
FROM STATUTORY EMPOWERMENT TO INSTITUTIONAL CONTROL: A CRITICAL ANALYSIS OF GRAM SABHA AUTHORITY UNDER THE CHHATTISGARH PESA RULES, 2022

Anoop Mahobia, LLM, PRSU Raipur

ABSTRACT

The Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) was introduced to apply the principle of democratic decentralization to the social, customary, and institutional circumstances existing in the Scheduled Areas. Its main commitment goes beyond the simple extension of the normal Panchayat institutions and consists in acknowledging the Gram Sabhas as real institutions of self-government. The Act promised a special constitutional approach to tribal self-government under which the Gram Sabha would safeguard customary institutions, approve development programmes, participate in decisions regarding land acquisition, and have control over community resources. Chhattisgarh issued its PESA Rules in 2022,¹ thus setting up a state-level framework for implementing that promise twenty six years after the central legislation had been passed. This article examines the legal relationship between the statutory assurances provided by PESA and the procedural structure established by the Chhattisgarh PESA Rules of 2022 and investigates whether the procedural mechanisms for convening, reviewing, and settling disputes relating to Gram Sabha decisions enhance the authority of the community or instead place it under administrative oversight.

By applying doctrinal analysis to the Constitution, PESA, Chhattisgarh Panchayati Raj Adhiniyam of 1993, other pertinent state laws, and the Rules, with a special focus on Rules 6, 14, and 40 of the PESA 2022 Rules, the article also examines the constitutional tensions brought to light in the case of *Digbal Tandi v. State of Chhattisgarh*² regarding village resolutions and the restriction of entry for Christian pastors and converted persons. The article introduces a distinction between facilitative oversight and substitutive control and maintains that the legitimacy of implementation lies in retaining

¹ Chhattisgarh Panchayat Provisions (Extension to the Scheduled Areas) Rules, 2022, r. 3

² *Digbal Tandi v. State of Chhattisgarh*, WPIL Nos. 83 & 86 of 2025, 2025:CGHC:52449-DB

the legal effect of decisions taken by the Gram Sabha while at the same time providing transparent, time-limited, and reviewable procedures for legitimate grievances. It does not regard every review mechanism as being inherently incompatible with self-governance; instead, it suggests a legality-based test which takes into account the statutory text, institutional competence, procedural fairness, and the need to protect against arbitrary interference by higher authorities. The article ends by offering recommendations concerning reasoned orders, accessible records, safeguards against arbitrary interference, and a clearer statement of the consequences of Gram Sabha resolutions.

Keywords: PESA; Gram Sabha; Chhattisgarh; Scheduled Areas; tribal self-governance; decentralisation; Fifth Schedule; administrative discretion

I. Introduction

In the case of Scheduled Areas, the constitutional initiative concerning local self-government faces a particular difficulty. When it comes to the democratic institutions functioning in Adivasi areas, they cannot be judged merely by reference to administrative efficiency or the extent of electoral representation; their legitimacy is also linked to customary institutions, community resources, cultural identity, and the historical experience of decisions having been taken outside the community.³ The Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) takes account of this situation by applying Part IX of the Constitution, provided that certain safeguards for Scheduled Areas are introduced. The Act is structured so that the Gram Sabha is at the heart of a special form of participatory self-government.

The way Chhattisgarh has put into practice PESA is especially important since the state has large Scheduled Areas and a significant Adivasi population.⁴ Even though the state's Panchayat law included provisions relating to Scheduled Areas, it was not until 2022 that the state-specific PESA Rules were issued⁵. Accordingly, the Rules raise a question which goes beyond mere administrative details: how should procedures established at the state level ensure that a central

³ Dipti Paridhi Kindo, Local Self-Governance in Fifth Schedule Areas of India: Analytical Framework Using the Fuzzy Delphi Method, 13 *Regional Studies, Regional Science* (2026), <https://doi.org/10.1080/21681376.2026.2682672>

⁴ Office of the Registrar General & Census Commissioner, India, *Population Census 2011: A-11 Appendix District Wise Scheduled Tribe Population (Appendix)*, Chhattisgarh (2011), Census of India Official Data Catalog

⁵ Chhattisgarh Panchayat Provisions (Extension to the Scheduled Areas) Rules, 2022 (India), Ministry of Panchayati Raj, Official PESA Rules Listing

law which mandates respect for customary governance and protects the authority of the Gram Sabha is upheld?

This article is concerned with the legal aspects of the authority of the Gram Sabha as defined by the Chhattisgarh PESA Rules, 2022. It does not attempt to assess the implementation in all the districts or assert that it has captured the actual experiences of all Gram Sabhas. Rather, it carries out a doctrinal examination of how authority is allocated, the procedure for review, and the connection between community decisions and state administration. The main issue is whether the Rules provide procedures that help Gram Sabhas exercise their power or whether any part of the design might have the effect of turning self-government into a kind of supervised participation.

The article presents three arguments. First, PESA should not be seen as a general delegation of discretionary administrative power because Section 4 includes mandatory provisions that state that Panchayat legislation must adhere to. Second, procedural review is not automatically unlawful or incompatible with autonomy; its validity is determined by its source, scope, grounds, the identity of the decision-maker, and the consequences. Third, the most effective means of preserving the authority of the Gram Sabha is not to immunize all its resolutions from being challenged nor to allow open-ended administrative substitution, but instead to set up a transparent framework based on legality and fairness that respects the statutory distribution of power.

