

Panchayati Raj

Panchayats have been the backbone of the Indian villages since the beginning of recorded history. Gandhiji, the father of the nation, in 1946 had aptly remarked that the Indian Independence must begin at the bottom and every village ought to be a Republic or Panchayat having powers. Gandhiji's dream has been translated into reality with the introduction of the three-tier Panchayati Raj system to ensure people's participation in rural reconstruction.

73rd Amendment Act, 1992

The passage of the Constitution (73rd Amendment) Act, 1992 marks a new era in the federal democratic set up of the country and provides constitutional status to the Panchayati Raj Institutions (PRIs). Consequent upon the enactment of the Act, almost all the States/UTs, except J&K, NCT Delhi and Uttaranchal have enacted their

legislation. Moreover all the States/UTs except Arunachal Pradesh, NCT Delhi and Pondicherry, all other States/UTs have held elections. As a result, 2,32,278 Panchayats at village level; 6,022 Panchayats at intermediate level and 535 Panchayats at district level have been constituted in the country. These Panchayats are being manned by about 29.2 lakh elected representatives of Panchayats at all levels. This is the broadest representative base that exists in any country of the world – developed or under-developed.

The main features of the Act are – (i) a 3-tier system of Panchayati Raj for all States having population of over 20 lakh; (ii) Panchayat elections regularly every 5 years; (iii) reservation of seats for Scheduled Castes, Scheduled Tribes and women (not less than one-third of seats); (iv) appointment of State Finance Commission to make recommendations as regards the financial powers of the Panchayats and (v) constitution of District Planning Committees to prepare development plans for the district as a



Minister of Rural Development welcoming Prime Minister at the inaugural session of All India Panchayat Adhyakshas Sammelan

whole. As per the Constitution (73rd Amendment) Act, the Panchayati Raj Institutions have been endowed with such powers and authority as may be necessary to function as institutions of self-government and contains provisions of devolution of powers and responsibilities upon Panchayats at the appropriate level with reference to (a) the preparation of plans for economic development and social justice; and (b) the implementation of such schemes for economic development and social justice as may be entrusted to them.

Financial Powers of Panchayati Raj Institutions

Article 243-G of the Constitution of India provides that the States/UTs 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 to prepare plans for economic development and social justice and their implementation including those in relation to the matters listed in the Eleventh Schedule.

As per Article 243-H of the Constitution, State Legislatures have been empowered to enact laws;

- (i) to authorise a Panchayat to levy, collect and appropriate some taxes, duties, tolls and fees;*
- (ii) to assign to the Panchayat, some taxes, duties, tolls levied and collected by the State Government;*
- (iii) to provide for making grants-in-aid to the Panchayats from the Consolidated Fund of the State; and*
- (iv) to provide for constitution of such funds for Panchayats for crediting all money received by or on behalf of Panchayats and also the withdrawal of such money therefrom.*

Constitution of State Finance Commissions

Article 243-I of the Constitution provides for constitution of a State Finance Commission to review the financial position of Panchayats and to make recommendations to the Governor regarding the principles governing the major issues mentioned in Article 243-H. All the States/UTs barring Arunachal Pradesh constituted State Finance Commissions and all the SFCs except Bihar have submitted their Reports to the respective State Governments. The States of Assam, Karnataka,

Kerala, Madhya Pradesh, Punjab, Rajasthan, Tamil Nadu, Tripura and West Bengal have accepted most of the recommendations of the SFCs. Andaman & Nicobar Islands, Dadra & Nagar Haveli, Daman & Diu and Lakshadweep Islands have received Reports of the Finance Commission which will be placed on the table of Houses by the Ministry of Home Affairs being the nodal Ministry. States such as Andhra Pradesh, Himachal Pradesh, Haryana, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Assam, Punjab, Orissa and West Bengal have constituted second generation of State Finance Commissions. The Finance Commission for the four UTs has also been constituted by the Central Government. Constitution of State Finance Commission is now due in Goa, Manipur and Gujarat.

