

CHAPTER - II

RURAL LOCAL SELF-GOVERNANCE: CONCEPT ANALYSIS

It is true that 'India lives in the rural villages'. India's civilization is ancient. Its villages are as old as its civilization. The evolution and origin of "village Panchayat¹" can be traced back to the same time. It is an age-old system reportedly dating back to the Vedic period. According to H.D. Malviya "it has been so because the village is the unchanging backbone of Indian life". Panchayats are unique institutions that have existed in India through all ages. Thus, the primary focus of independent India is to organize villages and to develop the rural areas by strengthening the village Panchayats. The Indian rural villages can be systematized through the medium of rural local self-governance i.e. the system of "Panchayati Raj". The Constitution of India, promulgated on 26th January 1950, also includes a provision relating to the promotion of Panchayats honouring Gandhiji's idea of '*Gram Swaraj*'. The Article 40 in the Chapter on 'Directive Principles of State Policy' states that "the states should take steps to organize village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government"². The article of the Constitution is an important authoritative affirmation and impetus for the laws in states under general guidance of union government³" Gandhiji once remarked, "long ago, how long history does not record and the Indian genius worked out the village and local Panchayat. It remained our forte through many a turbulent period. Kings and dynasties fought and failed, empires rose, ruled, misruled and disappeared; but the villagers' life maintained its even tenor, away from the din of battle and the rush of rising and falling empires⁴". The Panchayat system evolved in the villages and as such represent the continuation of a system coming down from the Vedic times, though every century did witness adjustments and modifications, almost always for the better to the system. Hence, Panchayati Raj is an old concept in India and in a way it is an ancient concept of village democracy in the history of civilization. It had been in existence since ancient

¹ Panchayat means an institution of local self governance for the rural areas. It is the first institution of local self governance where the democratic process begins.

² Article 40, Chapter on Directive Principles of State Policy, Constitution of India.

³ Khanna, B.S., Rural Local Government in India and South Asia, Deep & Deep Publications, New Delhi, 1999, p.14

⁴ Gandhiji, Harijan, 8 December 1946(Quoted in Panchayati Raj Symposium) Publication Division 1984, pp. 9-10.

period having effective control over the administrative, civic and judicial matters of the village community. Dr. Rajendra Prasad, the first President of India, shared the same view about the antiquity of Panchayats in India in the words, "Villagers have been the basic unit of administration in India since ancient times. The importance which was attached to the village organisations in pre-historic India is evident from Vedic and post-Vedic literature⁵". Even Charles Metcalfe remarked, "The village communities are little republics, having nearly everything they can want within themselves and almost independent of any foreign relations. They seem to last where nothing else lasts. Dynasty after dynasty tumbles down, revolution succeeds to revolution, but the village community remains the same⁶". Pandit Nehru also made a reference in his book 'Discovery of India' to what the 'Nitisastra' of 'Shukracharya' had said of the position of villages and village councils more than ten centuries ago and of the large number of village governments that prevailed in those days. So the village government system has a golden past. It is because of the continuity of the system that we have succeeded in preserving our traditional cultural values. But local self government institutions of the type we have at present and in sense of representative organisations responsible to a body of election, enjoying wide powers of administration and taxation; and functioning both as a school for training and responsibility and link in the chain of organism that makes the government of a country, are entirely the product of the British rule in India.

During ancient days, Indian villages were organized in a way that enabled them to maintain social order through Panchayats. There was a well-developed system of village Panchayats in ancient India and they have existed in one form or another throughout most of Indian history. The villages were formed as a result of the conditions created by natural circumstances. The village institutions, too, had their origin and growth due to the conditions of tribal life. As observed by Dr. Radha Kumud Mookerji, "While in most of the civilized countries of today, the state as a fully developed and completely constituted body consciously creates autonomous centres within itself by devolution and delimitations of its own functions, in ancient India the communal institutions, guilds and local bodies had an independent origin and growth out of fluid and inchoate conditions of tribal life and organisation⁷".

⁵ Dr. Rajendra Prasad, Address delivered at Bihar State Panchayat Prarishad, 24 April, 1955.

⁶ Quoted by Radha Kumood Mookerjee, "Local Government in Ancient India", 1958, pp 2-3.

⁷ Dr. Mookherjee : "Local Government in Ancient India", pp. 6-7.

Local Self Governance: The Concept

The concept of local self-government is not a new term to our country. Community assemblies are mentioned in the Vedic texts. The origin and evolution of village Panchayat is also as old as India's evolution. Different scholars and researchers hold conflicting opinions regarding the connotations and origin of the term 'Panchayat'. Some think it to be of British origin while others trace an ancient flavour in it. Some talk of its being self sufficient, self reliant and self governing while others see no such element except as "judicial bodies in civil or criminal cases at village level and settlement of religious and ritual problems of various kinds"⁸. However, 'Panchayat' is a very popular and common term referring to 'a body of five persons'. It functions merely by 'common consent' and with the real sanction of the local public opinion⁹.

Meaning of Local Self Government:

In general, local self-governance means a system of governance where the village people or local people directly participate as representatives to take decisions for their own governance and development. In the words of Lord Bryce "the best school of democracy and the best guarantee for its success is the practice of local self government". Local Self Government, in its essence, stands for a government which is formed and dissolved by the local citizens and the area of activity of such units is also local i.e. confined to their own areas of activity like, district, country, municipality, cantonment etc. In more elaborate terms, the local government is the unit of the whole governmental structure of a political system, which is formed democratically to meet the local needs. In political terms, it is concerned with the governance of a specific local area, constituting a political sub-division of a nation, state or other major political unit. It acts as the agent of the state. In other words, the local self-government is an integral part of the political mechanism for governance in a country. Then, as a body corporate with a juristic person, it represents a legal concept (Mutalib and Khan, 1983:2).

Local government is basically an organized social entity with a feeling of oneness. By definition, local self-government means an intra-sovereign governmental unit within the sovereign state dealing mainly with local affairs, administered by local authorities and is subordinate to the state government (Jahan, 1997:92)

⁸ Dharampal, "The Madras Panchayat System", Vol.II, Implex India, Delhi, 1972.

⁹ Altekar, A.S., State and Government in Ancient India,(1984), Motilal Banarasidas, Delhi.

In the words of De Tocqueville, "Local Institutions constitute the strength of free nations. A nation may establish a system of free governments but without local self-government, it cannot have the spirit of liberty".

Thus, the term local essentially stands for a particular place, region or a part of a province. It is local because of its limited area of activity, responsibility and formation. J.G. Clarke gave a comprehensive and functional definition of Local Government. He said "Local Government is that part of the government of a nation or state which deals mainly with such matters as concern the inhabitants of the particular district, or place together with those matters which Parliament has deemed desirable to be administered by local authorities, which are sub-ordinate to the Central Government"¹⁰. J.S. Mill, one of the supporters of democracy wrote, "It is obvious to begin with that all business purely local, all which concern a single locality should develop upon the local authorities"¹¹.

The term local government as defined by W.E. Jackson indicates "the management of local affairs and services by popularly elected councils, even within the area administered by a council"¹².

Local government is that part of the state government in federal countries, which deals mainly with local affairs, administered by authorities and is subordinate to the state government. The authorities may be elected, independent of the state authorities by qualified residents. They may also be partly elected and partly nominated or wholly by the same electorate from which the state authority derives its powers. But the local authorities are the creatures of the state legislature. They cannot do many things without the explicit sanction of the state government¹³.

According to William A. Robson, "In general, local government may be said to involve the conception of territorial, non-sovereign community possessing the legal right and the necessary organisation to regulate its own affairs".

To others, "Local government does not flog beyond the local limit; thus it acts as an authority to determine and execute measures within a restricted area inside the smaller than the whole state"¹⁴. Professor Harris makes the picture clearer by stating

¹⁰ Clarke, J.G. "The Local Government of United Kingdom, London, 1916, p.9

¹¹ Quoted by Finer Herman : in English Local Government, London, 1950

¹² W.E.Jackson, "Local Government in England, Civic Affairs, Vol.12, No.11, June 1965, p.23.

¹³ V.Venkata Rao and Niru Hazarika, Local Self Government in India, S.Chand & Company Ltd., New Delhi, 1980, p.10.

¹⁴ Rout, B.C., & Singh, K.S., "Local Government & Administration, Ajanta Prakashan, Gali Arya Samaj, New Delhi-110006, p.5

that “Local self government is a system under which the people of that locality possess a certain responsibility and description of local public affairs and in raising funds to meet their expenses”.

Further more, on the necessity and importance of local self-government, Leacock has said “The distinction between local and central government lies partly in their relative constitutional positions and partly for the nature of public services performed”

John Stuart Mill is one of the exponents of local government system. He supported local self-government because it was an easier method of public education than the taking part in national affairs.

Lord Ripon’s approach to local government was that “it is not primarily with a view to improvement in administration that this measure is put forward; it is chiefly designed as an instrument of political and popular education”.

Characteristics of Local Government:

Eventually local government, as discussed by B.B. Gupta¹⁵, has five elements namely the existence of authorities at various levels- each closer to the ultimate sovereign viz. the people, the allocation of spheres of activities to these authorities, the democratic composition of these authorities, the democratic working of these authorities and autonomy to these authorities in their allocated sphere limited only by the supervision of democratic authorities at a higher level. The most essential attribute of local government is its representative and responsible nature. However, local Government consists of the following characteristics:

- It consists of local bodies and institutions.
- The representatives are elected by the electorate of that particular area and appointed by a higher authority.
- It is subordinate to its centre or state government.
- It is endowed with some power, responsibilities and duties.
- Its activities are confined to its defined local area.

Democracy at the grassroot level is the key to understanding the traditional pattern of governance in many parts of India. Any study of ancient and mediaeval Indian polity would reveal that some form of representative bodies existed at local levels for decision-making on several aspects of community life. There is also

¹⁵ B.B. Gupta, “Local Government in India, Central Book Depot, Allahabad, 1968, p.3.

evidence of primitive republican forms of government in certain parts of ancient India, especially during the Rig Vedic period. The kingless republics were called 'Vairajya'¹⁶. For example a republican federation of Kshudrak Malla Sanga is reputed to have resisted King Alexander the Great's advances in fourth century B.C.

Different authors have used different time periods and terminologies to trace the history and functions of rural local self-governance system in India. For example, [Maheswari, 1963:1] to make understanding easier maps of the growth of rural local government has been divided over the following periods:

- Ancient India
- Mediaeval India
- British Period
- Post –Independence Era
- Era of Beginning of the Panchayati Raj system on October 2, 1959

Ancient Period:

The period of ancient India is said to have lasted till the end of the 7th century A.D. Most scholars who have studied this say that India has sustained the longest period of local self-government system in the world [Dey, 1961: 4-5], flourishing from the times of the Vedic civilization. It is evident from Vedic literature that there was a strong rural local governance system in India. Several sources describe this period as a 'developed system' of rural local self-governance [Maheswari, 1963:2]. Sir Charles Metcalf terms these village governance systems as 'village republics' that were self-sufficient and had independent existence. These were the most democratic, genuine, highly organized and successful village systems in ancient India. These village systems are also referred to in the Vedas, the Epics, the Manusmriti and Buddhist and Jain literature. They are also mentioned in the writings of Palimi, Meghasthanis and Kautilya. The system is also found in the inscriptions of ninth, tenth and eleventh centuries proving the existence of the organized system of rural local self- governance. In the Vedic ages, there was rural local governance system in each and every village. During that period Panchayat meant a body of five village leaders who met to resolve the problems of the village and to mete out justice to its residents. This system of rural local self-governance was prevalent during that period and it was the centre of social life and economic progress. Caste Panchayats too, existed, during this period. These types of Panchayats usually resolved the social

¹⁶ Vairajya means a state without a king.

problems of the village. In the Vedas, references are also made to popular village assemblies called 'Sabhas' and the grand institutions for the entire population, or the state, known as 'Samiti' (literally meeting together, Samiti means 'Sam' + 'iti' i.e. an assembly). The Arthashastra of Kautilya describes some of these radical communities. Several other historical documents also indicate the exercising of certain sovereign functions by the Samiti, like electing or re-electing a King, on behalf of the people, Visah or (vis-as). Patriarchs of different families constituted the governing class and a number of such families formed a vis (i.e. canton), a number of vis-as formed a 'jana', and it was presided over by a Janapati or King. In many places kingship was there but it was elective, reconciling the two principles of monarchy and consultation. Thus, a certain republican touch was there.

The Vayu Purana gives an account of 120 Janapadas of Bharatvarsha as the territorial community of people determined on the basis of tribe, race, dialect, social tradition, geographical location and political status. These were autonomous and self-sufficient communities practicing different methods of consultation and decision-making. With the rise of the Mauryan Empire (324 BC), the republican and representative institutions declined. A few, which survived, disappeared during the Gupta Period (320-511 AD). But the village Panchayats survived through centuries till the Mogul rule (1526-1857), at least as a semblance of consultative machinery.

The solid base of traditional Indian polity since Vedic times, from all accounts, was the village republic – an autonomous, more or less self-sufficient community functionally inter-dependent (the Jajmani system) but based on patron client relationship. This is a unique feature of Indian socio-political heritage. Even when kingdoms were established or empires were formed, the unit of local administration was always the village (Gram). Village administration was run by a Panchayat, which looked after every aspect of the village welfare. Altekar has pointed out that 'from most ancient times villages in India have been the axle of administration'. Even the king exercised his powers over the village through the Panchayat headman called 'Gramin' or 'Gramik'. There was little interference by the king or the state in the activities of the village republics. Certain traditions and customs had grown over the centuries to become undeclared and unwritten laws; generally followed and observed by the community.

Around 600 B.C., the territory of the north of the river Ganga, comprising the modern day northern Bihar and eastern U.P. was under the suzerainty of small

republics called Janapadas among which the Lichhavis were the most powerful. In these Janapadas, the affairs of the State were conducted by an assembly consisting of local chiefs. In the post Mauryan times as well, there existed republics of Malavas and the Kshudrakas where decisions were taken by "sabhas". The Greek Ambassador, Megasthenes, who visited the court of Chandragupta Maurya in 303 B.C., described the City Council, which governed Pataliputra as comprising Six Committees with 30 members each. Similar participatory structures existed in Southern India. In the Chola Kingdoms, the village council, together with its sub-committees and wards, played an important part in administration. It arbitrated disputes and managed social affairs. It was also responsible for revenue collection, assessing individual contribution and negotiating the collective assessment with the King's representative. It had virtual ownership of the village wasteland, with right to sale and they were active in irrigation, road building and related works. Their transactions recorded on the walls of village temples demonstrate a vigorous community life. There is a lasting memorial of the best practices in early Indian polity.

According to some experts in the study of ancient India, Panchayat was far more wide spread, more real and more successful than it was during the days of British rule or after. If we study the Vedic literatures carefully, we can get a glimpse of village Panchayats which existed during that period. The Rig Veda, Manusmriti, Dharma Sashtra, Upanishad, Jatakas etc refer extensively to auto local administration, i.e. Panchayat system of governance. It is worthy to mention that this system was first introduced by king Prithu while colonizing the Doab between the Ganges and the Jamuna. In Manusmriti and Shantiparva of Mahabharat, there are many references to the existence of 'Gram Sanghas' or rural communities. It has also been described in the 'Arthashastra' of Kautlya who lived in 400 BC. The Arthashastra gives a comprehensive account of the system of village administration prevalent during that time. Under Chanakya or Kautlya's system, villages were classified according to their population. Duties were clearly distributed for proper administration. During his period, the village administration was carried under the supervision and control of 'Adhyaksha' who was popularly known as headman. Arthashastra also mentions other officials of the village community such as 'Samkhyaka' who is known as 'Accountant', 'Anikitsaka' who is the Veterinary doctor, 'Jamgh Karika' who is the village couriers and 'Chikitsaka' who is the Physician. The village headman was responsible for ensuring collection of land revenue and other state dues and was the

reporting and controlling authority of the activities of the offenders. In the Ramayana by Valmiki we learn about 'Ganapada', which was perhaps a kind of federation of village republics.

In the ancient period, particularly during the Vedic period the village was the pivot of administration. In fact, the Vedic state was essentially a nation state with village as the basic unit of administration. The village administration was usually carried under the supervision and direct control of the village headman who was called as 'Gramini' and he was assisted by an informal council comprising village elders.

In the Shantiparva of Mahabharat there are also references to the existence of 'Gram' and 'Ghosha'. The Ghosha was of a smaller size and used to be generally inhabited by the milkmen. The Gram was bigger than the Ghosha. This epic gives us some idea about the village and inter-village organisations. According to it, the village was the basic unit of administration and the administrative system was organized on the basis of group of villages. A group of 10 villages was under a 'das-gramini'. 20 villages used to be under a 'Vinmsatipa'. A group of 100 villages was headed by 'Sat-gramini' or 'gram-satadhyakshya' and a group of thousand villages was under Adipal.

In the earliest Vedic age, the village government was run by the village headman who was called 'Graminee'¹⁷. Each village had its own council or 'Sabha' which decided methods regarding village administration. There were regular council houses where villagers used to assemble and discuss usual matters of village interest. There are also mentions about 'Graminee'¹⁸ in the Ramayana

The Jatak stories give us a true picture of village life in India during the 4th and 5th century B.C. We gather from these stories that the village was an important unit of administration in those days. The organisation of the village as a political unit is also referred to in the Jataka stories¹⁹ from which we learn that the village headman was the executive of the village and was responsible for carrying out certain duties. Several references to this village headman in the Jatakas prove that this was a normal feature of village administration of the Aryan village community in the 6th century B.C. As invasion penetration in the Deccan took place around the 7th century B.C.,

¹⁷ Rig Ved X 62 -II

¹⁸ Graminee is mentioned in Ramayana Yudha Kanda.

¹⁹ Kharassra Jatakas, Vol. I, P.354

the features of village community must have been common to the villages' in western India as well.

In the western India there was also existence of village councils during the 6th century B.C. as evident from the old inscriptions like Valabh plates of Dharsana II, Navasari Plates of Dadda and Nagasari plates of Dadda II which mention a lot about the existence of village councils during that period. In the above inscriptions some, as per the examination of Prof. A.S. Altekar, evidence clearly suggested the existence of the council of village elders. These expressions are also referred to in Boroda Plate of Karkaraja, Radhanpur plates of Govinda II, Cambay Plates of Govinda IV and Kavi (Broach district) plates of Krishna III which testify to the existence of the village councils in Gujarat. Similar references in the Wani (Nasik district) and Tolode (Khandesh district) plates show that the village council existed in Maharashtra during the 8th, 9th and 10th centuries. The Rashtrakuta Plates in Karnataka attest to the existence of village assembly in the province. When we observe, says Prof. Altekar has further shown how even the orthodox Smritikars had no objection to Kshatriyas, Vaishya, may even sudras being included in the village assembly which was to decide undecided points in the sacred law²⁰.

In ancient India, people were lived in joint families. The head of the joint family enjoyed a wide range powers. A federation of such small families lived in a village. The senior most member of the family in the village was regarded with great respect by the village community and was entrusted with the governmental duties. Rig Veda shows that the Aryan society was divided into families, Janmans (Villages), Visas (blocks) and Janas (several visas together)²¹. The institution of joint family gradually led to the evolution of kinship. The villages in ancient India were isolated from one another and were located on the banks of rivers on the edges of thick forests. Hence, people were bound by kinship²².

In Manusmriti, Manu distinguishes between three kinds of settlements- village (gram), town (Pura) and city (nagara). But even according to him, the village was the basic unit of administration. In Shukra-Neetisara, there is also a mention of three types of rural habitations namely Kumbha, Palli and Gram. Kumbha used to be half the size of 'Palli' and 'Palli' was half the size of Gram.

²⁰ Altekar, A.S., : "Village Communities in Western India", p. 6-7.

²¹ Rig Veda II, 26.3

²² Altekar, A.S., : "State and Government in Ancient India"

In the Mayuran period there were also villages, which were basic units of administration. There was existence of rural local governance system i.e. village Panchayats. During that period villages used to organize works of public benefits and recreation, settle disputes between the residents and act as trustees for the property of the minors. During the Mauryan and Post Mayuran period too, the headman was assisted by council of elders and continued to play an important role in village life. But during the Gupta period, there were certain changes in this system. The village headman was referred to as Grampati and the district head was known as 'Vishya Pati'. The village assembly consisted of all adult male members. Thus, during this period there was a well-established system of local governance. The state functioned separately, never encroaching into the functioning of village Panchayat [Mookerji, 1958].

In the Gupta period the village councils evolved into regular bodies in some parts of India, which became permanent features of local administration and gained further importance. It was the body, which negotiated with the government for concessions in the usual demands during famine and other similar calamities. The village disputes were also settled by the village councils.

However, some scholars say that to describe these village self-government institutions as the perfect form of administration is a bit of an exaggeration which is not consistent with the class and caste ridden social structure of ancient India [Khanna, 1979]. The two common administrative elements were (i) the headman and (ii) the Panchayats, (literally meaning an association of five persons). Though Panchayat is mentioned by most scholars as the important administrative body associated with ancient Indian life, this view is opposed by other scholars who opined maintain the caste-ridden society made it impossible for a Panchayat comprising members from diverse castes to flourish in villages [Mookerji, 1958]. Hence, it is clear from the above discussions that the system of Panchayat existed during the ancient period as evident from the ancient literature. The working procedures of the Panchayats may be different and dissimilar to that of the present day system but certainly the system of village Panchayat was in existence during the ancient period.

But it is relevant to note that there is no mention of women heading as a Gramini or even participating as a member in the Panchayat. Hence, during this period there is no quest to find whether women members were represented or participated effectively in the village local government.

Mediaeval Period:

The mediaeval period for the purpose of this present study is continued from 8th century to 18th Century A.D. The middle ages and medieval period includes the period of royalties such as the Cholas, Pratiharas, Palas and Rajputs. It includes raids by Muhammad Ghori and Mehmud of Ghazni and the regimes of the Sultanate of Delhi, the Lodhi Dynasty and the Mughals. This era is also marked by the presence of both the rural and urban local governments [Khanna, 1979].

During the medieval period, the Panchayat was also in existence. The medieval period literature mentions the same. In case of Northern India there is some evidence to prove the existence and function of institutions of rural local self governance i.e. Panchayats in medieval India. We may conclude on the basis of these evidence that Panchayats were in existence during the medieval period.

During the Chola period there existed a well-organized village Panchayat system i.e. local self-governance system, which can be compared to the modern Panchayat system. During this period the villages enjoyed economic and administrative freedom. The village administrative tasks were performed by the elected representatives who constituted the village council. The functions of the village council were to control the village lands, survey and manage the agricultural land, collect of land revenue, settle the disputes and manage the educational institutions. During the periods of Hindu, Marathas and Peshwas, we find the village as a recognized unit of administration.

In the Kabir Granthavali²³, for example two of the 'Padas' describe the trials and tribulations of a person abandoned by his associates, oppressed by the illegal gratifications of the chief of the village and the village accountant. Even 'Diwan' does not pay to his grievances and insists on the recovery heavy arrears and due from him.

In various other works in Hindi literature, there is the mention of the term 'Panch' which literally means the 'five constituting the Panchayat', acting both collectively and individually. It also finds adequate mention in the Hindi literature of the Mediaeval Period. These references, though incidental, establish, beyond any doubt, the existence and functioning of the Panchayat beyond the village administration during the Medieval Period.

²³ Kabir Granthavali, Prayag, 1928, 222/163 and 120 P.28 edited by Shyamsundardas Kabir

According to literatures like ‘Kabir Granthavali’, ‘Keshava Granthavali’, ‘Ramacharitamanas’ (mool majhila size), (Gorakhpur), ‘Tulsi Granthavali’, ‘Keshava Granthavali’, (Allahbad 1954), ‘Chhatraprakas’, (New Delhi 1973), ‘Vindra Granthavali’, (Agra, 1971), ‘Aitihāsik Pramanvali Aur Chhatrasal’, (New Delhi 1975, Part. II, pp.16-17), ‘Pancha’ was the common name for members constituting the Panchayat in those days. Even today, ‘Pancha’ is another word used for the five members. Terms like Panchajan, Panchalok, Panchavarga, etc. have been mentioned in the Kabir Granthavali and Keshava Granthavali respectively which indicates the collective entity of the Panchas (a group of five persons). The literal meaning of Panchajana, Panchalok is five men and words like Panchas and Panchavarga literally mean a group of five people. The words refer to the Panchayats. The word ‘Pachaur’ appears to have been the most prominent among the Panchas as is apparent from its literal meaning Mukhia – the head or the chief.

According to the Keshav Granthavali, when no resolution could reach between Ram Shah and Vir Singh in spite of the mediation by the chiefs, the Pachur was called upon to pronounce an amicable settlement, which was readily accepted by both the parties. According to Chhatraprakas, the role of Pachur was pivotal in establishing Chhatrasal’s when Sadruddin tried to dispute it. Here, we get an indication of some sort of hierarchy among the Panchas.

According to another important work of medieval literature, the Ramacharita Manas by Tulsi Das even Dasarath (father of Lord Sriram Chandra) had to obtain the consent of the Panchas before designating Rama as the heir apparent. Later when Bharat decided to visit Rama during Rama’s exile in order to persuade him to return and to ascend the throne, Bharat first sought the benediction and agreement of the Panchas. Their opinion and decision were binding. Thus, the Panchayat was an informal decision making body and the Panchas were held in high esteem. A common belief was that one should speak, live and act as the Panchas ordered. That was why the poet Keshav advised Madhukar Shah’s son, Ratan Sen, to always keep the company of the Panchas and not to feel ashamed of his deeds done in accordance to their wishes²⁴. In fact, it was considered a great honour and a matter of pride to get a place among the Panchas as described in Tulsi Das Granthavali (ii Kv. P.177). According to R.K. Dugad and B.M Javaliya’s edition of Deva Kavya Ratnavali,

²⁴ Keshab Granthavali ii, (Rb-16467-468).

(Agra, 1962, 176/130) only the libertine could dare defy the Panchas. According to the Chhatraprakas, (11/93), the Panchas were sent as envoys on friendly missions, like those sent by Sujan Singh to be friend and honour Chhatrasal. At times they carried out challenging tasks too. Sadruddin sent them to Chhatrasal to persuade him to leave Dhamauni, which led to an armed contest in which Sadruddin was defeated. They acted as mediators too. Understanding was established between Vir Sing and his brothers through the mediation of reliable Panchas as it has been clearly mentioned in the Keshava Granthavali in ii. Vc 10/24-25/526. According to literature²⁵, a Panchayat's decision brought about understanding between Chhatrasal and his cousin. Chhatrasal in fact established a permanent council of Panchas, which also included few permanent representatives of the state. It decided and settled all disputes²⁶. It is, thus, clear that the Panchas were not merely village councils. They had political, socio-economic and religious powers as well.