This article is divided into seven sections. Section II sets out the constitutional and statutory basis of the PESA. Section III places the Chhattisgarh Rules within the legislative framework of the state. Section IV presents a doctrinal test by which facilitative oversight can be distinguished from substitutive ones. Section V applies this test to land governance as an example, without assuming that every decision related to land is subject to an identical consent requirement. Section VI suggests reforms, and Section VII concludes.

II. The constitutional and statutory basis of PESA

A. The exception relating to Part IX and the Scheduled Areas

The framework for Panchayats is provided for in Part IX of the Constitution, but a separate legislative decision is needed in respect of Scheduled Areas. Article 243M excludes Scheduled

Areas from the normal application of Part IX while at the same time allowing Parliament to extend it, with exceptions and modifications.⁶ This power was exercised by means of PESA, Act 40 of 1996. Thus, PESA has both an incorporative and a protective aim: it incorporates Panchayati Raj while at the same time altering its operation to take into account customary law, community institutions, and resource governance.

The constitutional situation is important; the Fifth Schedule establishes a special system of administration for Scheduled Areas and includes provisions for both the Governor and the Tribal Advisory Council.⁷ PESA functions alongside this system, not in place of it.⁸ Therefore, any accurate description of the powers of the Gram Sabha should not regard PESA as a standalone set of rules separate from the constitutional arrangements, state Panchayat legislation, and forest-rights legislation.

B. Section 4 in the form of a series of compulsory features

Section 4 starts with a non-obstante clause and provides that any state legislation relating to Panchayats in Scheduled Areas must not be inconsistent with the features listed⁹. Such features are that the legislation should be in accordance with customary law and traditional methods of administration; that a village should be recognized as a habitation or as a group of habitations; that the Gram Sabha should have the authority to protect traditions, cultural identity, community resources, and customary methods of resolving disputes; that development plans should be approved before they are put into effect; that beneficiaries should be identified; and that the use of funds should be certified.

Section 4¹⁰ also covers consultation prior to the acquisition of land and the resettlement or rehabilitation of people, the planning and management of small water bodies, mandatory recommendations in respect of certain minor-mineral concessions, and the powers relating to minor forest produce, land alienation, village markets, money-lending, social-sector

⁶ INDIA CONST. art. 243-M; Union of India v. Rakesh Kumar, (2010) 4 SCC 50.

⁷ INDIA CONST. art. 243-M.; Dipti Paridhi Kindo, Local Self-Governance in Fifth Schedule Areas of India: Analytical Framework Using the Fuzzy Delphi Method, 13 *Regional Studies, Regional Science* (2026), <https://doi.org/10.1080/21681376.2026.2682672>; INDIA CONST. art. 243-M.

⁸ Rajendra Prasad Joshi, India's Approach to Tribal Self-Government Panchayati Raj (Local Governance) in Bhil Communities: Case Study of Gram Sabhas in Scheduled Areas (Indigenous Communities) of Rajasthan (India) Under the Panchayats Act, 1996, 16 *Fourth World Journal* 47 (2025), <https://doi.org/10.63428/wt2hhc43>

⁹ The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, No. 40 of 1996, § 4(e) (India).

¹⁰ The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, No. 40 of 1996, §§ 4(d)–(f)

institutions, and local plans. According to Section 4(d)¹¹, the Gram Sabha is given the authority to protect traditions, customs, cultural identity, community resources, and the means of resolving customary disputes. Section 4(e)¹² states that the plans, programmes, and projects aimed at social and economic development must have the approval of the Gram Sabha before they are carried out and assigns to it the function of identifying the beneficiaries. Section 4(f)¹³ connects this power with financial accountability by requiring that the use of funds be certified. The structure provided therefore includes deliberative authority, distributive participation, and fiscal oversight. Particular importance is attached to Section 4(n)¹⁴ in the context of the present inquiry, since state legislation must include safeguards to ensure that higher-level Panchayats do not take on the powers and authority of lower-level Panchayats or the Gram Sabha.

The statutory text does not establish a single, uniform type of "Gram Sabha power." While some provisions refer to approval, others refer to consultation, recommendation, ownership, or control. These terms have different legal consequences. If one treats them as equivalent, this would obscure the carefully differentiated arrangement in PESA and could result in an overstatement of the legal effect of a resolution in a given situation.

C. Self-government and the Gram Sabha

The model of PESA is not exhausted merely because of the holding of periodic meetings. A Gram Sabha can only function as an institution of self-government if it has real authority over the matters allocated to it, if it receives the information needed to make decisions, if it can follow procedures that are accessible to its members, and if it can expect its legitimate decisions to be respected.¹⁵ A meeting that does not have access to the records, proper notice, opportunities for participation, or effective follow-through may meet a formal requirement but will fail to achieve the purpose set out in the statute.

At the same time, the fact that a community has self-government does not mean that all its decisions are free from legal review. Decisions of the Gram Sabha may have an impact on individual rights, could be challenged on grounds of procedural irregularity, or might come

¹¹ Id. § 4(d).

¹² Id. § 4(e).

¹³ Id. § 4(f).

¹⁴ Id. § 4(n).

