

19.4 Panchayati Raj institution as an instrument of social transformation

19.4.1 General

Decentralisation and democratisation are the vital processes in political systems that bring greater transparency, accountability, responsiveness, equity, and opportunity for mass participation in local decision making for establishing a just social order.⁴⁰ While multicultural factors like language, ethnicity and regionalism persuade for some scope to have self-governance of cultural communities, the geographical complexion of the vast territory of India⁴² calls for decentralisation for the purpose of planning and administration of development. After

⁴⁰ *Raja Ram Pal*, para 303.

⁴¹ Richard Crook and James Manor, *Democracy and Decentralisation in South Asia and West Africa* (Cambridge University Press, Cambridge 1998) at p. 2 cited by S.N. Jha, "Introduction" S.N. Jha and P.C. Mathur (Ed.), *Decentralisation and Local Politics* (Sage Publications, New Delhi 1999) at p. 15.

⁴² According to the National Sample Survey there are 55 agro climatic regions in India requiring considerable experimentation, adaptation and flexibility. See, S.N. Jha *op. cit.*, at p. 16.

four decades of exclusive reliance on individualistic approach and distrust with village community as a "sink of localism" "den of ignorance" and pool of vested interests, restoration of the traditional community based approach has been found to sense the difficulties of change management and imperative to overcome the side effects of individualistic approach. The Constitution (Seventy-third Amendment) Act, 1992 has centre staged the community based approach with imaginative ideas and plans for social transformation through mandating uninterrupted functioning of local democracy. The policy of accommodating the marginalised social groups in effective political participation not only empowers them but also makes the democratic institution a meaningful one. Because of the basic constitutional orientation towards social justice, welfare and development, the rural grass root democratic institutions viz. Panchayati Raj Institutions (PRI) play significant role in the social transformation phenomenon.

It is heartening to note that not only in the implementation of governmental projects and schemes for welfare but also in effectuating laws like National Rural Employment Guarantee Act, 2005 and Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, direct responsibility is cast upon the PRI. An integrated model of social transformation can effectively work only concerted by accommodating the elements of conflict-based social changes and by stimulating and carrying out the consensus-driven social changes. Since local level efficacy in law's implementation is vital to attain this objective, appropriate structure for grass root democracy and its effective functioning build up the required social transformation strategy. How proper balancing of change with continuity, community development with social equity and globalisation with localisation has been aimed, affected and ensured in the structure, legal regime and functioning of PRI will be discussed in this section.

19.4.2 Conceptual basis and justifications

"Panch—Ayat" connotes group of five persons selected by villagers for limited duration for the governance (Raj) of themselves. It is a traditional system of decentralised democracy. Decentralisation is basically sharing of power with local community which feels directly the consequences of that power.⁴³ It is a process by which the Government divests itself completely of certain duties and responsibilities and

⁴³ S.S. Meenakshisundaram, "Decentralisation in Developing Countries" in S.N. Jha and P.C. Mathur *op. cit.*, at p. 54. Harold Laski had said, "It confines the administration of powers to those who will feel most directly the consequences of power" *A Grammar of Politics* (George Unwin, London 1960) at p. 60.

devolves them on the local authority.⁴⁴ While centralisation distances the power holder who stands at the vortex of social pyramid from the people lying at its base, decentralisation asserts the virtue of democracy by allowing flow of power to the democratically organised body at its very source, or grass root. As Gandhiji said, "True democracy could not be worked by some persons sitting at the top. It had to be worked from below by the people of every village."⁴⁵