During the times of Pandyas and the Pallavas in the 8th and in the early 9th century a system of local self-government existed but it was not as well developed as it was under the colas later. The inscription of Parantaka I from Uttaramerur in the Chingleput district of Madras state gives a detailed account of local government that existed in that region. It tells us that each village had an assembly consisting of all adult males and it dealt with general matters. These assemblies were of two types, the Ur and the Sabgha. Its third kind was the 'nagaram' confined to the mercantile towns and the fourth was the Nadu. The sabha was invariably an assembly existing in the agraharas- the villages inhabited predominantly by the 'brahmans'. It had more complex machinery and functioned largely through committees. The number and constitution of the committees varied from place to place but all were representative in nature. The Sabha appointed a number of Variyams (committees) entrusted with specific functions. The Uttaramerur inscription gives a detailed account of the committee system. As per the qualifications of members of the Variyams is concerned only those who were learned in the Mantrabrahmans were appointed as members. Those who committed theft of the property of Brahmans, those who failed to submit accounts in proper time and those who had questionable integrity of character were excluded from the committee. The members of committee were elected by a dual process. The whole village was divided into thirty Kudumbas. Each Kudumba was to

²⁵ Chatraprakash, pp-104-105

²⁶ Aitahasik Pramanvali Aur Chhatrasal

nominate a certain number of members from its residents. From these nominated members one was elected from each Kudumba. The thirty members, thus elected, were assigned to the five committees.

The Jat clan of Baliyan in the Muzafar Nagar district of Uttar Pradesh provides an example of a caste Panchayat acting from Sişauli, guarding the interest of the clan during the twelfth century. Akabar, in 1580, granted it freedom of action and exemption from the payment of Jazia and other taxes²⁷. Such caste Panchayats, thus, existed, we may infer from there about the existence of the professional Panchayats. We also learn that during the medieval period castes by and large had become occupational in nature.

The decree of these Panchayats held sway through the all-pervading authority of the Panchas. Besides the force of the public opinion, this authority of the Pancha believed in the comparison of the Pancha with Parameswara (God) God himself spoke through the Panchas was a belief, which sustained in the institution through the ages. It, to some extent, continues despite all the political reformation even today in India.

The period of invasion and formation of the Delhi Sultanate is marked by changes in the revenue collection system. But the system continued to be managed locally to a large extent [Sharma, 1994]. In the sultanate period too the Panchayat system existed, in the village level, and the Panchayat looked after education, sanitation etc. and acted as a judicial body to settle disputes. In Mughal period the first ever serious attempt to reform both general as well as tax administration was attempted during the regime of Sher Shah Suri. There was the system of rural governance and he gave due legal recognition to it. Each Panchayat consisted of elders of the village who looked after the interests of the people and administered justice and inflicted punishments on the defaulters according to the traditional customs of the place or community. The headman of the village, a semi-government official, acted as a coordinator between the village Panchayat and the higher administrative hierarchy. Normally, there was no interference by the centred or provincial administration in the administration of villages but in case of emergency, the village Panchayats were asked to duly perform their duties.

Akbar inherited an excellent system of Panchayat from his predecessor Sher Shah. He endorsed this system and made it an indispensable part of the civil

²⁷ Mugul Empire: Political Systems of the Jats.

administration. During his period each village with substantial population had its own Panchayat of the elders, headed by a 'lamboard' or headman. He gave 'legal' recognition to the Panchayat system. Each Panchayat was 'autonomous' in its own sphere and exercised powers of local taxation, administrative control and judicial empowerment. The Mughal Panchayat system remained in operation over centuries. During the period 1750 to 1850 the Mughal rule collapsed and British tried to establish their empire in India. At that time they implemented such a system of administration of local nature, which had its origin in Europe.

It is worthy to note that even in this medieval period there is little mention of any woman representing or participating in the rural local government system.

During the British Rule:

Before the advent of British rule in India, there were institutions of local self-governance system in an informal form, which were tradition known as the system of Panchayats. This type of system of Panchayats was usually organized by the villages assemblies consisting of five persons who were popularly know as 'Village Panchayats'. This village Panchayat was headed by a headman who is known as the chief of the village and all the decisions were taken under his guidance. Besides the village Panchayats, there was also evidence of existence of caste Panchayats. Caste Panchayats were formed with the active participation and inclusion of the persons of same caste. A number of caste Panchayats existed in Northern India during those periods, which were played a pivotal role in the administration of villages during that period.

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It is also evident from historical reports that till the advent of the British rule the Indian Rural Republic i.e. the village Panchayat had literally flourished. The famous British Political Scientist and working Governor General of British India Sir Charles Metcalf in his observation report described that "*The village communities are little republics, having nearly everything they can want within themselves, and almost independent of any foreign relations. They seem to last where nothing else lasts. Dynasty after dynasty tumbles down. Revolutions succeed to revolution. Hindoo, Pathan, Mogul, Marahatta, Sikh, English are all Masters in turn but the village communities remain the same. This union of village communities, each one forming a separate little state in itself, has, I conceive, contributed more then any other cause to the preservation of the peoples of India, through all the revolutions and changes which they have suffered. It is in a high conducive to their happiness and to the*

*enjoyment of a great portion of freedom and independence. I wish, therefore, that the village constitutions may never be disturbed and I dread every thing that has a tendency to break them up*²⁸. But during the long British rule in India, village autonomy waned significantly. It received a set back during the British rule because of the highly centralized system of administration and easy access of people to the courts established by it. They planned to close the local self governance system through establishment of different offices, courts and police stations which reduced the relevance of local self governance. As a result, the system of local self governance received a great set back during this period. In course of time the British Government for their own convenience introduced local self governments in rural areas of India as needed.

The present structure of local self Government institutions in India is a British legacy which took shape in 1687 when an order of the Board of Directors of the East India Company declared the formation of a Corporation of Europeans and Indian members for the city of Madras. Similar corporations were set up in Calcutta and Bombay in 1723 and 1793 respectively. Comprising a Mayor and a majority of British-born Councilors, these Corporations were basically units of administration enjoying considerable judicial power. During the next 150 years, municipal bodies were created in several *mufasil* (means small towns) although their functions remained confined to conservancy, road repairing, lighting and a few other sundry items. The Indian Council Act, 1861 introduced the system of decentralized legislative powers and the provinces were given the authority to pass local legislations. This stimulated the growth of local institutions and self government systems in India.

Mayo's Resolution of 1870:

Lord Mayo's resolution of 1870 was the first attempt to develop the local self government in India. It was a resolution to establish town based local bodies with limited power. During this period, there were local representatives in the local bodies and the Chairpersons also belonged to that locality. But this system did not show result during the period. It was only after Lord Mayo's resolution of 1870 that real progress was made in the field of local government. Lord Mayo introduced elected representative bodies for the municipalities. During his tenure he recommended to the British Government, the establishment of decentralized governance in the form of

²⁸ Extracted from the Observation Report of Sir Charles Metcalfe (Governor General of India during 1835-36)

local self governance system. It was further developed by his successor, Lord Ripon, in 1882.

Lord Ripon's Famous Resolution of May 18, 1882:

Lord Ripon, a true liberalist has been rightly called as the father of local self government in India. He was the first viceroy with genuine desire to promote self governing institutions in the country. The famous resolution of Lord Ripon of May 18, 1882 was one of the landmarks in the development of local self government institutions in India. His resolution also stood for decentralization of administration through the establishment of a large network of local self government institutions for the purpose of training Indians in the art of governance and enabling them to learn from experience. This also paved the way for political participation of educated people. But Ripon's resolution could not make a lot of difference to the field of local self governance system for a number of reasons. Subsequently there were a series of efforts in the form of Committees, Commissions and Acts to make a difference in the lives of local self governance system.

The provincial governments told that it would be hopeless to expect any real development of self government if the local bodies were subjected to the control or interference to a large extent. On the basis of this recommendation, local self governance system was revived according to the old Panchayat Raj system through legislation for the appointment of British representatives in the village Panchayats in Bengal. According to this law the district magistrates nominated their representatives to the village Panchayats. These nominated Panchayats also had very limited functions like imposing and collecting different taxes and to pay the honorarium to their nominated representatives. During the year 1880 the Famine Commission in its report mentioned that due to the absence of village Panchayats in the rural areas it was not possible to give relief properly to the people and as a result, it recommended to the British Government the revival of village level local self governance system institutions like village Panchayats for the people.

The first enactment on local self government system was the Madras Local Boards Act, 1884 and subsequently the most significant enactment was the Royal Commission Report on decentralization in 1909. The entire subject of local self government was reviewed by the Royal Commission of Decentralization and significant recommendations were made touching almost every aspect of local administration. The Commission laid a lot of emphasis on the development of rural

local governance system i.e. village Panchayats. The principal recommendations included the revival of village Panchayats and that village should be regarded as the basic unit of local self governance system. Every village was to have a Panchayat. Local bodies were to contain a large elective body. The President of the local body was to be an elected rather than nominated member and local bodies were to be allowed freedom in preparation of the budget, imposition of taxes and sanction of duties.

It also recommended that the village Panchayats would be entrusted with more powers like (i) summary jurisdiction in petty civil and criminal cases (ii) incurring of expenditure on village scavenging and minor village works (iii) construction, maintenance and management of village schools and (iv) for proper functioning of the village Panchayats adequate sources of income should be made available. It was also recommended to keep these bodies out of the interference of the district level officers.

After that the enactments like the Government of India Resolution of 1915, the Montague-Chelmsford Report of 1918 and the Government of India Resolution of 1918 were passed and recommended for strengthening local self government in India.

By the 1880s, these urban municipal bodies had pre-dominance of elected representatives in a number of cities and towns, including Calcutta and Bombay. A corresponding effective structure for rural areas came up with the enactment of the Bengal Local Self Government Act, 1885 which led to the establishment of District Local Boards across the entire territory of the then Bengal province. These Boards comprised nominated as well as elected members with the District Magistrate as Chairman who was responsible for the maintenance of rural roads, rest houses, roadside lands and properties, maintenance and superintendence of public schools, charitable dispensaries and veterinary hospitals. Within a span of five years, a large number of District Boards came into existence in other parts of the country, notably in Bihar, Odisha, Assam and in the North West Provinces.

In 1906, the National Congress of India under the Chairmanship of Dadabhai Naoroji adopted a resolution to introduce local self governance system for village administration. The Royal Commission on Decentralization (1907) under the Chairmanship of Sir Charles Hobhouse recognized the importance of Panchayats at the village level. The Commission recommended that "it is most desirable, alike in the interests of decentralization and in order to associate the people with the local tasks of administration that an attempt should be made to constitute and develop village

Panchayats for the administration of local village affairs"²⁹. The Royal Commission also recommended the decentralized of powers and to strengthen the village local self governance systems through establishment of Gram Panchayats. During this period, in the Lahore Session of National Congress, there was demand for funds before the British Government to implement the Reports of Royal Commission and to introduce the rural local self governance system through the establishment of Panchayat Raj Institutions (PRIs) in India.

The Minto-Morley Reforms, 1909 and the Montague Chelmsford Reforms, 1919, after which Local Self Government became a transferred subject, widened the participation of people in the governing process. This Reform Commission also recommended the establishment of rural local self governance system in the country for the decentralization of power and village administration through Panchayati Raj Institutions (PRIs).

The Montague-Chelmsford Report of 1918 was next to refer the Panchayat Raj System. The Montague-Chelmsford Report suggested that there should be as far as possible complete popular control in local bodies and the largest possible independence for them. The Government of India Resolution reviewed the entire question of local self government.

This resolution suggested that rural local bodies should be made representative of the peoples and unnecessary official control should be curbed and local bodies should be to learn from their own mistake. Regarding village Panchayats the resolution stated that local bodies should not be looked as mere mechanical adjust of local self government but as associations designed to develop village corporate life on the basis of the intimacy between people who not only had common civil interests but also were kept together by the ties of tradition. The provincial governments were urged to make an effective beginning towards development of village Panchayats. Rural local government system received a new look in the Government of India Resolution of 1918, which mainly contained the following recommendations:

- Panchayats should be revived in the village.
- Local bodies should contain a large number of elected representatives.
- The President of the local body should be a member of the locality and should be elected rather than nominated
- Local bodies should be allowed freedom in the preparation of budget, the imposition of taxes and sanction of duties.

²⁹ Extracts from the recommendations of Royal Commission on Decentralization (1907)

But the result was not at all remarkable as no colonial rule could promote decentralization in the real sense. The Government of India Act of 1919 provided many changes. The local government was transferred to Indian ministries so as to make the system more effective. As a result after enforcement of the Government of India Act, 1919 the Government of India no longer issued any instruction to provincial governments and each province was allowed to develop local self government institutions according to the its requirements. Number of Panchayat Acts were passed between 1921 and 1926, which aimed at making these local bodies more genuine, and made it free from the control of official authorities. Ultimately the provincial governments took steps to establish Panchayats through legislative measures in their respective areas. The state of Bengal took the lead in enacting village self government system in 1919 and Bombay passed the Bombay Village Panchayat Act in the year 1920. Subsequently other enactments were passed including Central Provinces Village Panchayats Act, 1920, The Madras Village Panchayat Act, 1920 which was replaced and supplemented by Madras Local Boards Act, 1930, The United Province Village Act, 1920, The Punjab Village Panchayat Act, 1921. The Odisha and Bihar Village Administration Act was passed in the year 1920 and the Assam Rural Self Government Act was passed in the year 1926. In this way Panchayats were organized once again throughout the territory of India. Further the enactment of Government of India Act, 1935 paved the way for the development of the local institution in India. This Act included the subject of local self government in the provincial legislative list. In 1937, with the assumption of popular ministries, the provincial governments of united provinces and Bombay appointed a Committee to recommend the ways in which local self government should be recognized. In the central provinces a plan for reconstruction of local self government was drawn up in the year 1938.

But despite all the above mentioned efforts by the National Congress of India and the recommendations of different Commissions and Committees, it was not possible to devolve power to the local bodies and the local bodies were also not able to work properly as per the needs and priorities of the people. It may be noted here that during the struggle for independence, the father of nation Mahatma Gandhi had advocated for the establishment of Panchayat Raj System and to devolve more power to the Panchayats through the system of rural local self governance which was the main slogan of the Congress Party of India during that period.

Thus, the history of local self-government in India under the British rule can be conveniently divided into four phases. The first phase may be assumed to have ended in 1882, when Lord Ripon issued his well-known resolution on local self government. The second phase covers developments from 1882 to 1919, when more powers were transferred from the centre to the provinces. The recommendations of the Decentralization Commission of 1907, which besides discussing other matters, suggested some changes in the system of local self-government. The third phase extended up to 1935, during which the Indian Taxation Enquiry Committee (1925) considered the problems of local taxation along with central and provincial finances. The Simon Commission of 1930 reversed the process of decentralization by recommending strict control of the state over local bodies. The fourth phase covers developments up to 1947. During this phase, the struggle for independence was intensified and with the introduction of provincial autonomy in 1937 and the rise to power of Congress ministries in many provinces, local bodies, particularly village Panchayats, received a great stimulus and there was democratization of local bodies.

The Government of India Act, 1935 certainly provided some inputs for improvements over the existing system, but these were negligible. In 1937 the provincial part of the government of India Act, 1935 was enforced which provided the provinces with autonomy with a new and stable base for local government. Another important development of this period was the implementation of the Central Provinces Scheme of local government known as 'Janapada Scheme' of 1949. After the end of British era, Gandhiji came as an ardent advocate of Panchayati Raj i.e. rural local government. He was a strong supporter of the system of village self government (Gram Swaraj) and strongly believed in devolve of power to rural people.

Gandhiji's Concept of Gram Swaraj (Village Republic):

With the emergence of Gandhiji on the political arena, grassroot level governance system slowly started regaining its importance. Gandhiji in his article in Harijan published in July 26, 1942 on Village Swaraj had envisaged that "*My idea of Village Swaraj is that it is a complete republic, independent of its neighbours for its own vital wants, and yet interdependent for many others in which dependence is a necessity. Thus every village's first concern will be to grow its own food crops and cotton for its cloth. It should have a reserve for its cattle, recreation and playground for adults and children. Then if there is more land available, it will grow useful money crops, thus excluding ganja, tobacco, opium and the like. The village will*

maintain a village theatre, school and public hall. It will have its own water works ensuring water supply. This can be done through controlled wells and tanks. Education will be compulsory up to the final basic course. As far as possible, every activity will be conducted on the co-operative basis. There will be no castes such as we have today with their graded untouchability. Non-violence with its technique of Satyagraha and non-cooperation will be the sanctions of the village community. There will be a compulsory service of village guards who will be selected by rotation from the register maintained by the village. The government of the village will be conducted by the Panchayat of five persons annually elected by the adult villagers, male and female, possessing minimum prescribed qualification. These will have all the authority and jurisdiction required. Since there will be no system of punishments in the accepted sense, this Panchayat will be the legislature, judiciary and executive combined to operate for its year of office..... I have not examined here the question of relations with the neighbouring villages and the entire if any. My purpose is to present an outline of village government. The law of non-violence rules him and his government. He and his village are able to defy the might of the world. For the law governing every villager is that he will suffer death in the defence of his and his village's honour"³⁰. These views were reflected in the non-justifiable part of our Constitution in the Directive Principles of State Policy under Article 40. The views of Gandhiji expressed in 1942 still bear relevancy and are very appropriate and timely from the point of view of Village Swaraj in India.

He also said that every village was to become a self-sufficient republic. This did not require brave resolutions. It required brave, corporate, intelligent work.... *"I have not pictured a poverty-stricken India containing ignorant millions. I have pictured to myself an India continually progressing along the lines best suited to her genius. I do not, however, picture it as a third-class or even a first-class copy of the dying civilization of the West. If my dream is fulfilled, and every one of the seven lakhs of villages becomes a well-living republic in which there are no illiterates, in which no one is idle for want of work, in which everyone is usefully occupied and has nourishing food, well-ventilated dwellings, and sufficient Khadi for covering the body, and in which all the villagers know and observe the laws of hygiene and sanitation. There is nothing inherently impossible in the picture drawn here. To model such a*

³⁰ Published in the Harijan, July, 26, 1942

*village may be the work of a lifetime. Any lover of true democracy and village life can take up a village, treat it as his world and sole work, and he will find good results”.*³¹

The notion of Swaraj means taking control of oneself in every possible sense of the term. According to Gandhiji, Gram Swaraj meant self-reliance of the village Panchayats in all respect. It has to work independently without external political interference. It is also a system of interdependent of village Panchayats.

The concept of Panchayat had several meaning for Gandhiji. It is a system of indigenous way of organizing government at rural local levels as opposed to British Parliamentary system. Gandhiji also saw Panchayats as a form of government which was least coercive as it represents state in its most decentralized form. He was opposed to the concept of politicalization of the village Panchayats. He said that it is the function of Panchayats to teach the villagers to avoid disputes if they have to settle them. That would ensure speedy justice without any expenditure. They would need neither the police nor the military (Gandhi 1936: 72)

In other words, he saw Panchayats as a place for alternative dispute resolution, at least in civil matters. Gandhiji wanted that the Panchayats had a role in increasing the food production through proper manuring and milk production through protection of cattle. In other words, Gandhian Panchayats are not agencies that confine themselves to the narrow realm of governance centred on the performance of civil functioning, but also participate in meeting the basic needs of its people by addressing problems like poverty, unemployment, drinking water and production among others.

Independence must begin at the bottom said Gandhiji. Thus, every village should have a Panchayat with full power including power of self-defence. Gandhiji felt that the greater the powers of Panchayats, the better for the people (Harijan, Dec. 1942). He laid emphasis on the regeneration and rejuvenation of Panchayats as fully self-governing units. He wanted the entire economy and politics of the country to be built around the Panchayats. Gandhiji talked about a system of Panchayat Raj which would be concentric where no one could say that one level was above the other i.e. the village, taluq, district, state and centre – each merging into the other and each equal to the other.

Gram Swaraj idea was in the forefront of independence movement. Gandhiji cultivated the idea of Gram Swaraj during the independence movement to make India

³¹ R. Prabhu and UR Rao (eds), *Village Republics: The Mind of Mahatma Gandhi*, pp.244-247, Novjivan Press, Ahmedabad

self reliant after independence. He was of the opinion that Gram Swaraj through the system of Panchayat Raj would make Indian villages independent and a complete republic. Thus, he advocated in favour of the concept of Gram Swaraj with an aim to give independence to the institutions of rural local self governance system.

Constitutional Perspective of Panchayat Raj:

The debates in the Constituent Assembly indicates that the leaders at that time were hesitant to introduce a wholesale change in the then prevailing administrative system and as a compromise, they agreed that Panchayati Raj Institutions would find a place in the Directive Principles of State Policy (Part IV, Article 40) which, *inter alia*, provides that the “State shall take steps to organize village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government”³². But there was a general view that local government institutions would be creatures of the State Legislature and hence there was no whittling down of the powers of the State Government. The debate in the constituent assembly was not in favour of establishing a direct system of Panchayati Raj in independent India as evident from this record of the debate, which states:

*“These Village Republics have been the ruination of India and that there is a sink of localism, a den of ignorance, narrow mindness and communalism”*³³. But this remark of the constitution assembly debate was criticized by many other members. The representative of constituent Assembly from Mysore Madhab Rao remarked “It is true that the villages are managed and controlled by different influenced village communities and it is also not above untouchability but all the villages are not so. There are many villages leading high social and cultural life peacefully”. Another participant from West Bengal Dr. Manmohan Das stated that “if people are not educated and politically conscious then the system of Panchayati Raj may cause more harm than good. The locally influential people or community may enjoy all the powers meant for people³⁴”. To protest this, representative from Odisha Saranga Dash stated that “this idea is based on superficial view of rural life of those who had lost contact with villages. There is ignorance of English language. It has nothing to do with the real life. As far as knowledge of nature and wisdom, gathered from Shashtra and Purans are concerned, there is more wisdom and more knowledge in the villages

³² Constitution of India, Article 40, Directive Principles of State Policy(Part IV).

³³ Constitution Assembly Debate, Vol. VII, p-37

³⁴ Ibid, p.308

then in our modern cities³⁵". Another member of the Constituent Assembly T. Prakashan was of the view that "there should be constitutional provisions for Panchayati Raj System in the Constitution of India". Another member of the Constituent assembly compared the Panchayati Raj system with bullock cart and remarked with humor "the bullock cart days have gone, they will never come back". In protest T. Prakashan said "the Republic that would be established, would be village republic which would use the bullock cart not for simply taking the fire wood that is cut in jungles to the towns and cities and getting some money for hire, these village republics will also be serviceable to those men of ours who are now fighting for Kashmir³⁶". In the debate another prominent participant from Uttar Pradesh Raj Narayan was of view that, "it is better to be ruled by devils than by an army of ministers and secretaries. I want powers to go directly to the village. It is not enough that they should vote. They must be made to take an interest in day to day administration of the country"³⁷. After a long discussion and discourse on the constituent assembly debate, Dr. Rajendra Prasad was of the view that "Panchayati Raj System should be included in the Constitution of India". Finally, with the efforts of a number of leaders, particularly K. Santhanam and Shriman Narayan, Panchayats did get a place in the Indian constitution under the heading of "Directive Principles of State Policy" in Part IV and under Article 40 of the Constitution of India.

However, as per the directives of this Article of the Constitution, the states are empowered to organize village Panchayats and to endow them with such powers and authority as may be necessary to enable them to function as units of self government. All the state governments of India are constitutionally empowered to organize village Panchayats and to transfer the powers to these local bodies. But in actually practice the state governments are not at all interested to endow them with powers and in reality they are not transferring any power to the Panchayats. The state governments are required to give power to the Panchayats so that the objectives of the Article 40 can be served meaningfully. In compliance with the provisions of the Directive Principles of State Policy pertaining to the establishment of village Panchayats as units of self governance, an ambitious rural sector initiative, the Community Development Programme, was launched in 1952. Its main thrust was to secure socio-

³⁵ Ibid, p.286

³⁶ Constitution Assembly Debate, Vol.VII, p. 520.

³⁷ Constitution Assembly Debate, Vol. VI, p. 249

economic transformation of village life through people's own democratic and cooperative organisations with the government providing technical services supply and credit. Under this programme 100 to 150 villages formed a Community Development Block and participation of the whole community was the key element of this experiment, which strengthened the foundation of grassroots democracy.

In 1953, the National Extension Service was introduced aimed at transferring scientific and technical knowledge to agricultural, animal husbandry and rural craft sectors. During this period the institutions of rural local self governance i.e. Panchayat Raj Institutions came into existence as development agencies. The underlying theme was extension of innovative pilot projects. While the programme did not have any content of elected democratic institutions since they were run by government functionaries with the help of ad-hoc semi-popular bodies or Samitis, still in the midst of the euphoria prevailing immediately after Independence of the country, they, to a great extent, caught the attention of the rural masses.

In 1956, when the Second Five Year Plan was launched, it recommended that the Village Panchayats should be organically linked with popular organisations at higher levels and in stages the democratic body should take over the entire general administration and development of the district or the sub-division excluding functions such as law and order, administration of justice and selected functions pertaining to revenue administration. It is observed the present system of rural local governance system i.e. Panchayat Raj is the out come of the failure of the Community Development Programme and National Extension Service, which led to the setting up of a Committee under the Chairmanship of Balwantrai Gopalji Mehta to study the system of Panchayati Raj in India.

Balwantrai Mehta Study Team 1957:

A Study Team was appointed on 16th January 1957 on the Community Projects and National Extension Service to study the activities of Community Development Programme of India. The Study Team submitted its Report³⁸ on 24th November 1957. The Report was quite exhaustive with 18 Sections. The main features of recommendations included the establishment of a three-tier of Panchayat Raj System (village Panchayat, Panchayat Samiti and Zilla Parishad and which are popularly known as institution of rural local self governance), democratization of

³⁸ Government of India, Report of the Team for the Study of Community Projects and National Extension Service, Vol. I, Committee on Plan Projects, New Delhi, 1957.

functions of village Panchayats, Panchayat Samitis and Zilla Parishads, assignment of source of income to above institutions and setting up of a permanent cadre of Panchayat Raj Institution. However, the most dynamic component among all recommendations was the 'democratic decentralization'. The study team also recommended a directly elected Panchayats for every village and an executive body for every Panchayat Samiti with directly elected and co-opted members. The Zilla Parishad at district level as an Advisory Body constituted indirectly from ex-officio members with district Collector as the Chairperson. The recommendations of the Mehta Committee were approved by the National Development Council and were communicated to the states in 1958. Consequently the states and the union territories enacted laws for establishment of Panchayat Raj Institutions. To evaluate the effects of the recommendations it was observed that the democratic decentralisation concept of the study team did not succeed in face of the inhibitory determinants from political, financial, functional and administrative. The very idea of self governance lost its meaning and scope and it led to some changes after two decades after the recommendations.

