

73rd Amendment and Panchayati Raj in India

Ravinder

Student, Distance Education in Political Science of Maharishi Dayanand University, Rohtak (Haryana)
Email - rsdpekuk@gmail.com

Abstract: The 73rd Amendment 1992 added a new Part IX to the constitution titled “The Panchayats” covering provisions from Article 243 to 243(O); and a new Eleventh Schedule covering 29 subjects within the functions of the Panchayats. The Amendment Act has added part IX to the Constitution of India entitled as ‘Panchayats’. The part consists of provisions from Article 243 to 243-0. A new schedule called as Eleventh Schedule lists 29 functional items that panchayats are supposed to deal with under Article 243-G. The basic provisions of the Act are divisible into compulsory provisions and voluntary arrangements. **73rd Amendment and Panchayati Raj in India** Academia Arena 2018;10(x), ISSN [1553-992X](http://www.sciencepub.net/academia) (print); ISSN 2158-771X (online), <http://www.sciencepub.net/academia>.

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Introduction:

In India, the **Panchayati Raj** generally refers to the system introduced by the constitutional amendment in 1992, although it is based upon the traditional *panchayat* system of South Asia. The modern Panchayati Raj and its *Gram Panchayats* are not to be confused with the extra-constitutional *Khap Panchayats* (or *Caste Panchayats*) found in northern India. The Panchayati Raj system was formalized in 1992, following a study conducted by a number of Indian committees on various ways of implementing more decentralized administration. Mahatma Gandhi advocated Panchayati Raj as the foundation of India's political system, as a decentralized form of government in which each village would be responsible for its own affairs. The term for such a vision was *Gram Swaraj* ("village self-governance"). Instead, India developed a highly centralized form of government. However, this has been moderated by the delegation of several administrative functions to the local level, empowering elected gram panchayats. There are significant differences between the traditional Panchayati Raj system, that was envisioned by Gandhi, and the system formalized in India in 1992.

In India, the Panchayati Raj now functions as a system of governance in which gram panchayats are the basic units of local administration. The system has three levels: Gram Panchayat (village level), Mandal Parishad or Block *Samiti* or *Panchayat Samiti* (block level), and *Zila Parishad* (district level). It was formalized in 1992 by the 73rd amendment to the Indian Constitution.

Gram Sabha: Gram Sabha is a body consisting of *all the persons registered in the electoral rolls* relating to a village comprised within the area of

Panchayat at the village level. Since all the persons registered in electoral rolls are members of Gram Sabha, *there are no elected representatives*. Further, Gram Sabha is the only permanent unit in Panchayati Raj system and not constituted for a particular period. Although it serves as foundation of the Panchayati Raj, yet it is **not** among the three tiers of the same. The powers and functions of Gram Sabha are fixed by state legislature by law.

Three Tiers of Panchayati Raj: Part IX provides for a 3 tier Panchayat system, which would be constituted in every state at the village level, intermediate level and district level. This provision brought the uniformity in the Panchayati Raj structure in India. However, the states which were having population below 20 Lakh were given an option to not to have the intermediate level.

All the members of these three level are elected. Further, the chairperson of panchayats at the intermediate and district levels are indirectly elected from amongst the elected members. But at the village level, the election of chairperson of Panchayat (Sarpanch) may be direct or indirect as provided by the state in its own Panchayati Raj Act.

Reservation in Panchayats: There is a provision of reservation of seats for SCs and STs at every level of Panchayat. The seats are to be reserved for SCs and STs in proportion to their population at each level. Out of the Reserved Seats, 1/3rd have to be reserved for the women of the SC and ST. Out of the total number of seats to be filled by the direct elections, 1/3rd have to be reserved for women. There has been an amendment bill pending that seeks to increase reservation for women to 50%. The reserved seats may be allotted by rotation to different constituencies in the Panchayat. The State by law may

also provide for reservations for the offices of the Chairpersons.

Duration of Panchayats: A clear term for 5 years has been provided for the Panchayats and elections must take place before the expiry of the terms. However, the Panchayat may be dissolved earlier on specific grounds in accordance with the state legislations. In that case the elections must take place before expiry of 6 months of the dissolution.

Disqualification of Members: Article 243F makes provisions for disqualifications from the membership. As per this article, any person who is qualified to become an MLA is qualified to become a member of the Panchayat, but for Panchayat the minimum age prescribed is 21 years. Further, the disqualification criteria are to be decided by the state legislature by law.