Eleventh Finance Commission

The Eleventh Finance Commission recommended Rs. 1600 crores per annum for rural local bodies. Out of total grants, an amount of Rs.197.06 crores was earmarked for development of data base on the finance of the Panchayats and an amount of Rs.98.61 crores for maintenance of accounts of Panchayats as the first charge on these grants. The Commission also recommended that in cases where elected local bodies are not in place, the Central Government should hold the grants for local bodies in trust on a non-lapsable basis during 2000-05 and that the Central Government would withhold a part of the recommended grants in case of such bodies to whom functions and responsibilities have not been devolved. Besides, the Commission recommended that Audit of accounts of the local bodies should be entrusted to the C&AG who may get it done through his own staff or by engaging outside agencies on payment of remuneration fixed by him and an amount of half-a-per cent of the total expenditure incurred by the local bodies should be placed with the C&AG for this purpose, and the report of the C&AG relating to audit of accounts of the Panchayats should be placed before a Committee of the State Legislature constituted on the same lines as the Public Accounts Committee.

The Ministry of Finance releases Grants recommended by the Eleventh Finance Commission

- ★ *Towards realizing the vision of Mahatma Gandhi of every village being a republic through 3- tier system of Panchayati Raj.*
- ★ *2,32,278 Panchayats at village level; 6,022 Panchayats at intermediate level and 535 Panchayats at district level manned by about 29.2 lakh elected representatives, the broadest representative base that exists in any country.*
- ★ *Panchayati Raj Institutions (PRIs) empowered to function as institutions of Self Government and to prepare plans for economic development and social justice and their empowerment. Panchayati Raj Institutions constitute the bedrock for the implementation of most of Rural Development Programmes.*
- ★ *Strengthening of Gram Sabha as a vibrant forum of decentralized democracy and effective instrument for ensuring social audit, 1999-2000 observed as the 'Year of Gram Sabha'*
- ★ *An All India Panchayat Adhyakshas Sammelan was held on 5th and 6th April, 2002 to get a feedback from the Adhyakshas in order to revitalize and strengthen Panchayati Raj Institutions in a time bound manner. In the Sammelan, a 'National Declaration' was adopted by consensus, resolving that State Governments would ensure the implementation of the Provisions of Constitution (73rd Amendment) Act, 1992 and Provisions of Panchayats (Extension to Schedules Areas), Act, 1996 in its true spirit by December, 31, 2002.*

(EFC) to the States. For the year 2000-2001 ad-hoc grants of Rs.57,186 lakhs were released to the States on "on Accounts" basis to the extent of 50% of allocated grants. EFC Grants were not released during 2000-2001 to the States of Andhra Pradesh, Assam, Bihar, Gujarat, Jharkhand and Punjab as elections were due. During the year 2001-02, funds were released to the tune of Rs.2,06,944 lakhs. However, these grants were withheld for the States of Arunachal Pradesh, Jharkhand, Jammu & Kashmir and Punjab due to pending Panchayat elections. During the current year, an amount of Rs.3,56,822 lakhs has been released as on 4.12.2002.

Initiatives taken by the Ministry

A Conference of the Chief Ministers on Panchayati Raj was held on 2nd August, 1997 at Vigyan Bhavan, New Delhi, under the chairmanship of Hon'ble Prime Minister to review the functioning of the Panchayati Raj Institutions where the outstanding issues like devolution of powers/ functions and responsibilities upon PRIs, setting up District Planning Committees; implementation of the reports of the State Finance Commissions, linkage of DRDAs with Zilla Parishads, training to Panchayati Raj elected representatives/functionaries were discussed in great detail. The Conference also

called upon the concerned 8 States to enact the required State Legislation on the Provisions of the Panchayat (Extension to the Scheduled Areas) Act, 1996 before 23rd December, 1997.

