

## **Local Government**

### **Panchayat Committee**

There were a number of committees appointed by the Government of India to study the implementation of self-government at the rural level and also recommend steps in achieving this goal.

The committees appointed are as follows:

- Balwant Rai Mehta Committee
- Ashok Mehta Committee
- G V K Rao Committee
- L M Singhvi Committee

### **Balwant Rai Mehta Committee & Panchayati Raj**

The committee was appointed in 1957, to examine and suggest measures for better working of the Community Development Programme and the National Extension Service. The committee suggested the establishment of a democratic decentralised local government which came to be known as the Panchayati Raj.

Recommendations by the Committee:

- Three-tier Panchayati Raj system: Gram Panchayat, Panchayat Samiti and Zila Parishad.
- Directly elected representatives to constitute the gram panchayat and indirectly elected representatives to constitute the Panchayat Samiti and Zila Parishad.
- Planning and development are the primary objectives of the Panchayati Raj system.
- Panchayat Samiti should be the executive body and Zila Parishad will act as the advisory and supervisory body.
- District Collector to be made the chairman of the Zila Parishad.
- It also requested for provisioning resources so as to help them discharge their duties and responsibilities.

The Balwant Rai Mehta Committee further revitalised the development of panchayats in the country, the report recommended that the Panchayati Raj institutions can play a substantial role in community development programmes throughout the country. The objective of the Panchayats thus was the democratic decentralisation through the effective participation of locals with the help of well-planned programmes. Even the then Prime Minister of India, Pandit Jawaharlal Nehru, defended the panchayat system by saying, "... authority and power must be given to the people in the villages .... Let us give power to the panchayats."

### **Ashok Mehta Committee & Panchayati Raj**

The committee was appointed in 1977 to suggest measures to revive and strengthen the declining Panchayati Raj system in India.

The key recommendations are:

- The three-tier system should be replaced with a two-tier system: ZilaParishad (district level) and the MandalPanchayat (a group of villages).
- District level as the first level of supervision after the state level.
- ZilaParishad should be the executive body and responsible for planning at the district level.
- The institutions (ZilaParishad and the MandalPanchayat) to have compulsory taxation powers to mobilise their own financial resources.

### **G V K Rao Committee & Panchayati Raj**

The committee was appointed by the planning commission in 1985. It recognised that development was not seen at the grassroot level due to bureaucratisation resulting in Panchayat Raj institutions being addressed as 'grass without roots'.

Hence, it made some key recommendations which are as follows:

- ZilaParishad to be the most important body in the scheme of democratic decentralisation. ZilaParishad to be the principal body to manage the developmental programmes at the district level.
- The district and the lower levels of the Panchayati Raj system to be assigned with specific planning, implementation and monitoring of the rural developmental programmes.
- Post of District Development Commissioner to be created. He will be the chief executive officer of the ZilaParishad.
- Elections to the levels of Panchayati Raj systems should be held regularly.

### **L M Singhvi Committee & Panchayati Raj**

The committee was appointed by the Government of India in 1986 with the main objective to recommend steps to revitalise the Panchayati Raj systems for democracy and development. The following recommendations were made by the committee:

- The committee recommended that the Panchayati Raj systems should be constitutionally recognised. It also recommended constitutional provisions to recognise free and fair elections for the Panchayati Raj systems.
- The committee recommended reorganisation of villages to make the gram panchayat more viable.
- It recommended that village panchayats should have more finances for their activities.

- Judicial tribunals to be set up in each state to adjudicate matters relating to the elections to the Panchayati Raj institutions and other matters relating to their functioning.

