

Devolution of functions, functionaries and funds to Panchayat Raj Institutions-A perspective

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Abstract: *Since 1992, Panchayati Raj system has gone a long way. Today, it is the bedrock of India's rural development and poverty alleviation efforts. It has the potential of building a progressive India in harmony with the felt needs and aspirations of the people. Gram Panchayat is the mirror of the village; it reflects social reality. Thus, by strengthening the Panchayati Raj system, the community will be empowered to take their own decisions and implement them. Panchayati Raj system is the forum for decentralized planning and implementation of Government programmes; it is the best platform to give vent to the people's needs and aspirations. Hence, empowerment of PRIs is essential for economic and social development of Rural Bharat.*

Key words: *Amendment, empowerment, Panchayati Raj institutions*

Introduction

Gandhiji's vision of making every village a Republic was translated into reality. With the passage of the Constitution (73rd Amendment) Act in 1992, Panchayati Raj institutions were given constitutional status, and a three-tier Panchayati Raj system was formed to ensure people's participation in rural development. With 496 Panchayats at district level, 5,905 at block level and 2,30,762 at village level, India is today world's largest functioning democracy. These Panchayats are manned by 34 lakh elected representatives, including 10 lakh women, 3.64 lakh Schedule Castes and 2.59 lakh Schedule Tribes. Since 1992, Panchayati Raj system has gone a long way. Today, it is the bedrock of India's rural development and poverty alleviation efforts. It has the potential of building a progressive India in harmony with the felt needs and aspirations of the people. Gram Panchayat is the mirror of the village; it reflects social reality. Thus,

by strengthening the Panchayati Raj system, the community will be empowered to take their own decisions and implement them. Panchayati Raj system is the forum for decentralized planning and implementation of Government programmes; it is the best platform to give vent to the people's needs and aspirations. Hence, empowerment of PRIs is essential for economic and social development of Rural Bharat.

Since the passage of the 73rd Amendment Act, a new era had begun in the federal democratic system of the country. All states/UTs, except Jammu and Kashmir, Uttaranchal and National Capital Territory Delhi have passed legislation in conformity with the provisions of the Constitution. All states/UTs except Arunachal Pradesh, Delhi and Pondicherry have also conducted elections.

73rd Amendment Act: PRI provisions

The main features of the act are:

1. Establishment of the Three-tier structure-Village Panchayat, Intermediate Panchayat and District Panchayat
2. Regular elections to Panchayats every five years
3. Proportionate seat reservation for SCs/STs
4. Constitution of State Finance Commissions to recommend measures to improve the finances of Panchayats
5. Constitution of State Election Commissions
6. Gram Sabhas at the Gram Panchayat level

Power devolved to the Panchayats:

The Constitution has provided the following powers to PRIs:

1. **Article 243-G** vests powers in the State Governments to endow Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government. Panchayats are responsible for preparation of plans and their execution for economic development and social justice with regard to 29 subjects listed in the 11th Schedule of the Constitution.
2. **Article 234-H** vests powers in the State Governments to:
 - Authorize Panchayats to levy, collect and appropriate taxes, duties, tolls and fees
 - Assign taxes, duties, tolls and fees collected by States to Panchayats

- Provide grants-in-aid to the Panchayats from the consolidated fund of the state and,
 - Provide for constitution of such funds for Panchayats for crediting all money received by or on behalf of Panchayats and also for the withdrawal of such money there from.
3. **Article 243-I** provides for constitution of a state Finance Commission every five years to review the financial position of Panchayats and to make recommendations to the Governor on issues related to:
 - The distribution of the states' net proceeds of taxes, duties etc, collected between the states and the Panchayats at all levels
 - Assignment of taxes, duties, tolls etc, to Panchayats
 - Grants-in-aid from states' Consolidated Fund to the Panchayats
 - Improvement of the financial position of the Panchayats

The 11th Schedule (See table -1) in the constitution listed 29 subjects which are to be devolved to Panchayats. Devolution means transfer of powers relating to a specific activity from the State Government to the local self-governments. Apart from transfer to powers, the local self-governments require staff and resources to effectively implement their decisions. In fact, funds, functions and functionaries would help each other with regard to transfer of powers in PRIs.