¹⁵ Ramakrushna Pradhan, Somnath Pal & Mili Mallick, Decentralised Governance Through the PESA Act: A Case Study of Odisha, 7 *International Journal of Political Science and Governance* 94 (2025), <https://doi.org/10.33545/26646021.2025.v7.i9b.675>

into conflict with other statutory systems.¹⁶ The point here is the nature of the review; a review that guarantees legality and safeguards the interests of those affected can help to secure the democratic legitimacy of the decision, while a review that allows an administrator to replace their own preferences for a decision entrusted to the Gram Sabha may weaken that legitimacy.

D. Relevant judicial orientation

In *Rakesh Kumar v. Union of India*¹⁷, the Supreme Court examined the constitutional issues relating to reservation in the Scheduled Area Panchayats under PESA. This ruling is relevant to the constitutional special status of Scheduled Areas and Parliament's power to make exceptions and alterations to Part IX. It should not be quoted as a direct decision on the validity of each of the procedural provisions of the Chhattisgarh PESA Rules, 2022.

The main doctrinal issue, although modest in nature, is that PESA should be regarded as a special kind of statutory framework that functions within the boundaries set by the constitution. To assert that a particular state rule is incompatible with PESA, it is necessary to carry out a provision-by-provision analysis rather than simply relying on the general principle of tribal autonomy.

III. Chhattisgarh's PESA Framework and the 2022 Rules

State-level implementation Chhattisgarh inherited and adapted the Madhya Pradesh Panchayat Raj framework following state formation.¹⁸ The state's Panchayat Raj Adhiniyam, 1993 contains provisions relevant to Panchayats in Scheduled Areas. The notification of state PESA Rules in August 2022 supplied a more detailed procedural framework. The Rules should be read alongside the parent PESA Act and the state enactment, not in isolation.

A Rule 6 and the list of powers

Rule 6¹⁹ is the key provision that grants power. It states that a Gram Sabha in a Scheduled Area shall have the powers provided by the relevant provisions of the Chhattisgarh Panchayat Raj Adhiniyam, 1993, and also certain specific powers and functions, including the conservation,

¹⁶ *Digbal Tandi*, 2025:CGHC:52449-DB, ¶ 14 (Chhattisgarh H.C. 2025).

¹⁷ *Union of India v. Rakesh Kumar*, (2010) 4 SCC 50 (India)

¹⁸ Vibhanshu Awasthi, Implementation of PESA Act in Chhattisgarh: A Critical Study, 14 *International Journal of Advanced Research* (2026)

¹⁹ Chhattisgarh Panchayat Provisions (Extension to the Scheduled Areas) Rules, 2022, r. 6 (India)

enhancement, and supervision of natural resources and the environment; the prevention of land alienation; the protection of cultural heritage; the conservation of traditional knowledge and biodiversity; and the powers relating to development, social institutions, and community administration.

The language used to protect cultural heritage is particularly broad. As seen in the proceedings before the Chhattisgarh High Court, Rule 6(10)²⁰ refers to local cultural heritage, such as the sites of deities, worship systems, institutions like Gotul and Dhumkudia, and humanistic social practices. When properly understood, the provision offers protection to collective memory and institutions against destructive actions. It must not be interpreted as giving a general licence to define cultural authenticity by excluding people on grounds of religion, dissent, migration, or conversion.

The environmental and resource provisions can also bring about major changes. They can allow Gram Sabhas to examine development projects, monitor ecological effects, regulate common resources, and make traditional knowledge useful for conservation. However, the effectiveness of these powers relies on access to information, the ability to control records, the availability of technical assistance, and financial independence. A power that lacks information or has no enforceable consequences may be symbolic.²¹

B. Procedure as a source of legal power

Although the rules concerning the calling of meetings, the quorum, the agenda, the recording of resolutions, objections, and the process of review may seem to be merely procedural, procedure in fact decides who is allowed to take part, what information is taken into account, whether a decision is recorded accurately, and whether another body can delay or replace it. Since procedure plays a central role in self-government, it is one of the main means by which statutory authority becomes effective or is restricted.²²

The legal evaluation of a review mechanism should begin with the following five questions:

²⁰ *Digbal Tandi v. State of Chhattisgarh*, 2025:CGHC:52449-DB (Chhattisgarh H.C. Oct. 28, 2025); Chhattisgarh Panchayat Provisions (Extension to the Scheduled Areas) Rules, 2022, r. 6(10) (India).

²¹ Shivam Pandey & Soham Bajpai, The Gram Sabha as a Legal Forum for Environmental Justice: Reimagining Local Governance Under PESA, *Environmental Law & Policy Journal* (2025)

²² Comptroller & Auditor General of India, *Report No. 7 of 2026: Report of the Comptroller and Auditor General of India on Local Bodies for the Period Ended March 2023* (2026).

- (1) Which specific rule permits a review or intervention?
- (2) Who is entitled to invoke it?
- (3) What are the legal grounds?
- (4) Who is to decide the issue and by what standard will the decision be made?
- (5) What happens to the Gram Sabha resolution during the period in which it is being reviewed and after a decision has been reached? Broad assertions that the rule either empowers or weakens the Gram Sabha remain incomplete unless these questions are answered.