## **73<sup>rd</sup> Constitutional Amendment Act of 1992**

### **Significance of the Act**

- The Act added Part IX to the Constitution, “The Panchayats” and also added the Eleventh Schedule which consists of the 29 functional items of the panchayats.
- Part IX of the Constitution contains Article 243 to Article 243 O.
- The Amendment Act provides shape to Article 40 of the Constitution, (directive principles of state policy), which directs the state to organise the village panchayats and provide them powers and authority so that they can function as self-government.
- With the Act, Panchayati Raj systems come under the purview of the justiciable part of the Constitution and mandates states to adopt the system. Further, the election process in the Panchayati Raj institutions will be held independent of the state government’s will.
- The Act has two parts: compulsory and voluntary. Compulsory provisions must be added to state laws, which include the creation of the new Panchayati Raj systems. Voluntary provisions, on the other hand, are the discretion of the state government.
- The Act is a very significant step in creating democratic institutions at the grassroots level in the country. The Act has transformed the representative democracy into participatory democracy.

### **Salient Features of the Act**

1. Gram Sabha: Gram Sabha is the primary body of the Panchayati Raj system. It is a village assembly consisting of all the registered voters within the area of the panchayat. It will exercise powers and perform such functions as determined by the state legislature.
2. Three-tier system: The Act provides for the establishment of the three-tier system of Panchayati Raj in the states (village, intermediate and district level). States with a population of less than 20 lakhs may not constitute the intermediate level.
3. Election of members and chairperson: The members to all the levels of the Panchayati Raj are elected directly and the chairpersons to the intermediate and

the district level are elected indirectly from the elected members and at the village level the Chairperson is elected as determined by the state government.

4. Reservation of seats:

- For SC and ST: Reservation to be provided at all the three tiers in accordance with their population percentage.
- For women: Not less than one-third of the total number of seats to be reserved for women, further not less than one-third of the total number of offices for chairperson at all levels of the panchayat to be reserved for women.
- The state legislatures are also given the provision to decide on the reservation of seats in any level of panchayat or office of chairperson in favour of backward classes.

Duration of Panchayat: The Act provides for a five-year term of office to all the levels of the panchayat. However, the panchayat can be dissolved before the completion of its term. But fresh elections to constitute the new panchayat shall be completed –

- before the expiry of its five-year duration.
- in case of dissolution, before the expiry of a period of six months from the date of its dissolution.

Disqualification: A person shall be disqualified for being chosen as or for being a member of panchayat if he is so disqualified –

- Under any law for the time being in force for the purpose of elections to the legislature of the state concerned.
- Under any law made by the state legislature. However, no person shall be disqualified on the ground that he is less than 25 years of age if he has attained the age of 21 years.
- Further, all questions relating to disqualification shall be referred to an authority determined by the state legislatures.

State election commission:

- The commission is responsible for superintendence, direction and control of the preparation of electoral rolls and conducting elections for the panchayat.
- The state legislature may make provisions with respect to all matters relating to elections to the panchayats.

8. Powers and Functions: The state legislature may endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government. Such a scheme may contain provisions related to Gram Panchayat work with respect to:

- the preparation of plans for economic development and social justice.
- the implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the 29 matters listed in the Eleventh Schedule.

Finances: The state legislature may –

- Authorize a panchayat to levy, collect and appropriate taxes, duties, tolls and fees.
- Assign to a panchayat taxes, duties, tolls and fees levied and collected by the state government.
- Provide for making grants-in-aid to the panchayats from the consolidated fund of the state.
- Provide for the constitution of funds for crediting all money of the panchayats.

10. Finance Commission: The state finance commission reviews the financial position of the panchayats and provides recommendations for the necessary steps to be taken to supplement resources to the panchayat.

11. Audit of Accounts: State legislature may make provisions for the maintenance and audit of panchayat accounts.

12. Application to Union Territories: The President may direct the provisions of the Act to be applied on any union territory subject to exceptions and modifications he specifies.

13. Exempted states and areas: The Act does not apply to the states of Nagaland, Meghalaya and Mizoram and certain other areas. These areas include,

- The scheduled areas and the tribal areas in the states
- The hill area of Manipur for which a district council exists
- Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists.

However, Parliament can extend this part to these areas subject to the exception and modification it specifies. Thus, the PESA Act was enacted.

