

## **Local Government : The Panchayati Raj Institution in India (With reference to the 73rd Amendment of the Indian Constitution)**

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### **ABSTRACT**

In India the panchayati raj is generally refers to the system introduced to empower the local government by the 73<sup>rd</sup> amendment of Indian Constitution in 1992. Although the history of panchayati raj starting from the self-sufficient and self-governing village communities which experienced the rise and fall of sovereignty in the past, to the well structure local administrative system in present. Reference of local governments in the Indian Constitution, found in the Part IV on Directive Principles of State Policy, which stated that the states should enact appropriate laws for constituting Panchayats enabling them to function as local governments. Earlier in 19th century, British institutionalized the Panchayats in the different parts of India. The British rule did not give enough authority and resources to the local bodies. Mahatama Gandhi advocated the panchayati raj system as the foundation of Indian political system. It is the decentralised form of the local government where each village panchayat is responsible for all local affairs. This system has three tiers : gram panchayat at village level, block samiti or panchayat samiti at block level and zila parishad at district level.

**Key Words :** Panchayati Raj, Samiti, State policy

### **INTRODUCTION**

In the ancient time, the king rule hardly reached to the remote areas of the kingdom, and they were generally isolated the communication systems was primitive. The villagers reached to the main person or religious leaders of the village to discuss and to clear their problems. These types of practices of finding solutions to problems collectively, found in the literature like *Kautilya's* "Arthshastra" and in subsequent years, in *Abul Fazal's* "Ain-E-Akbari" and are these still prevalent in different forms all over the country.

#### **Pre-Independence Scenario :**

In the later part of the 19th century, British institutionalized the Panchayats in the different

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parts of India. The British rule did not give enough authority and resources to the local bodies. Hence, those were not truly representative of the people and often dominated by government functionaries. Reference of local governments in the Indian Constitution, as it was adopted in 1950, found in the Part IV on Directive Principles of State Policy, which stated that the states should enact appropriate laws for constituting Panchayats enabling them to function as local governments.

During British rule in 1687, the Corporation was established in the Madras Presidency under the authority of East India Company; after that it is formed in Calcutta and Bombay presidency in 1726. In 1870, Lord Mayo's resolution visualised financial devolution to local institutions. In 1882 Lord Ripon, the father of local self government introduced the Magna-Carta of local self-government. The Hobhouse Commission on decentralisation brought local bodies in the limelight in 1909. The Local bodies were handed over to a responsible government of Indian minister under the diarchy system in 1919. The Local self-government declared as a provincial subject under the provincial autonomy in 1935. Except the presidency town of Madras, Bombay and Calcutta, the municipalities and other urban local bodies were only imaginary in functions. The Constituent Assembly of India did not show any concern to local problems – rural as well as urban.

#### **Post – Independence Scenario:**

In 1957 a committee headed by Balawant Rai Mehta was set up to assess the success of the Community Development Programmes and National Extension Services launched in 1951 and 1952 during the first five year plan. One of the salient recommendations of the Committee was the observation that in order to make various development initiatives meaningful by ensuring that the benefits should reach the targeted beneficiaries. The Committee observed that it was possible only for the Panchayats to involve the local people with the development activities. In the wake of these recommendations many states enacted new Panchayat Acts substituting the old ones initiated by the British. For many reasons the, first generation Panchayats, which were apolitical, were not very successful, reasons were lack of resources, laws about exact roles, functions and authority.

However, in 1977, on the recommendation of the Ashok Mehta Committee, most of the states allowed for political parties to contest Panchayat elections. These recommendations made the Panchayats somewhat more active and vibrant the decisions of several states like West Bengal, Kerala and Karnataka, to involve Panchayats in the developmental initiatives and delivery of various services to the rural people. This system were largely failed to deliver what were expected of them as they did not evolve as people's institutions.

In 1985, L.M. Singhvi Committee, opined that in order to make the Panchayats effective, such institutions should be declared as units of local governments and there should be Constitutional mandate on state governments to ensure that the Panchayats function as such. The 74th Amendment Act, 1992 represents the culmination of efforts that were going on in British India since 1687; the East India Company and later on the British Crown's government made some abortive attempts to streamline the urban system as it obtained under their rule.

