



STRENGTHENING PANCHAYATS IN INDIA: *A Review on 73rd Constitutional Amendment Act.*

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Abstract : *The 73rd Amendment envisages the Gram Sabha as the foundation of the Panchayat Raj System to perform functions and powers entrusted to it by the State Legislatures. 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. 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 Ashok Mehta Committee committee was appointed in 1977 to suggest measures to revive and strengthen the declining Panchayati Raj system in India. The G V K Rao Committee & Panchayati Raj committee was appointed by the planning commission in 1985. It recognised that development was not seen at the grassroot level due to bureaucratisation resulting in Panchayat Raj institutions being addressed as 'grass without roots. 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.*

Key Words: *Panchayat, Rural, Gram Sabha, Commission, Local Governance*

Introduction:

The Constitution (73rd Amendment) Act, 1992 has added a new part IX consisting of 16 Articles and the Eleventh Schedule to the Constitution. The 73rd Amendment envisages the Gram Sabha as the foundation of the Panchayat Raj System to perform functions and powers entrusted to it by the State Legislatures. The amendment provides for a three tier Panchayat Raj System at the village, intermediate and district levels. Articles 243A provides that the Gram Sabha may exercise such power and perform such functions at the village level as the Legislature of a state may be law provide. The 73rd amendment thus envisages the Gram Sabha as the foundation of Panchayat Raj System. "Gram Sabha" means a body consisting of

persons registered in the electoral rolls comprised within the area of Panchayat at the village level. In the Panchayat Raj System Gram Sabha is the only permanent unit. Duration of Panchayat. Mukhiyas and other members of Panchayat continue for 5 years only from the date appointed for the first meeting, but the villagers do not change.

Empowerment of Gram Sabha means strengthening of the Panchayat Raj Institution (PRIs). Success or failure of this system depends upon the strength of the Gram Sabha. The eleventh scheduled of the constitution created by the 73rd Amendment contains 29 subjects on which the Panchayats shall have administrative Control, Articles 243H empowers State Legislature to make by law provision for imposing taxes etc. by the panchayat.



Obviously, these panchayats before imposing any levy or tax in the village would be required to get clearance from the respective Gram Sabha. Drafting and implementation of development plans for the uplift of the villages would be vetted and monitored by the Gram Sabhas

Evolution of Panchayati Raj

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 grassroot 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

1. Gram Sabha

- Gram Sabha was the foundation of the Panchayati Raj System which consisted of the people registered in the electoral rolls of the village within the area of the Panchayat.

2. Three-tier System

- The three-tier system of the panchayat was provided in every state i.e. Panchayat at the village, intermediate and district level which brought uniformity in the structure of Panchayati Raj institutions throughout the country.

3. Election of Members and Chairpersons

- The members of Panchayats at the village, intermediate, and district levels shall be elected directly by the people whereas the chairman of the Panchayat at the intermediate and district level shall be elected indirectly from amongst the elected members thereof.

4. Reservation of Seats

- Reservation of seats for SC and ST is provided in every panchayat in the proportion to their population. Provision for reservation of 1/3rd of the total number of seats are also provided for women.
- The state legislature has been empowered to make any provision for reservation in Panchayat at any level in favor of the backward class.

5. Duration of Panchayat



- Panchayats have been provided for a five-year term of office at every level. It can however be dissolved before the completion of its term.
 - A panchayat if elected after the dissolution of the panchayat before shall continue for the remaining period for which the State Election Commission dissolved Panchayat would have continued had it not been dissolved.
6. State Election Commission
- The state election commission has been constituted and has been endowed with various roles like superintendence, direction, and control of the preparation of electoral rolls.
 - The conduct of elections to the Panchayats shall also be handled by the state election commission.
7. Finance Commission
- The finance commission is constituted by the governor to review the financial position of the Panchayats.
 - This commission recommends the governor decide the principles that should govern the distribution of taxes between the state and the Panchayats. It also determines the taxes, duties, tolls, and fees that may be assigned to Panchayats.
 - The provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts are done according to the provisions decided by the state legislature.
8. Powers and Functions of Panchayats
- The powers and functions of the Panchayats are endowed by the state legislature.
 - The Panchayats prepare a plan for economic development and social justice for the people of the Panchayats.
- It implements the scheme of the Central and State government for the betterment of the people at the ground level.
 - Panchayats have the power to enhance employment facilities and undertake development activities in the area.
9. Finances
- The state legislature may-
- authorize a panchayat to levy and collect taxes, duties, and fees;
 - assign to the Panchayat taxes, duties, and fees levied and collected by the state government;
 - provide grants-in-aid to the Panchayats from the state's consolidated fund; and
 - provide for the establishment of funds to credit all money of the Panchayats.
10. Audit of Accounts
- State legislatures can make provisions regarding the maintenance and auditing of panchayat's accounts.
11. Application to Union Territories
- The provisions of this Part apply to the territories of the Union. However, the president may specify and direct any exception of modification as required.
12. Exempted States and Areas
- The act does not apply to Nagaland, Meghalaya, and Mizoram, as well as certain other areas. These areas include:
 - the scheduled areas and tribal areas in the states;
 - the hill areas of Manipur with district councils; and
 - the Darjeeling district of West Bengal with the Darjeeling Gorkha Hill Council.
 - However, subject to the exceptions and modifications specified by the Parliament, the provisions of this Part



may be extended to scheduled areas and tribal areas.

