

Panchayati Raj in U.P. with Special Reference to Gram Panchayat

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Abstract

Since the independence of 1947, the democratic system, with the exception of sometime, has always been functional uninterruptingly. The success of democracy in any country cannot be accepted in the real and complete sense until there is the constitution of democratic bodies at the lowest level of that country. In 1992-1993, 73rd constitutional amendment was made in Indian Constitution. According to this amendment a three-tier Panchayati Raj System was laid down. District Panchayat, Block Panchayat and at the lowest level of Democratic System-Gram Panchayats were constituted, Central Government made almost all necessary provisions at Panchayat level under the Article 243 of the constitution. Even the provisions of reservations were made for the scheduled castes, the scheduled tribes and the women. Simultaneously, the rights were given to the State legislative to ensure the provisions for the representatives of the backward class. U.P. Government, using its constitutional rights, gave new provisions for the representation of the backward classes, this in practice, brought a new change in the previous scene. In this research paper there is an analysis and critical speculation on the new provisions for the backward class as made by U.P. Government for Gram Panchayats; it also attempts to re-examine and re-consider the rights and functions of the office of Gram Pradhan in the changed scenario of the present times in the light of government's new reservation policy.

Keywords: Panchayati Raj Institutions, 73rd Constitutional Amendment Act, Democratic Decentralization, Gram Panchayat, Gram Sabha & Gram Pradhan.

Gram Panchayat:

Emphasizing the importance of local government, Dr. D. Talkville has written, "Local institutions are as essential for democracy as are primary schools for learning". Gandhiji also said, "Gram Panchayats should be made the basis of social structure."¹ "In 1948, Gandhiji viewed, "Real democracy can not be run by the people sitting at the Centre".² Gandhiji dream of Gram-Swaraj was that the panchayat of every village should be made powerful self-governing and self reliant with all the necessary rights as Republic. The Independence of 1947 and procedural freedom of constituting Constitution played very important role in making India a self reliant Democracy. In the Chapter 4 of Indian constitution, directive principles have been explained, in the Article 40 of this chapter, the organizations of Gram panchayat have been referred to; according to this provisions, the state will take steps to constitute Gram panchayats and it will empower and authorize them in such a way as will be fitting and essential to enable them to function as the units of self-governing bodies.

In 1957, Balwant Rai Mehta Committee, Recommending the formation of elected Gram Panchayat in its report, emphasized the need to decentralize power by imparting essential resources, powers and rights to the panchayats. And on 2 October, 1959, the then Prime Minister Pt. Nehru initiated a new era of Panchayati Raj Institutions in Nagore (Rajasthan) and termed in an epoch making event. After this, it was enforced in many other states. But, owing to many reasons, it could not be a success.

Constitutional Safeguard for Gram Panchayat:

The Panchayati Raj System that is picking up success in all over India today over much to the 73rd of 74th constitutional Amendments of 1992-93. After this amendment, the Act which was made was laid down in the schedule 9 and various sections of Article 243 of India constitution. In Article 243, Gram Sabha has been defined this : That will be called Gram Sabha where there will be a body made of the people registered in the concerned voter lists of a village within the area of the Panchayat at the level of village. And Gram Sabha will execute all the tasks directed to it from time to time by the State legislative of the concerned village after making its laws/Act.³ As regards the structure of Gram Sabha, State Government will have the highest legal authority and only they will ascertain what will be the structure of the Panchayats. Different States have varying systems as to who should be given the membership of Gram Sabha. In Uttar Pradesh, only that person is called a member of Gram Sabha who is a voter. In the same way, the power and functions assigned to Gram Sabhas also vary from State to State. Despite securing grant success in accomplishing works or getting them done at the grass root level, there was no independent ministry of Panchayati Raj. It was only in 2004 that Progressive Alignment Government Instituted a separate ministry for Panchayati Raj.

