

#### 4. Tribal Area Status for Ladakh

**Prelims:** Governance- Policies

**Mains:** GS-II- Government Policies and Interventions for development in Various Sectors and issues arising out of their Design and Implementation.

##### Context:

- ▶▶ THE NATIONAL Commission for Scheduled Tribes (NCST) has sent a formal recommendation to the Ministry of Home Affairs (MHA) to declare Ladakh a “tribal area” in the Sixth Schedule of the Constitution.

##### What is Tribal Area:

- ▶▶ The Constitution of India makes special provisions for the administration of the tribal dominated areas in four states viz. Assam, Meghalaya, Tripura and Mizoram.
- ▶▶ As per article 244 and 6th Schedule, these areas are called “Tribal Areas“, which are technically different from the Scheduled Areas under fifth schedule.

##### Why Such Move?

- ▶▶ According to the NCST, this will help “**democratic devolution of powers, preserve and promote distinct culture of the region**, protect agrarian rights including rights on land and enhance transfer of funds for speedy development of the region.
- ▶▶ There is also same demand from tribal population of Ladakh area.
- ▶▶ Within J&K’s budget, Ladakh usually got the short shrift. Fund transfer was usually delayed — by which time, the construction season was over. Devolution of tribal development funds (TDPs) was based primarily on population, and didn’t take into consideration area and geographical spread, relative inaccessibility, relative backwardness, and the presence and demography of nomadic tribes. As a result, development of this region has been generally neglected.

##### Strategic Location of Ladakh:

- ▶▶ The passes of Ladakh connect Central Asia, South Asia and China, and the region is cut off from the rest of India for six months during winter.
- ▶▶ The tribes here have limited means of livelihood, poor roads, impossible telecom and internet connectivity, undeveloped markets for their produce and low employment opportunities.

▶▶ The proximity of the India-Pakistan-China border, and the ubiquitous presence of Indian Army and paramilitary forces, underlines not only Ladakh's strategic sensitivity, but also its people's vulnerability.

▶▶ **Tribes**

1. Tribes constitute 90% of the population of Ladakh — made up of the districts of Leh and Kargil. Gujjars, Bakarwals, Bots, Changpas, Baltis and Purigpas have played an important role in various wars that have been fought, and have been displaced and disturbed by border tensions.

▶▶ **Agriculture**

1. Ladakh's terrain is essentially inhospitable to agriculture and has been badly neglected by government agencies. In the apricot cluster of Kargil — which accounts for about half of J&K's total apricot plantation — the crop has been annually afflicted by the codling moth for a decade. No solution for this blight has been sought yet.
2. Kargil's famous apples were quarantined by Kashmiri lobbies from going beyond Kargil, and the produce was forced to be locally consumed. If some of the nomadic tribes in Ladakh are trained and funded to grow their livestock on a commercial scale, it could prevent a net outflow of as much as Rs 800 crore from going out of the region to other states.

**Way Forward:**

- ▶▶ The erstwhile state of J&K was indifferent to the needs of the tribes of Ladakh. Tribal affairs officers should be established in Leh and Kargil, as there are in other states. In fact, there is need for a separate tribal development budget head to facilitate their development.
- ▶▶ With Ladakh as a Union territory, humane laws such as the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, and the vigilance of national watchdogs, like the National Commission for Scheduled Tribes (NCST), can be duly applicable to safeguard the welfare of the tribes of this region.

**Difference Between 5<sup>th</sup> Schedule and 6<sup>th</sup> Schedule Areas:**

- ▶▶ While both the areas under 5<sup>th</sup> schedule and 6<sup>th</sup> schedule have dominance of the tribal people, constitution calls them with different names viz. Scheduled Area under 5<sup>th</sup> schedule while Tribal areas under 6<sup>th</sup> schedule.
- ▶▶ While executive powers of the union extend in Scheduled areas with respect to their administration in 5<sup>th</sup> schedule; the 6<sup>th</sup> schedule areas remain within executive authority of the state.
- ▶▶ While 5<sup>th</sup> schedule envisages creation of Tribal Advisory Council, 6<sup>th</sup> schedule provides for District Councils and Regional Councils with certain legislative and judicial powers.

## Legislative Powers of the Sixth Schedule Councils:

- ▶▶ The district councils and regional councils have powers to make laws on certain matters of local importance but all such laws require the assent of the governor. The subjects on which these councils can make laws include: **Roads, bridges, ferries etc.** modes of transport Animal husbandry, veterinary training & practice Primary and Secondary Education
- ▶▶ Agriculture including farm research and education Fisheries
- ▶▶ Social security and social insurance employment and unemployment Flood control
- ▶▶ Entertainment including Cinemas and Theatres Public health, sanitation, hospitals and dispensaries Minor irrigation. Trade and commerce in certain products such as food, cattle fodder, raw cotton, raw jute etc. Libraries, museums, monuments etc. Alienation of land.

## Judicial Powers of the Sixth Schedule Council:

- ▶▶ The laws made by the state legislature on any subject that comes within the jurisdiction of the council, would not extend within the jurisdiction of the autonomous council unless the council so directs by public notification. The President in regard to a Central Act and the Governor in regard to a State Act may direct that the Central Act or State Act shall not apply to an autonomous district or shall apply with such modifications as may be specified.
- ▶▶ The Councils have also been endowed with wide civil and criminal judicial powers, for example establishing village courts etc.

## National Commission for Scheduled Tribes:

- ▶▶ The National Commission for Scheduled Tribes (NCST) was established by amending **Article 338** and inserting a new **Article 338A** in the Constitution through the Constitution (89<sup>th</sup> Amendment) Act, 2003.
- ▶▶ By this amendment, the erstwhile National Commission for Scheduled Castes and Scheduled Tribes was replaced by two separate Commissions namely-
  - (i) the National Commission for Scheduled Castes (NCSC), and
  - (ii) the National Commission for Scheduled Tribes (NCST).

## Functions of the Commission:

- ▶▶ To investigate & Monitor matters relating to Safeguards provided for STs under the Constitution or under other laws or under Govt. Order, to evaluate the working of such Safeguards.
- ▶▶ To inquire into specific complaints relating to Rights & Safeguards of STs;
- ▶▶ To participate and advise in the Planning Process relating to Socio-economic development of STs, and to evaluate the progress of their development under the Union and any State;

- ▶▶ To submit report to the President annually and at such other times as the Commission may deem fit, upon/ working of Safeguards, Measures required for effective implementation of Programmers/ Schemes relating to Welfare and Socio-economic development of STs;
- ▶▶ To discharge such other functions in relation to STs as the President may, subject to the provisions of any law made by Parliament, by rule specify;

