CHAPTER-VIII
THE PROBLEM OF PANCHAYATI FINANCE:

A close affinity between economics and politics has long been established. It is a truism in political science that no association or organisation either social or political can discharge its proper responsibilities without sufficient and requisite economic resources at its command. The Taxation Enquiry Commission in its report in 1953-54 suggested that certain taxes would in effect be reserved for being utilised solely by or for local bodies. The levy of at least a few compulsory taxes is essential not only to assure every Panchayat a small income from its own resources but also to emphasise the fact that it is a self-governing body. A study of the both the British and the American local Government shows that in both the countries the Units of local self-Government have their independent sources of income.

Financial resources of the Gram Sabha.

In the new Panchayat set-up in West Bengal the Gram Sabha - the basic unit of the system has no finance in its hand but it has control over finance just as the Parliament or Legislature has such control in the national or provincial level. The Gram Panchayat, which has the exclusive authority for the preparation of the budget estimate under Section 59

2. Report of the Study team on Panchayat Raj Finance, 1963 Part-I, P-11, G.F. "It is imperative that each level the local authority should be given its own minimum resources. If central of resources remains of the State Government, the devolution is bound to be rather nominal." (Jayprakash Narayan - Swaraj for the people, 1961, Pp-9-10.)
Sub sec(1) of the Act and the Rules made thereunder, has to submit the budget at the annual general meeting of the Gram Sabha after having been passed by it. But the Gram Panchayat has practically been given the sole power of controlling the financial affairs of the village as recommendations of the Gram Sabha suggested at the annual general meeting may or may not be accepted by the Gram Panchayat. The exact wording of the West Bengal Panchayat Rules 1958 will make it quite clear the central of the Gram Sabha over the budget estimate prepared by the Gram Panchayat.

The Secretary of the Anchal Panchayat shall communicate to each Gram Panchayat on or before the 1st. December of every year the approximate amount to be allotted during the next financial year to the Gram Panchayat under sub-clause(d) of Sub-section(8) of Section 55 and on receipt of this communication the Adhyaksha shall prepare of by the 15th December of every year the budget estimate of receipts and expenditure of the Gram Panchayat for the next year in form 9 annexed to these rules.

The budget shall be considered and approved at meeting of the Gram Panchayat to be specially convened for

1. The West Bengal Panchayat Act, 1957.
the purpose by the Adhyaksha at least 15 days before the date fixed for the annual general meeting of the Gram Sabha."

"The budget estimate approved by the Gram Panchayat shall be placed before the Gram Sabha at its annual general meeting for consideration."

"Within seven days after the meeting of the Gram Sabha another meeting of the Gram Panchayat shall be convened by the Adhyaksha to consider the budget having regard to the recommendations of the Gram Sabha. The budget shall be finalised at that meeting. Thus, if any control has been given over to the Gram Sabha on the budget estimate framed by the Gram Panchayat, such control is a purely formal or a nominal one as the clause 'having regard to the recommendations of the Gram Sabha' used in the aforesaid Rule does not bear any obligatory character. It is a practice that a democracy must give effect to the principle of Parliamentary control over finance but the makers of the Panchayat Act could not think that the Gram Sabha could effectively use such power with efficiency and responsibility. But though the makers of the Panchayat Act could not recognise such power to the Gram Sabha for whatever reasons that might be, it must be remembered that in so doing they failed to give effect to the democratic principles and traditions. The powers of the Gram Panchayat over the financial resources of the village are also seen to grave doubts when the Act vests the prescribed authority with the final
power of passing the budget estimates prepared by the Gram Panchayat. But with the establishment of the Anchalik Parishad and the Zilla Parishad by the Act of 1963 and to give full implementation to the principle of democratic decentralisation and people's participation in planning and development the original rule of the approval of the budget estimate of the Gram Panchayats by the Inspectors of Panchayats was deleted and in this place the final power of approval of the budget estimate of the Gram Panchayat was given to the Anchal Panchayat concerned.

Ultimately, the Act has recognised that a Gram Panchayat shall have the duty to supply such funds as may be required by the Gram Sabha concerned to meet the charges incurred by the Gram Sabha in carrying out its duties under this Act; but in reality it is found that Gram Sabha has no positive or welfare functions. The only function which it has is to criticise, to put questions and to give directions to the Gram Panchayat.