Gram Sabha in Uttar Pradesh:

In U.P. three-tier Panchayat has been constituted. Direct democratic organization working at the lowest level is called Gram Sabha. In U.P. only they are members of Gram Sabha who are above 18 years, it is so because here, only a voter can be a member of Gram Sabha, not total population. The tenure of Gram panchayats is for 5 years. In U.P. Three-tier panchayats came into being in 1961 when Block Committee and District Council Act was passed in U.P. The election of Gram Sabha is done directly by the adult population of a village in the state of U.P. The members of Gram Panchayats, who are approximately, 1 on the population of 1000 and 15 above the population of 3000, are also elected by the direct voting of the electorate of different wards.

Gram Pradhan & its Electoral Process:

Gram Pradhan is the chief of head of a Gram Sabha. Any resident of the village aging 21 or more can contest the election of Gram Pradhan. A Gram Pradhan receives 500 Rs. as Honorarium per month. And he can spend 50 thousand per year from his/her discretionary quota. Gram pradhan can also spend 300 Rs. per meeting for six monthly meetings. He can spend Rs. 2500 for travelling for Gram Panchayat works and spend 380 Rs. for other related expenses.⁵ The meetings of Gram panchayats are chaired/headed by Gram Pradhan. The meeting of Gram Panchayats is called every month, for which 5 day's notice and one-third attendance of the members are essential. In emergency, a Gram Pradhan can do or get done any job in the village, just informing the Panchayati Raj but he/she will have to get it passed in the next meeting of Gram panchayat. Members have the rights to participate in the meetings and can cast their votes they can ask questions and put forth proposals but the decisions are taken by the majority.

The Controlling over Gram pradhan and his Tenure:

In Article 243 (E), the tenure of panchayats has been stated, if a panchayat is not dismissed in between its tenure, its tenure at least's for five years from its first meeting, (Conference). According to "Sanyukta Prant-Panchayati Raj Act, 1947th, Section 14, the members of Gram Sabha has the right to depose the Gram Pradhan through no-confidence motion. In this procedure, at least half members of Gram panchayat, out of which at least five members in person, present a signature notice to the District Panchayat Adhikari. In the Notice, the reasons for the removal of Gram Pradhan are mentioned. The District Panchayat Adhikari calls a meeting within 30 days of the receipt of Notice, the meeting is chaired by ADO Panchayat and the meeting has to fulfill the quorum of 1/3 members. A debate is made on Notice in the meeting and then secret voting is done, if 2/3 members vote in favour

of the non-confidence motion against the Gram pradhan, the motion is passed and the pradhan is removed.

Election of the new pradhan is a must within six months of the removal of the pradhan. If the tenure of the dismissed Gram Panchayat is less than six months; the election is held at the fixed time. For the rest of the tenure, the existing Gram Panchayat has the authority to function as on casual basis.

Gram Panchayat Samities⁶:

Each Gram Panchayat has six committees. Planning and Development and Administrative Committees work under the chairmanship of Gram Pradhan. Education committee is chaired by Deputy Pradhan. Construction work, health and welfare and Water management Committees are headed by any member except Gram Pradhan or Deputy Pradhan. Every Committee consists of at least six members, and out of which, there must one member from each S.C., OBC and women category. All these committees have no independent rights. They are to assist Gram panchayat. Gram panchayat can delegate some rights to them. The job of planning and Development committee is to prepare plans and to supervise husbandry, poverty eradication like programmes. The job of education committee is to look into the attendance of students and teachers in primary schools, the level of education, and to see the infra-structural amenities related with education. In the same way, construction work committee looks after construction related works and Health and Welfare Committee keeps a watch on the execution of plans related to village-cleanliness and women welfare schemes.

In practice, these committees have neither been successful in using their power in the right manner, nor have they understood their significance. In order to weaken these committees, the concerned departments have formed their own respective committees and have tried their best to make them ineffective. The lacks of awareness, education and action of the members of panchayat have only made their committees powerless.