The Balwant Rai Mehta Committee offered two broad directional thrusts; first that there should be administrative decentralization for effective implementation of the development programmes and the decentralized administrative system should be placed under the control of local bodies. Second, it recommended that the Community Development Blocks throughout the country should be designed as administrative democratic units with an elected Panchayat Samiti at this level to operate the developmental activities in the area. This Samiti would need guidance of technical personnel in many matters; hence it should have line department officers of suitable competence under its control. The Panchayat Samiti was also to be equipped with sources of income. Certain powers of control were retained by the government; like supervision of Panchayat Samiti in public interest, suspension of a resolution of a Panchayat Samiti by the Collector either on the grounds of breach of peace or for being contrary to the law of the land. The recommendations also suggested reservation for SC/ST and women through co-option. In order to ensure coordination, the Committee recommended formation of a Zilla Parishad at the district level consisting of all the Presidents of the Panchayat Samitis, Members of Legislative Assemblies and Members of Parliament with district level officers of the public health, agriculture, veterinary and education departments as members and the

Collector as the Chairperson. But the Committee made it clear that the district tier was being conceived just as an advisory body; a support structure for Panchayat Samitis. To sum up, in short, the suggestions were as follows:

- An early establishment of elected local bodies and devolving them the necessary resources, power and authority,
- The basic unit of democratic decentralization would be at the Block/ Samiti level since the area of jurisdiction of the local body should neither be too large nor too small. The block is large enough for efficiency and economy of administration, and small enough for sustaining a sense of involvement in the citizens,
- Such body must not be constrained by too much control by the government or government agencies,
- The body must be constituted for five years by indirect elections from the village Panchayats,
- Its functions should cover the development of agriculture in all its aspects, the promotion of local industries etc.
- Services such as drinking water, road building, etc.
- The higher level body, Zilla Parishad, would play an advisory role.

The recommendations of the Committee were generally welcomed and Panchayati Raj legislations were enacted in a number of States to give effect to these recommendations.

Beginning with Rajasthan and Andhra Pradesh in 1959, the Panchayati Raj system was at work in some form or other in all the States of the Indian Union, although the higher tier had not been set up in Kerala and Jammu & Kashmir. By the 1960s, Gram Panchayats covered 90% of the rural population in the country. Although a number of Panchayat structures were set up in different States at all the three-tiers, they had limited powers and resources and the essential idea that all developmental activity should flow only through the Block i.e. Panchayat Samitis lost their ground. Moreover, important schemes were not brought within the purview of the elected Zilla Parishad even in States like Maharashtra and Gujarat where effective financial decentralization had taken place. Unfortunately, after the intensive stage of the Community Development Programme, there was a visible trend towards centralization. Panchayati Raj elections were postponed indefinitely and flows of funds for Block Development were reduced to a trifle. The net result was that, by the 1970s, these bodies remained in existence without adequate functions and authority. The position of these institutions was further weakened by the creation of a large

number of boards, which were assigned many of the functions legitimately envisaged in the domain of Panchayat Raj Institutions but without assigning any fiscal powers. Thus the local governance institutions suffered a major set back.

State Committees on Panchayati Raj:

Following the observations and recommendations of the Balwantrai Mehta Committee Report 1957, the Central Government implemented schemes that were helpful for the State Governments to take steps to organize Panchayati Raj i.e. rural local governance system in their respective states. As a result, a few leading states like Madhya Pradesh, Andhra Pradesh, Karnataka and Rajasthan set up State Committees on Panchayati Raj to study the working of Panchayati Raj system in their respective states.

Rural Local Self Government Committee, Madhya Pradesh:

The Rural Local Self Government Committee set up in 1957 by Madhya Pradesh Government observed in its report in 1958 "Although the 'Janapada Sabhas' achievements have fallen short of expectations³⁹we feel that the existence of these institutions..... In the new set up of the three-tier system we are now proposing, use could be made with great benefit of people so experienced particularly at the Block level institutions"⁴⁰.

Study Team on Panchayati Raj, Andhra Pradesh:

In Andhra Pradesh a Study Team was set up by the Association of Voluntary Agencies for Rural Development to study the working of Gram Panchayat. The Committee submitted its report in 1961, titled as "Panchayati Raj in Andhra Pradesh". The Committee observed the functioning of Gram Panchayats and Panchayat Samitis and recommended for supervisory role of Zilla Parishads over Panchayati Samiti and Panchayati over Gram Panchayat, Panchayat finances, planning at Panchayat and district level etc which later on helped for the development of institutions of local self governance in Andhra Pradesh.

Committee on Panchayati Raj, Karnataka:

The Committee on Panchayati Raj was constituted by the Government of Karnataka in 1962. The Committee under the Chairmanship of Kondaji Basappa, the then Deputy Minister for Cooperation, recommended for an executive body at district

³⁹ Relevant in this context may be the observation of the Balwantrai Team for the Study of Community Projects and National Extension Service.

⁴⁰ Report of the Local Self Government Committee, Bhopal, Government Central Press, 1959, p.18

level called Zilla Parishads in place of District Development Councils and supervision of Taluka Development Boards by Zilla Parishads. The Committee also recommended for a five year term of Panchayat bodies, election to PRI, Nyaya Panchayat, duties of PRIs, different Standing Committees for development of Panchayat Raj Institutions and fund management of three-tier PRIs.

Panchayati Raj Study Team, Rajasthan:

In 1962, the Government of Rajasthan appointed a study team on Panchayati Raj under the Chairmanship of Mr. Sadiq Ali to study the working of Panchayati Raj Institutions in the state and to suggest measures for its improvements. The study team submitted its report in 1964. The main recommendations of the report included Panchayati Raj Institutions (PRIs) as units of local government and thus, should function as an agency of the state government, structure and functions of three-tier PRIs, direct elections to PRIs, 4 year tenure. It was said that PRIs should be kept away from active party politics, functions of Gram Sabha and its budget, Panchayat should function as agencies of Panchayat Samiti, compulsory Standing Committees for development works, functioning of Nyaya Panchayat, state and district level tribunals for control and supervision of PRIs and fund and financial management of Panchayati Raj Institutions in Rajasthan.

Santhanam Committee on Panchayati Raj Finance, 1962:

The Government of India set up a Study Team in July, 1962 with Shri K. Santhanam as its Chairperson to examine whether the financial resources available to the Panchayati Raj Institutions were adequate and to study comprehensively other connected problems and to offer its own recommendations. The team submitted its report to the Government of India on 31st July, 1963 and the main recommendations of the Committee are as summarized below⁴¹:

- Panchayats should have special powers to levy special tax on land revenues and home taxes, etc.,
- People should not be burdened with too many taxes,
- All grants and subventions at the state level should be mobilized and sent in a consolidated form to various Panchayati Raj Institutions,
- A Panchayat Raj Finance Corporation should be set up to monitor the financial resource of PRIs at all levels, provide loans and financial assistance to these

⁴¹ Manoj Rai, et al. : The State of Panchayats – A Participatory Perspective, New Delhi, Smscriti, 2001.

grassroot level governments and also take care of the non-financial requirements of villages.

K. Santhanam Committee on Panchayat Elections, 1965:

In February 1963, the Union Ministry of Community Development and Co-operation set up a Committee on Panchayati Raj Elections⁴² under the Chairpersonship of K. Santhanam. The Committee submitted its report to the Government of India in April 1965. It recommended that voting to the Panchayati Raj bodies should be compulsory and that the villager not exercising their franchise should be fined one rupee each. The Committee was of the view to keep political parties away from Panchayati Raj elections and at the same time no official recognition should be extended to them at any state, nor party symbols allotted to candidates in election. The Committee recommended no incentives in cash or kind should be offered to ensure unanimity in Panchayat elections but voluntary agencies should be involved in the propaganda to bring about unanimity or consensus.

The Committee also suggested the reservation of seats for women candidates in the Panchayat elections. "There should be two seats reserved for women in every Panchayat and two seats reserved for Scheduled Castes where they constitute more than 10 percent of the population and one seat where their number is less than 10 percent. They can also contest for unreserved seats if they are not exclusively reserved for women candidates. The Sarpanch should be elected directly by the voters of the Panchayat". It also suggested for co-option of four women members for each Panchayat Samiti and eight women members for Zilla Parishad respectively. The term of office of the members of Panchayats, Sarpanch and his deputy should be five years. The Committee also recommended regarding strengthening of the three-tier Panchayat Raj Institutions. The Committee further recommended the simplification of the conduct of Panchayat elections, nominations, fees for nomination and other procedures relating to Panchayat elections.

Administrative Reform Commission Report:

In 1969, the first Administrative Reforms Commission in its report on State Administration recommended that the main executive organ of the Panchayati Raj system should be located at the district level in the form of "Zilla Parishad" and not at

⁴² K. Santhanam Committee Report on Panchayati Raj Elections, Ministry of Community Development and Cooperation, Government of India, New Delhi.

the Block level as Panchayat Samiti. It was of the view that the Zilla Parishad would be in a better position to take a composite view of the resources and needs of the entire district and thus will be able to formulate a plan for the area. The Commission also believed that due to paucity of resources, it was difficult to sustain a well equipped administrative and development machinery at the level of a Block.

Consultative Councils on Rural Local Governance:

The Central Government also constituted two separate Consultative Councils on Community Development⁴³ and Consultative Council on Panchayati Raj⁴⁴ in the year 1968 and 1969 respectively. As the twin objectives of Community Development and Panchayati Raj are closely related, the councils urged for a single forum and their merger. The Government of India accordingly decided to amalgamate the existing two councils and to constitute a single "Consultative Council on Community Development and Panchayati Raj"⁴⁵ in 1971. The Consultative Council was a broad based body which included the ministers and senior officials in the Ministry of Agriculture, Minister in charge of Community Development and Panchayati Raj in the states, selected Members of Parliament and some non-officials including academicians. The Central Minister of Agriculture was the Chairperson of the Council. The term of office of the members of the Councils was three years. It was an advisory body but after some time it ceased to work.

In 1977, Government formed a Committee under the Chairman of Sri Asoka Mehta to go into the working of Panchayati Raj Institutions and to suggest measures to strengthen them into effective local apparatus for decentralized planning and development of the rural areas. This was considered necessary in view of the Government's high priority to rural development, which included the need to increase agricultural production, create employment and eradicate poverty.

Ashoka Mehta Committee Report, 1978:

With the coming of the Janata Party into power in India at the Centre in 1977, Ashok Mehta Committee (1978)⁴⁶ was set up to enquire into the functioning of Panchayati Raj Institutions and to suggest measures for strengthening them so as to enable a decentralized planning and effective development. It was decided to appoint

⁴³ Resolution No.11/1/67-C) & B dated December 10, 1968, Ministry of Agriculture, Government of India.

⁴⁴ Resolution No.5-1/66-PP dated April 5, 1969, Ministry of Agriculture, Government of India.

⁴⁵ Resolution No.R-13011/1/71-CDN, dated December 19, 1971, Government of India, Ministry of Agriculture, Department of Community Development.

⁴⁶ Report of the Committee on Panchayati Raj Institutions, Government of India, New Delhi.

a High Level Committee under the Chairmanship of Ashok Mehta and twelve other members to examine and suggest measures to strengthen Panchayat Raj Institutions. The Cabinet Secretariat set up the Ashok Mehta Committee on 12th December 1977. This Committee is popularly known as Ashok Mehta Committee on Panchayati Raj. The Committee submitted its report to the Government of India on 17th August 1978.

The Committee in its report remarked that the history of Panchayati Raj Institutions can be summarized in three phases:

1. The period from 1959 to 1964 as the period of ascendancy when the grassroots institutions took root.
2. The period from 1964 to 1969 called as a phase of stagnation, and
3. The period from 1969 to 1977 which was called the phase of non-performance

In the report, it also stated that it was disappointing that Panchayati Raj Institutions (PRIs) had not been assigned adequate functions and developmental programmes were not channeled through them. The Ashoka Mehta Committee reviewed the situation in 1978 to recommend an institutional design for Panchayati Raj in the light of development thrust and technical expertise required for planning and implementation of rural development programmes. The main recommendations of Ashoka Mehta Committee dealt with the structures, functions, composition and election, planning, weaker sections, administration, financial resources, human resource development etc. In short, the recommendations of the Ashok Mehta Committee⁴⁷ were as follows:

- The district is a viable administrative unit for which planning, co-ordination and resource allocation are feasible and technical expertise available,
- PRIs as a two-tier system, with Mandal Panchayat at the base and Zilla Parishad at the top,
- The PRIs are capable of planning for themselves with the resources available to them,
- District planning should take care of the urban-rural continuum,
- Representation of SCs and STs in the election to PRIs on the basis of their population,
- Four-year term of Panchayati Raj Institutions (PRIs),
- Participation of political parties in elections,

⁴⁷ Ashok Mehta Committee, Ministry of Agriculture & Irrigation, Department of Rural Development, Government of India, Report of the Committee on Panchayati Raj Institutions, New Delhi, 1978

- Any financial devolution should be committed to accepting that much of the developmental functions at the district level would be played by the Panchayats.

But unfortunately the recommendations of Ashok Mehta Committee could not be acted upon by the short-lived Janata Party Government at Centre. As a result, the recommendations were not implemented fully and there was no improvement in the conditions of the Panchayat Raj Institutions. However, the states of Karnataka, Andhra Pradesh and West Bengal passed new legislations based on this report. The flux in politics at the state level did not allow these institutions to develop their own political dynamics.

With minor variations introduced by subsequent Committees in the 1980s, the recommendations of the Ashok Mehta Committee were generally well received and led many of the States to introduce appropriate amendments in their Panchayati Raj Acts. Karnataka, Maharashtra, Andhra Pradesh, West Bengal and Gujarat adopted the new arrangement, but U.P., Bihar, Odisha, Punjab and Haryana held back. Some of them did not hold elections even to the existing bodies. By the end of 1980s, except Meghalaya, Nagaland, Mizoram and the Union Territory of Lakshadweep, all other States and Union Territories had enacted legislation for the creation of Panchayat Raj Institutions. In 14 States/ Union Territories, there was a three-tier system. In 4 States/Union Territories it was a two-tier structure. In 9 States/ Union Territories only one tier Panchayati Raj system functioned. The Committee was also of the view that despite the rhetoric, Panchayat empowerment was not of much use unless it received Constitutional standing. Hence, there was need for introducing a Constitutional amendment on this subject. With some variations, these recommendations form the basis of the PRI structure in existence in the country today.

Sarkaria Commission, 1983:

The Commission on Centre State relations popularly known as Sarkaria Commission⁴⁸ was set up of by the Ministry of Home Affairs, Government of India on 9th June 1983 under the Chairmanship of R.S. Sarkaria, a retired judge of Supreme Court with an aim to examine and review the working of the existing arrangements between the union and states with regards to powers, functions and responsibilities in all spheres and to recommend such changes and reform measures as may be appropriate.

⁴⁸ Sarkaria Commission – Commission on Centre State Relations Report, 1983.

The Committee paid considerable attention to the working of the Panchayati Raj system on the issues of decentralization of power and planning process, financial and functional setting up of the institutions like Zilla Parishads, Municipal Corporations with regular functions. It recommended to have uniformity of institutions all over the country by a constitutional amendment. A Finance Commission was recommended at state level to enable the state government to develop its resources to district level.

After the recommendations of Ashok Mehta Committee and Sarkaria Commission, the Planning Commission of India, again appointed another Committee to study the District Level Planning.

C.H. Hanumantha Rao Committee 1984:

The Hanumantha Rao Committee on District Level Planning was appointed by Planning Commission of India in September 1982. The Hanumantha Rao Committee studied the system of district level planning in India and submitted its report in May 1984. This Committee was followed by G.V.K. Rao Committee(1985), which was one of the most important Committees appointed for the study of Panchayat Raj Systems in India.

G.V.K. Rao Committee(1985):

The Committee on Administrative Arrangements for Rural Development (CAARD) was set up under the Chairmanship of G.V.K. Rao, a senior administrator in 1985 which is popularly known as G.V.K. Rao Committee⁴⁹ to look into different aspects of working of Panchayati Raj System in India. The Committee commented that after the initial enthusiasm, following the creation of PRIs, there had been stagnation and later decline in the functioning of these institutions in many parts of the country. The Committee studied that apart from inadequate resources, elections to these bodies were not held regularly. Elections were overdue in many states and were being put off on pretext or other. The Committee felt that wherever the Panchayat Raj Institutions had been actively involved, the implementation of rural development programmes had been decidedly better and the selection of beneficiaries and designing of schemes had been more satisfactory. The G.V.K. Rao Committee recommended a lot of functions, which the Panchayat Raj Institutions are mostly

⁴⁹ Government of India, Report of the Committee on Administrative Arrangements for Rural Development and Poverty Alleviation Programme (Chairman: G.V.K. Rao), Ministry of Agriculture, Department of Rural Development, New Delhi, 1985.

performing now-a-days. The Committee observed that initially democracy and development marched hand in hand. The G.V.K. Rao Committee recommended the following steps:

- PRIs have to be activated and provided with all the required support to become effective organisations,
- Panchayat Raj Institutions at the district level and below should be assigned the work of planning, implementation and monitoring of rural development programmes, and
- The block development office should be the spinal cord of the rural development process.

L. M. Singhvi Committee (1986):

The L.M. Singhvi Committee of the union Department of Rural Development, set up in 1986 advocated that the Panchayati Raj Institutions should primarily be viewed as the local self government system⁵⁰. The Committee observed that initially democracy and development have marched hand in hand. There was a climate of optimism and resurgences, but within a few years of inauguration, Panchayat Raj Institutions as center of people's power aroused apprehension and jealous hostilities all around. There was a chronic insufficiency of resources at the disposal of these institutions. The L. M. Singhvi Committee had made several recommendations for the improvement of functioning and working of Panchayat Raj Institutions (PRIs).

L.M. Singhvi Committee studied comprehensively the working of Panchayati Raj system in the whole country and suggested to consider Gram Sabha as the base of a decentralized democracy and Panchayat Raj Institutions to be viewed as institutions of local self-governance which would actually facilitate the participation of the people in the process of planning, development and implementation of Government schemes and programmes. It recommended the followings for the improvement of Panchayati Raj Institutions:

- Local self-government should be constitutionally recognized, protected and preserved by the inclusion of a new Chapter in the Constitution,
- Non-involvement of political parties in Panchayat elections.

The suggestion of giving Panchayats constitutional status was opposed by the Sarkaria Commission, but the idea, however, gained momentum in the late 1980s

⁵⁰ Government of India, Report of the Committee on Panchayati Raj (Chairman: L.M.Singhvi), Ministry of Agriculture, Department of Rural Development, New Delhi, 1986.

especially because of the endorsement made by the then Prime Minister Rajiv Gandhi, who introduced the 64th Constitutional Amendment Bill in 1989. The 64th Amendment Bill was prepared and introduced in the lower house of Parliament. But it was defeated in the Rajya Sabha as non-convincing. All the above suggestions and recommendations are taken into consideration to strengthen the institutions of rural local self governance system i.e. Panchayat Raj while formulating the new 64th Constitutional Amendment Act in the year 1989.

64th Constitutional Amendment Bill, 1989

The next landmark initiative attempted at national level to give constitutional status to the institutions of rural local self governance system was attempted by the Rajiv Gandhi Government in 1989 in the shape of 64th Constitutional Amendment Bill which was introduced in the Parliament during July 1989 by the then Government of Rajiv Gandhi. The basic important provisions of the Bill were:

- a) It should be mandatory for all States to set up rural local governance systems i.e. Panchayati Raj Institutions (PRIs) and Urban Local Bodies (ULBs).
- b) The elections to be conducted by the Election Commission.
- c) Tenure of Panchayats/Urban Local Bodies to be five years and, if dissolved prematurely, fresh elections should be held within six months.
- d) All seats (except those meant for the representatives of other institutions) to be filled by direct elections.
- e) Reservation of seats to be made for SC/ST/Women.
- f) Local bodies to be entrusted with more functions e.g. minor irrigation, soil conservation, bio-gas, health, benefits to SC/ST etc.
- g) Planning and budgeting systems to be introduced at the Panchayat level.
- h) The State Legislature to authorize Panchayats/ Urban Local Bodies (ULBs) to levy taxes /tolls and fees.
- i) A separate Commission to review the Local Body finances, and
- j) Panchayat Raj Institution /Urban Local Bodies accounts to be audited by the Comptroller and Auditor General (CAG) of India.

However, the Bill could not be passed in the Rajya Sabha. As a result the Central Government dissolved. In 1990, a combined Constitutional Amendment Bill, covering both Panchayat Raj Institutions and Urban Local Bodies was tabled in Parliament. It was a skeleton legislation, which left the details to be drafted by the State Governments in their respective State enactments. Even matters concerning elections were left completely to the discretion of the State Governments. With the dissolution of the Government, this Bill also lapsed. Finally in 1992, after making important features of the earlier exercises on this subject, Government drafted and

introduced the 73rd and 74th Constitutional Amendment Bills in Parliament, which were passed and came into force in 1993. This enactment introduced two new Parts i.e. Part IX and IXA in the Indian Constitution containing Articles 243 to 243ZG.

73rd Constitution Amendment:

The 73rd Constitutional Amendment Bill was passed by the Lok Sabha and the Rajya Sabha with near unanimity on 22nd and 23rd December, 1992 respectively. This Bill was ratified by 17 State Assemblies in 1993 and came into force in the country as “73rd Constitution Amendment Act” from 24th April 1993.

The 73rd and 74th Amendments to the Constitution opened a new chapter in the process of democratic decentralization in the country. The 73rd Constitutional Amendment Act was meant for the structure, composition and functions of the rural local self governance and the 74th Constitutional Amendment Act was meant for the structure, composition and function urban local bodies i.e. the Notified Area Councils (NACs), Municipalities and Municipal Corporations. In terms of these amendments, the responsibility for taking decisions regarding activities at the grass roots level which affect the lives of people directly would rest upon the elected members of the people themselves. By making regular elections to Panchayati Raj Institution / Urban Local Bodies / Municipal bodies mandatory, these institutions have been given permanency as entities of local self government with a specific role in planning for economic development and social justice for the rural areas. In totality, the intention of this enactment is to assign a position of command to local representatives in the democratic framework of the country. The sound salient features of the 73rd Constitutional Amendment Act are:

- i. Constitutional status for Gram Sabha. All the voters of the Gram Sasan will be the members of Gram Sabha.
- ii. Three-tier Panchayat system at the village, Block level and district levels except in State with populations of less than 20 lakhs, where intermediate Panchayats may not be constituted,
- iii. Tenure of three-tier Panchayati Raj Institutions was fixed for 5 years. Election would be conducted within 6 months if any of the institutions dissolved within 5 years.
- iv. All the seats in a Panchayat shall be filled up by direct election. But 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; Panchayat at the

intermediate level or district level shall be elected by and from amongst the elected members thereof. (In our state Sarpanch is being elected by direct election)

- v. Reservation was provided to SC, ST and OBC in proportionate to their respective population. Not less than one-third (including the 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 the women.
- vi. State Finance Commissions to be set up once in 5 years in every state to recommend the state about the financial provisions of the Panchayat Raj Institutions
- vii. Establishment of independent State Election Commission to manage, control and monitor the elections of Panchayat Raj Institutions.
- viii. Powers to be so devolved upon Panchayats as to enable them to functions as institutions of local self government (Article 243G read with Schedule XI).
- ix. A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.
- x. The Legislature of a State may, by law, provide for the representation 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;
- xi. Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes, in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled up by direct election in that Panchayats 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.
- xii. 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.
- xiii. Not less than one-third (including the 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.

- xiv. The offices of the Chairpersons in the Panchayats 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:
- xv. Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date of its first meeting.
- xvi. Election to constitute Panchayats shall be completed before the expiry of its duration specified in clause.
- xvii. Before the expiration of a period of six months from the date of its dissolution:
A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued.
- xviii. A person shall be disqualified for being chosen as, and for being, a member of a Panchayat if he is so disqualified by or under any law for the time being in force for the purposes of elections to the legislature of the State concerned: Provided that no person shall be disqualified on the ground that he is less than twenty five years of age, if he has attained the age of twenty-one years;
- xix. The Legislature of a State may, by law:
- Authorize a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
 - Assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
 - Provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and
 - Provide for constitution of such funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys there from as may be specified in the law.
 - The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution constitutes a Finance Commission to review the financial position of the Panchayat Raj Institutions and the principles which should govern the distribution between the State and the

Panchayats of the net proceeds of the taxes, duties, tolls and fees, leviable by the State, which may be divided between them.

Subject to the provisions of the Constitution, the legislature of a State 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 such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to:

- a) The preparation of plans for economic development and social justice;
- b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

The Panchayats previously were a mere suggestion in the Directive Principles of State Policy whereas the 73rd Amendment Act resulted in the Panchayati Raj Institutions (PRIs) being conferred constitutional sanction. This means that all activities of Panchayati Raj Institutions as stipulated by the Act now got legal and constitutional status and any violation of this by anybody at any time would be punishable by law. Constitutional status vide Article 243 of Part IX of the Constitution which came into effect from April 24, 1993 made it mandatory for all States to promulgate their own new Acts consequent to the 73rd Constitutional Amendment Act or amend their old ones by April 1994.

All states have done so by now keeping in view the provisions of 73rd Constitutional Amendment Act and state Panchayat Raj acts have been passed which incorporate a three-tier system of Panchayat Raj system consisting of Zilla Panchayats at the District level, Panchayat Samiti at Block level or at the intermediate level and Gram Panchayat at the village level which is the lowest tier of the three-tier institution.

By virtue of the Constitutional status bestowed upon the Panchayati Raj Institutions, it has now got the potential to revolutionize the way we have been seeing local self-governance. It is not only a system of participatory self governance but it ensures political empowerment to the poor, marginalized and the oppressed, which traditionally in our country have been the Scheduled Castes, the Scheduled Tribes, and the women. These features activate the Panchayat Raj Institutions (PRIs) today to contribute to the process of development.

To sum up the above discussions, the most important features of the 73rd Constitutional Amendment Act can be categorized into the following heads in brief:

1. **Constitutional Status:** Constitutional status has been accorded to the Panchayati Raj institutions, which paves an inherent check on the state not to tamper with the tenure of these institutions, as was the case before. This will facilitate their functioning as instruments of vibrant, viable and morally effective local governments with the capacity to learn, respond and to better mobilize peoples' participation in the management of their own affairs. The Gram Sabha, consisting of all eligible voters, has been made the soul of the Panchayat institutions to discuss and decide their own problems and to further people's participation in various development programmes in a democratic way. This will foster maximum accountability and transparency of administration and public awareness at village level.
2. **Uniform Structure:** The provision of a three-tier structure, except in states with less than a population of Twenty Lakh, will bring uniformity in the structure and pattern throughout the country which in time will strengthen planning processes at the grass root level.
3. **Direct Election:** The provision of direct election, which provides for electing all members of Panchayats at every level directly by the people, will also contribute to accelerate democratic processes at the grass root levels. Thus this will boost local people's initiative and enhance their involvement and participation in the system of rural local governance through the electoral process.
4. **Powers and Functions:** The Panchayats have been endowed with powers and authorities necessary to enable them to function as institutions of rural self-governance. Such laws may also contain provisions for the devolution of powers and responsibilities to Panchayats for preparing plans and to implement schemes for economic development and social justice on various subjects including those in the XI Schedule of the Constitution.
5. **Fixed Tenure:** Fixing the tenure of every Panchayat for a period of 5 years will ensure durability and building up confidence in Panchayati Raj Institutions. The tendency for long suppressions and dissolution of these bodies on some ground or other will also be curbed.
6. **Reservation for Women and members of the Scheduled Castes (SC) and Scheduled Tribes (ST) and Other Backward Classes (OBCs) to contribute to**

governance: Representation of women and SCs and STs has been ensured through reservation of a minimum of 1/3rd of the total seats at all the three levels. Similarly the other under privileged group of SCs and STs will get the opportunity to enter into the system through reservations in these bodies. This provision of reservation for the weaker sections and backward classes certainly help enhance the participation of these marginalized groups in the rural local governance system.

