



**FIFTY
YEARS
OF
INDIAN
INDEPENDENCE
AND
THE POLITY**

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CHAPTER XV

Strengthening of Panchayati Raj—Need for Constitutional Reforms

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• *"We cannot realise the full benefit of democratic government unless we begin by the admission that all problems in their incidence require decision at the place, and by the persons by whom the incidence is most deeply felt"*

Laksi Harold J.

The Panchayati Raj System is not a new concept in India, and has in existence for thousands of years. With its distinctive institutional character of functioning, it became an integral part of the body politic of Indian Culture. Literally, the term Panchayati Raj (hereafter words referred as PR) means, a body of five or more persons called as *Panchas* either elected or nominated by the people of a village form together to govern the socio-economic, political, administrative geographical, ecological, cultural and legal issues of the people of that village. In short, it is the easily accessible government to the people of the village to cater and administer their day to day needs.

In the ancient and medieval ages it was governed by learned, experienced and honest men of the village. The *Panchas* exercised

their powers through various committees, such as, *Gram Sabha* and *Nyaya Panchayats* etc., in fulfilling the aspirations of the people of the rural areas including the enforcement of law and order¹. From the various studies it can be stated that PR had its pinnacle in the olden days, though there was no direct or systematic State control over the administration of the villages. The life of the rural areas practically remained undisturbed by the political changes in the various periods. In the words of Will Durant, American thinker and historian, "The village community in ancient India (the Panchayat system) is the proto-type of all forms of self-government and democracy that have even been evolved in various parts of the world."²

However, with the introduction of land reforms, the centralised system of administration and justice by the British Government led to the disintegration of the PR which was built up through the ages. With the shakeup of the country's socio-economic, political and legal foundations, the institution of PR became a tool in the hands of rich and influential people, instead of serving the people as a social organ. Apart from the reforms introduced by the British from time to time, it is the industrial revolution which had its profound impact on the marginalisation of the village institutions as only mere ornamental institutional set-ups of the Government.³ Furthermore, with the entry of new class of urbanised society evolved on the edifice of industrial revolution started practically dominating all the aspects of the country (i.e., socio-economic, political, administrative, legal and cultural) and this had mainly affected the system of local government and the needs of the people of the villages were completely neglected. In short, the existence of PR was simply ignored and was made thoroughly ineffective.

Realising the dangers associated with the systematic destruction of PR, Gandhiji advocated the re-introduction of *Gram Swaraj*, or Village Republics in independent India at the time of making the Constitution. He compared *Gram Swaraj* to *Ram Rajya* (i.e., the Kingdom of peace, justice and righteousness). His aim was the Indian independence must begin at the grassroots level than centralization of power in the hands of the State. Gandhiji's main idea behind the theory was to correct the over-westernization and bureaucratisation of the political system of India and to re-

assert the cherished ethical values of the ancient Indian Society. Therefore, he urged the urbane elite men both in Congress party and in the Constituent Assembly to restructure the Indian Polity on the ideal of *Gram Swaraj* for a perfect democracy based upon individual freedom.⁴

The draft Constitution of India did not contain any reference to village administration and was subjected to severe criticism by a section of members of the Constituent Assembly. However, the followers of Gandhian philosophy had succeeded in mounting pressure on the Assembly to incorporate certain village oriented policies in the final version. As a result the Constitution of India under the Chapter of Directive Principles of State Policy (Article 40) did incorporate village-oriented policy administered by the State.⁵

After the adoption of the Constitution there have been continuing efforts towards democratic decentralization and to restructure the village administration.

