

Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011

ANDHRA PRADESH

India

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Rule

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Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011Published vide Notification No. G.O.Ms. No. 66, PR & RD(Mdl.I), dated 24.3.2011Last Updated 2nd September, 2019Notification No. G.O.Ms. No. 66, PR & RD(Mdl.I). - In exercise of the powers conferred under sub-section(1) of Section 268 read with Sections 242-A to 242-I under Part VI-A of the Andhra Pradesh Panchayat Raj Act, 1994, the Governor of Andhra Pradesh hereby makes the following Rules relating to the Andhra Pradesh Panchayats Extension to Schedule Areas.

1. Short title, Extent and Commencement.

- (i) These Rules may be called the Andhra Pradesh Panchayats Extension to Scheduled Areas (PESA) Rules, 2011.(ii)They shall extend to all the Scheduled Areas in the State where the Andhra Pradesh Panchayat Raj Act, 1994 is in force.(iii)They shall come into force at once.

2. Definition.

(1)In these Rules, unless the context otherwise requires;(i)'Act' means the Andhra Pradesh Panchayat Raj Act, 1994 as amended by the Andhra Pradesh Panchayat Raj (Amendment) Act, 1998 (Act No. 7 of 1998).(ii)'Gram Sabha' means a Gram Sabha which comes into existence under Rule 4.(iii)'Minor water bodies' means natural water bodies used for fetching drinking water, construction of check dams and irrigating an extent of land up to 40 hectares.(iv)'Scheduled Areas' means the Scheduled Areas notified under paragraph 6 of the Fifth Schedule to the Constitution of India.(v)For the purpose of these rules, " Commissioner" means Commissioner Tribal

Welfare.(2)The words and expressions used but not defined in these Rules shall have the meaning assigned to them in the Mines and Minerals (Regulation and Development) Act, 1957; the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959; the Andhra Pradesh Scheduled Areas Money Lenders Regulation, 1960; the Andhra Pradesh Scheduled Tribes Debt Relief Regulation, 1960; the Andhra Pradesh (Agricultural Produce & Live Stock) Act, 1966; the Andhra Pradesh Forest Act, 1967; the Andhra Pradesh Excise Act, 1968; the Andhra Pradesh Scheduled Tribes Debt Relief Regulation, 1970; the Andhra Pradesh Scheduled Areas Minor Forest Produce (Regulation of Trade) Regulation, 1979; the Forest (Conservation) Act, 1980; the Andhra Pradesh Education Act, 1982; the Andhra Pradesh Panchayat Raj Act, 1994 as amended by the Andhra Pradesh Panchayat Raj (Amendment) Act, 1998; the Andhra Pradesh Farmers Management of Irrigation Systems Act, 1997; and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or any other such Legislation time being.

3. Declaration of villages in the Scheduled Areas.

- For the purpose of Section 3 of the Panchayat Raj Act.(i)Commissioner may request the concerned District Collector to draw up a list of villages in the scheduled areas in the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal, Adilabad and Mahabubnagar(ii)A village may consist of a habitation/hamlet or groups thereof comprising of a community or communities managing their affairs in accordance with their traditions and customs.(iii)On receipt of such requisition, the District Collector in consultation with PO, ITDA may prepare a proposal consisting of villages comprised of a habitation / hamlet or groups thereof.(iv)The proposal / proposals so prepared shall be submitted to the Commissioner. The Commissioner on review of the proposal will declare the villages in scheduled areas in the districts of Srikakulam, Vizianagaram, Visakhapatnam, East Godavari, West Godavari, Khammam, Warangal, Adilabad and Mahabubnagar.