Based on the detailed discussions, the Conference recommended setting up of two Committees – (a) the Committee of the Panchayat and the Tribal Development Ministers of the 8 States covered under Schedule V of the Constitution under the then Chairmanship of Minister (RA&E) to examine and to give their recommendations to enact the State legislation in consonance with the Central Act, 1996 before the cut off date i.e. 23rd December, 1997; and (b) the Committee of the Chief Ministers under the Chairmanship of Prime Minister to examine the issues regarding the devolution of powers, functions and responsibilities upon PRIs and to recommend measures to streamline the Panchayati Raj system.

The reports of the Committee of Panchayat and Tribal Development Ministers of the Schedule V States and the Committee of Chief Ministers under the Chairmanship of the Prime Minister have been circulated to the States for appropriate action. The important recommendations of the Committee of Chief Ministers were:

- ★ Leave selection of beneficiaries to Gram Sabha.
- ★ Waive requirement of Technical sanction for works upto Rs. 10,000.
- ★ Innovate to provide adequate manpower support to the Gram Panchayats.
- ★ Delegate total control over such manpower to Gram Panchayats.
- ★ Zilla Parishad Chairpersons be made the Chairpersons of DRDAs.
- ★ Provide reasonable opportunity of hearing to the PRIs before suspension/dismissal.
- ★ Gram Panchayat President to be accountable solely to Gram Sabha.
- ★ Expeditious constitution of District Planning Committees.

In order to ensure that Panchayati Raj Institutions function as instruments of local government, it is important that their functional and financial autonomy is guaranteed and transparency in their functioning is ensured. This has to be accomplished in most of the States. The role of the Gram Sabha is, perhaps, the most important in ensuring the success of Panchayati Raj Institutions at the village level. The role of local people in conducting social audit and fixing responsibility on panchayat functionaries will be effectively ensured with Gram Sabha becoming active. It is essential that the village community perceives meetings of the Gram Sabha as useful. The most important factor for that is the empowerment of the Gram Sabha.

Another important factor for the success of the Panchayati Raj system is the need for transparency in the functioning of these bodies. Panchayats being closer to the people, their right to information and accessibility to the panchayats must be ensured. This issue was discussed in the Chief Ministers Conference held on 2nd August, 1997 and the Committee of Chief Ministers as well. The Ministry had written to the States. The Hon'ble Prime Minister too, in his letter to the Chief Ministers, had urged that all relevant information on development schemes taken up by the Panchayat along with the budget for them should be displayed prominently in the Panchayat Office. Relevant records should be made available for inspection by members of the public. Photocopies of documents such as muster rolls, vouchers, estimates etc. can be

made available to the public on payment of a nominal fee. Technical manuals may be prepared for execution of various works at the Panchayat level so that transparency can be ensured.

The Ministry convened a Conference of State Ministers of Rural Development and Panchayati Raj on May 13, 1998. This meeting was inaugurated by the Hon'ble Prime Minister. The resolutions adopted in the Conference held on 13.5.98 are – (i) a Task Force for studying the structure and functioning of the Panchayats should be set up; (ii) provisions of 73rd Amendment Act and Central Act 40 will be complied with; (iii) Gram Sabhas should be convened on a single pre-determined day every quarter and (iv) care should be taken to respect the autonomy and independence of each tier of PRIs and to build up capability of the village level Panchayats. In pursuance of the resolution, a Task Force was constituted under the Chairmanship of the then Minister of State (Independent Charge), Ministry of Rural Areas & Employment to study the structure and functioning of PRIs. The State Governments have been requested to ensure that the Gram Sabha Meetings are convened once in each quarter preferably on – 26th January-Republic Day; 1st May-Labour Day; 15th August- Independence Day and 2nd October-Gandhi Jayanti.

