

Panchayati Raj

The term *Panchayati Raj* in India signifies the system of rural local self-government. It has been established in all the states of India by the Acts of the state legislatures to build democracy at the grass root level¹. It is entrusted with rural development. It was constitutionalised through the 73rd Constitutional Amendment Act of 1992.

EVOLUTION OF PANCHAYATI RAJ

Balwant Rai Mehta Committee

In January 1957, the Government of India appointed a committee to examine the working of the Community Development Programme (1952) and the National Extension Service (1953) and to suggest measures for their better working. The chairman of this committee was Balwant Rai G Mehta. The committee submitted its report in November 1957 and recommended the establishment of the scheme of ‘democratic decentralisation’, which ultimately came to be known as Panchayati Raj. The specific recommendations made by it are:

1. Establishment of a three-tier panchayati raj system—gram panchayat at the village level, panchayat samiti at the block level and zila parishad at the district level. These tiers should be organically linked through a

device of indirect elections.

2. The village panchayat should be constituted with directly elected representatives, whereas the panchayat samiti and zila parishad should be constituted with indirectly elected members.
3. All planning and development activities should be entrusted to these bodies.
4. The panchayat samiti should be the executive body while the zila parishad should be the advisory, coordinating and supervisory body.
5. The district collector should be the chairman of the zila parishad.
6. There should be a genuine transfer of power and responsibility to these democratic bodies.
7. Adequate resources should be transferred to these bodies to enable them to discharge their functions and fulfil their responsibilities.
8. A system should be evolved to effect further devolution of authority in future.

These recommendations of the committee were accepted by the National Development Council in January 1958. The council did not insist on a single rigid pattern and left it to the states to evolve their own patterns suitable to local conditions. But the basic principles and broad fundamentals should be identical throughout the country.

Rajasthan was the first state to establish Panchayati Raj. The scheme was inaugurated by the prime minister on October 2, 1959, in Nagaur district. Rajasthan was followed by Andhra Pradesh, which also adopted the system in 1959. Thereafter, most of the states adopted the system.

Though most of the states created panchayati raj institutions by mid 1960s, there were differences from one state to another with regard to the number of tiers, relative position of samiti and parishad, their tenure, composition, functions, finances and so on. For example, Rajasthan adopted the three-tier system while Tamil Nadu adopted the two-tier system. West Bengal, on the other hand, adopted the four-tier system. Further, in the Rajasthan–Andhra Pradesh pattern, panchayat samiti was powerful as the block was the unit of planning and development, while in Maharashtra–Gujarat pattern, zila parishad was powerful as the district was the unit of planning and development. Some states also established nyaya panchayats, that is, judicial panchayats to try petty civil and criminal cases.

Study Teams and Committees

Since 1960, many study teams, committees and working groups have been appointed to examine the various aspects of functioning of Panchayati Raj system. They are mentioned below in [Table 38.1](#).

Table 38.1 *Study Teams and Committees on Panchayati Raj*

<i>Sl. No.</i>	<i>Year</i>	<i>Name of the study Team / Committee</i>	<i>Chairman</i>
1.	1960	Committee on Rationalisation of Panchayat Statistics	V.R. Rao
2.	1961	Working Group on Panchayats and Cooperatives	S.D. Mishra
3.	1961	Study Team on Panchayati Raj Administration	V. Iswaran
4.	1962	Study Team on Nyaya Panchayats	G.R. Rajgopal
5.	1963	Study Team on the Position of Gram Sabha in Panchayati Raj Movement	R.R. Diwakar
6.	1963	Study Group on Budgeting and Accounting Procedure of Panchayati Raj Institutions	M. Rama Krishnayya
7.	1963	Study Team on Panchayati Raj Finances	K. Santhanam
8.	1965	Committee on Panchayati Raj Elections	K. Santhanam
9.	1965	Study Team on the Audit and Accounts of Panchayati Raj Bodies	R.K. Khanna
10.	1966	Committee on Panchayati Raj Training Centres	G. Ramachandran
11.	1969	Study Team on Involvement of Community Development Agency and Panchayati Raj Institutions in the Implementation of Basic	V. Ramanathan

Land Reform Measures			
12.	1972	Working Group for Formulation of Fifth Five Year Plan on Community Development and Panchayati Raj	N. Ramakrishnayya
13.	1976	Committee on Community Development and Panchayati Raj	Smt. Daya Choubey

Ashok Mehta Committee

In December 1977, the Janata Government appointed a committee on panchayati raj institutions under the chairmanship of Ashok Mehta. It submitted its report in August 1978 and made 132 recommendations to revive and strengthen the declining panchayati raj system in the country. Its main recommendations were:

1. The three-tier system of panchayati raj should be replaced by the two-tier system, that is, zila parishad at the district level, and below it, the mandal panchayat consisting of a group of villages with a total population of 15,000 to 20,000.
2. A district should be the first point for decentralisation under popular supervision below the state level.
3. Zila parishad should be the executive body and made responsible for planning at the district level.
4. There should be an official participation of political parties at all levels of panchayat elections.
5. The panchayati raj institutions should have compulsory powers of taxation to mobilise their own financial resources.
6. There should be a regular social audit by a district level agency and by a committee of legislators to check whether the funds allotted for the vulnerable social and economic groups are actually spent on them.
7. The state government should not supersede the panchayati raj institutions. In case of an imperative supersession, elections should be held within six months from the date of supersession.
8. The nyaya panchayats should be kept as separate bodies from that of development panchayats. They should be presided over by a qualified

judge.

