

WELCOME

Implementation of PESA Act



TELANGANA DEMOGRAPHY

(In lakhs, as per 2011 Census)

•Total State Population -	350.05
•Total ST Population - (32 Tribal Communities incl. 4 PVTGs)	31.78 (9.08 %)
•ST Population in ITDA Districts -	16.83 (52.96%)
•ST Population in Other Districts -	14.95 (47.04 %)
State Literacy-	66.46%
ST Literacy -	49.80%
State Male Literacy	74.95%
ST Male Literacy -	61.02%
State Female Literacy -	57.92%
ST Female Literacy -	40.64%

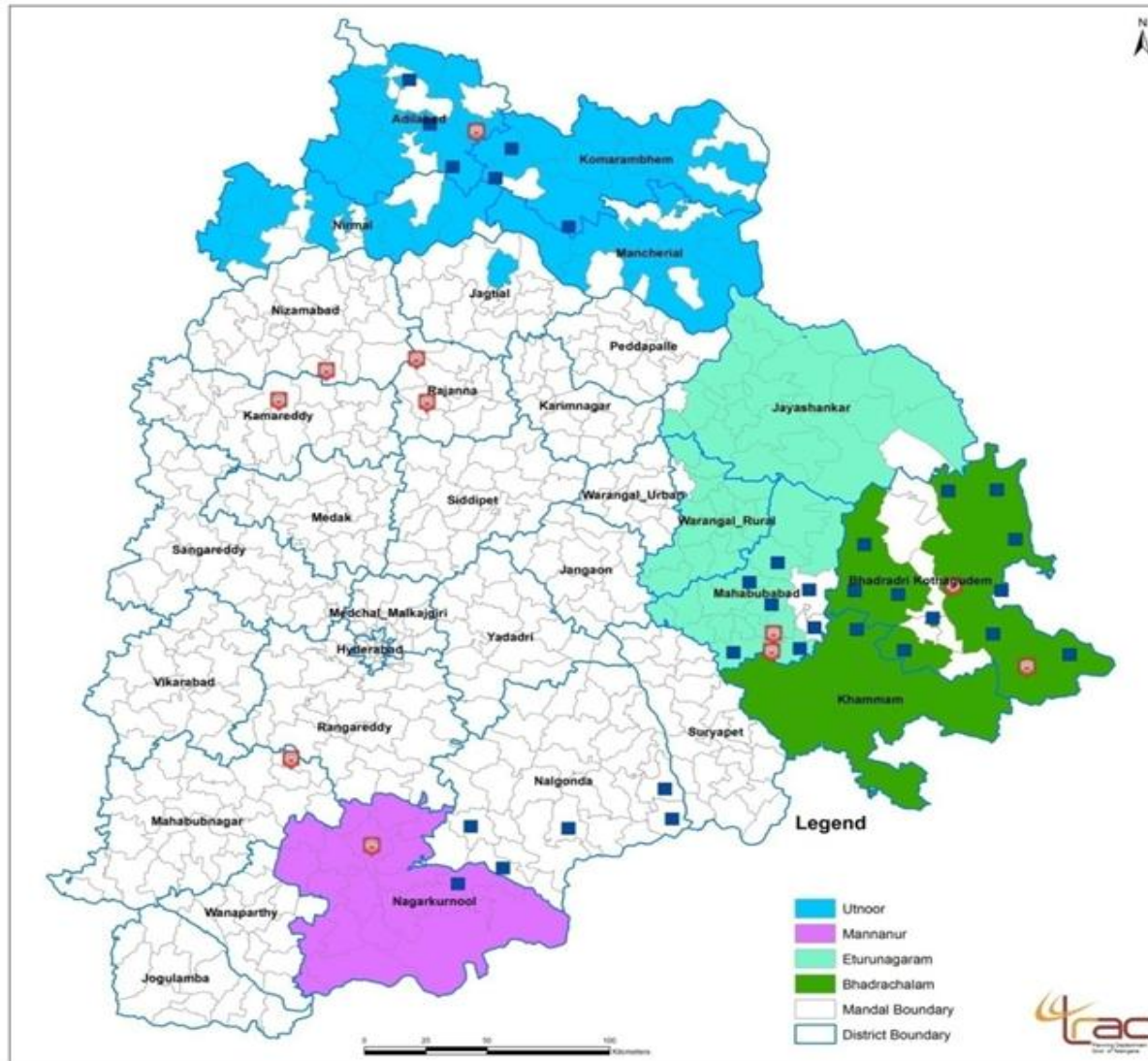
No of Districts having Scheduled Areas- 9

