
UNIT 12 DEVOLUTION OF POWERS AND LOCAL SELF-GOVERNMENT

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12.1 INTRODUCTION

The idea of local self-government had existed in India even in ancient times. Even if we accept its beginning as an organisational concept with the Ripon's resolution it is more than a century and two decades old. In its tumultuous career it has seen many ups and downs. In spite of a formal inauguration by the Prime Minister Jawaharlal Nehru in 1959, after the Balwant Rai Mehta committee recommendation in 1957, these institutions could not take proper roots in the country. Some of the scholars even declared that Panchayati Raj Institutions (PRI) were like failed God. The Janata Government appointed the Ashok Mehta committee to rejuvenate the PRIs. But the 73rd and 74th amendment, which were passed in 1992 and came into force in April 1994, have virtually revolutionised the idea of local self-government - both rural and urban - by bestowing constitutional status on them. These amendments were passed in the light of the experience of the Local-Self Governing Institutions in India. They have made a sincere attempt to overcome the limitations faced by these institutions.

The beginning of the idea of decentralisation in India as an organisational concept can be traced to Ripon's Resolution in 1882 which aimed at involving the 'intelligent class of public-spirited men in the management of rural areas under the British rule. In the years to come district boards and taluka boards were set up with nominated members to look after health, roads and education. But this effort did not succeed in making villages as basic unit of local self-government. A resolution of 1918 restated that the objective of self-government is to train people in the management of their own local affairs. The District Board Act of 1922 led to the reconstitution of the Boards. They were entrusted with the responsibilities of road maintenance, tree planting, hospitals, schools and drainage etc.

12.2 PANCHAYATI RAJ SYSTEM

Panchayat Act of 1920 was conceived as local courts and was completely judicial in

character. As there was hardly any devolution of finances and responsibilities, its role as the local unit of administration, development and rural upliftment remained non-functional.

Among the Indian leaders, Mahatma Gandhi made very strong plea for village republics. Article 40 under the Directive Principles of State Policy included in the part IV of the constitution, advised the government to take steps to organise village panchayats and endow them with such powers and authority which would enable them to function as units of self-government. State governments were supposed to enact appropriate legislation for this purpose.

The Indian planners and policy makers launched a multipurpose Community Development Programme (CDPs) with the objective of improving the conditions of the rural masses. This programme aimed at training and sending development personnel Block Development Officers (BDO), Extension Officers and Village Level Workers (VLWs) into villages. This group of officers were supposed to act as agents of change. They were expected to galvanise rural masses by encouragement, demonstration and offer of material assistance. The CDPs failed to achieve the desired objectives. The Planning Commission requested a committee under the chairmanship of Balwant Rai Mehta to develop the ideas for a system of democratic decentralisation which would anchor the rural developmental efforts. The Balwant Rai Mehta Committee Report came up with a number of recommendations that were incorporated in the panchayat legislation of the various states in the following years. This committee recommended democratic decentralisation with a provision of a three-tier structure [village-block-district]. It also recommended for transfer of resources and responsibilities and channelisation of funds for various developmental programmes through the three-tier system. This report generated opportunity for launching block planning in states like Andhra Pradesh and Tamil Nadu and district planning in others like Maharashtra and Gujarat.

In the 1960s Panchayati Raj Institutions were portrayed as a God that failed. One of the main reasons of failure was the sabotage by state politicians who were not enthusiastic about devolving powers to the district level or below. They were apprehensive that Panchayati Raj Institutions with real powers may pose a threat to their power and influence. Towards the end of the 1960s when Indira Gandhi was donning a progressive garb and wished to implement land reforms, it was argued that Panchayati Raj Institutions could not be involved as they were dominated by the upper caste and landed elements. The 1960s also witnessed the advent of the Green Revolution that necessitated centralised planning and came in conflict with the ideals of decentralisation on which PRIs were based. Since rural areas in many parts of the country were still under the hands of feudal landed interest, government sponsored inputs for ushering the Green Revolution could have been monopolised by them. Both central and state government had started bypassing and thus undermining the authority and significance of the PRIs during this period. Central government created its own administrative machinery for implementing many of Indira Government programmes such as Small Farmers' Development Agency, Drought Prone Area Programme, Integrated Rural Development Programme and National Rural Employment Programme, aiming at economic justice. The lack of resources, absence of coordination, dependence on district development staff, lack of delegation of effective