- The Parliament enacted the "Provisions of the Panchayats Extension to Scheduled Areas Act", 1996, under this provision, also known as the PESA Act or the Extension Act.

13. Continuance of Existing Laws and Panchayats

- All state laws pertaining to panchayats shall remain in effect until one year after the commencement of this act.
- In other words, states must implement the new Panchayati Raj System based on this act within a year of its enactment on April 24, 1993, the date of the act's enactment.
- However, all panchayats that existed prior to the enactment of the act will continue until the end of their terms, unless dissolved earlier by the state legislature.
- As a result, the majority of states passed Panchayati Raj Acts in 1993 and 1994, in accordance with the 73rd Constitutional Amendment Act of 1992.

14. Bar to Interference by Courts in Electoral Matters

- The act prohibits courts from interfering in panchayat elections.
- It declares that the constitutionality of any law relating to the delimitation of constituencies or the allocation of seats to such constituencies cannot be challenged in any court.
- It also states that no election to a panchayat may be challenged unless accompanied by an election petition filed with the appropriate authority and in the manner prescribed by the state legislature.

Compulsory Provisions

- Organization of Gram Sabha in villages

- Panchayat is an establishment at three levels, i.e. Village, Intermediate, and District level.
- Direct election to all the seats of the Panchayats.
- Indirect election to the post of Chairman at the intermediate and district level.
- Voting rights of the chairperson and other members of a panchayat elected directly or indirectly.
- The minimum age to contest a Panchayat election is decided to be 21 years.
- Reservation of seats for SC-ST(according to population) and women(1/3rd)
- The tenure of the Panchayats has been fixed for five years.
- Establishment of State Finance Commission after every five years to review the financial position of Panchayats.
- Reservation of seats for SC & ST (according to population) and women (1/3rd seats) at all three levels.
- The tenure of the Panchayats has been fixed for five years and fresh elections will be held within six months in the event of supersession of any panchayat.
- Establishment of a State Election Commission for conducting elections to the panchayats.

Voluntary Provisions

- Allocating representation to MPs and MLAs in Panchayats at different levels within their constituency
- To provide reservation of seats for backward classes in Panchayats at all levels.
- To grant power and authority to Panchayats so that they can function as institutions of self-governance.
- Granting **financial power** to Panchayats and authorizing them to



levy, collect, and appropriate taxes, duties etc.

- Giving the Gram Sabha village-level powers and functions.
- Choosing the method for electing the village panchayat's chairperson.
- Giving representation to the chairpersons of village panchayats in intermediate panchayats or, in the absence of intermediate panchayats in a state, in district panchayats.
- Representing the chairpersons of intermediate panchayats in district panchayats.
- Members of the Parliament (both Houses) and the state legislature (both Houses) are represented in panchayats at various levels that fall within their constituencies.
- Reservation of seats (both members and chairpersons) in panchayats at any level for backward classes.
- Granting panchayats powers and authority to enable them to function as self-governing institutions (in brief, making them autonomous bodies).
- Devolution of powers and responsibilities to panchayats to prepare plans for economic development and social justice, as well as to perform some or all of the 29 functions listed in the Constitution's Eleventh Schedule.
- Granting panchayats financial powers, that is, allowing them to levy, collect, and appropriate taxes, duties, tolls, and fees.
- Taxes, duties, tolls, and fees levied and collected by the state government are assigned to a panchayat.
- Making grants-in-aid to panchayats from the state's consolidated fund.
- Providing for the establishment of funds for crediting all panchayat funds.

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:

1. To extend the provisions of Part IX to the scheduled areas.
2. To provide self-rule for the tribal population.
3. To have village governance with participatory democracy.
4. To evolve participatory governance consistent with the traditional practices.
5. To preserve and safeguard traditions and customs of tribal population.
6. To empower panchayats with powers conducive to tribal requirements.
7. 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 grassroot 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.

Conclusion

The national government made several efforts after independence to develop Panchayati Raj in its real sense. However, due to widespread illiteracy, a lack of political will in the state government, and a lack of funding, it took 45 years after independence for the Constitution to be amended to give Panchayats constitutional status. Panchayats have played an important role in decentralizing authority and fighting for the people at the grassroots level since then.

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