



CENTRE FOR KOCH RAJBANSHI STUDIES AND DEVELOPMENT

Empowering Koch Rajbanshis to bring Change



**KOCH-RAJBONGSHI PEOPLE'S
STRUGGLE OF 50+ YEARS
FOR SCHEDULING IN ASSAM**



CKRSD Knowledge Series – Vol I. July, 2020

(Scientia est potentia – Knowledge is power)

FOREWARD

CKRSD Knowledge Series is an endeavour to bridge the knowledge gap by bringing in subject experts and thought leaders to share their knowledge on varied subjects pertaining to the Koch or Koch-Rajbongshi community, the largest indigenous community of South-Asia.

As a part of this endeavour, we are bringing out the first volume on the issue of the inclusion of the Koch-Rajbongshi community in the Scheduled Tribe list of Assam, authored by Vikram Rajkhowa, a well-known advocate of Gauhati High Court, who has been spearheading CKRSD's legal interventions on various issues pertaining to the community, including for the inclusion of the community in the S.T list of Assam on a *pro-bona* basis.

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1.0 INTRODUCTION

The struggle for the inclusion of the indigenous Koch or Koch-Rajbongshi people of Assam in the Scheduled Tribe list of the state span across more than 50 years. Even though the said demand for inclusion was made subsequent to India's independence, but it gained ground around 1965 onwards. Various organizations from the Koch-Rajbongshi community submitted memorandum with supporting materials, sent deputations to Shillong, Guwahati and New Delhi, and also organized mass rallies, observed road blockades, hunger strikes, demonstrations, bandhs, etc., across the state from time to time towards this end.

2.0 ARTICLE 342

Article 342 of the Constitution of India empowers the President of India to specify by public notification the tribes and tribal communities or parts of or groups within tribes which shall for the purpose of the constitution is deemed to be Scheduled Tribe in a particular state. In exercise of power under Article 342 (1) the President after consultation with the Governors of the States concerned, promulgated the Constitution (Scheduled Tribe) Order 1950. By exercising power under Article 342 (2) the Parliament has power to include in or exclude from the list of Scheduled Tribes as declared under Article 342 (1).

3.0 SCHEDULED TRIBE STATUS FROM 1996–1997

The Government of Assam sent their recommendation to the Central Government in the year 1993 for the inclusion of the Koch-Rajbongshi community in the Scheduled Tribe list of Assam, along with a report of the Assam Tribal Research Institute. Since there was some contradiction between the recommendations of Government of Assam and the report of the Tribal Research Institute, hence Government of Assam sent their recommendations along with a revised report of the Tribal Research Institute, based on a detailed study conducted in 1994, with samples for the survey being more extensive and representative of the actual situation.

3.1 Report of Tribal Research Institute based on Five Criteria

Government of India had adopted (five) criteria viz., (i) Indication of Primitive Traits, (ii) Distinctive Culture, (iii) Geographical Isolation, (iv) Shyness of contact with community at large and (v) Backwardness, in order to determine the tribal status of a particular community.

For the purpose of considering the demands of the Koch-Rajbongshi people of Assam for their inclusion in the list of Scheduled Tribes, the Tribal Research Institute, Government of Assam undertook a detailed field investigation in the light of the aforesaid criteria in various Koch-Rajbongshi inhabited villages of Goalpara, Bongaigaon and Kokrajhar districts of Lower Assam and several other villages of Morigaon, Dibrugarh and Lakhimpur districts of Upper Assam.

On 09.08.1994 the Tribal Research Institute, Government of Assam submitted its report on the Koch-Rajbongshis of Assam for their inclusion in the list of Scheduled Tribe (S.T) in Assam with the following conclusion:

"From our above analysis we come to know that the Koch-Rajbongshi-Kshtriyas of Assam are of Mongoloid tribal origin and linguistically, they belong to the Tibeto-Burman family. Moreover, it may be said that Koch-Rajbongshi-Kshtriyas are simply three terminologies adopted by the people of the Koch ethnic group on various socio-religious-political situations. Our field investigation reveals that most of the elements of the criteria earmarked for scheduling a community are in existence among the community, under study. Taking into consideration all the relevant aspects we find adequate justification for the inclusion of Koch-Rajbongshi-Kshtriyas in the list of Scheduled Tribes of Assam."

