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EDITORIAL ANALYSIS

In Odisha's Sijimali, the Failure of Free, Prior and Informed Consent

INDIAN EXPRESS

10 April 2026

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CURATED & WRITTEN BY

Bharat Choudhary

UPSC Educator & Content Creator

[linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)

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INTERVIEW ANGLE



"The Niyamgiri judgment (2013) established Gram Sabha supremacy over mining in tribal areas. Thirteen years later, Sijimali shows the same pattern — fraudulent consent, police force, tribal resistance. What does this tell us about India's mineral governance system?"

Thirteen years after the Niyamgiri judgment established Gram Sabha supremacy over mining decisions in scheduled tribal areas, the Sijimali bauxite conflict in Odisha's Rayagada district presents a near-identical script: tribal communities alleging fraudulent consent processes, police deployed against protesters, and a corporate entity — Vedanta Limited — with mining clearances granted over tribal objections. The Indian Express argues this recurrence exposes a structural failure in India's mineral governance system that legal precedents alone cannot fix.

THE PATTERN — CONSENT WITHOUT CONSENT

The Free, Prior and Informed Consent (FPIC) principle — enshrined in PESA (1996), the Forest Rights Act (2006), and India's obligations under ILO Convention 169 (though India has not ratified it) — requires that:

- **Free:** Consent given without coercion, manipulation, or pressure
- **Prior:** Consent obtained before any decision is made (not as a rubber stamp after plans are finalised)
- **Informed:** Communities given complete, accurate, accessible information about the project's impacts

What actually happens at Sijimali — and what the tribal communities allege — is the reverse: Gram Sabha meetings convened hastily, documentation forged or coerced, village leaders pressured by district officials or company representatives, and mining clearances obtained before genuine consultation occurs.

This is not unique to Sijimali. The same pattern was alleged at Niyamgiri (2013), Vedanta's Niyamgiri mine (rejected), Polavaram dam displacement (Andhra Pradesh), Hasdeo Arand coal blocks (Chhattisgarh), and multiple mine proposals in Jharkhand's Santhal Pargana.

WHAT THE LAW SAYS — AND WHAT HAPPENS IN PRACTICE

PESA (1996) — Section 4(i) and 4(k)

Gram Sabha must be consulted before any land acquisition in Scheduled Areas. Gram Sabha must approve development projects affecting community resources. **In practice:** District administrations convene Gram Sabha meetings with inadequate notice, without agenda disclosure, and with officials present who intimidate participants. Minutes are recorded in Hindi or Odia — not the tribal language — and circulated later.

Forest Rights Act (2006) — Community Forest Rights

FRA requires that Community Forest Rights (CFR) be recognised and settled before any forest diversion. **In practice:** FRA claim settlement is chronically delayed across India — Maharashtra, Odisha, and Jharkhand have backlog of hundreds of thousands of unresolved claims. Mining clearances are granted before FRA settlement, creating a *fait accompli*.

LARR Act (2013) — Social Impact Assessment

Land acquisition in tribal areas requires Social Impact Assessment (SIA). For PPP projects, 70% affected family consent is mandated; for private sector projects in Scheduled Areas, the threshold is higher at 80% consent. **In practice:** SIA reports are often consultant-generated documents with little genuine community interaction, and consent thresholds are gamed through restricted definitions of “affected family.”

THE SYSTEMIC PROBLEM — REVENUE VS RIGHTS

The editorial identifies the root cause as structural: India’s mineral governance system is designed to facilitate extraction, not to protect rights. Evidence:

- **Incentive alignment:** District Collectors, who oversee Gram Sabha processes, report to state governments whose revenue depends on mining royalties — creating an inherent conflict of interest
- **Legal asymmetry:** While tribals can challenge mining clearances in court, the burden of proof rests on communities who lack resources, time, and legal access. Companies can fund litigation indefinitely
- **Judicial remedy as safety valve:** The Niyamgiri judgment was exceptional precisely because the Supreme Court directly overrode the administrative process. Most tribal communities cannot reach the Supreme Court
- **Accountability gap:** No official has been held criminally accountable for fraudulent Gram Sabha proceedings in any post-PESA case

WHAT THE EDITORIAL DEMANDS

- ① **Independent third-party Gram Sabha verification:** Gram Sabha proceedings for mining in scheduled areas must be recorded, independently verified, and available for judicial review before clearances are granted
- ② **State accountability:** Officials who certify fraudulent Gram Sabha proceedings must face criminal prosecution under PESA — not merely departmental inquiry
- ③ **FRA settlement as a precondition:** No forest diversion clearance should be granted until FRA claim settlement is completed — a firm, justiciable precondition, not an administrative guideline
- ④ **Benefit-sharing reform:** Tribal communities whose land hosts mineral extraction must receive equity stakes in mining revenues (District Mineral Foundation funds must be genuinely community-controlled, not state-administered)

Sijimali is not an exception — it is the rule. Thirteen years after Niyamgiri, the same fraudulent FPIC processes recur because India's mineral governance system prioritises extraction over rights, with structural conflicts of interest and zero accountability for consent violations.

Sijimali: 311 MT bauxite, Rayagada + Kalahandi, Odisha (41% of India's reserves); PESA 1996; FRA 2006; Niyamgiri 2013 (12 Gram Sabhas, unanimous rejection)

FPIC, PESA, Forest Rights Act, Gram Sabha supremacy, Niyamgiri precedent, mineral governance, District Mineral Foundation

The District Mineral Foundation (DMF) was created specifically to benefit mining-affected communities — but most DMF funds are spent by state governments on infrastructure rather than community-identified priorities. Is DMF a genuine benefit-sharing mechanism or a government revenue stream dressed in CSR language?

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