The Right to Information in Gram Panchayat⁷:

The people living in the confines of a Panchayat have the right to know what the Gram Pradhan is doing. There is provision for every Gram Panchayat that every Panchayat must display its plans and give a detail of its works done on a board at some public place; it should specify its source of income, the works accomplished and the expenditure incurred and the details of beneficiaries in different plans etc. But in many of the Gram Panchayats, this provision is not made.

Any person living in a Panchayat can avail himself of the copy of any record after paying the due fee, by submitting an application to Secretary, Gram panchayat, on a plain paper within three days. If the person does not receive the copy of the desired record or Document within three days, an administrative action can be taken against the secretary. The copy should be duly attested and dated. With the right to information, it will surely probe a great measure to curb corruption, inaction and dereliction of duties at local level.

Rights and Functions of Gram Panchayats: ⁸

By the 73rd Constitutional Amendment of India constitution, 9th schedule annexed in which Article 243 (F) gives the provisions of the powers, authorities and responsibilities of panchayat. According to this, State legislative will ascertain its powers from time to time by passing Acts. In U.P. there is provision to hand over the charge of 32 departments to Panchayats. But the rights to be availed by the Panchayats have not yet been fully handed over. Many departments of even government are hampering it. At Present, Gram Panchayat has following rights: Gram Panchayats can supervise works of repairing and maintaining Hand Pumps. It can take care of all sort of govt. scholarship. It can up keep primary Schools; recommend cotadar for the selection of Ration shops, can do the verification of Kotas, look after the works done by 'Aaganbadi,' and can take into its hands the works for village-satisfaction, water management such as the construction of drains and Kachha road (Kharanja).

Besides development works, Gram Panchayats have to do many regulatory works such as the registration of Birth & death, registration of marriage, Keeping of Family Register, the up keeping of Immovable Property etc. But there 'Regulatory Works' of Panchayats almost neglected in the glows of monetary gain hidden in developmental works. Panchayats do not need any technical or administrative sanction for construction work up to the limit of 50,000 Rs. under the Sampurna Rojgar Yojana run by Govt. of India; such schemes can be approved by the panchayats themselves.

Panchayats, in their respective areas, can take adequate measures for promoting Each-forming, Poultry-farming, Pig-farming, forestation on public land, cultivation of meadows, lighting on public place in their village. Animal-markets, Small fairs organized in the confines of the village are managed by Gram Panchayats can enforce fully the programmes for the welfare of the handicapped and mentally retired persons.

The Financial Management of Gram Panchayat⁹:

In the State, the fiscal structure of Gram Panchayat is very weak and fragmented. It needs to be well organized, for the fiscal management is the key to development. The financial needs of the Gram Panchayats are mainly fulfilled by the amount of money made available by the Government. Most of the Gram panchayats have been unsuccessful in harnessing their own source of income. This is why; they have to wait for the mercy of Govt. officials for each and every developmental work in the village.

Gram Panchayats have only one sure and certain source of income that is the tax levied on land revenue which in day to day conversation, is known as 'Panchayat Tax,' It is 25 paise on the income of one Rupee. Despite its being essential tax, most of the panchayats do not levy it. The income made by the properties of Gram Panchayats is exacted by the employees of Revenue department. According to the law, all such income is deposited in the fund of the village but the employees of the Revenue department deposit it into the Accumulated Fund made under the District Magistrate. In this way, most of the Gram panchayats in the state are deprived of the income made by their immovable properties and crores of rupees keep lying in the fund of Dm's, which actually belongs to Gram Panchayats. In order to strengthen their fiscal capacities, Gram panchayats have to pay a serious attention to this fact also.

In order to increase their income, Gram panchayats can enforce various kinds of fee and taxes such as Cinema Tax, Circus tax, and maximum 5 Rs. per day tax on Nautanki, 6 Rs. on Motor Vehicle, 3 Rs. on Animal carts. Taxes can be lived on shop keepers of 'Hats's, 'Melas' and "Bajaars" in the village. There can be tax on the sale of animals. There can be taxes on Butcheriss; panchayats can exact tax for water cleanliness of drains and lighting arrangements. But the representatives of people fail to get there hard laws executed on villages, nor do they levy any taxes, so they fear, the villagers would get angry and this may adversely affected their political interests, many of the taxes are low in amount and keeping this in view, there is need to amend them as per the needs of today; only then the fiscal condition of the Gram panchayats will improve and there will be less burden on the government.