7. **Opportunity for the emergence of a new leadership:** Allowing persons who have attained the age of 21 years to be eligible for contesting elections in Panchayat bodies will provide opportunities for the younger generation to participate actively in the development process and share power. A new leadership will emerge which will be more energetic and enthusiastic in the task of nation building. Through the youth leadership the country must channelize the youth leader's potential for nation building.
8. **Financial Autonomy:** The amendment has empowered Panchayats to levy, collect and appropriate such taxes, duties, tolls and fees as may be laid down by the state Government. To review the financial position of the Panchayats, the Act provides that the Governor of a State shall constitute a State Finance Commission (SFC) for the state and there is provision to provide measures needed to arrange the Consolidated Fund of a State to supplement the resources of the Panchayats in the State. (Amendment of Article 280 of the Constitution has been done to ensure financial freedom to the Panchayati Raj Institutions).
9. **Provisions of a State Election Commission (SEC) and bar to interference of Courts in electoral matters:** The provision to vest powers to all matters relating to elections of Panchayats in a State Election Commission and setting up of a separate Election Tribunal will solve much of the problems relating to it. Restricting interference of Courts in electoral matters will reduce frequent litigation on flimsy grounds and will avoid unnecessary delay in the electoral process. This will ensure regular and fair elections to the Panchayat bodies in a democratic manner.

Article 243-B of the Constitution envisages that all the States and Union Territories, except those with populations of less than 20 lakhs will have to constitute a three-tier system of Panchayats i.e. at the village level, intermediate at Block or Taluk/ Mandal level and at apex level i.e. at district levels. While the district has been

defined as a normal district in a State, the jurisdiction of village and intermediate levels have not been specifically defined in the Act. A village as per the provisions of the Constitution is to be specified by the Governor by a public notification for the purpose of this part and includes a group of villages so specified. This means that the territorial area of a village Panchayat can be specified by a public notification by the Governor of the State and may consist of more than one village. Similarly, the intermediate level can be a Taluk, Block or a Mandal level. But there seems to be an area of weakness in the Constitutional scheme. Local Government is a State subject under Schedule VII of the Constitution and the implementability of these provisions and the success of the entire constitutional system depends upon the sincere interests of the state governments.

STRUCTURAL MECHANISM:

The Panchayati Raj systems in the country generally become a three-tier arrangement after the 73rd Constitutional Amendment. The first structure of the Panchayati Raj Institution is at the village level i.e. Gram Panchayat, the second at the Block/Taluk level i.e. Panchayat Samiti and the third at the district level i.e. Zilla level. The first tier at village level is generally known as Gram Panchayat or Gaon Panchayat or Panchayat or Mandal Panchayat as it varies from state to state. The second tier i.e. Block level Panchayat is commonly called as Panchayat Samiti except in some states and union territories. It is called Mandal Praja Parishad in Andhra Pradesh, Taluka Panchayat in Gujarat, Taluk Panchayat Samiti in Karnataka, Janapada Panchayat in Madhya Pradesh, Panchayat Union in Tamil Nadu, Khetra Samiti in Uttar Pradesh, Anchal Samiti in Arunachal Pradesh and Anchalik Panchayat in Assam and Panchayat Samiti in Odisha. The third-tier i.e. district Panchayat is popularly known as Zilla Parishad. In Odisha it is known as Zilla Parishad, in Assam it is known as Mohakma Parishad. In Tamil Nadu it is called District Development Council.

PRI Structure at Village Level:

The Village Panchayat or Gram Panchayat covers a population that varies considerably from state to state. It is 300 people in Arunachal Pradesh to 7,000 in Karnataka and upto 10,000 in Assam. Statistically, one member of a village Panchayat represents anywhere between 100 in Arunachal Pradesh to 500 persons in Bihar. Proportionate reservation for SC/ST is provided by all states. Reservation of seats to the minimum extent of 33 percent for women in the Gram Panchayat is also a

provision in all the states. Reservation for the backward classes, though discretionary, is provided for by Bihar, Karnataka, Madhya Pradesh, Maharashtra, Andhra Pradesh, Gujarat, Haryana, Rajasthan, Himachal Pradesh, Uttar Pradesh, Punjab and Goa. There are also variations in the percentage of seats reserved for the backward classes: one-tenth in Gujarat, one-third in Andhra Pradesh and Karnataka, and 27 percent in Maharashtra. In Madhya Pradesh, where 50 percent or less of the seats are reserved for SC/STs, 25 percent are reserved for Backward Classes. In Punjab, one seat in each Gram Panchayat is reserved for the Backward Classes, if their population is more than 20 percent. In Haryana, one seat is reserved for the Backward Classes, if their population is 2 percent or more of the total population of the Gram Sabha area. The mode of election of the Chairperson (variously called Sarpanch, Pradhan or Mukhiya) at the village Panchayat level is determined by the states. Thus, many states including Bihar, Gujarat, Goa, Madhya Pradesh, Assam, Manipur, Tamil Nadu, Andhra Pradesh, Rajasthan, Uttar Pradesh, Haryana and Punjab and Odisha have provided for direct election of the Chairperson at this level. In Himachal Pradesh, the "Upa-Pradhan" (or deputy chairperson) is also directly elected. The remaining states provide for indirect election, with the Chairperson being elected by the directly elected members of the body from among themselves. The office of the Chairperson is also subject to provisions of reservation for Scheduled Castes and Scheduled Tribes (in proportion to their population) and women (not less than one-third). Arunachal Pradesh provides reservation to women alone. In Uttar Pradesh, reservation for women in Chairpersonships is subject to condition that it should not exceed 27 percent of the total number of offices of Pradhans. In other states, it varies from one-tenth in Gujarat and one-third in A.P. and Karnataka, to 25 % in Madhya Pradesh and 27 % in Maharashtra. Two significant provisions that seriously impact the functioning of women representatives are the two-child norm and no-confidence motions against the Chairperson. Some states have introduced the two-child norm, disqualifying the candidature of all those who have more than two children. While Madhya Pradesh and Himachal Pradesh introduced and subsequently revoked the two-child norm, Andhra Pradesh, Rajasthan and Chhattisgarh continue to enforce it. No-confidence motions are widely provided for though there are notable variations across states. In Sikkim and West Bengal, a simple majority of the total members can vote out a sitting Chairperson, while in most of other states this requires a majority of between two-thirds (Karnataka, Bihar, Maharashtra, Rajasthan, and Uttar Pradesh, among others)

and three-fourths (Madhya Pradesh). In Punjab and Haryana, a majority of Gram Sabha members can unseat a Chairperson, while in Himachal a two-thirds majority of the Gram Sabha members is required. Goa has the most foolproof method of all states - a no-confidence motion has to be supported by a two-thirds majority of the Gram Panchayat, ratified by a simple majority of the Gram Sabha members - while Andhra Pradesh and Tamil Nadu have not made any such provision at all. In Himachal Pradesh, there is no special safeguard against the removal of women Pradhans through no-confidence motions. But if a no-confidence motion - against any Pradhan, male or female fails; it cannot be raised for a two-year period following the rejection. However, in the case of no-confidence motions passed against a woman Chairperson, the office, if reserved for women, can be filled only by another woman. In Madhya Pradesh, which is distinctive in having a right to recall provision in its conformity law, the Gram Sabha has the right to recall the Sarpanch or a Panch after two and-a-half years of his tenure, through a secret ballot. All disputes regarding no confidence motions against the Sarpanch or Upa Sarpanch are referred to the Collector, whose decision is final. There are variations also in the number of Standing Committees. Standing Committees on Social Justice, Finance, Education, and Poverty Alleviation are provided for by several states. These are also important from the gender perspective, because provisions for reservation for women frequently do not apply to these Committees⁵¹.

PRI Structure at Middle tier: Block or Taluk/ Mandal Panchayat

In several states including Bihar, Tripura, Odisha, Madhya Pradesh, Rajasthan, Maharashtra, Himachal Pradesh, Arunachal Pradesh, Kerala, Assam, Punjab, Haryana, Tamil Nadu and West Bengal Panchayats at the intermediate or middle level are constituted at the Block level. In Karnataka and Gujarat they are constituted at the level of the Taluk, while in Andhra Pradesh at the Mandal level. There are significant variations in the nomenclature of these Intermediate Panchayats: they are called by many names, ranging from Janpad Panchayat in Madhya Pradesh to Kshetra Panchayat in Uttar Pradesh, and as Panchayat Samiti in most of the northern states. Members of these Panchayats are directly elected, though the number of members depends on the population, with one member on average representing 2,000 - 4,000 people in the mid-sized to big states. In most states, the Chairpersons of the third-tier

⁵¹ Source: Ministry of Panchayati Raj, Government of India, Study Report on Elected Women Representatives New Delhi, 2008, p-10.

are ex-officio members of the intermediate level Panchayat, too. While this is the provision in Bihar, Tripura, Uttar Pradesh, Odisha, Kerala, Arunachal, West Bengal and Assam, other states like Karnataka, Punjab and Haryana take one-fifth of the Chairpersons of the lower tier on a rotational basis for one year. In several states, MPs and MLAs are also ex-officio members of these bodies with provisions also existing in many places for the co-option of the director of the Cooperative Marketing Society or the Cooperative Bank. One-third of the seats in these bodies are also reserved for women, though as with the Gram Panchayat, reservation for OBCs is discretionary. Nevertheless, several states have made such provision, according to the same formulae largely similar to those adopted for the Gram Panchayats. The Chairpersons at the intermediate level are indirectly elected, i.e. by the elected members. Again, the nomenclature varies across states, though the one-third reservation for this office is uniform. Many states have also exercised discretion in providing reservation for OBCs to the office of the Chairperson⁵².

PRI Structure at District Level:

The Zilla Parishad is the apex-tier of the Panchayati Raj structure. Its members are directly elected by the voters in the district and one member may represent anywhere between 15,000 to 50,000 people, depending upon the population of the state. The President or head of the Zilla Parishad is known as Zilla Pramukh in many states, or by other names such as Sabhadipati in Tripura and West Bengal or Adhyaksha in Uttar Pradesh and Himachal Pradesh. In a majority of states, the Zilla Pramukh is directly elected, though some states, e.g. Arunachal Pradesh, follow the practice of selecting the Zilla Pramukh from among the elected members. In Odisha, the President of Zilla Parishad is called Adhyakshya. The Chairperson of the intermediate level Panchayat is generally an ex-officio member of the district Panchayat, as are Members of Parliament and Members of the state Legislative Assembly. It is only in Maharashtra that legislators are completely excluded, while in Gujarat they are permanent invitees without the right to vote. At this level, too, there is mandatory reservation of one third seats for women (one-third) and for Scheduled Castes and Scheduled Tribes (in accordance with their proportion in the population). However, in Odisha from the current year (2012-13) the reservation has been raised from 33% to 50% in Zilla Parishad. Reservation, on the same basis, holds for the

⁵² Source: Department of Panchayati Raj, Government of India, Study Report on Elected Women Representatives, New Delhi, 2008, p.11.

office of the Chairperson in the Panchayats of this tier. The Chairperson and the Vice-Chairperson are indirectly elected by the elected members of the Panchayat. In Madhya Pradesh, however, they are indirectly elected by all members of the Zilla Parishad. Not surprisingly, this is the level at which there are the maximum number of Standing Committees (the average, across states, being around six Committees per district Panchayat) though Sikkim and Arunachal Pradesh have none. In Odisha, the number of Standing Committee is 7 and it has provided for the representation of women in the Standing Committee on education and health, (three of its five members must be women). In most other states, persons belonging to the SC/STs or Other Backward Classes (OBCs) are usually co-opted on to Committees, but not women. Though Odisha is one of the few states that has sought to make special provision for its tribal population in tribal areas, not less than half the directly elected seats are reserved for the STs, and all the offices of Sarpanches in the Gram Panchayats in these areas are so reserved, it has however neglected to make any special provision for tribal women⁵³. The all India status of three-tier Panchayats along with elected members of Panchayati Raj Institutions is mentioned in the following Table.

TABLE -2.1 : BASIC STATISTICS OF PANCHAYAT RAJ INSTITUTIONS

Sl. No.	STATE	GRAM PANCHAYAT		INTERMEDIATE PANCHAYAT		ZILLA PARISHAD		Total Elected Members
		No. of Gram Panchayats	No. Elected Members	No. Intte Panchayats	No. of Members	No. Zilla Parishads	No. of Elected Members	
1	Andhra Pradesh	21825	208291	1098	14617	22	1095	245828
2	Arunachal Pradesh	1639	6485	136	1639	14	136	9899
3	Assam	2223	22898	188	2148	20	390	27659
4	Bihar	8471	117397	531	11537	38	1157	138562
5	Himanchal Pradesh	3243	25352	75	1667	12	251	30513
6	Maharashtra	27918	223857	351	3902	33	1951	257628
7	Manipur *	165	1707			4	61	1933
8	Madhya Pradesh	23051	388829	313	7164	48	884	419928
9	Odisha	6236	87551	314	6235	30	854	100876
10	Punjab	12447	88136	141	2622	17	298	103503
11	Rajasthan	9188	113541	237	5256	32	1007	128992
12	Sikkim *	166	905			4	100	1171
13	Tripura	513	5352	23	299	4	82	6246
14	Uttar Pradesh	52000	703294	820	65669	70	2698	823661
15	West Bengal	3354	49545	341	8483	13	721	62103
16	Goa *	190	1450			2	50	1690
17	Gujarat	13819	109209	224	4161	25	817	128006
18	Kerala	999	16139	152	2005	14	319	19462
19	Tamil Nadu	12618	109308	385	6524	28	656	129106
20	Uttarkhand	7227	53988	95	3152	13	360	64727

⁵³ Source: Ministry of Panchayati Raj, Government of India, Study Report on Elected Women Representatives in PRIs, 2008, p.11.

21	Chhatisgarh	9820	157250	146	2831	16	305	170206
22	Karnataka	5653	91402	176	3683	27	1005	101743
23	Haryana	6187	66256	119	2823	19	384	75650
24	Jharchand	4562		211		22		
25	Jammu & Kashmir							
SI No.	Union Territories							
26	Andaman & Nicobar Islands	67	758	7	67	1	30	922
27	Chandigarh	17	91	1	15	1	6	129
28	D & N Haveli *	11	114			1	11	136
29	Daman & Diu*	14	77			1	20	111
30	Lakshadwee*	10	85			1	25	120
31	Puducherry *	98	913	10	108	1		1119
N.B. * Two Tier Panchayati Raj System: Meghalaya, Mizoram & Nagaland have traditional Councils Jammu & Kashmir elections have not been held after adoption of the Panchayat Act Jharkhand elections have not been held Figures include Males and Females Source: Panchayat Statistics - Compiled from the Report - The State of Panchayats : 2007-08(IRMA), Annexure -I and Study on Elected Women Representatives in PRIs by Ministry of Panchayati Raj, Govt. of India Report, 24 April 2008								

Provisions of the Panchayats Extension to Scheduled Areas (PESA) Act, 1996:

According to Article 243-M of the Constitution, the provisions of the 73rd Constitution Amendment Act cannot be extended to Tribal Areas and Scheduled Areas referred to in Article 244, Clauses (1) and (2). But Article 243-M 4(b) empowers the Parliament to make laws to extend the provisions of the Act subject to certain conditions. The Ministry of Rural Development, Government of India constituted a Committee of selected Members of Parliament and experts to make recommendations on the salient features of the law for extending provisions of Part XI of the Constitution to the Scheduled Areas. The Committee met in July, 1994 when it decided to constitute a group comprising Dileep Singh Bhuria, MP as Chairperson of the Committee and Khagapati Pradhani, MP, Prof. M Kamson, MP, Dr. B.D. Sharma, Dr Bhupinder Singh, Bandi Oraon, as Members and Sushma Singh, Joint Secretary (Monitoring) as Convener. The Bhuria Report was released in the year 1995 and it highlighted the need for Gram Sabha to be legally recognized as the primary centre of tribal governance and also suggested that the long-standing demand of tribals for control over productive land and forests should be conceded to and that administrative interference in the affairs of tribals should be minimized.

Based on the suggestions of the Bhuria Report of 1995, in December 1996, the Parliament of India passed the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, (in short PESA Act) and subsequently, the President's assent was accorded on 24th December 1996 to make it a part of the Constitution, recognizing the tribals right to self-rule. Nine States that have Fifth Schedule Areas are Andhra

Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha and Rajasthan. PESA did not mention about the Sixth Schedule Areas.

Salient Features of PESA Act 1996:

PESA Act extends Part IX of the Constitution to Fifth Schedule Areas, subject to certain exceptions and modifications. The salient features of Provisions of the Panchayats Extension to Scheduled Areas (PESA) Act, 1996 are as follows:

- The Act has defined a village as ordinarily consisting of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs. It has been laid down that every village will have a Gram Sabha, which will be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and customary mode of dispute resolution. The tribal settlements are located according to lineage and are homogenous in character. PESA, by providing for a Gram Sabha to the village ensures that the communities are empowered under this Act.
- PESA takes cognizance of the fact that political empowerment is the beginning of economic development. It therefore, reserved a minimum of 50 percent of the seats for the members of the tribal communities and also all posts of Chairpersons in the Scheduled Areas, even where the populations of tribals have been reduced to minority status.
- PESA, unlike the IXth Schedule, empowers the Gram Sabha and not the Gram Panchayat - they approve plans, programmes and projects and give utilization certificates, select beneficiaries for poverty alleviation and other programmes.
- In a very significant move the PESA makes a consultation with the Gram Sabha mandatory before any acquisition of land in the village or before resettlement and rehabilitation of the project affected people in the village.
- The Act further empowers the Gram Sabha to prevent alienation of tribal land and to order for the restoration of the tribal lands, a power which had hitherto been enjoyed by the Courts or the revenue officials.
- The Gram Sabha has been vested with the command over natural resources in the village including the minor minerals, water bodies and the minor forest produce. No mining lease can be granted without the prior recommendation of the Gram Sabha.

- The Act also empowers the Gram Sabha to have control over village markets, all plan and Tribal Sub-Plan resources, and control money lending in the village.

Provisions of the Panchayats Extension Scheduled Areas (PESA) Act, 1996 is historic because it legally recognizes the capacity of tribal communities to strengthen their own systems of self-governance or create new legal spaces and institutions that cannot only reverse the cultural and political onslaught on them but can also create the opportunities to control their own destinies.

Gram Sabha under PESA:

Under PESA Act, attempt has been made to vest legislative powers in the Gram Sabha, specifically in matters relating to development planning, management of natural resources and adjudication of disputes in accordance with prevalent traditions and customs. This significant legislation was expected to have far reaching consequences in the social, economic and cultural life of tribal people in scheduled areas. The Gram Sabha has been made the soul of PESA, the palladium of tribal identity, traditional customs and practices, and community assets, and in resolving local disputes. The distinctive premise is that a small group affords great scope for face-to-face democracy and participation will be effective if the community and beneficiary organisations in particular are institutionally and statutorily involved in managing their own affairs and decision-making processes. This Act envisages the transformation of the tribals from being targets/ objects to participants/ actors in the democratic process pertaining to their lives and development.

The Act also provides the following provisions to ensure local governance system in the tribal society with the participation of one and all.

- i) The traditional way of tribal society could be integrated with decentralized governance through PESA.
- ii) The community would get institutional space to govern its affairs in an accountable and meaningful manner. Thus, these provisions would be able to homogenize the differences leading to an informed decision-making by the people at the grassroot level.
- iii) The new system would usher in a regime of people's participation, where, governance would be more responsible and fruits of development distributed more equitably.

The critical issue in the implementation of PESA is to harmonize its provisions with those of the concerned central legislations and also to recast the

relevant policies and schemes being administered by the various Central Ministries/ Departments. According to available information, no integrated exercise has yet taken place to examine the relevance of different Central Laws to Schedule V Areas and to harmonize them with the aims and objectives of PESA. Among the laws that warrant particular attention are the following:

- i. The Land Acquisition Act, 1894
- ii. Mines and Minerals (Development and Regulation) Act, 1957
- iii. The Indian Forest Act, 1927
- iv. The Forest Conservation Act, 1980
- v. The Indian Registration Act.

RURAL LOCAL SELF GOVERNANCE: ODISHA SCENARIO

Evolution and Structure of Rural Local Governance System in Odisha:

Rural local governance system, otherwise and popularly known as Panchayati Raj system in Odisha, has a hoary past. Odisha has the tradition of community organization in different forms since very ancient times. It has been observed that Odisha had the tradition of community organization in different forms. The Mogul and the British administrations were mostly responsible for the deterioration of the traditional community organization in the State. The great famine of 1866 was also a setback to the continuation of village administration. The colonial administration set up a Commission in the year 1880 to investigate famine in India, which also understood the importance of local rural self governance system in Odisha. This paved the way for the introduction of the system of local self government in the state. The Royal Commission of 1907 laid emphasis on the establishment of Gram Panchayat. As a result the Commission recommended that the members of the village Panchayat should be elected by the villagers and village head be made Chairperson of the Panchayat. Another important step towards establishment of local self government was the enactment of The Reform Act (1919) which made provisions for the provinces to legislate on Panchayats. As a result, the Bihar Local Self Government Act was enacted in 1920 and Odisha was covered under this Act. The Government of India Act of 1935, which provided Odisha with the status of a new province, also made provision for the constitution of a provincial assembly. Odisha became a separate state in the year 1936.

Prior to the formation of separate Odisha province in April 1936, the region of the present state of Odisha formed parts of the Bengal Presidency, Bihar Odisha

Province, Madras Presidency, Sambalpur District and many other princely states, which merged with Odisha during 1948 and 1949. Accordingly, the rural local government system in Odisha was regulated by the laws prevailing in all those provinces presidencies and the districts. The local self government system in the coastal districts of Cuttack, Puri and Balasore was governed by the Bengal Presidency and later by Bihar Local Self Government Act, 1885 and the Bihar and Odisha Village Administration Act, 1922. The districts of Ganjam and Koraput were part of Madras Presidency and regulated by Madras Local Boards Act of 1920. The district of Sambalpur was governed by the Sambalpur Local Self Government Act, 1939. Further, a substantial part of Odisha in Garhjat district was ruled by native princes who were integrated into Odisha only after independence. Thus, in pre-independence period, Odisha had different Acts governing different districts and the system of local government was of the British Indian pattern characterized by the presence of local boards. It was a kind of three-tier system of rural local self government system with District Boards at district level, Taluka Boards at Taluka level and Union Boards at the village level. These Boards provided for limited popular participation through periodic elections under limited franchise. This system continued till India became independent.

Soon after independence the Odisha State Assembly was constituted on January 1, 1948 after merger of 25 princely states with 66 members. After independence, the most important and significant development in the decentralization process came in the year 1948 when the Government of Odisha passed the Odisha Gram Panchayats Act, 1948 to establish and develop local self government system in the rural communities of Orissa. In fact, Odisha had the distinction of being the first state in India to introduce Gram Panchayats in the year 1948. The establishment of Gram Panchayats as the units of self government replacing the union boards constituted under the Bihar and Odisha Village Act 1922 marked the first major innovation in the field of local self government in India. The provisions of the Gram Panchayat Act, 1948 extended to all except the municipal and notified areas of the state. Within a couple of years from 1948, Gram Panchayats came to be gradually established in the areas of newly merged princely states. Thus, the Gram Panchayats at the village level combined with the already existing District Boards and Taluka boards at district and Taluka level formed the frame of local self government in Odisha in the initial years of independence.

The Land Revenue Committee in their report to the state government in 1948 recommended a scheme for *Anchal Sasan*⁵⁴ as the process of democratic decentralization of administration after working of the Gram Panchayat Act. The Odisha Anchal Sasan Act of 1955 which came into force after abolition of Zamindaries in 1952 to establish administrative decentralization to take up revenue and development activities was an attempt to evolve a comprehensive system of local self government in Odisha. The Anchal Sasan Act of 1955 intended to accord full powers to Anchal, (a local authority) which was at a higher level than the Gram Panchayat so that the representatives of the villagers could play visible role in the working of the system. But the Anchal Sasan Act was not implemented which prevented Odisha a pioneering role in the democratic decentralization process much earlier to the Balwantrai Mehta Committee Report. The fate of Panchayati Raj system in Odisha during 1950s and early 1960s was under the mercy of several Departments. Up to 1956 it was under the Board of Revenue and the Revenue Department. The Panchayats administration came under the Department of Agriculture and Community Development in the year 1956 and then moved to the Political and Services Department, which was under the Chief Minister. In December 1959 it was placed under the Department of Planning and Coordination with a Secretary to head the Department. After the implementation of study report of Balwantrai Mehta recommendations, it was also implemented in the State and accordingly both Panchayat Samiti and Zilla Parishad Acts were enacted in the line of the Balwantrai Mehta recommendations.

With the introduction of the Community Development Programme and the National Extension Service in October 1952, a new administrative set up called Community Development Blocks came into existence to carry out developmental programmes and project in rural areas. But, the earlier system of local self government system continued to work till January 26, 1961, when Panchayat Samitis and Zilla Parishads were established at the Block and District level as per the provisions of the Odisha Panchayat Samiti and Zilla Parishad Act, 1959. Thus, with the already existing Gram Panchayats, when the Panchayat Samitis and Zilla Parishads were established on 26 January 1961, replacing the taluka and district boards, a three-tier Panchayati Raj system was born in Odisha. In July 1962 under the

⁵⁴ Anchal Sasan means administration by local authority.

new, young and dynamic leadership of Chief Minister late Biju Patnaik, the new Department of Community Development and Panchayati Raj was created vide Notification No.8832-RB-7/62/Gen. dated 12.7.1962⁵⁵. Community Development and Panchayati Raj Department thus, became an independent department on 11th July, 1962. After the creation of the new Department of Community Development and Panchayat Raj, the Gram Panchayats, Samitis, Parishads and former district boards all came under its purview. Subsequently, Gram Panchayats were reorganized with suitable amendments in the existing Gram Panchayat Act, 1948 to make them integral part of the new system. During the year 1964, a comprehensive Odisha Gram Panchayat Act, 1964 (Odisha Act 1 of 1965) was passed consolidating all the laws relating to Gram Panchayats in Odisha, which replaced the Odisha Gram Panchayat Act, 1948. Under the new Act, elections were held to the Gram Panchayats in 1967 and along with it Panchayat Samitis and Zilla Parishads were reconstituted during the same year. The functioning of the three-tier system continued till 1968 when the government abolished Zilla Parishads on 1st November 1968 by amending the Odisha Panchayat Samiti and Zilla Parishad Act, 1959. There after the local government system in Odisha became dormant for a long period and no government took any interest to revitalize the rural local government systems in Odisha. During the late 1960s there was visible stagnation followed by decline of the Panchayat system which was very clear to the people. After the abolition of upper tier of rural local self governance institutions, the District Advisory Committees started functioning under Collector as the Member-Convener. A non-official member was elected to preside in the District Advisory Committee as and when it met. Besides the District Advisory Committee, there was District Development Committee presided over by the Collector. Both these bodies were largely attended by the district officers.