9. The chief electoral officer of a state in consultation with the chief election commissioner should organise and conduct the panchayati raj elections.
10. Development functions should be transferred to the zila parishad and all development staff should work under its control and supervision.
11. The voluntary agencies should play an important role in mobilising the support of the people for panchayati raj.
12. A minister for panchayati raj should be appointed in the state council of ministers to look after the affairs of the panchayati raj institutions.
13. Seats for SCs and STs should be reserved on the basis of their population.
14. A constitutional recognition should be accorded to the Panchayati Raj institutions. This would give them the requisite status (sanctity and stature) and an assurance of continuous functioning.

Due to the collapse of the Janata Government before the completion of its term, no action could be taken on the recommendations of the Ashok Mehta Committee at the central level. However, the three states of Karnataka, West Bengal and Andhra Pradesh took steps to revitalise the panchayati raj, keeping in view some of the recommendations of the Ashok Mehta Committee.

G V K Rao Committee

The Committee to review the existing Administrative Arrangements for Rural Development and Poverty Alleviation Programmes under the chairmanship of G.V.K. Rao was appointed by the Planning Commission in 1985. The Committee came to conclusion that the developmental process was gradually bureaucratised and divorced from the Panchayati Raj. This phenomena of bureaucratisation of development administration as against the democratisation weakened the Panchayati Raj institutions resulting in what is aptly called as 'grass without roots'. Hence, the Committee made the following recommendations to strengthen and revitalise the Panchayati Raj system:

- (i) The district level body, that is, the Zila Parishad should be of pivotal importance in the scheme of democratic decentralisation. It stated that "the district is the proper unit for planning and development and the Zila

Parishad should become the principal body for management of all development programmes which can be handled at that level.”

- (ii) The Panchayati Raj institutions at the district and lower levels should be assigned an important role with respect to planning, implementation and monitoring of rural development programmes.
- (iii) Some of the planning functions at the state level should be transferred to the district level planning units for effective decentralized district planning.
- (iv) A post of District Development Commissioner should be created. He should act as the chief executive officer of the Zila Parishad and should be in charge of all the development departments at the district level.
- (v) Elections to the Panchayati Raj institutions should be held regularly. It found that elections became overdue for one or more tiers in 11 states.

Thus the committee, in its scheme of decentralised system of field administration, assigned a leading role to the Panchayati Raj in local planning and development. It is in this respect that the recommendation of the G.V.K. Rao Committee Report (1986) differed from those of the Dantwala Committee Report on Block-Level Planning (1978) and the Hanumantha Rao Committee Report on District Planning (1984). Both the committees have suggested that the basic decentralised planning function should be done at the district level. The Hanumantha Rao Committee advocated separate district planning bodies under either the District Collector or a minister. In both the models, the Collector should play a significant role in the decentralised planning though the Committee stated that Panchayati Raj institutions would also be associated with this process (of decentralised planning). The committee recommended that the Collector should be the coordinator, at the district level, of all developmental and planning activities. Thus the, Hanumantha Rao Committee differed in this respect from those of Balwantray Mehta Committee, the Administrative Reforms Commission of India, the Ashok Mehta Committee and finally the G.V.K. Rao Committee which recommended reduction in the developmental role of the District Collector and which assigned a major role to the Panchayati Raj in development administration.

L M Singhvi Committee

In 1986, Rajiv Gandhi government appointed a committee to prepare a concept paper on 'Revitalisation of Panchayati Raj Institutions for Democracy and Development' under the chairmanship of L M Singhvi. It made the following recommendations.

- (i) The Panchayati Raj institutions should be constitutionally recognised, protected and preserved. For this purpose, a new chapter should be added in the Constitution of India. This will make their identity and integrity reasonably and substantially inviolate. It also suggested constitutional provisions to ensure regular, free and fair elections to the Panchayati Raj bodies.
- (ii) Nyaya Panchayats should be established for a cluster of villages.
- (iii) The villages should be reorganised to make Gram Panchayats more viable. It also emphasised the importance of the Gram Sabha and called it as the embodiment of direct democracy.
- (iv) The Village Panchayats should have more financial resources.
- (v) The judicial tribunals should be established in each state to adjudicate controversies about election to the Panchayati Raj institutions, their dissolution and other matters related to their functioning.

Thungon Committee

In 1988, a sub-committee of the Consultative Committee of Parliament was constituted under the chairmanship of P.K. Thungon to examine the political and administrative structure in the district for the purpose of district planning. This committee suggested for the strengthening of the Panchayati Raj system. It made the following recommendations :

1. The Panchayati Raj bodies should be constitutionally recognized.
2. A three-tier system of Panchayati Raj with panchayats at the village, block and district levels.
3. Zilla Parishad should be the pivot of the Panchayati Raj system. It should act as the planning and development agency in the district.
4. The Panchayati Raj bodies should have a fixed tenure of five years.
5. The maximum period of super session of a body should be six months.
6. A planning and co-ordination committee should be set-up at the state level under the chairmanship of the minister for planning. The presidents of

Zilla Parishads should be its members.