Reservation in Gram Panchayats: ¹⁰

The Panchayati Raj System which was laid down by the 73rd amendment of the constitution had also made provisions for the representation of the various classes of India. In Article 243, "Gha", provision has been made for the reservation of the Scheduled casts and the Scheduled Tribes. This reservation will be in accordance to the percentage and proportion of the population of the Scheduled Castes and the Scheduled Tribes in companion to those of other classes/categories, and this will keep on changing in every election in the rotationing system. Out of the total reserved seats, one third seats will remain asked for woman of the scheduled casts and the scheduled tribes. In every panchayat, the constitutions which have direct voting, will have one third of them reserved for women (including women from SC/ST), and they will be reserved in rotation. According to Article 243 Gha(4), State legislative has the right that it can reserve the post of the chief or chairman of Gram Panchayat or any

other Panchayats for the scheduled castes, Scheduled Tribes and the women by making an Act. The proportion and percentage of reservation remains similar to the proportion and percentage of the population of various castes/categories actually found in the State. Out of the total seats of the chairman of the panchayats one third seats are reserved for women and this can be changed by rotation. It has been stated in Article 243 Gha/6 that State Govt. is legally free in making provisions (for reservation) for backward class for the parts of the chairmen or the members of the panchayats.

U.P. Legislative Assembly's provisions for Gram Panchayat:

In the year 2005, Uttar Pradesh Government, using the Power under Article 243 Gha/6 of the Indian Constitution for the election of Gram panchayat, made new amendments for the backward class, regarding the posts of Panchayat members and chairmen. For this purpose, U.P. Govt. had a rapid survey to know the exact population of the backward class in Uttar Pradesh is 52% of the total population¹¹. As per the Censor of 2001, the population of the backward class in U.P. was 45% and the reservation of the Dalits was 21.5% per their population % in the census of 2001. For this the reservation policies laid down by the U.P. Government many amendments have been made. The name of the new Regulation will be 'Uttar Pradesh (Allotment & Reservation of places and posts) 63rd Amendment Regulation 2005. According to the Amendment Regulation which was reserved for a certain category in 2005 will remain, succeed for the same category if the population of the category is now above 50%, and this reservation will continue between a male and a female candidate in rotation. And the places where the population of their classes/categories is less than 50% the reservation of the posts of Pradhans will be done in descending order. This provision of reservation has brought out a new scenario, now the rotation of reservation in the 50% Gram panchayats of the State will be taken by the members of the only. It's maximum direct benefit will be taken by the members of the Backward class it is so became, the fact has emerged in the Rapid Survey that there are only three Blocks out of the 820 Blocks of the state where the population of the backward classes less than 27% of the population. In this way, out of 52006 Gram Panchayats of the state, more than 25,000 Gram Panchayats will have Pradhans from the backward class¹². And the panchayats where the population of the reserved classes will be less than 50%, the reservation will be executed in descending order among the scheduled castes, scheduled tribes and the OBC's it means from the larger number to the lesser. Owing to the non-fulfillment of reservation quota of the scheduled casts for the posts of pradhans, Uttar Pradesh govt. passed a Supplementary G.O. According to this G.O., "If, Gram Panchayats are not available to fulfill the reservation quota of the scheduled casts, they will be given reservations in these Gram Panchayats where reservation has been given to the backward class because of having more than 50% population of its class. In this condition, in the rest of the panchayats which have the majority of the OBC's, the percentage of the population of the SC's will be prepared in a descending order and the reservation of the SC's will be made till their quota is fulfilled reservation. After this new reservation provisions, there will be 10,998 Posts of Pradhans for SC's, 14001 Posts of Pradhans for OBC's 34 Post of Pradhans for ST's, and 23047 Post of Pradhan for women. By this provision, the reservation percentage of women will increase up to 44.37, while it will be 26.93% for OBC's and 21.15% for SC's and .065% for ST's, Uttar Pradesh Government has increased the nomination fee for the post of member from 50 Rs. to 500 Rs., and the nomination has for the post of member from 50 Rs. to 100 Rs., 'Uttar Pradesh Panchayati Raj Adhiniyam, Article 11(5) has this provisions that any person cannot hold two parts at the same time so, M.P, MLA, MLC, Chairman, Vice Chairman or member of Zila Panchayat, members, Pramukh or Deputy Pramukh of Block-Panchayat and the chairman or vice chairman of any co-operative committee cannot contest elections of Gram Panchayat and the chairman or vice-chairman of any co-operative committee cannot contest election of Gram Panchayat¹³ and if a candidates dies in the election, the election stands cancelled.

