

The Sixth Schedule of the Constitution and Tribal Development of North East Region

Abstract

Article 244(2) of the Constitution provides for a sixth schedule which shall apply to the administration of the tribal areas in the states of Assam, Meghalaya, Tripura and Mizoram. Prior to independence, the hills in North East India were administered under the provision of the Government of India Act 1935. This Act provided for administration of certain hill district directly by the Governor of Assam. These hills were known as fully excluded areas. After independence, the Constitution of India provided for protection of the interests of the tribal peoples of the hills of the north east India, including their interest in land and forest resources, and allowed them autonomy in Social and political development. The Sixth Schedule of the Constitution provided the legal framework for this protection. In pursuance of this objective, Autonomous District Councils were set up in the North Cachar and Mikir Hills, Lushai Hills (Present day Mizoram) and in the United Khasi and Jaintia Hills Districts and in the Garo Hills. The Sixth Schedule thus provides a compact mechanism for self government, safeguarding the traditional customs, rights and practices of the tribal people and preserving their district culture and identity.

Keywords: Sixth Schedule, Autonomous District Council, North East.

Introduction

When the Indian Constitution was adopted, it envisaged strong democratic institution at the grass-root level as well as concerning the affairs of the tribal communities. Democratic decentralization and establishment of Panchayati Raj become one of the Directive Principle of state policy. However, in the case of the Tribal areas in the country, especially those in the North East, there are certain specific provisions provided in the Constitution. The Constitution makers also recognized the necessity of a separate political and administrative structure for the Hill Tribal Areas of the North East region by enacting the Sixth Schedule to the Constitution of India. In doing so, they were broadly guided by three major consideration : (i) the necessity to maintain the district customs, socio-economic and political culture of the tribal people of the region and to ensure autonomy of the tribal people and to preserve their identities : (ii) the necessity to prevent their economic and social exploitation by the more advanced neighbouring people of the plains : (iii) to allow the tribal people to develop and administer themselves according to their own genius. The Autonomous District Councils were created in the hill areas of North East India in response to the demands of the tribal people for autonomy out of their apprehensions about the preservation of their ethnic identity and their rights over the land, natural resources, customary laws, traditions etc. They were conceived to ensure the right of self-rule of the tribal people, to manage their affairs according to their own genius, to enable them to presence their ethnic identity and to face the forces of assimilation squarely from their more advanced neighbour in the plains.

Aim of the Study

In the Northeast India there have been a large number of distinct tribes or ethnic groups. Each of them has its own culture , language, religion, social customs and tradition. They have been neglected since British period. After independence the sixth schedule was incorporated in the constitution of India , which provided for the constitution of Autonomous Council in the Six Hill Districts of Assam, in response to the demands for the tribel people for autonomy out of the apperehension about the preserision of their ethnic identity and their rights in land and natural



Pijush Debnath

Associate Professor,
Deptt.of Political Science,
A.D.P.College, Haiborgeon,
Assam

resources. The model of Autonomous District Council was conceived to ensure the rights of self role of the Tribal peoples of the region, in managing their own affairs at the District level in order to able to preserve their ethnic identity. The aim of the study is to find out how far the constitutional arrangement able to maintain the ethnic identity of the Hill peoples of Northeast region.

Autonomy and Development

When the draft provisions of the Sixth Schedule were placed for discussion in the constituent Assembly, there was severe criticism against the schedule itself. In spite of the criticism and indifferent attitude towards the Sixth Schedule by some members, other members like Dr. Ambedkar, Mr. Jaipal Singh strongly defended in favour of the incorporation of the Sixth Schedule in the Constitution of India so that the tribal people to be included under the Sixth Schedule areas would be able to enjoy the rights and privileges of administering their own distinct areas according to their own genius.

The Autonomous District Councils were introduced in some of the Autonomous district of the then undivided Assam in 1952. The Sixth Schedule confers few developmental functions on the Autonomous District Councils. The autonomy of the Autonomous District Councils has been much affected in the area of financial independence. They have to depend on their respective state governments in matters of financial allotments and assistance. This in turn had reduced and restricted their autonomy and performance.

Many Autonomous District Councils have complained that they are not given their due share from the collection of royalties and taxes. This affects not only their loss of revenue but their autonomy as well. Autonomous District Councils also alleged that because of the obstructive attitude of the respective state Governments in the matter of the release of fund, they had been forced to adopt undesirable practices so as to raise fund in order to discharge their constitutional obligations like running of Primary Schools, dispensaries, and even to meet the salaries of the employees. Sometimes, because of the late release of fund to the councils by the state Government at the fag end of the financial year, they are not in a position to utilize such fund. The District Councils therefore demand direct funding from the Central Government, as well as to avoid the state Government's control over their finance.