4. Gram Sabha and its functions.

- (i) Every village declared in the aforesaid manner shall have a Gram Sabha comprising of adult members, whose names are included in the electoral rolls at the village level.(ii)The Sarpanch of the Gram Panchayat shall be the President of the Gram Sabha. The Gram Sabha shall elect a Vice President and Secretary as per the procedure prescribed below.(iii)Project Officer of the concerned Integrated Tribal Development Authority shall depute an officer not below the rank of a Deputy Tahsildar for convening the first Gram Sabha under these rules. The meeting so convened shall be presided over by the Sarpanch of the concerned Panchayat. In the absence of Sarpanch Traditional village elder/ Self-Help Group of the habitation may preside over the Gram Sabha.(iv)The quorum for the Gram Sabha meeting shall be not less than 1/3rd of members of Gram Sabha of whom at least 50% shall be ST members.(v)The Gram Sabha shall elect a Vice President and Secretary from among the members of the village by show of hands. The Vice President and the Secretary shall be from the Scheduled Tribe and the tenure shall be 5 years.(vi)There shall be at least two statutory meetings of Gram Sabha in a year. However, in addition to statutory meetings, Gram Sabha may meet as and when necessary at a place and time as decided by the Gram Sabha.(vii)An attendance register shall be maintained in which the presiding Member shall obtain the signatures or thumb

impressions, as the case may be, of all the Members present at the meeting of Gram Sabha.(viii)At the end of each meeting of Gram Sabha, the presiding Member shall read the proceedings of the Gram Sabha and get the approval of the Members. Each item of resolution should be recorded separately and approval or otherwise of the Gram Sabha shall be obtained. The Members shall raise their hands in token of their approval.(ix)Resolutions passed during the meeting of the Gram Sabha shall be recorded in a register and signatures / thumb impressions as the case may be of members shall be taken by the Secretary / Vice President of Gram Sabha.(x)The Resolutions shall be communicated to the concerned department of the Government / Agency / Organization by the Secretary of Gram Sabha within (4) weeks.(xi)The following matters shall be placed before the Gram Sabha for its consideration.(a)village agricultural production plans;(b)list of the location of the common lands in the villages i.e. Porambores etc. vesting in Panchayat and other relevant particulars;(c)list of transfers of ownership of houses and other immovable properties;(d)A copy of the approved budget estimates of the Gram Panchayat;(e)A copy of the audit report on the accounts of the Panchayat;(f)A list of defaulters, who are in arrears of payment of taxes and fees due to Gram Panchayat;(g)functioning of fair price shop / D.R. Depot;(h)functioning of Anganwadis;(i)functioning of sub centers;(j)functioning of schools.(k)functioning of welfare hostels(l)provision of drinking water(m)provision of electricity; and(n)any other development programmes(xii)The Gram Sabha shall prepare and approve socio economic profile of each family which shall include human and natural resources of the village, literacy levels, landless families, woman headed families, benefits so far secured with the details of their present status, village problems, prioritization etc by employing Participatory Rural Appraisal tools.(xiii)The Gram Sabha shall be involved in the identification and implementation of individual/community development programmes in the area of habitation.(xiv)The Mandal Praja Parishad may seek the advice of/assistance from the Multi Disciplinary Teams constituted by the Project Officer, Integrated Tribal Development Agency concerned or any other Government Agency in preparation of village development plans and prioritizing the benefits and schemes.(xv)The Gram Sabha shall furnish certificate of utilization of funds to the concerned agency/Government department for the funds released to it.

5. Acquisition of land in the Scheduled Areas.

(1)When the Government considers land acquisition under any Act, the Government or the concerned authority will submit to the Mandal Praja Parishad the following written information alongwith 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 Mandal Praja Parishad will be competent to summon the representatives of the concerned authorities and the Government to examine them either individually or collectively. It will be mandatory for all such persons summoned to furnish point-wise clear and correct information.(3)The Mandal Praja Parishad after considering all the facts shall make a recommendation regarding the proposed land acquisition and rehabilitation plan of persons displaced.(4)The recommendation of the Mandal Praja Parishad shall be considered by the Land Acquisition Officer.(5)In case the Land Acquisition Officer is not in agreement with the