### **Various Commissions for Local Bodies :**

Some of the landmarks of post-independence era reflect the casual concerns of central government which appointed the following committees and commissions to examine urban local problems in India:

1. Wittal Local Finance Enquiry Committee, 1951.
2. John Mathai Taxation Enquiry Commission, 1954.
3. Ahmad Committee on the Training of Municipal Employees, 1965.
4. Jain Committee on Rural-Urban Relationship, 1966.
5. Zakaria Committee of Ministers on Augmentation of Financial Resources of Urban bodies, 1968.
6. Committee on Service Conditions of Municipal Employees, 1968.
7. Gajpati Committee on Budgetary Reforms in Municipal Administration, 1974.
8. Sahay Study Group on Constitution, Powers and Laws of Urban Local Bodies and Corporations, 1982.
9. Correa National Commission on Urbanisation, 1988.

When India's urban population was nearly 33 percent and above it was obligatory to every government to transform this system from rural to urban settlements. Several task forces on planning and development of towns & cities in 1975; strategies of urban development in 1982 and housing and urban development in 1983 have made their recommendations. Opinion of these groups in various areas has resulted in the creation of National Commission on Urbanisation. The commission examines issue and problems related to urban management system and planning, allocation of resource, housing, urban poverty, legal frameworks and information systems. It recommended that to process the development programmes, be provided with an urban community development department for every town with a population of more than 50,000. A National Urbanisation Council should be set up to formulate and implement urbanisation policies.

The 65th Amendment of Indian Constitution systematised the reforms of urban local pattern but it was lost in the Rajya Sabha. However, the basic provisions enshrined in this amendment were taken up by the government of Narsimha Rao in 1992. The both houses of the Parliament approved it and the President of India gave assent to 74th Constitutional Amendment Act of 1992. The 73rd amendment in Article 243 of Indian Constitution was declared in 1992, which declared Panchayats, as institutions of self government at local level.

### **The 73rd Amendment of the Constitution, 1992 :**

In the history of Panchayats in India the year 1992 was the most significant year as the 73rd amendment of the Constitution (amendment of Article 243) was passed by the Indian Parliament that declared Panchayats as institutions of self government at local level. (The 74th amendment done at the same time relate to urban local bodies). These amendments came into force from April 24 1993. The main features of the 73rd amendment are:

1. In states with over 25 lakh of population, there should be three tiers of Panchayats (District Panchayats, Block Panchayats *i.e.* intermediary Panchayats and Village or Gram Panchayats). States with less than 25 lakh of population will have only two

- tiers of Panchayat - District Panchayats and village Panchayat.
2. Panchayats declared as institutions of self governments (signifying that the status of Panchayats is same in their respective areas, as that of the Union Government at the national and State Governments at the state level).
  3. States were mandated to devolve functions relating to 29 subjects, including agriculture, land reforms, minor irrigation, fisheries, cottage and small scale industries, rural communication, drinking water, poverty alleviation programmes etc. to the Panchayats. (grants of Local bodies, released to Gram Panchayats through their respective State Governments as per the recommendations and allocations made by the respective Finance Commissions)
  4. For economic development and social justice, Panchayats were authorised to prepare and implement plans.
  5. States were asked to constitute a State Finance Commission every five years to determine the Panchayats' share of state's financial resources as a matter of entitlement. (The earmarked basic grants for gram panchayats is envisaged to be distributed, using the formula prescribed by the most recently approved State Finance Commission for the distribution of resources. However, in case the State Finance Commission formula is not available, then the share of each gram panchayat is envisaged to be distributed across the entities using 2011 population with a weight of 90 per cent and area with a weight of 10 %)
  6. Panchayat must have adequate representation of Scheduled Caste, Scheduled Tribes and women. Such reservation should also apply in the cases of Chairpersons and Deputy Chairpersons of these bodies.
  7. There shall be State Election Commission in each state which shall conduct elections to the local bodies in every five years.
  8. The amendment of Indian Constitution necessitated large scale amendments in the Panchayat Acts of individual states, though in states like West Bengal almost all the requirements of the Constitutional amendment were already provided for in the Panchayat Act. Almost all the states of India are presently having three tiers of Panchayats. At the lowest level is the Gram Panchayat, headed by Pradhan / Sarpanch/ Mukhia. The intermediary level Panchayat is called Block Panchayat/ Panchayat Samiti/ Taluka Panchayat, headed by President/ Sabhapati. At the district level there is the District Panchayat/ Zilla Parishad/ Zilla Panchayat, headed by Chairman.
  9. As it is an item in the State List, the state governments have been given a reasonable authority to take decisions in the many areas, the panchayati raj institution can make rules, regulations and administer them by creating services and charging tax etc., in lieu of these functional services. The Tenth Finance Commission suggested grants-in-aid for the local bodies from state exchequers to supplement their efforts. The panchayati raj institutions can take policy decisions in the areas like land reform rural industries and farming. Hence, panchayati raj institutions have been accepted as the implementing agency of the state governments.