authority, domination by the higher castes and better off sections of society had rendered the PRIs ineffective and purposeless as institutions of decentralisation and development. By the middle of 1970s governments both at the center and in the states had become indifferent to the PRIs. They had become defunct; elections to these institutions were not being held and at most of the places the sitting councils were either dissolved or suspended.

12.3 RECONSTITUTION OF PANCHAYAT SYSTEM

The process of rejuvenation started with the reconstitution of the Panchayats in West Bengal and by the appointment of the Ashok Mehta committee by the Janta Party government in the late 1970s. The mid-seventies also marked a discernible shift of opinion in favour of conceding larger political space to local communities in the governing process. Local self-governing institutions were supposed to play an important role in reordering societal power equations. As the Janata Party Government had pledged its commitment to the Gandhian philosophy, the overall atmosphere seemed to be conducive for the resurgence of the Panchayati Raj Institutions. Another plausible reason seems to be the fact that by the late 1970s the Green Revolution had become a decade old and it had given birth to rich peasant class that had benefited from the Green Revolution. The rich and middle peasants were fully aware of the importance of the direct access to decentralised government machinery more particularly its delivery system. Capturing village councils was very much in tune with the newly acquired economic power of this class and their motivation to count politically. The central place of the Panchayati Raj Institutions was restored.

The Ashok Mehta Committee Report mentioned rooting of developmental programme through official bureaucracy, inelastic finance, dominance of local institutions by economically and socially privileged sections of society as reasons for the failure of the Panchayati Raj Institutions. Ashok Mehta Committee report refused to accept the view that Panchayati Raj was a failed God. In fact he credited these institutions for starting the process of democratic seed drilling in the Indian soil and making the citizens more consciousness of their rights than before. Among other positive fallouts was the bridging of gap between bureaucratic elite and the people. It also gave birth to a young dynamic leadership with a modernistic vision and social change oriented outlook. Mehta also averred that it helped rural people to develop a development psyche.

The Ashok Mehta Committee was innovative in many ways. The participation of political parties in Panchayati Raj election was pleaded to make them more accountable and link them with the political process at the higher level. Mehta hoped that elections would translate into political powers in the hands of poor because of their numerical strength and organisation. It also made a powerful plea for women's participation in the Panchayati Raj Institutions. This report had also proposed reservation of seats for both women and weaker sections of society. The decline of the Janta government created a hostile climate for the implementation of the Mehta report. In spite of this, the non-Congress state governments of Karnataka, Andhra and West Bengal took concrete measures to reactivate the PRIs. In Karnataka the PRIs that came into existence incorporated most of the recommendations made by the Mehta report. While non-Congress state governments

were busy implementing the recommendations of the Ashok Mehta committee, the new congress government at the center appointed other commissions. C.H. Hanumantharao's working group of 1983 and GVK Rao Committee report of 1985 emphasised the need of integration of the panchayati raj system with development programmes and administration. The concept paper on Panchayati Raj prepared by the L. M. Singhvi Committee Report of 1986 suggested that Panchayati Raj institutions should be closely involved in the planning and implementation of the rural development programmes. Both Singhvi and Ashok Mehta Committees recommended democratic decentralisation on constitutional basis.

The Sarkaria Commission constituted to go into dynamics of center state relations, made a mention of the dysfunctional PR institutions and suggested legal provisions for the regular elections and sessions of Zilla Parishads and Municipal Corporations for their resurgence. The P.K. Thungon Committee set up in 1988 to suggest the type of political and administrative structure in district for district planning, advocated constitutional status for panchayati raj institutions. The Thungon Committee also favoured constitutional provisions to ensure timely and regular elections to the PRIs. According to this committee, Zilla Parishad should be the only development agency in a district.