Late Biju Patnaik, after a gap of 27 years, became Chief Minister of Odisha in 1990. Under his leadership Odisha became the first state to streamline the rural local self government system to make democracy participatory and not the aristocracy of a few nitpicking intellectuals. He stated, "Let the people rule themselves, let them check out plans/ schemes for the improvement of their respective areas and let them execute their plans was the hallmarks of rural local government administration". Hence, in an attempt to revitalize the Panchayati Raj bodies, the Government of

⁵⁵ Department of Panchayati Raj, Government of Orissa, Annual Report 2003-04, Chapter -I, p.1.

Odisha in 1991 passed three important Acts, viz. Odisha Gram Panchayat (Amendment) Act, 1991, The Odisha Panchayat Samiti (Amendment) Act, 1991 and the Odisha Zilla Parishad Act, 1991 and ushered in a new era for Panchayat Raj Institutions and vested them with powers to bring out rural development through people's participation. Elections were held during 1992 for Gram Panchayats and Panchayat Samitis as per the provisions of the amended Act of 1991. All the above Acts were further amended to bring them in conformity with provisions of the 73rd Constitutional Amendment Act in 1993. The new Act came into force in Odisha from April 1994. The three-tier Panchayati Raj Institutions as per the 1993 Act came into existence after the elections were held during the year 1992.

Since 1961 up to 2007 there have been rapid expansions of rural local self government institutions in Orissa. The details of expansion of the local self governance institutions have been mentioned in the table below:

Table 2.2

Sl No.	Year	No. of Gram Panchayats	No. of Panchayat Samitis	No. of Zilla Parishads
1	1961	2,350	214	13
2	1963	2,350	307	13
3	1966-67	3,826	307	13
4	1983-84	4,391	314	13
5	1991-92	5,263	314	13
6	1997	5,261	314	30
7	2002	6,234	314	30
8	2007	6,234	314	30
Source: Govt. of Orissa, Department of Panchayati Raj, Annual Report -2009-10, p.3				

In a historical perspective, rural local governance system in Odisha, during the last 63 years of its existence has passed through many ups and downs. As politico administrative institutions to provide opportunities to the people to take part in nation building and to participate in the development activities; the functioning of these institutions have undergone drastic changes depending upon the political will of the government and the quality of their leadership. Panchayati Raj institutions could not make any difference as units of local self government due to lack of political will in the state. With the change of government and different political parties coming to

power, Gram Panchayats, Panchayat Samitis were dissolved very often and fresh elections were held in 1967, 1970, 1975, 1984, 1992, 1997, 2002, 2007 and 2012. After dissolutions, elections were not held many a time and the state went without the institutions of rural local self governments for years. Zilla Parishads which were constituted in 1961 were abolished in the year 1968 after 7 years. The latest dissolution of rural local self government institutions took place during 1995 and the elections to these bodies were held after a gap of one and half year during 1997. From the year 1997 there has been regular elections held to these local bodies from time to time in a regular interval of five years as per the constitutional statutory provisions. After 1997 there were elections to the rural local self government institutions during 2002 and 2007 and the last elections to the rural local self government institutions was held during March 2012.

STRUCTURAL MECHANISM OF 3-TIER RURAL LOCAL SELF GOVERNANCE SYSTEM IN ODISHA AFTER 73RD CONSTITUTIONAL AMENDMENT:

According to the provisions of the 73rd Constitutional Amendment Act 1992, Part IX of the Constitution of India envisages a three-tier rural local self governance system i.e. Panchayat Raj namely a) Gram Panchayat (lowest tier of village governance) at the village level, (b) Panchayat Samiti (middle tier of rural governance) at the Block level and (c) Zilla Parishad (highest tier of rural governance) at the District level.

GRAM PANCHAYAT⁵⁶:

The Gram Panchayat is at the bottom of the three-tier structure of rural local self governance system in Odisha. It constitutes the basis of rural local self-government. The Gram Panchayat was started in Odisha as per the Odisha Gram Panchayat Act, 1948. According to the recommendations of the Balwantrai Mehta Committee, the Gram Panchayats in Odisha were restructured and Odisha Gram Panchayat Act was passed in 1964. The 73rd Constitutional Amendment Act, 1992 empowers the state government to make laws for the organisation of village Panchayats.

Structure and Composition:

As per Section-3 of the Odisha Gram Panchayat Act 1964, which consolidated all the laws relating to the Gram Panchayats in Odisha, a Gram Panchayat shall be

⁵⁶ Gram Panchayat means the Executive Committee of the Gram Sasan established under Section 7 of the Odisha Gram Panchayats Act, 1964 (Odisha Act 1 of 1965).

constituted in one village or group of contiguous villages. According to Article 243-G of the Constitution of India, the state Government is empowered to establish and constitute a Gram, 'Gram Panchayat', 'Gram Sabha' and 'Palli Sabha' in the state. The Government by notification may declare any village or a group of contiguous villages having population between 2,000 to 10,000 to be a Gram for the constitution of a Gram Panchayat and give a name to the Gram Panchayat. In scheduled areas, the Gram Panchayat is constituted with the population of not less than 2000 and more than 5000. A Gram Panchayat shall be divided into wards, which is not less than 11 and not more than 25 wards.

The Panchayat is a corporate body with perpetual succession, a common seal with power to acquire, hold and transfer property and enter into contracts for carrying out the objectives of the Act. The Panchayat, to achieve the objectives of the Act, can do such other things as required under the Act and to sue and to be sued in its corporate name. At present there are 6,236 Gram Panchayats in Odisha which covers about 51,349 revenue villages.

Gram Panchayat is the Executive Body of the 'Gram Sasan'⁵⁷. For each Gram Panchayat, the Act provides for a 'Gram Sabha'⁵⁸- a body comprising of all the qualified voters of the Gram Panchayat. Apart from Gram Sabha, in Odisha, there is also a provision for 'Palli Sabha'⁵⁹ which is a body consisting of all the qualified voters of their respective ward. The Palli Sabha is presided over by the Ward Member of the concerned ward. In fact, both the Gram Sabha and Palli Sabha are the two general bodies, which work within the jurisdiction of the Gram Panchayat as the institution of direct democracy.

The Wards of the Panchayat are divided in such a manner that the ratio between the population of each constituency (ward) and the number of seats allotted to it shall be same through out the Panchayat area. Each Ward of the Gram Panchayat is represented by a Ward Member who is directly elected by the voters of the concerned Ward. The Ward Member along with the Sarpanch elected directly by the voters of the Gram Panchayat and the Naib Sarpanch elected indirectly by the ward members from among themselves constitute the Gram Panchayat. If the post of Sarpanch of the Gram Panchayat is not reserved for woman than the post of Naib-

⁵⁷ Gram Sasan means village governance.

⁵⁸ Gram Sabha means the village assembly.

⁵⁹ Palli Sabha means Ward meeting.

Sarpanch shall be reserved for woman of that particular Panchayat. In the Odisha Gram Panchayat Act there is a provision for reservation of one-third seats including the number of seats reserved from Scheduled Castes and Scheduled Tribes Women shall be reserved for woman. But during the current Panchayat elections, the reservation ratio has been increased to fifty percent for women. This reservation of seats shall be allotted by rotation of different wards of a Gram Panchayat. Besides these elected members, one Secretary is being appointed by the State Government for maintaining the records.

Originally, the term of office of the Gram Panchayat was 3 years as per Odisha Gram Panchayat Act, 1964 but it was raised to 5 years by an amendment in 1977. The term of office of the Gram Panchayat at present is 5 years from the date of its first meeting. As per the Odisha Gram Panchayat (Amendment) Act 1991, the state Government can dissolve all or any one of the Gram Panchayats. But, all such Gram Panchayats should be reconstituted by a fresh election that must take place within a period of six months of dissolution as per the constitutional provisions.

So far as the functioning of the Gram Sabha and Palli Sabha is concerned, the Gram Sabha is the deliberative wing of Gram Sasan, which meets twice a year; once in February and the other in June. One-tenth of its membership constitutes the quorum. At the meeting in February, the Gram Sabha considers the programmes and works to be undertaken by the Gram Panchayat during the ensuing year. It also prepares the annual budget for the Panchayat on the recommendations of different Palli Sabha. Again the meeting in June considers the Gram Panchayat's report on the progress of works undertaken by each Gram Panchayat. All the meetings of the Gram Sabha are presided over by the Sarpanch.

The Gram Panchayat consists of Ward Members, Sarpanch, Naib Sarpanch who are the people's representatives directly elected by the voters of the concerned Gram Panchayat. Besides, the Gram Panchayat also includes a Panchayat Secretary or Village Level Worker (VLW)⁶⁰ who is also known as Panchayat Executive Officer who works under the control, supervision and guidance of the Sarpanch. The Sarpanch has full responsibility for effective administration of the Gram Panchayat. The other functionaries of the Gram Panchayat include Peon/Night Watcher, Gram

⁶⁰ The VLW, a Government Employee, works as the Executive Officer of the Gram Panchayat according to the rules of Government of Orissa.

Rojgar Sahayak etc to help in the implementation of government programs in the Gram Panchayat.

The following diagram mentions the structure of the Gram Panchayat and gives the details of its elected representatives and functionaries:

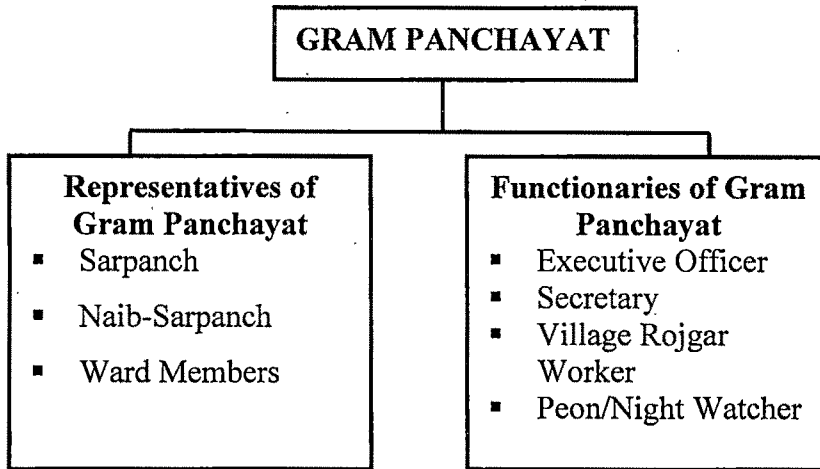


Fig- 2.1

Gram Panchayat Meeting:

Every Gram Panchayat shall meet at least once a month. The meeting shall be held in the Gram Panchayat office or at any place as decided by the Sarpanch. The notice of the meeting shall be served to every member before seven days of the meeting. The date, place and time along with agenda of the meeting shall be recorded in the notice book. In the absence of any member, the notice can be served through under certificate of posting. A copy of the notice shall be given to the Block Development Officer⁶¹ (BDO).

The quorum of the meeting is one-third of the total members of Gram Panchayat. The meeting will be adjourned if quorum is not fulfilled. The adjourned meeting can be held again by giving prior notice of three days where quorum is not required. Sarpanch can hold any special meeting. Other than this, on requisition of one-third members of Gram Panchayat a special meeting can be convened. If the Sarpanch fails to conduct the special meeting, the members shall appeal before the Sub-Collector who can hold the special meeting within seven days. In absence of 'Sarpanch' and 'Naib Sarpanch' any member can be selected to preside over the

⁶¹ Block Development Officer (BDO) is an administrative officer of state cadre who is responsible overall administration of Panchayat Samiti works as the Chief Executive Officer of the Block.

meeting. If the Sarpanch fails to conduct three meetings of Gram Panchayat within four months, he will be disqualified to hold the post of Sarpanch. Either the Collector or any officer authorized by government can also hold special meeting of the Gram Panchayat.

In each meeting, the proceedings of last meeting shall be discussed and approved. Any subject which could not be discussed in the last meeting shall be discussed first. The Secretary of the Gram Panchayat shall place the agenda for discussion in the meeting. The discussion shall focus on the works executed by the Gram Panchayat and other details of agenda prepared for discussion. The income and expenditures of the Gram Panchayats shall be discussed in the meeting along with the budget provision. The discussion shall be made on demand, collection and balance of the Gram Panchayat dues and actions shall be suggested for collection. The proposals shall be discussed with consultation of the members present in the meeting and if required necessary corrections can be made. The proceedings of Standing Committees shall be discussed in the Gram Panchayat meeting. Any special meeting conducted shall be discussed on specific subjects. Any subjects out of agenda can be discussed if majority of the members present so desires. The proceedings of the meeting can be read by any one. The income and expenditure of the last month shall be approved. The Sub-Collector can change the proceedings or reject it, if it is against the provisions.

Functions of Gram Panchayats:

The main objective of the Gram Panchayat is to ensure rural development. As regards the functions of Gram Panchayat, according to the original Act of 1964, it has been divided into two categories i.e. Obligatory or compulsory and optional or discretionary functions. Section 44 and 45 of the Odisha Gram Panchayat Act specify the functions and powers of Gram Panchayats.

Obligatory Functions:

The obligatory list of functions of the Gram Panchayat includes a wide range of activities like a) It constructs, repairs, maintains and improvises the public roads, b) Makes provision for lighting and cleanse of public roads and other important public places, c) It constructs, maintains and cleanse drains and public latrines, urinals etc., d) For the purposes of supply and storage of drinking water, it constructs, repairs and maintains tanks, wells or tube wells etc., e) It makes adequate arrangements for scavenging, removal and disposal of filth, rubbish and other obnoxious polluted

matters, f) It takes steps for preventing and checking the spread of epidemic or infected diseases, g) It maintains records of birth, death and marriages, h) It prepares the census reports of human being and animals and registration of animal sold, i) It protects, maintains and develops all properties entrusted to the management of the Gram Panchayat, j) It regulates and controls the movement of cattle for protection of crops, k) it demolishes the stray and ownerless dogs, l) it renders all reasonable assistance to the Panchayat Samiti for establishing and maintaining primary education, m) It supervises and maintains social conservation work, n) It regulates melas, fairs, and festivals and maintains markets, hats and cart stands, o) It implements schemes for agricultural extension, p) Minor forest produce, q). It takes steps for Small Scale Industries, food-processing industries. r) It takes measures for rural housing, s) it undertakes poverty alleviation, women and child welfare programmes, t) it takes steps for social welfare including welfare of the handicapped and mentally challenged persons and public distribution system.

Discretionary Functions:

The main discretionary or optional functions of Gram Panchayat also cover a series of activities including a) maintenance and planting of trees on both side of the public streets and maintenance of village forests, b) establishment and improvement of livestock, c) construction, maintenance and regulation of slaughter houses, d) steps for assisting and advising farmers in reclaiming waste lands and cultivating fellow lands, e) management and development of different Co-operative Stores, f) Relief from famine or other natural calamities, g) Opening and maintenance of Libraries and Reading Rooms for villages, h) Organisation of fire services and protection of life and property in case of fire, i) Establishment of maternity and child welfare centers, j) Establishment and maintenance of Akharas, clubs and other recreation centers, k) Establishment and maintenance of works for providing employment in time of scarcity and establishment of Granaries, l) Promotion of cottage industries, m) Maintenance and construction of Dharmasalas and rest houses, n) Maintenance and organisation of agricultural and industrial exhibitions, o) Collecting statistics of unemployed, p) Provisions for adult education, Establishment of Primary Schools with the prior approval of the concerned Panchayat Samitis, q) It can organize a body known as Gram Swechha Sevaka for assisting the Gram Panchayat during the time of emergency, r) Prevention of gambling and implementation of the programme for prohibition. Besides the above mentioned functions it has to perform such other

functions, which are to be given on compulsory or optional basis by the State Government.

The functions of Gram Panchayat as per the Odisha Gram Panchayat Act, 1997 as amended in line of “Panchayat Scheduled Area Extension Act -1996” are

- Enforcement of prohibition of the sale and consumption of any intoxicant.
- The ownership of minor forest produce
- Prevention of alienation of land and restoration of any unlawful alienated land of scheduled tribes.
- Control over money lending.
- The Gram Sabha will have the power to prepare plans and programmes in respect of schemes for economic development, social justice in the Gram Panchayat and authenticate utilization certificate for the fund utilized. Identification of beneficiaries for implementation of poverty alleviation programmes.

Sources of Revenue/ Finance:

As per Section 93 of the Odisha Gram Panchayat Act, for every Gram Panchayat there shall be a fund known as ‘Gram Fund’. Gram fund is placed in the heads of the Gram Panchayat. All money received from the Government and income of the Gram Panchayat shall be deposited in the Gram Fund. The Gram fund shall be deposited in any Nationalized Savings Bank or nearest Post Office or Treasury.

The Gram Panchayat raises money through taxes, fees and Government taxes and grants. The main sources of revenue are: (a) Vehicles tax, (b) Latrine or conservancy tax, (c) Water tax where water is supplied by the Gram Panchayat, (d) Lighting taxes, where the lighting of public streets are provided, (e) Drainage tax, (f) Fees on private markets, cart sheds, (g) Fees on animals sold in a public market controlled by a Gram Panchayat, (h) Fees for regulating the movement of cattle for the protection of crops, (i) Fees for use of any building, shops, stalls and stands in the market, (j) Rent from contractor’s temporarily occupying open grounds or any building maintained by the Gram Panchayat, (k) Any other tax, fee as may be decided by the Gram Panchayat subject to the approval of the State Government.

According to Article 243-H, the legislature of a State may authorize a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees. Besides this the Gram Panchayat receives funds from government under different schemes and programmes like MGNREGS, Kendu Leaf Grant for developmental works. The

Sarpanch⁶² prepares a budget and place before the Gram Panchayat for consideration in the financial year. The Gram Panchayat after consideration submit the budget to each Palli Sabha and then to the Gram Panchayat for recommendations. After this process of modification and recommendation the budget is submitted to the concerned Panchayat Samiti for approval. If the Panchayat Samiti is not satisfied with the budget then it has power to modify the budget. As per 73rd Amendment Act, 1992 inserted in the Article 243-1 of the Constitution the Governor has to constitute a Finance Commission to review the financial position and to make recommendations for maintaining sound financial position of Gram Panchayat.

ROLE AND RESPONSIBILITIES: ELECTED MEMBERS AND FUNCTIONARIES OF GRAM PANCHAYAT

Power and Functions of Sarpanch:

Section-19 of the Odisha Gram Panchayat Act deals with the power, duties and functions of Gram Panchayat. The Sarpanch exercises the following powers and functions.

The Sarpanch exercises all the executive powers of the Gram Panchayat as vested with his/her according to the provisions of the Act. She/he convenes the meetings of the Gram Panchayat regularly on a specific date of every month. She/he also can convene Gram Panchayat meeting at other time if he/she desires so. It is the duty of the Sarpanch to preside over the Gram Panchayat meeting and conducts the business. She/he is responsible for the proper maintenance of the record and proceedings of the meeting. The Sarpanch is responsible for all securities, properties, asset, records and documents of the Gram Panchayat. He has control over it. On behalf of the Gram Sasan, the Sarpanch execute documents relating to contracts and is responsible for proper working of the Gram Panchayat. She/he prepares all required statements and reports and exercises supervision and control over the acts and proceedings of all officers and employees of the Gram Panchayat. She/he is the authority to enter into correspondence on be half of the Gram Panchayat and to attend the meetings of Panchayat Samiti. The Sarpanch give the work order for any developmental work of the Gram Panchayat.

Besides, the Sarpanch also approves the leave of Panchayat Secretary or Panchayat Executive Officer and sends his Confidential Character Report (CCR) to the Block Development Officer. She/he approves the leave of executive officers in

⁶² Sarpanch is the head of the Gram Panchayat

charge of the Gram Panchayat. Sarpanch has to exercise such other power, discharge such other duties and perform such other functions as may be assigned to by the Government from time to time. At present in Odisha, there are 6,236 elected Sarpanches elected to 6,236 Gram Panchayat out of which fifty percent reserved for the women Sarpanches.

Power and Functions of Naib-Sarpanch⁶³:

As per Section-21 of the Odisha Gram Panchayats Act the power and functions of Naib Sarpanch are as follows:

The Naib-Sarpanch shall exercise such powers, discharge such duties and perform such function as delegated by the Sarpanch from time to time. If the post of Sarpanch falls vacant the Naib- Sarpanch performs the functions of the Sarpanch until a new Sarpanch is elected. When the office of the Sarpanch is vacant for more than fifteen days then Naib Sarpanch assumes the office to carry out the functions of Gram Panchayat. In the absence of the Sarpanch, the Naib-Sarpanch presides over the meetings of the Gram Panchayat.

Power of Officiating Sarpanch:

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Elected representatives of the Gram Panchayat will nominate a panel of three members from among them in order of priority to discharge the duties of Sarpanch and Naib Sarpanch during their absence when the post of Sarpanch and Naib Sarpanch remain vacant or they remain absent for more than 15 days then the officiating power will be given on priority basis to one of the selected three members of the panel. Officiating Sarpanch shall exercise the powers and functions until the Sarpanch or Naib Sarpanch assumes the office. Provided that in absence of any such panel in any Gram Panchayat the Sub-Collector may nominate one of the members of the Gram Panchayat to officiate as Sarpanch.

Power and Function of Ward Members:

The Ward Member presides over the Palli Sabha meeting of the respective wards. He/she can access the records of the Gram Panchayat after giving due notice to the Sarpanch during office hours and can move resolutions and question any office bearer about the administration of the Gram Panchayat. He/she can inspect all works undertaken by the Gram Panchayat and assets of Gram Panchayat twice in a year (30th June and 30th December). The Ward Members have the right to inspect all the

⁶³ Naib Sarpanch is the Deputy Chief of a Gram Panchayat or the official who is immediate subordinate to the Sarpanch in a Gram Panchayat.

institutions, controlled, managed and directed by the Gram Panchayat and to bring to the notice of the Sarpanch about any irregularities. When the post of Sarpanch and Naib Sarpanch remains vacant or they remain absent for more than 15 days, the officiating power will be given to one of the Ward members as per the prescribed rule. At present in Odisha, as per the Panchayat Election data 2012, there are 67,551 Ward Members out of which fifty belong to women.

Role and Responsibility of Secretary of Gram Panchayat:

The Secretary is one of the functionaries of Gram Panchayat who performs his duties as per rules prescribed by the government. He shall record proceedings of Palli Sabha and Standing Committees and shall make correspondence to different quarters with the approval of Executive Officer. He will receive Daks and put up the same in files for order of the Executive Officer. The Secretary of the Gram Panchayat also receives stock under different schemes like Public Distribution System and enters the stock in the stock register. It is the duty of the Secretary to see public distribution system articles reach to consumers and maintain accounts and related records of Public Distribution System. He will also supervise works executed by the Gram Panchayat. The taxes imposed by the Gram Panchayat shall be collected by the Secretary and handover the amount so collected to the Executive Officer. All the records, files and valuables and assets of Gram Panchayat will be in his custody and he is responsible to send a copy of the proceeding of Gram Panchayat meetings to the concerned Block Development Officer and Sub-Collector within seven days of the meetings. All files and records of Gram Panchayat will be secured by him and he will perform any other duties as may be assigned by the Gram Panchayats from time to time.

Role and Responsibility of Executive Officer of Gram Panchayat:

The Executive Officer of the gram Panchayat performs different roles and responsibilities for the development of the Gram Panchayat with the help and cooperation of Sarpanch and Secretary of the Gram Panchayat. He will write the proceedings of Gram Panchayat in the absence of Secretary and will remain in charge of custody of all records and documents and valuable belonging to management or in control of Gram Panchayat. He will be in charge of the tax levied and collected by Gram Panchayat. It is the duty and responsibility of the Executive Officer to maintain the records and proceedings and Cash Book of the Gram Panchayat and to scrutinize the daily cash transaction of it and to send for the signature of Sarpanch. He will sign

while withdrawing money from the Saving Books of Gram Panchayat. He will exercise such other power, discharge such other duties and perform such other functions and any other works as may be conferred or assigned to him by or under the Act.

It may be relevant to mention here that there are provisions in Odisha Gram Panchayat Act and Rules for appointment of Gram Panchayat Secretary and about his power and functions. But State Government has given appointment to the VLWs as Executive Officer and decided the duties regarding this. Odisha High Court has ordered on dated 22.7.2008 to completely restrict the powers and functions of Gram Panchayat Secretary. Hence doubt exists regarding powers and functions of Gram Panchayat Secretary.

