

PANCHAYT RAJ – Introduction, Committees & 73rd Amendment act

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Introduction to Panchayati Raj

Rural development is one of the main objectives of Panchayati Raj and this has been established in all states of India except Nagaland, Meghalaya and Mizoram, in all Union Territories except Delhi and certain other areas. These areas include:

- The scheduled areas and the tribal areas in the states
- The hill area of Manipur for which a district council exists and
- Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists

Evolution of Panchayati Raj System

The Panchayati system in India is not purely a post-independence phenomenon. In fact, the dominant political institution in rural India has been the village panchayat for centuries. In ancient India, panchayats were usually elected councils with executive and judicial powers. Foreign domination, especially Mughal and British, and the natural and forced socio-economic changes had undermined the importance of the village panchayats. In the pre-independence period, however, the panchayats were instruments for the dominance of the upper castes over the rest of the village which furthered the divide based on either the socio-economic status or the caste hierarchy.

The evolution of the Panchayati Raj System, however, got a fillip after the attainment of independence after the drafting of the Constitution. The Constitution of India in Article 40 enjoined: "The state shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to

enable them to function as units of self-government”.

There were a number of committees appointed by the government of India to study the implementation of self-government at the rural level and also recommend steps in achieving this goal.

The committees appointed are as follows:

- Balwant Rai Mehta Committee
- Ashok Mehta Committee
- G V K Rao Committee
- L M Singhvi Committee

Balwant Rai Mehta Committee & Panchayati Raj

- The committee was appointed in 1957, to examine and suggest measures for better working of the Community Development Programme and the National Extension Service. The committee suggested the establishment of a democratic decentralised local government which came to be known as the Panchayati Raj.

Recommendations by the Committee:

Three-tier Panchayati Raj system: Gram Panchayat, Panchayat Samiti and Zila Parishad.

- Directly elected representatives to constitute the gram panchayat and indirectly elected representatives to constitute the Panchayat Samiti and Zila Parishad.
- Planning and development are the primary objectives of the Panchayati Raj system.
- Panchayat Samiti should be the executive body and Zila Parishad will act as the advisory and supervisory body.
- District Collector to be made the chairman of the Zila Parishad.
- It also requested for provisioning resources so as to help them discharge their duties and responsibilities.

The Balwant Rai Mehta Committee further revitalised the development of panchayats in the country, the report recommended that the Panchayati raj institutions can play a substantial role in community development programmes throughout the country. The objective of the Panchayats thus was the democratic decentralisation through the effective participation of locals with the help of well-planned programmes. Even the then Prime Minister of India, Pandit Jawaharlal Nehru, defended the panchayat system by saying, "... authority and power must be given to the people in the villages Let us give power to the panchayats."

Ashok Mehta Committee & Panchayati Raj

The committee was appointed in 1977 to suggest measures to revive and strengthen the declining Panchayati Raj system in India. The key recommendations are:

- The three-tier system should be replaced with a two-tier system: Zila Parishad (district level) and the Mandal Panchayat (a group of villages).
- District level as the first level of supervision after the state level.
- Zila Parishad should be the executive body and responsible for planning at the district level.
- The institutions (Zila Parishad and the Mandal Panchayat) to have compulsory taxation powers to mobilise their own financial resources.

G V K Rao Committee & Panchayati Raj

The committee was appointed by the planning commission in 1985. It recognised that development was not seen at the grassroots level due to bureaucratisation resulting in Panchayat Raj institutions

being addressed as 'grass without roots'. Hence it made some key recommendations which are as follows:

- Zila Parishad to be the most important body in the scheme of democratic decentralisation. Zila Parishad to be the principal body to manage the developmental programmes at the district level.
- The district and the lower levels of the Panchayati Raj system to be assigned with specific planning, implementation and monitoring of the rural developmental programmes.
- Post of District Development Commissioner to be created. He will be the chief executive officer of the Zila Parishad.
- Elections to the levels of Panchayati Raj systems should be held regularly.

L M Singhvi Committee & Panchayati Raj

The committee was appointed by the Government of India in 1986 with the main objective to recommend steps to revitalise the Panchayati Raj systems for democracy and development. The following recommendations were made by the committee:

- The committee recommended that the Panchayati Raj systems should be constitutionally recognised. It also recommended constitutional provisions to recognise free and fair elections for the Panchayati Raj systems.
- The committee recommended reorganisation of villages to make the gram panchayat more viable.
- It recommended that village panchayats should have more finances for their activities.
- Judicial tribunals to be set up in each state to adjudicate matters relating to the elections to the Panchayati Raj institutions and other matters relating to their functioning.

