

# PESA rules: Autonomy in check

The self-governance promise in Jharkhand's Scheduled areas is lost under bureaucratic watch

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**T**he notification of the Panchayat [Extension to Scheduled Areas] (PESA) rules has paved the way for a new regime of local self-governance in Jharkhand, in at least 15 out of 24 districts of the state. Some of the Adivasi organisations are set to legally challenge the rules, citing their deviation from the PESA Act, 1996.

It is to be noted that the process of framing the rules was initiated on instructions from the state High Court, acting on an appeal by Adivasi organisations. As a result, the government released the draft rules for public scrutiny in August 2025, and invited suggestions from civil society. The rules are, therefore, framed through a process of unusual transparency and participation. However, the outcome does not quite address some of the major concerns around land and resources. Instead, the rules entangle gram sabhas in a loop of ambiguities, with the ultimate power still resting with the bureaucracy.

The politics around the rules have implications for both democracy and governance in the Scheduled areas of the state. The two key areas in which the Adivasi activists want the absolute powers to be vested in the gram sabhas are matters related to land acquisition and the formation of district councils with autonomy in operations.

While the former seems to be beyond the mandate of the Act, there are provisions for the latter. Land acquisition for mineral extraction, leading to the displacement of people, has been opposed by Adivasis for a long time. This resistance has been aligned with movements that are mobilised around identity. The *Samata* judgment of 1997 gave a legal reference to the activists who have, occasionally, been able to use provisions under laws such as the Forest Rights Act, 2006 to strengthen the movement against resource extraction.

The activists emphasise powers entrusted with the gram sabhas – and formalised through the new rules – in all matters relevant to acquisition of land. For the people's resistance, it is the identity question that shapes priorities. The Pathalgadi movement in the state provides important context to the latter approach – there, the core argument was that autonomous local governance in Adivasi areas is anchored in customary practices. However, the historicity of

custom-based institutions in Scheduled areas of the state is also tied to laws that have redefined the idea of local self-governance.

The second major point of contention is a call for elections to the urban local bodies in Scheduled areas, in accordance with the Jharkhand Municipal Act, 2011. The activists who oppose these elections rightly argue for constituting district councils and ensuring a proper representation of the custom-based and other local bodies in the respective districts. The expanding urbanisation of districts such as Ranchi and East Singhbhum is engulfing the rural areas and bringing more non-Adivasis within the urban scope, significantly altering the demography of these regions. This has serious consequences on the decision-making powers of the local people and exposes them further to illegal land alienation.

The PESA rules grant representation to women in the gram sabhas, as against the practices in the custom-driven bodies. They also empower the gram sabhas to lease out minor minerals. However, in most cases, the ultimate power of arbitration to resolve disputes between the stakeholders is still vested in the District Collector. This takes away from the gram sabhas the status of a legislative body, as envisioned under the PESA Act.

## The role of TACs

A balance of power between the state government and the local bodies should have been integral to the development narrative in the state. This question of autonomy appears diluted now. What could be the path to resolution? Is there a possible mechanism through which this balance could be achieved?

Under the provisions of Schedule 5 of the Constitution, Tribes Advisory Councils (TACs) are established in states with Scheduled areas. The TACs, which are considered representative bodies of tribal populations, can advise the Governors of states on important issues concerning tribespeople, whenever referred to them. One way to resolve the differences between the local bodies and other stakeholders was to refer such matters to the TACs, rather than leaving them to the discretion of the district administration.

Unfortunately, the PESA rules miss out on the opportunity to adopt this solution, despite widening the consultative role of the gram sabhas. They fall short of restoring local democracy, and bring in bureaucratic control through the back door.

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