Continuance of existing law: All the state laws relating to panchayats shall continue to be in force until the expiry of one year from the commencement of this Act. In other words, the states have to adopt the new Panchayati raj system based on this Act within the maximum period of one year from 24 April 1993, which was the date of the commencement of this Act. However, all the Panchayats existing immediately before the commencement of the Act

shall continue till the expiry of their term, unless dissolved by the state legislature sooner.

**Bar to interference by courts:** The Act bars the courts from interfering in the electoral matters of panchayats. It declares that the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in any court. It further lays down that no election to any panchayat is to be questioned except by an election petition presented to such authority and in such manner as provided by the state legislature.

## **PESA Act of 1996**

The provisions of Part IX are not applicable to the Fifth Schedule areas. The Parliament can extend this Part to such areas with modifications and exceptions as it may specify. Under these provisions, Parliament enacted Provisions of the Panchayats (Extension to the Scheduled Areas) Act, popularly known as PESA Act or the extension act.

### **Objectives of the PESA Act:**

1. To extend the provisions of Part IX to the scheduled areas.
2. To provide self-rule for the tribal population.
3. To have village governance with participatory democracy.
4. To evolve participatory governance consistent with the traditional practices.
5. To preserve and safeguard traditions and customs of tribal population.
6. To empower panchayats with powers conducive to tribal requirements.
7. To prevent panchayats at a higher level from assuming powers and authority of panchayats at a lower level.

## **74th Constitutional Amendment**

The 74th Amendment Act of 1992 provides a basic framework of decentralization of powers and authorities to the Municipal bodies at different levels. However, responsibility for giving it a practical shape rests with the States.

The term 'Urban Local Government' in India signifies the governance of an urban area by the people through their elected representatives. The jurisdiction of an urban local government is limited to a specific urban area, which is demarcated for this purpose by the state government.

- The 74th Amendment Act has added a new Part IX-A to the Constitution of India.

- This part is entitled as 'The Municipalities' and consists of provisions from Articles 243-P to 243-ZG.
- Additionally, the act also added a new Twelfth Schedule to the Constitution. This schedule contains 18 functional items of municipalities.
- The Act has brought Municipalities under the purview of the justiciable part of the Constitution.
- In other words, state governments are under constitutional obligation to adopt the new system of municipalities in accordance with the provisions of the act [Article 243 Q].
- The act aims at revitalizing and strengthening the urban governments so that they function effectively as units of local government.

### **Features of 74th Amendment Act, 1992**

The main provisions introduced by the above Act were as follows:-

#### *Constitution of Municipalities*

The Act provides for the constitution of 3 types of municipalities, depending upon the size and area in every state.

1. Nagar Panchayat (for an area in transition from rural to the urban area);
2. Municipal Council for the smaller urban area; and
3. Municipal Corporation for a larger urban area.

The governor has to specify a transitional area, a smaller urban area or a larger urban area.

- Composition 243R – All the members of a municipality shall be elected directly by the people of the municipal area through territorial constituencies to be known as wards.
- Election of the chairperson of a municipality – As state legislature may determine.
- Special Representation – persons having special knowledge or experience in municipal administration without the right to vote in the meetings of municipality; members of Lok Sabha, Rajya Sabha; state legislative assembly, state legislative council.