**FINANCIAL RESOURCES OF THE GRAM PANCHAYAT:**

The Act has made the Gram Panchayat the potent and genuine instrument of rural welfare without associating it with independent sources of income. With respect to its financial resources the organ is totally dependent upon its

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1. Sec. 59 of the W.B. Panchayat Act, 1957. (The prescribed authority was the Inspector of Panchayats of the S.D.O. in respect vide Panchayat Executive Instructions, 1960, Part-I, P-114.)

2. Published in the Calcutta Gazette, Extraordinary, dated July 5, 1966.
immediate higher organ - the Anchal Panchayat. As per present regulations the Secretary of the Anchal Panchayat shall communicate to each Gram Panchayat on or before the 1st. December of every year the approximate amount to be allotted during the next financial year to the Gram Panchayat and on receipt of this communication the Adhyaksha shall prepare by the 15th of December of every year the budget estimate of receipts and expenditure of the Gram Panchayat for the next year.

The Anchal Panchayat in intimating the amount of funds made available to a Gram Panchayat through its Secretary shall take into consideration, firstly the amount available for distribution; secondly, the amount raised as tax, toll, fee or rate from such Gram Sabha and; lastly, the amounts required by such Gram Panchayat concerned according to the budget framed by it for carrying out its duties and functions during any year. Whatever might be the sources of income of a Gram Panchayat, it is palpably clear that the average annual income of the said organ varies between Rupees 1 (one) and Rupees 2 (two) per head of its total population and its expenditure thereon.

Save and except the sources as said beforehand from which the Gram Panchayat derives its finance it may have gifts or contributions and income from endowments and trusts made in its favour or enterprises under its management


* These are the principles as laid down in sec.55, sub-sec. (2), Cl.(d) in the W.B.Panchayat Act, 1957 for distribution of funds to constituent Gram Panchayats.

2. Record of the Study Team on Panchayati Raj Finance 1962, Part-II, PP-146-47 read with the budget estimates of Tita Gram Panchayat in the District of Murshidabad which the author has in his possession for the years 1961-62 and 1962-63.
and these might constitute its independent sources of income, if any.

Financial resources of the Anchal Panchayat:

It is a matter of great concern to us that in the new set up the Anchal which is an indirectly elected body has been made the financial authority in the rural areas of West Bengal. It is very interesting to note that the Anchal has no positive and welfare functions save and except its functions with regard to the imposition, assessment and collection of taxes and the disbursement of the fund so accrued therefrom and the maintenance of Defadars and Chowkidars etc.

The Anchal Panchayat shall have different sources of revenue such as: firstly, contribution made by the State Government for general or any special purpose. The introduction of development projects through the mechanism of the five year plan has led to arrive at the decisions that the contributions of the State to the aforesaid projects or to carry out any purpose under the Panchayat Act must reach the Gram Panchayat through the Anchal Panchayat. Thus, the Anchal has been a via media through which the government grants would reach the Gram Panchayat. Under the present arrangement a lump grant of Rs. 10 thousand per annum for development work subject to deduction of costs incurred for conducting elections of Gram and Anchal Panchayats is generally handed over to an Anchal. Moreover, the pay and allowance of the Secretary of an

1. See ss. 55, Sub-sec. (1), Cl(a) of the W.B. Panchayat Act, 1957.
Anchal Panchayat to be appointed under Section 48(2) of the West Bengal Panchayat Act, 1957 and a government contribution equivalent to 50 p.c. of the salaries of the Chowkidars and Dafadars which are payable from the Anchal Panchayat fund are generally made available to the Anchal.

The present lump grant of Rupees One thousand per annum to an anchal consisting of seven to ten thousands of population will clearly demonstrate the insufficiency of the amount that might be used for development projects. The amount of grants as said beforehand is as poor and as negligible that it will have little effect on the people living in the locality.

In an Anchal with larger resources amounting to Rupees thirty to forty thousands a year such government grants would constitute about 2 to 3 per cent of the total revenue whereas the figures show that in the U.S.A. the grants-in-aid has been for many years an important source of local revenue. As long as 1902 it amounted to 10 per cent of all local tax revenue; by 1950 it had been greatly increased in amount and had been extended to cover a variety of functions. The council of State Governments estimated that, in 1946, school districts received 36 per cent of their revenue in the form of grants, counties 34 per cent.