7. A detailed list of subjects for Panchayati Raj should be prepared and incorporated in the Constitution.
8. Reservation of seats in all the three-tiers should be on the basis of population. There should also be reservation for women.
9. A state finance commission should be set-up in each state. It would lay down the criteria and guidelines for the devolution of finances to the Panchayati Raj institutions.
10. The district collector should be the chief executive officer of the Zilla Parishad.

Gadgil Committee

The Committee on Policy and Programmes was constituted in 1988 by the Congress party under the chairmanship of V.N. Gadgil. This committee was asked to consider the question of “how best Panchayati Raj institutions could be made effective”. In this context, the committee made the following recommendations :

1. A constitutional status should be bestowed on the Panchayati Raj institutions.
2. A three-tier system of Panchayati Raj with panchayats at the village, block and district levels.
3. The term of Panchayati Raj institutions should be fixed at five years.
4. The members of the Panchayats at all the three levels should be directly elected.
5. Reservation for SCs, STs and women.
6. The Panchayati Raj bodies should have the responsibility of preparation and implementation of plans for socio-economic development. For this purpose, a list of subjects should be specified in the constitution.
7. The Panchayat Raj bodies should be empowered to levy, collect and appropriate taxes and duties.
8. Establishment of a State Finance Commission for the allocation of finances to the Panchayats.
9. Establishment of a State Election Commission for the conduction of elections to the panchayats.

The above recommendations of the Gadgil Committee became the basis for drafting an amendment bill aimed at conferring the constitutional status and protection to the Panchayati Raj institutions.

Constitutionalisation

Rajiv Gandhi Government The Rajiv Gandhi Government introduced the 64th Constitutional Amendment Bill in the Lok Sabha in July 1989 to constitutionalise panchayati raj institutions and make them more powerful and broad based. Although, the Lok Sabha passed the bill in August 1989, it was not approved by the Rajya Sabha. The bill was vehemently opposed by the Opposition on the ground that it sought to strengthen centralisation in the federal system.

V P Singh Government The National Front Government, soon after assuming office in November 1989 under the Prime Ministership of V P Singh, announced that it would take steps to strengthen the panchayati raj institutions. In June 1990, a two-day conference of the state chief ministers under the chairmanship of V P Singh was held to discuss the issues relating to the strengthening of the panchayati raj bodies. The conference approved the proposals for the introduction of a fresh constitutional amendment bill. Consequently, a constitutional amendment bill was introduced in the Lok Sabha in September 1990. However, the fall of the government resulted in the lapse of the bill.

Narasimha Rao Government The Congress Government under the prime ministership of P V Narasimha Rao once again considered the matter of the constitutionalisation of panchayati raj bodies. It drastically modified the proposals in this regard to delete the controversial aspects and introduced a constitutional amendment bill in the Lok Sabha in September, 1991. This bill finally emerged as the 73rd Constitutional Amendment Act, 1992 and came into force on 24 April, 1993².

73RD AMENDMENT ACT OF 1992

Significance of the Act

This act has added a new Part-IX to the Constitution of India. This part is entitled as ‘The Panchayats’ and consists of provisions from Articles 243 to 243 O. In addition, the act has also added a new Eleventh Schedule to the Constitution. This schedule contains 29 functional items of the panchayats. It deals with Article 243-G.

The act has given a practical shape to Article 40 of the Constitution which says that, “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.” This article forms a part of the Directive Principles of State Policy.

The act gives a constitutional status to the panchayati raj institutions. It has brought them under the purview of the justiciable part of the Constitution. In other words, the state governments are under constitutional obligation to adopt the new panchayati raj system in accordance with the provisions of the act. Consequently, neither the formation of panchayats nor the holding of elections at regular intervals depend on the will of the state government any more.

The provisions of the act can be grouped into two categories—compulsory and voluntary. The compulsory (mandatory or obligatory) provisions of the act have to be included in the state laws creating the new panchayati raj system. The voluntary provisions, on the other hand, may be included at the discretion of the states. Thus the voluntary provisions of the act ensures the right of the states to take local factors like geographical, politico-administrative and others, into consideration while adopting the new panchayati raj system.

The act is a significant landmark in the evolution of grassroot democratic institutions in the country. It transfers the representative democracy into participatory democracy. It is a revolutionary concept to build democracy at the grassroot level in the country.

Salient Features

The salient features of the act are:

Gram Sabha The act provides for a Gram Sabha as the foundation of the panchayati raj system. It is a body consisting of persons registered in the electoral rolls of a village comprised within the area of Panchayat at the village level. Thus, it is a village assembly consisting of all the registered voters in the area of a panchayat. It may exercise such powers and perform such functions at the village level as the legislature of a state determines.

Three-Tier System The act provides for a three-tier system of panchayati raj in every state, that is, panchayats at the village, intermediate, and district levels³. Thus, the act brings about uniformity in the structure of panchayati raj throughout the country. However, a state having a population not exceeding 20 lakh may not constitute panchayats at the intermediate level.

Election of Members and Chairpersons All the members of panchayats at the village, intermediate and district levels shall be elected directly by the people. Further, the chairperson of panchayats at the intermediate and district levels shall be elected indirectly—by and from amongst the elected members thereof. However, the chairperson of a panchayat at the village level shall be elected in such manner as the state legislature determines.

Reservation of Seats The act provides for the reservation of seats for scheduled castes and scheduled tribes in every panchayat (i.e., at all the three levels) in proportion of their population to the total population in the panchayat area. Further, the state legislature shall provide for the reservation of offices of chairperson in the panchayat at the village or any other level for the SCs and STs.

