

TRIBAL'S COMMUNITY FOREST RIGHT: A PIONEERING SUCCESS STORY IN MAHARASHTRA

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Abstracts:

On 15th August 2009 a history was rewritten by the marginalized, ridden with Naxalite menace and remotely placed tribal's of Mendha (Lekha) scheduled village fighting with draconian forest laws, officials along with revenue department with a tool of conviction, knowledge and consensus decision making mechanism. This historic event was boasted as first of its own in India since independence. Proposed paper is endeavor to enumerate a unique story of struggle movement to get legal entitlement of community forest right for their village, from the clutches of government officials under the aegis of "The Scheduled and other Traditional Forest Dwellers (Forest Rights) Act 2006". The main highlight of this story was the application of rights based approach of Social Work Intervention.

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The Indian Constitution is supposed to protect tribal interests, especially tribal autonomy and their rights over natural resources, through Fifth and Sixth Schedules. Scheduled Areas of Article 244(1) are notified as per the Fifth Schedule and Tribal Areas of Article 244(2) are notified as per the Sixth Schedule. Village level democracy became a real prospect for India in 1992 with the 73rd amendment to the Constitution, which mandated that resources, responsibility and decision making be passed on from central government to the lowest unit of the governance, the Gram Sabha or the Village Assembly. A three tier structure of local self government was envisaged under this amendment.

Since the laws do not automatically cover the scheduled areas, the PESA Act was enacted on 24 December 1996 to enable Tribal Self Rule in these areas. The Act extended the provisions of Panchayat to the tribal areas of nine states that have Fifth Schedule Areas.

Most of the North eastern states under Sixth Schedule Areas (where autonomous councils exist) are not covered by PESA.

The salient feature of the Panchayat (Extension to the Scheduled Areas) Act, 1996 (PESA) and the modalities worked out to grant rights to tribal's in the country are:

(i) Legislation on Panchayat shall be in conformity with the customary law, social and religious practices and traditional management practices of community resources;

(ii) 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; and shall have a separate Gram Sabha.

(iii) Every Gram Sabha to safeguard and preserve the traditions and customs of people, their cultural identity, community



resources and the customary mode of dispute resolution.

(iv) The Gram Sabhas have roles and responsibilities in approving all development works in the village, identify beneficiaries, issue certificates of utilization of funds; powers to control institutions and functionaries in all social sectors and local plans.

(v) Gram Sabhas or Panchayat at appropriate level shall also have powers to manage minor water bodies; power of mandatory consultation in matters of land acquisition; resettlement and rehabilitation and prospecting licenses/mining leases for minor minerals; power to prevent alienation of land and restore alienated land; regulate and restrict sale/consumption of liquor; manage village markets, control money lending to STs; and **ownership of minor forest produce.** Ownership over minor forest produces under the PESA, was the main contention to claim community forest right as envisaged in Forest Rights Act 2006. Hence, these two legislations were more relevant in this context.

We need forests for our survival, each passing day the forest lands in India are under a big threat not necessarily for the tribal people who live in the forest but from developers who want the land, minerals, water and other resources. The infrastructure imperative will take away forests, which have become the only free and available resource at the time of scarcity there are estimates of what forests generate for the economy but no valuation of the minor forest produce, which provides livelihood to the poor tribal's, if we take into account the enormous potential of growing wood and non timber produce and their impact on livelihood.

31st December 2006 was the historical day in the life of marginalized tribal's of India, who were residing in the forest areas whose livelihood totally depends upon natural

resources but these people are grossly deprived of their traditional rights over the ages. Tribal has sensed the second freedom of their life when the "Scheduled Tribes and other forest dwellers (recognition of forest rights) Act 2006" was notified in the Gazette of India. For the first time tribal's were given the community ownership rights over forest land in which they're residing and toiling for generations, though they were always labeled as encroachers and always been husking away forcibly from their homeland. The basic philosophy of this act was worded that:

1. We need to value the economic potential of forests in which forests provide livelihood support to the dwellers,
2. We need steps to pay for the standing forests. This money must go to the local communities who bearing the burden of forest conservation. And
3. The economic value of keeping forests has to be paid to the custodians, it will build local economies and local support for forest protection and most importantly, we have to increase the productivity of the remaining forestland.