**The eleventh schedule :**

The state legislatures are needed to enact laws to delegate powers and authority to the Panchayats to enable them functions of local government. The 11th schedule enshrines the distribution of powers between the State legislature and the Panchayats. These 29 subjects are listed below:

- (1) Agriculture including agricultural extension.
- (2) Land improvement, implementation of land reforms, land consolidation and soil conservation.
- (3) Minor irrigation, water management and watershed development.
- (4) Animal husbandry, dairying and poultry.
- (5) Fisheries.
- (6) Social forestry and farm forestry.
- (7) Minor forest produce.
- (8) Small scale industries, including food-processing industries.
- (9) Khadi, village and cottage industries.
- (10) Rural housing.
- (11) Drinking water.
- (12) Fuel and fodder.
- (13) Roads, culverts, bridges, ferries, waterways and other means of communication.
- (14) Rural electrification, including distribution of electricity.
- (15) Non-conventional energy sources.
- (16) Poverty alleviation programme.
- (17) Education including primary and secondary schools.
- (18) Technical training and vocational education.
- (19) Adult and non-formal education.
- (20) Libraries.
- (21) Cultural activities.
- (22) Markets and fairs.
- (23) Health and sanitation, including hospitals, primary health centres and dispensaries.
- (24) Family welfare.
- (25) Women and child development.
- (26) Social welfare, including welfare of the handicapped and mentally retarded.
- (27) Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
- (28) Public distribution system.
- (29) Maintenance of community assets.

**The problem :**

The 73rd Amendment offers a big opportunity to create the three tier of parliamentary government in India's Federal Scheme, but the obstacles in place of being removed and being created by the (1) MPs and MLAs of the states; (2) Cabinet ministers in the states; (3) Civil servants at each level, and (4) Village leaders of caste, class and community who see threat to their established position in the change.

Although panchayati elections in almost all the states have been a phenomenal operation

and panchayati raj institutions have settled down to normal working without adequate resources and much-needed infrastructure.

The problem areas of the frail structure and their working are as under:

- (1) It is the narrow sectarian considerations of caste based poor local leadership without broad vision. Reservation tends to push the real deserving outside the pale of power.
- (2) Lack of financial support from the state due to the unwillingness of newly elected leaders to tax their voters.
- (3) Women leadership through reservation at the grass-roots level, where their husbands play a pernicious role because of the male dominant system.
- (4) Apathy of district administration to prove their indispensability.
- (5) The election system of higher bodies have criminalised the local politics and politicised the petty crimes.
- (6) Malpractices in the working of panchayat become unpunished due to lack of adequate punishment system.
- (7) The entire developmental programme to the panchayati institutions gone through the district administration, suffers the legitimacy of panchayati institutions.
- (8) The constitutional amendment authorised state for the self-thinking and have been authorised to transfer power and responsibilities and financial support to the panchayat. The indifferent attitude of states is responsible for not giving the chance to develop the system at local level.
- (9) It has been supposed that narrow politics of vote has made the biggest democratic institutions useless.
- (10) There is no provision made in the amendment to establish "Nyaya Panchayats" or "Gram Nyayalayas". Giving concessions as per differences of the local groups of the state, the constitution and the jurisdiction of these village courts should have been clarified. As per the 73rd Constitutional Amendment, the states have framed different rules to implement it.

#### **Hypothesis of the study :**

There are the following alternatives for rural governance for their better function:

- It should three-tier district level of panchayati parliamentary democracy with a zila pramukh as a sort of district Chief Minister, it would be alongwith a cabinet but without a governor.
- A model for merger of district administration in Panchayati Raj system in coming years as was envisaged in Digvijay Singh Model for Madhya Pradesh.
- Continuation of dyarchy and developmental governments with clearer demarcations of jurisdictions.

In this direction a sincere effort was made by the Chief Minister Digvijay Singh in 1999, when he made a declaration for the adoption of district government. From district administration to district government was considered as a big leap. A detailed legal plan of action was announced to introduce district government by expanding the District Committee System of 74th Amendment. It delegated the authority to collector and one cabinet minister incharge of the district government to take the district government familiar to the people at

grassroot level. Originating from the Kanha Plan, the concept was debated at various forums and the institutional shape was envisaged through extended delegation of tasks, powers and responsibilities to the district committees and various sub-committees in different spheres of administrative activities at local level.

