

Pathalgadi movement in Jharkhand - Withdrawal of Cases

What is the issue?

- Soon after taking charge in December 2019, the Hemant Soren-led government in Jharkhand had decided to drop “all cases” related to the Pathalgadi movement of 2017-2018.
- Almost a year later, the Soren government is still to send a requisition to the court to withdraw the cases. Here is a look at the Pathalgadi movement.

What are the key 5th Schedule provisions?

- Tribals form more than 1/4th of Jharkhand’s population.
- Areas of Dumka, Godda, Deogarh, Sahabgunj, Pakur, Ranchi, Singhbhum (East & West), Gumla, Simdega, Lohardaga, Palamu, Garwa (some districts have partly tribal blocks) are part of the 5th Schedule of the Constitution.
- It vests the Governor of a state with special powers to safeguard and protect the interests of the tribal population.
- These include examining the laws enacted by the parliament or legislature and accordingly restrain or allow the laws.
 - This is done keeping the interests of the tribals in tune with customary law, social and religious practices among others.

What are the concerns in this regard?

- In the absence of exercise of the above power by the governor in Jharkhand, the tribal population tried to assert their rights on their own.
- Siraj, a rights activist in Jharkhand, highlights the following concerns:
 - The governor never exercised the power to implement 5th schedule provisions and PESA in letter and spirit.
 - The executive too has largely avoided these issues till date.
 - For instance, there is less clarity on the role of Gram Sabhas in case of minor minerals, ownership of minor forest produce or power to manage the agri-produce market.
- In all, participation of the tribal population in the decision-making apparatus remains very low.

What is Pathalgadi and how did the movement begin?

- **Stone plaques** - The word pathalgadi is drawn from a tribal custom of

erecting stone plaques on the tomb of tribal people in Jharkhand.

- It is also done in honour of their ancestors, and to announce important decisions regarding their families and villages.
- It is also used to simply mark the boundary of their villages.
- **Inscriptions** - The Provisions of the Panchayats (Extension to Scheduled Areas) Act (PESA) was enacted in 1996.
- When this came into force, former IAS officer BD Sharma, now deceased, started the practice of erecting stone plaques in villages with provisions of the Act inscribed on it.
- This was done to empower people belonging to the 5th Schedule area on their legal and constitutional safeguards.
- The pathals also quoted several orders of High Courts and Supreme Court. E.g.
 - the Samatha judgement which is about preserving the tribal autonomy, their culture and economic empowerment
 - P Rami Reddy vs Andhra Pradesh 1988 orders
- The latter says that 'special legislations cannot be held to be unconstitutional on the ground of violation of other fundamental rights, such as Article 14 and 19(1)(g)' and others.
- The villagers said that they read these provisions and orders to reiterate -
 - i. the supremacy of powers of traditional Gram Sabha and traditional Adivasi governance systems
 - ii. rights of Adivasis over land
 - iii. the restricted rights of non-advasis and outsiders in the scheduled areas to settle down and work
 - iv. that Adivasis are the original inhabitants and owners of India
- **The Raghubar Das government** then had attempted to tweak Chhotanagpur Land Tenancy Act, 1908 and the Santhal Pargana Tenancy Act, 1949.
 - As per the 1949 Act, a tribal can buy or sell their land only to another tribal.
- Raghubar Das government did this by passing an ordinance amending Land Acquisition Act (Jharkhand Amendment) in 2017 and awaited Governor's approval.
- However, the bill did not get the approval due to massive protest by tribal communities.
- This led to violence in the state capital and protests were held in various parts of the state.
- As an extension to this protest, the tribals of Khunti, Gumla, Simdega, Saraikela, West Singhbhum area started erecting stones in their villages with PESA provisions highlighting their rights.

- This ultimately came to be known as the **Pathalgadi movement**.

What were the demands of the Pathalgadis?

- Pathalgadis started asking for self-rule and said that the government should enter their area with Gram Sabha permission.
- Quoting Article 19 (5) of the Constitution, they said that outsiders were not allowed to live and work in adivasi villages without permission.
- They did not believe in Voter-ID cards or Aadhar cards, saying that it is for 'common people'.
- A section of Pathalgadis also follow 'Kunwar Keshri Singh of the Sati-Pati cult from Gujarat's Tapi district.'
 - They did not believe in constitution and also rejected government services.
- A fact finding body which had gone to the Pathalgadi areas, in its report, said the following:
 - Most of the interpretations of Constitutional clauses written on the pathals may be wrong or far-fetched
 - However they are based on the valid issues and demands of the people.
 - Also, the basic idea about the supremacy of Gram Sabha is not wrong.

What happened during the movement and what were the cases?

- People gathered from surrounding areas with bows and arrows to 'assert their rights'.
- The Raghubar Das government had come down heavily on the Pathalgadi movement.
- Cases were registered against several villagers.
- The police had filed cases against about 200 named accused and more than 10,000 unnamed people.
- A total of 172 people were made accused, out of which police had sought prosecution sanction against 96 accused.
- Many of the cases involved charges of sedition. Apart from sedition, accusations against them included -
 - 'attacking the police officers with weapons'
 - 'Kidnapping officers or body guards of the MP with well-planned conspiracy',
 - 'instigating locals to create hurdles equipped with local equipment without any information or permission'
 - 'capturing the police station and snatching the weapons from the hands of police officers'
 - 'creating an insecure situation, misbehaving with government officers'

- 'Provoking the people with their inflammatory speech against government and administration'
- 'creating obstacles in governmental progressive works and disturbing law and order'
- Most of the cases were registered in the year 2018 and a few in 2017.
- Later within the BJP, a section of people were against charging the supporters with sedition.

What was the Hemant Soren -led government's promise?

- Withdrawal of 'all cases' related to the Pathalgadi movement was the first cabinet decision of the Hemant Soren-led JMM (Jharkhand Mukti Morcha) government in Jharkhand.
- A committee was formed in this regard.
- In 30 FIRs, among the 19 cases in which sedition charge was invoked, the committee has recommended withdrawal of IPC section 124A (sedition) from 17 cases.
- On the delay in implementing the decision, Soren said that there were some questions related to the cases as some cases were false.
- Solution is said to have been reached in half of the cases, which have been recommended for withdrawal.
- In some other cases, investigation is still pending.

Source: The Indian Express