Table-I: Subjects allotted to gram Panchayats under 11th Schedule (Article 243-G) of the Indian constitution.

Sl.No	Allotted Subjects
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 for 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 following points can be discussed in order to know about the devolution of powers and functions to Panchayats:

1. Devolution of Functions
2. Devolution of Functionaries
3. Devolution of funds and financial autonomy

Devolution of Functions:

All State Governments/UTs have informed that most of the subjects have been devolved at different levels to PRIs. There is no significant change due to the laws enacted by the States in accordance with the 73rd Amendment Act. In many States, different functions under Gram Panchayats are civic duties. The State Governments have not given appropriate functional responsibilities to newly established institutions in the States, where Intermediate Panchayats or District Panchayats did not exist for decades. Even in Panchayats, where all the three tiers exist, old laws have been enacted with few changes. Though the ministry has suggested a structural form in the book titled Devolution of Powers and Functions to PRIs in 1995 itself, States/UTs did not follow it. Many State Governments have not taken actions to formulate the necessary instructions or guidelines to be followed by PRIs to help them in delivering their functions. On the other hand, State Governments should realize that by just providing duties unless they are given functional powers. In many play for rural development. The reason is that they do not have clarity about the role with regard to lawful functions allocated to them. The functions devolved upon Panchayats are mentioned in the form of subjects rather than activities or allied activities. Some States have devolved more powers to District or Intermediate Panchayats, whereas some other States have ignored District Panchayats and transferred powers to only Gram Panchayats and Intermediate Panchayats. In many States, the State Government departments are formulating and implementing the functions of PRIs. On some occasions, the Government departments are getting approval for the schemes from the

standing committee related to the District or Mandal Panchayat. There is no role of Panchayats in their implementation. In some States, Sarpanches have to contact Block offices for funds and technical clearances. The village bodies should be able to spend the funds without technical clearance of the Government officials.

Devolution of Functionaries:

Many State Governments have not transferred the required staff to the PRIs after the devolution of the powers. Some States like Gujarat, Karnataka, Kerala, Madhya Pradesh, and Rajasthan have only transferred the functionaries and issued instructions to keep them under the control of the Panchayats. In many instances, the attitude of State official machinery is not favourable to the PRIs. Many Government officers are not willing to work under the administrative control of elected PRIs. The State Governments should not only keep required staff under the administrative control of PRIs but also see that they actively work in the activities related to Rural Development.

Devolution of Funds and Financial Autonomy:

The State legislatures have been empowered to devolve powers to the Panchayats. The Panchayats cannot fulfill their functions without sufficient funds and financial autonomy. Many states are not transferring funds to the Panchayats for the subjects devolved upon them. Only some States have granted financial autonomy to the PRIs. Financial autonomy to the Panchayats would give them financial powers to release funds without any technical clearance or approval from BDOs or district officials. For example, in Kerala and Punjab, the Panchayats can spend up

to Rs. 1 lakh and in Madhya Pradesh, the Panchayat can spend upto 3 lakh to take upward without any outside clearance. In West Bengal, there is no limit of funds to the Panchayats. The Kerala Government have allocated 40 percent of the Planning funds to the PRIs as consolidated funds. This will help the Panchayats to formulate their development plans in accordance with their requirements. The consolidated funds can be allotted to the Panchayats as per their requirement and priority in accordance with the guidelines for the implementation of Rural Development. Table-2 gives a statement on the status of

Salient Features of reports of State Finance Commissions:

1. The Panchayats should get sufficient funds to function effectively in accordance with their new role as self-government institutions. The funds should match the functions devolved upon them. Article 243-I provides for constitution of a State Finance Commission to make recommendations to the Governor on the subjects mentioned in Article 243-H.

