



PANCHAYATI RAJ SYSTEM IN HARYANA - A CONCEPTUAL VIEW

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INTRODUCTION

With the passage of various Legislations and introduction of 73rd Amendment the term Panchayati Raj has come into existence. The term came into picture after the report of B.R.Mehta Committee. The Panchayati Raj implies the creation of local government institutions at the village, block and district level. These bodies play an important role in rural administration in the present time when more and more governments under globalisation are carrying the business of welfare states. By entrusting powers to grass root level means empowering these bodies and making them more democratic. At grass root level there is village key unit. The units of local self government in rural areas are village panchayats, Panchayat Samiti and Zila Parishads. These three are interlinked respectively.

We got freedom from the clutches of the Britishers in 1947. After Independence the Government started thinking on the line of Gandhian thought to give more power to the villages and India declared its policy of the welfare State. The whole government becomes a service rather than a ruling authority. Social service gets priority over the enforcement of law and order. The State is charged with the duty of giving to all its citizens every legitimate protection from cradle to grave and to look after their amenities and comforts.

The State of Haryana came into existence in 1966. Earlier it was a part of Punjab province and controlled by the legislations passed by the Punjab Government. There had been a system of traditional Panchayats in the State during pre-colonial period. These were social recognised and empowered by the people who lived therein. The concept of Panchayati Raj system is too old. The concept of Panchayat came into existence after 1947 with the passing of the Punjab Gram Panchayat Act of 1952 by replacing the earlier Act of 1939. The Panchayati raj was set up here by the Punjab Panchayat Samiti and the Zila Parishad Act 1961 and with the Amendment of Punjab Gram Panchayat Act 1952 with the introduction of Gram Panchayat at the village level, Panchayat Samiti at block level and Zila Parishad at district level.

But with the passage of time the higher body of the Panchayati Raj i.e Zila Parishad was abolished and subsequently two-tier system of Panchayati Raj was adopted, i.e Gram Panchayat at village level and Block Samiti at block level. After sometime, it was felt that the present system has failed not achieving the desired results due to irregular elections, lack of funds, inadequacy of powers, bureaucratic hurdles and lack of political will of State leadership.

ROLE OF DIRECTIVE PRINCIPLES OF STATE POLICY VIS-A-VIS PANCHAYATI RAJ SYSTEM

The Constitution of India has guaranteed certain fundamental rights to the citizens of India and enunciated certain Directive Principles of State Policy which reflect that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice social, economic and political shall inform all the institutions of the national life and shall direct its policy towards securing among other things. That the citizens, men and women equally have the right to adequate means of livelihood. That the ownership and control of material resources of the community are so distributed as best to subserve the common good and that the operations of the economic system does not result in the concentration of wealth and means of production to the common detriment.¹

¹ First five year planning commission report, P-1



Gandhiji drew the picture of free India's political structure in these words, "Indian Independence must began at the bottom. Every village should be a republic or a panchayat having full powers the greater the power of Panchayats, the better for the people."² Swaraj signified to him the resting of ultimate authority in the peasant and the labourer. True democracy cannot be worked out by twenty men sitting at centre. It has to be worked from below by the people of every village.³

A Government at the Centre can never function properly unless it is supported by democratic organisations of local administration. Under the Constitution of India provided in Chapter IV that the State shall take steps to organise village panchayats endow them with such powers as may be necessary to enable them to function as units of local self government. The Report on the organisation of local self government (rural or urban) in relation to planned Social and Economic Development in India in 1951, emphasised that the local self government is the lifetime of democracy.⁴

Our leaders were cautious careful and watchful and they realised that we may also be in danger of losing our democratic government unless we take steps to afford security to our system of parliamentary democracy by establishing scheme of local self government.

IDEA OF PANCHAYATI RAJ SYSTEM

The idea of Panchayati Raj system had been reflected by our Constitutional framers in the Preamble itself which speaks about the right of liberty of thought, expression, belief, faith and worship, equality of status and of opportunity, fraternity as well as to participate in all types of functions and to have faith in any religion. This right has been given to all the citizens of the country irrespective of their place of residence, caste, sex and religion. In our democratic setup the people have the say in decision making bodies both at top level and lower level. The people can participate in the government at top level indirectly through their elected representative to run the administration but at village level they can participate directly by identifying their needs and prepare micro level plans and to implement such plans.⁵

MAHATMA GANDHI'S VIEW REGARDING PANCHAYATI RAJ SYSTEM

Our national father M.K. Gandhi had said that "True democracy could not be worked by some person sitting at the top. It had to be worked from top to bottom by the people of every village of our country. Our first Prime Minister Pandit Nehru also indicated about true democracy that there is need of local self govt which is the base of true democracy. Furthermore J. P Narayan a political leader of 20th century signifies that giving power to the Panchayat at village level reflect true democracy in the country.

