Chapter 4

DEMOCRATIC DECENTRALIZATION: THE POST-INDEPENDENCE PERIOD

Before discussing the process of democratic decentralization in the post-independence period, it would be useful to discuss in this context the views of important leaders of the national movement as these have not only influenced the constitution making process but also the subsequent developments in the direction of democratic decentralization.

4.1 Ideas of some Important leaders: During the freedom struggle, there were divergent views with regard to the role of Panchayats in modern India. The protagonists of Panchayati Raj were of the view that these institutions should play a foremost role in the nation building process while there were some leaders who had diametric opposite views regarding the village Panchayats. These opponents considered local governing institutions as parochial in nature which perpetuated the caste hegemony and male dominance. The perspectives of a few political leaders regarding Panchayats are as follows:

4.1.1 The Gandhian Perspective

As has been mentioned in previous chapter, the village Panchayats were central to the ideological framework of India’s national movement. From the time Gandhi arrived in India from South Africa in 1914 till his death on 30 January 1948, he advocated reconstruction of the Indian village on a self-governing, self-sufficient, egalitarian, self-contained and spiritually oriented basis as the foundation for the political, economic, cultural and spiritual growth of the country. He said that Swaraj is possible by serving the villages and the progress and prosperity of country depends on villages and also maintained that if village perishes, India will perish too. Four out of every five citizens live in the villages. According to him, India lives in villages and unless and until the socio-economic and political situation of rural India is not changed, India cannot progress.\(^1\) Gandhi strongly believed in Village Swaraj and supported the transfer of power to rural masses. He said that villages should govern themselves through elected

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Panchayats to become self-sufficient.\(^2\) He had categorically defined his vision of *Village Swaraj* as “My idea of Village Swaraj is that it is a complete republic, independent of its neighbours for its own vital wants, and yet interdependent for many others in which dependence is a necessity. Thus every village’s first concern will be to grow its own food, crops and cotton for its cloth. It should have a reserve for its cattle, recreation and playground for its adults and children. Then if there is more land available, it will grow useful money crops, thus excluding ganja, tobacco, opium, and the like. The village will maintain a village theatre, school and public hall. It will have its own waterworks ensuring clean water supply. This can be done through controlled wells or tanks. Education will be compulsory up to the final basic course. As far as possible every activity will be conducted on the co-operative basis. There will be no castes such as we have today with their graded untouchability. Non-violence with its technique of Satyagraha and non-cooperation will be the sanction of the village community. There will be a compulsory service of village guards who will be selected by rotation from the register maintained by the village. The government of the village will be conducted by the Panchayat of five persons annually elected by the adult villagers, male and female, possessing minimum prescribed qualifications. These will have all the authority and jurisdiction required. Since there will be no system of punishments in the accepted sense, this Panchayat will be the legislature, judiciary and executive combined to operate for its year of office. Any village can become such a republic today without much interference, even from the present Government whose sole effective connection with the villages is the exaction of the village revenue. I have not examined here the question of relations with the neighbouring villages and the centre if any. My purpose is to present an outline of village government. Here there is perfect democracy based upon individual freedom. The individual is the architect of its own government. The law of non-violence rules him and his government. He and his village are able to defy the might of a world. For the law governing every villager is that he will suffer death in the defense of his and his village’s honour. There is nothing inherently impossible in the picture drawn here. To model such a village may be the work of a life time. Any lover of true democracy and village life can take up a village, treat it as his world and sole work, and he will find good result”\(^3\).


When Gandhi arrived in India, national movement was not a mass movement and was confined to urban elites which constituted one percent of Indian society. He realized that without involving rural masses in national movement it’s difficult to free India from Britishers. So he brought the movement at the grassroots level of rural India. He glorified the village system and strongly supported decentralization as the true base of democracy. As mentioned earlier Mahatma Gandhi equated Panchayats with ‘village republic’. He explained his concept of village Panchayat as “the government of the village will be conducted by the Panchayat of five persons annually elected by the adult villagers, males and females, possessing maximum prescribed qualifications. These will have all the authority and jurisdiction required since there will be the legislature, Judiciary and executive combined without much interference even from the present government whose sole effective connection with the village is the execution of the village revenue… here there is perfect democracy based on individual freedom. The individual is the architect of his own government”. He remarked that “twenty men sitting at the centre could not work true democracy. It has to be worked from below by the people of every village”.

4.1.2 Nehruian Perspective

Moreover, Nehru also supported decentralization. Besides decentralization, he favoured centralization and development of heavy industry to make India self-sufficient. He wanted balanced development between centralization and decentralization i.e cottage industries as well as heavy industry for the balanced growth. He advocated for modernization of the villages as the means to make them share with towns the benefits of industrial revolution and these modernized villages would not be appendages to the towns but they would be equally significant units of life and people living in remotest areas would be participating in the national life. He said, “India will progress only, when the people living in villages become politically conscious. The progress of our country is bound up with progress in our village. If our villages make progress, India will become a strong nation and nobody will be able to stop its onward

6 *Ibid*
7 *Supra* note 4 at 56.
march”\footnote{Supra note 5.}. Infact during the tenure of Nehru new system of Panchayati Raj was launched at Degana village in Nagaur district of Rajasthan on Mahatma Gandhi’s Birth anniversary on 2 October, 1959.

4.1.3 Jaya Prakash Narayan’s Perspective

Jaya Prakash Narayan was also staunch supporter of Panchayati Raj and he said that real solution to India’s political problems lies in introduction of Panchayat system in our body politic. As long as authority is not decentralized among the millions in our villages, nothing concrete can come out. According to him there should be Gram Sabha in each village and this Sabha shall consist of all adult men and women living in that village. Gram Panchayat shall be executive organ of this Sabha. There shall be Zila Parishads and Block samitis at the higher level. Block samitis shall cover the villages falling in one block and a few blocks combined together shall form Zilas and these Zilas shall constitute the state and country. The Sabhas should be given effective powers and authority and economic powers also. There should be no interference from the higher ups in their sphere. If this system is introduced in villages, this will make the rural masses conscious and they would not get exploited.\footnote{Urmila Sharma and S. K. Sharma, \textit{Indian Political thought} 379 (Atlantic Publishers and Dist, 2001).}

He was of the view that a proper balance must be maintained between a state government on one hand and local self-government institutions or Panchayati Raj Institutions on the other. The Panchayati Raj institutions should be mentioned in the Constitutions itself and their powers should be clearly mentioned, so that they may exercise legitimate powers and remain answerable to their constituents. He opposed the role of political parties in the Panchayat elections as they divide rural masses. He assigned legislative, executive, judicial functions to Panchayats.\footnote{Supra note 5.}

4.1.4 Rabinder Nath Tagore’s Perspective

Rabinder Nath Tagore said that the task of national reconstruction includes rejuvenation of our rural society and the route lay in reviving the ‘community spirit and self-reliance of the villagers’. Self-rule, self-efforts and self-confidence of rural communities were more important for him than the state. He was of the view that at one time, Panchayat was our institution, now it is going to be manufactured in the office of the government. The two cannot be the same thing.
The power of the Panchayat that does not flow from the will of the people, but originates from the delegation of authority by the government will be nothing but a curse on the people. He argued that people exercising power in such Panchayats would act as the agents of government. According to him, a Panchayat can be self-government only when it has autonomy and it can have autonomy only if legitimacy is desired from the people.11 The other supporter of decentralization of democracy was M.N.Roy. He envisaged the creation of a network of ‘local people’s committees in villages, towns and cities to discharge the local-level functions of government and to exercise control over the local bureaucracy.12

4.2 Debate in the Constituent Assembly (1947-49)

During the period for national political emancipation from the British rule, the revival of village Panchayat system was accepted as an article of faith. This had to be continued and it was, therefore, in keeping with the revolutionary spirit of pre-independence days the task of establishing and promoting village Panchayats as powerful units of local government was given priority after independence also and this started getting attention as soon as governments got established in centre and states. The resuscitation of Panchayati Raj system after independence had been receiving continuous attention despite of the fact that there were other urgent issues. There were efforts started being taken to give them permanent status in the political framework of country. The rural local governance was not at experimental stage and it was matter of high national policy and its desirability and inclusion in Constitution of India was agreed by all constituent organs of Indian polity and by those also who have been staunch supporters of Panchayats.13

After independence the concept of democratic decentralization did not find favour with the eminent members of Constituent Assembly.14 When the Constitution of India was being framed, village Panchayats or any Panchayat at a higher level were not made a mandatory part of the politico-administrative set-up. This was due to opposition by B.R. Ambedkar, who felt

14 Niru Hazarika (ed.), Democratic Administration for Good Governance: A felicitation volume in Honour of Professor R.D.Sharma on his 75th Birthday 28(Kanishka Publishers Distributors,2012)
that village level decision-making could never be in the interest of the depressed and weaker sections of the society. He called the village republics ‘the ruination of India’ and the village ‘a sink of localism, a den of ignorance, narrow-mindedness and communalism’. These views of Ambedkar were strongly opposed by other members in the Constituent Assembly like H.V.Kamath, Arun Chandra Guha, T.Prakasam etc as they did not share the same antipathy towards village Panchayats and these members believed in Gandhian Gram Swaraj.\textsuperscript{15} The justification for total omission of the village Panchayat from the structure of the government system was that, “if village republics or self-governing villages had not found a place in the multitude of Constitutions produced in the west and elsewhere, how could it be given a place in the Indian or any other Constitution. He picked on Metcalfe’s oft-quoted idyllic romanticisation of the village republic. He said that he found no merit in the mere survival of village communities surely on a low, selfish level. With an air of finality, he had concluded, I am glad that the Draft Constitution has discarded the village and adopted the individual as its unit. He articulated his views on the village with contempt and this symbolized the lack of confidence of dominant political elite in rural masses to act as agents of dynamic transformation. There was social discrimination against Dalits at village level also which was well pronounced. In a Conference on Local Self-Government on August 6, 1948 attended by the ministers of the various states, Pandit Nehru stressed on the fact that Local Self-government is and must be the basis of any true system of democracy. Democracy at the top will not be a success unless it is built on the foundation from below. The draft Constitution was presented on 4 November, 1948 and from this date until the tabling of amendment on 22\textsuperscript{nd} November, there were strong protests by other members against Ambedkar for his willful omission of village Panchayats in draft Constitution. Many resolutions for amendment were filed and in those resolutions the recurrent points which echoed were

1) The view of Ambedkar that village republics contributed nothing as regards country’s development was found to be narrow and factually erroneous.

2) Villages were not cause of India’s ruination. It was villages that were ruined by colonial exploitation.

\textsuperscript{15} M.R. Biju, Decentralization, An Indian Experience 2 (National Publishing House, Jaipur & New Delhi)
3) That the Constituent Assembly which was scripting the Constitution owed its existence to rural masses who had major contribution in the national movement for independence.

4) Except one member, none of the members of drafting committee had participated in the freedom struggle. Therefore they could not appreciate the contribution made by rural masses and their potential power to transform the country.\textsuperscript{16}

When Gandhi came to know about the Panchayats being left out of the Constitution he said. “I must confess that I have not been able to show the proceedings of the Constituent Assembly and heard about the fact that there is no mention or direction about the village Panchayats and decentralization in the draft of Constitution. It is certainly an omission calling for immediate attention if our independence is to reflect the people’s voice. The greater the powers to the Panchayats, the better for the people.” The criticism helped in persuading the President of Constituent Assembly Dr. Rajendra Prasad who also defended Gandhian view to write to Constitutional adviser whether the whole thing could be re-examined and Constitution re-drafted from that point of view. Dr. Rajendra Prasad supported the idea of grassroots democracy and rationale given by him was if people in Indian Constitution have been given the right to decide on Government of India’s budget, foreign policy, military affairs, trade and currency then they should not be deprived from the right to rule themselves and carry on development in their own village affairs that concern them day and night. But B.N. Rau, the constitutional adviser said that it’s not possible to re-draft the Constitution having the Panchayats as its base. It was then thought better to incorporate the Panchayats in Directive Principles of State Policy and retain the framework of parliamentary government based on direct popular election both at the centre and the state of the Indian union.\textsuperscript{17} After a lot of debate and resolutions for amendment, Ambedkar accepted the resolution proposed by K. Santhanam for amendment and Panchayats found mention in Article 40 of

\textsuperscript{16} Partha Nath Mukherjee, \textit{Participatory Democartisation: Panchayati Raj and the Deepening of Indian Democracy} 12-14 (Institute of Social Sciences, New Delhi, 2007).

\textsuperscript{17} “Origin and Evolution of Panchayats in India with special reference to Assam” chapter 2, available at: http://shodhganga.inflibnet.ac.in/bitstream/10603/20713/7/08_chapter%202.pdf (Visited on December 18, 2015)
The Article 40 reads as follows:

*Organisation of Village Panchayats:-* The state shall take steps to organize Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.\(^{19}\)

The idea underlying this Article is to introduce democracy at the grassroots. This provision which is not justiciable, does not prescribe as to what powers should be given to the Panchayats or what should be their structure.\(^{20}\) Also in the Constitution, ‘Local government’ is mentioned in the seventh schedule, entry 5, list II (state list) item. By virtue of this entry the subject of local government, both urban and rural, belongs to the states, to be dealt with by them. Therefore, Constitution vested the responsibility of reviving local government on the shoulder of the state.\(^{21}\) As a consequence of insertion of Article 40 in Directive Principles of State Policy, many of the states enacted legislations (Panchayat Acts) for setting up Panchayats at the village level. The Article 40 talked about only village Panchayats and there is no mention of middle-tier (Panchayat Samiti) and third tier (Zila Parishad). But later on they became important levels and came to be known as Panchayati Raj Institutions (PRIs).\(^{22}\) Every state government created new department to organize or establish and look-after the Panchayats. Various States enacted Gram Panchayat Acts, which provided for democratically elected Gram Panchayats. These were given civic, developmental and judicial functions.

Ambedkar’s objection had not been to Democratic Decentralization or to giving power to people. He was speaking from his experience at the existential level about what a village in India had meant to him and to millions like him. His perception was realistic like that of others.\(^{23}\) Being a Dalit he had fear that the Panchayats would be rural elite like landlords and high castes and they would use this institution to oppress and exploit the weaker sections of rural society.\(^{24}\) But ultimately Gandhians succeeded. The other argument against those who

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\(^{18}\) *Supra* note 15 at 2.

\(^{19}\) M.P. Jain, *Indian Constitutional Law* 1506 (Lexis Nexis, 2013)

\(^{20}\) Ibid.

\(^{21}\) *Supra* note 14 at 28.

\(^{22}\) *Supra* note 15 at 3.


\(^{24}\) *Supra* note 11 at 64.
opposed village Panchayat incorporation and tried to override the village as political unit was they wanted to impose the parliamentary democracy at the union and state level as it was in U.K and paid no attention to development of grassroots democracy in India. But the fact is that they could not understand the spirit of British system where democracy was deep-rooted .Local bodies in U.K enjoyed operational autonomy to the large extent. Even the first prime minister of India, Jawahar Lal Nehru could not grasp the significance and logic of indigenously derived polity based on Panchayati Raj initially. Only when the US inspired CDP and National Extension (modelled on the Tennesse Valley Authority in US ) failed Nehru realized the significance of the Panchayati Raj.25

Though the subject of local government ,both urban and rural come under the jurisdiction of states as per Entry 5 in list II,yet the union government played an important role as initiator,guide and coordinator of several initiatives taken in the field of local government.As early as in 1948 the union Minister of Health (at that time Ministry of Health dealt with the local government) Rajkumari Amrit Kaur called a Conference of Ministers in charge of local government in the Provinces to provide a forum where those who are responsible for this important arm of the administration all over India could meet together periodically ,exchange ideas and discuss problems of common interest.26 Before discussing Community Development Programme(1952)whose failure led to the introduction of the scheme of democratic decentralization popularly known as Panchayati Raj, it would not be out of the place to briefly discuss other initiatives which include some schemes, projects, reports of a few commissions and committees constituted for local self government.