C. Rule 14 and the importance of an alternative remedy

The Chhattisgarh High Court in W.P. (PIL) Nos. 83 and 86 of 2025 referred to Rule 14²³ of the Chhattisgarh PESA Rules, 2022, stating that it offers a statutory means of redress for grievances after the matter has been referred to the relevant Gram Sabha before the Sub-Divisional Officer (Revenue). Since this alternative remedy was available, the Court decided not to accept the petitions directly under Article 226, although it left the petitioners with the right to approach the appropriate authority

The fact that this order shows Rule 14 to have practical legal significance as a means of raising a grievance does not mean that all its parts are constitutionally valid in every situation, nor does it determine the full extent of the Gram Sabha's powers.²⁴ It has been clearly stated that the competent authority shall consider the merits of any grievance. It is important to distinguish between acknowledging an alternative remedy and deciding on the substantive legality of the rule in question.

D. The occurrence of public controversy and the necessity of carrying out textual analysis

After 2022, reports noted that some of the procedures for reviewing and objecting could enable state authorities to interfere with the decisions of the Gram Sabha.²⁵

²³ *Digbal Tandi v. State of Chhattisgarh*,

²⁴ *Sirsan Nageshwar Rao v. State of Chhattisgarh*, 2026 SCC OnLine Chh 7054 (Chhattisgarh H.C. Mar. 25, 2026).

²⁵ Vibhanshu Awasthi, Implementation of PESA Act in Chhattisgarh: Challenges in Decentralized Governance in Scheduled Areas, 14 *International Journal of Advanced Research* 221 (2026)

The legitimacy of the rules must therefore be examined in light of their content and the effects they have within the institution.

A review procedure that is confined to questions of legality, adheres to fair procedures, and reaches a reasoned decision could help to preserve the integrity of Gram Sabha processes. On the other hand, if the procedure allows for a wide reconsideration on the merits without statutory limits, it might risk replacing administrative judgment with community authority. It has to be shown on a rule-by-rule basis which of these descriptions is correct.

IV. From facilitative oversight to substitutive control:

A. The importance of the distinction

The term "control" has a rhetorical effect unless it is linked to a legal standard. Just because the state imposes a requirement does not mean that it is a restriction on self-government, and merely asserting community authority does not mean that it resolves conflicts with individual rights or with other laws. An effective framework should show when supervision helps the lawful exercise of power and when it takes over the function that the law has assigned to an institution.

Facilitative oversight ensures that the Gram Sabha can carry out its legal duties, such as providing adequate notice, providing accessible information, properly recording decisions, protecting members from coercion, and offering a remedy in cases of procedural irregularities. Substitutive control occurs when an external authority effectively assumes the decisions that should be left to the Gram Sabha, either because there is not a clearly sufficient statutory basis for doing so or because the limits set are not in line with PESA.

B. The statutory-consistency test

Start by determining the source of authority; a statutory rule must be traceable to the parent statute and be in accordance with the mandatory provisions of PESA. It cannot be justified on the grounds of administrative convenience alone to intervene in a matter which the statute does not authorize. Although they are administratively convenient, they result in open-ended delegations. If executive orders can determine the content, timing or scope of Gram Sabha powers, the State can effectively amend the practical significance of the rules without a legislative examination.

Second, we must determine the character of the Gram Sabha's functions. In cases where PESA calls for approval, it cannot be simply regarded as consultation. When PESA calls for consultation or a recommendation, those terms should not be stretched to mean an absolute veto unless some other relevant law provides for that effect. The rules should help the Gram Sabha exercise its authority rather than restrict it; they should be made public, based on sound reasoning and in accordance with PESA, and must be subject to review in terms of their legality. Otherwise, the hierarchy is reversed, and a rule that is said to empower the village becomes a means of enabling executive oversight. The exact wording in the statute must serve as the basis for determination.

Thirdly, look at the grounds for review. A review based on a jurisdictional error, fraud, coercion, a serious procedural defect, or a conflict with the law is in concept different from an appeal on the merits as a whole. The wider the discretion of the reviewing body, the greater the risk that the role assigned to the Gram Sabha will become nominal.²⁶

Fourth, consider procedural fairness. The members of the Gram Sabha who are affected should be given notice of the grievance, have access to the relevant materials, be given an opportunity to respond, and be handed a decision based on reasonable grounds. The authority should deal with the real statutory issue rather than merely substituting its own preference for that of the community.

Next, consider the legal consequences and length of the intervention. An automatic and indefinite stay could seriously affect a decision, even if the final review is limited. Any suspension must have a clear legal basis, be appropriate in relation to the alleged defect, and be ended within a specific time frame.

C. Section 4(n) and the principle against usurpation

Section 4(n) clearly mandates safeguards to prevent higher-level Panchayats from taking on the powers that are granted to lower-level Panchayats or to Gram Sabhas. Even though the text of the provision refers specifically to Panchayats at higher levels, it expresses a concern about ensuring that the proper level of decision-making authority is maintained. It is necessary to carefully argue rather than simply assume that the same application should extend to

²⁶ Awasthi, *supra* note at 25

administrative officers. Yet, state rules should where possible be interpreted in a way that avoids an unnecessary displacement of the functions of the Gram Sabha.

It is not the case that all external reviews are prohibited. What is important is that the authority assigned by statute should remain significant. A review procedure that remedies illegality and then sends the matter back to the Gram Sabha for lawful reconsideration is different from one that gives the reviewing officer the power to decide the substantive issue from scratch.