Gram Panchayats in Practice and its Problem:

The execution of 73rd Constitution (Amendment) Bill is now more than a decade old. During these years, panchayat Raj System has undergone much sweet and sour experience. The greatest

problem of the villages is that the people there are more interested in being beneficiary than participatory in the development of the village¹⁴ Even today, there are many Gram Panchayats which are staging because of financial Genies; even the quorum of the meetings is not completed because the attitude to accept women, OBC's and Dalits has not been cultivated yet.

The criticism of the existing Gram Panchayats is chiefly done on two grounds: (i) illiteracy (ii) Reservation of Women. Illiteracy is great hindrance in successful execution of democracy. Therefore, this demand is generally raised that for the post of pradhan, his being educated is essential. It is so because only an educated person can understand the because democracy and participation in it is an artistic process; and it requires more experience than education, moreover, the essentiality of formal education in electoral posts goes against the rights given to a person by the constitution of India. The percentage of Literacy in India is about only 65% but India is not only the biggest democracy but successful also. The other ground of criticism is their reservation for women; it is said that a woman Pradhan loves in their home and husband plays the role of the pradhan. There is truth in allegation. But the availability of opportunities for women will surely make them politically mature and this is very much evident from the functioning of Women Pradhans in their days. It has not been a long story; their active participation is posing a fair challenge before the power of the caste, the power of the money and the power of the muscle, much prevalent in the election of the pradhans; and the government will surely have to pass a law to curb it.

Despite the above mentioned flaws, Gram Panchayats are getting popular every day. Its popularity can be measured by this fact that the voting percentage in Gram Panchayats is about 85 to 90% in the year 2000 and 1995, the percentage of voting in Panchayats has been 70 % while in the State Assembly Elections of 1996, it was 55%; in 2002 it was less, and in 1993 the voting % was 57%. In the same way, in Lok Sabha election, 55.75% of Votes Voters voted in 1984, 51.44% in the year 1989, 47.55 in 1991, 46.9% in 1996 and 48.5% people voted in 2004. The surprising fact is that the voting percentage of the urban areas is decreasing and the voting percentage of the rural areas is increasing¹⁵ the popularity of the Gram Panchayas can be assessed by the scenario where people travel from far off places, spend 5 to 6 thousand in air fare to canvass votes for their candidates by reaching their villages. This craziness was seen in the recently held Gram Panchayat Elections in U.P. t\where in one Gram Panchayat, mother constructed election against her daughter; father against his son and mother in law against her daughter in law; this speaks volumes for the deep roots of democracy in Indian scenario. It can be hoped that almost all the short comings will be maximized and democracy will be strengthened in near future. In the elections of Gram panchayat, one more flaws is often seen: as powerful ex-Pradhan of general category often fields another person of reserved category in the reserved constituency and uses him like a rubber stamp, this tendency creates problems for the members of reserved class to take independent decisions in public welfare. In spite of all this I am confident and sure that democracy will put an end to all such problem.

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