To make the dyarchy workable system and take ahead the transitional charge towards a positive institutionalisation of democracy at local level. A midway approach tried to satisfy the people by reconciling the conflicting claims of panchayati leaders, district level bureaucracy and the people at the grass roots.

Dyarchy system which is being implemented is faulty in principle, in planning and in practice. At best it would be justified as a transitional measure, because the rural people, who can take decisions about development cannot be called incompetent to control their policyless. Second alternative of merging district administration into panchayati democracy is being debated and several modalities should be implemented. Parliamentary system of the third tier should not be a copy of the central or state tiers; it will be a grass roots democracy with a difference at district, block and village levels.

### **Conclusion :**

The Reference of local governments in the Indian Constitution, as it was adopted in 1950, found in the Part IV on Directive Principles of State Policy, which stated that the states should enact appropriate laws for constituting Panchayats enabling them to function as local governments. Earlier in 19th century, British institutionalized the Panchayats in the different parts of India but they did not give enough authority and resources to the local bodies. Hence, those were not truly representative of the people and often dominated by government functionaries.

In 1957 a committee headed by Balawant Rai Mehta was set up to assess the success of the Community Development Programmes and National Extension Services. One of the salient recommendations of the Committee was the observation that in order to make various development initiatives meaningful by ensuring that the benefits should reach the targeted beneficiaries. The Committee observed that it was possible only for the Panchayats to involve the local people with the development activities. In 1977, on the recommendation of the Ashok Mehta Committee, most of the states allowed for political parties to contest Panchayat elections. These recommendations made the Panchayats somewhat more active and vibrant. This system were largely failed to deliver what were expected of them as they did not evolve as people's institutions. In 1985, L.M. Singhvi Committee, opined that in order to make the Panchayats effective, such institutions should be declared as units of local governments and there should be Constitutional mandate on state governments to ensure that the Panchayats function as such. The 65th Amendment of Indian Constitution systematised the reforms of urban local pattern but it was lost in the Rajya Sabha. However, the basic provisions enshrined in this amendment were taken up by the government of Narsimha Rao in 1992. The both houses of the Parliament approved it and the President of India gave assent to the 74th Constitutional Amendment Act of 1992. The 73rd amendment in Article 243 of Indian Constitution was declared in 1992, which declared Panchayats, as institutions of self government at local level.

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### **Suggestion :**

All these cumulative effort made the panchayati raj institutions defunct. The experiments at the Centre and the states have created problems of hung legislatures, wherein panchayati pockets are considered suspicion. In the meantime, the rural people are metamorphosing under the impact of liberalisation. The literacy rate in the rural areas has touched an all time high and the revolution in all respect making the areas progressive, the rural urban distinctions are disappearing fast in terms of development facilitations. These vested interests in status quo cannot fight this inevitability of the change. Overall development in the field can be accelerated if the Panchayati Raj institutions will be revamped with a vast vision. Innovative approach of the government to the rural governance would be rebuilding a *Developed India* by the next decade, if the following reforms will be made:

1. The central government should initiate every year on a comprehensive programme of central aid to the panchayat of the districts from each state.
2. District development planning can be handed over to zila parishad co-opting local participants which should involve entrepreneurs to take up individual tasks co-ordinational supervision of zila parishads.
3. The development programmes should be deputed to the local bodies from the district administration.
4. The financial resource allocation should be linked with National Finance Commission and with an expert from the National Finance Commission for taking care of the quantum of grants from the state government.
5. For panchayati raj institution, the state development service should be constituted soon and on the pattern of state secretariat, the 'Gram Sachivalaya' be created at district level to implement policies of zila parishads.
6. A Panchayat Lokpal should be appointed from the district administration or from the judiciary in each district to ensure the implementation of rules and regulations including the suspension and super cession of elected bodies of Panchayati Raj.
7. As recommended in Desai Report of Law Commission, the Gram Nayalaya should be established at panchayat samiti to take care of litigation related to panchayat with a right to appeal to the district court and the High Court.



8. Training programmes related 'Research and Reform' should be organised at district level and below.
9. To evaluate the working and achievements of panchayati raj institution an expert from the central government with the consent of the state government should be appointed every year.

If these provisions will be implemented, it authorised the panchayati raj with more power and accelerate the working of panchayati raj institution comparatively.

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