In the introduction of the said act it candidly confesses that, the historical injustice has been done on the tribal's regarding forest rights which they have deserved by virtue of traditional rights, another sea change in the policy was that Indian forest Act had over time categorized bamboo as timber which meant that the forest department had the monopoly over it. In 2006 Forest Rights Act "vested the right of ownership, access to collect, use and dispose of minor forest produce" it has also defined bamboo as a grass (minor forest produce) which means direct access to tribal people, now industry directly source bamboo from small tribal landholders with community forest rights. They have to pay market value, the buyer - seller relationship will put money directly in the hands of tribal people. The world is desperately looking for this new green growth model.



1. SILENT MOVEMENT OF MENDHA VILLAGE:

Paving the way for the lakhs of deprived sections of the society, this historical golden opportunity grabbed by the two tribal villages namely Mendha (Lekha) and Marda of Gadchioli district of Maharashtra which is the notified scheduled area, Naxalite ridden, surrounded by the 80% forest coverage, full of minerals, natural resources but the paradox is 84% of tribal's are still under below the poverty line and at the same time at the bottom of human development index in Maharashtra. These two villages had created a history when they got community forest rights over 4528.82 acres and 2278.82 acres of forest land respectively on 15th October 2009 by the hands of Governor of Maharashtra and became the first villages in India. What is so special about these villages? To get the answer to this question one should know the background about these villages.

Village Profile:

These villages emerged as out of the box thinking villages when they took part in Padmashree Baba Amte's movement 'Save forest, Save Human' due to this movement only one mercurial local leadership have emerged in the form of Shri. Devaji Tofa, this illiterate simple looking person came up with some imaginative ideas for village development. He infused a lot of motivation and confidence among the villagers while he was a Mukhia, his slogan "*Delhi, Mumbai hamari Sarkar, Hamare Gaon me hum hi Sarkar*" have created a sensation and 'we can do it' spirit in the minds of villagers. These villages were the first who knows the importance of Panchayat Act in the scheduled areas of 1996 and formed a tribal self rule in their villages, they acknowledge the importance of the institution of 'Gramsabha' and emphasized the 'consensus decision making rather than

majority decision making' in the Gramsabha, they ensured the fullest participation of

womenfolk without them no Gramsabha was held, this rule makes a lot of difference in community well-being and they saw the fruits of this mechanism. They always have faith in their own capabilities, believed in philosophy 'for own problems, find own solutions' without depending on others. These village's came into limelight again on 15th April 2004 when they prepared their sustainable management of natural resource record called 'Peoples Biodiversity Register'(PBR), nobody is ever thought of. It is evident that villagers were very curious about every developmental thing pertaining to the common benefits.

2. BASIC ASSUMPTIONS FOR CLAIMING COMMUNITY FOREST RIGHT:

1. Village is eligible being comes under PESA Act.
2. Rather than individual forest rights it is in the larger interest of the village to claim Community forest rights, which are the integral part of it.
3. Got legitimate ownership over forest land and no one labeled them as encroachers in their own homeland.
4. Free themselves away from the shackles of the forest and revenue officials.
5. The village is the caretaker of the entire forest, which they have owned.
6. The government should ask village Gramsabha for any development projects in their area and not by the village.
7. Development, Conservation, and Regeneration of the forest is the sole responsibility of villager's. Which are their bread and butter?
8. Auctioning and sell of minor forest produce including bamboo is the discretion of village Gramsabha.
9. So, the income belongs to the villagers.
10. Unity is the only weapon to fight against all socio-economic odds.