Technically, it is the most efficient method of formulation and execution of local projects by understanding of, and responding to local problems by taking into confidence and involving the local community.⁴⁶ Local Self Government facilitates the combination of, and cooperation between the officialdom and native leadership; it can better handle local pressures; can cut red tape and provide efficient service by being proximate to location; and can ensure better accountability to citizens.⁴⁷ It avoids emergence of alternative power centre based on physical or economic might,⁴⁸ and prevents congestion of local atmosphere arising from undue involvement by leaders at the centre.⁴⁹ It enhances political stability, offsets the dominant influence of the elite, and contributes to national planning. It reinforces multiculturalism by accommodating heterogeneity and harmony.⁵⁰ Rajni Kothari regards that dynamic bottom-up local structure of voluntaristic kind emanating from civil society initiative is definitely preferable to imposition from the top. The people-centred approach makes the people to act as the basic engine of the development process and not merely its beneficiaries. "Local Self Government perceived in this way will be a measure for containing discontent and channelising available local energy and skills for promoting grass root level development."⁵¹

⁴⁴ *Committee on Plan Projects (1957)* at p. 7 cited by S.S. Meenakshisundaram *op. cit.* at p. 56.

⁴⁵ Cited by R.P. Joshi and G.S. Narwani, *Panchayati Raj in India* (Rawat Publications, New Delhi 2002) at p. 13.

⁴⁶ S.S. Meenakshisundaram *op. cit.*, at p. 60.

⁴⁷ G. Shabbir Cheema and Dennis A. Rondinelli, *Decentralisation and Development* cited in R.P. Joshi and G.S. Narwani, *op. cit.*, at pp. 11-12.

⁴⁸ In the context of growing menace of naxalism and terrorism, the countervailing force for peaceful transformation through people's involvement can be put forward by PRI for laudable result.

⁴⁹ S.S. Meenakshisundaram, *op. cit.*, at p. 61; also see, Nirmal Mukherji, "The Third Stratum" in S.N. Jha and P.C. Mathur, *op. cit.*, at pp. 70, 76-77.

⁵⁰ P. Ishwara Bhat, "Multicultural Federalism in India: Values, Trends and Strategies" (2001) *Kerala University Journal of Legal Studies* 23 at p. 37; also see, Nirmal Mukherji, *op. cit.*, at p. 77; S. 3(2)(c) of the Karnataka *Panchayati Raj Act, 1993* provides that Gram Sabha shall consider for recommending to Gram Panchayat "the promotion of unity and harmony among all sections of society in the village."

⁵¹ Rajni Kothari, "Issues in Decentralised Governance" in S.N. Jha and P.C. Mathur

Decentralisation is not an end in itself. Protection of human rights, goals of eradication of poverty, ensuring of right to work, providing of civic amenities, extension of health and educational services, optimum use of community resources, protection of environment through cleanliness practices in group life are some of the factors and goals linked to the working of decentralised institutions.⁵² By resolving fundamental social and economic problems faced by various cross sections and diverse communities, decentralisation constructs the necessary social prerequisites of nation-building.⁵³ Looked from this perspective, it is an effective and indispensable instrument of social and economic transformation. It reflects consensus model, relies on people's cooperation, motivates people to strive their own good and adopts integrated approach towards welfare. As Lal Bahadur Shastri opined, "...only the *panchayats* know the needs of villages and hence development of villages should be done only by the *panchayats*... The *panchayats* are foundations of democracy and if the foundation is based on correct leadership and social justice, there can be no danger to democracy in this country. Efforts should be made that the institutions established for community development and *Panchayati Raj*, after independence, are used for establishment of real democracy and improving the economic and social conditions of the people."⁵⁴

The sociological perception of PRI envisages strengthening the roots of democracy for bringing social change in rural sector. PRI creates new set of people who would act as change agents for different kinds of activities and functions required to transform a traditionalist society into a modern one. It initiates developmental process among the masses motivating to think beyond regional needs and merge with national planning aspirations.⁵⁵ A breakthrough for emergence of new social structure based on people's participation in the place of feudalistic and caste-based leadership has also been contemplated by PRI. The outcome of *gram swarajya* (self-sufficient village) through PRI

op. cit., at pp. 47, 53.

⁵² According to Vienna Declaration and Programme of Action, 1993, "Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing." (I-1) Under I-21 the State Parties through legislative, administrative and other measures and by application of available resources shall protect children, in particular abandoned children, street children, economically and sexually exploited children, victims of AIDS, famine and drought; and promotion and protection of rights of indigenous communities. Hence PRIs have special role in these directions.