The Government of India decided to observe the year 1999-2000 as the "Year of Gram Sabha". This is in recognition that the Gram Sabha is potentially the most significant institution for participatory and decentralised democracy. On 17th March, 1999, all Chief Ministers/Administrators have been requested to initiate measures to energise Gram Sabha in tune with the Seven Point minimal package during the 'Year of Gram Sabha':

A conference of Ministers of States in – charge of Panchayats Raj was held on 11th July, 2001 in New Delhi to discuss measures for strengthening Panchayati Raj Institutions towards implementation of the Constitution (73rd Amendment) Act, 1992. The major recommendations adopted in the Conference included:

- ★ Panchayat elections should be regularly held every 5 years.
- ★ The States would issue detailed executive instructions devolving specific and substantial

executive powers in respect of the 29 Subjects listed in the 11th Schedule, upon each tier of Panchayats by 31st March, 2002.

- ★ *A task Force comprising senior officers from the Ministry of Rural Development and the State Governments would be set up suggesting how to operationalise administrative decentralization of powers and submit its report by 31st August, 2001.*
- ★ *District Planning Committees would be set up by the remaining States/UTs by December, 2001.*
- ★ *The State Acts would be amended (by 31st March, 2002) to bring them in conformity with the provisions of Panchayats (Extensions to the Schedules Areas) Act, 1996.*
- ★ *The scope of State Government's intervention and control over the PRIs should be minimized and if there is any specific complaint against any Panchayat, it should be referred to a body similar to the "Ombudsman" in Kerala.*
- ★ *The parallel bodies, if any, set by the States, should work under the supervision of Panchayats and the Gram Sabha.*
- ★ *It was resolved that the following Four-point strategy for strengthening of Gram Sabhas will be implemented by the States:*
 - a) *Awareness through print and electronic media, street plays and training to the elected Panchayat representatives.*
 - b) *Participation of the community in the preparation of need-based action plans, their execution and monitoring.*
 - c) *Transparency by displaying all relevant information on a bill board regarding estimates, availability of funds and expenditure on the works taken up by the Panchayats, making available relevant records for inspection by the public, and providing photocopies of documents, on demand, on payment of nominal charges.*
 - d) *Social Audit should have binding legal outcome so as to curb corruption and misutilisation of funds.*

The Chief Ministers of the States and Administrators of Union Territories were advised to implement the resolutions of the Conference

within the time frames agreed upon during the discussion.

In pursuance of the resolution of the Conference of State Ministers incharge of Panchayat Raj held in July, 2001 in Delhi, a Task Force on Devolution of Powers and Functions upon PRIs was constituted on 11th July, 2001 under the Chairmanship of Additional Secretary & Financial Advisor in the Ministry of Rural Development consisting of State Secretaries in-charge of Panchayati Raj in Assam, Chhattisgarh, Kerala, Karnataka, Uttar Pradesh and West Bengal and concerned Joint Secretary in the Ministry. The Task Force submitted its report on 31st August, 2001 within the time frame. The recommendations of the Task Force included: (i) interse distribution of the 29 Subjects into activities/tasks to be performed by different tiers of Panchayats, (ii) enhancement of the financial resources of Panchayats, (iii) provision by the State Government of "Untied" grants to enable Panchayats to utilise the same in conformity with local needs and priorities, (iv) mandatory Social Audit by Gram Sabhas and (v) availability of qualified/trained personnel, at various level, to assist Panchayati Raj Institutions in day-to-day working. The Chief Ministers of States and Administrators of UTs were requested to initiate appropriate steps, keeping in view of recommendations of the Task Force, towards the completion of devolution of powers upon Panchayats by the end of March, 2002.

An All India Panchayat Adhyakshas Sammelan was held on 5th and 6th April 2002 in New Delhi with a view to getting a feed back from the Adhyakshas and revitalizing and strengthening the Panchayati Raj Institutions in the country in a time-bound manner. The discussions in the Sammelan focussed on the topics namely, i) Devolution of Powers & Functions to Panchayats, ii) Functioning of the Gram Sabha, iii) Planning for Development at the Grass-root Level, iv) Social Audit, v) Resource Mobilisation by the Panchayats and vi) Awareness Generation for the Rural Development Programmes and Capacity Building. Besides the Panchayat Adhyakshas, Union Ministers, State Ministers in-charge of Panchayats, Central and State Officials and representatives of NGOs and International Organisation attended this Sammelan, which was inaugurated by the Prime Minister and also addressed by the Leader of Opposition. The National