Maintenance of Public Property by Gram Panchayat:

In every year during the month of September/October the list of public property along with the income derived shall be placed in the Gram Panchayat meeting by the Sarpanch. A copy of the proceedings shall be submitted to BDO and Sub-Collector. Before the end of October of each year, the Sarpanch shall forward to the Sub-Collector through the Block Development Officer, a list of immovable properties whether directly managed by the Gram Panchayat or leased out, specifying the location of each such property, with income derived from each of such property during the last three years in Form No.18. In case the Sarpanch fails to forward the list of immovable properties within the time limit specified, the Sub-Collector shall call for necessary information from the Gram Panchayat concerned. After excluding the properties which shall be decided by the Sub-Collector to be managed by Gram Panchayat directly, other properties shall be leased out by public auction. The Sub-Collector shall fix the period of lease and the minimum bid money i.e. the upset price in respect of the property, which is decided to be leased out taking into consideration the income from such property for the last three years. The Sub-Collector shall send a list of properties that are to be leased out by public auction indicating the period of lease and upset price, to the respective Block Development Officer who shall there upon fix the dates for auction of all or any of such properties and issue notices for auction sale. He may authorize any other officer to conduct auction sale of properties whose upset price is rupees 5000/-. The notice for auction shall be issued before fifteen clear days of the date fixed for auction and shall be published in the notice board of the Panchayat, Panchayat Samiti, Sub-divisional Office and at such other

place or places as the Block Development Officer or his Junior Officer, as the case may be deem necessary. The auction shall be conducted by Block Development Officer or his junior officer, as the case may be at the Headquarter of the Gram Panchayat or at the place where the property is situated and the bid shall be confirmed by the Block Development Officer, in case of the auction sale conducted by his Junior Officer or by the Sub-Collector, in case of auction sale conducted by Block Development Officer. No person shall be allowed to bid unless and until he deposits the security money and produces a certificate from the concerned Gram Panchayat to the effect that he has cleared all dues accruing to the Gram Panchayat in respect of any previous lease taken by him. The security deposit shall be 10 per cent of the upset price fixed by the Sub-Collector. The security money shall be paid to the Officer conducting the auction sale who shall record the details in sale records. The bid shall be knocked down in favour of the highest bidder. The security money of all the bidders except the highest bidder shall be refunded to them on proper receipt at the end of the auction. At the end of the bid, the officer conducting the auction shall send the records along with a report to the Block Development Officer or Sub-Collector, as the case may be, for confirmation of the bid. The Sub-Collector or Block Development Officer, as the case may be, shall intimate his order of confirmation within thirty days from the date of auction. In case the Sub-Collector or Block Development Officer fails to communicate his order of confirmation within thirty days from the date of auction, the bid shall be deemed to have been confirmed. Provided that the Sub-Collector or the Block Development Officer, as the case may be, if the bid is inadequate or he receives a report that no bidders were forthcoming, direct that the property be either re-auctioned or managed directly by the Gram Panchayat for a period to be specified by him. If for any reason (which must be recorded in writing) the auction does not take place on the fixed date or the minimum bid in respect of any property is not reached in the auction, a fresh auction shall be held on a subsequent date to be fixed by the officer conducting the auction. The notice for such auction shall be published in the office notice board of the Panchayat, Panchayat Samiti, Sub-Collector and such other place or places as the officer conducting the auction may deem necessary before fifteen clear days of the date fixed for the auction. After receipt of the order of confirmation of the bid from the Sub-Collector or confirming the auction sale conducted by the Junior Officer, the Block Development Officer shall direct the successful bidder to deposit the first installment

of the bid money and execute the agreement in the appropriate form prescribed with the concerned Gram Panchayat within fifteen days from the date of receipt of the notice and shall forward a copy of the confirmation order to the Sarpanch. The bid money shall be payable in advance in two installments. The first installment shall be 75% of the total bid money should be paid before execution of the agreement and the next installments shall be paid in accordance with the agreement. If any installment is not paid by the due date, the Secretary of the Gram Panchayat shall forthwith bring it to the notice of the Gram Panchayat who shall terminate the lease and move the Block Development Officer for auction. The Block Development Officer thereupon shall hold the re-auction within thirty days in the manner prescribed for auction under this rule. Any dispute arising between the lessor and the lessee in respect of the interpretation conduct or performance of any terms and conditions of the agreement for lease of any property or with regard to any claim shall be referred to the Collector of the district whose decision in the matter shall be final and binding on the parties. The agreement shall be registered and the cost of registration of such agreement shall be paid by the auction purchaser.

Role of Gram Panchayat in Disaster Management:

There is detailed description on role of different departments and relief works during natural disaster in 1980 edition of Odisha Relief Code. But it remains silent on the role of Panchayat. In its Chapter-8, it is mentioned that Panchayat is to only give a report on identification of beneficiaries, to Block Development Officer and Collector for Gratuity Relief and Compensatory Relief given on Food Distribution Programme Card. Besides this, there is nothing mentioned about the role of Panchayat. The reason is that Odisha Relief Code is another form of Bihar and Odisha Relief Code. But the importance of Panchayat system has been increased during last decade of 20th Century. Since then, there have been elections at three levels of Panchayat System as per 73rd Constitutional Amendment and the elected representatives of Gram Panchayat, Panchayat Samiti and Zilla Parishad being the vital parts of these institutions are playing important roles in various Development Programmes of the Government. In this context, the rural local governance institutions has assumed significant assignments of encountering natural disaster of 1999 Super Cyclone and implementing the long term development plans. Giving information on disaster related matters, compensation to disaster affected families, providing employment to rural poor through poverty alleviation programmes and many other works are being

done through the three-tier local governance system. Gram Panchayat is the most appropriate institution where the poor villager gets information as well as assistance before, at the time and after the disaster. Palli Sabha is the best medium from the point of view of keeping direct contact with people. Gram Panchayats are equipped with to know well before the disaster that which village and which families are to be most affected. Thus, Gram Panchayat can prepare appropriate plans to fight against the disaster. Keeping the gravity of devastation due to disaster in mind, the Gram Panchayat can take help of the respective villagers, Youth Clubs, Women Associations, Self Help Groups etc. Gram Panchayat must have to keep attention to another important aspect that if the Resource Map and Resource Planning are with it, then the fast decisions can be taken to save people from disaster.

Role of Gram Panchayat to Check Starvation Death:

Gram Panchayats can take appropriate steps to counter the situation of starvation death actively during the period of disaster. Changing the prevailing system, the Government has assigned this new responsibility to the local Gram Panchayat, because the Sarpanch are directly involved with all the local situations. If any person or family really faces the threat of starvation, the Gram Panchayat gets that information immediately. So, following responsibilities have been fixed on the Sarpanch.

Sarpanch must investigate the fact after collecting information of starved persons and families through the local representatives (Ward Members). As per the State Revenue Department's letter No.18928 dated 25.04.2008, if any person remains starved or takes injurious non-protein food, then the Sarpanch could arrange food for 10 days for his/her living. He/she must have to furnish information to the respective Block Development Officer regarding the amount of money spent from Panchayat Fund for the number of people and the number of days. The Block Development Officer transmits the reports of the Sarpanch to Collector. On the basis of that report, the Collector from the Contingency Fund supplies the requisite amount after obtaining approval of the Special Relief Commissioner. Local Block Development Officer may recommend to Sub-Collector for assistance after investigating the conditions of these people or families and if necessary the gratuity relief may be extended up to 30 days which may be extended up to 45 days by Sub Collector and up to two months by the Collector. The expenditure is met by the Collector from the Contingency Fund which is repaid after the sanction from the Special Relief Commissioner. Odisha Relief Code

Section - 170 authorizes Gram Panchayat to identify the beneficiaries of Gratuity Relief. Besides that, Section - 45 (4) of Panchayat Act, 1994 states that the State Government may handover the duties relating to relief work during famine and other natural disasters to the Gram Panchayats.

PALLI SABHA:

Odisha Gram Panchayat Act, 1964 provides constitution of Palli Sabha or Ward Sabha where the area constitutes a ward or the Gram or village. It is an institute of direct democracy in the village governance, which constituted with all the registered voters (both male & female) of a revenue village. For every village within the Gram Panchayat, there is a provision for constitution of a Palli Sabha or Ward Sabha by the state government; provided that where the area comprised within a ward consists of more than one revenue village there shall be only one Palli Sabha for such wards.

The Palli Sabha is a body corporate of the ward which facilitates participation of the people in the governance of the concerned ward and it also helps the people to implement different rural development programmes/schemes for themselves by actively participating in the governance process of the ward. It also facilitates the ward to select the beneficiaries of different development projects/programmes run by the state government.

Palli Sabha Procedure:

All voters for the time being in force in the voters list are the members of the Palli Sabha. Gram Panchayat shall convene the meeting for Palli Sabha. The Palli Sabha meets annually in February and June each year. The meeting of Palli Sabha is conducted at a conspicuous public place within the ward area or as may be determined by the Gram Panchayat. The Gram Panchayat notifies the date and time of Palli Sabha. It also arranges for convening the meeting of Palli Sabha much in advance before six months. If the Gram Panchayat requires to hold an extraordinary meeting for Palli Sabha, a requisition in writing of not less than one-fifth of the members of Palli Sabha along with date, time, place and subject for discussion in such meeting to be fixed by the Gram Panchayat at least fifteen days in advance. The meeting shall be conducted in a conspicuous public place within the Palli Saba area to be decided by the Gram Panchayat and wide publication for the date, time and place of the meeting along with subject for discussion to be informed to the people by beat of drum within the Palli Sabha area. The concerned Ward Members will preside over the Palli Sabha.

But, if there are more than one Ward Members, then the list of all such members in order of preference will be determined by the Gram Panchayat. In absence of all in the meeting, those present in the meeting may elect one from among themselves to preside over the meeting. Where the meeting is requisitioned by not less than one-fifth of the members of the Palli Sabha, the requisition to be addressed to the Sarpanch thirty days in advance and it must state the place date and time of the meeting. In case the Gram Panchayat fails to arrange the meeting on the date mentioned in the requisition, the members who sign the requisition may call the meeting on the date, time and place mentioned in the requisition. The quorum of the meeting for Palli Sabha is one-tenth of the members of total Palli Sabha. If there being no quorum, the meeting shall be adjourned to a future date for which notice shall be given in the prescribed manner i.e. 15 days before. As per the notification dated 5th December 2002 of Panchayati Raj Department, Government of Odisha, the quorum shall include one third of the members present who are women members. All questions which may come before the meeting of the Palli Sabha to be decided by a majority of votes. In case of equality of votes, the President of the meeting shall have a casting vote. Voting by proxy is strictly prohibited. No members shall vote upon any motion or amendment unless he is present in person at the time when it is put to vote. The proceedings of Palli Sabha be recorded in a book in Odia language and shall be signed by the President of the meeting and such book shall be open to the general public for inspection.

Functions of Palli Sabha:

The most important function of Palli Sabha is to prepare plan for developmental works and programmes that may be taken up during the ensuing year by the Gram Panchayat. It also recommends the approval of annual budget estimate submitted by the Gram Panchayat. The other functions include selection of the beneficiaries of different poverty alleviation and rural development programmes. It also selects the village labour leader for implementation of the work orders. There is also a provision for conducting social audit of all the programmes implemented by the Gram Panchayat by the Palli Sabha.

GRAM SABHA:

The meeting by all the members of Gram Sasan (village governance) is called Gram Sabha. The Gram Sabha is a people's organisation constituted at the grassroots level by the people in order to take up the governance of the village administration. It

is an institute of direct democracy, which reflects the opinion, and views of the voters to take up development works for themselves. All registered eligible voters residing within the Gram Panchayat are members of the Gram Sabha. It discharges its duties and performs functions as per the rule prescribed by the state Government from time to time. The Gram Sabha is a process just to give approval what the Panchayat is doing. There is ample scope for discussion, suggestions and expectations from every resident of the Gram Panchayat area. It is the policy making body and the Gram Panchayat is the administrative body. It is a popular body of the village administration, which facilitates the participation of the people in the Panchayat administration.

Each village has to depend upon itself for its governance. People join together in the form of Gram Sabha or village assembly to discuss their problems and constitute a small committee for planning and implementing government programmes. Well-informed persons who are interested in the welfare of the village community may volunteer themselves or may be requested by the Gram Sabha to be the members of the committee. The key roles entrusted to the Gram Sabha are micro planning, social audit of Panchayat functioning, ratification of Panchayat accounts, balance sheets, identification and approval of beneficiaries and supervisory and regulatory functions. The Gram Sabha is the most powerful foundation of decentralized governance of rural local self governance system. The aim of Gram Sabha is to strengthen the rural local governance system truly democratic, self-governed and a bottom-up structure. According to Article 243-A of the Constitution of India, the Gram Sabha may exercise such powers and perform such functions at the village level as the legislature of a state may by law, provide.

Gram Sabha Procedure:

The Gram Sabha should as far as may be reasonably practicable to be held by rotation from time to time in each of the villages of the Gram Panchayat at a convenient place as the Sarpanch may determine from time to time. The annual and half-yearly meeting of the Gram Sabha to be held in the months of February and June of a year respectively and Gram Sabha should meet at least once in each quarter preferably on 26th January, 1st May, 15th August and 2nd October in our state. The date, time and venue for conducting Gram Sabha meeting to be informed to the people much earlier by the Sarpanch of the Gram Panchayat. The Sarpanch or the Collector or any other person empowered by Government on that behalf may call for

a special meeting of the Gram Sabha whenever he thinks necessary. The Secretary, after obtaining approval of the Sarpanch or after receiving requisition as above shall issue notice for the meeting as provided in the rules. At least fifteen clear days notice for a meeting of Gram Sabha shall be given. Copy of the notice may be forwarded to the concerned Block Development Officer. The notice of the meetings of the Gram Sabha shall be published in the local area by affixing a notice at one or more prominent places and by beat of drums. Notice shall set forth clearly and fully the business to be transacted in the meeting but the Sarpanch may bring forward any motion or proposition not specified in the notice. There shall be at least two meetings of Gram Sabha one in February and the other in June every year to be held and such other meetings as may be prescribed. The quorum for the meetings of the Gram Sabha shall be one-tenth of total members of the Gram Sasan. As per the notification dated 5th December 2002 of Panchayati Raj Department (Gram Panchayat Section), Government of Odisha, the quorum shall include one third of the members present who are women members. If at a meeting of a Gram Sabha the quorum is not present, the Sarpanch or the president of the meeting shall adjourn the meeting until such other day as he thinks fit, of which not less than three days notice shall be given. The Sarpanch or in his absence, the Naib-Sarpanch shall preside over the meeting of Gram Sabha. In absence of both, the members shall choose some one from amongst themselves to preside over the meeting. The agenda of the meeting to be prepared by the Sarpanch of the Gram Panchayat and the agenda shall include such subjects as are assigned to the Gram Sabha under the Act. Whenever the President of the meeting finds it necessary to temporarily leave the Chair he may call any other member to preside over the meeting. At a special meeting only the business for which the meeting was called shall be considered. Notwithstanding anything contained in the notice can be transacted if the majority of the members present agree to do so. All questions which may come before the Gram Sabha shall be decided by majority of votes. In case of equality of votes, the President of the meeting shall have casting vote. Voting by proxy is strictly prohibited. No member shall vote upon any motion for amendment unless he is present in person at the time when it is put to vote. The business in the meetings shall be transacted and the minutes of proceedings shall be recorded in Odia by the Secretary of the Gram Panchayat and in his absence the Sarpanch shall take such steps as may be necessary for correct recording of the proceedings. The minutes of the proceedings shall be entered in a book to be kept for

the purpose and shall be signed by the President of the meeting and such book shall be kept opened to the inspection of the public. The decision of Gram Sabha is final it can not be changed at any level.

Standing Committees of Gram Panchayat:

Seven Standing Committees have been constituted as per the provision of Odisha Gram Panchayat Act. The following seven aspects are considered in the Standing Committee constituted under the Gram Panchayat.

- 1 Planning, Finance, Poverty Alleviation Programme
- 2 Works, Irrigation, Electricity, Drinking Water and Village Sanitation
- 3 Public distribution, Welfare of under section, Forestry and Cattle feeding
- 4 Education, Sports and Cultural activities
- 5 Agriculture, Animal Husbandry, Soil Conservation, Water shade & Pisciculture
- 6 Health, Social Welfare, Women and Child Development
- 7 Handicraft, Village Industries, Khadi of Gram Udyog and Rural Housing

Composition:

Every Standing Committee shall have five members in case of Gram Panchayat having twenty or more elected members or three members in case of Panchayat having less than twenty elected members. The Chairman and members of the Standing Committee shall be elected by and from among the elected members of the Panchayat. Provided that in case of Health, Social Welfare, Women and Child Development, the Chairperson of the Standing Committee shall be elected from woman members only.

The Gram Panchayat secretary shall be the ex-officio-Secretary of all Standing Committees. The term of office of every Standing Committee shall be two years. One month before expiry of the term of a Standing Committee, election shall be held for constitution of a new Standing Committee. Gram Panchayat may co-opt to each of the Standing Committee not more than three persons, having experience and knowledge of the subjects assigned to the respective Standing Committee. Representatives not exceeding three in number from among the lead banks functioning within the local areas of the Panchayat may be co-opted as members of the concerned Standing Committees if their assistance is felt necessary. The Gram Panchayat meetings should give prior approval to such co-opted members.

Powers and Functions of Standing Committees:

The respective Standing Committee of the Gram Panchayat shall deal with the matters for which it has been constituted. Every Standing Committee shall review the matters placed before it in relation to the subjects or schemes as assigned to it and prepare plans and projects there by ensure proper implementations of the plans and projects prepared by them. It shall be responsible for the financial and physical achievements in respect of the schemes and programmes assigned to them. The recommendations of the Standing Committee shall be placed before the Gram Panchayat to finalize the programmes and in allocation of the resources. The implementation of the recommendations of the Standing Committee shall be subject to the decision of the Gram Panchayat. Provided that it shall be competent for the Samiti to revise or modify any such recommendation as it may deem proper.

PANCHAYAT SAMITI:

In the three-tier rural local self governance system in Odisha, the Panchayat Samiti at the Block level constitutes the middle-tier and is the most important body from an administration point of view. It was in the year 1959 that following the recommendations of the Balwantrai Mehta Committee Report (1957) on democratic decentralization, the Government of Odisha enacted the Odisha Zilla Parishad Act, 1959 making provision for the establishment of Panchayat Samitis and Zilla Praishads. In 1961, the name of the Act was changed to the Odisha Panchayat Samiti and Zilla Parishad Act, 1959 which came into effect on 26th January, 1961. After the provisions relating to Zilla Parishads were deleted in 1968 by the Government of Odisha, the Act came to be known as Odisha Panchayat Samiti Act, 1959.

According to the provisions of the 1959 Act, all the 314 Community Development Blocks were converted to Panchayat Raj Blocks, each having a Panchayat Samiti consisting of officials and non-officials as its members. The Panchayat Samiti then consist a Chairperson, Vice-Chairperson, BDO, employees nominated by the Government from each of the department, Sarpanches of all the Gram Panchayats and the Chairperson of all the Municipalities and Notified Area Councils (NACs). There was a provision for representation of members from women, Scheduled Castes and Scheduled Tribe by election failing which they could be nominated.

A novel feature of the Odisha Panchayat Samiti is that the official and the ex-officio members like Chairperson of the Municipalities and NACs can participate in

the discussions of the meetings without right to vote. But after 1991 amendments, with the direct election of the members for the Samiti who in turn elect the Chairperson from among themselves, the Sarpanches of Gram Panchayats have become the ex-officio members without right to vote. Again, with regards to the composition of the Panchayat Samiti, Odisha has a distinction. Unlike many other states where the BDO and his team of officers are there only to run the administration of the Block with out having a place in the Samiti itself, the Panchayat Samiti in Odisha include the BDO and his team of officers as official members to ensure the technical and administrative aspects of any decision taken by the Samiti but without the right to vote. This provision benefits the decision making but sometimes it might contribute to interface problems too.

Under the original Act of 1959, the term of the office of the Panchayat Samiti including all its members was three years commencing from the date of its first meeting after constitution of the Samiti. But later, it was raised to five years, which till continues. The Panchayat Samiti is the key-tier in the rural local governance set up in Odisha and is the centre of all developmental activities.

At present there are 314 Panchayat Samiti and there are 6,235 elected Panchayat Samiti Members in the state out of which approximately fifty percent belong to women. As per Section-15 of the Odisha Panchayat Samiti Act 1959, the Chairperson and Vice-Chairperson indirectly elected by the members of the Panchayat Samiti. The Panchayat Samiti also includes the members of the Panchayat Samiti, elected by the direct election and all the Sarpanches from the jurisdiction of Panchayat Samiti. Besides, the Member of Legislative Assembly (MLA) of the respective Panchayat Samiti and the Member of Parliament (MP) of respective Panchayat Samiti

The Government Officials of the Panchayat Samiti includes the Block Development Officer (BDO), who is Executive Officer of the Panchayat Samiti and all extension officers of Panchayat Samiti. As the Executive Officer of the Panchayat Samiti, the BDO is the main functionary of implementation of resolutions, orders, decisions, schemes, projects and programmes. The officers of other departments under the jurisdiction of Panchayat Samiti also include the list of Panchayat Samiti Officers.

The following diagram mentions the structure of the Panchayat Samiti and gives the detail of its elected representatives and functionaries.

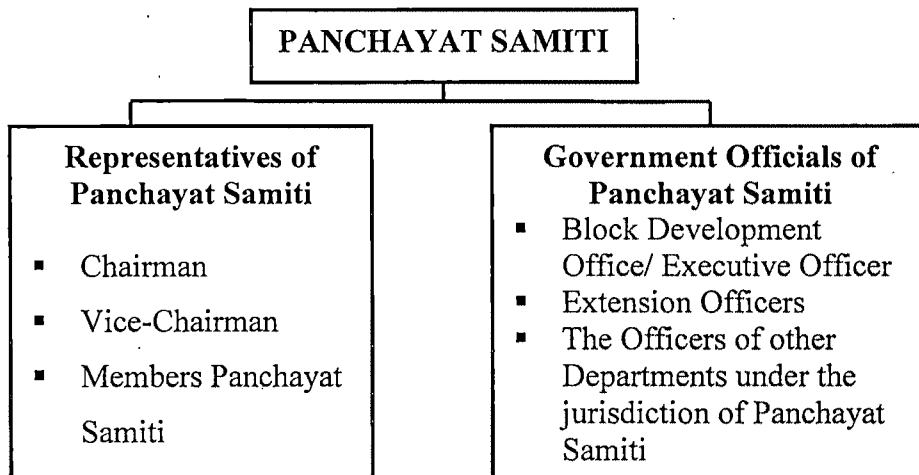


Fig-2.2

Meetings of Panchayat Samiti:

The meeting of the Panchayat Samiti is to be conducted as per provisions under Odisha Panchayat Samiti Rules 1969. The meeting of the Samiti to be held at the office of the Samiti and the Samiti shall meet at least once in every two months. An ordinary meeting of the Samiti shall usually be held on a fixed day of every alternate month to be decided it in a meeting. Provided that if for any reason, it deemed inconvenient to hold any such meeting on the day fixed, the Chairperson may fix another day for that particular meeting.

At least seven clear days notice for a meeting of the Samiti shall be given to every member. The notice shall be issued under the signature of the BDO and to be served by post under certificate of posting. A copy of the notice shall also be published in the Notice Board of the Samiti. Provided that the notice for an emergency meeting may be served by post under certificate of posting or by such other means as may be deemed necessary. The notice shall set forth clearly and fully the time, place and date of the meeting and the business to be transacted there. Accidental failure of service of notice shall not invalidate the proceedings of any meeting.

The agenda for the meeting shall be prepared by the Block Development Officer (BDO) in consultation with the Chairperson of the Samiti. The agenda shall include such subjects as are assigned to the Samiti under the Act. The Chairperson of the Samiti can call for a special meeting on the requisition of one-third members of the Samiti within one month from the date of receipt of such requisition giving the resolution which it is proposed to move. The Chairperson of the Samiti may call for a

special meeting of the Samitis so-motu and shall convene such meeting on requisition from the Collector of the district within fifteen days from the date of receipt of such requisition. The procedure prescribed for meeting under the foregoing rules shall apply for special meetings under this rule. Every meeting of the Samiti shall be presided over by the Chairperson and in his/her absence by the Vice-Chairperson and in the absence of both by a non-official member out of a panel of three such members in order of priority nominated by the Chairperson in pursuance of Sub-Section (5) of Section 20-A of the Act. Whenever the Chairperson of the Samiti finds it necessary to temporarily leave the Chair, he/she may call on the Vice-Chairperson or the latter's absence, the non-official member from the panel of three such members in order of priority nominated by the Chairperson and in case all such members are absent, he may call on any member present there.

Whenever the Vice-Chairman of a Samiti is presiding over the meeting and he finds if necessary to leave the Chair temporarily, he may call upon the non-official member from a panel of three such members in order of priority nominated by the Chairperson and in case all such members are absent, he may call any member present there. If the office of the Chairperson and Vice-Chairperson of the Samiti are vacant, the duties assigned to them shall be performed by the non-official members from a panel of three such members in order of priority nominated by the Chairperson.

Quorum for any meeting of the Samiti shall be one-third of the total members of non-official members having a right to vote, then on the roll of the Samiti. Provided that in case where the number of members having a right to vote then on the roll is not evenly divisible by three, the one-third shall be ascertained by taking the number next above the whole number, which is evenly divisible by three as the number to be divided. If, within an hour, after the time appointed for a meeting, the quorum is not present the meeting shall stand adjourned to some future day to be decided by the Chairperson unless all the members present, agreed to wait longer and at least seven days notice of such adjourned meeting as prescribed under Rule-5 shall be given. The adjourned meeting shall be convened within fourteen days from the date of adjournment. The members present at such adjourned meeting shall form a quorum whatever their member may be. A matter requiring the decision of the Samiti shall be decided by means of a question, put by the presiding member of the Samiti. When a question is put to vote, the presiding member shall call for a show of hands and he shall count the hands shown for or against and declare the result. All questions

which may come before the Samiti at any meeting shall be decided by a majority of votes of non-official members having right to vote. In case of equality of vote the presiding member shall have and exercise a second or casting vote.

No resolution of the Samiti shall be modified or cancelled within three months after passing thereof except at a meeting specially convened in that behalf and by a resolution of the Samiti supported by not less than one-half of the total number of non-official members having a right to vote on the roll of the Samiti. There shall be a resolution book for recording the minutes of the proceeding of each meeting of the Samiti. During the period of each meeting the Block Development Officer shall record the names of the members present in the meeting in the minute's book and shall obtain their signature. Minutes of the proceedings of each meeting of the Samiti shall be recorded by the Block Development Officer in the Odia language after obtaining the signature of the presiding member and the Block Development Officer shall circulate copies of the same to all members within seven days of the meeting. If no objections are received from any members within 20 days of holding of the meeting, the minutes shall be taken to have been correctly recorded.

The Block Development Officer shall forward the copy of the minutes of the proceedings of each meeting of the Samiti to the concerned Sub-Collector and the Collector of the District within seven days of each meeting. He shall forward a copy to the Government within seven days of each meeting, if directed by the Samiti. A member while speaking shall not comment on any matter on which a judicial decision is pending or make a personal charge against any member or use offensive language about the conduct or proceedings of the parliament of the legislature of any State or of any Parishad or Samiti or reflect upon the conduct of the President or any Governor as distinct from the Government of which they are respectively the heads or any court of law in the exercise of its judicial functions or utter defamatory words or use his right of speech for the purpose of obstructing the business of the Samiti. A member, who has once addressed the meeting on a motion shall not subsequently move or second an amendment thereto or otherwise take part in the debate. No member shall speak on a motion after it has been put to vote by the presiding member. No member may speak more than once on a motion except the mover who has the right of reply. After the mover's reply, no member shall speak on the motion if the mover of a motion speaks on amendment thereto then he loses his right of reply. No speech except with the permission of the presiding member shall exceed seven minutes in duration. No

member shall vote or take part in the discussion of any subject coming up for consideration at a meeting of the Samiti, if the subject is once in which a part from its general application to the public he has any direct pecuniary interest, by himself or as a partner. The presiding member, either on his own motion or on the motion of any member President may prohibit any member from voting on or taking part in the discussion of any subject in which he believes such member to have pecuniary interest or he may require such member to absent himself during the discussion. Such member may challenge the decision of the presiding member who shall there upon put question to the meeting. The decision of the meeting shall be final. If the presiding member is believed, by any member present at the meeting, to have any such pecuniary interest, in any subject under discussion, the presiding member, may if a motion to that effect is carried, be required to absent himself from the meeting during such discussion. The member concerned shall not be entitled to vote on the question referred to in sub-rule (3) and the presiding members shall not be entitled to vote on motion referred to a sub-rule (4).

Powers and Functions of Panchayat Samiti:

The Panchayat Samiti can exercise powers and perform a number of functions as provided under Section-20 of the Odisha Panchayat Samiti Act which include planning, execution and supervision of development programmes in the Block, relating to Community Development. If it is a Tribal Development Block, the programmes/ schemes and works shall be managed and supervised by the Block. It is the duty of the Panchayat Samiti to manage, control and spread primary education in the Block and prepare plans for improvement of financial position and social justice. The Samiti is to supervise enforcement of laws relating to vaccination and registration of birth and death and borrowing of money and granting of loan with prior permission from Government.