Adilabad, Komarambheem-Asifabad, Mancherial, Mulugu, Warangal, Mahaboobabad, Bhadradri-Kothagudem, Khammam & Nagarkurnool.

Scheduled Area Mandals – Fully 30+ Partly 55 = Total 85.

Scheduled Area Villages- 1174 Villages.

TELANGANA STATE WITH SCHEDULED AREA



SCHEDULED AREAS IN THE STATE OF TELANGANA

Sl. No.	District	No. of Mandals situated			No. of Sch. villages
		Wholly in Sch. Areas	Partly in Sch. Areas	Total	
1.	Khammam	2	3	5	41
2.	Bhadradri-Kothagudem	16	6	22	365
3.	Warangal	0	3	3	5
4.	Mulugu	3	6	9	231
5.	Mahbubabad	2	3	5	95
6.	Adilabad	4	12	16	243
7.	Komram Bheem - Asifabad	3	10	13	150
8.	Mancherial	0	8	8	21
9.	Nagarkurnool	0	4	4	23
Total:		30	55	85	1174

Local Self-Governance

India has a long history and strong traditions of ‘democratic’ institutions from ancient times. “The village communities are little republics, having nearly everything that can resolve within themselves. These sabhas (assemblies) evolved into ‘panchayats’ (an assembly of five respected elders) which then became the centre of authority for dispensation of justice and resolution of local disputes. Villages functioned as *self-governing village republics*.”

The Government of India Act of 1919 introduced local self-governing institutions with popular mandate and control over local affairs. Government of India Act of 1935 introduced provincial autonomy and elected governments.

- The Balawantraï Mehta Committee, 1957 has recommended the transfer of decision making powers from the state to the village panchayats and establishment of statutory elected local bodies and devolution of all necessary powers, authority and resources to them. The National Development Council on 12th January 1958 approved this proposal to extend democracy to the grassroots and peoples participation in all governmental processes and development. Rajasthan and Andhra Pradesh took the lead in creating a new three-tier system in 1959.
- The Ashok Mehta Committee reviewed the existing system in the states and union territories in 1977. They proposed the substitution of the three-tier structure with a two-tier system consisting of Mandal Panchayat and Zilla Parishads with the District Collector exercising regulatory functions.

The G.V.K Rao committee (1985) recommended a three-tier structure and the appointment of a District Development Commissioner as the Chief Executive of the Zilla Parishad.

The L.M Singhvi Committee (1986) favoured a constitutional sanction for the PRIs by introducing a new chapter in the Constitution. This resulted in the Constitution (64th Amendment) Bill of 1989 proposing insertion of Article 243 in the Constitution making the three-tier structure mandatory in all states.

Finally the 73rd (Panchayat Raj) constitutional Amendment Act was passed on 22nd December 1992. A new part was added to the Constitution, namely, Part IX titled “The Panchayats”. The Act transferred 29 subjects to the Panchayats.

PANCHAYATS EXTENSION TO SCHEDULED AREAS (PESA)

- The Constitution (Seventy third Amendment) Act, 1992 purports to devolve on Panchayats the authority to function institutions of self-government.
- The Article 243 M exempts application of its provision to the Scheduled Areas notified in Fifth Schedule to the Constitution.
- Consequently Ministry of Rural Development, Government of India, constituted a Committee of select Members of Parliament and experts under the Chairmanship of Shri Dileep Singh Bhuria, M.P. to make recommendations on the salient features of the law for extending provisions of Part IX of the Constitution to Scheduled Areas.