4.3 Various Initiatives. Various initiatives were taken for rural construction .A few initiatives are as follows:

4.3.1 Janapadha Scheme

“The Central Provinces scheme of local government was formulated in 1937 but was implemented in modified form in 1948 in the Central Provinces.In a modified form this scheme was known as Janapada Scheme of local government adopted in 1947 by the Central Provinces

25 Supra note 4 at 64.
Legislative assembly by its enactment of ‘Central Provinces and Berar Local Government Act, 1948’ and implemented in 1948. It had many shortcomings but despite of that it played historical role in evolution of local government in the Central Provinces.\(^{27}\) This scheme was bold as regards reconstruction of local government in the Province. It sought to do away with one stroke the duality of administrative system—one district administration and another, local government with its two independent entities of rural local government and urban local government, extending the sphere of activity of district board to the whole of the district administration and making the district collector the chief executive officer of the district board and the district staff as its own. The powers of the district board varied from being merely advisory to being final and binding and to this end, all powers were grouped under four classes. Class I included subjects which must be placed before the district board as a rule but the district collector had the right to either accept or reject the board’s advice. Class II comprised matters of which the final decision lay with the provincial government but which, all the same were to be discussed and voted upon by the district board. Class III consisted of subjects which could be acted upon only when both the board and the collector were in agreement. Finally, Class IV contained those items on which the district board enjoyed the complete sovereignty, and the district collector had no option but to carry out the decisions of the board. This scheme of local government claimed three advantages:

1) In the first place it would secure for the district board an efficient executive and administrative staff made up of the collector and his subordinates without any additional cost.
2) Secondly it would mitigate the bureaucratic character of the district administration
3) Thirdly and lastly, it would add to the importance of local self-government in the eyes of the people and would thus stimulate their interest in it.\(^{28}\)

This scheme was criticized and hence got stalled. But it was revived again in 1947 in modified form and now it was named Janapada scheme of local government as mentioned above. This scheme laid down the foundation stone of Balwantrai pattern of rural local government. It took

\(^{27}\) Chapter-1, “Introduction and Historical Background” available at: http://shodhganga.inflibnet.ac.in/bitstream/10603/4262/10/10_chapter%201.pdf (Visited on December 19, 2015)

government closer to the people by adoption of Tehsil as the unit of government. It shifted the focus of administration from the district to its sub-unit i.e.Tehsils and by making Tehsil as the unit of administration, it decentralized administration. This new level of Tehsil was named *Janapada* which was group of villages constituting a single unit for purpose of administration. There was to be an assembly at this level i.e at Tehsil level called *Janapada Sabha* which was to control both urban and rural governments within its jurisdiction, thus establishing integrated system of administration. The personnel of all the state departments located in the *Janapada* were to be placed under the administrative control of the chief executive officer of the *Janapada Sabha*.

### 4.3.2 Recommendations of Local Finance Enquiry Committee 1951

This committee was set up in 1949 in pursuance of resolution passed by the *Conference of Local Self-Government Ministers* of 1948 and report was submitted in 1951. Its recommendations were as follows

1. Local bodies must have an independent powers of taxation and some taxes should be reserved for being exploited by local bodies. Panchayats should be given power for house tax and sanitary cess.

2. The fifteen percent of land revenue raised in Panchayat area should be assigned to village Panchayats. A surcharge on the transfer of immovable property within the Panchayat area should be levied for the benefit of Panchayats. In addition to this village bodies should be given following benefits like
   a. grants should be given to Panchayats for giving salary and allowances to Panchayat officers
   b. Reimbursing the Panchayats full cost if a Panchayat is required to maintain a service compulsorily
   c. Allowing use of common lands to Panchayats
   d. encouraging village Panchayats for revenue collection
   e. encouraging village Panchayats to take up remunerative enterprises.

3. Local bodies should have powers for passing their budgets.

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4.3.3 Recommendations of the Tax Enquiry Commission (1953-54)

The taxation Enquiry Commission gave its report in 1953-54 and this report dealt with Union and State finances as well as local finance. The main recommendations of this commission in respect of rural local finances were as follows

1) The Panchayats could concentrate on sanitation, minor irrigation, village communication, village schools, water supply and similar works. The performance of these functions should be co-ordinated at the higher level bodies like district board or other bodies in its place. But productive and distributive functions should be given to co-operatives as Panchayats were not in position to perform them.

2) District board’s position should be reviewed and more democratic and easily accessible body should be considered as an alternative but this body should be invested with sufficient powers and resources by the State Government.

3) To save the Panchayats from unpopularity, in the initial period of their growth they should be given grants.

4) Some taxes should be reserved for rural local bodies and if state government is already in this field then it should withdraw or handover the proceeds to local bodies.

5) Grants-in-aid should be preferred over tax sharing and this grant should enable the Panchayats to carry on their obligatory and discretionary functions.\(^{31}\)

4.3.4 Recommendations of the Congress Village Panchayat Committee and the Conference of Ministers For Local Governments (1954)

The constitutional directive Article 40 was a signal for the States to establish Panchayats by enactment of legislation. There was intensive legislative activity in 1950s and the pattern of legislations showed variations from state to state. The variations in the pattern of local self-government were due to specific responses to the peculiar needs of the regions. However, unless some general principles were enunciated and followed in practice, this diversity in pattern of local self-government could create confusion and disparities of standards. The meetings of the ‘Central Council of Local Self-Government and the ‘Congress Village Panchayat Committee

\(^{31}\) Id. at 27.
focused their attention on this problem and how to sort out it. Finally the report of Congress Village Panchayat Committee (1954) became a guiding document for working out the future pattern of the Panchayats. The Committee recommended that:

1) Panchayats should be kept out of politics.
2) Each Panchayat unit should follow a norm of 1500 - 2000 heads of population.
3) Adult franchise should be there to constitute the Panchayats.
4) Panchayats should be given social and economic functions in addition to civil and judicial ones.
5) The Judicial Panchayats should be separate from the village Panchayats.
6) Panchayats may be given the task of revenue collection and share of land revenue for Panchayats should be from 15 percent to twenty percent.
7) Panchayats and village co-operatives would be kept separate.

*The Conference of Local Self-Government Ministers* in Shimla accepted all these recommendations. Besides the Conference also supported constitution of intermediate unit of self-government constituted through indirect election. If there were efforts for establishment of village Panchayats, there were also initiatives taken for setting up of district boards by legislative activity. Apart from these reports of commission and committee reports some pilot projects were also set in motion almost concurrently in 1950s. Before discussing the Community Development Programme and National Extension Service it is pertinent to mention those projects, programmes or schemes briefly as they were important as regards rural development.

After independence the most important task before the government was to restructure the socio-economic set-up of the country. India was living in villages as more than 90 percent of population was rural. Therefore upliftment of the people living in villages was important and it was possible if government put focus on rural areas. For the development of these rural areas many programmes, schemes or projects were started by centre and state governments for the development of rural community. Before the post-independence development efforts for rural

32 *Supra* note 13 at 134.
33 *Supra* note 4 at 65.
areas, I would like to discuss briefly the rural development efforts during the pre-independence era started by nationalists and social reformers who were fired with spirit of public service started various innovative schemes aimed at rural development. Some of these programmes gradually disappeared or some got merged with government sponsored schemes due to various reasons like lack of government support, inadequate and untrained staff.

4.4 Precursors of Community Development Programme

For getting a proper perspective of the Community Development Programme (1952), whose failure culminated in the adoption of scheme of democratic decentralization or Panchayati Raj, it will be useful to mention its following precursors:

1) Rural Reconstruction Programme by Mahatma Gandhi, 1938
2) The Sriniketan Rural Reconstruction Experiment or Programme, 1921
3) The Martandam Rural Reconstruction Programme, 1921
4) The Gurgaon Experiment, 1927
5) Rural Reconstruction Programme in Baroda, 1932 and
6) The Firka Development scheme, 1946

There is no need to discuss all of these. However, Firka Development Scheme merits elaboration as it was merged with Community Development Programme.

4.4.1 The Firka Development scheme

The Firka Development scheme of Madras was started in 1946 by T. Prakasam and was a government sponsored scheme. The short time objectives of this scheme were to develop basic amenities and an institutional framework for carrying out communication, water supply, sanitation, formation of local governments (i.e. Panchayats) and cooperatives. The long term objectives were to attain self-sufficiency in food, clothing, shelter, development of agriculture, animal husbandry, khadi and village industries. The administrative machinery consisted of Director of Rural welfare at the state level, the collector at district level, the rural welfare officer

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at Firka level and 5-10 Gramsevaks under him.\textsuperscript{35} This scheme had two basic features: the object of welfare activities under this scheme was community development and second was the way people were taught, encouraged and guided to improve their standard of living. The excellent result of this scheme was appreciated by the Central government in 1953 and when Community Development Programme and National Extension Service programmes were adopted by Madras State, the Firka Development Scheme was merged with it.\textsuperscript{36}

Apart from these above mentioned schemes and experiments there were other important initiatives as well for rural reconstruction. These were taken immediately after the independence and before the commencement of planned economic development through five-year plans. They are as follows:

\subsection*{4.4.2 The Etawah Pilot Project}

This project was launched in 1948 with the help of Albert Mayer who was an American town planner and remained in India during second world war. This Pilot Project for development of rural areas of district Etawah in UP was formulated by him. The entire project was sponsored and funded by the government of UP. The various objectives of this project were as follows.

\begin{itemize}
  \item[a.] To know the degree of productive and social improvements, through self-confidence and cooperatives,
  \item[b.] To find how quickly these results could be attained,
  \item[c.] To know whether the results remain permanent even after the special pressure is withdrawn and
  \item[d.] To assess how far the results were productive in other places.
\end{itemize}

Under this project development officers at various levels were posted. At village level, the planners of this project evolved a new concept of multi-purpose extension agent known as Gramsevak or village level worker. Under the ‘multi-purpose’ village level worker (VLW) there were four or five villages under him. The project involved many things like introduction of improved variety of seeds, chemical fertilizers, better implements, various measures for plant protection, soil conservation etc. Not only this project also

\textsuperscript{35} \textit{Ibid.}

\textsuperscript{36} \textit{Supra} note 4 at 65.
had provisions for animal husbandry, credit, marketing and supply, drainage, road improvement, water supply etc.\textsuperscript{37}

There were adult literacy programmes, and training for village leaders, village level workers, outside job training, social service workers, adult literacy teachers, functionaries of Panchayats etc. It also emphasized on active participation of the villagers in various programmes, development of agriculture and village organizations such as Panchayats, schools and cooperatives etc\textsuperscript{38}

Moreover, under this project no materials of any kind were distributed at free of cost to the people i.e. no financial assistance was given to the people and it laid emphasis on self-help because project belonged to them and therefore, they had to run it. The Etawah district was divided into a number of blocks and each block was divided into a number of villages. Project was supervised by experts in different walks of village life. Initially the work was started in 64 villages but with passage of time this number reached 300 and finally this project was merged with National Extension Service (NES) and is forerunner or we can say ‘trial run’ of Community Development Programme. This project gave tremendous boost to wheat production as improved production technologies were used and expenditure on capital works made the roads good and other structures also.\textsuperscript{39}

4.4.3 Nilokheri Project

S.K. Dey who later on became Union Minister of Community Development Programme and Cooperatives upto 1965 is the founder of Nilokheri project in 1948. This project was originally started to rehabilitate 7000 displaced persons from Pakistan (due to partisan of the country) by establishing a township at Nilokheri in Karnal district in Haryana. Under the project families of displaced persons were employed in agriculture and small scale worker’s cooperatives were also organized. Nilokheri block consisted of 135 villages and its main aim of this project was to


\textsuperscript{39} Supra note 37
attain self-sufficiency in the essential requirements for the township and surrounding villages. This experiment became famous for cooperative working and living.\textsuperscript{40} Dey engaged the refugees in constructive work assuring them right to live, the right to work and right to earn remuneration for the work done by them. These three rights formed the basis of a scheme known as \textit{Mazdoor Manzil}. The plan included developing medical facilities, sanitation, middle and high school education, technical and vocational training, cottage industries, agriculture extension covering farming, horticulture, poultry, fishery, weaving calico printing etc.\textsuperscript{41}

This town of Nilokheri was amalgamation of agro and industrial enterprises. Due to massive exodus of Muslim labour from the industrial townships in northern India, the industry was threatened with extinction as Muslim artisans held a virtual monopoly. In order to deal with this choad vocational training centres were established in December 1947. The idea behind that was using the manpower by first training them and creating suitable conditions. S.K. Dey came to kurukshetra in 1948 to work for the resettlement of refugees and train people in various avocations. Initially training was imparted in arts and crafts, brick moulding, knitting, embroidery, pottery etc as that was needed for daily life in refugee camps. Nehru was very impressed by this initiative of training the refugees and he gave 500 acres of marshy jungle land, about 15 km from kurukshetra, for setting up new township for these refugees. Dey was able to get the settlers working and within two years township of Nilokheri was established. It took the name from the nearby village of Nilokheri which still exists. In this new town around 7000 displaced persons from the refugee camps of Kurukshetra and Ambala were rehabilitated. In the township houses were built and they replaced tents. This planned township had specific areas in it earmarked for specific purposes. So there was an area for schools, hospital, poultry etc and these were away from residential area. The central government gave importance to agriculture also under the project, so huge expanse of land outside township was reserved for agriculture purposes. There were farms for poultry, pigs, dairy and horticulture station also. These were to serve as focal points for the eventual extension of similar activities in rural areas. Government polytechnic institution, Government press, an industrial division with an engineering workshop, were also established.\textsuperscript{42} Nilokheri was an excellent exercise in the

\begin{footnotesize}
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\item \textsuperscript{40} Sumita Mishra, \textit{Grassroot Politics in India} 43 (Mittal Publications, 2000).
\item \textsuperscript{41} \textit{Supra} note 38 at 80.
\item \textsuperscript{42} “Revival of a faded dream”, \textit{available at}: www.tribuneindia.com, september. (Visited on December 23, 2006)
\end{itemize}
\end{footnotesize}
planning of a town. The clusters of neighbouring villages were also planned to be attached with the Nilokheri town so that they could get developed same way but this could not be done.\textsuperscript{43}

Last but not the least there were other steps taken Bombay Sarvodya Programme, the objective of which was raising standard of living of the people, was based on Mahatma Gandhi’s Constructive Programme and this programme worked under guidance of Vinoba Bhave and Jayaprakash Narayan and lastly, The Bhoodan Movement, 1951. These were started to improve the plight of rural downtrodden and rural development.