Declaration adopted by the Sammelan indicate, inter-alia that the States and Union Territories would initiate, by the end of December, 2002, the necessary measures :-

- ★ *to hold regular and timely Panchayat elections,*
- ★ *to devolve funds, functions and functionaries to Panchayats,*
- ★ *to constitute District Planning Committees and make them functional,*
- ★ *to set up Ombudsman (to be headed by a retired Judge) to look into the complaints against the Panchayats,*
- ★ *to ensure Parallel Bodies function under the guidance of the Panchayats,*
- ★ *to amend the State Legislations to provide Panchayats adequate control over natural resources like, land, water, minor forest produce and minerals,*
- ★ *to make legal provisions for accountability and transparency in the functioning of Panchayats in accordance with the 4-Point strategy – Awareness, Participation, Transparency and Social Audit and*
- ★ *to strengthen the Gram Sabhas and Gram Panchayats.*
- ★ *to devise an appropriate mechanism to provide significant non-budgetary resources in the form of loans with adequate maturities to PRIs, specifically to be used for such developmental projects as are planned and executed by PRIs themselves.*
- ★ *to put in place an appropriate structure of incentives to recognise and encourage the Panchayats for outstanding performance, especially in respect of improvements effected in accepted Social Development Indicators.*
- ★ *to discuss the need for an appropriate new Amendment to the Constitution to bring about speedy and effective devolution of financial and administrative powers to PRIs and to quickly initiate the process of bringing in the much needed new Constitution Amendment. The Sammelan also urges all the Political Parties and*

Members of Parliament to pass the Amendment and thus usher in the era of Second Generation of Panchayati Raj Reforms.

The Ministry of Rural Development is currently considering ways of securing mandatory devolution of atleast some of the administrative and financial powers to Panchayati Raj Institutions by the State Governments.

The Ministry had introduced the Constitution (Eighty-seventh Amendment) Bill, 1999 in the Parliament on 17.12.1999 to amend Article 243-C(2) and (5) of the Constitution to enable the State Legislatures to decide the methodology for election of members and chairpersons of Panchayats at the intermediate level and the district level. It was decided to have wider consultations with all the political parties and the State Governments on the Bill. Accordingly, the comments of all the State Chief Ministers were sought in this behalf. A meeting of Leaders of all Political Parties in the Parliament was held under the Chairmanship of the Hon'ble Prime Minister on 19th May, 2001 to seek the approval of all Political Leaders in respect of the Constitution (Eighty-seventh Amendment) Bill, 1999. Since no consensus was arrived at in the Meeting, it was decided to defer the Bill and to study further in wider context of Panchayati Raj in the country.

The provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

This Act which came into force on 24th December, 1996, extends Panchayats to the Schedule-V areas of States such as Andhra Pradesh, Chhattisgarh, Jharkhand, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Orissa and Rajasthan. It intends to enable tribal society to assume control over their own destiny to preserve and conserve their traditional rights over natural resources. The State Governments were required to enact their legislation in accordance with the Provisions of Act before the expiry of one year i.e. 23rd December, 1997. All the States barring have enacted State Legislation to give effect to the provisions contained in The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.

Issues Arising Out Of Implementation Of Part-IX of the Constitution and PESA, 1996

While the State Panchayati Raj Acts have been enacted, State Election Commission and State Finance Commissions have been set up and regular Panchayat elections have been held providing reservation for SCs/STs/Women in Panchayats, the results of actual implementation of the Constitution (73rd Amendment) Act, 1992 have fallen far short of expectations on the ground level.

