

## Chapter - 19

### **PANCHAYATI RAJ**

The term *Panchayati Raj* in India signifies the system of rural local self-government. It has been established in all the states of India by the Acts of the State legislatures to build democracy at the grass root level.

#### **EVOLUTION OF PANCHAYATI RAJ**

##### **BALWANT RAI MEHTA COMMITTEE**

In January 1957, the Government of India appointed a committee to examine the working of the Community Development Programme (1952) and the National Extension Service (1953) and to suggest measures for their better working. The committee submitted its report in November 1957 and recommended the establishment of the scheme of 'democratic decentralisation',

1. Establishment of a three-tier panchayati raj system – gram panchayat at the village level, panchayat samiti at the block level and zila parishad at the district level.
2. The village panchayat should be constituted with directly elected representatives, whereas the panchayat samiti and zila parishad should be constituted with indirectly elected members.
3. The panchayat samiti should be the executive body while the zila parishad should be the advisory, coordinating and supervisory body.
4. The district collector should be the chairman of the zila parishad.

These recommendations of the committee were accepted by the National Development Council in January 1958.

**Rajasthan** was the first state to establish Panchayati Raj. The scheme was inaugurated by the prime minister on October 2, 1959, in Nagaur district. Rajasthan was followed by Andhra Pradesh, which also adopted the system in 1959;

##### **ASHOK MEHTA COMMITTEE**

In December 1977, the Janata Government Appointed a committee on panchayati raj institutions under the chairmanship of Ahsok Mehta. It submitted its report in August 1978.

1. The three-tier system of panchayti raj should be replaced by the two-tier system, that is, zila parishad at the district level, and below it, the mandal anchayat consisting of a group of villages with a total population of 15,000 to 20,000.
2. Zila parishad should be the executive body and made responsible for planning at the district level.
3. There should be an official participation of political parties at all levels of panchayat elections.
4. There should be a regular social audit by a district level agency and by a committee of legislators to check whether the funds allotted for the vulnerable social and economic groups are actually spent on them.
5. The nyaya panchayats should be kept as separate bodies from that of development panchayats. They should be presided over by a qualified judge.
6. A minister for panchayti raj should be appointed in the state council of ministers to look after the affairs of the panchayati raj institutions.
7. Seats for SCs and STs should be reserved on the basis of their populations.

##### **GVK RAO COMMITTEE**

The Committee on Administrative Arrangement for Rural Development and Poverty Alleviation Programmes under the chairmanship of G.V.K. Rao was appointed by the Planning Commission in 1985. The Committee came to conclusion that the developmental process was gradually bureaucratized and divorced from the Panchayati Raj.

- (i) The district level body, that is, the Zila Parishad should be of pivotal importance in the scheme of democratic decentralization.
- (ii) A post of District Development Commissioner should be created. He should act as the chief executive officer of the Zila Parishad and should be in charge of all the development departments at the district level.
- (iii) Elections to the Panchayati Raj institutions should be held regularly.

### **LM SINGHVI COMMITTEE**

In 1986, Rajiv Gandhi government appointed a committee on 'Revitalisation of Panchayati Raj Institutions for Democracy and Development' under the chairmanship of L M Singhvi.

- (i) The Panchayati Raj institutions should be constitutionally recognized, protected and preserved.
- (ii) Nyaya Panchayats should be established for a cluster of villages.
- (iii) The Village Panchayats should have more financial resources.
- (iv) The judicial tribunals should be established in each state to adjudicate controversies about election to the Panchayati Raj institutions.

### **CONSTITUTIONALISATION**

**Narasimha Rao Government :** The Congress Government under the prime ministership of P V Narashimbha Rao once again considered the matter of the constitutionalisation of panchayati raj bodies. It drastically modified the proposals in this regard to delete the controversial aspects and introduced a constitutional amendment bill in the Lok Sabha in September, 1991. This bill finally emerged as the 73<sup>rd</sup> Constitutional Amendment Act, 1992 and came into force on 24 April, 1993.

### **73<sup>RD</sup> AMENDMENT ACT OF 1992**

#### **SIGNIFICANCE OF THE Act**

This act has added a new Part-IX to the Constitution of India. It is entitled as 'The Panchayats' and consists of provisions from Articles 243 to 243 O. In addition, the act has also added a new Eleventh Schedule to the Constitution. It contains 29 functional items of the panchayats.

#### **SALIENT FEATURES :**

**GRAM SABHA :** The Act provides for a Gram Sabha as the foundation of the panchayati raj system. It is body consisting of persons registered in the electoral rolls of a village comprised within the area of Panchayat at the village level.

**THREE-TIER SYSTEM :** The act provides for a three-tier system of panchayati raj in every state, that is, panchayats at the village, intermediate, and district levels. Thus, the act brings about uniformity in the structure of panchayati raj throughout the country. However, a state having a population not exceeding 20 lakh may not constitute panchayats at the intermediate level.

**ELECTION OF MEMBERS AND CHAIRPERSONS :** All the members of panchayats at the village, intermediate and district levels shall be elected directly by the people. Further, the chairperson of panchayats at the intermediate and district levels shall be elected indirectly – by and from amongst the elected members thereof. However, the chairperson of a panchayat at the village level shall be elected in such manner as the state legislature determines.

#### **RESERVATION OF SEATS :**

The act provides for the reservation of seats for scheduled castes and scheduled tribes in every panchayat (i.e., at all the three levels) in proportion of their population to the total population in the panchayat area. Further, the state legislature shall provide for the reservation of offices of chairperson in the panchayat at the village or any other level for the SCs and STs.

The act provides for the reservation of not less than one-third of the total number of seats for women (including the number of seats reserved for women belonging the SCs and STs). Further, not less than one-third of the total number of offices of chairpersons in the panchayats at each level shall be reserved for women.