* Foot-note : During the third reading of the Bill in the West Bengal Legislative Assembly Dr.Srikumar Banerjee observed : "I am fully in agreement with my friends of the opposition who said that unless adequate finance is made available this new experiment will founder on the rock of poverty and I am also sceptical about further taxation being realised from the people in the countryside. So ultimately government will have to bear the entire responsibility, the financial responsibility for running the show." (W.B.Legislative Assembly Proceedings, Vol.15, July 3 to August 30, 1956, P-327.)
towns and townships 20 per cent and special districts 3 per cent. In England the available figures show that in 1936-37 the grants constituted about 27 per cent of the entire local revenue. The gradual enhancement in the quantum of Government Grants and the corresponding decrease of the burden of rates and taxes upon the people are important features of the financial resources of the local authorities in England.

The comparative figures of year to year rate-burden and of Government Grants will clearly demonstrate the above fact.

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<tr>
<th>Years</th>
<th>Rates</th>
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<tr>
<td>1913-14</td>
<td>76%</td>
<td>24%</td>
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<td>1929-30</td>
<td>59%</td>
<td>41%</td>
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<tr>
<td>1930-31</td>
<td>52%</td>
<td>49%</td>
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<tr>
<td>1939-39</td>
<td>56%</td>
<td>42%</td>
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<tr>
<td>1947-48</td>
<td>55%</td>
<td>45%</td>
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<tr>
<td>1953-54</td>
<td>47%</td>
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Secondly, the most significant source of revenue of the Archal Panchayats is the yearly imposition of taxes, tolls, fees, rates etc. and their collection thereof. The

1. Lane J. Lancaster - Government in Rural America, 1952, PP-143-44.
Budget estimates of one of the most prosperous Anehal of the district of Birbhum show that out of thirty to forty thousands of its annual revenue twenty four to twenty six thousands do arise out of collection from the people by way of taxation, fees, tells etc. The British system of local Government furnishes the example that about 46.8 per cent of the total local revenue accrued to local authority in the year 1936-37 out of taxes and fees etc.

The number of taxes which an Anehal is authorised to impose by the Act itself may be enu-merated thus : property tax; tax on professions, trades or callings. The imposition of taxes on the aforesaid subjects has been made obligatory on the part of an Anehal Panchayat. The provisions of the Act have made it quite clear, firstly, that an Anehal Panchayat shall impose yearly a tax upon persons who are the owners or occupiers or owners and occupiers of lands and buildings within the local limits of the jurisdiction of the Anehal Panchayat; and secondly, on professions, trades, callings and employments carried on or held within the local limits of its jurisdiction. It is laid down that the Anehal

2. Local Govt. in Great Britain - Herman Finer, 1950 Ch.XVII, P-398.
3. Sec. 57 Sub-sec. (1) cl. (a) & (b) of the W.B. Panchayat Act, 1957.
4. Ibid.
Panchayat shall by the third quarter of each year (October-December) determine the total assessable income during the year of assessment of the person concerned on which he shall be liable to pay the tax during the following year. The expression 'Total assessable income' means the income which a person derives from lands or buildings, trade or business or any other occupation held within the limits of the Anchal Panchayat. Thus, in the present context the Anchal Panchayat shall determine the total income of a person concerned and, thereafter, the taxes, are imposed on a progressive scale. The scale in accordance with which the assessment by the Anchal Panchayat is made is given below:

(a) For the first Rs.150 or less of the income ... ... 75 paisa.
(b) For the next Rs.750 or less of the income ... ... ½ percent.
(c) For the next Rs.500 or less of the income ... ... 1 percent.
(d) For the next Rs.1,000 or less of the income ... ... 1½ percent.
(e) For the next Rs.2,000 or less of the income ... ... 1½ percent.
(f) For the balance of the income ... ... 2 percent.