The act provides for the reservation of not less than one-third of the total number of seats for women (including the number of seats reserved for women belonging the SCs and STs). Further, not less than one-third of the total number of offices of chairpersons in the panchayats at each level shall be reserved for women.

The act also authorises the legislature of a state to make any provision for reservation of seats in any panchayat or offices of chairperson in the panchayat at any level in favour of backward classes.

Duration of Panchayats The act provides for a five-year term of office to the panchayat at every level. However, it can be dissolved before the completion of its term. Further, fresh elections to constitute a panchayat 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.

But, where the remainder of the period (for which the dissolved panchayat would have continued) is less than six months, it shall not be necessary to hold any election for constituting the new panchayat for such period.

Moreover, 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 had it not been so dissolved. In other words, a panchayat 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 A person shall be disqualified for being chosen as or for being a member of panchayat if he is so disqualified, (a) under any law for the time being in force for the purpose of elections to the legislature of the state concerned, or (b) 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 of disqualifications shall be referred to such authority as the state legislature determines.

State Election Commission The superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to the panchayats shall be vested in the state election commission. It consists of a state election commissioner to be appointed by the governor. His conditions of service and tenure of office shall also be determined by the governor. He shall not be removed from the office except in the manner and on the grounds prescribed for the removal of a judge of the state high court⁴. His conditions of service shall not be varied to his disadvantage after his appointment.

The state legislature may make provision with respect to all matters relating to elections to the panchayats.

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 for the devolution of powers and responsibilities upon Panchayats at the appropriate level 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 29 matters listed in the Eleventh Schedule.

Finances The state legislature may (a) authorise a panchayat to levy, collect and appropriate taxes, duties, tolls and fees; (b) assign to a panchayat taxes, duties, tolls and fees levied and collected by the state government; (c) provide for making grants-in-aid to the panchayats from the consolidated fund of the state; and (d) provide for constitution of funds for crediting all moneys of the panchayats.

Finance Commission The governor of a state shall, after every five years, constitute a finance commission to review the financial position of the panchayats. It shall make the following recommendations to the Governor:

1. The principles that should govern:
 - (a) The distribution between the state and the panchayats of the net proceeds of the taxes, duties, tolls and fees levied by the state.
 - (b) The determination of taxes, duties, tolls and fees that may be assigned to the panchayats.
 - (c) The grants-in-aid to the panchayats from the consolidated fund of the state.
2. The measures needed to improve the financial position of the panchayats.
3. Any other matter referred to it by the governor in the interests of sound finance of the panchayats.

The state legislature may provide for the composition of the commission, the required qualifications of its members and the manner of their selection.

The governor shall place the recommendations of the commission along with the action taken report before the state legislature.

The Central Finance Commission shall also suggest the measures needed to augment the consolidated fund of a state to supplement the resources of the

panchayats in the states (on the basis of the recommendations made by the finance commission of the state).

Audit of Accounts The state legislature may make provisions with respect to the maintenance of accounts by the panchayats and the auditing of such accounts.

Application to Union Territories The president of India may direct that the provisions of this act shall apply to any union territory subject to such exceptions and modifications as he may specify.

Exempted States and Areas The act does not apply to the states of Jammu and Kashmir, Nagaland, Meghalaya and Mizoram and certain other areas. These areas include, (a) the scheduled areas and the tribal areas in the states⁵; (b) the hill area of Manipur for which a district council exists; and (c) Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists.

However, the Parliament may extend the provisions of this Part to the scheduled areas and tribal areas subject to such exceptions and modifications as it may specify.

Continuance of Existing Laws and Panchayats 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 act shall continue till the expiry of their term, unless dissolved by the state legislature sooner.

Consequently, majority of states passed the panchayati raj acts in 1993 and 1994 to adopt the new system in accordance with the 73rd Constitutional Amendment Act of 1992.

Bar to Interference by Courts in Electoral Matters The act bars the interference by courts 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.

Eleventh Schedule It contains the following 29 functional items placed within the purview of panchayats:

1. Agriculture, including agricultural extension
2. Land improvement, implementation of land reforms, land consolidation and soil conservation
3. Minor irrigation, water management and watershed development
4. Animal husbandry, dairying and poultry
5. Fisheries
6. Social forestry and farm forestry
7. Minor forest produce
8. Small-scale industries, including food processing industries
9. Khadi, village and cottage industries
10. Rural housing
11. Drinking water
12. Fuel and fodder
13. Roads, culverts, bridges, ferries, waterways and other means of communication
14. Rural electrification, including distribution of electricity
15. Non-conventional energy sources
16. Poverty alleviation programme
17. Education, including primary and secondary schools
18. Technical training and vocational education
19. Adult and non-formal education
20. Libraries
21. Cultural activities
22. Markets and fairs
23. Health and sanitation including hospitals, primary health centres and dispensaries
24. Family welfare
25. Women and child development
26. Social welfare, including welfare of the handicapped and mentally

retarded

27. Welfare of the weaker sections, and in particular, of the scheduled castes and the scheduled tribes
28. Public distribution system
29. Maintenance of community assets.

