



Panchayati Raj and the 73rd Amendment –An Evaluation

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Abstract

The Traditional Panchayats had been formed in various parts of India after the pastoral society was converted into an agrarian one following the emergence of agriculture as the major mode of production and the consequent settlement of the villages. Every village community formed a council for the system maintenance and conflict resolution. This system was admired by the Britishers as well. They called them "little republics". Even Gandhiji had spoken of Gram Swaraj. India's development in the early fifties was planned without taking cognizance of the Gandhian vision of Gram Swaraj however need for an agency was realized to represent the entire community at the grass root level. In 1959 almost all the states passed legislations to establish Panchayats. Three tier model was accepted by all states but sufficient powers were not given to it. The post -1959, Panchayat Raj Institutions were conceptualized as structures of development management and institutionalized through separate state acts. In order to strengthen the system, the 73rd Constitutional Amendment Act was passed in 1992. The underlying paper evaluates different issues and discusses challenges for modern panchayatiraj institutions.

Introduction

The system of Raj of Panchayat has always existed in India. The Traditional Panchayats had been formed in various parts of India after the pastoral society was converted into an agrarian one following the emergence of agriculture as the major mode of production and the consequent settlement of the villages. Every village community formed a council for the system maintenance and conflict resolution. The British too admired the village 'Panchayat'. Sir Charles Metcalfe, a British governor in India in the 19th Century even called them "the little republics". But these so called little republics were not ideal centers with democratic participation of all the people, due to the caste ridden feudal system of those days.

During the British period, the working village assemblies were kept alive and wherever there was a demand for them they were revived, in fact, local self government in India, in the sense of a representative institution accountable to the electorate, was the creation of lord Ripon in 1882. It

provided for local board consisting of large majority of elected non-official members and presided over by a non-official chairman. By 1925, eight provided in British India had passed acts for the establishment of village Panchayat Avts. However, those panchayats covered only a limited number of villages and had, generally, a limited number of function.¹

Background

Gandhiji had spoken of Gram Swaraj (Village Republics) in which adult villagers would annually elect the government and which would have authority and jurisdiction in the fields of legislation, jurisdiction and executive decision-making without interference, from the state government. With independence, although the panchayat Raj found strong advocates in the Gandhian tradition and Sarvodaya movement, but the reality which is often belied led to Gandhiji's vision of gram swaraj being shattered, when panchayat Raj was include only as article 40 of directive principle of state policy of our constitution. It lead B.R. Ambedkar while



introducing the draft constitution on the 4th of November 1948 to remark, “these village republics have been the ruination of India. I am there for surprised that those who condemn provincialism and what is the village but sink of localism, a den of ignorance, narrow mindedness and communalism?”²

Review of literature

Thus India’s development in the early fifties was planned without taking cognizance of the Gandhian vision of Gram Swaraj. After the Community Development project was inaugurated in 1952, it was realized that without an ‘agency’ at the village level which could represent the entire community, assume responsibility and provide the necessary leadership for implementing development programs, real progress in the area of rural development could not come about. In 1957, the Balwant Rai Mehta Committee’s report recommended the establishment of statutory elective local bodies. On that basis a three-tier system of panchayat Raj was established in 1959 and almost all the states passed legislations to establish panchayats. In the period between 1959-1964 the Panchayat Raj Institution (PRIs) were conceived as local bodies meant to ensure peoples’ participation in development.³

The three tier model was accepted by all states but sufficient powers were not given to it and neither were finances, thereby leaving the panchayats to languish to their fate. In such a scenario the importance of ensuring the participation of women took a after Jawaharlal Nehru’ death, political leaders were determined to end the possible threat to their leadership from village, mandal, or district leadership and began to discredit the decentralization of power. In 1977 the Ashok Mehta committee emphasized that, in practice, at no point of time during 1959 to 1993, PRIs in any part of the country were endowed with sufficient

‘power and authority’ to enable them to ‘unction as units of self-government ‘. It was nowhere defined in the constitution and its meaning and scope were never authoritatively interpreted by the judicial guardians of the Constitution viz., the high courts and the Supreme Court. Therefore, there was apple growing realization that it was the lack of constitutional support.

The post-1959, Panchayat Raj Institutions were conceptualized as structures of development management and institutionalized through separate state acts. In order to strengthen the system, the 73rd Constitutional Amendment Act was passed in 1992.