Mahatma Gandhi's vision was that the true democracy can be achieved through people's participation at village level which could be achieved only by way of 'Gram Swarajya'. He desired that there should be Gram Swarajya in the village where the management should be in the hands of the villagers. His concept was in Gram Swarajya every village should have true democracy in which every person deemed himself/herself self dependent for meeting out his or her major needs. It should be the Swarajya of poor that no one should be without food and clothing. Everybody should get sufficient work to meet his/her necessities. The true Swarajya cannot be achieved by concentrating power in few hands rather the powers should be given to maximum people in the countries and that is possible only through Panchayati Raj system as the maximum population of the countries residing in villages.

It is also laid down in our Constitution that the State shall endow such powers and responsibilities to the Panchayats so as to make them the institution of self government.⁶

² M.K.Gandhi's view reflected in the book: The Harijan 1946

³ Ibid

⁴ Article 40 of the Constitution of India

⁵ R.P.Joshi and G.S. Narwani: Panchayati Raj in India, New Delhi 2012

⁶ Article 40 of The Constitution of India



It is also laid down in Chapter IV of the Constitution relating to the Directive Principle of State Policy that the State shall, in particular, direct its policy towards securing-

1. that the citizens, men and women equally, have the right to an adequate means of livelihood;
2. that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
3. that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
4. that there is equal pay for equal work for both men and women;
5. that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.⁷

PANCHAYATI RAJ SYSTEM VIS-A VIS 73RD AMENDMENT ACT 1992

Part IX inserted by the Constitution (73rd Amendment Act 1992)⁸This Amendment known as Panchayat and Nagar Palika constitutional Amendment 1992. This amendment has given constitutional colour to the Panchayati Raj institutions. Let us have a bare look to some of the provisions laid down in the constitution regarding Panchayati Raj system.

CONSTITUTIONAL COLOUR TO PANCHAYATI RAJ SYSTEM

243-A. Gram Sabha: This Article provides that the Gram Sabha may exercise such powers and perform such functions at the village level as the legislature of the State may by law provide. The 73rd Amendment thus envisages the Gram Sabha as the foundation of Panchayati Raj System. '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.⁹

243-B. Constitution Of Panchayats: This Article visualises a three-tier Panchayati Raj System. It provides that in every State there shall be constituted Panchayats at the village, intermediate and district levels in accordance with the provisions of this part.¹⁰Notwithstanding anything in clause(1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs. It means small States having a population not exceeding twenty lakhs have been given an option not to constitute the Panchayats at the intermediate level. As it is provided in this Article that notwithstanding anything in clause(1), Panchayats at intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.¹¹

243-C. Composition Of Panchayats: It is provided that, subject to the provisions of this part the legislature of a State may by law make provisions with respect to the compositions of Panchayats.¹² Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.¹³ However, the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayats to be filled by election shall, so far as practicable, be the same throughout the State.

All the seats in the Panchayats shall be filled by the persons chosen by direct election from territorial constituencies in the Panchayat area. For this purpose each Panchayat's area shall be divided into territorial

⁷ Article 39 of The Constitution of India

⁸ Panchayati Raj and Nagarpalika Constitutional Amendment 1992

⁹ Article 243A as inserted by way of 73rd Amendment Act 1992

¹⁰ Clause (1) of Article 243B

¹¹ Clause (2) of Article 243B

¹² Clause(1) of Article 243C

¹³ Proviso to Article 243-C



constituencies in such manner that the ratio between the population of each constituencies and number of seats allotted to it, so far as practicable, be the same throughout the Panchayat area.¹⁴

- (3) The legislature of the State may by law provide, provide for the representation-
- (a) Of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;
 - (b) Of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;
 - (c) Of the members of the House of People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than a village level, in such Panchayat;
 - (d) Of the members of the Council of the States and the members of the Legislative Council of the State, where they are registered as electors within-
 - (i) A Panchayat area at the intermediate level, in Panchayat at intermediate level;
 - (ii) A Panchayat area at the district level, in Panchayat at the district level.¹⁵
 - (4) The Chairperson 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.
 - (5) The Chairperson of-
 - (a) a Panchayat at the village level shall be elected in such manner as the Legislature of the State may, by law, provide;
 - (b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected member thereof.¹⁶

It means it is very clear from the language of the above articles that the Chairperson of a Panchayat and other member 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 Panchayat. It is further provided that the Chairperson of a Panchayat at the village level shall be elected in such manner as the legislature of a State may by law, provide. The Chairperson of a Panchayat at the intermediate level or district level shall be elected by, and amongst, the elected member thereof.