The Samiti is to manage such trusts and endowments and other institutions entrusted by government and to supervise and inspect the works executed by the Gram Panchayat under their jurisdiction. The Samiti will constitute the Standing Committees for proper management of Panchayat Samiti. The Samiti will perform any such other functions as may be assigned by the Government from time to time.

Power and Functions of Chairperson of Panchayat Samiti:

As per Section-19 of the Odisha Panchayat Samiti Act, the Chairperson is the executive authority of the Panchayat Samiti. He/she convenes the Panchayat Samiti meeting. The works executed by the Panchayat Samiti are inspected and checked by the Chairperson. If required, the Chairperson may delegate some functions to the Vice-Chairperson in writing and may withdraw such powers from him as and when required. The Vice-Chairperson can preside over the Panchayat Samiti meeting in absence of Chairperson. In absence of the both, the members can select one person among them to preside over the meetings of Panchayat Samiti. The Chairperson can approve the casual leave of the Block Development Officer. He/she can give his comments on the duties and functions of the Block Development Officer in the prescribed form and shall submit three copies to the Collector by 15th April of each year. Similarly, the Chairperson can give his comments on Additional Block Development Officer and shall submit the same to the Collector. The Chairperson shall approve the tour programme and tour diaries of the Block Development Officer.

Power and Functions of Members of Panchayat Samiti:

The Panchayat Samitis is an important institution for better and fruitful implementation of different schemes entrusted by government after devolution of powers to the Panchayati Raj institutions. For the proper implementation of government programmes, members are elected directly from the Gram Panchayat area to the Panchayat Samiti and are entrusted with different duties and responsibilities.

As per Panchayat Samiti Election Rules, the Chairpersons and Vice-Chairpersons are elected by the Members of the Panchayat Samiti from among themselves. They have powers to cast their votes in the Panchayat Samiti meeting and during the vote of no confidence motion against Chairperson and Vice-Chairperson. As a member of the Samiti they can participate in all meetings of the Samiti and Standing Committees. They can take part in the discussion and finalize the proceedings of the Samiti and proposals of different Standing Committees. The Samiti Members can also attend the Gram Panchayat meetings but without a right to vote. The members can assist the people for their development and can help members of weaker sections to ensure them social justice. They can also help and assist the helpless people during the time of emergency and natural calamities in their respective area.

Functions and Duties of BDO under Odisha Panchayat Samiti Administrative Rules, 1987:

The Block Development Officer is the Executive Officer of the Block and he will work under the control and supervision of the Chairperson as prescribed under Odisha Panchayat Samiti Rules. The BDO as the Executive Officer is the main functionary of execution of resolutions, orders, decisions and programmes/projects. The budget of the Panchayat Samiti is prepared by the BDO with the approval of the Chairperson and is placed before the Samiti for sanction and thereafter submitted to the District Collector who has the power to modify it, if he feels so. Under the Act of 1959, the budget of the Panchayat Samiti used to submit to the Zilla Parishad for approval. But after the abolition of the Zilla Parishad, the Collector became the approving authority. Now with the revival of Zilla Parishads under the Odisha Zilla Parishad Act, 1991 the original position has been restored. All the receipts from government to be received by the Panchayat Samitis to be deposited in the 'Panchayat Samiti Fund' and the BDO is the custodian of the same and the funds to be spent as with the prior approval of the Panchayat Samiti as provided under the Odisha Panchayat Samiti Act and Rules.

Beside the above, the defects pointed out during the audit of the Panchayat Samiti accounts to be complied by the BDO. He will take care for correct entry of the proceedings of Panchayat Samiti meeting and to submit reports and returns to different quarters. He prepares the Confidential Character Report (CCR) of his subordinate officers by 15th April of each year and to submit the same to their respective departments. He is also responsible for proper maintenance of service book of all staff under his/her control. The BDO must attend all the Panchayat Samiti meetings and take care for correct recording of proceedings and to make all correspondences on behalf of the Panchayat Samiti. He is authorized to take proper action on the misutilisation of public properties during execution of any developmental work. He will submit tour programmes and tour diaries of the Chairperson to the Collector and for the information and necessary action by Sub-Collector. He will report the casual vacancy of the members of the Panchayat Samiti to the Chairperson and Collector for further action at their end. The BDO can scrutinize, inspect and supervise different development works undertaken and report it to the Panchayat Samiti for approval. He is responsible to report the loss of life and properties during natural calamity to the Collector and Sub-Collector in time and

arrange for relief work for the affected people. The BDO will take necessary action for the works executed at the Gram Panchayat level for completion in time as per government instructions. He can visit and inspect the Gram Panchayats under his jurisdiction and scrutinize the levy of taxes and financial position of the Gram Panchayat. At the same time he can monitor the utilization of Government grants on different schemes and supervise the projects under execution. He can also give technical advice to Gram Panchayat and Samiti. If any misappropriation or misutilization of funds found at the time of inspection or visit to the Gram Panchayat, the matter to be reported to the Chairperson and Collector. It is his duty to conduct meeting of the Extension Officers, Village Level Workers/ Lady Village Level Workers at least two days in a month. In addition to the above, the BDO shall see the maintenance of vehicle, all the movable and immovable properties under the control of Panchayat Samiti. Further more, he is to attend to the works entrusted by the Government in Panchayati Raj Department as and when required.

Functions of ABDO:

The Government in Panchayati Raj Department has issued an instruction vide their letter No.41556 dated 24.10.2008 regarding Administrative and Financial powers of Addl. BDO, which discussed detailed below:

The Additional BDO-cum-Accounts Officer exercises the powers and discharges the duties and functions of the Block Development Officers when the BDO remains absent due to transfer, leave or any other reason. He works under the administrative control of the BDO and assists him in supervision of all the welfare schemes and development works implemented in the Block and ensures monitoring and follow up arrangement in respect anti-poverty programmes in the Block. He conducts half-yearly inspection of Block Office and annual inspection of the work of VLWs as per instructions by the BDO. He verifies the stock and stores of Block Office at an interval not exceeding two months. Assist the BDO in conducting regular staff meeting to monitor activities and progress of Extension Officers and VLWs and conduct staff meeting on specified dates in absence of the BDO. Visit each Gram Panchayat at least once annually and tender advice on better performance of functions assigned to the Gram Panchayat. Function as the Officer-in-Charge of all Social Welfare Schemes and in particular makes every endeavor to disburse pensions to the destitute, aged, widows and disabled persons in time. He can visit and inspect the progress of schemes and works according to the directions of the BDO approve tour

programmes and tour diaries of Village Level Workers, ensure timely distribution of Salaries of Primary School Teachers and supervision of Public Distribution System. He is to look after all matters relating to establishment of the Block under the supervision of BDO. The power of drawing and disbursing officers is delegated to the ABDO-cum-Accounts Officer by the BDO so that he can function as Drawing and Disbursing Officer and double lock officers in respect of cash. He will be responsible for daily maintenance of Cash Book and Accounts. However, monthly cash verification would be done by the BDO and ABDO jointly. All the files/case records relating to accounts are passed through ABDO-cum-Accounts Officer and he submits utilization certificates and compiles audit objections if any subject to over all control and supervision of the Block Development Officer. He takes up regular analysis of Cash and P.L. Account of the Block and assists in audit of accounts of the Samiti. He is usually in-charge of Computer Cell in the Block and ensures daily maintenance of PAMI. He sends weekly updates on PRIA Soft and Rural Soft and performs such other duties as the BDO may assign to him from time to time under Sub-Rule-(xv) of Rule-14 of Odisha Panchayat Samiti (Administration of Affairs) Rules, 1987.

Standing Committees of Panchayat Samiti:

For better functioning of Panchayat Samiti, Standing Committees are constituted. Like the Standing Committees of Gram Panchayat these Committees also accelerate the developments projects/programme. These Committees evaluates the functions of Panchayat Samiti in its regular meetings. Every Samiti by a resolution constitutes the following Standing Committees, namely:

1. Planning, Finance, Anti-poverty Programme and Coordination Standing Committee;
2. Works, Irrigation, Electricity, Drinking Water Supply and Rural Sanitation Standing Committee;
3. Public Distribution System, Welfare of Weaker Section, Forest, Fuel and Fodder Standing Committee
4. Education, Sports and Culture Standing Committee.
5. Agriculture, Animal Husbandry, Soil Conservation, Horticulture, Watershed Development and Fisheries Standing Committee;
6. Health, Social Welfare including Women and Child Development Standing Committee ;
7. Handicrafts, Cottage Industry, Khadi and Village Industries and Rural Housing Standing Committee;

Constitution of Standing Committees at Panchayat Samiti Level:

Every Standing Committee consists of five members in case of a Samiti having twenty or more elected members or three members in case of a Samiti having

less than twenty elected members. The Chairperson and members of the Standing Committees are elected by and from among the elected members of the Samiti, provided that in case of Health and Family Welfare and Welfare Women and Child Development, the head of the Standing Committee will be a woman. The Block Development Officer works as an ex-officio Secretary of all Standing Committees. Samiti may co-opt to each of the Standing Committee not more than three persons not being members of the Samiti having experience and knowledge in the subjects assigned to the respective Standing Committees. The term of office of every Standing Committee is for a period of two years. One month before expiry of the term of a Standing Committee election to be held for reconstitution of a new Standing Committee.

Powers and Functions of the Standing Committees:

The respective Standing Committees of the Samiti deal with the matters for which it has been constituted. Every Standing Committee reviews the matters placed before it in relation to the subjects or schemes as assigned to it and prepare plans and projects thereof and furnish its recommendations to the Samiti. The Standing Committee ensures proper implementations of the plans and projects prepared by them. It is responsible for the financial and physical achievements in respect of the schemes and programmes assigned to it. The recommendations of the Standing Committee placed before the Samiti for finalizing the programmes and allocation of the resources are made accordingly. The implementation of the recommendations of the Standing Committee subject to the decision of the Samiti - provided the Samiti can revise or modify any such recommendation as it may deem proper in the best interest of the Samiti.

Conduct of Business of Standing Committees:

Each Standing Committee meets in the Office of the Samiti on such date and such time as the Chairman of the Standing Committee may decide. The Chairman of the Standing Committee may at any time call for a special meeting of the Standing Committee within a week of receipt of a requisition by a majority of the members of the Standing Committee. The agenda and the time of the meeting are approved by the Chairman of the Committee. No business is transacted in any meeting of a Standing Committee unless a majority of its members are present. The business of the Standing Committee is conducted in a simple manner. The minutes of the proceedings of the meeting are recorded in a book and shall be signed by the Chairman after the meeting.

For this purpose, only summary of discussion and the recommendations of the Standing Committee are recorded. The BDO, with the approval of the Chairman, puts the minutes of the proceedings in the next meeting of the Samiti for confirmation. Copies of the minutes of the proceedings referred to in sub-rule (1) are also communicated to the concerned Collector and District Panchayat Officer.

THE ZILLA PARISHAD:

The Zilla Parishad is the apex tier of all the three levels of rural local self governance system. In Odisha, it was first constituted in January 1961 under the Odisha Panchayati Samiti and Zilla Parishad Act, 1959. For some time they worked well in the state but after some period of time they were abolished in 1968 and replaced in July of that year by a body called the District Advisory Council. However, after a long spell of 23 years they were revived in the year 1991 by an Act called Odisha Zilla Parishad Act 1991. The Zilla Parishad Act, 1991 provides for the constitution of a Zilla Parishad for each district by its name.

At present, 30 Zilla Parishad have been constituted in 30 districts of the State as per section 3(1) of Zilla Parishad Act 1991. A Zilla Parishad constituency is to be formed within 40,000 populations as per the rule there are 854 Zilla Parishad constituencies are formed in the state. Presently there are 854 elected Zilla Parishad Members in the state out of which approximately 50 percent of members belong to women elected representatives.

The members of Zilla Parishad are elected by direct election. As per Section 6(1) of Odisha Zilla Parishad Act 1991 the following representatives are the members of the Zilla Parishad and can attend Zilla Parishad meeting.

- The President and Vice-President of the Zilla Parishad who are elected by the members of the Zilla Parishad.
- All the members of the Zilla Parishad who are elected by the process of direct election
- All the MPs and MLAs representing respective districts.
- All the Chairpersons of the Panchayat Samiti from the respective districts.

Following the 73rd Constitutional Amendment Act, the Odisha Zilla Parishad Act was further amended in 1994. Elections to the Zilla Parishads under this amended Act were first held in 1997. Seats are reserved for Scheduled Castes and Scheduled Tribes in each Parishad according to their population. Twenty seven percent of seats are reserved for OBCC (Other Backward Classes) and one third for women, including

those from SCs, STs, and OBCs. Every Parishad has a President and Vice-President elected by the members from among themselves at its first meeting. The office of President is covered under reservation policy. The Collector is the ex-officio Chief Executive Officer of the Parishad. The Project Officer of the District Rural Development Agency (DRDA) is to act as the Executive Officer. However, the President does not seem to have full administrative control over these officers.

The members of Zilla Parishad are elected by direct election. As per section 6(1) of Odisha Zilla Parishad Act, 1991, all the members representatives discussed above are the members of the Zilla Parishad and can attend Zilla Parishad meeting.

Odisha has the distinction of introducing some facets of 73rd amendment prior to its coming into force from April 1994. Compared to the 73rd Constitutional Amendment Act, 1992, the Government of Odisha had not only made one third of the seats reserved for women, but also gone a step forward in reserving the post of Vice-President for women in Zilla Parishads, if the Chairperson is elected is not a woman. So also, reservations of seats for Scheduled Caste, Scheduled Tribes on the basis of their population have also been made in Zilla Parishad. Now the reservation system for women has been raised to fifty percent from the current year.

President, Vice President and Members of the Zilla Parishad are the representatives of people in the Zilla Parishad and District Collector (Chief Executive Officer), Project Director, DRDA (Executive Officer) and other district level government officials are working in the Zilla Parishad under the supervision and guidance of Zilla Parishad. The following diagram mentions the structure of the Zilla Parishad and gives the detail of its elected representatives and official functionaries.

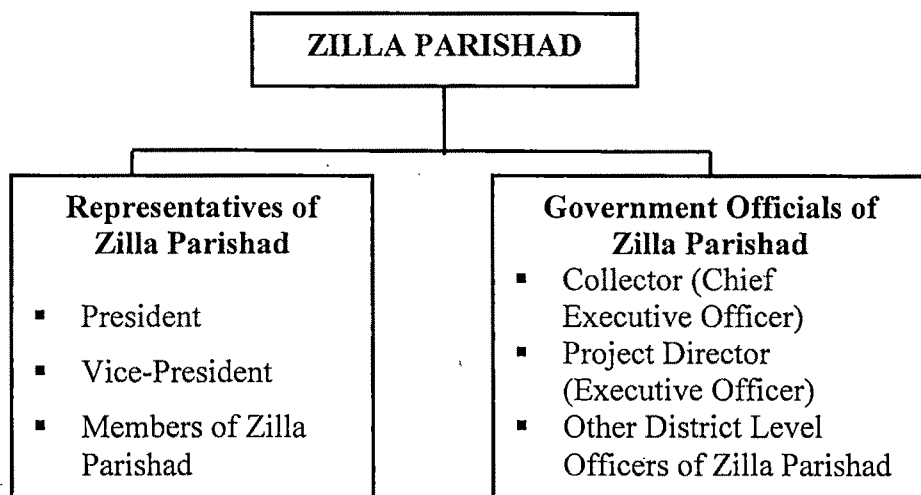


Fig-2.3

Meeting of the Zilla Parishad:

The Zilla Parishad meets not less than four times during any year for the transaction of its business and a period of more than three months are not allowed to elapse between two successive meetings. The business of the Parishad usually conducted in the office premises of the Zilla Parishad. The date for the meeting is usually decided by the President of the Zilla Parishad and he presides over the meeting and in his absence the Vice-President or in absence of both, the members present select a member to preside over the meeting. On request of one-third members of the Parishad, the President can convene a meeting. The proceedings of the meeting are recorded by the Secretary of the Zilla Parishad. A copy of the meeting sent to the government and to the Revenue Divisional Commissioner (RDC) concerned within 7 days of the meeting.

Power and functions of Zilla Parishad President:

The President is the executive authority of Zilla Parishad. District level projects are executed by him. The President is empowered to implement resolution and decisions. Whenever emergency powers are exercised, it is subject to approval in the next quarterly meeting of the Parishad. He prepares a list of 3 members to function as President in absence of himself and Vice-President.

Power and Functions of the Vice-President of the Zilla Parishad:

When the seat of the President lies vacant or the President remains absent for more than 15 days in the district, the Vice-President functions as President till the selection of new President.

Power and Functions of the Members of Zilla Parishad:

The Parishad consists of Members who are directly elected by the people from the Parishad constituency as may be determined by rules to the provision under Article 243-C of the constitution with appropriate reservation as per proportional basis in case of Scheduled Caste and Scheduled Tribes and not less than one third for women members on rotational basis. The members attend the Zilla Parishad meetings and in the meeting they can propose the admissible facts. They can place proposals for discussion in the Zilla Parishad meeting but it should be informed to it before clear 7 days of the meeting. They can inspect the records and register of the Zilla Parishad during office hour by giving notice to the President. The copy of the proceedings of the Standing Committees they can obtain from the Secretary with prior approval of

the President. In absence of President and Vice president, the members previously selected by the President shall function as President.

The vote of confidence is another instrument given to the members to control the President /Vice President by mobilizing two-third majority in their favour. Notice of no-confidence motion is to be given to the concerned Revenue Divisional Commissioner (RDC) who is to convene and preside over the meeting.

Functions of Zilla Parishad:

The Zilla Parishad of a district undertakes a number of activities for the all round development and welfare of the district which include taking up schemes or adopting measures for providing financial assistance relating to the development of agriculture, social forestry, livestock, industries, cooperative movement, rural credit, water-supply, distribution of essential commodities, rural electrification including distribution of electricity, minor irrigation, public health and sanitation including establishment of dispensaries and hospitals, communications, primary, secondary and adult education including welfare and other objects of general public utility. It prepares plans for economic development and social justice and implements schemes to ensure economic development and social justice and undertakes execution of any other scheme, performance of any act or management of any institution or organisation as the Government may, by order, entrust to it including those in relation to the matters listed in the Eleventh Schedule to the Constitution of India subject to such terms and conditions as may be specified in the order.

It also has to manage or maintain any work of public utility or any institution vested to it or under its control and management. It can contribute such sums as may be agreed upon towards the cost of maintenance of any institution situated outside the district which is beneficial to and habitually used by the inhabitants of the district. It should establish scholarships or award stipends within the state for the furtherance of technical or other special forms of education. It provides grants to Samitis or Gram Panchayats within the district. It contributes with the approval of Government such sums as it may decide towards the cost of water supply or anti-epidemic measures undertaken by a Municipality or Notified Area Councils within the district. It can adopt measures for the relief of distress. It also coordinates and integrates the development plans and the schemes prepared by a Samiti in the district. It prepares, executes and supervises the district plan relating to monitoring and supervision of different government programmes directly implemented by Gram Panchayats and

Panchayat Samitis, implementation of anti-poverty programmes and monitoring supervision there of, discharge of responsibilities and functions as assigned to the District Rural Development Agencies from time to time and to provide grant-in-aid to any school, public library, public institution or public welfare organisation within the district.

The Odisha Zilla Parishad Act, 1991 has been amended during 1997 in accordance with "Panchayats Extension to Scheduled Area Act, 1996". As per this amendment the power and functions of Zilla Parishad are:

No acquisition of land for development project will be granted without the prior recommendation of Zilla Parishad. The Zilla Parishad plan and manages the minor water bodies. No lease and auction of minor minerals will be granted without prior recommendation/consultation of Zilla Parishad.

Standing Committees of Zilla Parishad:

Five members in each Committee where the Zilla Parishad having 20 members, 3 members in each Committee where the Zilla Parishad having less than 20 members constitute the Standing committees of Zilla Parishad. The Members of the Committees are selected from among the Members of the Zilla Parishad. The President of the Zilla Parishad works as Chairman of planning, finance, poverty eradication and co-ordination Committee. The Vice-President acts as the Chairman of the construction work, irrigation, electricity, drinking water and rural sanitation programme Committee. A woman member acts as the President of the Health, Social Welfare, Women and Child Welfare, Committee. The Secretary of the Zilla Parishad also acts as the Secretary of all the Standing Committees.

Constitution of Standing Committees:

Standing Committees of Zilla Parishad can be formed with five members in each where the Zilla Parishad consists of total of 20 or more than twenty members and three member Standing Committees can be formed where the total members of Zilla Parishad is less than 20 members. The Chairman and Members of the Standing Committees are selected from among the members of the Zilla Parishad. Each Committee is responsible for the better function of the subjects under their jurisdiction. If required, with the approval of the Zilla Parishad minimum of 3 members can be included in the Committee from the lead banks like Co-operative Bank, Commercial Bank, Regional Rural Bank, Life Insurance and General Insurance Companies.

The followings are the Standing Committees of the Zilla Parishad:

1. Planning, finance, poverty eradication, coordination committee.
2. Construction work, irrigation, electricity, drinking water and rural sanitation.
3. Public distribution, welfare of weaker section, forest and firewood, animal foods and grass cultivation committee.
4. Education, sports and cultural committee.
5. Agriculture, animal husbandry, soil conservation, horticulture, development of watershed, pisciculture committee.
6. Health, social welfare, women and child welfare committee.
7. Handicraft, village industries, Khadi and Village Industries, Rural Housing Committee.

District Planning Committee:

Article 243-ZD in Part IX-A of the Constitution provides for the constitution of District Planning Committees (DPC) at district level by the State Governments. The objective of DPC is to prepare district level developmental plan by consolidating all the developmental plans of Panchayati Raj Institutions and Municipal bodies of the district.

While constituting of the DPC, 80% of the members are to be elected by and from among the elected representatives of the Zilla Parishad and the Municipalities in the district. One of the Ministers from the state cabinet will preside over the District Planning Committee. Collector will be the Member Secretary of the Committee. The remaining members can be persons having rich experience in the sectors like planning, agriculture; economics, irrigation, education, rural development and social work are to be nominated by the state government. The Members of Legislative Assembly (MLA), Member of Parliament (MP) and other dignitaries of the concerned district may be invited to the meetings of the Committee as invited members of District Planning Committee.

District Planning Committee has been formed and implemented in Odisha since 1998 to facilitate the formation of Planning Committees in all districts and accelerate the pace of development. There is no reservation for women in the DPCs. In absence of the President, members present can nominate one among them to preside over the meeting of the District Planning Committee. The quorum of the meeting is 50% of total strength and the term of office of the District Planning Committee is 5 years.

Role of Institutions of Rural Local Self-Governance in Development Schemes:

The Institution of rural local self governance system has been divided into three-tier by the force of 73rd Constitution Amendment, such Gram Panchayat at Village level, Panchayat Samiti at Block level and Zilla Parishad at the District level. The middle level i.e. Panchayat Samiti always keeps coordination between Zilla Parishad and Gram Panchayat for management and implementation of different development programs. So, the Panchayat Samiti plays a very significant role in Panchayati Raj System. The rural development programmes of different Departments of the Government are implemented through the Gram Panchayat. Thus, Gram Panchayat is the first-tier of the three-tier Panchayati Raj Institutions (PRIs). Different development programmes such as social welfare, poverty eradication etc. are implemented through the Panchayat Samiti. Development schemes are implemented at Block levels through the Zilla Parishad. However, few schemes such as Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) are implemented at Gram Panchayat level. Any development programme to be worked in the area of a Gram Panchayat is implemented only in association with the Gram Panchayat. List of projects, selection of the beneficiaries are approved by the Zilla Parishad through the Panchayat Samiti only after these are prepared at Gram Panchayat level through Palli Sabha or Gram Sabha. Thus, all the projects being initiated at Gram Panchayat level are approved at Zilla Parishad through the Panchayat Samiti. In three-tier Panchayati Raj System, all the three institutions are complimentary to each other. None of these institutions can do any work alone. Panchayat Samiti and Gram Panchayats only implement the projects at their levels where as Zilla Parishad approves these projects and allocates fund for them. All these tiers Panchayat Raj System work together to keep coordination among them. Panchayat Samiti convenes the meetings for smooth implementation of different developments projects. Hence, Panchayat Samiti acts as a convener or coordinator of different meetings/schemes. The main function of Panchayat Samiti is to inspect and keep account of working of various Panchayat level development schemes as well as development works such as Social Welfare Schemes, Poverty Eradication Schemes etc. at Panchayat Samiti level. The duty of the Zilla Parishad is to inspect, keep account of works implemented at Panchayat Samiti and Gram Panchayat levels and give opinion and new idea on successful implementation of these projects. It also works for qualitative improvements of the development plans or works. Besides that,

its duty is also to take care of whether the benefits of the schemes are being realized by the persons for whom it meant or not. The various development projects are successfully implemented through Panchayat Samiti with cooperation from Gram Panchayat and Zilla Parishad as the works are one at Gram Panchayat level, whereas Zilla Parishad approves and allocates fund for these works. So, the success of the projects being implemented through the Panchayat Samiti depends upon the cooperation of Gram Panchayat and Zilla Parishad. With out cooperation from the members of Gram Panchayat and Zilla Parishad, Gram Panchayat Sarpanch and Zilla Parishad President, the extension, regulation and management of primary education cannot be properly executed. For economic development and ensuring social justice, seeking of cooperation from Zilla Parishad is an important task for Panchayat Samiti. The role of Gram Panchayat in selection of right beneficiaries, granting loans to the deserving persons and proper use of loans by the beneficiaries with regard to poverty alleviation programme is quite indispensable, otherwise these programmes cannot be successfully implemented. Gram Panchayat inspects and keeping account of its works are the main duties of the Panchayat Samiti. It gives reports on progress of development works of Panchayat level and advices for improving and accelerating these works. Its main aim is to ensure successful implementation of different development schemes at Panchayat level, which are delegated by the Government through Zilla Parishad from time to time. Panchayat Samiti Chairperson and Members help in keeping account of progress of all the development works in their area through keeping co-ordination between Zilla Parishad and Gram Panchayat and giving their opinions and ideas for faster and quality implementation of the projects. Thus, these are the institutions in the three-tier Panchayat Raj System for successful implementation of development plans in rural area, and keeping co-ordination among all the members in these institutions is the main objectives of the Constitutional amendment.