The act also authorises the legislature of a state to make any provision for reservation of seats in any panchayat or offices of chairperson in the panchayat at any level in favour of backward classes.

#### **DURATION OF PANCHAYATS :**

The act provides for a five-year term of office to the panchayat at every level. However, it can be dissolved before the completion of its term. Further, fresh elections to constitute a panchayat shall be completed (a) before the expiry of its duration of five years; or (b) in case of dissolution, before the expiry of a period of six months from the date of its dissolution.

#### **DISQUALIFICATIONS :**

A person shall be disqualified for being chosen as or for being a member of panchayat if he is so disqualified, (a) under any law for the time being in force for the purpose of elections to the legislature of the state concerned, or (b) 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 of disqualifications shall be referred to such authority as the state legislature determines.

#### **STATE ELECTION COMMISSION :**

The Superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to the panchayats shall be vested in the state election commission. It consists of a state election commissioner to be appointed by the governor. His conditions of service and tenure of office shall also be determined by the governor. He shall not be removed from the office except in the manner and on the grounds prescribed for the removal of a judge of the state high court. His conditions of service shall not be varied to his disadvantage after his appointment.

The state legislature may make provision 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 for the devolution of powers and responsibilities upon Panchayats at the appropriate level with respect to (a) the preparation of plans for economic development and social justice ; (b) 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 (a) authorise a panchayat to levy, collect and appropriate taxes, duties, tolls and fees. (b) assigning to a panchayat taxes, duties, tolls and fees levied and collected by the state government; (c) provided for making grants-in-aid to the panchayats from the consolidated fund of the state; and (d) provide for constitution of funds for crediting all moneys of the panchayats.

#### **FINANCE COMMISSION :**

The governor of a state shall, after every five years, constitute a finance commission to review the financial position of the panchayats. It shall make the following recommendations to the Governor:

1. The principles that should govern :
  - (a) The distribution between the state and the panchayats of the net proceeds of the taxes, duties, tolls and fees levied by the state.
  - (b) The determination of taxes, duties, tolls and fees that may be assigned to the panchayats.
  - (c) The grants-in-aid to the panchayats from the consolidated fund of the state.
2. The measures needed to improve the financial position of the panchayats.
3. Any other matter referred to it by the governor in the interest of sound Finance of panchayats.

The state legislature may provide for the composition of the commission, the required qualifications of its members and the manner of their selection.

The governor shall place the recommendations of the commission along with the action taken report before the state legislature.

The Central Finance Commission shall also suggest the measures needed to augment the consolidated fund of a state to supplement the resources of the panchayats in the states (on the basis of the recommendations made by the finance commission of the state).

#### **AUDIT OF ACCOUNTS :**

The state legislature may make provisions with respect to the maintenance of accounts by the panchayats and the auditing of such accounts.

#### **APPLICATION TO UNION TERRITORIES :**

The president of India may direct that the provisions of this act shall apply to any union territory subject to such exceptions and modifications as he may specify.

#### **EXEMPTED STATES AND AREAS :**

The act does not apply to the states of Jammu and Kashmir, Nagaland, Meghalaya and Mizoram and certain other areas. These areas included, (a) the scheduled areas and the tribal areas in the states; (b) the hill area of Manipur for which a district council exists; and (c) Darjeeling district of west Bengal for which Darjeeling Gorkha Hill Council exists.

However, the Parliament may extend the provisions of this Part to the scheduled areas subject to such exceptions and

modification as it may specify. Under this provision, the Parliament has enacted the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA)

### **BAR ON INTERFERENCE BY COURTS :**

The act bars the interference by courts 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.

### **ELEVENTH SCHEDULE :**

It contains the following 29 functional items placed within the purview of panchayats :

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. Fishereis
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 hand 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 caste and the scheduled tribes
28. Public distribution system
29. Maintenance of community assets.

### **COMPULSORY AND VOLUNTARY PROVISIONS**

Now, we will identify separately the compulsory (obligatory or mandatory) and valunatary (discretionary or optional) provisions (features) of the 73<sup>rd</sup> Constitutional Amendment Act (1992) or the Part IX of the Constitution.

#### **A. COMPULSORY PROVISIONS**

1. Organisation of Gram Sabha in a village or group of villages.
2. Establishment of panchayats at the village, intermediate and district levels.
3. Direct elections to all seats in panchayats at the village, intermediate and district levels.
4. Indirect elections to the post of chairperson of panchayats at the intermediate and district levels.

5. 21 years to be the minimum age of contesting elections to panchayats.
6. Reservation of seats (both members and chairpersons) for SCs and STs in panchayats at all the three levels.
7. Reservation of one-third seats (both members and chairpersons) for women in panchayats at all the three levels.
8. Fixing tenure of five years for panchayats at all levels and holding fresh for panchayats at all levels and holding fresh elections within six month in the event of super-session of any panchayat.
9. Establishment of a State Election Commission for conducting elections to the panchayats.
10. Constitution of a State Finance Commission after every five years to review the financial position of the panchayats.

**B. VOLUNTARY PROVISIONS**

1. Giving representation to members of the Parliament (both the Houses) and the state legislature (both the Houses) in the panchayats at different levels falling within their constituencies.
2. Providing reservation of seats (both members and chairpersons) for backward classes in panchayats at any level.
3. Granting powers and authority to the panchayats to enable them to function as institutions of self-government (in brief, making them autonomous bodies).
4. Devolution of powers and responsibilities upon panchayats to prepare plans for economic development and social justice; and to perform some or all of the 29 functions listed in the Eleventh Schedule of the Constitution.
5. Granting financial powers to the pachayats, that is, authorizing them to levy, collect and appropriate taxes, duties, tolls and fees.