Land acquisition in Scheduled Areas: Prior Gram Sabha consent is mandatory

News: Supreme Court, 18 November 2026 | Publication: 20 November 2026

Prelims: Fifth Schedule, 2013 land acquisition Act; Mains: GS-II local self-government, GS-III mining and inclusive development



Original symbolic illustration: pcsmantra.com

Why in the news

In Bibol Toppo v. State of Odisha, 2026 INSC 1244, the Supreme Court set aside the challenged acquisition of land for a private cement company's mining operations in Sundargarh, Odisha. The judgment clarifies prior-consent requirements under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

The underlying dispute

The company held a mining lease but also needed surface rights for operations. A mining right and the required rights over surface land are not identical. The State's involvement in acquisition does not remove the special participation requirements applicable to acquisition for a private company. The Court examined the acquisition's actual purpose.

Two distinct requirements

First, Section 2(2)(b) requires the prior consent of at least 80% of affected families for acquisition for a private company for a public purpose. In this case, consent had to accompany the Social Impact Assessment and exist before government examination under Section 8. Collecting consent later cannot automatically cure the absence of prior consent.

Second, Section 41(3) makes prior Gram Sabha consent mandatory for acquisition in Scheduled Areas. The Court rejected treating it as advisory or a formality. Consent of affected families and consent of the Gram Sabha are separate legal requirements, not substitutes. The provision also contains arrangements involving the appropriate Panchayat or Autonomous District Council where a Gram Sabha does not exist or has not been constituted.

Link with the Fifth Schedule

The Court related Section 41 to the constitutional purpose of stronger protection for land in Scheduled Areas. The Act says acquisition there should be avoided as far as possible and, if necessary, treated as a demonstrable last resort. These guiding provisions do not dilute the mandatory prior-consent requirement.

Mains use

Development is not made legitimate by compensation alone. Information, participation, timely consent and social assessment matter too. The judgment is not a nationwide ban on all mining. Explain it in the context of this acquisition and the applicable statutory requirements.

Mains practice question

How does treating prior consent as a mere procedural formality affect inclusive development in land acquisition? (10 marks, 150 words)

Answer outline

1. **Introduction:** community rights
2. **Main body:** SIA and information; participation
3. **Conclusion:** development within statutory safeguards.

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Primary source

https://api.sci.gov.in/supremecourt/2024/57297/57297_2024_6_1503_76301_Judgement_18-Nov-2026.pdf
Particularly paragraphs 27-34 and 36-43.

Frequently asked questions

In which case, and when, was this judgment delivered?

It was delivered on 18 November 2026 in Bibol Toppo v. State of Odisha, 2026 INSC 1244. The Supreme Court set aside the acquisition of land in Sundargarh, Odisha for a private cement company's mining operations. Source (https://api.sci.gov.in/supremecourt/2024/57297/57297_2024_6_1503_76301_Judgement_18-Nov-2026.pdf)

Which section requires the consent of 80% of affected families, and when must it exist?

Section 2(2)(b) of the 2013 land acquisition Act requires prior consent of at least 80% of affected families for acquisition for a private company. The Court held it had to accompany the Social Impact Assessment and exist before government examination under Section 8; consent collected later does not automatically cure the defect. Source (https://api.sci.gov.in/supremecourt/2024/57297/57297_2024_6_1503_76301_Judgement_18-Nov-2026.pdf)

What is the status of Gram Sabha consent in Scheduled Areas?

Section 41(3) makes prior Gram Sabha consent mandatory for acquisition in Scheduled Areas, and the Court rejected treating it as merely advisory. Where a Gram Sabha does not exist or has not been constituted, the provision itself carries arrangements involving the appropriate Panchayat or Autonomous District Council. Source (https://api.sci.gov.in/supremecourt/2024/57297/57297_2024_6_1503_76301_Judgement_18-Nov-2026.pdf)

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