POST-INDEPENDENCE PERIOD AND DEMOCRATIC DECENTRALIZATION

Article 40 of the Directive Principles of State Policy has been the most vigorously implemented provision than other provision of the constitution in the last fifty years. Almost all the State Governments in the Union enacted legislations to strengthen the PR. Even the Five-Year Plans of the country emphasized the need to develop the village based administration. Further, the Government of India in the year 1957, appointed the Balwant Ray Metha Committee to study the working of the Community Development Programme and to suggest methods for their effective functioning. The Committee after an exhaustive study tour through out the country, suggest for a suitable restructuring of local government to attain the desired goals. The Committee recommended a three-tier system consisting of *Zilla Parishads*, *Panchayat Samithis* and *Panchayats* at the—village level. For the first two it suggested indirect elections, whereas for the panchayats direct election. The committee also opined that the control of the State power should be reduced and adequate resources should be provided to discharge their functions properly.⁶ On the basis of

the Metha Committee Report, though almost all the States enacted specific legislations, there was no legislation enacted by the Union Government. Due to lack of a Union legislation by the Government of India, there is little uniformity in the PR set-up in all the States. There is a lot of difference with respect to the constitution, functioning and powers of the three tier system in the whole country. These structural differences and the tight grip of State control over the administration of the three-tier system, because of this arrangement could not provide the desired results as aimed by the committee.

The Government of India taking into consideration of the Choatic conditions prevailing in the PR set-up appointed the Ashok Metha Committee⁷ in 1977, to study and to suggest suitable mechanism to streamline the concept of democratic decentralization. The committee to overcome the maladies of PR recommended a two-tier system recognising the District as the first point of decentralization. It was opined that the three tier system be replaced by constituting *Zilla Parishads* and *Mandal Panchayats*. It was felt by the committee that *Gram Panchayats* and *Panchayat Samitis* be removed for effective functioning of *gram swaraj*. This Committee too felt that the interference of the State in the administration of PR should be drastically reduced and they should be made independent of themselves in their activities. Although, some states enacted legislation empowering the *Zilla Parishads* with more powers none of them have implemented the report of the committee whole heartedly. As stated already, due to the lack of Central enactment, the variations between the States led to the defeat of the objective of strengthening a real *gram swaraj* or democratic decentralization. The former Prime Minister Mr. Rajeev Gandhi, taking into consideration of the maladies of the PR, called for drastic reforms in strengthening the philosophy of the founders of *gram swaraj*. The call given by the former Prime Minister has once again opened the pandora box on the necessity of strengthening the concept of *gram swaraj*. The Government of India after a wide ranging of debates and discussions has finally amended the constitution and incorporated specific provisions of the constitution of the panchayats under Article 243 of the constitution in the year 1992.⁸ The long felt need of constitutional amendment is a welcoming feature for the development of Gram-Swaraj. Though the amendment Act raised the hopes for a

sustainable development of PR institutions, with in a short span of time it proved to be a futile exercise. Because, the amendment too has fallen prey to the nexus of political parties and towed the way on the similar lines of the various legislations enacted by the State Governments. The constitutional amendment too has not provided any uniform procedure in systematising the constitution of PR institutions. The amendment Act has neither adhered to the proposals made by the Balawant Ray Mehta or Ashoka Mehta Committees. Instead it towed a comprising formula of both and adopted the proposals of the two. The Act has once again conferred powers on the State governments to enact legislations according to their whimsical fancies. With respect to the composition of Panchayats, it has empowered the States to choose either direct or indirect elections in the constitution of panchayats. It has retained the system of co-optation of the members of the Legislative Assembly, Council of States and Members of the House of the People in the panchayats above the village level. Further, in the constitution of village panchayats there exists an apparent contradiction between the provisions of the amendment Act. For example, on the one hand, Article 243 Clause (c) Sub-Clause (2)⁹ specifies that all the seats in the village panchayats shall be filled by direct election. At the same time, on the contrary sub-clause (4)¹⁰ and (5)¹¹ empowers the State Governments to adopt their own procedures in constituting a village panchayat and its Chairperson by means of either direct or indirect election. With respect to the constitution of panchayats at the intermediary level and at District level it has provided for indirect elections.