2. State should mobilize their own resources before transferring required funds to the Panchayats to enable those functions as institutions of self-governance. The 73rd Constitution Amendment Act has amended Article 280 related to setting up of the Central Finance Commission. As part of this amendment, the following sub clause is included in clause 3 (b) of Article 280. (b) "These steps are required to increase State Consolidate Funds to provide resources to the Panchayats in the State in accordance with the recommendations of the State Finance Commission".

3. All States/UTs except Arunachal Pradesh, Jharkhand,

funds, functions and functionaries to Panchayats.

It is better to assign some responsibilities and powers to collect some taxes and to levy taxes to augment their own resources. In many states, the villages Panchayats have been authorized to collect more taxes. But the other two tiers of the Panchayats have not been given powers to mobilize their internal resources. There is a need for consensus among the States on assigning the local taxes like land levy and taxes on buildings, profession and businesses to the Panchayats. PRIs should take steps to collect these taxes without fail.

Uttaranchal and Chandigarh have constituted their State finance Commissions (SFC). There is no delay in the constitution of SFCs and submission of the reports by SFCs. All States/UTs except Bihar, Gujarat and Goa have accepted the recommendations of the SFC fully or partially. The Report of SFC in Bihar is awaited. The Governments of Goa and Gujarat have not yet accepted the recommendations. The Ministry of Home Affairs has accepted the recommendations of the Finance Commission relating to the UTs of Andaman and Nicobar Islands, Diu & Damans, Dadra, Nagar Haveli and Lakshadweep.

Many States have to constitute a second finance commission on completion of period of five years of their SFCs. States like Andhra Pradesh, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh are yet to constitute the second State Finance Commissions. Table-3 gives a statement on the status of SFCs in various States.

Taxes, duties, tolls and fees assigned to Panchayats:

Table-2: Status of Transfer of Funds, Functions and Functionaries to Panchayats.

Sl.No	States/UTs	No. of Departments/Subjects transferred to the Panchayats		
		Funds	Functions	Functionaries
1	Andhra Pradesh	05	17	02
2	Arunachal Pradesh	--	--	--
3	Assam	--	--	--
4	Bihar	--	20	--
5	Jharkhand	--	--	--
6	Goa	--	--	--
7	Gujarat	--	--	--
8	Haryana	--	16	--
9	Himachal Pradesh	02	23	07
10	Karnataka	29	29	29
11	Kerala	15	29	15
12	Madhya Pradesh	10	23	09
13	Chattisgarh	10	23	09
14	Maharashtra	18	18	18
15	Manipur	--	22	04
16	Orissa	05	25	03
17	Punjab	--	07	--
18	Rajasthan	--	29	--
19	Sikkim	24	24	24
20	Tamil Nadu	--	29	--
21	Tripura	--	12	--
22	Uttar pradesh	12	13	09
23	Uttaranchal	12	13	09
24	West Bengal	12	29	12
25	Andaman Nicobar	06	06	06
26	Chandigarh	--	--	--
27	Dadra/Nagar Haveli	--	03	03
28	Daman & Diu	--	29	--
29	NCT Delhi	PRIs yet to be reconstituted		
30	Pondicherry	--	--	--
31	Lakshadweep	--	06	--

The constitution (73rd Amendment) Act does not apply to Jammu & Kashmir, Meghalaya, Mizoram and Nagaland. Though the Panchayati Raj laws in Bihar, Orissa, Rajasthan, Arunachal Pradesh and Sikkim have provided for collection of some taxes and arrears by Panchayats, these powers are made optional after some period. In

Assam, Bihar, Gujarat, Rajasthan, Kerala, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal, even levy of taxes assigned to Mandal Panchayats is made optional. In Andhra Pradesh, Haryana, Himachal Pradesh, Karnataka, Maharashtra, Orissa, these Mandal Panchayats do not have and powers to levy the taxes. In Assam, Bihar, Gujarat,

Haryana, Rajasthan, Uttar Pradesh, Karnataka, Kerala, Manipur, Sikkim, West Bengal, Maharashtra, respective Panchayati Raj Acts have assigned some powers to the District Panchayats to augment their resources. But these power are also made optional.