4.5 Community Development Programme (1952) & National Extension Service Scheme (1953)

Thus, the stray experiments were conducted in various parts of the country on different lines and they achieved different results. But despite of all these programmes and projects the condition of downtrodden villagers could not be improved. They lacked uniformity and systematization and hence could not touch the real problem. There was no coordinated action and failed to evoke enthusiasm and initiative among people and the projects depended too much on government finances. Indian prominent leaders took steps to fulfill the aims of the Constitution through planning and community development. In March 1950, the planning commission came into existence.\textsuperscript{44} In 1951, Ford Foundation expressed willingness to improve the condition of rural masses which was pathetic and Government of India had entered into aid agreement with Ford Foundation. It was first major overseas development programme of Ford Foundation and this was planned and worked out in 1951 and subsequent years, in collaboration with Planning Commission of India.\textsuperscript{45}

As a result of Grow More Food Enquiry Committee Report and successful experience of the Etawah Project, it was decided to start 15 pilot community projects, more or less on Etawah lines. These projects started functioning in late 1951 in selected states. Besides helping to increase agriculture production and bettering the overall economic condition of farmers, these projects were meant to serve as a training ground for the extension personnel. The Draft Outline

\textsuperscript{43} “Top three Programmes of village Development”, available at: www.yourarticlelibrary.com (Visited on December 23, 2015)
\textsuperscript{44} Shakuntala Sharma, Grass Root Politics and Panchayati Raj 121 (Deep and Deep Publications, 1994).
\textsuperscript{45} Francis Fukuyuma (ed.), Nation-Building: Beyond Afghanistan and Iraq 53 (JHU Press, 2008).
of the first five-year plan, emphasized on increase in agriculture production and the start of Community Development Projects on pilot basis in late 1951 in 15 selected areas in each of 15 States was in conformity with the *Draft Outline of the First Five Year Plan*. Each Pilot community project were placed under charge of Project Executive Officer, assisted by two Assistant Project Officers. It was soon realised that for creation of an urge among the rural population to live a better life, a much bolder programme has to be started and success of that programme will depend upon whole hearted cooperation of beneficiaries, government officials, non-officials at every stage, the education of rural masses about rural development and timely supply of needed inputs and other requirements. In the meantime, Government of United States offered to finance any programme which India launched to develop its country. Chester Bowls produced a report called *The Indo American Aid Programme-the Problems and opportunties*. For undertaking this new programme and following this report of Chester Bowls, in January 1952 ‘The Indo-Us Technical Co-operation Agreement’ was signed and that consisted of eleven operational agreements. One of the agreements was to support Community Development Projects.\(^{46}\) The first scientific and systematic programme of Community Development was started in India under this Agreement. Community Development Programme was the first organized effort to tackle the problems of rural India.\(^{47}\) This was an evolution from the earlier projects and it aimed at overall and sustainable development. The Community Development Programme (CDP) was started on October 2, 1952 with 55 Community Development Projects (Pilot) of rural development in selected areas. This programme will be gradually expanded to cover the entire country. Each of the 55 projects was to cover about three development blocks or 300 villages and a population of about three lakhs. The objectives of Community Development Programme were

a) Transformation in the outlook of the people.

b) Inculcation of the spirit of self-reliance,

c) Generation of the habit of cooperative action through popular bodies and

d) These three to lead to new enlightenment, strength and hope.\(^{48}\)


\(^{47}\) *Supra* note 44

\(^{48}\) *Supra* note 4 at 67
4.6 Meaning of Community Development

**Community**: is a group of people who live in a geographical area and have an interest in each other for the purpose of making a living.

**Development**: connotes growth or maturation. It implies gradual and sequential phases of change. It refers to the upward or increasing differentiation.

**Community Development**: It is a movement designed to promote better living for the community with the active participation and/or the initiative at the community. It is a method by which people of villages are involved in helping to improve their own economic and social conditions and thereby they become more effective groups in programmes of their national development. It is a process of change by which people’s efforts are united with those of group authorities to improve their economic, social and cultural conditions of communities, into the life of the nation and to enable them to contribute fully to national programmes. The CDP is first nationwide decentralization programme in independent India. It contained only administrative decentralization and also taught lessons regarding decentralization. It contributed substantially to institutional development in rural areas and it underscored the difficulties involved in achieving decentralization in a complex, democratic country like India.

Nehru visited Soviet Union and was impressed by material progress. There was central planning in Soviet Union and Nehru also introduced central planning in India with the support of Mahalanobis. Planning Commission came into existence and this was given responsibility of making five-year plans. At the time of independence 82 percent of total population of India lived in abject poverty and was illiterate and inert also. Government was concerned about poverty especially rural poverty. There was an urgent need to bring about economic and social change and ameliorate the conditions of poor people. No doubt after independence centre as well as provinces started schemes of development but could not achieve the desired target due to

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50 Supra note 46 at 36.

51 Id at 44.
multiple factors. The problem of development of underdeveloped economy is one of utilizing more effectively the potential resources available to the community and it is this which involves economic planning. Need for comprehensive planning based on careful appraisal of resources and an objective analysis of all the relevant economic factors had become important. Hence started the plan formulation by Planning Commission and first five-year Plan was launched in 1951-1956 and scope of work of Planning Commission is what is mentioned in Article 38, 39, etc of Constitution of India. The launching of first five year in April 1951 initiated the process of development. According to first five-year plan, Community development is the method and rural extension is the agency through which the five-year plan sought to initiate a process of transformation of the social and economic life of the villages. CDP started almost simultaneously with first five-year plan and this programme was taken up to achieve the goal of raising standard of living of communities, breaking their inertia and instilling in them an ambition for higher standard of life and determination to work for such standards. Dependence of government was the characteristic of population with a colonial background and same was the case with Indian population. The whole idea of community participation was to make them realize their strengths. The CDP was started to effect a change in the mental outlook of the people, instilling in them an ambition for higher standards of life and the will and determination to work for such standards. It was in this historical context that the CDP was often termed as movement rather than a mere programme.

The term ‘Community Development’ was first officially used in 1948, at the British Colonial Office’s Cambridge Conference on the Development of African Initiative. The definition of community development given in this Conference was, ‘it’s a movement to promote better living for the whole community, with the active participation, if possible, on the initiative of the community’. It was conceived as a means to enable the British colonies in Africa to prepare themselves for independence by improving local government and developing their economies. As the term implies, Community Development means the development of all the facets of the entire community. Under this programme, the community was expected to address their common social and economic problems in a democratic manner. The CDP was a

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national programme implemented by Central Ministry of Community Development through the states. It was centrally financed programme and gave assistance to states and also detailed guidelines as to the manner of implementation of programme, prescribed the staffing pattern for rural development for the entire community and also specified goals and objectives of the programme. The political executives of the centre and states and civil servants at all levels were involved with its implementation.\textsuperscript{54}

The urgent need to increase food production was realized before independence. In 1942 Government of India called a Conference of representatives of Provinces and Princely States. The objective of this conference was agriculture development for increased food production. The recommendations of conference formed the basis of Grow More Food Campaign (GMF) which was to remain till 1946. But it was decided in 1946 to continue it further. The target of the Campaign was increased agriculture production and these targets were laid for the first time in on an all-India basis. The campaign failed to achieve its targets. Soon after independence, the targets of GMF campaign were re-defined as the attainment of self-sufficiency in food grains and increase in production of other crops to meet the shortfall as a result of partition of country.\textsuperscript{55} Though the efforts were made to revitalize the GMF campaign the system was not functioning properly and it failed by 1952. Hence Government of India in 1952 appointed GMF Enquiry Committee to examine the working of the Campaign. First five-year Plan was formulated in 1950 and food production was made major issue in this Plan. The committee published the report in 1952 and it pointed out that

- GMF covered only small proportion of the country
- the economic aspects of village life cannot be detached from social aspects and agriculture improvement is linked with whole set of social problems
- all aspects of rural life are inter-related and no lasting results can be achieved if the individual aspects of it are dealt in isolation
- Lack of unity of efforts
- Inadequate finances
- Rural community as a whole did not participate effectively in campaign

\textsuperscript{54} Supra note 46 at 37.
g) The movement did not arouse nation-wide enthusiasm and did not become mass movement for raising the level of village life.\textsuperscript{56}

The recommendations of the Enquiry committee proposed were formation of Development Block consisting of villages, enlargement of the area covered by GMF campaign, reorganization of administrative machinery, setting up of extension service and describing its functions, manner of operation of extension service, appointment of revenue officers as development officers or extension officers supported by technical staff, appointment of village level worker for five or ten villages, who will be joint agent for all the development activities and will convey to farmers, the lessons of research, and to experts the problems of farmers and arrange supplies and services needed by the farmers. The committee also recommended training of required staff, how non-official leadership should be associated with the work of village development at the village, taluka, district and state level, and lastly the role of central and state governments etc.\textsuperscript{57} This report increased the importance of CDP.

In the First five Year Plan itself there was chapter on Community Development and Rural Extension and also National rural extension agency i.e National Extension Service would be established. The Plan also emphasized on people’s participation in execution of pilot community development projects as well as in planning of the entire programme. The other proposal in Plan was reliance on local institutions at the village level like Gram Panchayats and cooperatives for agriculture development. The pilot projects became popular and there was pressure to expand the coverage of the projects. So Community Development Programme was launched nationwide. The projects started earlier were area based but CDP was not. The main emphasis of CDP was agriculture production but idea underlying this programme was an all round development of rural life as a whole, encompassing economic, social, and cultural aspects. This programme retained the coordinated development characteristic of Pilot Projects. The core of CDP was local participation and its objectives were partly economic and partly social. The chief goal was creation of stable, self-reliant rural communities with the sense of social and political responsibility.\textsuperscript{58}

\textsuperscript{56} Supra note 46 at 48.
\textsuperscript{57} Supra note 55.
\textsuperscript{58} Supra note 46 at 51-55
The fifty five development projects started caught the imagination of people and demand for increase in number of blocks increased but the resources at the government disposal were less. First Plan and GMF Enquiry committee report had already suggested creation of extension service. The recommendations of report were accepted and another programme called the National Extension Service (NES) was introduced on October 2, 1953. This was another thrust to promote rural development and for augmentation of CDP. Thus NES became the implementing arm of CDP. Suitable administrative machinery was set up for the implementation of these programmes. The whole country was divided into Blocks. Block was unit of administration and various developmental activities were started in rural areas. The head of block level administration was ‘generalist’ called the BDO (Block Development Officer), who was to be assisted by team of extension officers for different fields of work like Panchayats, agriculture, public health etc and there were Gram Sevaks and Gram Sevikas or VLW (Village Level Worker). The idea of a team of bringing extension officers from different departments functioning at the block level under was considered important for better coordination and for achieving goal of CDP. The CDP brought integrated administrative system (prior to this programme, different line departments were hierarchically structured and each department having its own roots up to the district level or even below. This was called un-integrated administration. It was for the first time CDP brought the Line functionaries of different developmental departments under the administrative control of BDO as shown in Figure E. There was one generalist at the level of village or group of villages and he was VLW who was backed by experts of various relevant line departments. Thus at the Block level there were different extension officers representing different fields of work, but they all functioned through the multi-purpose VLW. In fact he was the only link between the farmer and the block administration. The justification given for integrated administration under CDS in Review of First Five Year Plan was when different departments of government approach the villager, each from the aspect of its own work, the villager might get confused as peasant’s life is not cut into segments, the way the government’s activities are. So the approach to the villager has to be coordinated one and has to comprehend his whole life. Such an approach has to be

59 Supra note 44 at 124.
made not through a multiplicity of departmental officials, but through an agent common at least to the principal departments engaged in rural work.\textsuperscript{60}

**Block Level Administrative Set Up**

![Block Level Administrative Set Up Diagram]

*Figure: E*

The steps were taken to seek people’s participation in these programmes through the help of village Panchayats. Each of these experts was expected to help the people by providing them guidance in solving their problems and these programmes were to be developed by people themselves on voluntary basis. There were advisory committees at block level i.e. Block level advisory committees and District level committee which were later redesigned as the Block Development Committee.\textsuperscript{61} During the first five-year plan this programme was started to create among rural people an active interest in national schemes of economic planning social reconstruction. But this government sponsored programme could not bring the rural people

\textsuperscript{60} Supra note 46 at 58.

\textsuperscript{61} Supra note 44 at 124.
within the orbit of planning and people could not become active and willing participants in the task of plan implementation at the village level. The CDP projects were established to arouse enthusiasm among rural people for new knowledge and new ways of life. It was hoped that this enthusiasm would trigger off development and three levels of implementation were established for the purpose, and a District Development Officer (Collector), a Block Development Officer (aided by team of Extension Officers), and a multi-purpose village-level worker were put in charge of one of them. The enthusiasm for this programme waned and grassroots participation lost momentum. There was heavy control of bureaucracy and there was no effective Panchayati Raj Institutions through which people could take part in decision-making and in implementation also. The other factors responsible for failure were financial constraints, incorrect training procedure, lack of consciousness among rural masses, neglect by political parties etc.

The CDP was run by bureaucrats who were working hard and conscientiously could not internalize the underlying spirit of the Programme. There was over-reliance on government machinery and that hindered efforts to generate popular participation and the existing institutions of local government, both urban and rural, were kept out of CDP. The need for active involvement of people’s representatives in the development process was expressed even in Second Five Year Plan. It laid down ambitious tasks for Panchayats to fulfill. The sixth Conference of Development Commissioners held at Mussoorie in 1957 made recommendations in support of Panchayats and giving them powers, responsibilities and financial resources. Jawahar Lal Nehru also observed that programme had faded away. The ill-conceived programme with foreign expertise, with deteriorating Indo-US relations consequent on India’s championing a policy of non-alignment and a variety of other factors mentioned above made it compulsory to find out the way in order to get the expected results from the programmes. Then started a search for the missing spark as to how the zeal of people could be aroused and popular participation sustained?

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64 Supra note 4 at 68.
65 Supra note 63.
66 Supra note 62.
4.7 Democratic Decentralization or Panchayati Raj (1959 onwards)

After the Budget speech of 1956-1957, the NDC appointed a *Committee on Plan Projects*, and this committee, in turn, constituted a Study Team under the leadership of Balwantray G Mehta in January, 1957 to examine the working of CDP and NES and to suggest the measures for their better working. The committee submitted its report in November 1957 and recommended the establishment of ‘Democratic Decentralization’ which later came to be known as Panchayati Raj. The Study Team’s report is officially known as the *Report of the Team for the Study of Community Projects and National Extension Service, 1957*. It is popularly known as Balwantray Mehta Committee Report.\(^67\) The team was asked to find out whether existing institutions of local government, the District Boards and Gram Panchayats could be used to implement the CDP and NES scheme in successful manner. It was also directed to suggest not only ways and means for this purpose but also an alternate system of rural local government. The committee did in-depth study and then submitted its report in November 1957.\(^68\)

The recommendations of Committee were also endorsed by National Development Council (NDC) in 1958. The Committee was also to study the intensification of agricultural production, coordination between different ministries, departments and agencies. There were many recommendations of the Balwantray Committee, other than the one for which it is well known i.e. recommendations pertaining to the establishment of democratically elected bodies below the district level. It recommended devolution of powers of state government to elected bodies at the local level.\(^69\) When the CDP was launched there was realization among those who were at the helm of the affairs that unless and until there is village agency which is representative of entire village community, assumes responsibility and provide the necessary leadership for implementing development programmes, the real progress in rural development could not be achieved. Even the report of Balwantray Mehta Committee emphasized that public participation in community works should be organized through statutory representative bodies.\(^70\) Those were the formative years of the Indian republic and there was political stability

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\(^67\) *Supra* note 46 at 79.

\(^68\) *Supra* note 11 at 65.

\(^69\) *Supra* note 46 at 80.