In view of the apparent contradictions that exist in the provisions, and the lack of strict governance by the Central Government for the implementation of the provisions, most of the States did not even bother to enact their legislations in accordance with the provisions of the article. Moreover, the provisions of the amendment Act too empowered the States to completely regulate the affairs of the village administration than orienting them as self-sufficient centres of administrative units of the polity.

As a result, the aspirations of the advocates of PR have hardly been realised even after the amendment of the constitution. In view of lack of conscientious efforts either by the Union or by the States, all the steps taken in the last five decades have paved

the way for raising tensions and feuds among the rural population instead of nurturing them as the nerve centres of democracy. Ultimately, this has resulted in isolating the rural mass from the activities of PR except for participating in voting once in a while, whenever they are called for. Moreover, it is an unfortunate situation that in several States elections to the Panchayats could not be held due to one reason or the other. If such a trend continues any longer, it may lead to complete destruction of the very concept of *gram-swaraj*.

The several studies undertaken on the functioning of PR institutions, clearly specify, that instead of transparency to be reflected in their functioning as real units of democracy, they became the scapegoats of the political parties. Further, the coercive tactics adopted by various political parties to woo the voters, and, the continuous experiments with the functioning of their system led the people to hate the village-based administrative units than to participate in them. We can't make further piece-meal experiments with the system any longer. In restructuring them as equal units of democracy, we may have to undertake a detailed examination of the philosophy of *gram-swaraj* and to reconstitute them in accordance with the future needs of the society. As already opined by various sections of the polity and the momentum which is growing in favour of a through over-hauling of the entire system of the governance of the country (i.e., the need for a reformed constitution), it is time to have a re-look at the concept of *gram-swaraj*. Various opinions have already been aired in the restructuring of PR. The following suggestions need consideration for the upliftment of village administrative units for the sustainability of the Indian democracy.

1. To attain all round economic, political, cultural development and social justice in a more integrated manner, there is every need than ever before to renew the constitution and to decentralize the political power up-to the grassroots level. This can be better achieved by incorporating clear cut provisions in the constitution to evolve a uniform four-tier system of governance for the entire country (viz; a stronger Union with better administrative units such as States, Zilla Panchayats and Village or Nagar Panchayats). This will certainly help not only to remove the existing maladies and

confusions about the Panchayati Raj System but tend to make them to take active part as the real administrative units under a democratic set-up.

2. The Union or the States should possess no power to interfere with their governance. They should be left free to administer themselves. To attain this the village panchayats should be constituted only on the basis of direct election without any provisions for co-optation of Parliamentarians and Legislations. However, in the case of District Panchayats the membership should be fixed at 20 or 25 for viable administration. Accordingly the village or *Nagar Panchayats* should be grouped as 20 or 25 blocks for effective and efficient representation of all the panchayats in the district body. The Chair Person of the District Panchayat and the Village Panchayat should be elected by direct election on the basis of adult franchise, so that the Chair Person can discharge his functions freely without the fear of veto by the members.
3. The panchayats should be elected for a fixed term of five years. To become a member of a panchayat a candidate must secure atleast 52% of the total votes cast, whereas in the case of a Chair Person it should be atleast 55%. By adopting this methodology, the present day maladies of Caste or Community dominance can easily be marginalised to a great extent. In case where no clear cut result emerges, two methods can be adopted. The first is there should be a repolling within a week eliminating the candidates having lost their security deposits without any chance for new entrants into the fray. The second alternative is to follow the system of proportional representation by means of single transferable vote followed at present to the offices of President and Vice President of India. If the second method is adopted, the voters should be well trained in exercising their preference. Infact, by adopting the second method the problem of rigging and bogus votes can be eradicated.
4. To achieve more transparency and for a feasible administrative efficiency, political parties should be barred to participate in the elections to the local bodies and no

member of a panchayat should be allowed to continue in office more than two terms.