recommendations of the Mandal Praja Parishad, he will send the case again to the Mandal Praja Parishad for consideration.(6)If after a second consultation, the Land Acquisition Officer passes an order against the recommendations of the Mandal Praja Parishad, he shall record the reasons for doing so in writing.(7)In case of industrial projects, all the Mandal Praja Parishad that are influenced by such projects shall be consulted.(8)The progress of rehabilitation plan should be placed before the Mandal Praja Parishad after every 3 months from the date of notification for land acquisition.(9)If in the opinion of the Mandal Praja Parishad, suggested measures are not followed, the Mandal Praja Parishad may inform the State Government in writing regarding the same, and it will be mandatory for the State Government to take appropriate action.(10)RR Package shall have necessary features as shown below:(a)Each project affected family of ST category shall be given preference in allotment of land in the ayacut.(b)Each tribal PAF shall get additional financial assistance equivalent to 500 days of minimum agriculture wage for loss of customary rights/usages of forest produce.(c)Tribal PAFs will be re-settled close to their natural habitat of their choice, to the extent possible, in a compact block so that they can retain their ethnic, linguistic and cultural identity.(d)The tribal families residing in the Project Affected Areas having fishing rights in the river/pond/dam shall be given fishing rights in the reservoir area.(e)The tribal PAFs shall be resettled and rehabilitated within the Scheduled areas.

6. Management of Minor Water bodies in the Scheduled Areas.

- (i) The Gram Sabha shall be responsible for planning and management of minor water bodies for the common benefit of village population where such water bodies fall within the village.(ii)Gram Panchayat shall responsible for planning and management of minor water bodies for the common benefit of the people of Gram Panchayats concerned, if such bodies benefit people for one or more villages within the Panchayat.(iii)The Mandal Parishad shall be responsible for planning and management of minor water bodies for the common benefit of the people of the Gram Panchayats concerned.(iv)The Zilla Parishad shall be responsible for planning and management of minor water bodies for the common benefit of the people living in the Mandal Parishads concerned where such water bodies fall within the limits of 2 or more Mandals.(v)The appropriate body shall be responsible for planning and management of water bodies for the common benefit of the people living under its limits where such water bodies fall under the jurisdiction of two or more Zilla Parishads.(vi)Planning of minor water body shall also include planning and construction of a new water body.(vii)Management of minor water body shall include all works of repair, restoration for maintenance, fixing of ayacut season by season, levy of water rate, its collection and utilization.(viii)The Gram Panchayat, Mandal Parishad, Zilla Parishad, Appropriate Government, as the case may be, shall collect appropriate water rate and share it with the Water Users Associations concerned wherever they exist, in the ratio as mutually decided for taking up developmental activities there under.(ix)The Government shall provide requisite amount every year for the maintenance of minor water bodies. This grant shall be on prorata basis and be transferred to the appropriate Panchayat account.

7. Minor minerals in the Scheduled Areas.

- Grant of prospecting license or mining lease for minor minerals.(i)Only individual local members of ST or societies comprising of exclusively local ST members shall be entitled for grant of prospecting license or mining lease for minor minerals and grant of concession for exploitation of minor minerals by auction.(ii)The Mining Department shall refer all applications received for grant of prospecting license or mining lease for minor minerals in the Scheduled Areas to the concerned Gram Panchayat for their consideration.(iii)The Gram Panchayat shall forward its approval or reject individual or tribal societies or Tribal Mining Corporation by passing an appropriate resolution within 4 weeks.(iv)The decision of the Gram Panchayat shall be binding and final.