PESA Act

Basing on the recommendations of the Parliamentary Committee headed by Shri Dileep Singh Bhuria, M.P., Govt. of India, enacted Panchayats (Extension to the Scheduled Areas) Act, 1996 - (Act No. 40 of 1996). In consonance with the Govt. of India Act, Govt. of Andhra Pradesh enacted the Andhra Pradesh Panchayat Raj (Amendment Act 1998 (Act. No.7 of 1998) duly amending the Andhra Pradesh Panchayat Raj Act, 1994 (Act No. 13 of 1994). Important core principles of the PESA Act are - Self rule, decentralization of powers etc.

PESA Rules

The A.P. Panchayats Extension to Scheduled Areas (PESA) Rules, 2011 were issued vide G.O.Ms.No.66 PR&RD Dept., dated 24.03.2011.

PESA Gram Sabha village

PESA marks the administration of the people and the natural resources promoting people-centric governance. 'PESA is a unique legislation, often described as a Constitution within the Constitution, which attempts to bring together in a single frame - the simple system of tribal communities governed by their respective customs and traditions.

The '**village**' shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs.

The District Collectors concerned submit proposals for notification of Gram Sabha villages. The Commissioner, TW on review of the proposals will declare the villages in Scheduled Areas

PESA Act

In consonance with the Panchayats (Extension to the Scheduled Areas) Act, 1996 - (Act No. 40 of 1996), the Andhra Pradesh Panchayat Raj (Amendment Act 1998 (Act No.7 of 1998) was enacted duly amending the Andhra Pradesh Panchayat Raj Act, 1994 (Act No. 13 of 1994).

The provisions of PESA Act (Act No.7 of 1998) have been adapted in the Telangana Panchayat Raj Act, 2018 (Act No.5 of 2018) duly incorporating as Part VII - The Special Provisions (Sections 252 To 260) relating to the Panchayats, Mandal Praja Parishads and Zilla Praja Parishads located in the Scheduled Areas.

PESA Rules

The A.P. Panchayats Extension to Scheduled Areas (PESA) Rules, 2011 were issued vide G.O.Ms.No.66 PR&RD Dept., dated 24.03.2011 which have been adapted by Govt. of Telangana.

1. Every village shall have its own Gram Sabha. A village may consist of one or more habitations or hamlets comprising a community and managing its affairs in accordance with traditions and customs.

[Section 4(b) of PESA Act]

- Large number of habitations exist in each Gram Panchayat in Scheduled Areas, operationalising one Gram Sabha for all habitations is not only impractical, but also may not happen.
- A provision is made in the Act and Rules to constitute villages for a smaller group of habitations or even for a single habitation based on principles like homogeneity, distance, etc.
- For villages so declared, a separate Gram Sabha comes into existence. It would effectively mean that there can be more than one Gram Sabha within a Gram Panchayat which exercises all powers as envisaged in PESA Act and Rules.
- The Commissioner of Tribal Welfare, Telangana has declared PESA Gram Sabha villages to facilitate to conduct the Gram Sabhas within their accessible locations so as to manage their affairs in accordance with their traditions and customs.

No. of Mandals, GPs, Gram Sabha villages & habitations

Sl. No	Name of the District	No. of Mandals	No. of GPs	No. of Gram Sabha villages	No. of habitations covered
1	Adilabad	16	245	364	728
2	Komrambheem-Asifabad	13	151	204	580
3	Mancherial	8	27	29	75
4	Bhadradri Kothagudem	22	454	587	1405
5	Khammam	5	99	137	210
6	Mahabubabad	5	92	143	329
7	Mulugu	9	100	213	342
8	Warangal	3	5	5	11
9	Nagarkurnool	4	56	56	85
	Total	85	1229	1738	3765

The Act envisaged the Gram Sabha to be the key to self-governance, the space for direct democracy to manifest, to discuss, criticise, approve or reject various proposals which take place in the village. The following matter 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. Porambokes, 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 developmental programmes

The Gram Sabha at the hamlet/village level should exercise the functions more specifically, management of Water bodies, Land, Forest, etc.