Table-3: Status of Reports of State Financial Commissions

Sl.No	States/UTs	Reports of	Acceptance of the Report
1	Andhra Pradesh	Received	Accepted
2	Arunachal Pradesh	Not appointed	--
3	Assam	Received	Partially Accepted
4	Bihar	Yet to Receive	--
5	Jharkhand	Not appointed	--
6	Goa	Received	Under consideration
7	Gujarat	Received	Under consideration
8	Haryana	Received	Accepted
9	Himachal Pradesh	Received	Accepted
10	Karnataka	Received	Main recommendations Accepted
11	Kerala	Received	Accepted
12	Madhya Pradesh	Received	Accepted
13	Chattisgarh	Received	Accepted
14	Maharashtra	Received	Accepted
15	Manipur	Received	Accepted
16	Orissa	Received	Accepted
17	Punjab	Received	Accepted
18	Rajasthan	Received	Accepted
19	Sikkim	Received	Accepted
20	Tamil Nadu	Received	Accepted
21	Tripura	Received	Accepted
22	Uttar pradesh	Received	Accepted
23	Uttaranchal	Not appointed	--
24	West Bengal	Received	Accepted
25	Andaman Nicobar	Received	Accepted
26	Chandigarh	Not appointed	--
27	Dadra/Nagar Haveli	Received	Accepted
28	Daman & Diu	Received	Under consideration
29	NCT Delhi	Not appointed	--
30	Pondicherry	Received	Under consideration
31	Lakshadweep	Received	Under consideration
32	Meghalaya	Not applicable	--
33	Mizoram	Not applicable	--
34	Nagaland	Not applicable	--
35	Jammu & Kashmir	Not applicable	--

Conclusions

Keeping in view the functions to be delivered by each tier, it should be seen that each of the 29 subjects mentioned in the constitution comes under the purview of the activities and tasks undertaken at various tiers. The powers given by the State Governments should be specific, clear and easily understandable to the Panchayats. The State Governments shall amend the present Act to authorize the Panchayats to levy, collect and appropriate taxes, duties, tolls and fees to augment their resources. The State Governments shall try to create consolidated grand's to enable Panchayats to utilize the money as per their requirements and priorities. It shall keep in view the limitations decided earlier for utilization of funds. The Gram Panchayats and Mandal Zilla Panchayats can receive funds for consolidated grants on 70:30 basis. The State Governments shall commence necessary steps for integration of the schemes for the convenience of the PRIs in responding to local requirements. The state government shall devolve more financial powers to the PRIs to provide more autonomy in decision-making process at various levels. An officer shall be appointed as Chief Executive Officer (can be on per with the district collector). A separate cadre may be created for the PRIs. All the Class-I posts from the State Cadres may be filled up on deputation basis. All Class-II posts may be filled up through the State Public Service Commission or direct recruitment. All the Class-III and below Class-III posts can be filled up at regional/district levels through an independent recruitment board. Apart from package of devolution of powers, the PRIs need qualified and trained technical staff to help them in day-to-day transactions at various levels. The technical staff posted at block level

may be assigned to work in some Gram Panchayats to advise them in formulating action plans and technical feasibility of the plans.

An officer from State Account Service may be appointed at District and Mandal levels to prepare and audit the accounts of the Panchayats. Trained staff may be appointed on contract basis to prepare and audit the accounts of Gram Panchayats. The staff may be even appointed for a group of Panchayats depending on the size of Panchayats. Subjects committees may be appointed to implement the schemes and work as per the decisions taken at the Panchayat meetings. Social Audit through Gram Sabha is essential. District Planning Committees shall be appointed and made functional to enable the Panchayats to prepare their annual plans.

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