12.4 DECENTRALISATION

Devolution is a form of decentralization which seeks to create independent level of authority of government with functions and responsibilities. It is an arrangement for central or state governments to relinquish some of its functions to the new units of government that are outside its control. This can be achieved by providing for it in the Constitution itself or by ordinary law of the land. One of the major reasons for the failure of the local self-government institutions in India has been half-hearted devolution of powers to them. The 73rd and 74th amendments also contained provisions for the devolution of powers and responsibilities to rural (Panchayati Raj Institutions) and urban (Nagarpalikas) local self- government institutions. These amendments respectively provided that the panchayats at village, block and district levels would have 29 subjects of rural importance as listed in the 11th schedule and municipalities would have 18 subjects of urban importance as listed in the 12th schedule. These amendments bestowed upon the local self- government bodies - both rural and urban - the responsibility to prepare and implement a number of development plans based on the needs of local people. They operationalise the concepts of spatial planning and micro level planning to facilitate decentralised socio economic development in India. With the help of these powers the local self government institutions are supposed to promote agricultural, industrial, infrastructural and ecological development, poverty alleviation and development of women, children, scheduled and backward castes. These development functions are in addition to the obligatory functions such as ensuring the supply of drinking water, street lighting, maintenance of schools and hospitals etc.

There seem to be plethora of debates involving the concept, utility and effectiveness of the local self- government institutions. In early village councils an arrangement of government by consent and an active sense of community prevailed over caste divisions. Since beginning, these features of the PRIs have been used to legitimise them. According

to Lieten and Srivastava, the village panchayats were established as units of local self-government and focal points of development in country at large more often than not captured by autocratic and invariably corrupt leaders from among the male elite. As argued by some other scholars, the institutions were used by the rural powerful for their benefits. Paul Brass was of the view that PRIs were made to fail because of the reluctance of state politicians to devolve much powers to the district level or below because they feared that if such local institutions acquired real powers they would become alternative source of influence and patronage. Rajani Kothari argued that village councils were nothing but catchy slogans and false that promises had enabled the rulers to contain the forces of revolt and resistance and prevent public discontent from getting organised. Ashok Mehta who headed the second Committee on Panchayati Raj refused to be pessimistic about the PRIs. He thought that the process of democratic seed drilling in the Indian soil made people conscious of their rights and also cultivated in them a developmental psyche. He was of the opinion that these institutions had failed because development programmes were channelised through official state bureaucracy, finance had been inelastic and these institutions were dominated by privileged sections of society. Noorjahan Baba argues that centralised planning and administration were considered necessary to guide and control the economy and to integrate and unify new nations emerging from long periods of colonial rules. This might have been possible because as Lieten and Srivastava think, the Indian state was reputed to have an enlightened vision and a developmental mission. According to Baba in the 1960s there was great disillusionment with centralised planning because it failed to achieve equitable distribution of the benefits of economic growth among regions and groups within developing countries. Henry Maddic is of the view that there exists a triangular relationship between democracy, decentralisation and development.

The experience of the PRIs in different states of the country has not been the same. The formal beginning was made when Jawaharlal Nehru inaugurated PRIs at in Nagaur in Rajasthan October 1959. The Rajasthan model of PRIs revolved around the three tier, village panchayat, panchayat samiti and zilla parishad. The panchayat samiti at the block level was the kingpin of the Rajasthan model. In contrast to the executive role of the panchayat samiti, the zilla parishads were advisory bodies. Maharashtra and Gujarat followed a model in which zilla parishads were nodal point of action as main units of planning, development and administration. In Maharashtra, the zilla parishad executed not only the schemes under Community Development Programme but also a large portion of programmes of various government departments. In Karnataka, after the introduction of panchayat reform act of 1985, all functions and functionaries of development departments were transferred to panchayati raj institutions. The District Rural Development Agencies were merged with the Panchayati Raj Institutions. To give substance to the idea of decentralisation, the state budget of Karnataka was split into two providing a separate budget for PRIs. The plans and budgets prepared by Mandal Panchayats could not be altered by Zilla Parishad or state government in Karnataka. Similarly district plans of the zilla parishad could not be touched by the state government. In Andhra Pradesh, the Zilla Parishads endowed with limited functions have shown encouraging results in the field of education. Even in Tamil Nadu PRIs have done a commendable job in the fields of education, water supply, roads and nutrition.