243D. Reservation Of Seats:

- (1) Seats shall be reserved for-
 - 1. The Scheduled Castes; and
 - 2. The Scheduled Tribes,in every Panchayat and the numbers of seats so reserved shall bear, as nearly as may be, the same proportion of the total number of seats to be filled by direct election in the 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 to different constituencies in a Panchayat.
- (2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or as the case may be the Scheduled Tribes.
- (3) Not less than one-third of the total number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

¹⁴ Clause(2) of Article 243-C

¹⁵ Clause (3) of Article 243-C

¹⁶ Clause (5b) of Article 243-C



- (4) The offices of the Chairpersons in the Panchayat at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:
Provided that the number of offices of a Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:
Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:
Provided also that number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.
- (5) The reservation of seats under clauses (1) & (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in Article 334.
- (6) Nothing in this part shall prevent the Legislature of the State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

Therefore, it is very much clear from the above language that Article 243 makes special provision for the Representation of the Scheduled Castes(SCs) and Scheduled Tribes(STs) in the village panchayats as well as in the offices of these panchayats in proportion to their population. The State Legislation on panchayats is expected to comply with this requirement. This provision is different from the provision for reservation under Articles 15(4) and (5) and 16(4) and well justified in view of the condition of these classes and the need of their representation in the elected at village level as reflected in *Union of India vs. Rakesh Kumar*.¹⁷

Hence, from the bare reading of the above language it becomes explicit that Article 243-D of the Constitution provides that in every Panchayats seats shall be reserved for the Scheduled Castes and Scheduled Tribes. The number of seats so reserved shall be, as nearly as may be, in the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the SC's and ST's in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

M.K. GANDHIJI AND PANDIT JWAHAR LAL NEHRU'S VIEWPOINT ON PANCHAYATI RAJ SYSTEM
It is a hard fact that true democracy could not be worked by some person sitting at the top. It had to be worked from top to bottom by the people of every village of our country. Our first Prime Minister Pandit Nehru also indicated about true democracy that there is need of local self govt which is the base of true democracy. Furthermore J. P Narayan a political leader of 20th century signifies that giving power to the Panchayat at village level reflect true democracy in the country.

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¹⁷ AIR 2010 SC 3244



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CRITICAL ANALYSIS

The Rajbala case¹⁸ decided by the Hon'ble Supreme Court had created a havoc in the mind of the illiterate people who do not possess required qualification as laid down by the Court in this case and fond of contesting election to the local self-government bodies i.e Panchayat, Panchayat Samiti & Zila Parishad. Hence, according to them the literacy should not be made as the sole criterion for entrusting the governance of a country to a person. Because there are example of number of persons who were not happened to be much literate but they proved themselves as good administrators. There are example of various political stalwart from ancient period to the modern age that even the little literate persons happened to be the good and efficient administrator.

Historically, education has been a privilege accorded and afforded by the wealthy. The additional imposition of educational qualification deliberately ignores this historical context and hence more people are indisposed to exercise their freedom and right. The people belonging to the category of schedule caste and scheduled tribe are especially disadvantaged because of this. The presumptions position of the legislation reflects a glaring disconnect with the people of the State.

Therefore, in my view the people who have to run the administration efficiently of the Panchayat, Panchayat Samiti and Zila Parishad shouldn't they all have to be educated to the same level. By imposing qualification as a criteria for contesting election to any of the above bodies resulting in depriving the chunk of population from the privilege of being a member of Panchayat, Panchayat Samiti and Zila Parishad. Very often it is the poor and the downtrodden that cannot affect to be educated. It may be because of economical reasons or just plain simple social. Therefore, the legislation enacted in this regard disabled people from participating in the electoral process because they were not able to afford this privilege.

The right to vote and right to contest election to a Panchayat are constitutional rights subsequent to the introduction of part IX of the Constitution of India. Both the rights can be regulated/curtailed by the appropriate Legislature directly. Parliament can indirectly curtail only the right to contest by prescribing disqualifications for membership of a Legislature of a State.

It is a settled principle of law that curtailment of any right weather such a right emanates from common law, customary law or the Constitution can only be done by laws made by an appropriate Legislative Body. Under the scheme of our Constitution, the appropriateness of the Legislative Body is determined on the basis of the nature of the rights short to be curtailed or relevant and the competence of the Legislative Body to deal with the right having regard to the distribution of Legislative powers between Parliament and State Legislatures. It is also the settled principle of law under our constitution that every law made by any Legislative Body must be consistent with provisions of the Constitution.

¹⁸ (2016) 1 SCC 463