All these things further the argument that panchayats can be very effective in identifying and solving local problems, involve the people in the villages in the developmental activities, improve the communication between different levels at which politics operates, develop leadership skills and in short help the basic development in the states without making too many structural changes. Rajasthan and Andhra Pradesh were the first to adopt Panchayati raj in 1959, other states followed them later. Though there are variations among states, there are some features that are common. In most of the states, for example, a three-tier structure including panchayats at the village level, panchayat samitis at the block level and the zila parishads at the district level-has been institutionalized. Due to the sustained effort of the civil society organisations, intellectuals and progressive political leaders, the Parliament passed two amendments to the Constitution – the 73rd Constitution Amendment for rural local bodies (panchayats) and the 74th Constitution Amendment for urban local bodies (municipalities) making them 'institutions of self-government'. Within a year all the states passed their own acts in conformity to the amended constitutional provisions.

73rd Constitutional Amendment Act of 1992

Significance of the Act

- The Act added Part IX to the Constitution, "The Panchayats" and also added the Eleventh Schedule which consists of the 29 functional items of the panchayats.
- Part IX of the Constitution contains Article 243 to Article 243 O.
- The Amendment Act provides shape to Article 40 of the Constitution, (directive principles of state policy), which directs the state to organise the village panchayats and

provide them powers and authority so that they can function as self-government.

- With the Act, Panchayati Raj systems come under the purview of the justiciable part of the Constitution and mandates states to adopt the system. Further, the election process in the Panchayati Raj institutions will be held independent of the state government's will.
- The Act has two parts: compulsory and voluntary. Compulsory provisions must be added to state laws, which includes the creation of the new Panchayati Raj systems. Voluntary provisions, on the other hand, is the discretion of the state government.
- The Act is a very significant step in creating democratic institutions at the grassroots level in the country. The Act has transformed the representative democracy into participatory democracy.

Salient Features of the Act

- **Gram Sabha:** Gram Sabha is the primary body of the Panchayati Raj system. It is a village assembly consisting of all the registered voters within the area of the panchayat. It will exercise powers and perform such functions as determined by the state legislature. Candidates can refer to the functions of gram panchayat and gram panchayat work, on the government official website – <https://grammanchitra.gov.in/>.
- **Three-tier system:** The Act provides for the establishment of the three-tier system of Panchayati Raj in the states (village, intermediate and district level). States with a population of less than 20 lakhs may not constitute the intermediate level.
- **Election of members and chairperson:** The members to all the levels of the Panchayati Raj are elected directly and the

chairpersons to the intermediate and the district level are elected indirectly from the elected members and at the village level the Chairperson is elected as determined by the state government.

- Reservation of seats:

- » For SC and ST: Reservation to be provided at all the three tiers in accordance with their population percentage.
- » For women: Not less than one-third of the total number of seats to be reserved for women, further not less than one-third of the total number of offices for chairperson at all levels of the panchayat to be reserved for women.
- » The state legislatures are also given the provision to decide on the reservation of seats in any level of panchayat or office of chairperson in favour of backward classes.

- Duration of Panchayat: The Act provides for a five-year term of office to all the levels of the panchayat. However, the panchayat can be dissolved before the completion of its term. But fresh elections to constitute the new panchayat shall be completed –

- » before the expiry of its five-year duration.
- » in case of dissolution, before the expiry of a period of six months from the date of its dissolution.

- Disqualification: A person shall be disqualified for being chosen as or for being a member of panchayat if he is so disqualified –

- » Under any law for the time being in force for the purpose of elections to the legislature of the state concerned.
- » Under any law made by the state legislature. However, no person shall be disqualified on the ground that he is less than 25 years of age if he has attained the age of 21 years.
- » Further, all questions relating to disqualification shall be referred to an authority determined by the state legislatures.

- State election commission:
 - » The commission is responsible for superintendence, direction and control of the preparation of electoral rolls and conducting elections for the panchayat.
 - » The state legislature may make provisions with respect to all matters relating to elections to the panchayats.
- Powers and Functions: The state legislature may endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government. Such a scheme may contain provisions related to Gram Panchayat work with respect to:
 - » the preparation of plans for economic development and social justice.
 - » the implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the 29 matters listed in the Eleventh Schedule.
- Finances: The state legislature may –
 - » Authorize a panchayat to levy, collect and appropriate taxes, duties, tolls and fees.
 - » Assign to a panchayat taxes, duties, tolls and fees levied and collected by the state government.
 - » Provide for making grants-in-aid to the panchayats from the consolidated fund of the state.
 - » Provide for the constitution of funds for crediting all money of the panchayats.
- Finance Commission: The state finance commission reviews the financial position of the panchayats and provides recommendations for the necessary steps to be taken to supplement resources to the panchayat.
- Audit of Accounts: State legislature may make provisions for the maintenance and audit of panchayat accounts.