\(^70\) *Supra* note 23 at 8.
and the leadership was conscious of the need to establish institutional structures which could be representative of aspirations of people. To ensure that people actively participate in decision-making as well as in implementation of the decisions for their own development, the Balvantray Mehta Committee was appointed to advise and suggest steps which need to be taken for active participation of people in CDP. The empowerment of people was not a point of reference nor was it on the government’s agenda when Balvantray Committee was appointed.\textsuperscript{71} The Balvantray Mehta Committee after touring many areas in the country and in-depth study came to the conclusion that these programmes i.e. CDP and NES failed because of lack of popular support and existing institutions of rural local government were not fit enough for streamlining the development administration.\textsuperscript{72} According to Committee, people’s participation in rural development programmes could be ensured only if they were made active partners in planning, implementation and monitoring of development programmes on an institutionalized basis.\textsuperscript{73} The committee diagnosed that “So long as we do not discover or create a representative and democratic institution which will supply the local interest, supervision and care necessary to ensure that expenditure of money upon local objects conforms with the needs and wishes of the locality, invest it with adequate power and assign to it appropriate finances, we will never be able to evoke local interest and excite local initiative in the field of development”.\textsuperscript{74}

The committee also amplified that “if such body is created, it has to be statutory, elective, comprehensive in its duties and functions, equipped with the necessary executive machinery and in possession of adequate resources, to whom power devolved for development works within its jurisdiction, with the government merely confining itself to guidance, supervision and higher planning.”\textsuperscript{75}

The Committee came out with following recommendations:

1) The Committee stated in its report that community development would be effective only when the community was involved in the planning, decision and

\textsuperscript{71} M.Wadhwani, S.N.Mishra, \textit{Dreams and Realities: Expectations from Panchayati Raj} 28(Indian Institute of Public Administration, New Delhi,1996)
\textsuperscript{72} \textit{Supra} note 11 at 65.
\textsuperscript{73} \textit{Supra} note 71 at 28.
\textsuperscript{75} \textit{Id}. at 7.
implementation process. Community development can be real only when the community understands its problems, realizes its responsibilities, exercises the necessary powers through its chosen representatives and maintain a constant and intelligent vigilance on local administration. With this objective the Committee recommended early establishment of statutory elective bodies and devolution upon these bodies necessary financial resources, power and authority.\(^{76}\)

2) The Team recommended the creation of a three-tier structure of democratically elected, functionally independent and organically linked rural local self-governing bodies (popularly known as Democratic Decentralization scheme which subsequently began to be called as the Panchayati Raj Institutions) at the district level (Zila Parishad), block level (Panchayat Samiti) and the village level (Gram Panchayat). According to Study Team, there should be genuine transfer of power and responsibilities from the states to these institutions of local government and adequate resources should be transferred to these bodies to enable them to discharge their responsibilities effectively. These democratically elected bodies should obtain the resources they need partly by means of taxes and also through contributions from state authorities for various social and economic development programmes.\(^{77}\)

3) All programmes of social and economic development formulated through the network of planning should be channelled through these institutions.\(^{78}\)

4) The Village Panchayat should be constituted with directly elected representatives whereas, the Panchayat Samiti and Zila Parishad should consist of indirectly elected members and the political parties should be kept out. The Panchayati Samiti be made the unit for planning and implementation and it should be the most important and effective body among the three-tiers since the Block was the pivot of CDP launched earlier and it was here popular participation was needed most to make community development a success. Accordingly, the Panchayat Samiti should be made a statutory body, elective, comprehensive in functions, equipped with necessary executive authority and in possession of adequate resources. Whereas, the Zila


\(^{77}\) *Supra* note 15 at 4.

\(^{78}\) *Supra* note 62 at 940.
Parishad should be purely coordinative and supervisory agency having no executive power and the village Panchayat should lie below Panchayat Samiti.  

5) The Study Team felt that Panchayat Samiti was an optimum sized unit in which development machinery was present so it should be given developmental function i.e. it could be given the responsibility of implementing the schemes and programmes of the central and state governments. The Gram Panchayat be allowed to retain the civil, developmental and judicial functions and with that they should be given the task of implementation of the plans and programmes of Samiti. The Study Team also advocated that there should be association of MPs and MLAs in the PRIs for guiding their leadership and for establishing their link with the state legislatures and the union parliament. The district collector should be the chairman of Zila Parishad. The Zila Parishad was to be constituted of all the chairmen of the Panchayat Samitis and MLAs and MPs from the constituency were to be associate members. Last but not the least, the District Commissioner/Collector/District Magistrate and other officials be made a part of the Panchayati Raj system for ensuring cooperation and coordination between the District administration and the PRIs.

6) The Gram Panchayat was to be elected directly and periodically by village adults. Two seats were reserved for women, one for SC and one for ST. The Panchayats were given power to levy some taxes and there was provision for grants from Panchayat Samiti. Land revenue should be collected by Panchayats. There was recommendation of the Study Team to make Samiti chief development plan agency for block as a whole. Its main role would be to formulate plans as per local needs, and enable village Panchayats to implement development programmes. It was necessary that all the three tiers of the scheme i.e. village Panchayat, Panchayat Samiti, and Zila Parishad should be started at the same time and operated simultaneously in the whole district.

7) The Block Development officer to work as executive officer/Principal administrative officer and secretary of Panchayat. VLW was to be made development secretary of village Panchayats and their number should be doubled in Blocks.

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79 Supra note 63 at 25.
80 Supra note 11 at 66.
81 Supra note 4 at 71.
8) The state government should be given power of suspension and control over these bodies. It was recommended that cooperation and other allied subjects of rural development to be brought together under one ministry. This was be done for better coordination.\textsuperscript{82}

This report was landmark step in the field of democratic decentralization. The committee came out with the suggestion of a three-tier system of rural local government which would be given statutory status and upon which the various developmental functions performed by blocks were to be devolved. ‘Democratic decentralization’ was the name given to this process. Subsequently, the same began to be called as ‘Panchayati Raj’ in popular speeches and literature a name which is also synonymous with the term-‘Rural Local Self-Government in India. The credit of first seeding the concept of Panchayati raj , in its modern sense and visualizing its administrative structure goes to Balvantray Mehta Team.

The National Development Council, after parliamentary discussions accepted the recommendations of the Balvantray Mehta Study Team but it was also of the view that the states be allowed to make alterations in the scheme of democratic decentralization in accordance with the needs of the local situations in the respective states.\textsuperscript{83} The expression Panchayati Raj was coined by Nehru himself, to give an Indian name to the English words ‘Democratic Decentralization’ according to S.K.Dey who, as the Union Minister for Community Development, was one of the key architects of the ‘Panchayati Raj’ in India after independence.\textsuperscript{84} Rajasthan was the first state which implemented the recommendations of the Committee and on October 2, 1959, India’s first prime minister inaugurated independent India’s first Panchayati Raj Institution (PRI). Nehru in his inaugural address called Panchayati Raj as a revolutionary and a historical step towards the democratic decentralization in the context of new India. \textsuperscript{85} After Rajasthan, at the same time Andhra Pradesh implemented the scheme of democratic decentralization and established Panchayati Raj Institutions on November 1, 1959, broadly resembling the model suggested by Committee report. The movement spread like a wild fire all over the country and by the mid

\textsuperscript{82} Supra note 30 at 32.
\textsuperscript{83} Supra note 11 at 66.
\textsuperscript{84} S. S. Meenakshisundaram, Decentralization in Developing Countries 18 (Concept Publishing Company, 1994).
1960s, PRIs began to be established in all parts of India. Most of the states had enacted legislation to introduce PRIs within their jurisdiction. The essential features of these legislations were same as those outlined in Mehta Committee’s report. However, there were inter-state variations with regard to devolution and structural design. The government of Maharashtra did not accept this model. It accepted the features recommended by Naik Committee 1961. The Naik Committee recommended that Zila Parishad should be made unit of planning and implementation and Panchayat Samiti was made committee of Zila Parishad. There was no change as regards Gram Panchayat. Maharashtra model kept collector, the MPs and MLAs out of Panchayati Raj system and direct elections at all the three levels were to be held. There was provision for senior IAS officer to be made chief executive officer of the Zila Parishad. Most of the states opted for Rajasthan Model but there were also some states which adopted hybrid form which suited their local needs e.g. Tamil Nadu. A few states did not enact any PRI legislation e.g. Meghalaya, Nagaland and in Jammu and Kashmir, Manipur etc only village Panchayats were in existence and no second or third tier. Therefore, every state created a Panchayati Raj system of its own. The reason behind variations was based on difference of opinion with regard to what should be unit of devolution district or block or both and should the members be directly elected or indirectly elected or both. Thus, there were states which incorporated all the recommendations of Balvantray Mehta Committee, then there were states which followed Maharashtra Model and then there were also some which followed an intermediary pattern between the Balvantray Mehta model and Maharashtra Model. In certain states, the district level body was either non-existent or weak, for all practical purposes only two-tiers existed and lastly states which did not enact any legislation to establish PRIs.

4.8 Phases of evolution of Panchayati Raj system since 1959: The Panchayati Raj after Balvantray Mehta Committee report and its implementation first at Rajasthan and then at Andhra Pradesh in 1959 passed through distinct phases of evolution. These Phases were as follows:

1) Phase of Ascendancy or dynamism (1959-1964)
2) Phase of Stagnation (1964-1969)

86 Supra note 30 at 33.
87 Supra note 11 at 66.
4) Phase of Revival or reform (1983 onwards)\(^{88}\), proceeding the phase of constitutionalization of Panchayati Raj.
   It was basically Ashok Mehta Committee, 1978 (that would be discussed later) which outlined three phases of Panchayati raj system

4.8.1 Phase of Ascendancy (1959-1964)

This phase was of development. In 1960s almost all the states had passed Panchayat Acts. This was the promising phase of Panchayati Raj system as Panchayats had reached all parts of the country and there was enthusiasm in rural India and a feeling gripped the people that they had a say in affairs affecting their day to day lives.\(^{89}\) Many reports reflect that zeal and other positive aspects of Panchayati Raj system in this phase e.g. the official report of Ministry of Community Development expressed that because of PRIs younger and better leadership is emerging in rural India and there is satisfaction among rural masses as regards their working. The section which had no access to the political or administrative organs in the earlier traditional, socio-political set-up now acquired leadership.\(^{90}\) According to R.V. Jathar, if the government gives impetus to Panchayati raj movement, it will bring about the political, social, and economic revolution.\(^{91}\) The Report of a Study Team on democratic decentralization in Rajasthan appointed by Association of Voluntary Agencies for Rural Development (AVARD), 1962 also put light on the operation of democratic decentralization including, objectives, achievements and problem of adjustments, etc and it reported that people felt that sufficient powers to mould their future and establishment of PRIs had improved the situation in rural areas like attendance of teachers in primary schools improved, block administration became more responsive and grievances of people got addressed. Due to the interest generated by the PRIs in the states, several states too have independently, at varying periods, set up committees to assess the working of PRIs and to recommend various measures as to how to improve the structure and machinery of Panchayati Raj by examining first the recommendations made by Balvantray Mehta Committee, e.g. Madhya Pradesh Rural Local Self Government Committee, The Andhra Pradesh High Power

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\(^{88}\) L.C. Jain (ed.), *Decentralization and Local Governance* 236 (Orient Longman Private Limited, New Delhi, 2005).
\(^{89}\) *Supra* note 23 at 9.
Committee, Sadiq Ali Committee of Rajasthan, Ram Murthy Committee in Uttar Pradesh, Singh Committee in Punjab, etc. 92

Rural local government came under the scrutiny of many types of committees set up by both the central government and by individual states as mentioned above for improving the structure and functioning of PRIs. Apart from the committees mentioned above, there were other committees constituted which dealt with other aspects of rural development. The Study Team on Nyaya Panchayats (1962) recommended the setting up of Nyaya Panchayats for a group of villages for the purpose of administration of justice in petty civil and criminal cases.

Then Study Team on Panchayati Raj finances, 1963 whose chairman was K. Santhanam was set up with the objective of strengthening the resource base of grassroots institutions. Many other study teams, committees and working groups were appointed to examine various aspects of functioning of Panchayati Raj system. They are mentioned below in the chronological order.

a) 1960-Committee on Rationalization of Panchayat statistics (V.R. Rao).
b) 1961-Working Group on Panchayats and Cooperatives (S.D. Mishra)
c) 1961-Study Team on Panchayati Raj Administration (V. Iswaran).
d) 1962-Study Team on Nyaya Panchayats (G. Rajgopal).
f) 1963-Study Group on Budgeting and Accounting procedure of Panchayati Raj Institutions (M. Rama Krishnayya)
g) 1963-Study Team on Panchayati Raj Finances (K. Santhanam).
h) 1965-Committee on Panchayati Raj Elections (K. Santhanam)
i) 1965-Study Team on Audit and Accounts of Panchayati Raj Bodies (R. K. Khanna)
j) 1966-Committee on Panchayati Raj training Centres (G. Ramachandaran)
k) 1969-Study Team on Involvement of Community Development Agency and Panchayati Raj Institutions in the Implementation of Basic Land Reform Measures (V. Ramanathan)

92 Supra note 23 at 10
1) 1972-Working Group for formulation of five-year plan on Community development and Panchayati Raj(N.Ramakrishnayya)
m) 1976-Committee on Community Development and Panchayati Raj(Smt. Daya Choubey).

The Third five-year plan was also implemented during this period(1961-1966) and above mentioned Study Teams and Working Groups were set up during Third Five Year Plan .To make PRIs working more effective ,this Plan recommended that PRIs should be involved in development process. The plan also recommended that (i) there should be greatest stress on Gram Sabha and Panchayat at the village level,(ii) the technical officers at the District levels should try to make their advice and assistance available to extension officers at the Block level and to the Panchayat Samitis (iii) rationalization of district administration ,with the introduction of Panchayati Raj and coordination of activities of different executive bodies in the rural sector. During this phase PRIs fulfilled all the functions of a local government and acted as the ‘primary schools of democracy’.

Thus in ascendency phase basic pillars of Panchayati Raj structure were erected after the Balvantray Committee report and by mid-1960s Panchayats had reached all parts of country. There was enthusiasm among people that they had a say in the affairs affecting their daily life. But the interest in Panchayati Raj did not last long due to multiple reasons like political resistance at the state level of sharing of power and resources with the local level institutions there was control of local institutions by rural elites; there was lack of capabilities (for planning and implementation of programmes) in the elected representatives at the local level;lack of accountability of elected representatives; absence of political will of grassroots leaders. Apart from this there was tendency in many states to postpone the Panchayati Raj elections indefinitely and moreover parallel bodies came to be set up at the district level which reduced the role of PRIs in development, planning and implementation.

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95 Supra note 46 at 84.
96 Supra note 23 at 10.
97 Supra note 76 at 29.
98 Mushtaq Ahmad, Panchayati Raj Institutions in India: Law, Policy and Practice 43 (Dilpreet Publishing House,New Delhi,2010).
“Jawaharlal Nehru coined this term, Panchayati Raj and between 1957 and 1964, he fought to establish Panchayati raj on a firm footing, almost like a crusader, with support from trusted lieutenants like S K Dey. He also knew that his party did not, by and large, share his enthusiasm for giving powers to the Panchayats, that the opposition against decentralization of power was very strong within the Congress. After his death, the ministry for Panchayati raj and cooperation was abolished in 1966 at one stroke, without even a whimper of protest.” George Mathew considers Panchayati Raj of the Nehruvian era as the first generation because it is in this period PRIs were conceived as rural local bodies meant to ensure participation of people in the rural development. This phase started on October 2, 1959 (when Jawaharlal Nehru inaugurated Panchayati Raj at Nagaur, Rajasthan) and the downfall began with Nehru’s death in 1964. For about thirteen years after that, i.e. from 1964-1977, Panchayati raj remained the whipping boy of all those who were against decentralization of power and were trying to discredit decentralization.

4.8.2 Phase of Stagnation (1965-1969)

After phase of ascendancy, PRIs witnessed the phase of stagnation from 1965-1969. With the passing away of Nehru, the commitment to democratic values weakened. In this phase no serious attempts were made to revitalize the PRIs. The stagnation is the result of three major factors.

a) The new national and state level leadership which emerged in this period had weak ideological commitment towards PRIs.

b) Food shortage due to crop failure in 1966-1967 led to change of priorities in the community development programme and emphasis shifted towards agriculture production.

c) Since mid-sixties Indian political system centralized. The Congress lost many seats in early 1967 General elections. As a result, Prime minister Indira Gandhi attempted to consolidate her position by centralization of political and administrative powers.

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100 Supra note 23 at 15.
101 S. S. Meenakshisundaram, Decentralization in Developing Countries 59 (Concept Publishing Company, 1994).
102 Supra note 98 at 43.
103 Supra note 85
The Balwantray Mehta committee was followed by K.Santhanam Committee in 1963 to examine whether the financial resources available to Panchayats were adequate. It had many recommendations like Panchayats should have more items that can be brought under tax-net, Panchayat finance Corporation should be constituted to look into the financial resources of PRIs at all the three levels and then provide to them loans and other financial assistance, state grants should be in the nature of untied. But the funding of Community Development Projects reduced by mid-1960s, and Panchayats did not get enough funds for local development due to above mentioned factors.\(^\text{104}\)

### 4.8.3 Phase of Decline (1969-1983)

This period marked the neglect of PRIs as no serious attempts were made to revamp them in early seventies during the congress rule at the centre.\(^\text{105}\) There was domination of economically and socially privileged classes in PRIs and had there been frequent elections this could have been avoided and would have led to emergence of those communities which were oppressed for ages. There are evidences which show that there was apathetic attitude towards PRIs and deliberate plan by bureaucracy, local vested interests and their elected representatives in parliament as well as in state legislature to undermine Panchayati Raj structure and made them ineffective. Moreover, the Intensive Agriculture District Programme (IADP) was launched as the first major experiment in intensive agriculture development in the year 1960.