8. Powers and functions of Gram Panchayats and Mandal Parishads.

- (I) Excise:(a)The Department concerned shall inform its intention to establish a unit for manufacturing liquor in a village to the Gram Sabha concerned for its opinion on the production or manufacture of liquor in the said village. Gram Sabha will convey its opinion in the form of a resolution within four weeks. Based on the resolution of the Gram Sabha the department concerned shall act upon about the production / manufacture of liquor in the village under intimation to Gram Sabha concerned.(b)The Gram Sabha shall be consulted before the grant of any license to open liquor shop in the village. Gram Sabha will convey its opinion in the form of resolution within four weeks. The license shall be granted to local scheduled tribe only.(c)The Department concerned shall issue a speaking order for granting or not granting any license to open liquor shop/bar in the village under intimation to the Gram Sabha concerned. The Gram Sabha resolution shall be binding and final.(d)The Gram Sabha shall determine the quantity of traditional liquor that may be brewed/produced by the Scheduled Tribes living in a village for their consumption but not for sale having regard to the traditions, customs relating to consumption of local liquor during marriage and other social and religious ceremonies and their cultural identity.(II)Ownership and disposal of minor forest produce(a)Ownership and mode of disposal of minor forest produce shall vest with the individual members of Gram Sabha subject to monopoly rights of GCC by Trade Regulation 1979 issued in G.O.Ms.No.20, SW(F2) Dept., dated 14.2.1983 for procurement of MFP except Bamboo and Beedi leaf. In respect of Bamboo and Beedi leaf, management, harvesting and disposal shall be done by the forest Department who shall undertake harvesting duly following scientific silvicultural practices as prescribed in the working plans/management plans for the respective divisions. Forest Department shall pass on the net revenue from such disposal of the Bamboo and Beedi leaf harvesting from the area allotted to the Gram Sabha, to the respective Gram Sabha who may in turn pass it on to individual members of Gram Sabha.(b)Any individual collector of minor forest produce in the habitation, in case of dispute over jurisdiction relating to ownership, access to collection, use and disposal of such produce traditionally collected by him / her shall inform the Gram Sabha for settlement.(c)After verification of such claims on the right of ownership of minor forest produce of individual collector, the Gram Sabha shall pass a resolution setting such dispute.(d)The Gram Sabha shall maintain a register containing the names of each collector of minor forest produce in the habitation.(e)The Project Officer of Integrated Tribal Development Authorities (ITDA) concerned shall review compliance to these rules.(f)The Project Officer, ITDA shall be made the Chairman of the committee constituted for the management of Bamboo and Tendu products in the respective

jurisdiction."(III)Prevention of alienation of lands in the scheduled areas and restoration of alienated lands of scheduled tribe(1)The Gram Sabha shall(a)Prepare a list of landholders containing the details of extent of land held and names of the Pattadars along with enjoyers.(b)Verify the veracity of social status claims of all the Pattadars as to whether Pattadar is a genuine scheduled tribe.(c)Verify as to whether the lands are purchased in the name of a tribal woman and enjoyed by a non-tribal.(d)Visit the field if desired and physically verify as to whether the lands are cultivated by the tribal or by the non-tribal taken on lease, mortgage, etc.; and(e)Approve the list of beneficiaries for assignment of Government lands.(f)In all cases mentioned at (a) - (e) above, if Grama Sabha, after thorough investigation is satisfied that certain occupations are in violation of the Andhra Pradesh Land Transfer Regulation, 1959 as amended from time to time, Grama Sabha shall pass a resolution mentioning the details of violation. Competent authority under the Andhra Pradesh Land Transfer Regulation 1959 as amended from time to time shall initiate consequential action.(2)If there are conflicting claims in respect of the possession of lands, the Gram Sabha shall convene a meeting and call for evidence in support of such claims from the concerned to pass appropriate resolutions and request to the competent authority under the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 to initiate consequential action.(3)The Gram Sabha shall also convene a meeting on receipt of any complaint on alienation of land in favour of a non-tribal or suomotu pass appropriate resolution and shall forward the same to the competent authority to take necessary action to restore the land to the scheduled tribe transferor.(4)Any person aggrieved by the resolution of Gram Sabha may within a period of sixty days from the date of resolution, file a petition to the competent authority under the A.P. Scheduled Areas Land Transfer Regulation, 1959.(5)The competent authority under the A.P. Scheduled Areas Land Transfer Regulation, 1959 may either allow or reject or refer the petition to the Gram Sabha concerned for reconsideration.(6)After receipt of such reference, the Gram Sabha shall meet within a period of thirty days, hear the petition, pass resolution on that reference and forward the same to the competent authority under the A.P. Scheduled Areas Land Transfer Regulation, 1959.(7)The competent authority under the A.P. Scheduled Areas Land Transfer Regulation, 1959 shall consider the resolution of Gram Sabha and pass appropriate order, either accepting or rejecting the petition.(8)The competent authority under the A.P. Schedule Areas Land Transfer Regulation, 1959 shall invariably implead the Gram Sabha concerned for their considered opinion in every case of land alienation involved tribal and non-tribal. The Gram Sabha concerned shall be impleaded and the opinion of the Gram Sabha shall be duly examined.(9)The competent authority under the A.P. Scheduled Areas Land Transfer Regulation, 1959 shall furnish the copies of judgments to the Gram Sabhas concerned in every case.(10)While restoring possession of land to tribal, the competent authority shall obtain the signature of a member of Gram Sabha to that extent.(IV)Management of Village Markets/Shandies/Santhas/Angadis or by whatever name called(1)The Gram Panchayat concerned shall be the Market Committee to manage village markets (by whatever name called) in Scheduled Areas.(2)The Gram Panchayats of the villages situated in Scheduled Areas where weekly markets (by whatever name called) shall discharge the following functions as market committees in Scheduled Areas.(a)Licenses should be given only to local Scheduled Tribes.(b)maintain and manage the market yards;(c)regulate the opening, closing and suspending of transactions in a market yard;(d)Supervise the conduct of market functionaries;(e)enforce the conditions of license;(f)regulate the making, execution and enforcement or cancellation of agreements of sales, the weighment, delivery, payment and all other

