

Bill No. XLIX of 2001

**THE PROVISIONS OF THE MUNICIPALITIES (EXTENSION TO THE
SCHEDULED AREAS) BILL, 2001**

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BILL

to provide for the extension of the provisions of Part IXA of the Constitution relating to the Municipalities to the Scheduled Areas.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. This Act may be called the Provisions of the Municipalities (Extension to the Scheduled Areas) Act, 2001. Short title.
- 5 2. In this Act, unless the context otherwise requires, "Scheduled Areas" mean the Scheduled Areas as referred to in clause (1) of article 244 of the Constitution. Definition.
3. The provisions of Part IXA of the Constitution relating to the Municipalities are hereby extended to the Scheduled Areas, subject to such exceptions and modifications as are provided hereinafter. Extension of Part IXA of the Constitution.
- 10 1. Article 243Q relating to "Constitution of Municipalities" will apply with the following exceptions and modifications—
- (1) For the purposes of self-governing institutions in the Urban Scheduled Areas, all urban centres may be designated, as the case may be, as 'Nagar Panchayats', 'Municipal Councils', 'Municipal Corporations' and 'Industrial or
- 15 Mining Townships'.

(2) The Governor may, in consultation with or in pursuance of the recommendations of the Tribes Advisory Council, by public notification, declare and classify an area as an urban area of appropriate category having regard to its population, the percentage of employment in non-agricultural activities, the infra-structure, social services, development potential and such other factors, as he may deem fit. 5

(3) The tribal habitation in an urban setting shall be treated as a separate unit for the purposes of local self-government. The habitants, whose economy is predominantly rural, shall be included in Gram Sabha and the habitants, who have got assimilated in the urban economy with agriculture and allied activities receding into the background, shall be included in Tribal Mohalla or Ward Sabha. 10

2. Article 243S relating to "Constitution and composition of Wards Committees, etc.," will apply with the following exceptions and modifications—

There shall be constituted—

(1) a Standing Committee for tribal affairs in each Municipality located within the Scheduled Area. The Committee shall comprise tribal members of the Municipality with the Chairman or the Vice-Chairman, as the case may be, as its Chairman. Recommendations of this Committee shall ordinarily be binding on the Municipality; 15

(2) a Standing Committee for rural development in each Municipality responsible for the advancement of those engaged in agriculture and allied activities. 20

3. Article 243T relating to "Reservation of Seats" will apply with the following exceptions and modifications:—

(1) Seats may be reserved for the Scheduled Tribes in every Municipality in the Scheduled Area in proportion to their population in the Municipal area or one-third of the total number of seats, whichever is higher; 25

(2) The seats of all the Gram Sabhas, Tribal Mohallas, Ward Sabhas included in the Municipality in the Scheduled Areas may be reserved for the Scheduled Tribes. The remaining seats shall be allotted by rotation among other wards in the Municipality; 30

(3) Either the Chairman or the Vice-Chairman of the urban body shall be a member of the Scheduled Tribes;

(4) In all programmes of development like housing colonies, trading centers, etc., and in educational institutions or industrial training institutions, reservation shall be made in favour of the tribal people in proportion to their population in the concerned district and there shall be no de-reservation whatsoever; 35

(5) Nagar Panchayat may be constituted in an area identified as transitional area from rural to urban area. The composition of Nagar Panchayats in Scheduled Areas shall, as far as possible, be as per the structure of Municipal Committees: 40

Provided that not less than one-half of the members of Nagar Panchayat shall be from Scheduled Tribes.

4. Article 243W relating to "Powers, authority and responsibilities of Municipalities, etc.," will apply with the following exceptions and modifications:—

The Legislature of a State shall, by law, endow the Municipality in the Scheduled Area with such powers and authority as may be necessary to enable it to function as institution of self-government and such law shall contain provisions for the devolution of the following powers and responsibilities upon Municipality with respect to— 45

(1) preparing five year development plans and annual plan with reference to resources available for the development of human resources, 50

socio-economic advancement of the community, provision for reinforcement of the infrastructure and augmentation of civic amenities in the area;

(2) fostering tribal endogenous institutions;

5 (3) undertaking schemes and adopting measures, including the giving of financial assistance relating to development of khadi, cottage and small-scale industries, cooperative movement, water supply, public health and sanitation and hospitals, communication, primary and secondary education, adult and non-formal education, welfare of students, electrification
10 including distribution, non-conventional energy sources, women and child development, social welfare and other aspects of general public utility;

(4) managing of *Haats* and markets;

(5) maintaining places for rest and stay, which are neat, open and congenial for the tribal people visiting the town;

15 (6) protecting and maintaining all cultural and religious places of tribal people located within the municipal limits;

(7) identifying and removing unauthorized occupation of land;

(8) acquiring land for the purposes of education, health, railways, communication, defence, electricity generation, water supply, sanitation projects, laying electricity lines and making provision for water supply, sewerage and drainage pipelines:
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Provided that on acquisition of land, the affected person shall be paid—

(a) reasonable and adequate compensation; and

25 (b) alternative means of livelihood;

Provided further that no Scheduled Tribe person shall be rendered landless as a consequence of acquisition of land as aforesaid.