- Application to Union Territories: The President may direct the provisions of the Act to be applied on any union territory subject to exceptions and modifications he specifies.
- Exempted states and areas: The Act does not apply to the states of Nagaland, Meghalaya and Mizoram and certain other areas. These areas include,
 - » The scheduled areas and the tribal areas in the states
 - » The hill area of Manipur for which a district council exists and
 - » Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists.However, Parliament can extend this part to these areas subject to the exception and modification it specifies. Thus the PESA Act was enacted.
- Continuance of existing law: All the state laws relating to panchayats shall continue to be in force until the expiry of one year from the commencement of this Act. In other words, the states have to adopt the new Panchayati raj system based on this Act within the maximum period of one year from 24 April 1993, which was the date of the commencement of this Act. However, all the Panchayats existing immediately before the commencement of the Act shall continue till the expiry of their term, unless dissolved by the state legislature sooner.
- Bar to interference by courts: The Act bars the courts from interfering in the electoral matters of panchayats. It declares that the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in any court. It further lays down that no election to any panchayat is to be questioned except by an election petition presented to such

authority and in such manner as provided by the state legislature.

PESA Act of 1996

The provisions of Part IX are not applicable to the Fifth Schedule areas. The Parliament can extend this Part to such areas with modifications and exceptions as it may specify. Under these provisions, Parliament enacted Provisions of the Panchayats (Extension to the Scheduled Areas) Act, popularly known as PESA Act or the extension act.

Objectives of the PESA Act:

- To extend the provisions of Part IX to the scheduled areas.
- To provide self-rule for the tribal population.
- To have village governance with participatory democracy.
- To evolve participatory governance consistent with the traditional practices.
- To preserve and safeguard traditions and customs of tribal population.
- To empower panchayats with powers conducive to tribal requirements.
- To prevent panchayats at a higher level from assuming powers and authority of panchayats at a lower level.

As a result of these constitutional steps taken by the union and state governments, India has moved towards what has been described as 'multi-level federalism', and more significantly, it has widened the democratic base of the Indian polity. Before the amendments, the Indian democratic structure through elected representatives was restricted to the two houses of Parliament, state assemblies and certain union territories. The system has brought governance and issue redressal to the grassroots levels in the country but there are other issues too. These issues if

addressed will go a long way in creating an environment where some of the basic human rights are respected.

After the new generation of panchayats had started functioning, several issues have come to the fore, which have a bearing on human rights. The important factor which has contributed to the human rights situation vis-a-vis the panchayat system is the nature of Indian society which of course determines the nature of the state. Indian society is known for its inequality, social hierarchy and the rich and poor divide. The social hierarchy is the result of the caste system, which is unique to India. Therefore, caste and class are the two factors, which deserve attention in this context.

Thus, the local governance system has challenged the age old practices of hierarchy in the rural areas of the country particularly those related to caste, religion and discrimination against women.

Issues

- The grey area is the lack of adequate funds. There is a need to enlarge the domain of panchayats to be able to raise their own funds.
- The interference of area MPs and MLAs in the functioning of panchayats also adversely affected their performance.
- The 73rd amendment only mandated the creation of local self-governing bodies, and left the decision to delegate powers, functions, and finances to the state legislatures, therein lies the failure of PRIs.
- The transfer of various governance functions—like the provision of education, health, sanitation, and water was not mandated. Instead the amendment listed the functions that could be transferred, and left it to the state legislature to actually devolve functions.

- » There has been very little devolution of authority and functions in the last 26 years.
- Because these functions were never devolved, state executive authorities have proliferated to carry out these functions. The most common example is the terrible state water boards.
 - The major failure of the Amendment is the lack of finances for PRIs. Local governments can either raise their own revenue through local taxes or receive intergovernmental transfers.
 - The power to tax, even for subjects falling within the purview of PRIs, has to be specifically authorized by the state legislature. The 73rd Amendment let this be a choice open to the state legislatures—a choice that most states have not exercised.
 - A second avenue of revenue generation is intergovernmental transfers, where state governments devolve a certain percentage of their revenue to PRIs. The constitutional amendment created provisions for State Finance Commissions to recommend the revenue share between state and local governments. However, these are merely recommendations and the state governments are not bound by them.
 - Though finance commissions, at every level, have advocated for greater devolution of funds, there has been little action by states to devolve funds.
 - PRIs are reluctant to take on projects that require any meaningful financial outlay, and are often unable to solve even the most basic local governance needs.
 - PRIs also suffer from structural deficiencies i.e. no secretarial support and lower levels of technical knowledge which restricted the aggregation of bottom up planning.

- There is a presence of adhocism i.e. lack of clear setting of agenda in gram sabha, gram samiti meetings and no proper structure.
- Though women and SC/STs have got representation in PRIs through reservation mandated by 73rd amendment but there is a presence of Panch-Pati and Proxy representation in case of women and SC/STs representatives respectively.
- Accountability arrangements remain very weak even after 26 years of PRIs constitutional arrangement.
- The issue of ambiguity in the division of functions and funds has allowed concentration of powers with the states and thereby restraining the elective representatives who are more aware and sensitive to the ground level issues to take control.