

GOVERNMENT OF INDIA
MINISTRY OF TRIBAL AFFAIRS
LOK SABHA
UNSTARRED QUESTION NO- 532
TO BE ANSWERED ON- 28/11/2024

ACQUISITION OF TRIBAL LAND

532. SHRI TANUJ PUNIA:

Will the Minister of Tribal Affairs be pleased to state:

- (a) whether tribal land has been acquired for mining, industrialization and non-agricultural purposes during the last three years;
- (b) if so, the details thereof, State-wise;
- (c) whether the Government has assessed the impact of such acquisition on tribal communities; and
- (d) if so, the details thereof and the corrective measures taken by the Government to prevent/check indiscriminate acquisition/diversion of tribal land for industrialization and other development projects?

ANSWER

MINISTER OF STATE FOR TRIBAL AFFAIRS
(SHRI DURGA DAS UIKEY)

(a) to (d): Ministry of Rural Development, Department of Land Resources (DoLR) is Nodal Ministry at the Centre who plays a monitoring role in the field of land reforms. However, Land and its management fall under the exclusive legislative and administrative jurisdiction of States as provided under the Constitution of India (Seventh Schedule- List II (State List)- Entry No. (18). Therefore, the details of tribal land acquired for mining, industrialization and non-agricultural purposes is not centrally maintained.

To protect and safeguarding the land rights of STs and to address the issue of Land Acquisition and displacement of tribals, following Constitutional and legal provisions have been put in place:-

(1) **Constitutional provisions under Schedule-V** provide for safeguards against displacement of tribal population because of land acquisitions etc. The Governor of the State which has scheduled Areas is empowered to prohibit or restrict transfer of land from tribals and regulate the allotment of land to members of the Scheduled Tribes in such cases. Para 5.2 of the V Schedule of the Constitution has a predominant object of imposing total prohibition on transferring immovable property in a scheduled area to any person other than a tribal.

(2) **The Panchayats (Extension to the Scheduled Areas) Act, 1996** (in short PESA) also provides that "The Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas".

(3) **The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act**" (in short, FRA) enacted in 2006 provides adequate safeguards with regards to evictions as given under **Section 4(5)** which reads as "Save as otherwise provided, no member of a Forest Dwelling Scheduled Tribe or Other Traditional Forest Dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete".

(4) **The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989** provides punishment for wrongfully dispossessing members of the Scheduled Tribes from their land or premises or interfering with the enjoyment of their rights, including forest rights, over any land or premises or water or irrigation facilities or destroying the crops or taking away the produce there from amount to offence of atrocities and are subject to punishment under the said Act.

(5) **The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013** (RFCTLARR Act, 2013) has special provisions for STs, which have been spelled out under Sections 41 and 42.

(i) **The First Schedule of the RFCTLARR** Act provides for compensation for land owners. As per Section 3(r)(ii) of the RFCTLARR, 2013, 'land owner' includes any person who is granted forest rights under FRA, 2006(2 of 2007) or under any other law for the time being in force.

(ii) **The Second Schedule of the RFCTLARR**, provide for element of rehabilitation and resettlement for all the effected families (both land owners and the families whose livelihood is primarily dependent on land acquired) in addition to those provided in the first Schedule.

(iii) **The Third Schedule of the RFCTLARR**, provide for infrastructural amenities for a reasonably habitable and planned settlement in the resettlement area. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and RFCTLARR Act, 2013 further spells out the procedure for identification of the affected persons/ families [sub-section (c) of Section 3], determining and calculating the compensation amount (Section 26 to 29), as well as mechanisms for developing rehabilitation and resettlement processes (Chapters V and VI).

(6) **The Coal Mines (Special Provisions) Act, 2015** also stipulate for acquisition of land for coal mining purpose in accordance with the provisions of the LARR Act, 2013, thus implying that the safeguards for the Scheduled Tribes as laid down in the LARR Act, 2013 will have to be followed while acquiring land for coal mining.

(7) **The Mines and Minerals (Development and Regulation) Amendment Act, 2015** also stipulates that the State Governments while making rules for the District Mineral Foundation shall keep the provisions contained in Article 244 read with Fifth and Sixth Schedules to the Constitution , PESA Act, 1996 and the Forest Rights Act, 2006 in view.