The 73rd Amendment

The 73rd Amendment Act 1992 came into effect from the 24 April 1993. All states enacted legislation by 23rd April 1994. The Panchayats previously were a mere suggestion in the Directive Principles of State Policy whereas the 73rd Amendment resulted in the Panchayati Raj Institutions (PRIs) being conferred constitutional sanction. This means that all activities of PRIs as stipulated by the Act have now legal and constitutional status and any violation of this by anybody and at any time would be punishable by law. Constitutional status vide Article 243 of Part IX of the Constitution which came into effect from April 24, 1993 made it mandatory for all States to promulgate their own new acts consequent to the 73rd Constitutional Amendment Act or amend their old ones by April 1994.⁴

All states have done so by new. Keeping in view the provisions of 73rd Constitutional Amendment Act, State Panchayat Raj acts have been constituted which incorporate a three-tier system of Panchayat Raj, Consisting of Zilla Panchayats at the District level, Panchayat Samitis or kshetra Panchayats at intermediate level & Gram Panchayats at the village level.



1. Short title and commencement.

(1) This Act may be called the Constitution (Seventy – Third Amendment) Act, 1992.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Insertion of new Part IX. After Part VIII of the Constitution, the following Part shall be inserted, namely:5

The Panchayats

243. Definitions. In this part, unless the context otherwise requires, -

(a) “District” means a district in a State;

(b) “Gram Sabha” means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;

(c) “Intermediate level” means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;

(d) “Panchayat” means an institution (by whatever name called) of self-government constituted under Article 243B, for the rural areas;

(e) “Panchayat area” means the territorial area of a Panchayat;

(f) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published;

(g) “Village” means a village specified by the Governor by public notification to be a village for the purpose of this Part and includes a group of villages so specified.

243A. Gram Sabha. A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

243B. Constitution of Panchayats.

(1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243C. Composition of Panchayat:- All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and, for this purpose, each Panchayat area shall be between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

243D. Reservation of seats. (1) Seats shall be reserved for

(a) the Scheduled Castes; and

(b) the Scheduled Tribes,

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation of different constituencies in a Panchayat.

243E. Duration of Panchayats, etc. Every Panchayat, unless sooner dissolved under any law for the time being in force, shall



continue for five years from the date appointed for its first meeting and no longer.

243F. Disqualification for membership. A person shall be disqualified for being chosen as, and for being, a member of a Panchayat, if he is so disqualified by or under any law for the time being in force for the purposes of elections to the legislature of the State concerned.

243G. Powers, authority and responsibilities of Panchayats. Subject to the provisions of the Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level.

243H. Powers to impose taxes by and Funds of the Panchayats. The Legislature of a State may, by law, -

(a) authorize a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

243J. Audit of accounts of Panchayats. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

243K. Elections to the Panchayats. The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

Importance of Panchayati Raj: Panchayati Raj plays important role in Indian Politics.

The Panchayati Raj institutions (PRIs) have brought significant change in the Indian system of governance. The most important development has been that the democratic base of the Indian polity has become very wide.⁶

By virtue of the Constitutional Status bestowed upon the PRIs, it now has the potential to revolutionize the way we have been seeing local self-governance. It is not only a system of participative self governance but it ensures political empowerment to the poor, marginalized, and the oppressed, which traditionally in our country have been the Scheduled Castes, the Scheduled Tribes, and the women. These features activate the Panchayat Raj institutions today, to contribute to the process of development.

Rajani Kothari highlights the importance of decentralization of Panchayati Raj. He says that national leadership established the Panchayati Raj system in India. Unity is strengthening in the country through uniformity of local bodies.⁷

Challenges of Panchayati Raj:

Major challenges of Panchayati Raj in India are as under:

(a) Social Challenges:⁸

(i) Lack of literacy in the public especially in women

(ii) Lack of political consciousness

(iii) Passiveness of public in political activities.

(iv) Undemocratic social structure in India

(v) Caste and religious discrimination.

(b) Economic Challenges:⁹



- (i) Lack of financial resources for panchayat
- (ii) Possession of MNCs on water, land and jungle
- (iii) Poor economic condition of SC, ST and OBCs member in rural areas.

Conclusion:

Panchayati Raj Institutes could not achieve their goals because there is a lot of difference between their saying and doing. Actually, there is no real democracy at grass root level. Voters are influenced by castism, communalism, kinship, and money matters and drinking. These social evils create social conflicts. So, if we want success of PRIs, we should create a healthy society. A healthy society can make a healthy nation.

Suggestions:

Major suggestions for making Panchayati Raj successful are as under:10

1. There should be change in present social structure.
2. N.G.Os should initiate to eliminate social evils as untouchability, castism, communalism, child marriage dowry system and veil system etc.
3. Panchayati Raj Institutes should emphasize improvement in Health, education and roads.
4. Transparent Audit Agency should be established to eliminate corruption and red tapism.

5. Panchayat members should be trained by state govt. especially women.

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