matters relating to the marketing of agricultural produce, NTFP Produce, live stock or products of live stock and all matters ancillary thereto. Disposal of minor forest produce include local level processing value addition, transportation in forest area through head load, bicycle and hand carts for use of such produce for sale by the gatherers or the communities for livelihood. (g) Provide necessary facilities for the marketing of agricultural produce, NTFP Produce, live stock or products of live stock in the market area; (h) provide for the settlement of all disputes between the seller and the buyer and others arising out of any kind of transaction connected with the marketing of a notified agricultural produce, NTFP Produce, live stock or products of live stock and other products and all matters ancillary thereto; (i) Collect, maintain and disseminate information in respect of :- (i) sale prices and movement of notified agricultural produce, live stock or products of live stock; and any other product and (ii) production, processing and storage of notified commodities; (j) Take all possible steps to prevent adulteration and to promote grading standardization. (k) levy, recover and receive fees, subscriptions and other sums of money to which the Panchayat is entitled; (l) Employ necessary number of officers and servants for efficient implementation of for above rules in Scheduled Areas. (m) Conduct the auction of notified agricultural produce, live stock or products of live stock above rules in accordance with the rules. (n) Ensure correct weightment of notified commodities; (o) Regulate the entry of persons and the vehicular traffic into the market yard; (p) Prosecute persons violating the rules as per the rules of the concerned Department. (q) Institute or defend any suit, action, proceeding, application or arbitration and compromise such suit, action, proceeding, application or arbitration; and (r) Provide facilities, such as provision of adequate space for direct sales by a producer and assist a producer by preparing invoices and bills on his behalf when he sell his produce to a trader without employing a commission agent. (s) Implement the directions given by the Government from time to time in the establishment and development of markets. (V) Exercising control over money lending to the Scheduled Tribes. - No Money Lending License shall be granted to Private Money Lending Agencies in Scheduled Areas. (i) Education (VI) Exercising control over institutions and functionaries in all social sectors (a) The Mandal Parishad shall be the authority to call for the administrative reports of all the Educational Institutions through the respective Gram Panchayat. (b) The Mandal Parishad shall approve the budget for all the Educational Institutions in its jurisdiction by 31st May i.e before commencement of the academic year. (c) The Mandal Parishad shall monitor attendance and regularity of all the teachers working in all the Educational Institutions in its jurisdiction and shall report to the competent authority for disciplinary action whenever they are found to be absent or indulging in irregular practices. The competent authority shall take action under intimation to the Mandal Parishad or Gram Panchayat, as the case may be. (ii) Management of Welfare Hostels (a) The Mandal Parishad shall monitor the matters pertaining to diet, repairs and over all day to day management of the welfare hostels in its jurisdiction. (b) The Mandal Parishad shall call for the administrative reports from all the hostel welfare officers in its jurisdiction twice in an academic year. (c) The Mandal Parishad shall be the recommendatory authority as far as admission of the students into the welfare hostels are concerned. (d) The Mandal Parishad shall recommend suitable action against the hostel welfare officers and the other staff whenever they are found to be absent or indulging in irregular practices to disciplinary authority concerned. The disciplinary authority concerned shall take action under intimation to the Mandal Parishad or Gram Panchayat, as the case may be. (iii) Health. - The Panchayat Raj Institution shall support, guide and review the hospitals where institute in their respective jurisdiction with Special focus on: (a) Review and monitor the