1. W.B. Panchayat Rules, 1958, ss.110 & 111.
Of course, it is obligatory on the part of the Anchal to deduct the cost incurred by a person incident to such income. In the case of assessment of annual income in relation to agricultural land it has been specifically stated that fifty per cent of the said income must be deducted for the cost of cultivation and the rent and cesses payable for such lands and, thereafter, the remaining portion would be subject to taxation. But in the assessment of annual income in relation to tanks, fisheries, forests, orchards, plantations and non-agricultural lands the costs which would be subject to deduction by the Anchal has not been clearly laid down. Only it has been said that the estimated income from the aforesaid sources would be subject to taxation after deducting 'the reasonable cost' incident to such income. Thus, in the latter case the Anchal has been given a free hand to determine what constitutes the 'reasonable cost' incident to aforesaid income. To associate the Anchal with such powers has its advantages as well as disadvantages. On the side of its advantages it can be said that it has accentuated the principle of local democracy, local initiative and local freedom. On the contrary, it can be shown that the aforesaid right might bring the atmosphere of favouritism within the limits of the Anchal. Because the people aligned to the party of the Pradhans of the Anchals might
enjoy the advantages of unreasonable deductions when the determination of the reasonableness of the amount is solely dependent upon the whim of the Anchal. The determination of annual income from agricultural and non-agricultural lands and also from any other source has been left in the hands of the Anchals. The justice and fairness of determining such income and their assessment thereto are also open to doubts and a lot of misgivings.

However, the structure has made room for provisions by virtue of which appeal can be made before the Anchal Panchayats by any aggrieved party against any discrepancy or injustice committed by the organ either consciously or unconsciously. If the party so affected is not satisfied with the decisions of the Anchal, he can make an appeal before the District Panchayat Officer whose decision shall be final.

The introduction of progressive scale in the imposition of Panchayat taxes is a welcome feature in the present context of India's alignment to democratic socialism. Progressive taxation with the attendant invocation of economic justice ensures a larger and bigger size of

* W.B.Panchayat Rules, 1958, Nos.112,113 and 114.
revenue which is undisputably needed for the present socio-economic rejuvenation. This principle of progressive taxation in the local government system does not apply even to the rating system in England. On the contrary, it is not unfair to say that instead of following it the rating system follows the exact opposite; instead of being progressive it is regressive; instead of hitting the larger incomes ever more heavily, it hits the small income ever more heavily. The rating system in England gives hardly any exemption or relief at all: with the slightest exception, rates are paid from the first selling of rent upward, however small the income. In contrast it may be found that the West Bengal Panchayat Act, 1957 has made an express provision by virtue of which a person who, in the opinion of the Anchal Panchayat, is too poor to pay one anna a month, shall be altogether exempted from payment of any tax, rate or fee under this Act. The incorporation of this provision in the Act has made the tax structure follow the theory of 'ability to pay' in the taxation system of the local areas.

Thirdly, another most important source of revenue of the Anchal which is made optional is the fees of the registration of vehicle and fees on plaints, petitions and other processes in suits and cases instituted before the Nyaya

1. Finer - English Local Govt. 1950, P-429.
2. Sec.57 sub-sec. (4) of the W.B.Panchayat Act, 1957.
Panchayat. It is laid down that every owner of a Rickshaw, Cycle-Rickshaw or Cart, Bullock cart with rubber tyres has to pay 4.00 and Bullock cart without rubber tyres and other vehicles drawn by animals 6.00 as maximum fee to the Anchal Panchayat.

In relation to Bullock carts, the question arises as to whether cart belonging to an agriculturist should be taxed. Most carts are owned by agriculturists who use it for purposes of both cultivation and marketing.

In the Rajasthan Act, Bullock carts used for purposes of cultivation are exempted. For a owner of a Bullock Cart, it is important that village road is maintained in a proper condition. So it is recommended that a vehicle tax should be levied on all vehicles including bicycles without exemption, but, the minimum of tax should be sufficiently low, say 3s.3 per year. In West Bengal it is a welcome feature to note that some Anchals have already decided to levy vehicle tax to the extent of Re.1.00 on all bullock carts used for cultivation. It can be undoubtedly said that it is highly improper to charge a heavy tax on Bullock Bullock Carts of the agriculturists when their total income arising out of agriculture and other avocations has already been subjected to taxation.

1. Sec.57 sub-sec.(2) Cl.(a) & (b) of the W.B.Panchayat Act, 1957.
2. W.B.Panchayat Rules, 1958 no.110 q.
A very peculiar source of revenue of the Anchal in West Bengal is the fees on plaints, petitions and other processes in suits and cases instituted before the Nyaya Panchayat concerned. But this right to impose fees is associated with the duty to meet the expenses of Nyaya Panchayats. The commitment of the Anchals to maintain the village judiciary will, perhaps, produce little good effect in ensuring justice to the contestants as there will always be a possibility of danger of political and economic pressure of the Anchal upon it.