⁵³ See, Prime Minister's speech on 3-7-1993 and also see, for discussion S.S. Meenakshisundaram and P.C. Mathur *op. cit.*

⁵⁴ Cited in R.P. Joshi and G.S. Narwani, *op. cit.*, at p. 14.

⁵⁵ S.P. Jain, "(1976) 2 Sociology of Panchayati Raj (Local Government) in Rural India: Current Status and Prospects Indian Journal of Comparative Sociology", at pp. 41-51.

was Gandhiji's dream.⁵⁶ He said, "if my dream is fulfilled, and everyone of the seven lakhs of villages becomes a well-living republic in which there are no illiterates, in which no one is idle for want of work, in which everyone is usefully occupied and has no wishing for food, well-ventilated dwellings, and sufficient Khadi for covering the body and in which all the villagers know and observe the laws of hygiene and sanitation, such a state must have varied and increasing needs, which it must supply unless it would stagnate..."⁵⁷ This involves an integrated approach, commitment and vision to deal with various inter-related facets of rural problem.

19.4.3 Historical background

The roots of PRI are traceable to the Vedic age. The villagers of this period managed their simple local affairs by establishing self-governing institutions headed by *Gramini*, the village headman.⁵⁸ Although there were diverse practices about his office—hereditary, elected or nominated—he was assisted by a small group of villagers accountable to the village.⁵⁹ As evident from literary sources during the Maurya and Gupta kingdoms, caste distinctions did not obstruct access to membership of village council.⁶⁰ *Shukra Nitisara* refers to village *panchayat* or elected council with large executive and judicial powers including power to distribute land and impose tax.⁶¹ Highly systematised practice of village Self Government through council and committees was prevalent under the Cholas.⁶² Supervision committees for annual activities, for garden, tank, justice and gold were constituted by the vil-

⁵⁶ "My idea of Gram Swaraj is that, it is a complete republic, independent of its neighbours for its vital wants and yet interdependent for many others in which dependence is a necessity. Regarding food crops, cloth, cattle, education and health each village is expected to stand on its own". See, *Harijan*, 26-7-1942. Also see, K.P. Misra, "Relevance of Gandhian Vision of Village Republic" Vol. 28 (1) *Gandhi Marg* (April-June 2006) at p. 53; also see, L.M. Bhole, "Gramswaraj: A Twenty-first Century Imperative" Vol. 24 (1) *Gandhi Marg* (April-June 2002) at p. 43.

⁵⁷ *Collected Works of Mahatma Gandhi*, Vol. LXVII (Publications Division, New Delhi) at p. 211.

⁵⁸ K.A. Neelakanta Sastri and Srinivasachary, *Advanced History of India* (Allied Publishers, New Delhi 1980) at p. 40; *Mahabharata Shantiparva* and *Manu Smriti* refer to such practice and system.

⁵⁹ The factors of social consensus and cohesion in each village community is emphasised in literature. See, P.C. Mathur *op. cit.*, at p. 88.

⁶⁰ A.S. Altekar, *A History of Village Communities in Western India* (Madras 1927) at p. 23. Kautilya's *Arthashastra* refer to village council. Also see, R.P. Joshi, *op. cit.*, at p. 23.

⁶¹ Jawaharlal Nehru, *Discovery of India* (JNMF and Oxford University Press, New Delhi 1946, 1982) at p. 248.