The PRIs had been functioning in West Bengal, Karnataka, Kerala, Maharashtra, Gujarat and Andhra Pradesh with varying degree of success. But the experience in the field of local self- governing institutions is qualitatively different after the 73rd and 74th amendments became acts because they made parliamentary democracy in our country participatory in the real sense. These amendments gave substance and meaning to the local self- governing institutions. These amendments removed the bottlenecks from the paths of empowerment of the weaker sections of society like the dalits, tribals and the women. Consequent upon the enactment of the act almost all the states and union territories have enacted their legislation. Election to the PRIs have been held all over the country. The elections to PRIs in different parts of the country have brought out some encouraging facts. Karnataka sends maximum number of women to the PRIs followed by Kerala and Manipur. Uttar Pradesh ranks the lowest in this regard. Empowerment of women has not been a very smooth affair. There are instances of women members being accompanied by their husbands or a male member of the family. Maharashtra and Madhya Pradesh have earned the distinction of electing all women panchayats. The provision of reservation of seats for Scheduled Castes and Scheduled Tribes has ensured greater representation to people from these sections.

In many of the states local level functionaries of government departments have been placed under the control of panchayats. The governments of Gujarat, Karnataka and Kerala have passed orders to this effect. In Madhya Pradesh recruitment of school teachers have started at the block level and the powers of evaluating their performance and confirmation have been transferred to the PRIs at the block level. Rajasthan and Haryana witnessed strikes by the staffs of veterinary and education departments against the move of the state governments to transfer their services under the control and supervision of panchayats. The Apex district level development agency District Rural Development Agency [DRDA] is in the stage of its merger with the PRIs in Orissa, MP and Maharashtra. In Karnataka the merger was achieved way back in 1987. The government of Rajasthan has not been in favour of the merger. Instead it aims at securing effective coordination between DRDA and Zilla Parishad.

12.5 CONSTITUTIONAL AMENDMENTS

Towards the end of his tenure as Prime Minister, Rajiv Gandhi evinced keen interest in the panchayati raj institutions. The Congress had lost elections in some of the states. The whole idea of conferring power on people through PRIs was more a slogan to influence the people before the election. He held five workshops on responsive administration in which he interacted with district magistrate and collectors of all the districts in the country. These workshops unambiguously favoured constitutional provision and mandatory regular elections to the PRIs. The Rajiv Gandhi government introduced the 64th Constitutional Amendment Bill in 1989. The main problem with this amendment was that it sought to establish direct links with PRIs bypassing states. As local government was a state subject, it was seen as a threat to federalism because this bill proposed to take panchayati raj from state list and include it in the concurrent list. Similarly the idea of holding elections to the PRIs under the supervision of the Central Election Commission and also the idea of providing finance to these institutions by the Central Finance

Commission aroused misgivings about the intentions of the Rajiv Gandhi government. The 73rd and 74th amendments in many ways, appeared to be a modified version of the proposals of Ashok Mehta Report. These amendments bestowed constitutional status on Panchayati Raj and Nagarpalika institutions. They added part IX and part IXA to the constitution while part IX containing articles 243 to 243O relates to the panchayats while part IXA containing articles 243P to 243ZG relates to the municipalities. They provided for 33% reservation for women in both panchayat and nagarpalika institutions as well as for the position of chairpersons of these bodies. Provisions were also made for reservation of seats in these bodies for SCs and STs according to their proportion in population in that panchayat. One third of the total seats reserved for SCs and STs shall be reserved for women belonging to SCs and STs. Article 243K provides for State Election Commission. The Governor of the concerned state has powers to appoint the State Election Commissioner and assign the responsibility of preparing the electoral rolls and conducting the elections to the panchayats. Sufficient care has been taken to ensure the impartiality of the Election Commission. Once appointed, the Election Commissioner cannot be removed from the office except in like manners and on like grounds as a High Court Judge. The terms and conditions of his office cannot be changed to his advantage after his appointment. Regular elections to the local bodies after the completion of five years term and within six months of their dissolution is the responsibility of the State Election Commission. Article 243-I of Constitution provides for state level Finance Commission to review the finances. The constitution also requires the Central Finance Commission to recommend measures to augment Consolidated Fund of a State to supplement the resources of the panchayats.