D. Rule 14 and administrative appellate review

Rule 14 provides for a system of reconsideration and appeal. If a person or a government department is affected by a decision of the Gram Sabha, they have the right to request a reconsideration of the matter before the Gram Sabha within the time limit set. Should the Gram Sabha fail to reconsider the issue or if the person is still not satisfied, an appeal can then be made to the Sub-Divisional Officer (Revenue). The inclusion of this provision acknowledges that the decisions of the Gram Sabha can have an impact on people's rights and that it is necessary to have available means of redress. At the same time, however, it places the revenue officer in a position at the top of any dispute stemming from village self-government.

The issue at an institutional level relates to the design of the constitution. It would be suitable to appeal to an official in cases where a resolution breaches a statute, a fundamental right, or a jurisdictional limit. However, it becomes more problematic if the appeal allows for a merits-based replacement of the administrative preference for the decision of the village. The Rules should therefore make a distinction between a review of legality and a disagreement on policy. The SDO should examine whether the Gram Sabha had jurisdiction, had followed the requirements relating to notice and quorum, had taken into account the relevant material, had respected fundamental rights, and had given reasons. The officer must not substitute his own judgment for that of the community on matters which have been lawfully entrusted to the community simply because the administration favors a different result.

There is also a practical imbalance resulting from the hierarchy, since government departments might have legal representation, records, and technical knowledge, whereas villagers might lack documents, legal advice, or the necessary resources. It follows that a remedy that is formally open to 'any person or government department' may still be institutionally unequal.

To ensure procedural fairness, it is necessary to give proper notice, grant access to the records, provide translation if needed, offer legal assistance or help, and make a reasoned decision.

F. Distinguishing between jurisdictional review and merits substitution

The difference between jurisdictional review and merits substitution is fundamental when evaluating Rule 14 or similar grievance procedures. Jurisdictional review involves considering whether the Gram Sabha acted within the powers given to it by law, complied with the required procedure, and respected the legally protected interests. Merits substitution involves examining whether the reviewing body would have come to a different substantive conclusion. Jurisdictional review may be necessary to ensure that the action is legal, whereas merits substitution demands a clear legal basis in cases where the original power to make the decision has been granted to the Gram Sabha.²⁷

The reviewing authority must specify the exact legal defect that is claimed. For example, an objection based on the ground that a meeting was held without the legally required notice is different from one based on disagreement with the resolution's policy preference. Similarly, an allegation that a resolution has an effect beyond the relevant village or subject-matter jurisdiction must be distinguished from a claim that the decision is inconvenient to a development agency. If such objections were treated in the same way, the legal boundaries of review would be obscured.

A well-reasoned decision must state the provision on which it is based, set out the facts that have been found, state the standard that has been applied, and specify the remedy chosen. In cases where the defect can be cured, the reviewing body should examine whether sending the matter back to the Gram Sabha is more in line with PESA than deciding it on its own. This method does not guarantee that each resolution will withstand challenge; rather, it ensures that the remedy corrects the defect without unnecessarily transferring the function to an institution originally entrusted with it.

The framework also takes into account the possibility that a legality review might in some cases call for urgent interim measures. If there is credible evidence of coercion, violence, fraud, or an imminent violation of legally protected rights, temporary intervention could be deemed

²⁷ *Kodali Rajendra Prasad v. State of Andhra Pradesh*, W.P. No. 8192 of 2025, ¶¶ 27–28 (Andhra Pradesh H.C. July 18, 2025).

acceptable in accordance with the relevant law. Yet, interim measures should be based on sound reasoning, have a limited duration, and be linked to the alleged defect; otherwise, a seemingly temporary suspension can act as a de facto veto through the use of delay.

G. The principle concerning alternative remedies and constitutional review

This raises another question: what is the relationship between the statutory grievance procedure and the High Court's powers under Article 226? The alternative-remedy doctrine is a principle of judicial restraint and not an absolute obstacle to constitutional review²⁸; its application is determined by the statutory scheme, the nature of the grievance, and the established exceptions, such as cases involving a jurisdictional error, a breach of natural justice, or a challenge to the validity of the legislation.

In the case of *Digbal Tandi v. State of Chhattisgarh*²⁹ and the related proceedings, the Chhattisgarh High Court regarded Rule 14 as a remedy that could be used and refused to consider the petitions directly, while leaving open the possibility of approaching the relevant authority. The significance of the order lies in the fact that it acknowledges procedural remedies in cases involving actions by the Gram Sabha. However, this ruling should not be exaggerated. The Court had not finally decided on the constitutional validity of Rule 14 or declared every act carried out under it as lawful. It is also incorrect to present the decision as a general ruling that Article 226 is unavailable whenever Rule 14 exists.

In this article, the implications are institutional. A statutory remedy may help to ensure access to a special forum and allow the factual issues to be dealt with at first instance. Yet its legitimacy is dependent on it being accessible, impartial, timely and on providing meaningful relief. Where the remedy is inaccessible, structurally biased, or unable to deal with the legal issue, simply having it may not overcome the fundamental concern. The grievance redressal system must therefore be assessed not only in terms of its formal availability but also in relation to its ability to offer a fair and effective review.

