

Report of One day “ Constitutional Right of Tribal People and Right of Land Act” workshop Cum Seminar on 19 June 2019 At. Village- Patpahari, Panchayat- Simanijor, Block- Shikaripara, District- Dumka (Jharkhand)

HRLN (Jharkhand) and JOHAR HRD Center, Dumka have collaborated quite often in providing succor to the poor and the tribals. Many at times JOHAR has requested HRLN to take up cases, HRLN in its turn has helped JOHAR in disseminating legal knowledge to the tribals, Villagers and the women. JOHAR has promoted the Programme LOKMANCH in order to empower the tribals to have greater access to the entitlements specially Food Security Act, WASH and Empowerment of Garm Shabha. HRLN –Dumka has been very active in promoting Human right education; strengthening knowledge base of people on rights related to Tribal tenancy Laws.

The workshop cum Seminar started with welcome Speech by Mr. Susant Murmu (Social Activiest) . The stage was occupied by 1. John Soren Village Pradhan of Patpahari 2. Samuel Soren Advocate Dumka 3. Habil Murmu (Social Activiest) 4. Mariyanus Minj, Director, JOHAR 5. Daniel Murmu (Social Activiest) and 6. Gunjan Singh, HRLN New Delhi.7. Mrs. Emami Murmu (Social Activiest). 8. Mantu Murmu (Local Social Activiest).

That Village Pradhan John Soren welcome all the Participants and gave a brief introduction of Programme.

Resource Person :- Samuel Soren (Advocate)



Topic :- Land Right and Law in Santhal Pargana .

Greeted and welcomed the participants of the seminar. He said that violation of the Land Law and Land Right one of the Bigger challenge in present time. In the name of development land alienation , displacement, land acquisition are happening rampantly, despite the presence of some very strong and laudable land right legislations one among them is the Santhal Pargana Tenancy Act 1855 and Santhal Pargana Tenancy (Supplementary Provisions) Act 1949. An off shoot of the Sido-Kanhu 1855 (HUL) Movement this Act prohibits Transfer of Land any of out sider and ensures community Ownership Right. S.P.T.Act Provides for the recording of various customary community rights on the Others resources Jal, Jungal and Zammeen (Water, forest, and land) including the right to take produce from Jungle and to Graze Cattle as well as the right to reclaim “Wastes” into Agriculture Land.

Resource Person :- Habil Murmu (Social Activist)

Topic :- The Right and function of Gram Sabha system in Scheduled Area. and PESA-1996.

Greeted and welcomed the participants of the workshop Cum Seminar. He said the Gram Sabha very important tool to know every village people. He said what is Gram Sabha ?

That term of Gram Sabha is defined in the Constitution of India Under Article 243(b). Gram sabha is the primary body of the Panchayati Raj System . It is a permanent body. Gram Sabha is the Sabha of the electorate all other institutions of the Panchayat Raj like the Gram Panchayat, Block Panchayat and Zilla

Parishad are constituted by elected representatives. The decision taken by the Gram Sabha cannot be annulled by any other body. The power to annul a decision of the Gram Sabha rests with the Gram Sabha only. Person those who are above 18 years of age and living in the village and whose names are included in the electoral rolls for the panchayat at the village level.

He also stated as follow that the provision of the Panchayats (Extension to Scheduled Areas) Act 1996 or PESA is a Law enacted by government of India for ensuring self governance through traditional Gram Sabhas for people living in the Scheduled area of the Jharkhand or India.

Scheduled Areas are areas identified by the Fifth Schedule of the Constitution of India. Scheduled Areas are found in ten states of India which have predominant population of tribal communities. PESA was enacted on 24 December 1996 to extend the provisions of part 9 of the Constitution to Scheduled Areas, with certain exceptions and modifications.

He also said that the Gram Sabhas to implement a system of Self-Governance with respect to a number of issue such as customary resources, minor Forest produce, minor mineral, minor water bodies, Selection of beneficiaries, Sanction of Projects and control over local institution .

He also said that the realties of Scheduled area is that the loss of access to forest, land and other community resources had increased their vulnerability. Rampant land acquisition and displacement due to development projects has led to large scale distress in tribal communities living in Scheduled Area.

Resource Person :- Daniel Murmu (Tirbal Activiest)

Topic :- The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of forest Rights) Act 2006.

He said that it will redress the historical injustice committed against forest dwellers. The act was notified into force on 31 December 2007 . on 1 January 2008 this was followed by the notification of the Rules .

Ownership right in land – Ownership right to land is being farmed by tribal or forest dwellers as on 13 December 2005 subject to a maximum of 4 hectares;

ownership is only for land that is actually being cultivated by the family as on that date.

Use right- To minor forest produce to grazing areas to pastoralist routes etc.

Relief and development right- To rehabilitation in case of illegal eviction or forced displacement and to basic amenities, subject to restrictions for forest protection.

Forest management rights- To Protect forest and wildlife.

Types of rights :-

1. Right to hold and live in the forest land under the individual or common occupation for habitation or for self- cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or Other Traditional forest dwellers.
2. Community rights such as nistar, by whatever name called , including those used in erstwhile princely states, Zamindar or such intermediary regimes.
3. Right of ownership, access to collect, use and dispose of minor forest produce .
4. Other community rights of uses of entitlements such as fish and other products of water bodies, grazing and traditional seasonal resource access of nomadic or pastoralist communities.
5. Right including community tenures of habitat and habitation for primitive tribal groups and pre-agriculture communities.
6. Right for conversion of Pattas or leases or grants issued by any local council or any state govt. on forest lands to titles.
7. Right of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forest, whether recorded, notified or not into revenue villages.
8. Right to protect regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use.
9. Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity.

10. Any other traditional right customarily enjoyed by the forest dwelling people.

Resource Person :- Mariyanus Minj (Director JOHAR) and Mrs. Emami Murmu (Social Activist)

Topic :- The Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and New State Land Acquisition Act, 2017.

Mr. Mariyanus Minj and Mrs. Emami Murmu said that The Right to Fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 was passed and enacted on 26th September 2013. He said that the old Land Acquisition Act 1894 is the general law relating to acquisition of land for public purpose and also for companies and for determining the amount of compensation to be made on account of such acquisition. The act does not address the issues of rehabilitation and resettlement of the affected persons and their families. In this Act to ensure comprehensive compensation package for the land owners a scientific method for calculation of the market value of the Land has been proposed. Market value calculated will be multiplied by a factor of two in the rural areas.

That in this law would provide for the basic minimum that all projects leading to displacement must address. A social Impact assessment of proposals leading to displacement of people through a participatory, informed and transparent process involving all stake holders, including the affected persons will be necessary before these are acted upon. The rehabilitation process would augment income levels and enrich quality of life of the displaced persons, covering rebuilding socio-cultural relationships, capacity building and provision of public health and community services. Adequate safeguard have been proposed for protecting rights of vulnerable sections of the displaced persons.

Group Discussion and Planning :-

Last session was open session , in this session participant rising Question and discussion in above mention topic . After discussion Participant were sensitized and aware about there right.

Vote of Thanks by Mr. John Soren (Village Headman of Patpahari)

Samuel Soren (Advocate)

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