3.2 Comments of Registrar General of India

Thereafter based on the Report of the Tribal Research Institute, Government of Assam; the Office of the Registrar General of India made the following comments on the proposal regarding inclusion of Koch-Rajbongshi in the list of Scheduled Tribes of Assam:

"...in the light of the empirical data furnished by the Tribal Research Institute, Assam, this office has no objection to include Koch-Rajbongshi in the list of Scheduled Tribes of Assam."

3.3 Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996

The Constitution (Scheduled Tribes) Order (Amendment) Bill, 1996, a Bill* to provide for the inclusion of Koch-Rajbongshi in the list of Scheduled Tribes specified in relation to the State of Assam was introduced by the Minister of Welfare (now

Ministry of Social Justice and Empowerment) in the Lok Sabha on 14.02.1996 and again on 12.07.1996.

The House, at its sitting held on 02.08.1996, during discussion on the motion for consideration of the Bill, authorized the Speaker to refer the Bill to a Select Committee of Lok Sabha. Accordingly, the Speaker, constituted the Select Committee consisting of 15 members and referred the Bill to it.

* Published in Part II – Section 2 of the Gazettee of India, Extraordinary dated the 12/07/1996.

3.4 Select Committee Report presented in Lok Sabha on 14.08.1997

The Committee considered and adopted the Report at their sitting held on 05.08.1997. The relevant portion of the report of the Select Committee is as follows:

“...the Committee finds that there is good indication about the tribal origin of the Koch-Rajbongshi in Assam. They possess most of the tribal characteristics among them. Moreover, Registrar-General of India has also raised no objection to include Koch-Rajbongshis in the list of Scheduled Tribes of Assam. The Committee also finds that in Meghalaya the Koches are notified as Scheduled Tribes which was a part and parcel of erstwhile Assam. As such there is adequate justification for inclusion of Koch-Rajbongshi community in the list of Scheduled Tribes of Assam. Keeping in view all these aspects, the Committee, therefore, recommend that the Koch-Rajbongshis should be included in the list of Scheduled Tribes so that they may come in the mainstream of the public life.”

(Para 22)

3.5 Promulgation of Ordinance by the President of India

The President of India promulgated the Constitution (Scheduled Tribes) Order (Amendment) Ordinance, 1996 (9 of 1996) on 27.01.1996, to give effect to the inclusion of the Koch-Rajbongshi community in the Scheduled Tribe list of Assam.

The said Ordinance No. 9 dtd. 27.01.1996 was re-promulgated three times vide Ordinance No. 19 of 1996, Ordinance No. 30 of 1996 and Ordinance No. 3 of 1997. In spite of continuous re-promulgation of the said ordinance for the fourth time, it was not enacted on time leading to its lapse.

In the meantime, a new Government was formed in Delhi replacing the Congress Party from power. The new Government instead of introducing a Bill for regularization of the above Ordinance, referred back the entire issue to Government

of India and State Government for clarification of some points, and as a result the entire question of scheduling of the Koch-Rajbongshi people of Assam kept on hanging.

4.0 STRUGGLE CONTINUES

After the lapse of Ordinance No. 3 of 1997 the Koch-Rajbongshi people lost their scheduled tribe status and since then the Koch-Rajbongshi people in general and various organizations of the Koch-Rajbongshi community in particular, like the All Koch Rajbongshi Students Union (AKRSU), All Assam Koch Rajbongshi Sanmilloni, All Assam Koch Rajbongshi Mahila Sanmilani, etc., including the Centre for Koch Rajbanshi Studies and Development (CKRSD) has been continuing the fight for the right of the Koch-Rajbongshi people to be included in the Scheduled Tribe list of Assam.