- After constitution of the Gram Sabha villages, training programmes were conducted to the ToT at ITDA level.
- The Project Officers, ITDAs deputed an officer not below the rank of Deputy Tahsildar for conducting 1st Gram Sabha as required under PESA Rules issued in G.O.Ms.No.66, PR & RD (MDL.I) Department, dated 24.3.2011.
- Vice President and Secretary were elected from among the members of the Gram Sabha village as stipulated in GO Ms.No.66, dated 24.3.2011.
- Capacity building Trainings were imparted to all the newly elected Ward Members, Upa Sarpanchas and Sarpanchas on the provisions of the PESA Act and Rules.

2. Gram Sabha is "competent" to safeguard and preserve the traditions and customs of the people, and their cultural identity, community resources, and customary mode of dispute resolution.

- Sec.254 (1) of Telangana Panchayat Raj Act, 2018 provides that every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and without detriment to any law for the time being in force, the customary mode of dispute resolution.
- Gram Sabha is empowered to safeguard natural resources.
- Gram Sabhas are made alternative dispute resolution forums for resolving disputes of civil nature and all most all the tribal communities have their own Traditional Panchayats to resolve their disputes.

Quorum for the Gram Sabha meetings

(G.O.Ms.No54 PR&RD Dept., dated 15.10.2019)

- (i) Upto 500 voters .. 50 Members
- (ii) 501 to 1000 voters .. 75 Members
- (iii) 1001 to 3000 voters .. 150 Members
- (iv) 3001 to 5000 voters .. 200 Members
- (v) 5001 to 10000 voters .. 300 Members
- (vi) Above 10000 voters .. 400 Members

Provided that when the meeting of a Gram Sabha is not held within one hour of the scheduled time for want of quorum, it shall be adjourned. The adjourned meeting shall be held at any time after two hours and the business at such adjourned meeting may be transacted without the requirement of the requisite quorum.

3. Gram Sabha has mandatory executive functions to- approve plans, programmes and projects for social and economic development. [Section 4(e)(i) of PESA Act] identify persons as beneficiaries under the poverty alleviation and other programmes. [Section 4(e)(ii) of PESA Act] issue a certificate of utilisation of funds by the Panchayat for the plans; programmes and projects referred to in section 4(e) of PESA Act. [Section 4(1) of PESA Act]

- Sec. 254 (2) (i) of Telangana Panchayat Raj Act, 2018 empowered the Gram Sabha to approve plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Gram Panchayat, at the village level;
- (ii) Gram Sabha is responsible for the identification of selection of persons as beneficiaries, under poverty alleviation and other programmes.
- (3) Every Gram Panchayat shall obtain from the Gram Sabha a certification of utilization of funds by that Gram Panchayat for the plans, programmes and projects referred to in sub-section (2).

4. Powers exclusive to Gram Sabha/Panchayat at appropriate level-
- (a) *right to mandatory consultation in land acquisition, resettlement and rehabilitation of displaced persons. [Section 4(i) of PESA Act]*
 - (b) *Panchayat at an appropriate level is entrusted with planning and management of minor water bodies. [Section 4(j) of PESA Act]*
 - (c) *Mandatory recommendations by Gram Sabha or Panchayat at appropriate level for prospective licenses/ lease, concessions for mines and minerals. [Sections 4(k) and 4(!) of PESA Act]*

(a) LAND ACQUISITION, REHABILITATION & RESETTLEMENT

- The Telangana State Land Acquisition (Consent Award, Voluntary Acquisition and Lump sum Payment towards Rehabilitation and Resettlement) Rules, 2017 were issued vide G.O.Ms.No.120 Revenue (JA&LA) Dept., dated 30.06.2017. The rules provide for
- Multiplication factor for payment of compensation is 2 in Scheduled Areas subject to any further notification as may be notified by Govt.
- One time grant to artisans, small traders and others shall be Rs.25,000/-.