Thus, it is observed that the present practice of constituting and maintaining a village judiciary (Nyaya Panchayat) by an executive organ like the Anchal Panchayat should be abolished in order to establish equity and fairness in the dispensation of justice. The Report of the Study Team on Panchayati Raj finances lays down that some Acts provide that fines imposed by Nyaya Panchayats should go to village Panchayats. This is generally coupled with the liability to meet the expenses of Nyaya Panchayats. We note that in the report of the Study Team on Nyaya Panchayats it has been suggested that Gram Panchayats may, by law, be required to transfer a percentage of their funds to Nyaya Panchayats or alternatively the State Governments may make reasonable grants for the purpose of Nyaya.

1. Sec. 57 Sub-sect.(2) Clause (b) read with Sec.46 sub-sect. (1) clause (a) of the West Bengal Panchayat Act,1967.
Panchayats. We support the latter suggestion.

Fourthly, a very notable source of revenue for the Panchayats may be a pilgrim tax. The Panchayat Act in West Bengal suggested that Anchal Panchayat could levy a fee for providing sanitary arrangements at places of worship or pilgrimage within its jurisdiction. The rural areas of West Bengal are found to be in abundance with so many places of pilgrimage that tax on this item might confer a lucrative revenue to the impoverished local treasury. In Maharashtra, Gujarat, Jammu and Kashmir, Rajasthan and Bihar, Pilgrim tax is leviable at the option of Panchayats. It was found at Dehu in the Pavana District of Maharashtra, which is the birthplace of Sant Tukaram, the Panchayat was getting such a larger income from this tax that it neglected all other tax sources. It is considered that pilgrim tax can be levied only at certain centres, which have religious or other importance, its levy should not be entrusted to Panchayats. Wherever it is desirable to impose it, it should be with Panchayat Samiti or Zilla Parishad, a part of the proceeds being given to Panchayats concerned and the rest utilised for the common benefit of the area of Panchayat Samiti or the district.

Lastly, the Panchayat Act in West Bengal

2. Sec. 57, Sub-sec.(2), cl.(c) of the W.B.Panchayat Act, 1957.
has made provisions for the voluntary imposition of a water rate, lighting rate and a conservancy rate where arrangements for the supply of water, lighting and cleaning of private latrines etc. have been provided for. Not only the Act of West Bengal but also many acts in India provide for levy of fees on the subjects above. But ordinarily, the taxes or fees on the said items should be optional as long we are able to make provisions for the supply of drinking water and light etc. to every nook and corner of the village through the machinery of panchayat. Thus, it is desirable that where a Panchayat consists of many villages or hamlets and a particular service is rendered only to a part of its area, those who do not benefit, should be exempted from the levy of the fee. Normally, the basis for fixing the rate of such a fee may be the amount needed for servicing the loan taken or the liability incurred in providing the service. The principle is nothing new to a fee the very characteristic of which is contrast with tax shows its voluntary nature of imposition and a person has to pay the same when he derives special benefit from the service which the other does not.

It may be curious to compare the financial resources of the present Anshal Panchayat with those of the past Union Beards. Section 37 of the Bengal Village Self-Government Act, 1919 under which the Union Beard would impose the rate consisted

1. See 57 sub-sec.(2) Cl.(d), (e) & (f) of the W.B. Panchayat Act, 1957.
of two parts. Section 37 A provided for the raising of the rate only to meet the expenses which the Board would incur on account of the salaries and equipment of the Watchmen. As to the imposition of the rate under this part of the Section, the Union Board had no option. It must levy a rate so as to raise an amount necessary for maintaining this establishment of watch and ward. The raising of revenue under section 37 B however left entirely to the discretion of the Board. It could undertake this additional taxation for sanitation, education and similar other purposes provided two-thirds of the total number of members of the Board would decide in favour of it at a meeting specially convened. If the Union Board undertook to impose a rate under section 37 B, the District Board was required in its turn to make to it a suitable grant-in-aid.

