

## **Panchayati Raj Institutions in Jammu And Kashmir; Problems And Prospects**

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**Abstract:** Dawn of 21st century is marked by decentralized governance both as a strategy and philosophy of bringing reforms and changes in democracies. These changes led to such virtues of transparency, responsiveness and accountability and ensure good governance. In the present context of rapid social economic change and development activities, debureaucratization and decentralization have been found to be much more appropriate to deal with contemporary trends of Globalization and privatization. Democratic decentralisation is a global phenomenon. It requires a variety of institutions for empowering and uplifting the marginalized and the poor. Decentralization is a prime mechanism through which democracy becomes truly representative and responsive. Panchayati Raj plays a pivotal role in bringing and strengthening democracy at grass root levels in India. In State of Jammu and Kashmir panchayati Raj Institution was enacted by the Act of 1989. Present paper is a detailed study of panchayats as units of rural local self government, various problems faced by these institutions and the way forward.

**Keywords:** Democracy, Decentralization, Panchayati Raj, Constitution.

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Date of Submission: 07-11-2017

Date of acceptance: 21-11-2017

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### **I. Introduction**

Panchayats as institution of local self government at the village level had its origin in ancient India. A sort of village council or an association of the residents of the village consisting of village elders, panchayats or Gram sangha performed administrative and judicial functions. We find reference to Gram sanghas in Manusmriti, Kautilya's Arthashastra(400 BC) and the Mahabharata. The present idea of democratic decentralization (rural local government) is the result of Lord Mayo's resolution (1870) and Lord Rippon's resolution(1882).The Report of the Royal Commission on Decentralization (1909),and the Government of India Acts of 1919 and 1935 have further contributed in this direction (Malik,2002). The term 'Panchayati Raj' came into usage after the recommendations of Balwant Rai Mehta committee were accepted. This committee was set up by the Government of India to study the working of Community development programme (1952) and National Extension programme (1953). The committee recommended for the creation of a three tier Panchayati Raj System comprising of Gram panchayat, Panchayat Samiti and Zila Parishad at village, Block and District levels respectively. The three tier system of Panchayati Raj was inaugurated on 2<sup>nd</sup>October,1959 in Nagaur district of Rajasthan by the then Prime Minister of India Pandit Jawaharlal Nehru. It was followed by many other states in India. Several attempts were made to get the Bill passed in the Parliament to assign constitutional status to Panchayats. Bill finally emerged as 73<sup>rd</sup> constitutional Amendment Act, 1992 and Panchayati Raj came into existence on 24<sup>th</sup> of April 1993. The 11<sup>th</sup> schedule was also added to the constitution, which lists 29 functional areas to be brought within the purview of the decentralized planning level. These subjects include Agriculture and Allied activities, Irrigation, Social Forestry, Village and Small Scale Industries, including, Food processing, Drinking water, Housing, Roads, Culverts, Education, Women and Child development Programmes etc. The Act has given a practical shape to Article 40 of the Part 4<sup>th</sup> of the Constitution which deals with Directive Principles of State Policy. Article 40 provides, "the 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"

The Panchayati Raj Institutions became a State subject under the constitution of India. The Panchayat rules were framed in 1996. Every year, about 3.4 million representatives are elected by the people through democratic process, out of whom about 1 million are women who head about 175 districts. Union cabinet of Govt of India, on 27<sup>th</sup> of August 2009, provided 50%Reservation for women. States that have already implemented the Reservation include Madhya Pradesh, Bihar, Uttarakhand, Himachal Pradesh, Andhra Pradesh, Chattisgarh, Jharkhand, Odisha, Rajasthan, Maharashtra and Tripura. In Jammu and Kashmir the roots of Panchayati Raj were planted by Maharaja Hari Singh in the year 1935 by promulgation of Jammu and Kashmir Village Panchayati Regulation No 1. A special department of Panchayats and Rural development was created in

1936 to administer the 1935 Regulation. By an amendment in 1941, the list of functions of 1935 Regulation was widened. By an Act of 1951 PRI's were adopted to be re-established. The J&K government thereafter enacted village panchayat Act in 1958 replacing the Act of 1951. The inforce jammu and kashmir Panchayat Raj Act came into existence in 1989. The Bill was passed and received Governor's assent in July 1989. For the first time an Act was named as "Panchayati Raj Act" rather than "Village Panchayat Regulation Act". The Act of 1989, provides for a three tier Panchayati system comprising of Halqa Panchayat, Block Development Council and District Planning and Development Board for the Village, Block and District respectively. The preamble of the said Act states in chapter 2<sup>nd</sup> that every Halqa Panchayat shall consist of such no. Of Panchs not less than 7 and not more than 11 including the Sarpanch. "Provided that if the prescribed authority is of the opinion that women are not adequately represented in the Halqapanchayat, it may nominate such no of women to be members thereof, as it may deem fit. "Provided further that the no of women to be nominated as such shall not exceed 33% of the total no of elected panchs". "Provided also that while making nomination the composition of Halqa Panchayat with reference to representation of SC's, ST's and other weaker sections shall be given due consideration".

