proposal and convey its recommendation within 30 days from the date of receipt of the proposal:Provided that the recommending authority may reject the proposal for reasons to be recorded and communicated in writing to the Mining Engineer/Assistant Mining Engineer concerned.Chapter-VIII Intoxication Control

29. Regulate sale and consumption of any intoxication.

(1)The Gram Sabha shall adopt resolution to encourage temperance or to shift the location of liquor shops to other identified place, to take action against the identified persons involved in manufacturing or selling of illicit liquor in the area. A copy of resolution dully signed by the members of Gram Sabha shall be forwarded to Collector of the District and Excise commissioner, Rajasthan, Udaipur.(2)Collector shall depute a senior officer not below the rank of Tehsildar or any other appropriate officer to verify the genuineness of the resolution. Officer so deputed shall give his report to the Collector who shall move with his comments it to the Excise Commissioner, Rajasthan. Udaipur.(3)Excise Commissioner, Rajasthan shall take necessary action to implement the resolution in the area of Gram Sabha and inform Gram Sabha through Collector of the District.(4)Gram Sabha shall be competent to lay down limits for possession of country liquor by the resident of the Gram Sabha on special occasions like birth, naming ceremony, betrothal, marriage, during settlement of disputes, death feasts, Holi and Diwali festivals and such other social occasions in view of tradition and customs of the tribal community. Gram Sabha shall specify the quantity of local liquor to be possessed and date wise period of possession. Ganeral permission shall not be given.

30. Views of women to be crucial.

- The views of female members present in the Gram Sabha shall be considered to be views of the Gram Sabha and action shall be taken according to those views.

31. Fines and Penalties.

- Gram Sabha may pass resolution for levy of suitable fine on persons involving themselves in taking intoxicants in public places, quarreling with women in drinking state, beating wives etc. in view to restrict evils of drinking in society.

32. Removal of Difficulties.

- If any difficulty arises in effective implementation of provisions of these rules, the State Government shall give such directions by issuing orders which are in consonance with the provisions of the Act and which are considered essential for removal of such difficulties.

33. Repeal and savings.

- The Rajasthan Panchayati Raj (Modification of Provisions in their Applications to the Scheduled Areas) Rules, 2002 is hereby repealed: Provided that all action taken or order made under the rules so repealed shall be deemed to be taken or made under these rules.