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Chotanagpur Tenancy Act, 1908 And Its Effect

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The Chotanagpur Tenancy-CNT Act, 1908, is a land rights law that was enacted to protect the land rights of the tribal population of Jharkhand, established by the British. A major feature of the CNT Act is that it prohibits the transfer of land to non-tribals to ensure community ownership. The areas of North Chotanagpur, South Chotanagpur and Palamu divisions are included in the jurisdiction of the CNT Act. The Chotanagpur Tenancy-CNT Act of 1908 came as a response to the Birsa Movement.

The Chotanagpur Tenancy-CNT Act, 1908 was the result of the circumstances of the time. On the one hand, between 1890 AD and 1895 AD, the Sardari movement had entered its third phase in which the nature of their movement had become completely political. Now the Sardars had turned against the Europeans, missionaries and officers. Thus, they abandoned the legal path and resolved to give a strong form to the movement through conspiracies and murders. But it cannot be denied that the Sardari movement had weakened by the time it reached its third phase and later merged with the Ulgulan started by Birsa Munda. Or it can be said that the Sardari movement gained intensity after Birsa joined the movement.

Birsa Ulgulan, which took place between 1885 AD and 1900 AD, was the most famous agrarian movement of this time. A large number of tribes participated in Birsa's meetings. Birsa himself provided training and leadership to them. During the epidemic of arson and arrows, the Munda Sardars also used to propagate the Birsa movement in every village. Due to their influence, a reign of fear spread in the entire tribal area.¹ Meanwhile, Birsa also had to visit jail. The government filed cases against Birsa and his other followers and they were given punishments. Birsa died in jail and the government suppressed this movement very ruthlessly. Despite this, his sacrifice did not go in vain and the government was forced to improve their condition, as a result of which the Chotanagpur Tenancy Act, 1908 AD came into existence.

The Chotanagpur Tenancy Act, 1908 AD also includes all those tribal land tenures which were under the earlier land laws. It also makes provisions for Bhuinhari and other land tenures, such as Bhootkhet, Dalikatari, Pahnai etc. which had already been included under the Chotanagpur Land Tenure Act, 1869 AD. The register of such tenancies was prepared by 1880 AD. This register was the final and firm record of the rights of such tenancies and other conditions related to the land. A new right of Bhuinhari could not be established on any land other than the land recorded in this register. Under the Act, it is stated that the complete list of these lands will be given to the Amins on the basis of the said register and they will have to mention the details of the present size, type, area etc. of those lands, the name and details of its present occupant in the formalities.² But any member of Bhuinhar family can transfer the right of any part of his Bhuinhari tenancy by selling, donating, exchanging or otherwise, in the same manner as the tribal raiyats can do by obtaining the necessary permission as per Section 46 of the Chotanagpur Tenancy Act.

Thus, provisions have been made in the Chotanagpur Tenancy-CNT Act, 1908 for the protection of almost all tribal land tenures. Apart from this, this Act also makes provisions regarding the Khuntaktati land of Mundari Khuntaktatidars and provides protection to it from illegal usurpation by non-tribals who could not get proper place under the earlier Bhuinhari survey and were constantly at the center of rebellions. It is also noteworthy that under the Chotanagpur Tenancy Act, 1908 A.D., keeping in view the customs and social traditions existing among the tribes,

Provisions have been presented.³ Entry will be made regarding the inheritance of the members of the Chotanagpur tribe in accordance with the social customs and rituals prevalent among them. According to this prevalent custom, after the death of the father, the male heir has been given the right over that property and provisions have been made to open an account in his name.⁴ In the event of there being no male child, provision has been made to open an account in the name of his widow. If there is no unmarried daughter in the said family and in that situation, if there is a son-in-law, then the account will be opened in the name of the son-in-law. For this, the son-in-law has to obtain the consent of all the clans or brothers according to the traditions of that clan.

Thus, provisions have been made in this Act to maintain the tribal social identity and to protect the rights of the families over the property. In a tribal illiterate society, the rules of inheritance of property are usually determined on the basis of traditional norms, but this Act provided written and legal basis to the traditional rules prevailing among them, which was a significant step towards the protection of tribal property from disturbance.⁵

This Act, along with providing stability to tribal social rules, has also made important provisions for removing the crisis of economic poverty among them and preventing it in future. In this Act, prohibition has been presented regarding the transfer of tribal land, and at the same time, very farsighted steps have also been taken regarding their economic development.⁶ It is noteworthy in this context that after prior permission of the Deputy Commissioner, the members of Scheduled Caste, Scheduled Tribe and Backward Class of Chotanagpur can transfer their land to registration institutions, financial institutions, banks or cooperative societies, provided that the government has 51 percent contribution in those institutions. These financial institutions can provide loans for the economic development of tribes. This means that the transfer of tribal land is possible only under the control and direction of the government. Thus, under the Chotanagpur Tenancy Act 1908, not only have the tribes been given their land rights, but proper guidance has also been provided for the smooth implementation of government policies.⁷

Provisions have also been made in it for change in the nature of land under the control and direction of the government, timely settlement of land, encouragement of proper transfer and ban on illegal transfer so that the tribes can be saved of their traditional rights and their rights can be protected. Thus, certainly the Chotanagpur Tenancy Act was a proper step in accordance with the then circumstances.⁸ Which is still implemented as a guideline for individuals, society, state and governments against the problems of eviction from tribal land, illegal land grabbing, displacement and migration existing among the tribes. This is the reason that the Chotanagpur Tenancy Act 1908 AD has been included in the 9th Schedule of the Indian Constitution. Under this, all the rights related to its implementation and direction are vested in the Indian Parliament and only the state government has the right to amend it.

Apart from this, the right of ownership on community land is mentioned in these land laws as Gair Mazrua Aam. In this, community land, which was not cultivated, was mentioned in the village Khatian as road, footpath, place of worship, land reserved for cattle, pond or dam, community land etc., on which the rural community had rights. Neither the government nor the peasants were given the right to encroach on this type of land, nor could it be used for any other purpose except for the specified purpose. Hence, contrary to this, many peasant revolts took place under the leadership of Munda's in 1820, 1831 and from 1895 to 1900, similarly, revolts were also seen by the 'Ho' tribe in 1831 and by the Oraon tribes between 1895 and 1900.

References

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