

CHAPTER 18

PANCHAYATS

PART IX of the Constitution envisages a three-tier system of Panchayats,¹ namely, (a) The village level; (b) The District Panchayat at the district level; (c) The Intermediate Panchayat which stands between the village and district Panchayats in the States where the population is above 20 lakhs.

Composition. All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area. The electorate has been named 'Gram Sabha' consisting of persons registered in the electoral rolls relating to a village comprised within the area of a Panchayat. In this way representative democracy will be introduced at the grass roots.

The Chairperson of each Panchayat shall be elected according to the law passed by a State and such State Law shall also provide for the representation of Chairpersons of Village and Intermediate Panchayats in the District Panchayat, as well as members of the Union and State Legislature in the Panchayats above the village level.

Reservation of seats for Scheduled Castes and Scheduled Tribes. Article 243D provides that seats are to be reserved for (a) Scheduled Castes, and (b) Scheduled Tribes. The reservation shall be in proportion to their population. If, for example, the Scheduled Castes constitute 30% of the population and the Scheduled Tribes 21%, then 30% and 21% seats shall be reserved for them respectively.

Out of the seats so reserved not less than 1/3rd of the seats shall be reserved for women belonging to Scheduled Castes and Scheduled Tribes, respectively.

Reservation for women. Not less 1/3rd of the total number of seats to be filled by direct elections in every Panchayat shall be reserved for women.

Reservation of offices of Chairpersons. A State may by law make provision for similar reservation of the offices of Chairpersons in the Panchayats at the village and other levels.

These reservations favouring the Scheduled Castes and Tribes shall cease to be operative when the period specified in Art. 334 (at present 60 years *i.e.*, upto 24-1-2010).

A State may by law also reserve seats or offices of Chairpersons in the Panchayat at any level in favour of backward classes of citizens.

Every Panchayat shall continue for five years from the date of its first meeting. But it can be dissolved earlier in accordance with the procedure prescribed by State law. Elections must take place before the expiry of the above period. In case it is dissolved earlier, then the elections must take place within six months of its dissolution. A Panchayat reconstituted after premature dissolution (*i.e.* before the expiry of the full period of five years) shall continue only for the remainder of the period. But if the remainder of the period is less than six months it shall not be necessary to hold elections.

Article 243F provides that all persons who are qualified to be chosen to the State Legislature shall be qualified to be chosen as a member of a Panchayat. The only difference is that a person who has attained the age of 21 years will be eligible to be a member (in case of State Legislature the prescribed age is 25 years—Art. 173). If a question arises as to whether a member has become subject to any disqualification, the question shall be referred to such authority as the State Legislature may provide by law.

State Legislatures have the legislative power, to confer on the Panchayats such powers and authority as may be necessary to enable them to function as institutions of self-government [Arts. 243G-243H]. They may be entrusted with the responsibility of (a) preparing plans for economic development and social justice, (b) implementation of schemes for economic development and social justice, and (c) in regard to matters listed in the Eleventh Schedule (inserted by the 73rd Amendment). The list contains 29 items, *e.g.*, land improvement, minor irrigation, animal husbandry, fisheries, education, women and child development etc. The 11th Sch. thus distributes powers between the State Legislature and the Panchayat just as the 7th Sch. distributes powers between the Union and the State Legislature.

A State may by law authorise a Panchayat to levy, collect and appropriate taxes, duties, tolls etc. The law may lay down the procedure to be followed as well as the limits of these exactions. It can also assign to a Panchayat various taxes, duties etc. collected by the State Government. Grants-in-aid may be given to the Panchayats from the Consolidated Fund of the State.

Within one year from 25th April 1993, *i.e.* the date on which the Constitution 73rd Amendment came into force and afterwards every five years the State Government shall appoint a Finance Commission to review the financial position of the Panchayats and to make recommendations as to—

(a) the distribution between the State and the Panchayats of the net proceeds of taxes, duties, tolls and fees leviable by the State which may be divided between them and how allocation would be made among various levels of Panchayats;

(b) what taxes, duties, tolls and fees may be assigned to the Panchayats;

(c) grant-in-aid to the Panchayats.

The report of the Commission, together with a memorandum of action taken on it, shall be laid before the State Legislature. These provisions are modelled on Art. 280 which contains provisions regarding appointment of a Finance Commission for distribution of finances between the Union and the States.

State Election Commission. Article 243K is designed to ensure free and fair elections to the Panchayats.

Article 243K provides for the Constitution of a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor. Powers of superintendence, direction and control of elections to the Panchayats, including preparation of electoral rolls for it shall vest in the State Election Commission. To ensure the independence of the Commission it is laid down that State Election Commissioner can be removed only in the same manner and on the same grounds as a Judge of a High Court. The State Legislatures have the power to legislate on all matters relating to elections to Panchayats.

As under Art. 329, courts shall have no jurisdiction to examine the validity of a law, relating to delimitation of constituencies or the allotments of seats, made under Art. 243K. An election to a Panchayat can be called in question only by an election petition which should be presented to such authority and in such manner as may be prescribed by or under any law made by the State Legislature.

Bar to interference by Courts in electoral matters.

REFERENCES

1. For the text of the 73rd Amendment Act relating to Panchayats [Arts. 243-243-O], see Author's *Constitution Amendment Acts*, 7th Ed. pp. 170-77; *Shorter constitution of India*, 14th Ed., 2008.