5. Article 243X relating to "Power to impose taxes by, and Funds of, the Municipalities" will apply with the following exceptions and modifications:—

30 No urban tax shall be leviable on a tribal who continues to live in his traditional style.

Explanation.—For the purposes of this clause, the following may be the norms to determine whether a Tribal continues to live in his traditional style or otherwise, namely:—

35 (1) whether he belongs to any of the communities notified as Scheduled Tribe for that State or Union territory;

(2) whether he is a *bona fide* resident of the urban area concerned;
or

40 (3) whether he continues to pursue traditional occupation of farming, petty business as artisan, labourer, or the like.

If a tribal is living with his family, the deciding factor shall be the main occupation of the family and not that of the individual member as long as he lives together in the same house.

If the other conditions are fulfilled, the income shall not be the criterion.

45 6. Article 243ZF relating to "Continuance of existing laws and Municipalities" will apply with the following modifications:—

Notwithstanding exceptions and modifications subject to which Part IXA of the Constitution has been extended to the Scheduled Areas by

this Act, any provision of any law relating to Municipalities in force in the Scheduled Areas immediately before the date of commencement of this Act, which is inconsistent with this Act shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act comes into force whichever is earlier: 5

Provided that all the Municipalities existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State. 10

STATEMENT OF OBJECTS AND REASONS

Parliament enacted the Constitution (Seventy-fourth Amendment) Act in 1992. This Act has inserted 'Part IXA' in the Constitution relating to Municipalities. Clause (1) of article 243ZC provides that nothing in Part IXA shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244. However, clause (3) of article 243ZC provides that notwithstanding anything in the Constitution, Parliament may, by law, extend the provisions of Part IXA to the Scheduled Areas and the tribal areas referred to in article 244 subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of the Constitution for the purposes of article 368.

2. It is considered necessary to make use of the above provisions for the benefit of the Scheduled Areas referred to in clause (1) of article 244 of the Constitution. A Committee of select Members of Parliament and experts was constituted to examine the issues relating to extension of the provisions of Part IXA of the Constitution to Scheduled Areas and to make its recommendations. The Bill is based on the recommendations of this Committee as well as consultations with the concerned Ministries of the Central Government, and the State Governments having Scheduled Areas. All provisions of Part IXA of the Constitution are proposed to be extended to the Scheduled Areas with certain modifications. The main modifications are as under:—

(i) Urban Local Bodies under Scheduled Areas may be designated as Nagar Panchayats, Municipal Councils, Municipal Corporations and Industrial or Mining Townships;

(ii) seats may be reserved for Scheduled Tribes in proportion to their population or one-third whichever is higher;

(iii) in all programmes of developments like housing colonies, trading centers, etc., and also in educational institutions, industrial training institutions, reservations shall be made for the tribal people in proportion to their population;

(iv) there shall be constituted a Standing Committee for Tribal Affairs and a Standing Committee for Rural Development in each Municipality;

(v) municipality in a Scheduled Area shall be endowed with powers and responsibilities of preparing five year development plan and annual plan for development of human resources and socio-economic advancement of the community;

(vi) no land may be acquired except for specific purposes. Where land is acquired, reasonable and adequate compensation shall be paid and alternative means of livelihood to an affected person shall be made available, so, however, that no Scheduled Tribe is rendered landless on such acquisition;

(vii) no urban tax shall be leviable on a tribal who continues to live in his traditional style as per the norms as prescribed in the Bill; and

(viii) functional powers as mentioned in clause 4 of the above Bill would also be devolved on Urban Local Bodies in the Scheduled Areas.

3. In the light of the aforesaid, the provisions of the Bill seek to achieve the objective of setting up of Urban Local Bodies in the Scheduled Areas as per the provisions of Part IXA of the Constitution, subject to various exceptions and modifications illustrated in the preceding paragraphs.

JAGMOHAN.

NEW DELHI;
The 19th July, 2001.

RAJYA SABHA

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to provide for the extension of the provisions of Part IXA of the Constitution relating to
the Municipalities to the Scheduled Areas.

(Shri Jagmohan, Minister of Urban Développement & Poverty Alleviation)