5.0 LEGAL INTERVENTIONS

In the meantime, **Centre for Koch Rajbanshi Studies and Development (CKRSD)** filed two writ petitions before the Hon'ble Gauhati High Court, being numbered as:

- **W.P(C) No. 5978/2013** Centre for Koch Rajbanshi Studies and Development and 3 Others vs. The State of Assam and Others, praying for the inclusion of the Koch-Rajbongshi community in the Scheduled Tribe list of Assam, and
- **W.P(C) No. 6065/2017** Centre for Koch Rajbanshi Studies and Development and 3 Others vs. The Union of India and Others, challenging the modalities of 1999 and revised modalities of 2012.

The above mentioned, cases are currently *subjudice*.

6.0 THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) BILL, 2019

The Deputy Registrar General (Social Studies) vide Office Memorandum bearing F.No.12026/2/2003-C&LM dated 05.01.2019 to Director (C&LM-I), Ministry of Tribal Affairs, enclosed the comments of the Office of the Registrar General of India (ORGI) on the Assam Government proposal for granting Scheduled Tribe status to the Koch-Rajbongshi community of Assam, as an Annexureat SI.No.(V) as follows:

"In West Bengal and Tripura Koch is listed as Scheduled Caste indicating their downtrodden position in the society, whereas in Meghalaya (Hill area) they are notified as Scheduled Tribe suggesting their tribal characteristics. Here, it is to be mentioned that Meghalaya was a part of erstwhile larger Assam once and it

was curved out from it in the year 1972. Koch Rajbongshi has traits akin to Garo tribe and a vast Bodo group as mentioned in the published ethnographic volumes and Ethnographic Reports. They exhibit tribal characteristics like presence of core culture, distinct language, animistic beliefs, and have distinct arts and crafts. ”

According to a letter from the Assistant Director, National Commission for Scheduled Tribes (NCST) to its Chairperson and others bearing F.No.12026/2/2003-C&LM dated 7th January, 2019, wherein a copy of the Summary of Record of discussions of 110th Meeting of National Commission for Scheduled Tribes (NCST) held on 7th January, 2019 was enclosed. The Agenda Item No.1 of the said 110th Meeting was in regard to – ‘Granting of Scheduled Tribe status to six communities namely Koch Rajbongshi, Moran, Matak, Tai Ahom and Tea Tribes of Assam. It is pertinent to mention that at Sl.No. 6 it was stated as follows:

“After careful consideration, the NCST concludes that the above six communities possess characteristics of Scheduled Tribes and qualify to be included in the list of STs of Assam. Accordingly, the Commission supports the proposal of the Ministry of Tribal Affairs forwarded vide letter No.12026/02/2003-C&LM dated 5th January, 2018.”

Thereafter, on 09.01.2019, Shri. Jual Oram, then Minister for Tribal Affairs in the BJP-led-NDA Government introduced ‘The Constitution (Scheduled Tribes) Order (Amendment) Bill, 2019,’ in the Rajya Sabha for the inclusion of six communities from Assam, including the Koch-Rajbongshi community in the Scheduled Tribes lists. However even though the said Bill was introduced in the Rajya Sabha, the same was not put to vote and the said Bill lapsed.

Once again, the entire issue was put in the back burner. If the BJP led Central Government had the right earnest then the Bill would have gone for voting, and if passed in both the Rajya Sabha and the Lok Sabha, a long-standing demand of the Koch-Rajbongshi people would have been fulfilled.

7.0 OBSERVATIONS

- From the historical development of Koch-Rajbongshi community there remains no doubt that they are of Mongoloid origin belonging to the Tibeto-Burman family

and the said contention has received support from historians, eminent experts and expert bodies, including the Tribal Research Institute of the state.