The inadequate rate of growth of agriculture during 1950's was a matter of serious concern to the government. The steep fall in crop productions in the drought year 1957-58 demanded focus on serious food situation. In these circumstances, the government of India invited a team of agriculture experts sponsored by the Ford Foundation to make a careful study of Indian agriculture and make recommendations for future actions. The team visited India early in 1959 and submitted its report entitled "India's food crisis and steps to meet it" in April that year. The team observed that "India is facing a crisis in food production. The crux of the problem is food is not enough for the rapid increasing population. The team went on to say that "this target (of 110 million tons) can be achieved if an all out emergency food production

\(^{104}\) Supra note 76 at 29.

\(^{105}\) M. P. Dubey, Munni Padalia, Democratic Decentralization and Panchayati Raj in India 97 (Anamika Pub & Distributors, 2002)
programme is undertaken. The Government of India accepted in general, the recommendations made by this team. The IADP popularly known as ‘package programme’ was launched on pilot basis in one district of 7 states at that time. The major difference between the CDP and IADP was that CDP was a generalized development programme while the IADP was a “sectoral development programme”. This programme bypassed the Community Development programme. Later on other schemes were started like Small Farmers Development Agency (SFDA), The Drought Prone Areas Programme (DPAP), or the Intensive Tribal Development Programme (ITDP), were introduced and they were outside the purview of elected Zilla Parishads. The plan allocations to the Zilla Parishads were tapered off.  

An example of that is the Jats in Nagaur Rajasthan and Deddys in Shadnagar in Andhra Pradesh never were in favour of change in status quo and they believed that crucial aspects of development like education, free and fair elections, improvement in the status of women etc would disturb their supremacy. Officials were not in favour of giving powers to non-officials i.e. people’s representatives. Apart from this Ministry of Community Development was reduced to status of department in 1966-1967 and brought under ambit of Ministry of Food and Agriculture. Then government also launched a few schemes of integrated district plans in twenty-eight districts of twelve states and abandoned two instruments for appraisal, that is, the annual development conference and the annual evaluation by the programme evaluation organization. Thus not only CD Ministry but the CD project itself had been downgraded. In 1971, the very title, ‘Community Development’ was dropped and replaced by ‘Rural Development’. This was not just cosmetic change. It marked the end of both the ‘community’ and ‘Panchayats’ as agents of change and agencies of development.”

Recognising that PRIs were in poor state and have failed to live up to the expectations the Ashok Mehta Committee was set up to inquire into working of PRIs and to suggest the measures to revive and strengthen them. The Committee looked into the structural and operational aspects of Panchayati Raj institutions since 1959 and outlined three phases of PR system: the first was the phase of ascendency; second, phase of stagnation; and the third that of

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106 Supra note 23 at 12.
107 Supra 105 at 87.
108 Supra note 23 at 12.
decline. “The committee realized that combination of factors are responsible for undermining PRIs such as

- Unsympathetic and hostile bureaucracy, the field officers and staff were not positive about the role of Panchayats in development.

- The PRIs were not given the opportunities to take up planning of implementation work on sizeable scale. The essential idea that all development activities should flow only through the block level organization was not given focus. Rather, there were steps in opposite direction.

- The state governments were not fully supportive of Panchayati Raj system. Panchayat elections were postponed or they were superseded for some or the other reasons. The attitude of the political elites at the higher level towards strengthening of local institutions was not encouraging.

- Lack of enthusiasm shown by MPs and MLAs in some states towards Panchayats, as they would perceive a threat from the Panchayat leadership to their position in their respective constituencies.¹¹⁰

- Absence of political will.

- Poor quality of leadership in PRIs.

- Lack of financial resources.

- Ambiguity with respect to role and status of Panchayats.

- The performance of PRIs had also been vitiated by endemic political factionalism, rendering developmental thrusts, either warped or diluted.

- There was apathy of masses.

- Lack of involvement of people in planning and implementation.

¹¹⁰ Supra note 76 at 30.
Fuzziness with regard to role of PRIs i.e., are they merely an administrative agency or are they also an extension of rural local government?  

Inefficiency, corruption, lack of appreciation for procedures, undesirable interference in day-to-day administration, parochial loyalties, ego-clashes, etc. seriously hampered the functioning of Panchayati Raj for the village development.

And lastly PRIs were dominated by the economically and socially privileged sections of society.

By the early 1970s the Panchayat elections were basically defunct in all Indian states. There was one party rule of congress party at national level as well as in states. By mid 1970s the calculus between the states and federal government started to change. The emergency was declared in 1975-1977 by Indira Gandhi and anti-Congress sentiments and anti-Indira sentiments led to first national electoral defeat of Congress in 1977 by Janta Party. The emergency proclamation not only ousted Congress party at the national level, it also changed the federal bargain or relations between the states and the centre. Henceforth any attempt by the central government to consolidate or expand its power at the expense of the States was going to be perceived as an illegitimate undermining of State authority. When the Janta government came to power for a brief period it sought to establish at the state, local levels as well as nationally. It put focus upon decentralization and therefore Ashok Mehta Committee was constituted.

The Janta government came to power in the centre in 1977, and it appointed high powered committee on Panchayati Raj under the leadership of Ashok Mehta, popularly known as Ashok Mehta Committee, for revitalizing PR system. The Committee submitted its report in August 1978 and it recommended Two-Tier Model of Panchayati Raj consisting of Zila Parishad at

\[\text{\textsuperscript{111} Supra note 109}\]
\[\text{\textsuperscript{112} Supra note 76 at 30}\]
\[\text{\textsuperscript{113} Ibid.}\]
\[\text{\textsuperscript{114} Rani D. Mullen, Decentralization, Local Governance, and Social Wellbeing in India: Do Local Governments Matter? (Routledge, 2011)}\]
\[\text{\textsuperscript{115} Supra note 11 at 67}\]
the district level and Mandal Panchayat at the grassroots level. The Balvantray Mehta Committee had recommended three tier model.\textsuperscript{116}

“In the light of the above findings, in order to strengthen the PRIs, the committee made the following recommendations.

1. The three-tier system of Panchayati Raj system should be replaced by two-tier system, that is Zila Parishad at the district level, and below it, the Mandal Panchayat consisting of a group of villages covering a population of the 15,000 to 20,000.

2. A district should be the first point of decentralization 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 all political parties at all levels of Panchayat elections.

5. The Panchayati Raj Institutions should have compulsory power 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 governments should not supersede the Panchayati Raj Institutions. In case of an imperative supersession, election should be held within 6 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 qualified judge.

9. The Chief Electoral Officer of state in consultation Chief Election Commissioner should organize and conduct the Panchayati Raj elections.

\textsuperscript{116} Supra note 5.
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 mobilizing the support of the people for Panchayati Raj.

12. A minister for Panchayati Raj should be appointed in state council of ministers to look after the affairs of 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 Panchayati Raj Institutions. This would give them requisite status (sanctity and stature) and an assurance of continuous functioning.

Due to the collapse of Janta government before the completion of its term, no action could be taken as regards recommendations of Ashok Mehta Committee at the central level. But three states Karnataka, West Bengal, Andhra Pradesh took steps to revitalize the Panchayati Raj Institutions keeping in view some of the recommendations of Ashok Mehta Committee. The Ashok Mehta Committee report is a seminal document and second generation of Panchayati raj can be said to have started when West Bengal government took the initiative in 1978 to give the new life to Panchayats on the lines of Ashok Mehta Committee recommendations. The distinguishing point between first and second generation of Panchayats was shift in emphasis from development *per se* to local government in its full meaning. The Balvantray Committee put focus on development as central to Panchayat system, while attempt in certain states like West Bengal, Karnataka, Andhra Pradesh, and later on Jammu and Kashmir, after Ashok Mehta Committee recommendations had been to make Panchayats into genuine political institutions and thus focal point of self-government with all its ramifications, a microcosm of the state itself. But state governments could not establish Panchayati Raj without adequate constitutional safeguards and idea of ‘four pillar State’ village, district, state and centre could not be implemented in *toto* by the state government due to multiple factors.


118 *Supra* note 23 at 16
The report of Ashok Mehta Committee remained on back burner due to shift in priorities of top leadership as there were hectic political activities and that led to fall of first Morarji Desai government and subsequent to that fall of Charan Singh government in same calendar year. Again Indira Gandhi led Indian National Congress came to power after General Elections but the powers remained centralized. During the regime of Mrs Indira Gandhi, the Panchayat was marginalized and weakened. Programmes for rural development were passed without a reference to Panchayats. A conventional chapter on ‘Community Development and Panchayat’ was absent from the Planning Commission documents. However, the phrase ‘community development’ was substituted with ‘rural development.’ The absence of Panchayats could even be noticed in the Seventh Plan (1985-90) document: About 9000 crore outlays were allocated for rural development in the 7th plan and no role was assigned to Panchayats even in the Minimum Needs Programmes (MNP) related to rural sanitation, rural roads, rural health, rural housing, rural energy etc.119

After the submission of Ashok Mehta Report, the phase of decline witnessed three more developments i.e., the Chief Minister’s Conference (1979), Working Group on Block Level Planning (1978) also called Dantwala Committee and Hanumantha Rao Committee or Working Group on District Planning(1983).The recommendations of Ashok Mehta Committee were considered by the Conference of the Chief Ministers and that favoured the continuance of three-tier system but did not accept Mandal Panchayats. The chief ministers did not accept that amendment of Constitution is necessary but it was realized by them that Model bill should be drawn up and that would be sufficient for the states to adopt and enact i.e., draft their legislations keeping in view Model Bill with such modifications as considered necessary to suit their local needs.120

Moreover there were Working groups which also got constituted to suggest measures as regards decentralized planning. For Example Working Group on Block Level Planning (1978). It recognized the absence of planning personnel at Block level and hence recommended constitution of District Planning cell which will formulate both district as well as block level plans. Block level plans will be prepared in association with BDO (Block development officer,

119 Supra note 85
Block Samiti, voluntary agencies and other concerned persons at the Block level. The Ashok Mehta Committee report endorsed this view and laid down that Zila Parishad should be made responsible for planning at district level but committee report did not assign any role to Block. Later on Working Group on District Planning was set up in 1982 under the chairmanship of C.H. Hanumantha Rao. This Group suggested the setting up of a broad-based District Planning body comprising of representatives from Zila Parishad, Panchayat Samiti, Municipalities/Corporations, MLA and MPs from the district, prominent personalities, workers and entrepreneurs representatives, bank representatives etc. This Working group recommended the introduction of Planning personnel at the block level also. This concept of district level decentralized planning recommended by report was accepted by all states except Sikkim, Goa, Tripura.  

“The District Rural Development Agency (DRDA) was constituted in 1980 as the principal organ at the district level to oversee the implementation of different anti-poverty programmes of the Ministry of Rural Development. Integrated Rural Development Programme (IRDP) was launched in 1978 in selected blocks. This was universalized on 2nd October, 1980. At this point of time, District Rural Development Agencies (DRDAs) were set up as registered societies to coordinate the implementation of the new programme. Over the years, different self-employment and wage employment schemes as well as minimum needs infrastructure schemes for the households and the community were entrusted to the DRDAs. With the adoption of the constitutional mandate for decentralization of powers that privileged those Local self-government institutions in planning for economic development and social justice, the proposal to re-think the status of DRDAs and also to merge them with the Panchayats had emerged later. These parallel alternative structures also ruined the PRIs.  

4.8.4 Phase of Revival. (1983 onwards)  

After the assassination of Mrs Gandhi, her son Rajiv Gandhi became the Prime Minister. After an early election, he came back to power with more than two third majority in Lok Sabha.  

121 S. N. Mishra, Sweta Mishra, et.al, Decentralized Planning and Panchayati Raj institutions 46 (Mittal Publications,2000)  
Panchayati Raj in India entered into its last but latest phase of revival from 1983 onwards. The certain government headed by Rajiv Gandhi took a lot of initiatives to involve PRIs in the mainstream of Indian politics. A series of steps were taken by central government in connection with PRIs which include the appointment of G.V.K.Rao Committee (1985), L.M.Singhvi Committee (1986), Sarkaria Commission (1987), Workshops of Collector/District Magistrates (1987-1988), Chief Secretaries’ Conference (1988), Thungon Committee (1989), Panchayati Raj Sammelans, Chief Ministers’ Conference (1989), and introduction of Constitution (Sixty-fourth) Amendment bill, (1989).\(^\text{123}\)

The G.V.K.Rao Committee was set up by planning Commission in 1985 to review the existing administrative arrangements for rural development and poverty alleviation programmes and it had recommended strengthening of Zila Parishad.\(^\text{124}\) The Committee was of the view that development process is gradually bureaucratized and divorced from the Panchayati Raj. This phenomenon of bureaucratization of development administration as against the democratization weakened the PRIs resulting in what is aptly called as ‘grass without roots’. Hence the Committee made the following recommendations to strengthen and revitalize the Panchayati Raj system.

i. The district level body, that is, the Zila Parishad should be of pivotal importance in the scheme of democratic decentralization. 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.

\(^{123}\) Supra note 105 at 97
v. Elections to the PRIs should be held regularly. It found that elections became overdue for one or more tiers in 11 states.

Thus this Committee, in its scheme of decentralized system of field administration, assigned a leading role to the Panchayati Raj in local planning and development. It is in this respect that G.V.K.Rao Committee Report differed from the Dantwala Committee Report on Block-level Planning and the Hanumantha Rao Committee Report on District Planning. Both the Committees had suggested that the basic decentralized 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 decentralized planning though, the Committee stated that PRIs would also be associated with this process of decentralized 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 Balvantaray Mehta Committee, Administrative Reforms Commission of India, Ashok Mehta Committee and finally G.V.K.Rao Committee which recommended reduction in the development role of the District Collector and which assigned a major role to PRIs in development administration.125 Another major attempt made at the national level to regenerate PRIs was appointment of L.M. Singhvi Committee in 1986 by Government of India, Department of Rural Development to prepare a Concept Paper on Panchayats. The committee observed that PRIs have become moribund” it advocated that PRIs should be viewed in India as Institutions of self-government as that would ensure participation of people in planning and development flowing from and as a part of concept of self-government. The Balvantray Mehta Committee recommended non-political Panchayats whereas Ashok Mehta Committee recommended political Panchayats but L.M. Singhvi Committee stood strongly for constitutionalisation of Panchayats with the inclusion of new chapter in Constitution of India. The Mehta Committees conceived Panchayats as instruments of rural development, L. M. Singhvi Committee emphasized on developing Panchayats as units of self-government.126 The committee recommended that PRIs should be enshrined in the constitution and ‘Gram Sabha’ should be constituted to be made base of decentralized democracy at the grassroots level. The committee was of the view that Panchayati

125 Supra note 117
126 Siuli Sarkar, Public Administration in India171 (PHI Learning Pvt. Ltd., 2009)
Raj should be directed to achieve community and social mobilization, transcending the barriers of caste, religion, sex and disparities of wealth and surmounting social disabilities and disadvantages. The Committee showed its displeasure over the irregularity of Panchayat elections and dealt with the issue of the role of political parties in Panchayat elections. The Committee suggested that non-involvement of political parties should be consensual rather than through legislation. On this issue the supporters of Panchayats had two opinions. The Gandhians supported party less democracy while others argued the involvement of political parties to support candidates with weak economic background. It also suggested that more financial resources should be made available to these institutions. Each state should have a Panchayat Judicial Tribunal to adjudicate the cases relating to elections, suspensions, super session, dissolutions and above all working of PRIs. The net result of the recommendations of these committees was that a proper environment was created in favour of giving new thrust to the concept of democratic decentralization. “Then the other important local self-governmental changes were appointment by Planning Commission of ‘Working Group on district planning’ and ‘Thungon Committee’ was constituted as its sub-committee to suggest the ways and means for revitalizing PRIs. Thungon Committee was constituted under the chairmanship of P.K.Thungon in 1988 and recommendations of this committee were as follows;

- PRIs should be given constitutional status.
- It should be three-tier structure i.e. Village Panchayat at the bottom, District Panchayat at the top, Mandal/Block Panchayat at the middle in the States.
- Detailed list of the subjects to be dealt with at the district level should be prepared and included in the Constitution.
- Zila Parishad as planning and development agency in the district.
- Setting up of a planning and Co-ordination Committee at the state level under the chairmanship of minister for planning with presidents of Zila Parishad as members.
- Five years tenure for PRIs.