COMPULSORY AND VOLUNTARY PROVISIONS

Now, we will identify separately the compulsory (obligatory or mandatory) and voluntary (discretionary or optional) provisions (features) of the 73rd Constitutional Amendment Act (1992) or the Part IX of the Constitution:

A. Compulsory Provisions

1. Organisation of Gram Sabha in a village or group of villages.
2. Establishment of panchayats at the village, intermediate and district levels.
3. Direct elections to all seats in panchayats at the village, intermediate and district levels.
4. Indirect elections to the post of chairperson of panchayats at the intermediate and district levels.
5. 21 years to be the minimum age for contesting elections to panchayats.
6. Reservation of seats (both members and chairpersons) for SCs and STs in panchayats at all the three levels.
7. Reservation of one-third seats (both members and chairpersons) for women in panchayats at all the three levels.
8. Fixing tenure of five years for panchayats at all levels and holding fresh elections within six months in the event of supersession of any panchayat.
9. Establishment of a State Election Commission for conducting elections to the panchayats.
10. Constitution of a State Finance Commission after every five years to review the financial position of the panchayats.

B. Voluntary Provisions

1. Giving representation to members of the Parliament (both the Houses)

- and the state legislature (both the Houses) in the panchayats at different levels falling within their constituencies.
2. Providing reservation of seats (both members and chairpersons) for backward classes in panchayats at any level.
 3. Granting powers and authority to the panchayats to enable them to function as institutions of self-government (in brief, making them autonomous bodies).
 4. Devolution of powers and responsibilities upon panchayats to prepare plans for economic development and social justice; and to perform some or all of the 29 functions listed in the Eleventh Schedule of the Constitution.
 5. Granting financial powers to the pachayats, that is, authorizing them to levy, collect and appropriate taxes, duties, tolls and fees.

PESA ACT OF 1996 (EXTENSION ACT)

The provisions of Part IX of the constitution relating to the Panchayats are not applicable to the Fifth Schedule areas. However, the Parliament may extend these provisions to such areas, subject to such exceptions and modifications as it may specify. Under this provision, the Parliament has enacted the “Provisions of the Panchayats (Extension to the Scheduled Areas) Act”, 1996, popularly known as the PESA Act or the Extension Act.

At present (2016), ten states have Fifth Schedule Areas. These are: Andhra Pradesh, Telangana, Chhatisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha and Rajasthan. All the ten states have enacted requisite compliance legislations by amending the respective Panchayati Raj Acts.

Objectives of the Act

The objectives of the PESA Act are as follows⁶:

1. To extend the provisions of Part IX of the Constitution relating to the panchayats to the scheduled areas with certain modifications
2. To provide self-rule for the bulk of the tribal population
3. To have village governance with participatory democracy and to make the

- gram sabha a nucleus of all activities
4. To evolve a suitable administrative framework consistent with traditional practices
 5. To safeguard and to preserve the traditions and customs of tribal communities
 6. To empower panchayats at the appropriate levels with specific powers conducive to tribal requirements
 7. To prevent panchayats at the higher level from assuming the powers and authority of panchayats at the lower level of the gram sabha

Features of the Act

The features (or the provisions) of the PESA Act are as follows:

1. A state legislation on the Panchayats in the Scheduled Areas shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources.
2. A village shall ordinarily consist 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.
3. Every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level.
4. Every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution.
5. Every Gram Sabha shall—
 - (i) approve of the plans, programmes and projects for social and economic development before they are taken up for implementation by the Panchayat at the village level; and
 - (ii) be responsible for the identification of beneficiaries under the poverty alleviation and other programmes.
6. Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds for the above plans, programmes and projects.
7. The reservation of seats in the Scheduled Areas in every Panchayat shall

be in proportion to the population of the communities for whom reservation is sought to be given under Part IX of the Constitution. However, the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats. Further, all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes.

8. The state government may nominate such Scheduled Tribes which have no representation in the Panchayat at the intermediate level or the Panchayat at the district level. But such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat.
9. The Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before resettling or rehabilitating persons affected by such projects in the Scheduled Areas. However, the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the state level.
10. Planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level.
11. The recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be mandatory for grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas.
12. The prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be mandatory for grant of concession for the exploitation of minor minerals by auction.
13. While endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with –
 - (i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant
 - (ii) the ownership of minor forest produce
 - (iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe
 - (iv) the power to manage village markets
 - (v) the power to exercise control over money lending to the Scheduled

Tribes

- (vi) the power to exercise control over institutions and functionaries in all social sectors
 - (vii) the power to control local plans and resources for such plans including tribal sub-plans
14. The State Legislations shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha.
15. The State Legislature shall endeavour to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.
16. Any provision of any law (relating to Panchayats in the Scheduled Areas) which is inconsistent with the provisions of this Act shall cease to be in force at the expiry of one year from the date on which this Act receives the assent of the President⁷. However, all the Panchayats existing immediately before such date shall continue till the expiry of their term, unless dissolved by the State Legislature sooner.

FINANCES OF PANCHAYATI RAJ

The Second Administrative Reforms Commission of India (2005-2009) has summarized the sources of revenue of the Panchayati Raj Institutions (PRIs) and their financial problems in the following way^{7a}:

1. A major portion of Part IX of the Constitution deals with structural empowerment of the PRIs but the real strength in terms of both autonomy and efficiency of these institutions is dependent on their financial position (including their capacity to generate own resources). In general, Panchayats in our country receive funds in the following ways:
 - (i) Grants from the Union Government based on the recommendations of the Central Finance Commission as per Article 280 of the Constitution.
 - (ii) Devolution from the State Government based on the recommendations of the State Finance Commission as per Article 243-I.
 - (iii) Loans / grants from the State Government.

