

CHAPTER 20

ADMINISTRATION OF SCHEDULED AND TRIBAL AREAS

THE Constitution makes special provisions for the Administration of certain areas called 'Scheduled Areas' in States other than Assam, Meghalaya, Tripura and Mizoram even though such areas are situated within a State or Union Territory [Art. 244(1)], presumably because of the backwardness of the people of these Areas. Subject to legislation by Parliament, the power to declare any area as a 'Scheduled Area' is given to the President [5th Schedule, paras 6-7] and the President has made the **Scheduled Areas.** Scheduled Areas Order, 1950, in pursuance of this power. These are Areas inhabited by Tribes specified as 'Scheduled Tribes', in States *other than* Assam, Meghalaya Tripura and Mizoram.¹ Special provisions for the administration of such Areas are given in the 5th Schedule.

The Tribal Areas in the States of Assam, Meghalaya, Tripura² and Mizoram are separately dealt with [Art. 244(2)], and provisions for their administration are to be found in the Sixth Schedule to the Constitution.

The systems of administration under the Fifth and Sixth Schedules may be summarised as follows:

I. The 5th Schedule of the Constitution deals with the administration and control of Scheduled Areas as well as of Scheduled Tribes in States *other than* Assam, Meghalaya, Tripura and Mizoram. The main features of the administration provided in this Schedule are as follows:

The executive power of the Union shall extend to giving directions to the respective States regarding the administration of the Scheduled Areas [Sch. V, para 3]. The Governors of the States in which there are 'Scheduled Areas'¹ have to submit reports to the President regarding the administration of such Areas, annually or whenever so required by the President [Sch. V, para 3]. Tribes Advisory Councils are to be constituted to give advice on such matters as welfare and advancement of the Scheduled Tribes in the States as may be referred to them by the Governor [Sch. V, para 4].

The Governor is authorised to direct that any particular Act of Parliament or of the Legislature of the State shall not apply to a Scheduled Area or shall apply, only subject to exceptions or modifications. The Governor is also authorised to make regulations to prohibit or restrict the transfer of land by, or among members of, the Scheduled Tribes, regulate the allotment of land,

and regulate the business of money-lending. All such regulations made by the Governor must have the assent of the President [Sch. V, para 5].

The foregoing provisions of the Constitution relating to the administration of the Scheduled Areas and Tribes may be altered by Parliament by ordinary legislation, without being required to go through the formalities relating to the amendment of the Constitution [Sch. V, para 7(2)].

The Constitution provides for the appointment of a Commission to report on the administration of the Scheduled Areas and the welfare of the Scheduled Tribes in the States. The President may appoint such Commission at any time, but the appointment of such Commission at the end of ten years from the commencement of the Constitution is obligatory [Art. 339(1)]. A Commission was accordingly appointed (with Sri U.N. Dhebar as Chairman) in 1960 and it submitted its report to the President towards the end of 1961.

II. The Tribal Areas in Assam, Meghalaya, Tripura and Mizoram are specified in the Table appended to the 6th Schedule (para 20) in the Constitution, which has undergone several amendments. Originally, it consisted of two Parts, A and B. But since the creation of the States of Nagaland, the Table (as amended in 1972, 1984 and 1988) includes 9 areas, in four Parts:

Part I—1. The North Kachar Hills District; 2. The Karbi Anglong District; 3. The Bodoland Territorial Areas District.

Part II—1. The Khasi Hills District; 2. The Jaintia Hills District; 3. The Garo Hills District (in Meghalaya).

Part IIA—Tripura Tribal Areas District.

Part III—1. The Chakma District; 2. The Mara District; 3. The Lai District.

While the administration of Scheduled Areas in States *other than* Assam, Meghalaya, Tripura and Mizoram² is dealt with in Sch. V, the 6th Schedule deals with the tribal areas in Assam, Meghalaya, Tripura and Mizoram.²

These Tribal Areas are to be administered as autonomous districts. These autonomous districts are not outside the executive authority of the State concerned but provision is made for the creation of District Councils and Regional Councils for the exercise of certain legislative and judicial functions. These Councils are primarily representative bodies and they have got the power of law-making³ in certain specified fields such as management of a forest other than a reserved forest, inheritance of property, marriage and social customs, and the Governor may also confer upon these Councils the power to try certain suits or offences.⁴ These Councils have also the power to assess and collect land revenue and to impose certain specified taxes. The laws made by the Councils shall have, however, no effect unless assented to by the Governor.

With respect to the matters over which the District and Regional Councils are thus empowered to make laws, Acts of the State Legislature shall not extend to such Areas unless the relevant District Council so directs by public notification.⁵ As regards other matters, the President with respect to a

Central Act and the Governor with respect to a State Act, may direct that an Act of Parliament or of the State Legislature shall *not* apply to an autonomous district or shall apply only subject to exceptions or modifications as he may specify in his notification.

These Councils shall also possess judicial power, civil and criminal, subject to the jurisdiction of the High Court as the Governor may from time to time specify.

REFERENCES

1. These States, in 1984, are—Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Orissa and Rajasthan (*India 1984*, p. 152).
2. Meghalaya was added by the North-Eastern Areas (Reorganisation) Act, 1971. Tripura by the Constitution (49th Amendment) Act, 1984 and Mizoram by State of Mizoram Act, 1986.
3. Para 3, Sixth Schedule.
4. Para 4, Sixth Schedule.
5. Paras 12, 12A, 12AA and 12B, Sixth Schedule.