Chronology of events:

- **Get Act translated** in vernacular language. **Formed a Study group** to decode each word in the Act. Took help of the like-minded people.
- **Networking** among NGO's.
- **Persuasion** with officials.
- **The extensive use of RTI** to get relevant information.
- **Prepared eligibility certificate:** Since villages are, 100% scheduled Tribe villagers.
- **Form forest Rights Committee:** Called Gramsabha and formed an independent forest rights committee with consensus decision, comprising of six males and three female members.
- **Fill up the application form** and submitted to the forest rights committee.
- **Verification of claim** in Gramsabha attended by govt. Officials as well.
- **Verification report** handed over to the village development officer.
- **Submission of records** i. e. Nistar register, Revenue map, Forest map, Settlement survey to show village boundaries, Peoples Biodiversity Register etc. With Sub-Divisional Office.
- **A claim accepted by the office (28th Aug 2009)** and land record handed over to the villagers in a public function (15th December 2009)
- **Acknowledgement by the central government, then minister** who personally visited the village.

3. SOME UNIQUE INITIATIVES BY THE VILLAGE

- First scheduled villages who implemented Tribal Self Rule under PESA 2006
- Strong belief & effective use of Gramsabha'
- Women participation in 'Gramsabha' made compulsory.
- Practiced 'Consensus Decision Making' rather than Majority Decision Making'
- First Tribal villages who prepared 'Peoples Biodiversity Register' (PBR) also known as 'Sustainable Management of Natural Resources Record.'
- Every person contributes 10% of his/her income in cash to the Village Fund.
- Each family contributes 2.5% of its production in the Grain bank.
- Members from 4 families do the forest patrolling every day to record the observations.
- 80% households used Deenbandhu Bio Gas plant.
- Women's SHG is running Fair Price Shop & got Kerosene license & managing Stone mine & Brick Production.
- Youth SHG is involved in non destructive honey collection & recently started full fledged Honey Processing Unit also involved in Bamboo value addition activities.
- Youth SHG is acquiring technical skills to become 'Barefoot Engineers' to implement MGNREGA through Gramsabha.
- A team of village youth is trained in video shooting, script writing & editing etc. with this they made a documentary films on 'Honey Collection' & 'FRA Struggle'.



- Gramsabha has established computer training centre.
- Last year rate of Bamboo was Rs.33/ per pole , labor charges were Rs.13/ & Rs.20/ diverted to the 'Gram Nidhi'
- Per family now earned up to Rs.25,000/
- Recently gram sabha has taken a decision regarding 10% of families income contributed towards 'Devrai Fund' (Contribution to the God functioning, campaign, lobbying, advocacy, use of right to information act, maximum use of internal resources, help to help themselves, believe in their own capacities, effective use of constitutional institutions,

creating pressure group, local techniques of problem solving, networking, co-ordination among CBO's, NGO's, trained social workers, advocacy groups has played the bigger role in this success story, without that the emancipation process could not see the light of development.

6. REFERENCES

This paper has been based on the firsthand account with Mr. Devaji Tofa & recent personal visits to the Model villages.

1. www.tribal.nic.in
2. <http://fra.org.in>

5. Impact

This event was one of its own kinds and first ever in India, has far-reaching impact for claiming community forest rights on the footprints of these villages. After this, there are over 5245 CFR claims were submitted and 2371 community forest rights titles have been distributed in Maharashtra (2014). 1.23 lakhs of rupees they have collected by direct auctioning of minor forest produce including bamboo and use it for the village development.

Recent past, National Advisory Council (NAC) of last government has taken a cognizance of this event and finally decided to strengthen its Forest Rights Act; they have laid down procedure to claim the Community Forest Rights. NAC had given 59 suggestions; this would remove procedural obstacles in the act.

Summary:

For knowledge community's point of view this pioneering success story has demonstrated many theoretical aspects and execution of tribal rights into action. The entire process of awareness creation, conscientization, capacity building, participatory mode of