- (iv) Programme-specific allocation under Centrally Sponsored Schemes and Additional Central Assistance.
 - (v) Internal Resource Generation (tax and non-tax).
2. Across the country, States have not given adequate attention to fiscal empowerment of the Panchayats. The Panchayats own resources are meager. Kerala, Karnataka and Tamil Nadu are the states which are considered to be progressive in PRIs empowerment but even there, the Panchayats are heavily dependent on government grants. One can draw the following broad conclusions:
- (i) Internal resource generation at the Panchayat level is weak. This is partly due to a thin tax domain and partly due to Panchayats own reluctance in collecting revenue.
 - (ii) Panchayats are heavily dependent on grants from Union and State Governments.
 - (iii) A major portion of the grants both from Union as well as the State Governments is scheme specific. Panchayats have limited discretion and flexibility in incurring expenditure.
 - (iv) In view of their own tight fiscal position, State Governments are not keen to devolve funds to Panchayats.
 - (v) In most of the critical Eleventh Schedule matters like primary education, healthcare, water supply, sanitation and minor irrigation even now, it is the State Government which is directly responsible for implementation of these programmes and hence expenditure.
 - (vi) Overall, a situation has been created where Panchayats have responsibility but grossly inadequate resources.
3. Though, in absolute terms, the quantum of funds the Union/State Government transfers to a Panchayat forms the major component of its receipt, the PRI's own resource generation is the soul behind its financial standing. It is not only a question of resources; it is the existence of a local taxation system which ensures people's involvement in the affairs of an elected body. It also makes the institution accountable to its citizens.
4. In terms of own resource collection, the Gram Panchayats are comparatively in a better position because they have a tax domain of their own, while the other two tiers are dependent only on tolls, fees and non-tax revenue for generating internal resources.
5. State Panchayati Raj Acts have given most of the taxation powers to

Village Panchayats. The revenue domain of the intermediate and District Panchayats (both tax as well as non-tax) has been kept much smaller and remains confined to secondary areas like ferry services, markets, water and conservancy services, registration of vehicles, cess on stamp duty and a few others.

6. A study of various State Legislations indicates that a number of taxes, duties, tolls and fees come under the jurisdiction of the Village Panchayats. These interalia include octroi, property/house tax, profession tax, land tax/cess, taxes/tolls on vehicles, entertainment tax/fees, license fees, tax on non-agriculture land, fee on registration of cattle, sanitation/drainage/conservancy tax, water rate/ tax, lighting rate/tax, education cess and tax on fairs and festivals.

REASONS FOR INEFFECTIVE PERFORMANCE

Even after conferring the constitutional status and protection through the 73rd Amendment Act (1992), the performance of the Panchayati Raj Institutions (PRIs) has not been satisfactory and not upto the expected level. The various reasons for this sub-optimal performance are as follows^{7b}:

1. **Lack of adequate devolution:** Many States have not taken adequate steps to devolve 3Fs (i.e., functions, funds and functionaries) to the PRIs to enable them to discharge their constitutionally stipulated function. Further, it is imperative that the PRIs have resources to match the responsibilities entrusted to them. While SFCs (state finance commissions) have submitted their recommendations, not many few States have implemented these or taken steps to ensure the fiscal viability of the PRIs.
2. **Excessive control by bureaucracy:** In some States, the Gram Panchayats have been placed in a position of subordination. Hence, the Gram Panchayat Sarpanches have to spend extraordinary amount of time visiting Block Offices for funds and/or technical approval. These interactions with the Block staff office distort the role of Sarpanches as elected representatives.
3. **Tied nature of funds:** This has two implications. The activities stated under a certain scheme are not always appropriate for all parts of the

district. This results in unsuitable activities being promoted or an under-spend of the funds.

4. **Overwhelming dependency on government funding:** A review of money received and own source funds shows the overwhelming dependence of Panchayats on government funding. When Panchayats do not raise resources and instead receive funds from outside, people are less likely to request a social audit.
 5. **Reluctance to use fiscal powers:** An important power devolved to GP (Gram Panchayat) is the right to levy tax on property, business, markets, fairs and also for services provided, like street lighting or public toilets, etc. Very few Panchayats use their fiscal power to levy and collect taxes. The argument pushed by Panchayat heads is that it is difficult to levy tax on your own constituency, especially when you live in the community.
 6. **Status of the Gram Sabha:** Empowering the Gram Sabhas could have been a powerful weapon for transparency, accountability and for involvement of the marginalized sections. However, a number of the State Acts have not spelt the powers of Gram Sabhas nor have any procedures been laid down for the functioning of these bodies or penalties for the officials.
 7. **Creation of Parallel Bodies:** Often, Parallel Bodies (PBs) are created for supposedly speedy implementation and greater accountability. However, there is little evidence to show that such PBs have avoided the evils including that of partisan politics, sharing of spoils, corruption and elite capture. Missions (in particular) often bypassing mainstream programmes, create disconnect, duality, and alienation between the existing and the new structures and functions. PBs usurp the legitimate space of PRIs and demoralize the PRIs by virtue of their superior resource endowments.
 8. **Poor Infrastructure:** A large number of Gram Panchayats in the country do not have even full time Secretary. Around 25 percent of the Gram Panchayats do not have basic office buildings. The database for planning, monitoring etc., are lacking in most of the cases.
- A large number of elected representatives of PRIs are semi-literate or literate and know little about their roles & responsibilities, programmes, procedures, systems. Often for want of good, relevant and periodic training, they are not able to perform their functions properly.