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127 Supra note 76.
128 Supra note 85.
130 Supra note 5.
- If the local body does not function according to law or grossly abuse its powers, it could be suspended or dissolved by state government.
- The bodies should not be superseded for a period more than six months.
- System of reservation for entire three-tier of PRIs should be on basis of population. if in any area tribal population exceeds 30% the chairman of the body should be a member from ST. The vice-chairmanship of PRIs should be reserved either for SC or ST.
- As a rule not less than two women should be member of PRIs at each level. In smaller bodies one seat should be reserved for women.
- State finance Commission for each State for the distribution of resources.
- Constitutional provision which will ensure timely and regular elections.
- Central government should promote PRIs by increasing central government grants-in-aid, to the state governments.
- Training programmes for officials and non-officials of local bodies in order to equip them with the skills of development administration.
- Enactment of Model Panchayat Act in order to revitalize and constitutionally recognize PRIs.

The Indian National Congress also appointed a Committee headed by V.N.Gadgil in 1998 to study how PRIs can be made effective. The Committee came up with following recommendations;
- Three-tier structure of Panchayati Raj i.e., village, Block and District Levels.
- Tenure of PRIs should be five years and elections should be made mandatory and statutory. If the dissolution of Panchayati Raj Institutions take place fresh elections must be held within one year.
- The members and heads of village Panchayats should be directly elected. But at the block and district level the members should be directly elected but presidents should be elected indirectly.
- There should be reservation for SC,ST and women in order to give adequate representations to weaker sections.
- The Constitution itself should prove role, authority and jurisdiction of PRIs. A list of subjects should be prepared in respect of PRIs for which they will have responsibility to prepare and implement plans for socio-economic development.
• The Constitution should provide authority to legislature to empower the PRIs for the purpose of levying, collecting and appropriating taxes and duties.
• A State finance commission should be established which would decide the allocation of funds for each district for a period of five years.
• A State Election Commission should be constituted in every state in consultation with Election Commission of India to supervise and conduct elections to Panchayat bodies.

Thus all the Committees put emphasis on giving new approach to concept of democratic decentralization and ultimately revitalize PRIs with renewed vigour. The political parties arrived at consensus to give constitutional status to PRIs. Consequently 64th Constitutional Amendment Bill was introduced in the parliament in July 1989 by Rajiv Gandhi’s government.  

Before the introduction of Bill, certain other initiatives also created a situation that PRIs should be made effective and empowered bodies. The Sarkaria Commission (1988) although its main concern was Center-State Relations, yet it strongly advocated giving of financial and functional autonomy to the Panchayats. The commission observed that elections to these bodies were not held regularly and these bodies were being superseded on flimsy grounds. There should be uniformity of law in states regarding holding of periodic elections and supersession of the Panchayati Raj bodies.

4.8.5 Workshops of Collectors/District Magistrates (1987-1988)

The five workshops of collectors/ District magistrates on responsive administration between December 1987 and June 1988 were organized by the central government. The inaugural address of all these workshops was done by Rajiv Gandhi who was active participant and these workshops recommended constitutional provisions for ensuring timely and regular elections to local democratic institutions. In these workshops it was realized that there was inadequate devolution of authority and responsiveness at the district level. Apart from this these

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131 Pratap Chandra Swain, op. cit., at 31.
133 Mushtaq Ahmad, op.cit., at 53.
134 Five Workshops of Collectors /District magistrates between 1987 and June 1988 at Bhopal, Hyderabad, Jaipur, Imphal, Coimbatore were organized by the Training Division of the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions, Government of India.
workshops also provided an opportunity for reviewing the framework, content and methodology of district planning. Though the focus of workshop was on responsive administration, its report contained a recommendation that Zila Parishad should take charge of all aspects of planning and monitoring. The workshops were followed by the Conference of Chief Secretaries of different states sponsored by Union Ministry of Personnel in 1988. The Conference suggested that the constitutional amendment is required to assure periodic elections. This was followed by Panchayati Raj Conferences between January and April 1989 organised by Rajiv Gandhi government in Delhi, Calcutta, Bangalore. Addressing this Conference on 5 May 1989, Prime Minister Rajiv Gandhi said “We are on the threshold of mighty revolution. It is a revolution based on maximum democracy and maximum devolution”. This Conference was perhaps the last exercise of the government in which draft bill on the Panchayati Raj was given final touches. This conference was in fact the culmination of marathon discussions, sammelans, workshops and seminars on PRIs. It was against this backdrop that Constitution (64th Amendment) Bill was drafted and introduced in the Parliament on 15 May 1989.

4.9 The Constitution (64th Amendment) Bill, 1989

As a result of all these initiatives, it was realized that Constitution should be amended as governments in the states were found to be least enthusiastic about implementing Panchayati Raj in their respective states. States were not ready to share their powers with local level bodies and slowly and gradually the states had grabbed the powers back from PRIs. Local self-government being state subject could not be regulated by central government by legislation. Therefore, Constitution was required to amended to ensure power to local bodies. The government of India found the solution in the form of Constitutional 64th Amendment Bill to all the weaknesses of Panchayati Raj. It was argued that Bill sought to enshrine democracy at grassroots, as it intended to give power to people. Rajiv Gandhi introduced this Bill in Lok Sabha on the last day of extended budget session. The Bill was passed in Lok Sabha but could

137 Krishna K Tummala, Public Administration in India 142 (Allied Publishers, 1994).
138 Supra note 98 at 54.
not be passed in Rajya Sabha.\textsuperscript{139} It got defeated on the floor of Rajya Sabha due to serious apprehensions regarding the timing and intention of the Bill. Congress lost the power in elections and it was replaced by National Front Government led by V.P.Singh who introduced the 74\textsuperscript{th} Constitutional Amendment Bill in September 1990.\textsuperscript{140} But even that could not be passed due to collapse of V.P.Singh Government. Congress again came to power headed by P.V.Narasimha Rao who picked up the threads initiated by Rajiv Gandhi. The noticeable feature now was unlike Rajiv Gandhi, Rao had consulted all major political parties in drafting of the bill. This was known as Seventy-Third Amendment Bill which became operative in 1993 on its ratification by 50 per cent of the states.\textsuperscript{141} The Bill was notified by the Central Government through Official Gazette on April 20, 1993 and after notification the PRIs have now got Constitutional legitimacy.\textsuperscript{142} 

“It is mere co-incidence that this Bill which sought to strengthen the PRIs for giving power to the people was synchronous with the emergence of the World Bank’s recipe for Good Governance. It is also matter of chance that the 72\textsuperscript{nd} Amendment Bill (1992), which was enacted as the 73\textsuperscript{rd} Amendment Act(1993), followed the adoption of the New Economic Policy to implement the World Bank Agenda of economic reforms based on the processes of liberalization, privatization and globalization through the Structural Adjustment Programme by India in 1991. This had to be done on account of the foreign exchange crunch on the one hand and the economic crises on the other hand. Whereas, the 72\textsuperscript{nd} Amendment Bill aimed at institutionalizing the unfinished agenda of the Rajiv Gandhi for the empowerment of people. Therefore, it would not be correct to believe that 73\textsuperscript{rd} Amendment was made on the directions of the World Bank. On the contrary, it aimed at promoting the Gandhian ideal of Gram Swaraj and fulfilling the mandate of Constitution.\textsuperscript{143} The Constitution (73rd Amendment) Act, 1992 has added a new Part IX consisting of 16 Articles and the Eleventh Schedule to the Constitution. The 73th Amendment envisages the Gram Sabha as the foundation of the Panchayat Raj System to perform functions and powers entrusted to it by the State Legislatures. The amendment provides for a three tier Panchayat Raj System at the village, intermediate and

\textsuperscript{141} Supra note 139 at 159.
\textsuperscript{142} Supra note 62 at 944.
\textsuperscript{143} Ranbir Singh, Surat Singh (eds.), \textit{Local Democracy and Good Governance, Five Decades of Panchayati Raj} 5(Deep and Deep Publications PVT. Ltd 2011)
district levels. The passing of the Constitution (73rd Amendment) Act, 1992 marks a new era in the federal democratic set up of the country and provides constitutional status to the PRIs. The aim was to combine social justice with devolution, with an emphasis on reservations for deprived classes of the population in Panchayats including leadership positions. Consequent upon the enactment of the Act, almost all the states/UTs enacted their legislation.\textsuperscript{144}

4.10 Salient Provisions of 73rd Constitution Amendment Act, 1992

This Amendment introduced the local self-governance in rural India. The Amendment inserted Part IX and a new Schedule, called Schedule XI, in the Constitution. It consists of Articles 243 to 243-O.

4.10.1 Gram Sabha: The Gram Sabha is the basic unit of democratic system and is a body consisting of persons registered in the electoral rolls of a village comprised within the area of Panchayat at the village level. The Gram Sabha may exercise such powers and perform such functions as may be provided by law by the State (Article 243-A). The Gram Sabha has become the bed rock of the Panchayati Raj after 73rd Amendment. It is through Gram Sabha that the elected representatives are made accountable to the electorate.\textsuperscript{145}

4.10.2. Three-Tier System: It defines Panchayat as an institution of self-government constituted for the rural areas. The Act provides for a three-tier system of Panchayati Raj in every state, that is, Panchayats at the village, intermediate and district levels. However, a state having a population not exceeding 20 lakh may not constitute Panchayats at the intermediate level (243-B).

4.10.3. Composition of Panchayats: The composition of Panchayats will be provided by law enacted by the state legislature. These Panchayats shall be elected from within the Panchayat area through territorial constituencies. Members of the Panchayat shall be elected directly by the members of the Gram Sabha. All the members of Panchayats at the village, intermediate and district levels shall be elected directly by the people. The chairperson of Panchayats at the

\textsuperscript{144} B.L. Fadia, Kuldeep Fadia, \textit{op.cit.}, at 944.

intermediate and district levels shall be elected indirectly—by and from amongst the elected members thereof. The chairperson of a Panchayat at the village level shall be elected in such manner as the state legislature determines (Article-C).

4.10.4. **Reservation of Seats:** Article 243-D provides for the reservation of seats for SCs and STs in Panchayat at all levels (village, intermediate & district) in proportion of their population to the total population in the Panchayat area. 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).

4.10.5. **Duration of Panchayats:** It provides that every Panchayat shall have a term of five-years unless dissolved earlier. Further, fresh elections to constitute a Panchayat shall be completed before the expiry of its duration of five years or in case of dissolution, within six months from the date of its dissolution.

4.10.6. **Disqualifications:** A person shall be disqualified for being chosen as or for being a member of Panchayat if he is so disqualified:

- Under any law for the time being in force for the purpose of elections to the legislature of the state concerned, or
- 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.

4.10.7. **State Election Commission:** Article 243-K vests all powers of superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections of the Panchayats in the State Election Commission. The State Election Commission shall consist of an State Election Commissioner who will be appointed by the Governor who can lay down the terms of his service. But it is subject to the law which may be made by the state legislature. The terms and conditions of service of the State Election Commissioner cannot be varied to his disadvantage once he has been appointed. He cannot be removed from the service except in a
manner and on the grounds provided for the removal of a judge of the High Court under the Constitution. It is mandatory for the Governor, when requested by the State Election Commissioner, to make available to him such staff as may be necessary to discharge his functions.

4.10.8 **Powers and Functions:** Powers and authority of the Panchayats may be laid down by the law of the state legislature to enable them to function as institutions of self-government. The state legislature may devolve 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.

4.10.9 **Finances:** The state legislature may authorise a Panchayat to levy, collect and appropriate taxes, duties, tolls and fees. It can also lay down the procedure and limits of such taxes and levies. The state may also provide for making grants-in-aid to the Panchayats from the Consolidated Fund of the State. The state can also create funds like Consolidated Fund for Panchayats for crediting all moneys of the Panchayats.

4.10.10 **Finance Commission:** Article 243-I empowers governor of a state to constitute after every five years, a Finance Commission to review the financial position of the Panchayats. The state legislature may provide for the composition of the Commission and 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).

4.10.11 **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 (Article 243-J).
4.10.12 Application to Union Territories: The provisions of this Part shall apply to the Union territories as directed by the President of India. But the President has the power by notification to make exceptions and modifications while applying this Part to any Union Territory (Article 243-L).

4.10.13. Exempted States and Areas: Article 243-M exempts certain areas from the application of this Amendment. These areas are the states of Jammu and Kashmir, Nagaland, Meghalaya and Mizoram and certain other areas.

4.10.14. 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.

4.10.15. Bar on Interference by Courts: The Article 243-O of 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.

4.10.16. Eleventh Schedule: Article 243-G mentions the subjects which this Amendment assigns to the Panchayats. These subjects are as follows: 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,

However, despite the positives like the enactment of the State Panchayati Raj Acts, setting up of the State Finance Commissions to hold the elections regularly, State Finance Commissions, reservation of SCs/STs/women in Panchayats, the results of implementation of the Constitution (73\textsuperscript{rd} Amendment) Act, 1992 at the ground level have fallen short of expectations. Some of the shortcomings are as follows

i. Gram Sabhas have not been empowered to ensure greater people’s participation and transparency in functioning of Panchayats as envisaged by the Constitution (73\textsuperscript{rd} Amendment) Act, 1992.

ii. The political decentralization can be clearly seen in the regular Panchayat elections with good participation of people in many States but there are still some States where the Panchayat elections are not held regularly. Besides that, the administrative and fiscal decentralization have remained rather limited. The State Governments have failed to give up their control on matters of local administration and finance.

iii. Panchayats have not been granted enough powers for revenue generation. As a result, they only have limited functional autonomy. The Panchayats remain dependant on the government grants but do not generate the revenue through tax and fees and due to this complete financial autonomy is not there.

iv. Recommendations of State Finance Commissions (SFCs) are generally not taken seriously by the State governments and these recommendations remain on papers.

\textsuperscript{146}D.N.Gupta, \textit{op.cit.}, at 32.
v. Powers given to the State Election Commissions also vary from State to State. In some States the State Election Commissions have not been constituted. They should have been given powers to deal with all matter relating to Panchayat elections namely, delimitation of constituencies, rotation of reserved seats in Panchayats, finalization of electoral rolls, etc. but this has not been done in all States.  

4.11 Judicial Response to Panchayats in India:

Constitution is not a self-executing instrument. As said by Sir Alladdi “the proper functioning of the Constitution will to a large extent depends upon ancillary or organic laws passed to implement the constitution; Judicial decisions interpreting the Constitution.” The Constitutional development in the form of Panchayati Raj constitute second birth of democracy in India. The 73rd Amendment became law more than two decades ago but the implementation of this Amendment in the different states has been uneven. The course of implementation has also been marked by several controversies and disputes mostly political but significantly, legal as well. A large number of cases have been adjudicated in the different High Courts and also the Supreme Court. The cases relating to Panchayats are relevant and critical in determining what can be regarded as settled law on decentralization. The Supreme Court in State of U.P v. Pradhan Sangh held that “Article 40 does not give guidelines for organizing Village Panchayats. All that it requires is that the Village Panchayats have to be equipped with such powers and authority as may be necessary to enable them to function as units of self-government.” In U.P.Gram Panchayat Adhikari Sangh v. Diya Ram Saroj the Supreme Court laid down that 73rd Amendment was brought into force in 1993 to give effect to Article 40 of the Constitution. Therefore, it cannot be said that the 73rd Amendment is basic feature of the Constitution. The Article 40 does not qualify to be basic feature and is only an enabling provision and State government is empowered to eliminate, notify, or cancel by exercising the power under the enabling provision.