Finance Commission:

State Government needs to appoint a finance commission every five years, which shall review the financial position of the Panchayats and to make recommendation on the following:

- The Distribution of the taxes, duties, tolls, fees etc. levied by the state which is to be divided between the Panchayats.
- Allocation of proceeds between various tiers.
- Taxes, tolls, fees assigned to Panchayats.
- Grant in aids.

This report of the Finance Commission would be laid on the *table in the State legislature*. Further, the Union Finance Commission also suggests the measures needed to augment the Consolidated Funds of States to supplement the resources of the panchayats in the states.

Audit of Accounts

State Government can make provisions for audit of accounts of the Panchayats.

Elections

Article 243K enshrines the provisions with respect to elections of the Panchayats. This article provides for constitution of a State Election Commission in respect of the Panchayats. This State Election Commission would have the power to supervise, direct and control the elections to the Panchayats and also prepare the electoral rolls.

The article maintains the independence of the election commission by making provisions that the election commissioner of this commissioner would be removed only by manner and on same grounds as a Judge of the High Court.

If there is a dispute in the Panchayat elections, the *Courts have NO jurisdiction over them*. This means that the Panchayat election can be questioned only in the form of an election petition presented to an authority which the State legislature by law can prescribe. (Important) The election commissioner for

this reason is to be appointed by the Governor. The terms and conditions of the office of the Election commissioners have also to be decided by the Governor.

Applications to Union Territories

Provisions of Panchayats shall be applicable to the UTs in same way as in case of the states but the President by a public notification may make any modifications in the applications of any part.

Exempted areas and states

The provisions of part IX are not applicable to the following:

- Entire states of Nagaland, Meghalaya and Mizoram.
- Hill areas in the State of Manipur for which District Councils.
- Further, the district level provisions shall not apply to the hill areas of the District of Darjeeling in the State of West Bengal which affect the Darjeeling Gorkha Hill Council.
- The reservation provisions are not applicable to Arunachal Pradesh.

Continuance of existing law: Any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-third Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or competent authority.

Bar on Interference by Courts: Article 243 O bars the courts to interfere in the Panchayat Matters. The validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in a court. No election to any Panchayat is to be questioned except by an election petition presented to such authority and in such manner as provided by the state legislature.

Significance of amendment: This amendment implements the article 40 of the DPSP which says that "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" and have upgraded them from non-justifiable to justifiable part of the constitution and has put constitutional obligation upon states to enact the Panchayati Raj Acts as per provisions of the Part IX. However, states have been given enough freedom to take their geographical, politico-administrative and others conditions into account while adopting the Panchayati Raj System.

Corresponding Address:

Ravinder
Student, Distance Education in Political Science,
Maharishi Dayanand University, Rohtak (Haryana)
Email - rsdpekuk@gmail.com

Contact no. +91-9992144800

References:

1. Ajit Kamik et al (2006): developing a Quantitative framework for Determining Devolution of Funds from the state Government to Local bodies ” from Local governance in India-decentralization and beyond, ed by N Raja Gopal Jayal, Amit Prakesh, Pradeep K Sharma, Oxford University press.
2. Bohra O P (2005): “Augmenting the financial resources of sub-national governments (PRIs) in ‘Governance at grassroots level in India”, Ed S. S. Chakar, Kanisha Publishers, Distributors, New Delhi.
3. Chahar S S (Ed) (2000): “Governance at grassroot level in India ”, Kanishka Publication. New Delhi.
4. G. Palanithurai (Ed) (2003): “Dynamics of New Panchayati Raj system in India ”. Vol I, II, III, Select states. Concept Publishing Company, New Delhi.
5. G. Palanithurai (2004): “Dimensions of New Panchayati Raj System ”, New Delhi: Concept Publishing Company. G Palanithurai (Ed) (2006): “Decentralised Planning: Status in Karnataka”, in Dynamics of New Panchayati Raj System in India, Concept, New Delhi.
6. Hemalata Rao (2006): “Fiscal Federalism Issues and Policies ”, New Century publications, New Delhi, India.
7. M A Oommen (2005): Rural Fiscal Decentralisation in India: A Brief Review of Literature ”, in L. C. Jain (ed) Decentralisation and Local Governance, Orient Longman Pvt ltd.
8. Sharma Gamkhar (2002): “Federal Intergovernmental Grants and the States: Managing devolution ”, Edward Elgar.
9. Mathew G (2000): “Panchayat Raj in India- An overview”, in Mathew G (ed), Status of panchayat Raj in the states and UTs of India, institute of social science, New Delhi.
10. P K Choubey (2003): “Fiscal Federalism in India”, Deep and Deep Publications, New Delhi.

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