- The five criteria's viz. (i) Indication of Primitive Traits, (ii) Distinctive Culture, (iii) Geographical Isolation, (iv) Shyness of contact with community at large and (v) Backwardness on the basis of which the tribal status of a particular community was determined has been fulfilled by the Koch-Rajbongshi community.
- The Tribal Research Institute of Government of Assam in its report dtd. 09.08.1994 discussed above mentioned criteria's vis-à-vis the Koch-Rajbongshi community in detail and have recorded their finding that the Koch-Rajbongshi community is required to be included in the list of Scheduled Tribe's of Assam.
- Parliamentary Select Committee had also in unambiguous terms recommended the case of the Koch-Rajbongshi community for inclusion in the list of Scheduled Tribes of Assam.
- Government of India by promulgating an Ordinance as long back as in the year 1996 has legitimized the claim of the Koch-Rajbongshi community.
- The Koch people residing in the state of Meghalaya belonging to the same stock of the Koch-Rajbongshi people of Assam has already been included in the Scheduled Tribe list in respect of Meghalaya. Prior to its bifurcation in the year 1972, Meghalaya was a part of Assam.
- Government of India (Ministry of Home Affairs) constituted a Committee on 29.02.2016 under the Chairmanship of Special Secretary (Internal Security), MHA to suggest the modalities for granting of Scheduled Tribe status to six communities. The Committee in its Report has recommended that the Government may consider granting in-principle approval of ST status to the six communities, which also includes the Koch Rajbongshi community
- In 2019 the Office of the Registrar General of India as well as the National Commission of Scheduled Tribes, concludes that the six communities, including the Koch-Rajbongshi community possess characteristics of Scheduled Tribes and qualify to be included in the list of STs of Assam.

8.0 CONCLUSION

The Koch-Rajbongshi community of Assam has been demanding Scheduled Tribe status for over five decades and till date most of the authorities have not refused or declined their claim. Rather the authorities by supporting their claim and the Government by promulgating Ordinances and introducing Bills have created a legitimate expectation in the mind of the community that they will be declared as a Scheduled Tribe community of Assam. The action of the Government or promise

made by the Government is the basis of such legitimate expectations and the Government therefore should not back track from such promises made on the basis of suggestion of the expert bodies.

It is indeed unfortunate that the Union Government, be it the Congress led government in the year 1996 or the BJP led government in 2019, has only been playing with the sentiments of the Koch-Rajbongshi people of Assam, by introducing the Bill for scheduling of the community, but never going for voting of the said Bill.

If the Union Government had the political will, the Government could have gone for voting on the Bill, and arrive at a logical conclusion. But, that not being the case. The Government by their action is making a mockery of the legitimate grievance of the Koch-Rajbongshi people of Assam and has allowed the issue to remain hanging only for making political gains.

Therefore it is abundantly clear that unless the Koch-Rajbongshi community emerges as a strong political force, the Government of the day will continue to play with the instant issue for their own political benefits. It is high time that the Koch-Rajbongshi people of Assam, more particularly its leadership learn from this struggle of more than 50 years and chart a new course for the community, including considering the option of its own political platform.

The **Centre for Koch Rajbanshi Studies and Development (CKRSD)** is a non-profit organization based out of Guwahati (Assam), with the primary objective to preserve and promote the rich history, culture and heritage of the Koch-Rajbongshi community, the largest indigenous community of South Asia, including conducting various research, studies and developmental works, pertaining to the community.

Written by:



Vikram Rajkhowa (Chairperson, CKRSD) is an advocate at the Gauhati High Court. He has been espousing public causes, including in the areas of civil rights, human rights, environment protection, rights of indigenous people, etc. Some of the cases he has appeared are Removal of Encroachment from Chilarai Park at Amingaon, Facilities for Disabled Persons at Kamakhya Temple, Protection of Elephants from Train hits in Assam, Illegal Coal Mining at Dehing Patkai, among others.

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