(b) Management of Minor Water bodies in the Scheduled Areas.

- 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.
- Gram Panchayat shall be 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 more villages within the Panchayat.
- The Mandal Parishad shall be responsible for planning and management of minor water bodies for the common benefit of the people where such water bodies fall within the limits of 2 or more Gram Panchayats concerned.
- 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.

- 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 2 or more Zilla Parishads.
- Planning of minor water body shall also include planning and construction of a new water body.
- 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.
- 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.
- The Govt. 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.

(c) Grant of prospecting license or mining lease for minor Minerals in the Scheduled Areas

Only individual local members of ST or societies 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. The decision of the Gram Panchayat shall be binding and final.

- New Sand Policy - 2016 has been issued by the Govt. of Telangana vide G.O.MS.No.20 Industries & Commerce (MII) Department, dated 15.01.2016. Under Rule 9 -B (3), no Sand Reach partly or fully falling in notified scheduled areas shall be leased out to any person who is not a member of Scheduled Tribe.
- Provided that this sub-rule shall not apply to an undertaking owned or controlled by the State or Central Government or to a society registered or deemed to be registered under the Andhra Pradesh Cooperative Societies Act, 1964 which is composed solely of members of Scheduled Tribes.
- (4) (i) Any Person/Society intending to claim leasehold rights under sub-rule 3 shall produce certificate issued by the competent authority specified by the Government to the effect that the said Person/Member of the Society belongs to Scheduled Tribe Category.

5. Powers endowed to Gram Sabha and Panchayat at appropriate level to-
- (a) *regulate sale/consumption of intoxicants. [Section 4(m)(t) of PESA Act]*
 - (b) *ownership of minor forest produce. [Section 4(m)(ii) of PESA Act]*
 - (c) *prevent land alienation and restore alienated land. [Section 4(m)(iit) of PESA Act]*
 - (d) *manage village markets. [Section 4(m)(iv) of PESA Act]*
 - (e) *control over money lending to STs. [Section 4(m)(v) of PESA Act]*
 - (f) *control over institutions and functionaries in social sector, local plans including Tribal sub plans and resources [Sections 4(m)(vi) and 4(m)(vii)of PESA Act]*

- (a) Excise - The Gram Sabha shall be consulted before the grant of any License to open liquor shop in the village. The license shall be granted to local scheduled tribe only. The Gram Sabha resolution shall be binding and final.
- Rule 12 (v) of the Telangana Excise (Grant of Selling by Shop and Conditions of Licence) Rules, 2012 - Local area Scheduled Tribe Certificate (only in respect of local S.T. candidates applying for shops in Scheduled Areas). (Amendment vide G.O.Ms.No.109, Revenue (Ex.II) Department, dated 01.10.2019).
- Scheduled Areas: In case of shops notified in Scheduled Areas, the applicant shall submit Local Scheduled Area Certificate (only in respect of local tribal candidates applying for shops in Scheduled areas).

- The Gram Sabha shall determine the quantity of traditional liquor that may be brewed by the Scheduled Tribes living in a village for their consumption during marriage and other social and religious ceremonies, but not for sale.

(b) ownership of minor forest produce

- The ownership of minor forest produce is vested in the Gram Sabha including ‘right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries’ subject to monopoly rights of GCC.
- Bamboo and Beedi leaf, management, harvesting and disposal shall be done by the Forest Department and pass on the net revenue from such disposal to the respective Gram Sabha who in turn pass it on to individual members of Gram Sabha.
- The Gram Sabha shall maintain a register of MFP Collectors.
- Disputes among MFP collectors should be settled by passing a resolution by the Gram Sabha.