National Health Programme under Rural Health mission and all other programmes.(b)Review the supply of medicines and its utilization.(c)Review and monitor the health extension activities in rural areas.(d)Review and monitor the steps taken to prevent outbreak of epidemics.(e)Review and monitor maintenance, up keep of surroundings and construction of Medical and Health Institutions.(f)Right from Village level to District level the Panchayat Raj Institutions will own the functioning of Primary Health Centers in their Jurisdiction ie. Gram Panchayat at Village level, Mandal Praja Parishad at Mandal level and Zilla Parishad at District level.(g)Panchayat Raj Institutions will take ownership of activities such as safe water, Hygiene and sanitation of the villages.(h)Whenever Panchayat Raj Institutions make suggestions for improvement, the Hospital authorities concerned will be responsible to send an Action taken report to the Panchayat Raj Institutions concerned. ANMs, Primary Health Centre Doctors and District Medical and health Officer at Gram Panchayat, Mandal and District level respectively will attend the general body meetings of Panchayat Raj Institutions concerned.(i)Whenever Primary Health Centre Medical Officer or ANM or District Medical and Health Officer make suggestions for improvement in Hygiene, sanitation and safe water or any matter pertaining to health, the Officers of Panchayat Raj Institutions concern will immediately respond and send an action taken report to the Medical officer or District Medical and Health Officer concerned.(j)The Mandal Parishad shall approve the budget of all Primary Health Centers and sub centers in its jurisdiction.(k)The Mandal Parishad shall call for the administrative reports of all Primary Health Centers and sub centers within a month from the commencement of the financial year.(iv)Women and Child Welfare(a)The Gram Sabha shall approve the budget for Anganwadi centers.(b)The Mandal Parishad shall call for the administrative reports from the Project Officer, ICDS in its jurisdiction within a month from the commencement of the financial year.(c)The Gram Panchayat shall be the appointing and disciplinary authority for all the Anganwadi workers i.e. helpers and workers.(V)Control over local plans and resources for such plans including tribal sub plans:(a)The State Government shall communicate district wise TSP allocations to the District Collectors and in turn the District Collector will communicate the Mandal-wise allocations to the Mandal Parishad both in physical and financial terms within a month from the commencement of the financial year.(b)The Mandal Parishad Development Officer shall communicate TSP allocations to the Gram Panchayats both in physical and financial terms within a month from the commencement of the financial year.(c)The Mandal Parishad and Gram Panchayat shall review the progress of implementation of TSP across all the Departments in their jurisdiction once in a month.(d)The Mandal Parishad and Gram Panchayat shall submit the administrative report on the implementation of TSP through the District Collector concerned.

9. Power of Appeal, Revision and Review.

- (i) Any person/body aggrieved by the resolution passed by the Gram Sabha may file an appeal before the Commissioner within sixty days from the passing of such resolution by the Gram Sabha. 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.(ii)Any person/body aggrieved by the direction/order of the Commissioner, may file a revision petition before the Government within 90 days from the date of passing of such order /direction.(iii)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.