12.5.1 The 73rd Amendment

The 73rd Amendment Act provides for a three-tier Panchayati Raj system at the village, intermediate (block or taluka) and district levels. Small states with population below twenty lakh have been given the option of not constituting panchayat at the intermediate level. This Act acknowledged the role of Gram Sabha (the assembly of people) in the empowerment of the rural people and provided for the strengthening of the Gram Sabhas for the successful functioning of the PRIs. The Act intended to make it a powerful body, the ultimate source of democratic power and an epitome of people's power at the gram panchayat level. The Gram Sabha consists of all the residents of a village, and those above 18 years of age are on the electoral rolls of a village. Almost all the State Acts mention the functions of the Gram Sabha. These functions of Gram Sabha include discussion on the annual statement of accounts, administration, reports selection of beneficiaries of anti poverty programmes. The State Acts of Haryana, Punjab and Tamil Nadu give power of approval of budget to the Gram Sabha. A Gram Pradhan is elected by the Gram Sabha. It also elects other members of the Gram Panchayat. The number of members varies from state to state, and some of them have been reserved for SCs and STs according to their population and one third of the total seats have been reserved for the women. The obligatory functions of the Gram Panchayat include provision of safe drinking water, maintenance of public wells, ponds, dispensaries, primary and secondary schools, etc. Now the Gram Panchayats have been assigned developmental functions like minor irrigation schemes, rural electrification, cottage and

small industries and poverty alleviation programmes also. The Block level PRI institution is known by different names in different parts of the country. In Gujarat they are called Taluka Panchayat, in UP Kshetra Samiti and in MP they are known as Janapada Panchayat. They include (1) the Sarpanchas of the Panchayats (2) the MPs, MLAs and MLCs from that area (3) the elected members of the Zilla Parishad (4) the Chairman of the town area committee of that area. The powers of the Panchayat Samiti include provision of improved variety of seeds and fertilizers, maintenance of schools, hospitals, roads, implementing anti-poverty programmes and supervising the functioning of the Gram Panchayats. The Zilla Parishad is the Apex body of the PRIs. It coordinates the activities of the Panchayat Samitis. It includes the Pradhans of the Panchayat Samitis of the district, MPs and MLAs from the district, one representative each from the cooperative societies of the district, and also chairmen of the municipalities of the district. The Zilla Parishad approves the budgets of the Panchayat Samitis. It maintains educational institutions, irrigation schemes, and undertakes programmes for the weaker sections.

12.5.2 The 74th Amendment

The 74th Amendments Act provides for the constitution of three types of local self-governing institutions in the urban areas. It provides for Municipal Corporations for major cities like Delhi, Mumbai, Chennai, Kolkata, Allahabad, Lucknow, Patna etc. Middle rung cities have Municipal Councils and smaller towns have Nagar Panchayats. Every Municipal Corporation has a General Council. It has members elected by the adult citizens of the city. These members are called Councillors. Apart from the elected members, the Council also has elders elected by the elected Councillors. The MPs and MLAs are also the members. The Mayor is elected by the members from among themselves. Some of the states provide for direct election of the Mayor. He is known as the first citizen of the city. The Municipal Commissioner is the chief executive officer of the Corporation. The Mayor may ask the Municipal commissioner to prepare and present report on any matter. The compulsory functions of a Municipal Corporation includes maintenance of hospitals, supplying safe drinking water, electricity, running schools and keeping an account of births and deaths. The developmental functions of the Municipal Corporations include launching of poverty alleviation programmes for the weaker sections. A Municipality is composed of Councillors elected by the local population. Seats have been reserved for SCs and STs according to their proportion in the population of the town and one third of the seats have been reserved for women. The Presiding officer of a Municipal Board is called the Chairman who is elected by the voters of the town. In some states the Chairman of the Municipal Board has powers to appoint teachers of primary schools and even lower level staffs. An executive officer looks after the day to day administration of the Municipality. Among the compulsory functions are supplying electricity, drinking water, health facilities, schools and maintaining roads and keeping records of weaker sections of the society. The small towns have Nagar Panchayats. Its members are elected by adult citizens of the town. As in the case of other local self governing institutions, seats are reserved for SC/ST and women. Their functions include provision of drinking water, maintenance of primary schools and registration of births and deaths.