- ★ *Though the political decentralisation has been largely successful, with elections held regularly and with ample participation of people, there is only minimum administrative and fiscal decentralisation, which remain de facto under the control of the State Governments.*
- ★ *Panchayats have not given adequate responsibilities to levy and collect taxes, fees, duties or tolls. Panchayats should have been granted appropriate powers to generate their own resources.*
- ★ *Recommendations of State Finance Commissions have been either accepted partially or implemented half-heartedly.*
- ★ *Powers given to the State Election Commissions vary from State to State. These Commissions should have been given powers to deal all matter relating to Panchayat elections namely, delimitation of constituencies, rotation of reserved seats in Panchayats, finalisation of electoral rolls, etc.*
- ★ *Gram Sabhas have not been empowered and strengthened to ensure people's participation and transparency in functioning of Panchayats as envisaged.*

There are certain problems, both with certain Central laws and State legislations as have been passed in pursuance of Act 40 of 1996. Certain crucial issues arise:

- (a) *Definition of Minor Forest Produce – the Indian Forest Act, 1927 defines timber as including within its definition, bamboo as well as cane. The Ministry of Environment and Forests define Minor Forest Produce to exclude bamboo and cane. While doing so, they have decided to adopt the definition of timber as given*

in the Indian Forest Act, 1927. (According to which timber includes not only trees but also bamboo and cane). In most States, tribals have been traditionally depending on bamboo and cane for their livelihood. However, for the last many years, Forest Corporations and Forest Departments have prevented tribals from having access to bamboo and cane while at the same time giving these to private industry at highly concessional rates. In many cases, tribals have been driven to desperation on account of this policy of State Forest Departments. It is felt that the definition of timber in the Central Act, 1927 is neither scientific nor equitable, and goes against the spirit of the provisions of Act 40 of 1996.

- (b) *Ownership of Minor Forest Produce :- There are also issues arising from the interpretation by the Ministry of Environment and Forests of the intention of Parliament regarding vesting of ownership of Minor Forest Produce in Gram Sabhas. The proposals made by the Ministry of Environment and Forests interpret the intention of Parliament as giving not ownership per se, but making available to the Gram Sabhas, residual profits of State Forest Corporations/Federations. This necessarily means that according to the Ministry of Environment and Forests, State Forest Corporations/Federations will continue to trade in Minor Forest Produce and if there is any surplus, that surplus will be given to the Gram Sabhas. This Ministry has already taken up these issues with the Ministry of Environment and Forests.*

Research & Development Work:

A Research Advisory Committee headed by the Secretary (Rural Development) approves proposals from voluntary organizations/institutions on Action Research studies related to Panchayati Raj. The Ministry has commissioned several such studies on issues such as Performance of Panchayats, women empowerment, Awareness Campaign, implementation of PESA, 1996, etc.

Training of Panchayati Raj Institutions

Under the Scheme Panchayat Development and Training (PD&T) central assistance is provided to the States, NGOs and other institutions for their

efforts to impart training to the elected and official functionaries of the Panchayati Raj Institutions. The funding pattern under the scheme is as follows:

- (a) 20% funding is provided for lodging and boarding and 50% for reproduction of training material and other items to State Governments;*
- (b) 100% Central assistance is provided to NGOs and other institutions.*

The elements of support by Ministry of Rural Development under this scheme include the following:

- ★ Expenditure on participation for training of elected representatives of Panchayati Raj Institutions including awareness generation programmes.*
- ★ Cost of expenditure on accommodation/ hiring of rooms.*
- ★ Audio/ Video training equipment expenditure.*

★ Workshops/Seminars, awareness generation campaigns on Panchayati Raj.

★ Support for Mobile training facilities for training in Panchayati Raj.

Proposals received under the scheme are considered by the Training Research and Advisory Committee (TRAC) headed by the Secretary (RD). With the reallocation of work relating to capacity building of PRIs, to Training Division the proposals relating to capacity building of PRIs are being processed by Training Division for consideration by TRAC.

The Plan Outlay for this scheme for the year 2002-03 is Rs.5.00 crore.

The Central Outlay for training of Panchayati Raj Institutions during the Ninth Plan was Rs. 17.00 crores. During 2002-2003 an amount of Rs. 3.85 crores was allocated but it has been kept at Rs.1.98 crores only for the current year at RE stage for the Action Research Study/Workshop component.