- Wards Committees 243S– Consisting of one or more wards having population of three lakh or more. Composition and the territorial area of a wards committee may determine by state legislature.
- Reservation of Seats 243T-
  - SC and ST – in proportionate to their population.
  - Women– Not less than one-third of the total number of seats to be reserved for women, further not less than one-third of the total number of offices for chairperson at all levels of the panchayat to be reserved for women.
- State legislatures may make provisions to decide on the reservation of seats in favour of backward classes.
- Duration of Municipalities 243U – Provides for a five-year term of office for every municipality. However, it can be dissolved before the completion of its term.
- Further, the fresh elections to constitute a municipality shall be completed (a) before the expiry of its duration of five years; or (b) in case of dissolution, before the expiry of a period of six months from the date of its dissolution.
- NOTE – Where the remainder of the period (for which the dissolved municipality would have continued) is less than six months, it shall not be necessary to hold any election for constituting the new municipality for such period.
- Moreover, municipality reconstituted after premature dissolution does not enjoy the full period of five years but remains in office only for the remainder of the period.
- Disqualifications 243V– A person shall be disqualified for being chosen as or for being a member of a municipality if he is so disqualified –
  - Under any law for the time being in force for the purposes of elections to the legislature of the state concerned; or
  - Under any law made by the state legislature.
- All questions of disqualifications shall be referred to such authority as the state legislature determines.

21 years to be the minimum age for contesting elections to panchayats.

### **Municipal Corporation:**

These are established in states by acts of state legislatures and in UT's but acts of Parliament. There can be one act for all corporations or separate acts for individual. Each corporation has three organs: council, standing committees and commissioner.



Council is a legislative body elected by the people. It also includes nominated people of special knowledge or experience.

It's headed by the mayor who is assisted by deputy mayor. Compositions of council and reservation matters are mentioned in the constitution. standing committees are created to facilitate working of council and take decisions in own sphere viz. health, education etc. commissioner is the chief executive officer of the corporation and is responsible for implementation of decisions of council and standing committees.

**Municipality:**

These are established in states by acts of state legislatures and in UT's by acts of Parliament. There can be one act for all Municipality or separate acts for individual. Each Municipality has three organs: council, standing committees and chief executive officer. Council is a legislative body elected by the people. It also includes nominated people of special knowledge or experience. It's headed by the president/chairman who is assisted by vice president or vice chairman. Unlike the mayor a president has executive powers too. Compositions of council and reservation matters are mentioned in the constitution. standing committees are created to facilitate working of council and take decisions in own sphere viz. health, education etc. chief executive officer of the Municipality is responsible for implementation of decisions of council and standing committees.

**Notified area committee:**

Fast developing town or a town that doesn't have all conditions necessary for a municipality. It is notified by government gazette. Provisions of state municipality act which apply to it are mentioned in the gazette. All members [including chairman] are nominated. It's neither statutory nor elected.

**Town area committee:** It is created by separate act of parliament. It can be elected Or nominated.

**Cantonment board:**

for administration of a civilian population in a cantonment area [an area where military troops are permanently situated]. Established by a central legislation. It has partly elected and partly nominated members.

**Township:**

These are established by large enterprises. They are administered by people appointed by that enterprise from its own staff. Fully nominated body.

**Port trust:**

created by central act to manage and protect ports and provide basic civic amenities there. It has elected and nominated members but chairman is official.

**Special purpose agency:**

These are created by act of state legislature or executive order of department. They are function specific and carry out the function in the specified area independent of civic bodies.

## **CENTRE – STATE RELATIONS**

The Centre State relations in the Indian federation can be studied under three heads:

1. Legislative relations
2. Administrative relations
3. Financial relations

### **Legislative Relations**

- Articles 245 to 255 in Part XI of the Constitution deal with the legislative relations between the centre and the states.
  - The Constitution mentions three fold distribution of legislative subjects BETWEEN THE Centre and the States.
1. List I - Union List The entries in this list include matters of national importance and the Parliament has exclusive power to make laws as mentioned in the Union List. This list contains 100 entries (the last entry is numbered 97 but entries numbered 2A, 92A, 92B and 92C have been added and entry 33 has been omitted).  
Examples defence of India, armed forces of the union, banking, foreign affairs, currency, atomic energy, insurance, communication, inter – audit, etc.
  2. List II- State List The list comprises of topics over which the state have exclusive power to legislate. The list has at present 61 subjects (the last entry is still numbered 66 but after 42nd amendment, entries 11, 19, 20, 29 and 36 were omitted).  
Examples police, public order, public health, and sanitation, fisheries, local government, agriculture, prisons, theatres, markets, gambling and so on.
  3. List-III Concurrent List Both Parliament and state legislatures can make laws with respect to any of the matters enumerated in this list. At present this list has 52 subjects (originally 47).