⁶² Romila Thapar, *A History of India* (Penguin Books, New Delhi 1968, 1981) at pp. 200-04.

lage assembly. Requisite qualifications like adulthood, sanity, holding of land or house, knowledge of Vedas and business, and honesty were prescribed. Women could also serve in the committees. Persons with criminal background, tax evaders and the dishonest were disqualified. During the medieval period, with the introduction of feudalistic systems like jagir, mansabdar and malguzar the importance of PRIs got dwindled but not destroyed.⁶¹ However, the Vijayanagar and Maratha kingdoms allowed the PRIs to be effective bodies.⁶²

The East India Company's rule caused slow but steady disintegration of PRIs in the backdrop of excessive concentration of executive and judicial powers. However, the eternal character of little republics of villages surviving beyond rise and fall of dynasties and revolutions has been referred to by Sir Charles Metcalfe in 1836. The organic nature of PRI was instrumental to social happiness. He said, "The union of village communities each one forming a separate little state in itself has contributed more than any other cause to the preservation of people of India through all the revolutions and changes which they have suffered, and is in a high degree conducive to the happiness, and to the enjoyment of a great portion of freedom and independence."⁶³ In 1870, Lord Mayo passed a resolution suggesting for decentralisation of powers and associating Indians in the administration. The Local Self Government (LSG) resolution of 1882 framed by Lord Ripon proposed to form districts and tehsils, and Local Boards for their governance.⁶⁴ The Boards were mixed bodies of elected non-official members and nominated official members, where the former held preponderance. The liberal two-tier system was not liked by the British bureaucracy. The Royal Commission, 1909 suggested for starting of Local Self Government system from villages, for adequate financial resources and for conferment of some judicial powers.⁶⁵ In Bengal, Central Provinces, Uttar Pradesh, Punjab and Assam such Local Self Government institutions were established in 1920s through law under the provincial diarchy system of Government of India Act, 1919. The provincial autonomy under the Government of India Act, 1935 enabled formation of viable LSGs with better financial resources and lesser bureaucratic intervention.

⁶¹ K.A. Nilakanta Sastri, *op. cit.*, at pp. 528-29.

⁶² *Ibid.*, at pp. 430-31; A.V. Venkataratnam, *Local Government in the Vijayanagar Empire* (Prasaranga, University of Mysore, Mysore, 1972) at p. 1.

⁶³ *Imperial Gazette of India*, Vol. IV at pp. 278-79 cited by Ambedkar, CAD, 4-11-1948. R.P. Joshi *op. cit.*, at p. 25.

⁶⁴ R.P. Joshi, *op. cit.*, at p. 25. Ripon resolution is regarded as Magna Carta of Local Self Government.

⁶⁵ *Ibid.*

At the anvil of constitution making, PRI was given a low key treatment owing to a suspicion that reactionary approach and unhealthy atmosphere of villages may obstruct social transformation mission of the Constitution. The prejudices of village communities inflicting remorseless inequity and injustice were brought out in B.R. Ambedkar's words, "What is the village but a sink of localism, a den of ignorance, narrow mindedness and communalism? I am glad that the Draft Constitution has discarded the village and adopted the individual as its unit."⁶⁸ It was feared that local influential or wealthy class might exploit the less-cultured and less-educated poorer classes and that throwing the PRIs into whirlpool of party politics would destroy their usefulness as agencies of administration.⁶⁹ This line of argument was, in fact, escaping from the challenge of reforming the villages and avoiding them to become potential instruments of reforms by purging their defects.⁷⁰ Gandhiji had believed in taking the battle to the right arena of struggle and experiment with change of heart plus empowerment theory.⁷¹ It was argued by some members from this perspective that villages had to be freed from the shackles of ignorance and superstition before they became the backbone of the Constitution⁷²; and that solution did not lie in rejecting local democracy but in making it a powerful instrument free from defects.⁷³ It was argued that even if individual was the soul of the Constitution, the village should be made the basis of the machinery of administration⁷⁴; that the fabric of governance had to be rebuilt; and that real power and finance should devolve upon local democracy to establish village republics. The amendment proposed by Santhanam to introduce a Directive Principle of State Policy was accepted by Ambedkar and was welcomed by other members. It was hailed as a key principle which provided Indians with something they can call their country's constitution.⁷⁵ V. Subramaniam said, "... if there was any living cell in the Constitution, it will be this *panchayat* amendment."⁷⁶ Optimism was expressed about villages becoming self-sufficient social and economic units if properly worked and fairly

⁶⁸ CAD, 4-11-1948, Vol. VII at p. 39.