5. As envisaged by the seventy third and seventy fourth¹² amendments of the constitution, the system of reservation to Schedule Castes, Tribes and Women can be continued for a period of ten years. If the new constitution adopts such a formula within this period without any provision for extension of time-frame it should be the duty of the State to see that these sections should be developed in all aspects with more clear cut welfare measures.

6. For the effective, and smooth functioning of the local bodies it should be prescribed to become a member or chairperson of the panchayat (a) he or she should be a registered voter of that particular village or district and should have spent atleast three years within the geographical area prior to the date of elections to the office of the local bodies. (b) no person below the age of 25 years and above 60 years shall be allowed to contest in the elections. (c) to contest for any office in the panchayat at village or at district level a candidate should have the minimum educational qualification, viz., atleast matriculation (d) at the time of filing of the nomination papers a candidate should be asked to enclose the following documents: (1) he/she belongs to the respective village or district with three years of residence from the taluk or district magistrate. (2) a certificate specifying no criminal charges against him or her from the District Judicial Officer. (3) He/she does not belong to a political party (4) a copy of his/her properties and assets. (5) proof of age alongwith the prescribed educational qualifications and finally physical and mental fitness certificate by a qualified surgeon.

7. *Gram Sabhas* should be constituted at both levels of the local bodies (viz., village or nagar or district panchayat level). Instead of following the existing system of considering all the residents of a village who have attained the age of 21 years as members, it can be rationalised to 30 members either elected by the system of adult franchise or adopting any other suitable method of drawing people having experience

in administration, socio-economic, cultural and legal aspects. In the case of Gram Sabha at the District level the membership should not exceed more than fifteen and they could be elected by the members of the village or nagar panchayats and district panchayats. No member of the *gram sabha* should be allowed to continue in office for more than six years and one-third of the members should retire for every two years. The Chairpersons of the panchayats at both the levels should be the ex-officio members of the *gram sabha*. The Chair Person of the *gram sabha* should be elected amongst the members of it for every three years. It should meet at least four times a year. The *Gram sabha* should be entrusted with powers to draw developmental plans to suggest and guide the members and the Chair Persons of the panchayats, to approve the budget of the panchayats etc. In fact at the village level they should be entrusted to deal with civil and criminal cases of ordinary nature.

8. The District panchayat should be empowered with all the powers of a State Government including the supervisory powers over the *village-panchayats*. All modern and technical equipments be provided to the district bodies. They should be left free to formulate the plans of the economy and more resources be provided at their disposal for a rational allocation of funds to the village units.
9. A nation level planning should be evolved by the Union government to setup all consumer article oriented industries of small scale sector be established at the district level. As a principle of development, agricultural products, horticultural products, poultry, fisheries, sericulture, medicinal herbs should be set up at the village level.
10. To assist the polity in attaining secular, egalitarian, modernistic and to render cost efficient oriented justice, it is necessary to establish *Nyaya Panchayats* at the District level. To make them as efficient judicial organs, the membership of *Nyaya Panchayats* could be fixed at ten with a provision to co-optation of the District Magistrate, the District and Sessions Judge, and, the Chair Person of the Zilla Panchayat.

The other members of a *Nyaya Panchayat* could be elected by an electoral college consists of the members of all the village or *nagar panchayats* including the *district panchayat*. They should be elected only on the basis of proportional representation by means of single transferable vote. The term of the office of the members of a *Nyaya panchayat* should be for one fixed term of six years or up to the age of 60 years, which ever is earlier. Suitable criteria can be evolved to eligible for the membership of a *Nyaya panchayat*. The *Nyaya panchayats* should be empowered with civil and criminal jurisdiction. In civil cases, they should be given powers to deal with aspects such as property, agricultural successionary and conjugal relations. In criminal cases, they should be given powers to deal with offences relating to property, public health, environmental problems, weights and measure, food adulteration and religious aspects. For the proper implementation of the judgements delivered by the *Nyaya Panchayats*, responsibility be fixed on the village and district panchayats. There should not be any provision of appeal to the regular courts until and unless 2/3 of the total members of the *Nyaya Panchayat* cast their vote in favour of an appeal. This would not only boost the confidence of the rural people in their participation of the work, of the polity but at the same time reduces the pressure and saves lot of time of the judiciary thus allowing it to discharge its functions more effectively and well in time.