(c) prevent land alienation and restore alienated land

Gram Sabha shall

- Prepare a list of landholders containing the details of extent of land held and names of the Pattadars along with enjoyers.
- Verify as to whether the lands are purchased in the name of a tribal woman and enjoyed by a non-tribal.
- verify as to whether the lands are cultivated by the tribal or by the non-tribal taken on lease, mortgage, etc.;
- After thorough investigation, if Gram Sabha is satisfied that certain occupations are in violation of Land Transfer Regulation, 1959 as amended from time to time, Gram Sabha shall pass a resolution mentioning the details of violation and send to Competent Authority. Competent authority shall initiate consequential action.

(d) manage village markets

The Gram Panchayat concerned shall be the Market Committee to manage markets and discharge the functions;

- Licenses should be given only to local Scheduled Tribes.
- Maintain and manage the market yards;
- Regulate the opening, closing and suspending of transactions in a market yard;
- Enforce the conditions of license;
- Ensure correct weighment of notified commodities;
- settlement of all disputes between the seller and the buyer and others arising out of any kind of transaction connected
- Supervise the conduct of market functionaries
- Prosecute persons violating the rules as per the rules of the concerned Department.

(e) control over money lending to STs

To prevent exploitation by the usurious money lenders, it was provided in the PESA Rules that no Money Lending License shall be granted to Private Money Lending Agencies in Scheduled Areas.

(f) control over institutions and functionaries in social sector, local plans including Tribal sub plans and resources

(i) Education

- The Mandal Parishad shall be the authority to call for the administrative reports of all the Educational Institutions through the respective Gram Panchayat.
- 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.
- 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

- 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.
- The Mandal Parishad shall call for the administrative reports from all the Hostel Welfare Officers in its jurisdiction twice in an academic year.
- The Mandal Parishad shall be the recommendatory authority for admission of the students into the welfare hostels.
- 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 institutions are in their respective jurisdiction with Special focus on:
 - Review and monitor the National Health Programme under Rural Health mission and all other programmes.
 - Review the supply of medicines and its utilization
 - Review and monitor the health extension activities
 - Review and monitor the steps taken to prevent outbreak of epidemics.
 - Review and monitor maintenance, up keep of surroundings and construction of Medical and Health Institutions.

- Safe water, Hygiene and sanitation of the village.
- 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.
- The Mandal Parishad shall approve the budget of all Primary Health Centers and sub centers in its jurisdiction.
- 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

- The Gram Sabha shall approve the budget for Anganwadi centers.
- 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.
- 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:

- 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.
- 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.
- 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.
- The Mandal Parishad and Gram Panchayat shall submit the administrative report on the implementation of TSP through the District Collector concerned.

Reservation of Seats: Ensuring Tribal Representation

The reservation of seats in the Scheduled Areas to every Gram Panchayat and Mandal Praja Parishad shall be in proportion to the population of the communities in that Gram Panchayat or the Mandal Pr

- Provided that the reservation for the Scheduled Tribes shall not be less than one half of the total number of seats:
- Provided that all seats of Sarpanches of Gram Panchayats and Presidents of Mandal Praja Parishads shall be reserved for the Scheduled Tribes.

Reservation of ZPTCs & Chairpersons of ZPs

Zilla Praja Parishad Territorial Constituencies (ZPTC) to be reserved for the members belonging to Scheduled Tribes subject to the condition that so reserved shall bear as nearly as may be the proportion of the population to the total population of that District.

Offices of Chairpersons of Zilla Praja Parishads to be reserved in the State for the members belonging to Scheduled Tribes subject to the condition that the number of Offices so reserved shall bear, as nearly as may be, the same population to the total number of Offices to be filled in the State as the population of the Scheduled Tribes in the State bears to the total population of the State.

Local Scheduled Tribe Candidate - explanation

“Local Scheduled Tribe Candidate means, the candidate belonging to the Scheduled Tribes notified as such under Article 342 of the Constitution of India and the candidates themselves or their parents have been continuously residing in the Scheduled Areas of the District, in which they are residents till to date since 26th January, 1950”.

- The above explanation connotes two points;
- The candidates shall belong to Scheduled Tribes notified under Article 342 and
- The candidates themselves or their parents shall be residents continuously in the Scheduled Areas of the District since 26th January, 1950 to till to date.



Thank you