H. The question of land governance, consultation, and the risk of making categorical claims

²⁸ *Kodali Rajendra Prasad v. State of Andhra Pradesh*, W.P. No. 8192 of 2025 (Andhra Pradesh H.C. July 18, 2025); *Sirsan Nageshwar Rao v. State of Chhattisgarh*, 2026 SCC OnLine Chh 7054 (Chhattisgarh H.C. Mar. 25, 2026); *Ajay Kumar Singh v. State of U.P.*, 2024 SCC OnLine All 2373 (Allahabad H.C. Apr. 19, 2024).

²⁹ *Digbal Tandi v. State of Chhattisgarh*, 2025

A common problem in PESA scholarship is the idea that consultation, consent, and approval can be regarded as equivalent forms of community authority. This is not the case. Consultation usually involves a real effort to obtain and take account of people's views; approval refers to a more rigorous kind of prior authorization; and recommendation means a formal submission whose legal effect is determined by the relevant provision. Although consent may be required by another statute or by the specific legal situation, it cannot be automatically assumed simply because there is a reference to consultation in PESA.³⁰

Section 4(i)³¹ provides that consultation must take place with the Gram Sabha or the relevant Panchayat at the appropriate level, both before land is acquired in Scheduled Areas for the purpose of development projects and before people affected by such projects are resettled or rehabilitated. The way it is worded gives consultation a legally important status. However, it does not resolve all the issues concerning whether a project can proceed even if it is opposed; that question may still be influenced by other relevant laws, regulations, judicial interpretations, and the specific circumstances of the acquisition or project.

The fact that this distinction does not serve as a reason for carrying out a weak or superficial consultation should be noted: meaningful consultation must take place early enough to have an impact on the decision; it must give participants information that is relevant and presented in a way that they can understand; it must allow them sufficient time for deliberation; it must accurately record any support, objections, or alternative views; and it must ensure that the person responsible for making the decision takes the results into genuine consideration. To consult afterwards, when the decision has become irreversible, would risk turning a statutory safeguard into a mere formality.³²

The legal analysis must also specify the right representative institution; PESA recognizes the Gram Sabha and, in certain cases, a suitable Panchayat. The statutory expression “at the appropriate level” is important. A well-founded article should not suppose that each project, each parcel of land, or each group affected is subject to the same institutional procedure. It is

³⁰ *Standing Committee on Rural Development and Panchayati Raj, Review of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (2026).*

³¹ *PESA Act, 1996, § 4(i).*

³² *Standing Committee on Rural Development and Panchayati Raj, Review of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (2026)*

necessary to look at the relevant state law and other applicable statutes to find out which body must participate.

For Chhattisgarh, an effective way to conduct research is to choose a small number of land-governance disputes that have been documented and then compare each of them with the relevant statutory provisions. The analysis must note the type of project, the legal status of the land, the Gram Sabha concerned, the stage at which consultation took place, the information given, the resolution adopted, and the following administrative reaction. Unless such detailed, case-by-case material is available, any assertions of systemic non-compliance must remain hypotheses rather than actual findings.

V. Land governance as an example to test the approach

A. PESA's consultation requirement

Land governance serves as a good example because PESA clearly covers the need for consultation before land is taken in Scheduled Areas for development projects and before moving or helping people who are affected. Section 4(i) uses the word "consulted." This wording must have real meaning, but it should not always be seen as a need for consent in every case. Other laws, such as those about land acquisition and forest rights, might add more rules in certain situations. People often make too much of the difference between consultation and consent, but this difference still matters in law and politics. Consultation means people have a real chance to shape a decision; it does not always give them the power to block it. Consent means the project cannot move forward unless there is agreement, except where the law allows otherwise. PESA itself calls for consultation for land acquisition and requires mandatory recommendations for some minor-mineral decisions.

The inquiry should therefore proceed in the following order: first, the project and the status of the land should be identified; then it is necessary to determine which laws apply; next, the relevant Gram Sabha or Panchayat should be established; it should be ascertained whether the applicable legislation requires consultation, a recommendation, consent or some other procedure; and finally, it should be examined whether the process prescribed was both genuine and informed. To simply state that PESA always confers an absolute veto over any land acquisition would go beyond the provisions of Section 4(i).

B. Ensuring meaningful consultation and upholding procedural integrity

One cannot be content with simply recording that a meeting took place. A worthwhile process usually involves giving timely notice, providing clear information regarding the proposal and its consequences, offering a real opportunity to express one's views, accurately recording those views, and then having the person making the decision take them into account. If the applicable law requires a specific form of consultation or consent, then those requirements apply.

If a state rule or administrative practice treats consultation as nothing more than a formality, then it risks undermining the protective aim of PESA. However, a procedure that ensures that the Gram Sabha is given information and that its views are properly recorded may improve both the quality and legality of the decision-making process, even if the final decision is still made under statutory authority.

The result of the executive orders, the objections raised by departments and the appellate review process is a kind of bureaucratisation.³³ Although the Gram Sabha stays visible and active, its decisions are treated as administrative files. This alters the nature of authority since a village assembly which ought to discuss the community's collective priorities is now seen as a first-instance body whose resolutions have to be validated, reconsidered or corrected by the revenue administration. The State is able to challenge or keep an eye on the decisions of the Gram Sabha, but communities generally do not have the same ability to force the departments to carry out their resolutions. A balanced system should link review powers with enforceable duties: the departments must attend when invited, give information, comply with lawful approvals, respond to recommendations and explain why they are not complying. Without these mutual obligations, institutional control is built into the system even though institutional accountability remains weak.

