



Sambhav

Day 14

Question 1. What is PESA? Is it time to amend the Act to rectify the lacunas present in the Act?

Question 2. The Urban Local Bodies (ULBs) are facing the problem of the fund, function and functionaries to perform their entrusted duties? Discuss.

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Approach / Explanation / Answer

Answer 1

Approach

- Start your answer by giving a brief about PESA.
- Discuss the objectives of PESA.
- Discuss the Lacunas associated with PESA.
- Conclude your answer by giving a way forward.

Introduction

The provisions of Part IX of the constitution relating to the Panchayats are **not applicable to the Fifth Schedule areas**. However, the Parliament may extend these provisions to such areas, subject to such exceptions and modifications as it may specify. Under this provision, the Parliament enacted the "Provisions of the Panchayats (Extension to the Scheduled Areas) Act", 1996, popularly known as the PESA Act or the Extension Act.

At present (2019), ten states have Fifth Schedule Areas.

Body

Objectives of the Act

- The objectives of the PESA Act are as follows:
- To extend the provisions of Part IX of the Constitution relating to the panchayats to the scheduled areas with certain modifications.
- To provide self-rule for the bulk of the tribal population.
- To have village governance with participatory democracy and to make the gram sabha a nucleus

of all activities.

- To evolve a suitable administrative framework consistent with traditional practices.
- To safeguard and to preserve the traditions and customs of tribal communities.
- To empower panchayats at the appropriate levels with specific powers conducive to tribal requirements.
- To prevent panchayats at the higher level from assuming the powers and authority of panchayats at the lower level of the gram sabha.

Lacunae Associated with the PESA

Due to the following reasons, there is an urgent need to relook at the PESA and make the required changes accordingly:

- The **state governments are supposed to enact state laws** for their Scheduled Areas in consonance with this national law. This has resulted in the partially implemented PESA. The partial implementation has worsened self-governance in Adivasi areas, like in Jharkhand.
- Many experts have asserted that **PESA did not deliver due to the lack of clarity**, legal infirmity, bureaucratic apathy, absence of a political will, resistance to change in the hierarchy of power, and so on.
- Social audits conducted across the state have also pointed out that in reality different developmental schemes were being approved on paper by Gram Sabha, without actually having any meeting for discussion and decision making.
- The Gram Sabha which has been entrusted with major functions of the management have **lack management skills and doesn't possess the requisite manpower**.
- Panchayati Raj institutions and community members have very little information about **PESA**, and presently PESA is not truly implemented in schedule V areas.
- In these areas, the **three-tier Panchayat Raj system is given more importance**. PESA's importance in protecting traditional customs and the culture of tribal self-governance is ignored. Traditional leaders of the villages are ignored and the panchayat representatives are given more importance.
- Gram sabhas are convened at the panchayat level, and are not consulted for the planning and implementation of government programmes.

Way Forward

- PESA, if it is implemented in letter and spirit, will rejuvenate the dying self-governance system in the tribal area.
- This will also give an opportunity to correct the loopholes in the traditional governance system and make it a more gender-inclusive and democratic space.

Answer 2

Approach

- Start your answer by giving a brief about urban local bodies (ULBs).
- Discuss the problems faced by the ULBs.
- Conclude your answer by giving a way forward.

Introduction

The term 'Urban Local Government' in India signifies the governance of an urban area by the people through their elected representatives. The jurisdiction of an urban local government is limited to a specific urban area which is demarcated for this purpose by the state government. The system of urban government was constitutionalised through the **74th Constitutional Amendment Act of 1992**.

There are **eight types of urban local governments in India**—municipal corporation, municipality, notified area committee, town area committee, cantonment board, township, port trust and special purpose agency.

Body

Problems Faced by Urban Local Bodies

- **Financial Paucity:** The Urban local government heavily depends on the state governments for getting grants-in-aid out of the consolidated fund of state. Generally, their source of income is inadequate as compared to their functions. Their chief sources of income are the varied types of taxes. However, taxes collected by the urban bodies are not sufficient to cover the expenses of the services provided.
- **Unplanned Urbanisation:** In absence of proper planning, the Municipal Services find it difficult to cope with the increasing needs of the population, both qualitatively and quantitatively.
- **Excessive Control of State Government:** The State Government takes control of the Urban local bodies which are legislative, administrative, judicial and financial keeps urban municipal governments subordinate units rather than functioning as institutions of self-governance.
- **Multiplicity of Agencies:** Formation of single purpose agencies under the direct supervision of the state government and without any accountability towards urban local government. The municipal bodies have to contribute to the budget to these agencies while having no control over them.
- **Low level of People's Participation:** Despite a relatively higher level of literacy and educational standard, city dwellers do not take adequate interest in the functioning of the urban government bodies. The multiplicity of special purpose agencies and other urban bodies confuses the public about their role boundaries.

Way Forward

- **Making Urban Local Bodies Financially Independent:** For the ULB to be independent and financially secure, fiscal decentralisation is very crucial.
- **Better Financial Database:** Lack of maintenance and audit of accounts at the local level leaves no verifiable financial data for municipalities leading to a denial of performance grants.
- **Ensuring Active Citizen Participation:** To ensure this, ULBs can create functional, decentralised platforms such as area sabhas and ward committees, which facilitate discussion and deliberation between elected representatives and citizens.
- **Creating Citizen Grievance Redressal Mechanism:** ULBs can establish a technology-enabled platform to register complaints, which will make city governments responsive to the needs of citizens. Through this mechanism, citizens should also be allowed to provide feedback and close complaints.

Conclusion

Urban Local Bodies (ULBs) play a great role in the administration of the cities like traffic management, Sewage treatment, etc. Thus, they should be endowed with the necessary powers to deal with the problems of the day.

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