Although all the District and Intermediate Panchayats are connected with computers, only around 20% Gram Panchayats reported to be having computing facility. In some States, Village Panchayats do not have any computing facility.

Table 38.2 *Articles Related to Panchayats at a Glance*

<i>Article No.</i>	<i>Subject-matter</i>
243.	Definitions
243A.	Gram Sabha
243B.	Constitution of panchayats
243C.	Composition of panchayats
243D.	Reservation of seats
243E.	Duration of panchayats, and so on
243F.	Disqualifications for membership
243G.	Powers, authority and responsibilities of panchayats
243H.	Powers to impose taxes by, and funds of, the panchayats
243-I.	Constitution of finance commission to review financial position
243J.	Audit of accounts of panchayats
243K.	Elections to the panchayats
243L.	Application to union territories
243M.	Part not to apply to certain areas
243N.	Continuance of existing laws and panchayats
243-O.	Bar to interference by courts in electoral matters

Table 38.3 *Name and Number of Panchayats (2010)*⁸

<i>Sl. No.</i>	<i>State</i>	<i>Panchayati Raj Institutions (including ADCs)</i>	<i>Number</i>
1.	Andhra Pradesh	1. Gram Panchayats 2. Mandal Parishads 3. Zilla Parishads	21809 1097 22
2.	Arunachal Pradesh	1. Gram Panchayats 2. Anchal Samities 3. Zilla Parishads	1751 150 16
3.	Assam	1. Goan Panchayats 2. Anchalic Panchayats 3. Zilla Parishads 4. Autonomous District Councils	2202 185 20 4
4.	Bihar	1. Village Panchayats 2. Panchayat Samities 3. Zilla Parishads	8463 531 38
5.	Chattisgarh	1. Gram Panchayats 2. Janpad Panchayats 3. Zilla Panchayats	9820 146 16
6.	Goa	1. Village Panchayats 2. Zilla Panchayats	189 2
7.	Gujarat	1. Village Panchayats 2. Taluka Panchayats 3. District Panchayats	13738 224 26
8.	Haryana	1. Gram Panchayats 2. Panchayat Samities 3. Zilla Parishads	6187 119 19
9.	Himachal Pradesh	1. Gram Panchayats 2. Panchayat Samities 3. Zilla Panchayats	3243 75 12
10.	Jammu & Kashmir	1. Halqa Panchayats	4139

11.	Jharkhand	1. Gram Panchayats 2. Panchayat Samities 3. Zilla Panchayats	4562 212 24
12.	Karnataka	1. Gram Panchayats 2. Taluka Panchayats 3. Zilla Panchayats	5652 176 29
13.	Kerala	1. Village Panchayats 2. Block Panchayats 3. District Panchayats	999 152 14
14.	Madhya Pradesh	1. Village Panchayats 2. Block Panchayats 3. District Panchayats	23040 313 48
15.	Maharashtra	1. Village Panchayats 2. Panchayat Samities 3. Zilla Parishads	27916 351 33
16.	Manipur	1. Gram Panchayats 2. Zilla Panchayats 3. Autonomous District Councils	165 4 6
17.	Meghalaya	1. Autonomous District Councils	3
18.	Mizoram	1. Village Councils	707
19.	Nagaland	1. Village Councils	1110
20.	Odisha	1. Gram Panchayats 2. Panchayat Samities 3. Zilla Parishads	6234 314 30
21.	Punjab	1. Gram Panchayats 2. Panchayat Samities 3. Zilla Parishads	12447 141 20
22.	Rajasthan	1. Gram Panchayats 2. Panchayat Samities 3. Zilla Parishads	9184 237 32

23.	Sikkim	1. Gram Panchayats 2. Zilla Panchayats	163 4
24.	Tamil Nadu	1. Village Panchayats 2. Panchayat Unions 3. District Panchayats	12618 385 29
25.	Tripura	1. Gram Panchayats 2. Panchayat Samities 3. Zilla Panchayats 4. Autonomous District Councils	513 23 4 1
26.	Uttar Pradesh	1. Gram Panchayats 2. Kshetra Panchayats 3. Zilla Panchayats	52000 820 70
27.	Uttarakhand	1. Gram Panchayats 2. Intermediate Panchayats 3. District Panchayats	7227 95 13
28.	West Bengal	1. Gram Panchayats 2. Panchayat Samities 3. Zilla Parishads	3354 341 18
	All India	1. Gram / Village Panchayats (including Village Councils) 2. Panchayat Samities 3. Zilla Panchayats 4. Autonomous District Councils	239432 6087 543 14

Table 38.4 *Milestones in the Evolution of Panchayati Raj*⁹

I. Towards First Generation Panchayats	
1948-49	Constituent Assembly debates on the role of Panchayati Raj in Indian polity
1950	The Constitution of India comes into force on 26 January; Directive Principles of State Policy mention village panchayats as ‘units of self-government’ (Art 40)