Structural Diagram of Three-Tier Rural Local Self-Governance System:

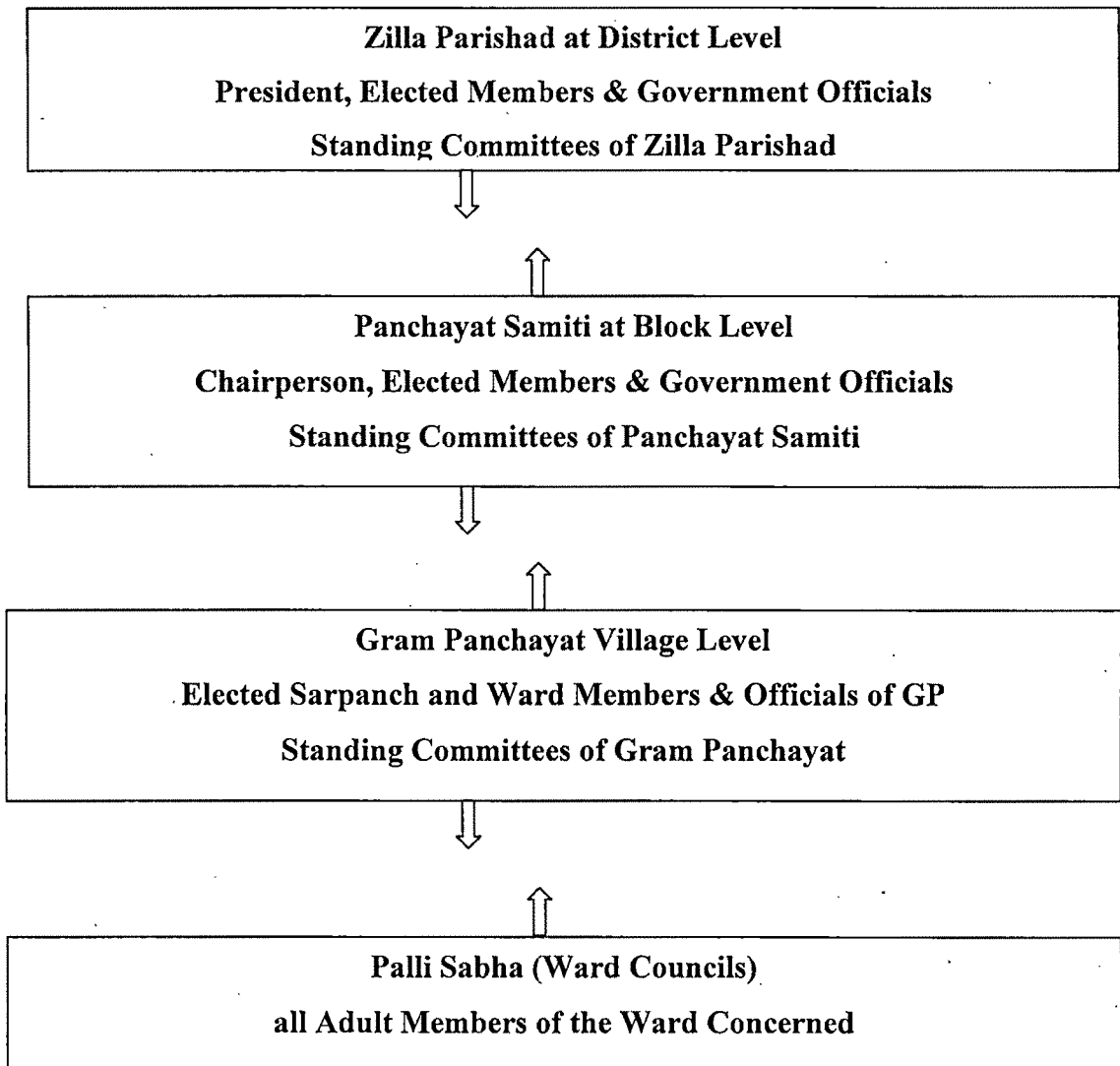


Fig-2.3

To sum up the discussions on three-tier rural local self-governance systems, since 1992 in Orissa, the system is working very proactively in the rural areas to ensure rural local governance system to the people and at the same time also implementing the government programmes effectively and efficiently. The present structure of the rural local governance system in Odisha is given below per the following Table:

Table 2.3
Panchayati Raj Structure in Odisha⁶⁴

Name of the District	Sub Division	No. of Blocks	No. of Z.P. Const.	No. of P.S. Constituencies	No. of GPs	No. of Wards	No. of Voters
Angul	4	8	28	209	209	2,938	732,572
Balangir	3	14	34	285	285	3,527	956,830
Balasore	2	12	45	289	289	4,354	1,415,075
Bargarh	2	12	34	248	248	3,401	893,249
Bhadrak	1	7	28	193	193	2,970	932,757
Boudh	1	3	9	63	63	880	262,422
Cuttack	3	14	46	342	342	5,473	1,365,570
Deogarh	1	3	7	60	60	738	178,661
Dhenkanal	3	8	27	199	199	2,821	721,107
Gajapati	1	7	14	129	129	1,526	314,835
Ganjam	3	22	69	475	475	6,943	2,007,368
Jagatsinghpur	1	8	26	194	194	3,357	791,048
Jajpur	1	10	39	280	280	4,282	1,211,430
Jharsuguda	1	5	9	78	78	928	234,828
Kalahandi	2	13	36	273	273	3,377	913,227
Kandhamal	2	12	18	153	153	2,083	403,365
Kendrapara	1	9	32	230	230	3,624	965,248
Keonjhar	3	13	37	286	286	3,680	986,522
Khurda	2	10	30	168	168	2,617	884,059
Koraput	2	14	29	226	226	2,725	692,015
Malkangiri	1	7	15	108	108	1,319	322,683
Mayurbhanj	4	26	56	382	382	5,253	1,399,243
Nawarangpur	1	10	26	168	169	2,048	660,205
Nayagarh	1	8	24	179	179	2,934	669,678
Nuapada	1	5	14	109	109	1,385	391,580
Puri	1	11	33	230	230	3,551	1,046,910
Rayagada	2	11	22	171	171	2,094	511,017
Sambalpur	3	9	19	148	148	1,874	483,531
Subarnapur	2	6	13	96	96	1,358	351,177
Sundargarh	3	17	35	262	262	3,482	917,537
Total	58	314	854	6,233	6,234	87,542	23,615,749

⁶⁴ Government of Orissa, Department of Panchayati Raj, Annual Report 2008-09 & 2009-10, p. 6-7.

Devolution of Powers to Institutions of Rural Local Self Governance:

Under the 73rd Constitutional Amendment Act, institutions of rural local self governance have been devolved with ample powers and responsibilities to work as autonomous institutions. According to this amendment, the State Legislative Assembly has to enact an Act as per Section 243 (4) of the Constitution to devolve necessary powers to institutions of rural local self governance i.e. Panchayati Raj Institutions (PRIs) as a result of which these institutions would be able to work as an independent institution. The main aim of this Act is that the local people will take the responsibility of their own area, elect their own representative and through the elected representatives develop plans according to their needs and implement the works in their area. They can also take decisions regarding the implementation of development works in their region. In short people are to govern themselves. In this context it would be relevant to mention that the “Government of Odisha during the year 2003 has transferred powers of 21 subjects of 11 departments to Panchayati Raj Department out of 29 subjects of 11th Schedule of the Constitution”⁶⁵. It has been decided that the concerned officers and field staff have to be brought under the Panchayati Raj Institutions in order to implement these subjects. Those are: 1) Agriculture, 2) Cooperative, 3) School & Mass Education, 4) Food Supply and Consumer Welfare, 5) Scheduled Caste and Scheduled Tribe Development, 6) Health and Family Welfare, 7) Women & Child Department, 8) Fisheries and Animal Husbandry, 9) Rural Development, 10) Panchayati Raj and 11) Water Resources

As per the orders of devolution of powers, District Level Officers, Block Level Officers and Village Level functionaries of 11 departments have been made accountable to Zilla Parishad, Panchayat Samiti and Gram Panchayat respectively for implementation of subjects / schemes transferred to Panchayati Raj Institutions. They will place plans and schemes for discussion and approval in the meeting of the respective level of Panchayati Raj Institutions. Chairpersons of three-tier Panchayati Raj Institutions have been delegated the power to sanction casual leave of head of offices/ institutions of 11 departments working at the respective levels.

Out of 21 subjects, activity mapping in respect of 18 subjects has been completed and instructions have been issued to the field level functionaries for preparation of plans and schemes on subjects devolved for economic development

⁶⁵ Devolution of Power: Government of Orissa, Department of Panchayati Raj, Annual Report 2008-09 & 2009-10, p.5

and social justice for people. Government of Odisha has signed a Memorandum of Understanding (MoU)⁶⁶ on 26.10.2005 with the Ministry of Panchayati Raj, Government of India, regarding effective devolution of functions, funds and functionaries as per the mandate of 73rd Constitutional Amendment. It has also been instructed that in case of any deviation of duty noticed by the President, Zilla Parishad, Chairperson, Panchayat Samiti and Sarpanch of Gram Panchayat during their inspection of the development works in their respective areas, they are to be brought to the notice of higher level officers of these officials.

The Panchayats (Extension to the Scheduled Areas) Act, (PESA),1986 in Odisha:

The 73rd Constitutional Amendment Act was enforced across the country on 24th April, 1993. It was clearly mentioned in the amendment that the Central Government had given a guide map to State Governments on extension of new Panchayat institutions to the Scheduled Areas as per the rules mentioned in Section 243 (E) of the amendment. As a result, the Central Act 40, which was enacted by the Government of India in 1996, has been named as Panchayats Extension in Scheduled Areas (PESA) Act.

According to Article 243-M of the Constitution, the provisions of the 73rd Constitutional Amendment cannot be extended to Tribal Areas and Scheduled Areas referred to in Article 244, Clauses (1) and (2). But Article 243-M 4(b) empowers the Parliament to make laws to extend the provisions of the Act subject to certain conditions. The Ministry of Rural Development, Government of India, constituted a Committee of selected members of Parliament and experts to make recommendations on the salient features of the law to extend the provisions of Part XI of the Constitution to the Scheduled Areas. In December 1996, the Parliament passed the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, (PESA), and subsequently, the President's assent was accorded on 24th December 1996 to make it a part of the Constitution, recognizing the rights of tribals to self-rule. PESA Act is operational in nine States that have placed in the Fifth Schedule Areas are Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha and Rajasthan. PESA did not mention about the Sixth Schedule Areas. Odisha, on 22nd December, 1997 adopted the PESA Act, 1996 by amending

⁶⁶ Devolution to Panchayats in Orissa: The Way Forward, MoU signed between the Minister, Panchayati Raj, Government of India and Chief Minister, Government of Orissa, Bhubaneswar, accessed on 22.08.2010 from Odisha Government portal: <http://www.orissagov.nic.in>

the Gram Panchayat Act, 1964, Odisha Panchayat Samiti Act, 1959 and Odisha Zilla Parishad Act, 1991. In Odisha, it covers 7 districts i.e. Mayurbhanj, Sundargarh, Koraput, Malkangiri, Rayagada, Nowrangpur and Kandhamal in full and Keonjhar, Gajapaiti, Kalahandi, Balasore, Sambalpur and Ganjam in part spreading over 1966 Gram Panchayats in 118 Blocks in full and 3 Blocks in part. Accordingly 24,734 wards out of 87, 542 Wards, 1966 offices of Sarpanch out of 6,234, 1965 office of Panchayat Samiti Members out of 6,233 and 256 Members of Zilla Parishad out of 854 come under the jurisdiction of Scheduled Area. Elections to these offices were conducted as per the provisions of PESA Act. As a result of these amendments, the following changes have been made in the functions of Gram Panchayat, Panchayat Samiti and Zilla Parishad working in the Scheduled Areas.

Gram Panchayat/Gram Sabha:

- The plans, programmes and projects designed by Gram Panchayat for social and economic development must be approved by the Gram Sabha before being implemented.
- Every Gram Sabha is to be empowered to work on own social tradition, culture, public wealth and conflict resolution as per the traditional rules and customs keeping balance with human rights and fundamental principles with appropriate enforcement of law or through creating an atmosphere of peace.
- It has the power to enact law to ban the sales and consumption of any kind of intoxicants, or use of that in a controlled manner. The Gram Panchayat would have ownership right on Minor Forest Products.
- Protection to land properties of Scheduled Tribes in Scheduled area. If any person of the village has occupied the land of Scheduled Tribes in fraudulent manner, then the Gram Sabha must have to take appropriate steps to recover it from unauthorized occupants.
- Gram Sabha has the power to control the loan given to Scheduled Tribes by the outside money lenders.

Panchayat Samiti:

- Exercise control and supervision over institutions and functionaries of various sectors in relation to programmes and measures of Government, prepare the local plans including tribal sub-plans for the areas and to exercise control over the resources for such plans.

Zilla Parishad:

- No acquisition of land for development of projects and for settling or rehabilitation of persons affected by such projects without prior consultation of

the Parishad. It also requires the recommendation of Zilla Parishad prior to issue of prospecting license or mining lease for minor minerals. The Zilla Parishad prepares plans for management of minor water bodies.

Gram Sabha and PESA:

PESA attempted to vest legislative powers in the Gram Sabha, specifically in matters relating to development planning, management of natural resources and adjudication of disputes in accordance with prevalent traditions and customs. The Gram Sabha has been made the soul of PESA, the safeguard of tribal identity, traditional customs and practices.

It seems that, in Odisha, though it has been complied as per the provisions of central PESA Act, but in actually it is not fully complied with the former. Mandatory provision in the Central Act ensuring tribal communities control over natural resources, granting licenses for minor minerals and their exploitation and acquisition of land by government for development projects, which proposed to be enforced through Gram Sabha, has not been complied with properly in Odisha.

Social Audit under Local Governance System in Odisha:

Social Audit is a means of ensuring transparency and accountability in all the development programmes designed and implemented for the rural people. The basic objective of social audit is to ensure public accountability in the implementation of different development project laws and policies. It is expected that social audit will be a continuous process through which the targeted and potential beneficiaries and other stakeholders of project/ schemes are involved at every stage i.e. from planning to execution, monitoring and supervision of the activities taken up through different programmes that helps the beneficiaries right holders to express their views and opinion on any specific work or activities executed for them.

Unlike financial audits, where the audit is done only on financial aspects, social audit gives emphasis to access the quality of work done, objectives achieved, impact and sustainability of the programme. It provides a platform for all people male and female, poor and rich to participate equally and place their views. It is a process that builds up a harmonious relationship between people and the implementing agency. Social audit is done by the people for whose benefit work is planned, budgeted and implemented. In other words, it is made by the key target groups to cross examine both the physical and financial aspects of funds utilized.

Social audit is based on the principles that democratic local self governance system should be carried out as far as possible with the consent and understanding of all concerned. It is thus a process and not an event. The ultimate objective of social audit is to empower people to question the system, process and authority in order to assert their rights. It also aims at bringing transparency in the system of governance, fix accountability in case improper implementation of programmes/schemes and check corruption through a non-violent and democratic process.

Concept of Transparency and Accountability under Local Governance System:

Transparency and accountability are prime aspects of democratic governance of a country. Gram Panchayats are the institutions where participatory and representative rural democracy interacts. In this context, there is need to enhance transparency of these institutions and accountability of the persons working there and also establishes accountability into them. These two principles of good governance if practiced with efficiently and effectively, it can enable and strengthen the rural local governance system.

Transparency refers to availability of information to the general public and bringing clarity about government rules, regulations and decisions. This can be done by enforcing the citizen's right to information. Accountability is a concept associated with authority. It means those who rule are answerable to those from whom they derive their authority through establishing standards or criteria for judging the performance of public officials. In other words, it refers to the ability to call public officials, service providers for use and misuse of facilities and funds.

Transparency and accountability are the process through which administration is reengineered to facilitate decentralized democratic rural local governance system. These two prime principles of good governance if practiced with efficiency can enable and strengthen the rural local governance system.

Audit and Accounts:

Consequent to the 73rd Constitutional Amendment Act 1992, institutions of rural local self governance are expected to assume not only administrative and financial powers, but also emerge as institutions of participatory rural local self government. Article 243-J, which provides for maintenance of accounts and audits of institutions of rural local self governance system states that "the legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts."

The effective functioning of institutions of rural local self governance depends on the devolution of resources, subjects and functionaries to the Panchayats. With increasing funds being made available to the Panchayati Raj Institutions and the slow but gradual transfer of functions and functionaries to these institutions, the question of accountability of these institutions assumes greater importance.

Financial accountability raises two important questions: whether the money and other resources have been utilized according to legal requirements and whether there has been efficient utilization of resources. The most important factor in securing financial accountability is the timely preparation and publication of account statements. This has to be followed by professional audit, which helps provide an assurance to the community that public funds have been spent judiciously as per law. Section 100⁶⁷, Sub-Section 1 of the Odisha Gram Panchayats Act, 1964 also states to keep regular accounts of receipts and disbursement from the Gram Fund and such accounts shall be published in the prescribed manner. Sub-Section 2 of the said Section also states that the provision of the Odisha Local Fund Audit Act, 1948 shall apply in regard to the audit of the Gram Funds. Further, Sub-Section 3 of the said Section also mentions “Notwithstanding anything contained in the aforesaid Act, for the purpose of the Act, the Government may by notification appoint an officer of Government as the Examiner of Local Accounts and such number of Deputy or Assistant Examiners of Local Accounts as they may consider necessary to exercise such powers and discharge such functions of the Examiner as may be assigned to them by Government.”

INSTITUTIONAL BACK UP OF LOCAL SELF GOVERNANCE SYSTEM: State Finance Commission (SCF)

The Constitutional 73rd Amendment Act 1992 under Article 243-I, it is mandatory for the state Government to set up of a State Finance Commission (SFC) to review and revise the financial positions of the rural local self-governance institutions.

Under the provisions of Article 243-G, states are expected to transfer powers and responsibilities so as to enable the rural local bodies to function as institutions of self-government. Under Article 243-H of the Constitution, states may authorize the local institutions to levy, collect and appropriate certain duties and fees and may assign to them the revenues of certain state level taxes, subject to such conditions as

⁶⁷ Section 100 of the Odisha Gram Panchayats Act, 1964(Odisha Act 1 of 1965) as modified up to 31st December 2002, Law Department, Government of Orissa, p.40.

are imposed by the state government. Grants in aids may also be provided to these bodies. The State Finance Commission is also authorized under law to review the financial position of the local bodies and making recommendations on the sharing and assignment of various taxes, duties, tolls, fees and grant in aid to be given to the local bodies from the Consolidated Fund of the state. The state through its conformity Act has to provide for the composition of the Commission, the qualification for its members and the manner of their selection.

Every recommendation of the Commission together with the explanatory memorandum is to be laid before the legislature of the state under Article 243 I (4) of the Constitution of India.

The State Finance Commission is to examine not only the revenue sharing arrangements between the state government and the local bodies but also the entire range of subjects concerning assignments of taxes, transfer of power and such other subjects for improving the financial conditions of rural local bodies.

In pursuance of Article 243-I of the Constitution of India read with Section 3 and 8 of the Odisha Finance Commission (Miscellaneous Provision) Act, 1993, the Governor of Odisha constituted the first Odisha State Finance Commission consisting of Justice S.K. Mohanty as Chairperson and other members namely Sri B.C. Mallick, formerly Prof. and Head of Department of Applied and Analytical Economics, Utkal University, Sri A.P. Ray, full time politician, Sir S.C. Das, Advocate and Sir K.C. Badu, IAS (Member Secretary) on 21st November, 1996 by Notification No. FC(10)-16/96-48704/F⁶⁸. The Commission was appointed to hold the office from the date of constitution up to 31st March 1998 with Chairman and Member Secretary as full time and other members on part time basis.

Articles 243-H and 243-X make it obligatory for the State Government to authorize the local bodies, by law, to impose taxes, duties etc and assign to the local bodies such taxes/ duties levied and collected by the State Government. These Articles also make provision for grants-in-aid to the local bodies from the Consolidated Fund of the State. The devolution of financial resources to these bodies has been ensured through constitution of the State Finance Commissions that are required to make recommendations on the sharing and assignment of various taxes, duties etc.

⁶⁸ Notification No. FC (10)-16/96-48704/F of Finance Department, Government of Orissa, Secretariat, Bhubaneswar.

Similar to the role of the Finance Commission in recommending devolution of funds from the Union to the States, the State Finance Commissions also make recommendations regarding the principles that should govern the distribution of taxes between the States on the one hand and the local bodies on the other. Thus, the State Finance Commission arbitrates the claims to resources of a State by the State Government and the local bodies.

State Election Commission (SEC)

The 73rd Constitutional Amendment Act, 1992 opened a new chapter in the process of democratic decentralization in India. This amendment placed the responsibility for decision-making on activities, which directly affect the life of rural people on the elected representatives of the people at grassroots level. By making regular elections to rural local self governance bodies mandatory, these institutions have been given due constitution status in the democratic set up of the country.

However, the amendment provides only the basic framework for decentralization of powers and authority to the institutions. The responsibility for giving a practical shape rests with the state governments in terms of clause (4) of Article 243 K of the Constitution.

Article 243-K of Part-IX of the Constitution provides for the setting up of a State Election Commission. It states that the superintendence of electoral roles and for the conduct of all election to the rural local bodies shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor of the state.

Accordingly the State Election Commission in Odisha has been set up by the government to conduct elections to the rural local bodies. The State Election Commission for the first time conducted election to the rural local bodies during 1997 and after that the elections to the local bodies have been conducted in every five years in Odisha on regular basis. The State Election Commission has conducted elections to these bodies during the year 1997, 2002 2007 and 2012 respectively.

STATUS OF RURAL LOCAL GOVERNANCE SYSTEM IN ODISHA:

In Orissa, the rural local self-governance system or the Panchayati Raj Institutional arrangement has been characterized by a three-tier structure as mentioned in Article 243 B of Constitution of India after the 73rd Constitutional Amendment Act. According to this provision as detailed discussed above, there is 3-tier rural local

governance system i.e. Panchayats at village level i.e. Gram Panchayat, at intermediate level i.e. at Panchayat Samiti or Block level and at district level i.e. the Zilla Parishad. The rural local self governance system in Odisha was constituted after a long gap in the year 1992 during the Chief Ministership of Biju Babu. Prior to this, there was no regular constitution of Panchayati Raj Institutions. After the 73rd Constitutional Amendment Act, 1992 with effect from 24.4.1993 the first Panchayat election was held in the year 1992 and after that the second Panchayat election was held in the year 1997. In the year 2002, there were also elections held to the three-tier systems. The last Panchayat election was held in the year 2012. As per the 2007 Panchayat election data, there are 30 Zilla Parishads in the state with 314 Panchayat Samitis and 6,234 Gram Panchayats. The total number of Zilla Parishad constituencies is 854 in 30 districts of Odisha and there is a total number of 6,233 Panchayat Samiti Members in the state. The total number of Ward Members of the state was 87,542. During the 2012 Panchayat Elections, there were a total number of 87,551 Ward Members, 6236 Sarpanches, 6235 Samiti Members and 854 Members of Zilla Parishads. Thus, there are at present a total of 1,00,876 elected representatives in the three-tier rural local governance system in the State. The following Table describes the details of the elected representatives of the rural local governance system in Odisha.

Table 2.4
Elected Members of Panchayati Raj Institutions⁶⁹

Level	Post	No. of Seats	Elected Members	SC		ST		OBC		UR	
				M	F	M	F	M	F	M	F
Zilla Parishad	President	30	30	3	3	6	3	5	3	5	2
	Members	854	853	87	58	135	85	149	88	181	70
Panchayat Samiti	Chairman	314	314	15	21	82	57	37	23	62	17
	Members	6,233	6,232	601	455	1,029	699	1,037	631	1,358	422
Gram Panchayat	Sarpanch	6,234	6,232	487	344	1,536	907	772	471	1,249	466
	Ward Member	87,547	85,542	7,884	6,291	12,753	9,413	13,666	9,094	19,943	5,693

According to the provisions of the (Panchayats Extension to the Scheduled Areas), Act, 1996 which came into force on 24th December, 1996, in Odisha it covers 7 districts namely Mayurbhanj, Sundergarh, Koraput, Malkanagiri, Rayagada,

⁶⁹ Source: Government of Orissa, Department of Panchayati Raj, Annual Report 2008-09 & 2009-10, p.5.

Nawarangpur and Kandhmal in full and Keonjhar, Gajapati, Kalahandi, Balasore, Sambalpur and Ganjam in part spread over in 1966 Gram Panchayats in 118 Blocks in full and 3 Blocks in part. Accordingly, 24,734 out of 87,542 Wards, 1966 office of Sarpanches out of 6234, 1965 office of Panchayat Samiti Members out of 6233 and 256 Members of Zilla Parishads out of 854 comes under the Scheduled Area. Elections to these offices were held according to the provisions of PESA Act. The Table describes in brief the details of Panchayati Raj Institutions in the State.

Table 2.5
Panchayati Raj Institutions in Odisha⁷⁰

	Total in the State	In Scheduled Areas
No. of Districts/ Zilla Parishads	30	07(Fully) 06(Partially)
No. of Blocks/ Panchayati Samitis	314	118(Full) 03(Partly)
No. of GPs.	6,234	1,966
Total Elected Representatives		
Zilla Parishad Members	854	256
Panchayat Samiti Members	6,233	1,965
Sarpanches	6,234	1,966
Ward Members	87,542	24,734

To conclude, the concept of rural local self governance system from the post independence period up to the present day has gone through many ups and downs, turmoils and troubles. But against all odds, the system in our country has kept its presence in one or another form from ancient period up to till date to fulfill the needs and priorities of rural people. The present structure of the rural local governance system in our country is the out come of the failure of Community Development Programme and National Extension Service Scheme. The birth of rural local self governance system is the result of a series of consultations, committees, constitutional amendments, policy and planning measures of both the central and state governments.

Though the concept of rural local self governance is an old one, its relevance is all pervasive and widespread in modern democratic states. Local self government puts a feeling of trust in the minds of individuals which enables them to believe that they are ruled by themselves. It is the best system for the self education and experimentation of democracy. Since ages, it has been believed that the local self government is the mother of democratic education since it grows the feeling of self

⁷⁰ Source: Government of Orissa, Panchayati Raj Department, Annual Report, 2008-09 & 2009-10, p.4

government among the natives. Local government, no doubt makes the foundation of the democratic process sound and stable but the real democracy lives in the proper functioning of the local bodies. The role of the local government in building a democratic society can not be overlooked as Prof. Jenks⁷¹ points out that “a country of strong local government may be slow to move and blundering in its method, but it will be a country of steady progress and of political ability and honesty”.

The greatest advantage of local government is that it is a people’s democratic institution, the strength of which has been recognized as the participation of people in the process of governance. It is a form of governance where people understand better what the government proposes. In this system, the developmental activities of central as well as the state governments can be made more effective by involving the local people for whom the programmes/ schemes are targeted. Thus, popular participation of both men and women in the local governance system can ensure development facilities to the needy targeted people with transparency, as the governance is more democratic and transparent when people, especially the women participate in the process of governance

The degree of success of local self governance system depends upon the participation of people, especially the women without whose active participation, it is hardly thinkable to achieve the aim of local self governance system in rural areas. Taking into account to above the facts, women participation in the local self-governance system has been studied and discussed in this thesis in a separate chapter.



⁷¹ Edward Jenks, “An Outline of English Local Government”, Methuen & Co., London, 1925, pp.8-9.