Examples civil procedure, criminal law and procedure, marriage and divorce, population and family planning, labour welfare, electricity, drugs, newspapers, books and printing press, economic and social planning, etc.

42<sup>nd</sup> Amendment Act, 1976 transferred five subjects from State List to Concurrent List. They are (i) education, (ii) forests, (ii) weights and measures (iv) protection of wild animals and birds, and (v) administration of justice.

### **Residuary Powers (Article 248)**

Our Constitution confers upon the Union the exclusive power to legislate on all matters not enumerated in any list.

**Article 249** It empowers the Parliament to undertake legislation, in any matter mentioned in State List. The Parliament assumes this power when Rajya Sabha resolves by a 2/3rd majority that such legislation is necessary in the national interest. The resolution remains in force for such period not exceeding one year as may be specified.

**Article 250** The Parliament acquires the power to legislate with respect to matters in the State List, while a proclamation of national emergency is in operation.

**Article 252** When the legislature of two or more states pass resolutions requesting the Parliament to enact laws on a matter in the State List, then the Parliament can make laws for regulating that matter.

**Article 253** Parliament has powers to make laws for implementing any treaty, agreement or convention with any other country or any decision made at any international conference or body.

**Article 254** In case of a conflict between the central law and the state law on a subject mentioned in the Concurrent List, the central law prevails over the state law. But there is an exception. If the state law has been reserved for consideration of the President and has received his assent, then the state law prevails in that state over the central law.

## Administrative Relations

Part XI of the constitution from Articles 256 to 263 deal with the administrative relations between the Centre and the state.

➤ The Union may give directions to a State-

- a. to ensure compliance with laws made by the Parliament (Art. 256).
- b. to ensure that the exercise of the executive power of the state does not interfere with the exercise of the executive power of the Union (Art. 257).
- c. to ensure construction and maintenance of means of communications of national importance including national highways and waterways. (Art. 257).
- d. to ensure protection of railways (Art. 257).
- e. for providing facilities for instruction in mother tongue at primary stage (Art. 350 A).
- f. to ensure that every State is run in accordance with the provisions of the constitution (Art. 355).
- g. to draw and execute schemes relating to welfare of scheduled tribes (Art. 339).

**Article 262** The Parliament can provide for the adjudication of any dispute or complaint with respect to the use, distribution and control of matters of any inter-state river and river valley.

**Article 312** Creation of one or more all India services by the Parliament.

## Inter-State Council

- The President can establish under Article 263 an inter - state council to investigate and discuss matters of common interest between the centre and the states. The Council has been established by an order dated 28th May, 1990.
- It consists of the Prime Minister, the Chief Ministers of all the states and Union territories and six Union ministers of cabinet rank. The Prime Minister is the Chairman of the Council.
- The duties of the Council are :
  - a) Investigating and discussing such subjects in which one or more of the States have common interest.
  - b) to make recommendations upon such a subject and for better coordination of policy and action in respect to that subject.

- c) Deliberating on such other matters of general interest to the states as may be referred by it the Chairman.

### **Zonal Council**

Zonal Councils are statutory (not the constitutional) bodies, established by an act of Parliament i.e. States Reorganization Act, 1956. The Act divided the country into 5 zones –

<b>Zone</b>	<b>Member States</b>	<b>Headquarters</b>
1. Northern Zonal Council	Jammu and Kashmir, Haryana, Punjab, Himachal Pradesh, Rajasthan, Delhi, Chandigarh	New Delhi
2. Central Zonal Council	Uttar Pradesh, Uttarakhand, Chhattisgarh, Madhya Pradesh	Allahabad
3. Eastern Zonal Council	Bihar, Jharkhand, West Bengal, Orissa	Kolkata
4. West Zonal Council	Maharashtra, Gujarat, Goa, Dadra and Nagar Haveli, Daman and Diu	Mumbai
5. Southern Zonal Council	Andhra Pradesh, Karnataka, Tamil Nadu, Kerala, Puducherry	Chennai

### **North Eastern Council**

North Eastern Council was created by the North Eastern Council Act, 1971 Its members include Assam, Manipur, Mizoram, Arunachal Pradesh, Nagaland, Meghalaya, Tripura and Sikkim.