11. Community colleges should be established at the district panchayat level to train the members of the village or *nagar* and district panchayats, *Gramasabhas* and *Nyaya Panchayats* in areas like social, economic, political administrative, legal, cultural, scientific, technological and community developmental projects. The teachers of the Universities, judicial officers, lawyers, legislators, reputed social workers and administrators can be used as resource persons to train the members. The training should be imparted through comprehensive programmes such as, course work, seminars, lectures, field works by using audio-visual methods. This would certainly help the local bodies to furnish humble, fearless and judicious administration.

12. To make the local bodies economically self sufficient the Union and State Governments should allot more funds to them on the basis of contributions made by the skilled labour of these bodies in industrial and urban areas, apart from their regular funding methods. However at the same time, to sustain as viable economic units of themselves, the local bodies have to conduct community oriented programmes to attract people's participation in laying down roads, construction of drainages, bridges and dams within the district. This type of programmes certainly make them self-sufficient economic centres of the country without depending much upon the other agencies of the polity. For example, the people of Darjeeling hill areas could complete the Palamu micro dam project to supply drinking water and to cover the agricultural fields of thirty to forty villages with the help and direction of some NGOs in a record time of two months with an expenditure of just two lakh rupees. This example clearly suggests that the local bodies can really become viable socio-economic units of the polity if they try to concentrate in utilising the man power of their geographical areas.

Lastly, to strengthen the concept of *Gram-Swaraj* much needs to be done on par with adopting the above suggestions. This can be best achieved only through a reformed polity with decentralisation of power upto the grass roots level, deregulation of bureaucracy, reduction in paper work and the non-interference of the State in the affairs of the local bodies.

If we have any respect towards the concept of *Gram-Swaraj*, we have to rededicate ourselves with true spirit to achieve the ideal of the father of the nation atleast in this golden jubilee year of our polity. The achievement of real panchayati raj or *Gram-Swaraj* is the only befitting tribute to the father of this great nation for his selfless sacrifices than paying tributes every time either to his statue or his samadhi. If India has to progress let us shed the mentality of depending on the government for everything, their self-sufficiency can be achieved only through the system of panchayati raj.

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5. Gran Ville Austin : The Constitution of India; A Corner Stone of A Nation." (Bombay, 1972) pp. 26-49.
6. Balwant Roy Metha Report, 1957 also see: A.T. Philip and K.H. Shivaji Rao, "Indian Government and Politics" (New Delhi, 1982) pp. 207-17.
7. Ashok Mehta Committee Report, 1979; see A.T. Philip and K.H. Shivaji Rao, *ibid* at pp. 218-219.
8. This act is called as the Constitution (Seventy-Third) Amendment Act, 1992. This act incorporated a new Provision part IX of the Constitution under Article 243. For details see, V.C. Shukla : Constitution of India. (Lucknow, 9th edn., 1954) pp. 615-22.
9. Article 243 (c) (2) : All the seats in a panchayat shall be filled by persons chosen by direct election from territorial constituencies in the panchayat.....
10. Subclause (4) : The Chair person of a panchayat and other members of a panchayat whether or not chosen by direct election from territorial constituencies in the panchayat area shall have the right to vote in the meetings of the panchayats.
11. Subclause (5) the chair person of (a) a panchayat at the village level shall be elected in such manner as the legislature of state way, by law. provide.....
12. For the detailed provisions of the Act, see V.C. Shukla : note 8 at pp 623-30.