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149 AIR 1995 SC 1512.
4.11.1 Pre-Election Disputes: The major success of the 73rd Amendment has been the holding of two or more rounds of elections to rural bodies in most of the states and a large number of representatives were elected. This large scale effort of conducting elections gave rise to numerous disputes relating to the elections. The cases adjudicated are being considered in regard to different issues pertaining to elections like role and responsibilities of the state Election Commissions, bar to interference by courts, electoral rolls, delimitation of constituencies, qualification of elected representatives, disqualification of members etc.

4.11.2 The State Election Commissions and election disputes: The role and responsibilities of Election Commission of India under Article 324 can be taken as a guide for the SECs as well, regarding their role as regards elections to local bodies. In Channigappa v. Karnataka, the powers of delimitation, identification and rotation of reserved constituencies and notification for elections were with the State Election Commission but later on taken over by the state government. The action of the state government in taking away the responsibilities of reservation of constituencies and rotation from the Karnataka SEC and then entrusting the same to the Deputy Commissioner was challenged, as violative of Article 243(K). The Court held that delimitation and adjustment of constituencies and rotation as well were acts of precedence, in the matter of conduct of elections and not a part of the election process. Therefore, it was held that state government’s action did not infringe Article 243.

4.11.3 Bar to interference by courts in electoral matters: The Article 243-O of the Constitution of India deals with bar to interference by courts in electoral matters and the language of the Article is similar to Article 329. The general intent of these Articles is that disputes about the delimitation of constituencies or the outcome of elections should be settled by election tribunals or other alternative mechanism for dispute settlement rather than taking recourse to the High Court but in practice this has never been the case. The High Courts have generally held the view that once the notification for election process has been issued, the process should continue without any interruption by the Courts and end with results. However, the Courts in some of the cases have also held that issue of election notification can be

151 2000 (6) KLJ 163.
examined by the Court if any miscarriage of justice or denial of judicial remedy is likely. The Courts refused to accept the blanket ban or ouster of their writ jurisdiction. In Kunhadullah case,\(^{152}\) it was concluded by the Kerala High Court that delimitation procedures followed by the Kerala State Election Commission were not constitutionally valid and the bar under Article 243-O presupposes the existence of constitutionally valid law and if it is not so then ,such a law cannot claim immunity from judicial review. There was appeal against this decision of High Court and parties agreed before the Supreme Court that they would accept the judgement of High Court. Hence, protection available under Article 243-O may be taken as settled, provided the law itself is *intra vires* of the Constitution.

### 4.11.4 Electoral Rolls:

The High Court have always avoided to interfere once the election process has started despite of the fact that some of the actions in election process were flawed and if High Court’s departed from the practice of non-interference after the issuance of notification, the Supreme Court reversed the decision. In Badula Krishnaiah *v.* SEC,\(^{153}\) the Apex Court set aside the orders of the Andhra Pradesh High Court which directed that a fresh poll because the names of some persons were not included in the electoral roll. An appeal was filed against the orders of the High Court and Supreme Court held that the High Court would not be justified in issuing directions to stall the election process. The Supreme Court referred to the Judgement of the Constitution Bench of the Court in Ponnuswamy’s case,\(^{154}\) wherein the court had laid down that elections should be concluded as early as possible according to the time schedule and all the controversial matters and disputes arising out of the elections should be postponed till after the elections are over so that election process may not get delayed. The judgement of the Apex Court also put emphasis that this principle of non-interference was also laid down in Lakshmi Charan Singh’s case,\(^{155}\) wherein the Division Bench had held that “though the High Court did not lack the jurisdiction to entertain the writ petition, no High Court in the exercise of its power under Article 226 of the Constitution should pass any orders interim or otherwise which has the tendency or effect of postponing an election. The High Courts must observe a self –imposed limitation on their power to act under Article 226 that limitation has to

\(^{152}\) 2000 (3) KLJ 45.
\(^{153}\) (1996) 3 SCC 416.
\(^{154}\) 1952 SCR 218 /AIR 1952 SC 64.
\(^{155}\) 1985-4 SEC 689.
be observed irrespective of the fact whether the preparation and publication of electoral rolls are a part of the process of the election within the meaning of Article 329 (b) of the Constitution.”

It will not be out of place to discuss some decisions of the High Courts across India so as to know their approach towards election process. In *Medisetty Chennakesavalu case*, 156 three writ petitions were filed which challenged the electoral notification for elections in ‘Nerusupalle Gram Panchayat’ in Cuddapah district of Andhra Pradesh. It was alleged in the petitions that names of 86 voters were wrongly deleted and 81 wrongs were wrongly included. The court held that wrongful deletion or inclusion in the electoral rolls could be a ground for challenging the election through election petition before the electoral Tribunal. The court further held that since the remedy by way of petition is available, it would not be appropriate for the High Court to stop the election. In *Chand Prasad and Others v. State of Bihar*,157 it was decided in this case that once the election process has started it should be concluded as early as possible and there should be no interference by the court as such interference by the court for non-compliance of the provisions of the Act or rules framed thereunder will interrupt or delay the elections. In *Basanagowda and Another v.State of Karnataka*,158 eleven writ petitions were filed challenging the wrongful inclusion of voters and some other defects. The court refused to stop election process. In another case before the Kerala High Court i.e. *State Election Commission v. Krishnan*,159 the single Judge of the High Court directed the inclusion of certain persons in the electoral roll of a particular Gram Panchayat even though a notification for the election had been issued. The order of the single bench was set aside. But the Punjab and Haryana High Court in the case of *Bagichi Singh v. Punjab State Election Commission*,160 quashed an order of the SEC regarding the inclusion and deletion of certain names in voter list as the notification for election had not been issued. The Supreme Court in *Ratanlal v.State of Karnataka*,161 observed that Part-IX of the Constitution was added to ensure periodic and regular elections to Panchayats which were not being held regularly in many States. In another historic judgement, Division Bench of the Karnataka High Court in *B.K.Chandrakeshkar v.State of

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156 2002(1) ALT 94.
159 WA 2067 of 2000.
161 AIR 1997 SC 1075.
Karnataka, held that State Election Commission must complete the Panchayat elections in the state within six weeks and rejected the plea of the state government that certain changes need to be made in the Panchayati Raj Act. The court further stated that such move of introducing the changes at the eleventh-hour would subvert the Constitution as perceived by 73rd Amendment. The most important point laid down by the court was that in case of conflict between mandatory provisions of the Constitution and the right of State legislature to enact laws which fall within state’s legislative competence and which result in nullifying the mandate of the Constitution, Constitutional provisions would take precedence.

4.10.1 Delimitation: The provisions relating to delimitation of territorial constituencies are mentioned in the respective laws of the states. Thus, these provisions vary from one state to another. In State of UP and Others v. Pradhan Sangh Kshettra and Others, “It is for the government to decide in what manner the Panchayat areas and the constituencies in each Panchayat area will be delimited. It is not for the Court to dictate the manner in which the same would be done” The Judgement given by the High Court was challenged as the High Court held that definitions given by the UP Panchayat Act were ultra vires of the respective definitions given in Article 243D, G and E read with Article 243C. The appeal was filed and in deciding the appeal, the Apex Court took into notice Meghraj Kothari v. Delimitation Commission, wherein the court had held that notification of the delimitation of the constituencies or allotment of seats to such constituencies are to be regarded as laws which are not subject to the scrutiny by the court. In this case, the Supreme Court found that the High Court had not only accepted the challenge to the notification for delimitation but with that it had gone into merits of the alleged grievances, though the challenge was after the notification was issued. Therefore, orders of High Court were set aside. This particular judgement settled the law so far as interference by Courts is concerned in regard to matters of delimitation.

4.10.2 Disqualifications in Contesting Elections: The Article 243-F deals with disqualification for membership and some grounds are mentioned. Besides that Article 243F (b)

162 AIR 1999 KLJ 461.
163 Supra note 98 at 136.
164 Supra note 148 at 42.
166 AIR 1967 SC 669.
lays down that state governments are empowered to stipulate other disqualifications. Thus after 73rd Amendment to the Constitution, state laws relating to the Panchayati Raj Institutions were amended and disqualifications were added. In all these years after the 73rd Amendment, numerous cases relating to disqualifications for contesting Panchayat elections have been decided. Examples of different disqualifications are as follows:

4.11.6.1 Educational qualification: Rajbala & Others v. State of Haryana & Others,167 In this writ petition the constitutionality of the Haryana Panchayati Raj (Amendment) Act, 2015 was challenged. The Haryana Panchayati Raj Act, 1994 was enacted to bring the then existing law governing Panchayats in the state in tune with the Constitution as amended by the 73rd amendment. Section 175 of the Haryana Panchayati Raj Act, 1994 mandates that persons suffering from any one of the disqualifications mentioned in section 175 are neither eligible to contest the election to any one of the offices under the Act nor can they continue in office if they incur any one of the disqualifications, after having been elected. The categories so specified runs into a long list, such as, convicts of certain categories of offences, adjudicated insolvent, people of unsound mind, people who hold any office of profit under any one of the three categories of Panchayats etc. By the Haryana Panchayati Raj (Amendment) Act, 2015, five more categories of persons were rendered incapable of contesting elections for any one of the elected offices under the Haryana Panchayati Raj Act, 1994. This writ petition was filed to challenge the impugned amendment Act principally on the ground that the enactment is violative of Article 14 of the Constitution. It was alleged that this amendment created unreasonable restrictions on the Constitutional right of voters to contest elections by introducing educational qualification as a requirement to contest elections and this is artificial classification among voters which has no reasonable nexus to the object sought to be achieved by the Act. The respondents submitted that nobody has a fundamental right to contest an election under our Constitution. A three bench of the Supreme Court in People’s Union for Civil Liberties (PUCL) & Another v. Union of India & Another,168 held that right to vote and right to contest are the constitutional rights of the citizen. In this case a few earlier decisions of the Supreme Court were examined in detail. These cases were N.P.Ponnuwami v. Returning Officer, Namakkal

167 W.P(civil) No. 671 of 2015.
Constituency, wherein the Supreme Court had declared that “The right to vote or stand as a candidate for election is not a civil right but is a creature of statute or special law and must be subject to the limitations imposed by it.” In Jamuna Prasad Mukhariya v. Lachhi Ram, the Supreme Court laid down that “The right to stand as a candidate and contest an election is not a common law right. It is a special right created by statute and can only be exercised on the conditions laid down by the statute. The Fundamental rights chapter has no bearing on a right like this created by statute.” The Apex Court further observed in Jyoti Basu v. Debi Ghosal, that “A right to elect, fundamental though it is to democracy, is anomalously enough, neither a Fundamental right nor a common law right. It is pure and simple, a statutory right. So is the right to be elected. So is the right to dispute an election. Outside of the statute, there is no right to elect, creations they are, and therefore, subject to statutory limitations.”

“It is settled principle of law that curtailment of any right whether such a right emanates from the common law, customary law or the Constitution can only be done by law made by an appropriate legislative body. Every person who is entitled to vote is not automatically entitled to contest for every office under the Constitution. Constitution itself imposes limitations on the right to contest depending upon the office. It also authorizes the prescription of further qualifications/disqualifications with respect to the right to contest. The introduction of such provision prescribing minimum educational qualification criteria as one of the qualifications for a candidate to contest the election has a reasonable nexus with the object sought to be achieved. It was held that keeping in view the powers, authority and the responsibilities of Panchayats as specified in Article 243-G so also the powers given to Panchayats to impose taxes and utilization of funds of the Panchayats as specified in Article 243-H, it is necessary that the elected representatives must have some educational background to enable him/her to effectively carry out the functions assigned to Panchayats.”

In Dulari Devi v. State of Rajasthan, “this case was Rajasthan brought before the Rajasthan High Court by the petitioners who were aggrieved with the promulgation of an

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169 AIR 1952 SC 64.
170 AIR 1954 SC 686.
171 AIR 1982 SC 983.
172 Supra note 167.
Ordinance by the Governor of the State of Rajasthan, which laid down educational qualification to represent the post of Sarpanchs, members of Panchayat Samiti and Zila Parishads. A bench comprising of Prakash Gupta J. and Sunil Ambwani (Acting CJ.) rejected all the stay applications against the impugned Ordinance and refrained to interfere in the matter of elections once the election process has started and directed the parties to produce empirical data before the Court to prove their grounds for/against the effect of the Ordinance. It was contended that the State of Rajasthan has acted in colourable exercise of powers with an oblique purpose to disqualify and to exclude a large section of population living in rural areas from the election process. The Counsel further pleaded to grant interim protection to save the rights of thousands of persons who did not had an opportunity of formal education in the State of Rajasthan.”

Thus after these rulings highly qualified candidates like IIT graduates, post graduates, law graduates and retired government servants are in the fray for three-tier Panchayat polls in many states and many states have introduced minimum educational qualification. In the past the highly educated kept themselves away and did not show any interest in rural polls. It is a positive development that highly educated people are taking keen interest in Panchayat polls by contesting the elections. It should not be implied from the above mentioned judgement that people with lesser educational qualification are not fit to govern the rural bodies effectively. However, the qualified people can better grasp the government programmes for its better implementation. The illiteracy of the elected representative is exploited by government officials and funds get siphoned as the elected representatives are ignorant of complexities of government fund utilization.

4.11.6.2 The Two-Child Norm: Some of the states like Haryana, Rajasthan, Madhya Pradesh, Andhra Pradesh etc. in India have introduced the two-child norm. Rajasthan was the first state which introduced two-child norm for Panchayats and Municipalities in 1992. The laws stipulated that a person who had an additional child (more than two or more living children) would be disqualified for being a Panchayat representative.174 The application of these laws in disqualifying candidates have given rise to some litigation. The constitutional validity of this provision was challenged on the ground that it is violative of Article 14, 19 and 21 of the

Constitution. The writ petitions were filed in Andhra Pradesh High Court. In *B.K.Parthasarathi v. Government of A.P.*, the appellant was chairman of Anantapur Zilla Parishad challenged the orders of the AP government seeking to remove the post as an additional child was born which was beyond the permissible limits. The petitioner was issued proceedings intimating him disqualifications. He filed the petition to challenge this norm on grounds of infringement of privacy offending Articles 14, 19 and 21. The Division Bench held that right to contest election is statutory right subject to statutory stipulation. It upheld the two-child norm.

In *Fazru and Anr. v. State of Haryana*, a writ petition was filed to challenge the Constitutional Validity of section 175 (1) (q) of the Haryana Panchayati Raj Act, 1994 as violative of private life and liberty and also violating Article 14 of the Constitution of India. The Court held that under Article 25(2), religious freedom is subject to laws made for social welfare and reform. The provision in question is a measure of social reform. The provision in question does not interfere in professing their religion, practice or propagating the same by Muslims.

In *Jagat Singh v. State of Haryana*, it was alleged that whether a person having more than two children could avoid disqualification under section 175(I) by giving one child in adoption. The court held that ‘having more than two children’ would include children given in adoption. Similarly a number of cases were filed in Rajasthan High Court to challenge the two-child norm. For instance *Mukesh Kumar Ajmera v. State of Rajasthan*, *Ansi Devi v. State of Rajasthan*, and *Bhadar Ram v. Sant Ram and Anr.* in all these cases two child-norm was upheld and it was held that exceeding the two-child norm would render the person ineligible.

The Constitutional validity of two-child norm came before the court in *Javed v. State of Haryana*, it was held that a provision making a person having more than two living children ineligible to contest for the post of Sarpanch has been held to be Constitutional and in keeping with the objective of popularizing socio-economic welfare and healthcare of the masses.