### **Financial Relations**

Articles 268 to 293 of Part XII of the Constitution deal with financial relations between Centre and State.

**Article 275:** Grants from Union to certain states.

**Article 282:**Expenditure defrayable by the Union or a State out of its revenues.

**Article 283:** Custody, etc. of Consolidated Funds, Contingency Funds and moneys credited to the public accounts.

**Article 289:** Exemption of property and income of a state from Union taxation.

**Article 292:** Borrowing by the Government of India.

### **Finance Commission (Article 280)**

Article 280 provides for the constitution of a Finance Commission. The commission is constituted every five years.

#### **Duty of the Finance Commission**

The duty of the Finance Commission is to make recommendations to the President as to;

- a. the distribution of taxes between the Union and the States and allocation of shares of such proceeds between the states.
- b. the principles which should govern the grants - in - aid to be given to the states by the Union.
- c. measures to increase the fund of the state so that the funds of the panchayats in the state may be supplemented on the basis of the recommendations made by the State Finance Commissioner.
- d. proposals for supplementing the funds of the municipalities (similar to those of panchayats).
- e. any other matter that may be referred by the President.

- The recommendations of the Finance Commission and an explanatory memorandum showing the action taken on it are laid before the Houses of the Parliament by the President (Art. 281).

<b>FINANCE COMMISSION</b>			
<b>Finance Commission</b>	<b>Year Constituted</b>	<b>Chairman</b>	<b>Duration</b>
First	1951	K C Niyogi	1952-57
Second	1956	K Santhanam	1957-62
Third	1960	A K Chanda	1962-66
Fourth	1964	Dr. P V Rajamannar	1966-69
Fifth	1968	Mahavir Tyagi	1969-74
Seventh	1972	Brahmanand Reddy	1974-79

Eighth	1977	J M Schelet	1979-84
Ninth	1983	Y B Chavan	1984-89
Tenth	1987	N K P Salve	1989-95
Eleventh	1992	K C Pant	1995-2000
Twelfth	1998	A M Khurso	2000-2005
Thirteenth	2002	C Rangarajan	2005-2010
Fourteenth	2007	Dr. Vijay L Kelkar	2010-2015
Fifteenth	2013	Y V Reddy	2015-2020
	2017	N. K. Singh	2020-2025

### **Committees Formed for Centre – State Relations**

Committee / Commission	Year
1. Administrative Reforms Committee	1966
2. Rajmannar Committee	1969
3. Sarkaria Commission	1983
4. M MPunchhi Commission	2007

### **Consolidated Fund of India (Article 266)**

- All the receipts in favour of the union are credited in a fund called consolidated fund of India. A Consolidated fund of State exists for each state.
- All taxes, fees, cesses etc. go in these funds. All loans raised by the government and all moneys received in repayment of loans are credited to the Fund.
- The money can be withdrawn from the Consolidated Fund after the competent authority passes Appropriation Acts, which authorize withdrawal of money for payment to meet the grants passed by the legislature and the expenditure charged on the Consolidated Fund.

### **Contingency Fund (Article 267)**

- The Union and each state has a Contingency Fund, which is an imprest fund, in which an amount fixed by law is transferred from the Consolidated Fund.
- This fund can be used in situations where an expenditure has not been sanctioned by the legislature.
- Subsequently when authorization is obtained from the legislature, the amount withdrawn is replenished.