C. Association with forest-rights legislation

Decisions concerning land and resources in Scheduled Areas may also be covered by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006³⁴. The Forest Rights Act includes its own procedure for recognition and one relating to

³³ Ramakrushna Pradhan, Somnath Pal & Mili Mallick, Decentralised Governance Through the PESA Act: A Study of Gram Sabha Functioning in the Scheduled Areas of Chhattisgarh, 7 International Journal of Political Science and Governance 138 (2025)

³⁴ Ministry of Tribal Affairs, Government of India, *The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006: Implementation Materials* (2024).

the Gram Sabha. When both PESA and the Forest Rights Act apply, the two should be read together, still maintaining the separate language and legal consequences of each act.

The fact that there are overlapping enactments shows that it is necessary to carry out an analysis which is specific to the issue. When drawing a conclusion on consent or community authority it should name the exact statutory provision and the particular factual trigger rather than assigning one rule to all development projects or to all Scheduled Areas.

The Forest Rights Act of 2006 establishes a distinct statutory system for the recognition and assignment of forest rights and confers significant responsibilities on Gram Sabhas. When Sections 3 and 5 are considered together with the Act's procedural rules, they relate to community rights, the duties concerning conservation and the process of making claims. Although PESA and the Forest Rights Act are complementary in certain areas, the two laws should not be combined into one single source of authority.³⁵

In cases involving forest land, community forest resources or the alteration of forest land, the researcher has to determine the exact statutory trigger and the relevant procedure. It would be unsafe to assign a requirement under the Forest Rights Act, forest-conservation laws or executive guidelines altogether to PESA. Likewise, overlapping legal systems should not be used to overlook the separate protections which each statute offers.

The situation has an impact on the proposed procedure for administrative review. A complaint questioning whether a Gram Sabha meeting observed PESA procedures will involve different issues from a dispute regarding the recognition of forest rights or about compliance with a separate consent requirement. The authority responsible for the review should determine the relevant legal provision concerning the alleged defect and must not regard all the objections as a general challenge to the "powers of the Gram Sabha". It is essential to be precise about the statutory basis both for the sake of doctrinal accuracy and in order to ensure that effective remedies can be provided.

D. The consequences for the 2022 Rules

The example of land-governance shows what the suggested framework entails. The rules must make clear the way in which consultation is started, the manner in which information is given,

³⁵ Priyanshu Gupta & Arnab Roy Chowdhury, Can Social Mobilizations Democratize Forest Governance? The "Making" and "Unmaking" of India's Forest Rights Act, 39 *Journal of Forest Economics* 39 (2024)

how resolutions and any opposing views are recorded, and the procedure to be followed when a complaint about a procedural irregularity is made. Review should not cause consultation to become merely a formality; likewise, a legal analysis must not suppose that consultation automatically gives rise to unrestricted veto power. It is the relevant statute that decides the legal consequences.

The article takes land governance as an example to illustrate a principle rather than presenting it as a factual conclusion that all the Gram Sabhas in Chhattisgarh suffer from the same implementation failure. To support such claims it would be necessary to carry out district-level studies, examine the meeting records and look at the documentation specific to each project.

VI. Towards the Development of a Consistent Framework for Self-Administration by the Gram Sabha

A. Make clear the legal effect of decisions

The government should make available guidance that clearly sets out the functions of the Gram Sabha which call for approval, recommendation, consultation, ownership, management or control. This will help to reduce uncertainty for both communities and officials. The guidance must not change the official statutory language or limit the powers granted to the Gram Sabha by PESA.

B. Restrict the review to the established grounds

If the Rules include provisions for review or grievance redressal, the reasons for such review and the extent to which it can be carried out should be made clear. The body carrying out the review should point out the alleged legal or procedural flaw and must not replace its own policy preferences for a decision which has been lawfully assigned to the Gram Sabha. In cases where the Gram Sabha could remedy a defect by carrying out a reconsideration, remittal is likely to be more appropriate for preserving the authority of the institution than administrative substitution.

C. Ensure that a fair and timely procedure is carried out

The grievance procedure set out in the Rules must involve sending a written notice, making the relevant materials available, giving the concerned party an opportunity to respond, issuing decisions based on reasoned considerations and setting clear time limits. Interim suspension of

a resolution should be a rare measure, accompanied by proper reasons and restricted to the minimum extent necessary to avoid legally recognisable harm. A record of the proceedings should be kept in the appropriate languages, and appropriate privacy protections should be put in place where needed.

D. Enhance capabilities without taking over authority

Efforts to build capacity should be directed towards improving legal awareness, ensuring proper recordkeeping, providing access to technical information and enabling people to get independent advice. They must not be used as a reason for requiring prior administrative approval where the statute does not call for it. The institutions providing support should help the Gram Sabhas to exercise their powers, not function as gatekeepers with regard to those powers.

E. Enhance transparency and accountability

A public register of Gram Sabha resolutions, provided that proper legal protections for privacy are observed, would increase traceability and help to reduce disputes over decisions. When authorities receive a resolution they should record the fact of receipt and indicate the action they have taken; in cases where a decision is rejected or amended under a power which is legally available, the reasons given should name the appropriate statutory basis.