⁶⁹ M. Das in CAD, 8-11-1948, Vol. VII at p. 308; G. Das 22-11-1948 at p. 532.

⁷⁰ The approach of Ambedkar was antithetical to his own mainstream ideology of conflict model of social transformation.

⁷¹ P. Ishwara Bhat, "Alternatives to Legal strategy: Gandhism, Sarvodaya and Naxalism" (2006) 2 Kant Law Journal at pp. 19-48.

⁷² Renuka Ray, CAD, 9-11-1948, Vol. VII at pp. 356-58.

⁷³ S.L. Saxena, CAD, 6-11-1948, Vol. VII at pp. 309-10.

⁷⁴ AC Guha, CAD, 6-11-1948, Vol. VII at p. 256.

⁷⁵ S.M. Ghosh, CAD, 22-11-1948, Vol. VII at p. 525.

⁷⁶ V. Subramaniam, CAD, 22-11-1948, Vol. VII at p. 525.

organised.⁷⁷ But there was no categorical commitment through express constitutional provision in this regard. The Directive Principle of State Policy stated, "The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to establish them to function as units of Self Government" (Article 46). List II of the Seventh Schedule gives power to state legislatures to enact law for this purpose. Rajeev Dhavan calls this arrangement as a design fault as the duty was general and weak, and the power only discretionary when the objective to be fulfilled was crucial matter such as local democracy.⁷⁸ Instead of becoming a foundation stone of the Constitution, as Dhavan puts it, it became a concessionary playground for accommodating the Gandhians. The utter callousness and neglect shown by the power holders in moulding this instrument threw aside all the models of transformation. It took four decades to overcome the fear about vested interests and to gather support for making the village backbone of reforms.

Diversity in state policies and practices regarding PRI about regularity of in holding elections, term of office, extent of governmental interferences, pattern and structure—whether two tier or three tier—of governance, resources and reservation had caused worry in addition to overlapping character of Community Development Projects which had eclipsed the importance of PRI. Balwantraji Mehta Committee was constituted by the Central Government in 1957 to study these matters and suggest proper ways of organic linking of PRI with other bodies. The Committee recommended for three tier structure of local self-governing bodies from village to district with organic linkage; genuine transfer of power and responsibilities; avoidance of too much control by the government; adequate transfer of resources; channeling of all developmental programmes through PRI; and special provision for representation of SC/ST and women at village *panchayat*.⁷⁹ In the background of dormancy of PRIs in late 1960s and decline in early 1970s, the Central Government constituted another Committee under the Chairmanship of Ashok Mehta in 1977. This Committee recommended for two-tier system, Zila Parishad and Mandal *Panchayat*; recognition of ZP as the primary unit of PRI; participation of political parties in elections to PRIs; fair representation of SC/ST; and support of top ranking senior civil servant in administration.⁸⁰ G.V.K. Rao Committee recommended for establishing Planning Commission (1984). Sarkaria

⁷⁷ T. Prakasham, CAD, 22-11-1948, Vol. VII, at pp. 521-22.

⁷⁸ Rajeev Dhavan, "Design Faults and Failure to Design" extracted in Reading Materials for Trainees ATI, Mysore.

⁷⁹ R.P. Joshi, *op. cit.*, at pp. 30-32.

⁸⁰ *Ibid.*, at pp. 36-37.

Commission (1984) strongly suggested for activating the PRI. The L.M. Singhvi Committee (1986) revived the concept of Gram Sabha as a form of direct democracy, and suggested for constitutional amendment to include a new chapter on PRI to make its identity, integrity and working substantially inviolate.⁸¹ This became a basis for 64th Constitution Amendment Bill. With further more discussion and deliberations in conferences and report of the P.K. Tungan Committee (1989) which recommended for constitutional status for PRI, regular election, and agency for planning and development, the political climate was ready for change. The whole development involved gradual building up of public opinion and consensus to launch a grand constitutional scheme of PRI to translate the social transformation aspirations into reality.