First elections under the Act of 1989 were held in 2001 after a gap of 12 years, although, they could not be successful in all the parts of state due to the prevailing situation. Of late the Panchayat elections were held in the state in 2011 at all the three levels viz; village, block and District levels. As per Cabinet decision No.40/3/2011 dated 09/02/2011 & cabinet decision No.170/21/2011 dated 22/09/2011, the Govt of J&K ordered devolution of functions and activities to these institutions in respect of 14 departments. The elections of 2011 were more meaningful and participatory with almost 77.71% turnout. All sarpanches and panches were duly elected in accordance with the provisions of the 1989 Act. Young people and women were quite involved in the electoral process with many of them joining the election fray as candidates, hence, exhibited a positive impact on women and youth in political participation at grass root levels. Despite, people turning in large numbers in 2011 elections, the future of panchayats seems very uncertain in the state. A host of problems and issues confront panchayati Raj Institutions.

#### **Problem areas:**

- The members of village panchayats have been the soft targets of militants. As many as 14 panchayat members (sarpanches and panches) have been killed in militancy related incidents in Kashmir valley from January 2012 to July 2015. In 2014 alone, 7 panchayat representatives were killed. Around 150 panchayat members resigned during the year 2015 alone following threats from militant's. In the past few months also a couple of killings related to panchayat members have taken place.
- According to the Act of 1989 "Adalti Board" (judicial panel) was supposed to be constituted in each village panchayat. The members of panchayat body had to recommend some names of respectable people from the village that would constitute this 'Adalti board'. These boards would hear the cases related to local village disputes etc. The order of Adalti board could only be challenged before district & sessions court. Since the Government has failed to constitute these boards, hence, the very purpose of this provision stands defeated.
- Local tourism development authorities hardly consult their respective panchayats while framing policies. It has been observed that panchayat have no role in tourism sector as village panchayats, located near tourist destinations have no say in discussing and finalizing development models for their respective local tourist destinations.
- In many cases, the development plans prepared by village panchayat committees are not implemented on ground and instead officials of rural development department change these plans as per their will and wish. Such acts are a direct attack on autonomy of village panchayats.
- Government has failed to implement 73<sup>rd</sup> Indian constitutional amendment 1993 unlike other states in the country. This Act works out detailed provisions to ensure devolution of powers to PRI's and enable them to act as units of local self governance.
- At the operational level, the biggest hurdle remains lack of funds for the panchayats. The funding that mostly remains available to them is in relation to some centrally sponsored schemes.
- Despite, 2011 amendment to provide for the State Finance commission and more recently passed Act in relation to Finance commission, The panchayat Raj Act 1989 remains flawed.
- There are serious allegations of corruption, mismanagement and embezzlement of Govt funds by members of village panchayats across state. The funds which were supposed to be spent construction of houses for homeless under Indira Aawas Yojna (IAY), have been embezzled to a greater extent. In many villages the MG-NREGA funds have been swindled by the panchayat bodies. People also allege that Panchayat members do not consult fellow villagers during preparation of development plans by organising a Gram Sabha. It is also alleged that panches and sarpanches act as Contractors during execution of development works under MGNREGA, which, is totally illegal and against the norms of the scheme.

## **II. Conclusion**

- Anybody intending to contest panchayati elections must be literate and at least 12<sup>th</sup> pass. This will ensure non interference of Block Development offices in day to day affairs of panchayats.
- Elections to these local bodies must be held compulsorily after every five years to ensure continuity in local governance.
- There must be sufficient devolution of power and authority to these bodies so as to make the idea of Democratic Decentralisation meaningful.
- Panchayats must be made financially healthy by adequate allocation of funds and by enabling them to raise their own funds.
- To encourage people to be a part of participatory Government, the law and order must be improved.
- The problem of corruption within the panchayati Raj Institutions must be prevented to reaffirm people's faith and trust in these institutions.
- Govt officers should also be sensitised about the importance of Panchayati Raj and its constitutional status.

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International Journal of Humanities and Social Science Invention (IJHSSI) is UGC approved Journal with Sl. No. 4593, Journal no. 47449.

Rifat Gull Panchayati Raj Institutions in Jammu And Kashmir; Problems And Prospects. International Journal of Humanities and Social Science Invention(IJHSSI), vol. 6, no. 11, 2017, pp. 23-25