It was also laid down that the rate to be imposed by a Union Board under section 37 would be an assessment according to the circumstances within the Union and property within the Union, if any, of the persons liable to the same and it was decided that the amount as

assessed upon any person in any one year would not be more than eighty four rupees. In the old set-up the Union Board was given numerous resources in general and the Board could make its position sound if the latter would desire and it is true that we have in record of many instances of sound financial position of several Union Boards. But the sound financial position of the Boards referred to on many occasions would constitute but an exception to the general rule of economic anaemia from which the Union Boards were found almost everywhere to suffer. The average income of a Union Board would hardly exceed Rs.2,000 a year. Of this again the major portion was raised and expended for the maintenance of the Office establishment and the watch and ward. After meeting the expenses of collection and establishment and making the payment of the Checkiders and Dafadars, these Boards would find very little left for opening roads, fighting ignorance and diseases and providing other amenities to the people. The grants which the Government would make to the Union Boards were also quite insufficient and spasmodic.

With the establishment of Panchayats the income of the Anehal Panchayats—a replica of the

1. Sec.38 sub-sec.(1) of the Bengal Village Self-Government Act, 1919.
former Union Board - has gone up considerably in comparison with the past Union Board. Under the present arrangement there is a regular supply of government grants and a larger possibility of enhancing the revenues through the media of different types of taxes and fees. But still the report of the study team shows that Panchayats had in many places made genuine efforts to discharge their functions. There were, of course, instances where they were not discharging even the minimum obligatory functions, largely due to paucity of funds. Even the basic civic amenities like safe drinking water supply, sanitation and conservancy, were not being adequately provided to the community. Panchayats had shown greater initiative and enthusiasm in constructing school buildings, community halls, Panchayat Ghars and village approach roads, through local contributions and Government 'matching grants, but had been unable to maintain them in good repair.'

The Study Team also toured West Bengal and in its report the Team observed that after the setting up of Anchal Panchayats receipts from taxes had been doubled in many cases. At present the annual revenue of every Anchal Panchayat is approximately Rs. 5,000 to Rs. 6,000.

After meeting its share


2. Published in the Weekly Paper 'West Bengal' by the Director of Information, Govt. of West Bengal, Saturday, October 1, 1966.
of salaries of Dafadars and Cheekidars and other administrative expenses, the income of an Anchal Panchayat from its own sources is distributed amongst its Panchayats. The principles for the allotment of funds had been ineffective as a major portion of the income of Anchal Panchayat was spent by itself and not much was left for distribution. It was also been found that Gram Panchayats and Anchal Panchayats have not been able to develop any remunerative assets for themselves. The dismal picture of the financial position of most of the Anchal Panchayats as depicted by the Study Team can never be claimed to be a permanent one; it will be eradicated, we think, through greater local effort and larger governmental grants in due course. The introduction of successive five year plans with its due emphasis on the revival of local democracy and agricultural improvement will create a favourable atmosphere in which the Panchayats will thrive. The improvement of the resources of the Panchayats lies in the creation of a Psychology amongst the people. The People must be taught to think that Panchayat is their own organ and it stands for their betterment and welfare. When this objective is achieved and a proper psychology is

* The principles are laid down in Sec. 55, sub-sec.(2), cl.(d) of the W.B. Panchayat Act, 1957. See ante - "financial resources of the Gram Panchayat"

1. Report of the Study Team on Panchayati Raj Finance, 1963, Part-II, P-143,
created, it will not be difficult to augment the resources of the Panchayat if, on the other hand, development does accompany the enhancement of the real per capita income of the people.

It is doubtless that the resources of the Anchal Panchayats have in most cases been doubled and in some cases they have been three times more than the resources of the Past Union Boards. But the recent decision of the Calcutta High Court has debarred the Anchal Panchayats to levy some of their statutory taxes for which the financial resources of the Anchal Panchayats have been heavily affected. Due to the said decision of the Calcutta High Court the Anchal Panchayats in West Bengal have lost their courage and confidence to implement the provisions of the Act and the Rules made thereunder relating to the assessment, imposition and, realisation of statutory taxes. In an application made by Mr. B.C. Banerjee before the High Court under Article 226 of the Constitution of India the Hon'ble Judge held the view at-

(1) that the West Bengal Panchayat Rule, 1958 no. 112 sub-rule (3) provides for a "general publication of the assessment list at a conspicuous place within