1952	Community Development Programme starts on 2 nd October
1957	Balvantrai Mehta Committee, appointed in January, submits its report on 24 November
1958-60	Several state governments enact new Panchayat Acts bringing in three-tier panchayat system
1959	Jawaharlal Nehru inaugurates the first generation panchayat at Nagaur in Rajasthan on 2 nd October Kerala District Council Bill is introduced in Kerala Assembly; lapses after Assembly is dissolved
1964-77	Decline of first generation Panchayati Raj Institutions
II. Growth and Decline of Second Generation Panchayats	
1978	Panchayat elections are held in West Bengal on party basis on 4 th June—marking the beginning of second generation of Panchayati Raj. Ashok Mehta Committee on working of panchayats, appointed on 12 December 1977, submits its report on 21 August
1983	Karnataka government enacts new PR Act
1984	Hanumantha Rao Committee on district level planning, appointed by Planning Commission in September 1982, submits its report in May
1985	Karnataka PR Act receives President's assent in July; comes into force on 14 th August
1985	G.V.K. Rao Committee on administrative aspects of rural development, appointed by Planning Commission on 25 March, submits its report in December
1986	Andhra Pradesh follows West Bengal and Karnataka Panchayati Raj Model
1987	Karnataka holds panchayat elections in January

1990-92	Panchayats are dissolved and brought under administrators in Karnataka
III. Constitutionalisation of Panchayati Raj	
1986	L.M. Singhvi Committee submits its report on 27 November; recommends constitutional status for panchayats
1988	Consultative Committee of Parliament appoints a sub-committee under chairpersonship of P.K. Thungon to consider Constitutional Amendment
1989	64 th Constitutional Amendment Bill is introduced in Parliament on 15 May; is defeated in Rajya Sabha on 15 October
1990	74 th Constitutional Amendment Bill is introduced in Parliament on 7 September; lapses on dissolution of Lok Sabha
1991	72 nd (Panchayats) and 73 rd (Municipalities) Amendment Bills are introduced in Parliament; referred to the Parliament's Joint Select Committee in September
1992	Lok Sabha passes both the Bills on 22 December; Rajya Sabha passes them on 23 December
1993	73 rd Amendment Act, 1992 comes into force on 24 April 74 th Amendment Act, 1992 comes into force on 1 June
1993-94	All state governments pass Conformity Acts between 30 May, 1993 and 23 April, 1994
1994	Madhya Pradesh holds panchayat elections under the 73 rd Amendment dispensation on 30 May
1996	Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996, extending 73 rd Amendment Act to Scheduled Areas, comes into force on 24 December. Kerala launches People's Plan Campaign on 16 August
2001	Bihar holds panchayat elections after 23 years (11-30 April)

83rd Constitutional Amendment Act, 2000 amends Art. 243-M to dispense with reservations for Scheduled Castes in Arunachal Pradesh—paving way for panchayat elections in the only state yet to hold them under the new dispensation

Table 38.5 *Committees Related to Panchayati Raj (After Constitutionalisation)*

<i>Sl. No.</i>	<i>Name of the Committee</i>	<i>Chairman</i>	<i>Appointed in</i>	<i>Reported in</i>
1.	Task Force on Devolution of Powers and Functions to Panchayati Raj Institutions	Lalit Mathur	2001	2001
2.	Expert Group on Planning at the Grassroots Level	V. Ramachandran	2005	2006
3.	Task Force for Preparation of a Manual for District Planning	Smt. Rajwant Sandhu	2008	2008
4.	Committee on Restructuring of DRDA (District Rural Development Agency)	V. Ramachandran	2010	2012
5.	Expert Committee on Leveraging Panchayats for Efficient Delivery of Public Goods and Services	Mani Shankar Aiyar	2012	2013

NOTES AND REFERENCES

1. The subject of 'Local Government' is mentioned in the State List under the Seventh Schedule of the Constitution.
2. This bill was passed by the Lok Sabha on 22 December, 1992, and by the Rajya Sabha on 23 December, 1992. Later, it was approved by the 17 state assemblies and received the assent of the president on 20 April, 1993.
3. The Act defines all these terms in the following manner:
 - (a) Panchayat means an institution (by whatever name called) of self-government for rural areas.
 - (b) Village means a village specified by the governor by public notification to be a village for this purpose, and includes a group of villages so specified.
 - (c) Intermediate level means a level between the village and district levels specified by the governor by public notification for this purpose.
 - (d) District means a district in a state.
4. A judge of a high court can be removed from his office by the president on the recommendation of the Parliament. This means that a state election commissioner cannot be removed by the governor, though appointed by him.
5. At present (2016), ten states of India have scheduled areas. These are: Andhra Pradesh, Telangana, Jharkhand, Chhatisgarh, Gujarat, Himachal Pradesh, Madhya Pradesh, Maharashtra, Odisha and Rajasthan. Presently (2016), there are a total of ten tribal areas (autonomous districts) in the four states of Assam (3), Meghalaya (3), Tripura (1) and Mizoram (3).
6. S.K. Singh, Panchayats in Scheduled Areas, Kurukshetra, May 2001, P.26.
7. This Act received the assent of the President on 24 December, 1996.
- 7a. Second Administrative Reforms Commission, Government of India, Report on Local Governance, 2007, pp.151-154.
- 7b. Ministry of Panchayati Raj, Government of India, Roadmap for the Panchayati Raj (2011-16), pp.11-12, 23 and 7-8.
8. Report of the Thirteenth Finance Commission (2010-2015), Volume II, December 2009, P.424-426.
9. Panchayati Raj Update, October, 2002, Institute of Social Sciences, New Delhi.