One of the sources of the finance of the District Councils is the share of royalty accruing each year from licenses and leases for the purpose of prospecting for or extraction of minerals granted by the state Government in respect of any area within the District Council. The proceeds from such taxes are shared by the District Council and State Government in certain agreed ratio. But the District Councils often allege that the share of royalty is not paid to the concerned District Councils regularly by the state Government. Moreover, the District Councils has no share in the royalties from licenses or leases granted by the state Government for the extraction of minerals within its areas and the proceeds from such taxes are shared by the District Councils and the state Government in certain ration. This is no doubt, unjust

and against the norm of economic autonomy or justice. Thus need rectification to enable the District Council to share such income.

Captain Williamson A. Sangma, who was then the CEM of Garo Hills Autonomous District leaders have found that the provisions of the Sixth Schedule do not give the hills adequate power to safeguard their interests – social, economic and political and that on the contrary there are ample loopholes for interference from outside in matters relating to day-to-day administration of the districts'.

Autonomous District Councils and the 73rd Amendment Act

The 73rd Amendment of the Constitution of India relating to Panchayat institutions which was passed by the parliament in 1992 is going to have an effect on the Autonomous District Councils in the states like Assam and Tripura. The Panchayat Raj institution would cover as many as 29 subjects within their jurisdiction. When all those provisions of the 73rd Amendment about the power, scope of function and financial support by the Panchayat bodies are compared with those attached to the Autonomous District Councils under the Sixth Schedule, it is found that while the Autonomous District Councils have several regulatory functions subject to state control.

If the Panchayat bodies under the Amendment Act are not introduced in the Sixth Schedule areas, these areas will enjoy less power of self Government than the rest of the country. Further, when all the Provisions of the 73rd Amendment about the powers, scope of function and financial support for the exercise of the powers and discharge of the responsibilities by the Panchayat bodies are compared with Sixth Schedule, it is found that while the Autonomous District Councils have several regulatory powers subject to the state government control, the Panchayat bodies are in a more advantageous position in respect of developmental functions, the Autonomous District Councils are at the mercy of the state Governments.

The 73rd Amendment stipulates that in case Panchayati body is dissolved under any law in force, an election shall be completed before a period of six months from the date of its dissolution : but Para 16(1) of the Sixth Schedule provides that the Governor may on the recommendation of a Commission appointed under paragraph 14 of the Schedule, by public notification order the dissolution of the District Council and direct fresh election shall be held immediately for the reconstitution of the Council subject to previous approval of the state legislature.

Remedies to Sixth Schedule Problems

It may be suggested that to do away with all sorts of drawbacks of the District Council, effective and concerted efforts should be made at all levels by the State Government and District Councils. The effected members of the District Councils should come forwarded with open heart of devotion, dedication and sincerity to their service for all round development of the tribal people as originally aimed at by the Constitution makers. The administration of the District Autonomous Council should be periodically reviewed by a Commission under the Union Government. Moreover to make the Autonomous

District Councils a successful one, the corrupt practices as seemed to have been indulged either in financial or in administrative aspects should be adopted so that free and fair elections to the District Councils are to be held in due time. All corrupt practices should be avoided. Due to the changing circumstances and the needs of the time, serious attempt should be made to fulfill the aims and objectives of the Sixth Schedule to the Constitution.

Conclusion

In spite of these limitations underlying the provisions of the Sixth Schedule this is also true that the District Councils and the regional Councils provided under the Sixth Schedule have provided a fair degree of autonomy for the tribal people living in Assam, Meghalaya, Manipur and Mizoram. The real problem has been with its execution a true spirit and intent. Perhaps there is a need to train the members of Autonomous District Councils in their tasks rather than strangle their initiatives by amendments giving more powers to the state Government. In the same way Governor's discretionary powers need to be insulated from under influence of the state Governments. The demand for statehood is also voiced from some District Council and Non-District Council areas. The Karbis are demanding for separate state. The Bodos are also demanding for a separate state. In order to solve Bodoland problem, The Govt. of Assam has constituted a separate Bodo Autonomous Council (Not under Sixth Schedule). The Govt. of Monipur has also constituted some District Council in 1971. In spite of this, the conflicts

are still going on. Some of the elite of minority tribes are complaining of the domination of majority Tribes. In the field of education, many minority tribes are denied of opportunity to read and write in their own dialect. Thus some short of inter tribal conflict has arisen even in the District Council areas. In this background the Govt. of India had to seriously think confidence – building measure in the tribal areas of the North east India at the time of transfer of power.

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