12.5.3 Limitations of the Amendments

In spite of the revolutionary changes brought about by the 73rd Amendment it suffers from some serious limitations. Ambiguity about the functional jurisdiction of panchayats is one of its serious limitations. In the absence of properly defined jurisdiction, it is dependent upon the discretion of state legislatures for being assigned the functions. This act does not mention the powers and functions of the Gram Sabha. This amendment mentions that the Gram Sabha will perform the functions which may be assigned to it by the State legislature. The provision relating to Gram Sabha in the laws enacted by most of the states reduce the Gram Sabha to a powerless body which will routinely rubber stamp the decisions taken up by the Gram Panchayat. The Chief Ministers' Conference held in August 1997 at New Delhi ruled that it would be necessary to vest in Gram Sabha the powers to sanction and disburse benefits in open meetings, to decide location of drinking water hand pumps etc without having to refer the matter to officials or other authorities. This conference also held that it is necessary to vest the ownership of natural resources in Gram Panchayats and also the decision - making powers concerning the management of and income from such resources in the Gram Sabha. Another important limitation of the PRIs, after the amendment is that they still function in the grip of the state bureaucracy. The village Pradhan has to contact several times in a month the block office for technical and financial sanctions. Yet another omission of the act is that there is no mention of the employees of the panchayat and their administrative autonomy. Panchayats in the past failed to deliver because they had inadequate control over people working to implement the programmes. Even when responsibilities in the field of health and primary education have been transferred, PRIs have no control over the staff and budget of these departments. The power of the dissolution of the PRIs in the hands of the state government is also seen as a limitation of the post Amendment PRIs. It is argued that the power of their dissolution should rest with the electorate and not with any other authority. Even the provision for MP's/MLA's optional membership of the Zilla Parishad and Panchayat Samiti respectively with or without voting rights is seen as a limitation because it may restrain the powers of the PRIs. In the past, a major stumbling block in the path of the PRIs has been the resource crunch faced by them. This was due to meagre resources at the disposal of the PRIs. Even the new amendment does not evolve any source of revenue for the PRIs. It has left these to be considered by the state finance commission. The urban local governing institutions are also faced with paucity due to increase in population and with people from rural areas coming to the cities in search of jobs and better life.

12.6 SUMMARY

By way of summing up, it can be said that the 73rd and 74th Amendments have not only revived but also rejuvenated the landmark development in the evolution of democratic decentralisation and local self-government in the country. They have played an important role in the empowerment of the weaker sections of seats for them. In spite of the salutary changes made by these amendments as the experience shows, these institutions are still faced with many problems. Their performance all over the country is not the same. For vibrant local self- government institutions what is needed is strong political will of the

state government and cooperation from the bureaucracy. It also needs a determination on the part of the people to make them a success.

12.7 EXERCISES

1. Trace the origin of the idea of decentralisation in India.
2. What were the proposed reforms as enunciated by the Ashok Mehta Committee Report?
3. Write an analytical note on decentralisation and local self-government in India.
4. What are the main provisions of the 73rd and 74th Constitutional Amendments on Panchayati Raj System?
5. Summarise briefly the limitations of the Amendments relating to the Panchayat System.