

CHAPTER 17

THE NEW SYSTEM OF PANCHAYATS AND MUNICIPALITIES

THE village *Panchayat* was a unit of local administration since the early British days, but they had to work under Government control. When Indian leaders pressed for local autonomy at the national level, the British Government sought to meet this demand by offering concession at the lowest level, at the initial stage, by giving powers of self-government to Panchayats in rural area and municipalities in urban areas, under various local names under different enactments, e.g. the Bengal Local Self-Government Act, 1885; the Bengal Village Self-Government Act, 1919; the Bengal Municipal Act, 1884.

In the Government of India Act, 1935, the power to enact legislation was specifically given to the Provincial Legislature by Entry 12 in the Provincial Legislative List. By virtue of this power, new Acts were enacted by many other States vesting powers of administration, including criminal justice, in the hands of the Panchayats.

Notwithstanding such existing legislation, the makers of the Constitution of Independent India were not much satisfied with the working of these local bodies as institutions of popular government and, therefore, a Directive was included in the Constitution of 1949 in Art. 40 as follows:

"The state shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government."

But notwithstanding this Directive in Art. 40, not much attention was given to hold elections in these local units as a unit of representative democracy in the country as a whole. During the time of Mr. Rajeev Gandhi it was considered necessary to further the organisation of these local units by inserting specific provisions in the Constitution itself on the basis of which the Legislatures of the various States might enact detailed laws according to the guidelines provided by the Constitutional provisions.

The ideas so evolved, culminated in the passing of Constitution 73rd and 74th Amendment Acts, 1992 which inserted Parts IX and IX-A in the Constitution. While Part IX relates to the Panchayats, containing Arts. 243 to 243-O, Part IXA relates to the Municipalities, containing Arts. 243P to 243ZG. The provisions in Parts IX and IXA are more or less parallel or analogous.

Before entering into details, it may be pointed out that new system contained certain novel provisions, for example, direct election by the people in the same manner as at the Union and State levels; reservation of seats for women; an Election Commission to conduct election, a Finance Commission to ensure financial viability of these institutions.

Special features of the new system.

Another striking feature is that the provisions inserted in the Constitution by Arts. 243-243ZG are in the nature of basic provisions which are to be supplemented by laws made by the respective State Legislatures, which will define the details as to the powers and functions of the various organs, just mentioned.

It is to be recalled that 'local Government' including self-Government institutions in both urban and rural areas is an exclusive State subject under Entry 5 of List II of the 7th Sch., so that the Union cannot enact any law to create rights and liabilities relating to these subjects. What the Union has, therefore, done is to outline the scheme which would be implemented by the several States by making laws, or amending their own existing laws to bring them in conformity with the provisions of the 73rd and 74th Constitution Amendment Acts.

After implementing legislation was enacted by the States, elections have taken place in most of the States and the Panchayats and Municipalities have started functioning under the new law. These amendments do not apply to Jammu & Kashmir, Meghalaya, Mizoram, Nagland and National Capital Territory of Delhi.

[See, further, under Chap. 34—How the Constitution has worked, *post*].