F. A proposal for a legal-focused way to interpret

When courts and administrators are interpreting the Rules, they should consider whether the intervention in question is authorised by law, aims at a legitimate procedural or legal issue, is proportionate to that issue, and is arranged in such a way as to preserve the Gram Sabha's stated role. This standard would not abolish review; it would rather regulate it, and at the same time prevent the other mistake of treating all resolutions of the Gram Sabha as being beyond scrutiny regardless of their legality or the rights of the persons concerned.

G. A sample step-by-step procedure

A practical reform might be realised through the introduction of a model protocol for cases which involve Gram Sabha resolutions. The first step would be for the complainant to specify the resolution, the alleged legal defect and the relief that is being asked for. Next, the Gram Sabha and anyone who may be affected should be given notice of the complaint and be

provided with access to the complaint and any supporting documents. Then, the competent authority must decide if the objection falls within its jurisdiction and whether or not interim relief is available by law. Finally, the authority should hold a fair hearing, keep a proper record and publish a reasoned decision within a set time frame.

The protocol must differentiate among procedural defects which can be corrected, substantive issues which should be sent back to the Gram Sabha, and matters that belong in another statutory forum. In cases where a defect can be overcome by holding a new meeting or by reconsidering the matter, remittal should generally be preferred to replacing it with an external decision. If it is claimed that a resolution breaches an independent statutory prohibition or infringes upon the rights of an affected person, the order should name that law and explain the extent of the competent authority's power.

The protocol must also prevent strategic or repeated objections being used in order to delay the implementation of a legitimate resolution. This is not a matter of limiting access to remedies; it is about asking for specific details, introducing time limits and stopping interim orders from continuing without review indefinitely. The use of a transparent case register, the availability of summaries of the orders and regular reporting could assist in spotting recurring procedural problems without compromising confidential information.

A protocol of that kind would not by itself remedy all the structural problems in the implementation of PESA, but it would make the relationship between community decision-making and the redress of administrative grievances more predictable. The legal basis of the protocol has to be checked against the Rules and the enabling legislation, and any reform that calls for an amendment must be clearly set apart from administrative guidance which can be given under the present powers.

H. Limits of this research and future studies

The article constitutes a doctrinal analysis and must therefore be understood in that context; it has not carried out any interviews, witnessed any Gram Sabha meetings, examined the resolutions or gathered data on implementation at the district level. Consequently, the argument focuses on the legal framework and the standards that should be applied in interpreting that framework, not on the extent of specific practices in Chhattisgarh.

A future empirical study might choose Gram Sabhas in Scheduled Areas throughout the

districts and compare the meeting notices, attendance records, the minutes, the resolutions and the follow-up actions. Interviews with members of the Gram Sabhas, with Panchayat representatives, officials, civil-society organisations and people who are affected could assist in identifying obstacles that are not apparent in the official documents. This kind of research should make use of transparent sampling, obtain informed consent, employ methods that are sensitive to the language being used and include safeguards to protect participants against retaliation.

An empirical study should also identify the different types of functions carried out by the Gram Sabha. Experience in the case of minor forest products cannot be compared with that obtained in connection with land acquisition, local markets or the settlement of customary disputes. A well-designed study could examine whether procedural safeguards differ among the various fields and whether grievance mechanisms are in fact accessible.

The fact that there are no empirical findings in this article does not mean that we can conclude that implementation is either generally successful or generally defective; rather, it means that any conclusions should be stated with appropriate limitations. While doctrinal analysis can point out legal ambiguity and suggest standards, it is only through empirical research that it is possible to find out how often particular problems occur and the effect they have on communities in practice.

VII. Conclusion

PESA stands for a special constitutional and statutory dedication to self-government in the Scheduled Areas; its importance consists not merely in the extension of Panchayat institutions but in the necessity for state law to acknowledge customary practices, community resources and the authority of the Gram Sabha. The Chhattisgarh Rules of 2022 should therefore be evaluated not just on the basis of their having been notified but rather by considering whether their procedures ensure that the powers granted to them by PESA can actually be exercised.

The article has advocated for a distinction between facilitative oversight and substitutive control; it is possible to enhance the legitimacy of the Gram Sabha through procedures relating to grievances, review and accountability provided that these processes correct specific legal defects in a fair, transparent and time-limited manner. However, such procedures become problematic when they grant open-ended discretion to substitute for community decisions in

the absence of clear statutory authority or proper safeguards. While the Chhattisgarh High Court's interpretation of Rule 14 as an alternative remedy shows the importance of the procedure, it does not resolve all the substantive issues concerning the rule's scope or validity.

The main contribution is a method, specific to provisions, for assessing state implementation: one has to identify the exact statutory function, find out the source and the limits of review, tell the difference between consultation, approval and recommendation, judge whether the procedure is fair, and check whether the intervention maintains or replaces the Gram Sabha's role. If this method is applied carefully, it will be able to promote both lawful accountability and real decentralisation.

The article has a doctrinal character and further empirical studies should look into the way Gram Sabha meetings are arranged, the kind of information the members get, how resolutions are recorded and put into effect, and the manner in which Rule 14 grievances are managed in different districts. This kind of research would supplement, not replace, the legal analysis. In the end, the promise of PESA relies on a state framework in which Gram Sabhas are not merely ceremonial consultative bodies or absolute authorities, but rather substantial institutions of self-government functioning within a transparent and rights-respecting legal system.