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175 AIR 2000 A.P.156.
176 AIR 1998 P&H 133.
178 CWP No.533 of 2001 decided on 4.2.2002.
181 CWP No 963 of 2002 decided on 19.3.2002.
183 *Supra* note 177 at 496
4.11.6.3 Misconduct: *Kalaji Hathiji Thakore v. State Of Gujarat and Anr.* 184 In this case the Special Civil Application was directed against the order dated 8-5-1998 passed by the District Development Officer, Banaskantha, Palanpur whereby the petitioner was removed from the office of the Upa-Sarpanch of Gram Panchayat on the ground that he had encroached upon Panchayat land by planting trees and also by putting fence. The petitioner did not remove the said encroachment despite of the fact that he was member of the Panchayat, and also did not pay the rent of the said encroachment, and therefore, financial loss was caused to the Panchayat. The petitioner alleged that when encroachment was done he was not member of Panchayat. The petitioner argued that impugned action against him under Section 57 185 could not be taken against him because he was liable to be removed from the post of Upa-Sarpanch only for the guilt or misconduct in discharge of his duties as a Panchayat office bearer and not on the ground of what he did as alleged, when he was not member of the Panchayat. The petition was dismissed on the ground that even past conduct of an existing Panchayat office bearer could be adjudged to be disgraceful and she or he could be removed from her or his post on account of such conduct.

4.11.6.4 Office of profit: The Office of profit as a ground for the disqualification is not applicable to elections to Parliament and the State legislature, it has affected the municipal and Panchayat elections as well. Therefore it is important to discuss such cases and different high Courts present a varied picture. 186 In *Janakdhari Prasad v. State Election Commission*, 187 case the petitioner was Assistant Government Pleader, he contested the election for membership of Panchayat Samiti, Nagarnousa in the district of Nalanda and got elected. The election petition was filed before the State Election Commission on the ground that petitioner was disqualified because he held on the relevant date, the position of Assistant Government Pleader which

184 AIR 2000 Guj 289.
185 The competent authority may remove from office any member of the Panchayat, the Sarpanch or, as the case may be, the Upa-Sarpanch thereof, after giving him an opportunity of being heard and giving due notice in that behalf to the Panchayat and after such inquiry as it deems necessary, if such member, Sarpanch or, as the case may be, Upa-Sarpanch has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or abuses his powers or makes persistent default in the performance of his duties and functions under this Act or has become incapable of performing his duties and functions under this Act. The Sarpanch or, as the case may be, the Upa-Sarpanch, so removed may at the discretion of the competent authority also be removed from the membership of the Panchayat.
186 Supra note 148 at 78
187 AIR 2004 PLJ 133 decided on 4.8.2004
should be regarded as office of profit. The High Court held that these Assistant Government Pledger can not be said to be ‘in service of the state government so as to bring him within the mischief of Section 139(1)(c) of the Bihar Panchayati Raj Act. The High Court further stated that a person may hold an ‘office of profit’ under the state but at the same time cannot be said to be ‘in service of the state’. The High Court set aside the order. In *Mercy John v. Thankam*\textsuperscript{188} the important question which was alleged in this case was whether a teacher of an aided school managed by the Panchayat was disqualified under Section 30(a) of the Kerala Panchayati Raj Act from contesting the election for being chosen to fill a seat in the Panchayat. It was held that teachers of an aided school managed by the Panchayat is not disqualified under Section 30(1) of the Act from contesting the election for seats in the Panchayat since they are not employees of the Panchayat.

In *Rabindra Kumar Nayak v. Collector, Mayurbani and others*\textsuperscript{189} case the question which was raised before the Apex Court was whether holding an office of profit even though the person holding it may be doing so as a temporary or a stop gap arrangement would still be considered disqualification. This question was settled when the Supreme Court came to conclusion that irrespective of temporary nature of the appointment, the appellant was indeed holding an office of profit.\textsuperscript{190}

### 4.11.6.5 Criminal Convictions:

The Panchayati Raj Acts of the states lays down the conviction for certain crimes and commission of those crimes disqualifies the persons from contesting the elections. Besides that there is also a regime for disclosure of information about past criminal convictions and facts of the past conviction or prosecution are alleged after the elections which are agitated in election petitions and ultimately in High Courts. A few such cases are as follows.

In *Lal Rai v. State of Bihar and others*\textsuperscript{191} a candidate was elected as ‘Mukhiya’ of Gram Alwalpur Panchayat in Patna district in 2001. Subsequently after the election it came to the

\textsuperscript{188} 2002(3) KLT 773.

\textsuperscript{189} AIR 1999 SC 1120/1999, See also Marykutty Mathew v. State Election Commission, 2002(3)KLT 773

\textsuperscript{190} Supra note 148 at 86-90.

\textsuperscript{191} 2003(3) BLJR 1731.
notice of State Election Commission that at the time of filing his nomination the candidate had concealed the information of his conviction. In 2002 the State Election Commission unseated him. Similarly in Hanuman Prasad v. District Judge Mirtha and Others, on the date of filing the nomination there was a criminal charge pending though subsequently during the pendency of the election petition, he was acquitted. It was held that subsequent acquittal could not alter the position. The land mark case decided by Supreme Court regarding the disclosure by the candidates is People’s Union for Civil Liberties and Others v. Union of India, The Court laid down that right of citizens to obtain information on matters pertaining to public acts flows from the fundamental Right enshrined in Article in Article 19(1)(a). Securing the information on the basis details concerning the candidates contesting for elections to Parliament or the State legislature promotes freedom of expression and therefore the right to information forms an integral part of Article 19(1)(a). This decision was pertaining to elections to the Parliament and the state legislature but in several states the disclosure requirements have been made mandatory for the Panchayat elections also.

4.11.6.6 Post-Election Disputes: As discussed earlier, in pre-election phase once a notification for election had been issued, then courts refused to stall the proceedings of the elections but after completion of large number of elections, a number of disputes arise which challenge the election results. These disputes are with respect to wide variety of issues such as irregularities in the acceptance of nomination papers, counting of votes, etc. It is useful to discuss this cases adjudicated in different states. In Smt. S.K. Khasim B v. State Election Commissioner, Andhra, the election of the Sarpanch was challenged as petitioner got 512 votes but after recounting her votes got reduced. The State Election Commissioner had notified one day prior to elections that recounting of votes where the margin of victory is less than 1 percent of the total polled votes. The Writ petition was filed which challenged the notification and also declaration of result. The High Court held that its writ jurisdiction under 226 cannot be abrogated though the high court had declined to interfere in the election process so that election

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193 Supra note 148 at 94.
195 Supra note 148 at 109
196 WP 24001 of 1995. (See also Y. Venkat Reddy v. District Munsif, ALT 495 (DB) decided on 3.7.1998)
process should not get delayed but where the Act or rule affecting the election is challenged, or where the exercise of such jurisdiction is mala fide and not in conformity with principles of natural justice, the High Court has ample power under Article 226. In this case the High Court found the SEC’s notification illegal and against Rule 37.

In *Bambhola Rai v. State Election Commission and Others*, the writ petition was filed against the order of Sub Judge IV in election case whereby an amendment petition was filed by the plaintiff after the case was heard. The plaintiff lost the election of member of Panchayat Samiti and then he filed the election petition in which he stated that there was large scale booth capturing and firing and repoll of some booths should be conducted. The plaintiff wanted to add a few more booths and filed for amendment. There was no provision with respect to for amendment of election petition either under Bihar Panchayat Act, 1993 or Election Rules 1995. The High Court held that amendment to the election petition allowed by Sub Judge was not lawful. Hence, High Court set aside the impugned order. In *Vimla Devi v. State of Himachal Pradesh*, petitioner and the respondent contested for the office of Pradhan, Gram Panchayat ‘Nanj’. The respondent secured 350 votes and won the election and petitioner got 349 votes. The petitioner challenged the election of respondent and alleged that there was improper reception of a proxy vote in favour of the respondent and due to that he won. The Authorised officer under the Himachal Pradesh Panchayati Raj Act, 1994 read with Himachal Pradesh Panchayati Raj Rules, 1994 also concluded the same and this order of authorised officer was appealed against. The appellate authority held that there was no convincing evidence to support this conclusion that proxy vote materially affected the result. Then writ petition was filed against the decision of appellate authority and High Court refused to interfere with the decision of the appellate authority.

### 4.11.6 Regularity of Panchayat Elections:

As per Article 243 E of the Constitution, every Panchayat unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed and no longer. If the executive action delays or defers these elections, that would be violation of Constitution. In many states the elections are not held

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regularly. The Articles 256 or 257 of the Constitution of India empower the central government to give directions to States to fulfill their Constitutional obligations but central government has also failed to do so. The central as well as state governments should be alive and sensitive to the constitutional mandate of holding elections regularly.\(^{199}\) The continuity of Panchayats is a principal intent of the Constitution and there are number of cases which were filed with regard to this aspect. Despite of the judgements, the timely conduct of elections continues to be fraught with uncertainties and this hiatus in conducting elections is man-made rather than some genuine supervening difficulties or unforeseen natural calamities. It is important to discuss a few cases which will give us an indication of the progress of case law on the issue.\(^{200}\)

In \textit{B.K. Chandrasekhar and Another v. State of Karnataka},\(^ {201}\) in pursuance to the 73rd Amendment about 5660 Gram Panchayats were organized in Karnataka and elections of these Panchayats were held in 1994. The fresh elections were due in 1999 and State Election Commission started making preparation for the elections. The new government came to power in the meanwhile and it wanted to make some structural changes in the Panchayat set up. The government issued an ordinance to bring those changes and this led to filing to writ petitions whereby the \textit{vires} of the Ordinance was challenged and it was alleged that it was issued to delay the elections and this led to violation of Constitutional mandate. The Division Bench of the Karnataka High Court held that the state government is empowered to legislate on state subject but if by giving effect to the Ordinance the Constitutional requirement of holding timely elections is defeated, the state law has to yield before the Constitution. Similarly in \textit{State of Haryana and Another v. Surjit Singh and Others},\(^ {202}\) case the question about the timely election was raised once again. The government of Haryana cited dissolution of the Haryana assembly as the reason for not holding elections and it was alleged that elections to be held thereafter. But High Court directed the state government to hold these elections on time. The Apex Court also upheld the decision of High Court and directed elections to the Panchayats. The Supreme Court expressed that democratic process should not be delayed unduly.

\(^{200}\) Supra note 148 at 128.
\(^{201}\) AIR, 1999 KAR 461.
\(^{202}\) JT 2000 (7) SC 320.
Moreover in *Prem Lal Patel v. State of UP*, the petitioner challenged the validity of the Ordinance through which amendments to the Uttar Pradesh Panchayati Raj Act, 1947 were carried out. The alleged Ordinance incorporated a new sub-section 3A according to which the elections to Panchayats could be deferred due to unavoidable circumstances in public interest. This Ordinance was struck down as unconstitutional and ultra vires of the provisions of Articles 243F and 243 K of the Constitution.

### 4.11.7 Reservation:

In order to enhance the representation of weaker sections like women and SCs and STs reservation was introduced for Panchayats also. The most revolutionary provision in the 73rd Constitutional Amendment Act is the reservation of one-third of the seats for women in local bodies, along with reservation of seats for scheduled castes and scheduled tribes in proportion to their regional populations. The reservation of seats for women (and for SCs and STs) concerns not only members but also office-bearers. Thus, not only one-third of elected members but one-third of Sarpanches or Chairpersons have also to be women and SCs and STs. But the litigation with regard to the issue of reservation is also increasing in different High courts. The Constitutional provisions and statutory provisions relating to reservation are quite straightforward, problem have arisen mainly due to rotation. Therefore, it is important to discuss a few cases to get an idea of complexities in the actual application of the reservation system.

In *Balaji and Another v. Government of AP*, case, the election of President of Mandal Parishad, Singarani which falls in a scheduled area was challenged. The 12 out of 13 villages were predominantly tribal and post of chairperson cannot be reserved for a backward class woman only because one particular village falls outside the scheduled area. The court held that constitutional mandate would be completely defeated if the person from backward class is allowed to run the Mandal Panchayat despite the fact that 12 out of 13 villages form part a

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205 AP 2002 (3) ALT
scheduled area. In *Prakasam District Sarpanches Association and Others v. Government of AP*, 206 case reservation through draw of lots using the figures of Backward Classes Finance Corporation was challenged. The Court observed that reservation of seats in backward classes by process of draw of lots would defeat the object of reservation. The state government was directed to identify the Backward classes from the existing voters list and on such identification reservation of seats in favour of Backward Classes should be made in descending order in rotation.

Moreover in *Satbir Singh and Another v. Ajit Singh and Another*, 207 it was held that if no provision is made regarding the reservation of seats for SCs, STs or Backward Classes, the election tribunal cannot declare the whole election null and void on the ground such failure amounted to a violation of the Constitution of India. The notification is bad. The election tribunal is not competent to go into the legality or illegality of the notification issued by the Government of Punjab. In *C.R.Suresh v. State of Kerala*, 208 a question which arose whether a ward newly created by combining parts of two other wards can be reserved in the process of rotation if the two wards from which the new ward was created are themselves reserved in the previous election. Under the Kerala Panchayati Raj Act previously reserved wards should be excluded for the purposes of rotation. It was held that since the entire population in the newly created ward was covered by portions taken from three other wards previously reserved, the new ward has to be excluded from drawing of lots for the purpose of reservation.

In *B. Geetamma v. Smt. Gulfom and Others*, 209 the petitioner contested the election held to the Shimoga Taluk Panchayat which was reserved for backward classes. The petitioner produced the caste certificate that she belonged to Kumbara caste. The petitioner won the election but it was challenged by the respondent who alleged that petitioner did not belong to backward class. She was a lingayat as indicated in her school transfer certificate. The High Court held that where a subsequent entry relating the caste of a person was different from the one from entries in earlier records such as school admission records, it is for that person concerned to show how this change was brought about. In the absence of evidence and suitable explanation, the court would be justified in discarding the subsequent entries. Thus there are

206 2001(1) ALT 38.
208 2000(3) KLT 159.
209 2003 (4) KLJ 401.
large numbers of cases as far as reservation in Panchayats is concerned.

4.11.8 Removal of Elected Representatives: There are provisions in the Panchayat Acts of different states for removal of elected representatives for various reasons like failure to call meetings, removal by designated authorities for non-performance of irregularities, etc. The motions of no confidence are passed against chairpersons and Panchayat members. There are numerous cases adjudicated in different High Courts as regards removal of elected representatives. A few of them are as follows:

In Gayam Iswaramma case,\(^{210}\) out of a total of eight members, five supported the motion. Section 245 of the Andhra Panchayat Act provided that fraction even if less than half should be counted as one. Two-third majority out of a total of eight will be 5.33. The explanation provided to section 245 stated that fraction below 0.5 should be ignored was in view of court not legal. The court held that motion of no confidence should be considered as failed.

In Gogineni Kotiswara Rao case,\(^{211}\) the Andhra Panchayati Raj Act stipulates two-third majority for carrying a motion of no confidence. The total number of members would include a suspended member if any but not vacant seats. In the instant case the total membership on the relevant date was 11 and 2/3\(^{rd}\) majority would be 7.33 but under the relevant rules fraction is to be regarded as one. Hence eight members have to carry the motion. Only seven were present, the motion was considered not valid.

In Jacob Abraham v. State,\(^{212}\) a date was fixed to convene the meeting for the consideration of no confidence motion but obstruction was created by the supporters of the President of the Panchayat as a result of which the petitioner could not attend meeting. The Deputy Director, Panchayat who had convened the meeting dissolved the same for lack of quorum. The Kerala high court held that Kerala Panchayati Raj Act had taken care to protect the freedom of members to move no confidence motion and this safeguard cannot be defeated by extraneous considerations. Therefore, the court accepted the petition and considered the dissolved meeting as adjourned and directed to convene fresh meeting.

\(^{210}\) 1998 (6) ALT 308 decided on 23.9.1998. (See also Nandan Goud case, 2004 (2) ALT 336)
\(^{211}\) 1993 (3) ALT 496.
\(^{212}\) 1999 (1) KLT 25.
Thus there are numerous cases relating to the broad subject of Panchayats and we have discussed only a few cases. The Panchayats will continue to exist notwithstanding the controversial and constitutional points of law. Therefore, we can expect more disputes being posed for adjudication in the years to come.\textsuperscript{213}

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\textsuperscript{213} \textit{Supra} note 148 at 208