* Justice D. Basu of the Calcutta High Court delivered this judgment on 10th July, 1964.*
the jurisdiction of the Gram Panchayat, inviting objections to the assessment list. Rule 118, again provides for another general publication of the list of defaulters, in a manner similar to that of defaulters, in a similar manner, before issuing the distress warrant, referred to in Rules 119-120 for recovery of the tax. The petitioners are, accordingly right in their contention that the Act does not provide for the service of individual notices, either before or after the assessment, and there is much force in the contention made on behalf of the petitioners that a taxing statute which does not provide for any reasonable opportunity being offered to the assessee being heard before the liability is imposed upon him may be challenged as imposing procedurally unreasonable restriction upon the freedom of property or / and freedom of business guaranteed to him by Act, 19(1) (f) (g) of the constitution. This has been laid down by the Supreme Court in the cases of (1) Kunna—that v. State of Kerala A. P. 1961 S.C. 552, (2) Balaji v. I. T.O., A.I. R. 1962 1 S.C. 123".

(2) "As regards a tax on Professions, trades or callings, the constitution itself acknowledges, in
clause (1) of Article 276, that it is, in substance, of the nature of a tax on income and is, accordingly, bound to encroach upon the Union List, which the State Legislature is not otherwise competent to do."

(3) Entry 49 of List 11 in the Seventh schedule of the constitution of India empowers the State Legislature to make laws relating to the imposition of "taxes on lands and buildings". The learned Judge held the view that though "entry 49 of List 11 does not lay down any limitations upon the manner in which the tax on lands or buildings is to be imposed, but it must be a tax on the land or buildings and not a tax upon the income or profits derived from the land or buildings." But Part A of the W. R. Panchayat Rules, 1958, No. 110, in essence, "imposes a tax on non-agricultural income on the pretense of imposing a tax on "lands and buildings" which is within the competence of the State Legislature, and, accordingly, of the Panchayat. This Rule, must accordingly, be held to be ultra vires the constitution and as long as rule 110 in its present form stands, section 57 (1) (a) of the Act must also be tainted with that invalidity."

1. Ibid, P-224.
2. Ibid, P-225.
3. Ibid, P-228.
As a result of the aforesaid decision of the Calcutta High Court only the imposition of fees on the registration of vehicles; fees on plaints, petitions and other processes in suits and cases instituted before the Nyaya Panchayat; a fee for providing sanitary arrangements at places of worship or pilgrimage within its jurisdiction; a water rate, where arrangement for the supply of water is made; a lighting rate, where arrangement for lighting of public streets and places is made; and a conservancy rate, where arrangement for clearing private latrines, urinals and cess-pools is made are within the competence of the Anchal Panchayat. But it must be observed that about more than half the resources of the Anchals would arise out of 'taxes on lands and buildings, professions, trades or callings. Thus the said decision of the Calcutta High Court seriously affected the financial resources of the Anchals and as a result the latter failed in many cases to embark on projects of rural welfare. If such things continue the Anchals as well as Gram Panchayats will result in utter failure as instruments of rural welfare. Thus the authorities are considering the total revision of the Act to make it immune from its lapses and irregularities.


It can be corroborated by a report published in "Kurukshetra". The report states that "the per capita tax collected by Panchayati Raj institutions - Anchal Panchayat, Anchalik Parishad and Zilla Parishad - in West Bengal is lowest in the country. The per capita tax collected by West Bengal Panchayats during 1965-66 was 46 paisa as against 2.57 in Gujarat during the corresponding period." (September, 1965, P-34).
The resources of the Anchalik Parishad:

Due to the assumption of the functions of the National Extension Service Blocks, the Anchalik Parishad—a quite similar organ of panchayat Samities in other states—have come to occupy a crucial position in the present set up of Panchayati Raj. Anchalik Parishad like the Samiti as stated above gets development funds according to its stage in the community development plan and has to spend them in accordance with the schematic budget. Of 6,182 community development blocks, 659 are in pre-extension stage getting a small annual grant, 2,756 are in the first stage getting on an average Rs. 2 lakhs to Rs. 3 lakhs and 1,451 are in the second stage getting on an average Rs. 1 lakh per year under the schematic budget and such additional funds as may be given by State departments outside the schematic budget. The balance of 506 blocks are in post stage II which have to get their entire funds including the salaries of their staff from the State Government. It is very significant to observe that one of the primary sources of revenue of the Anchalik Parishad is the aforesaid contributions and grants of the Government. The blocks which

1. Sec.05 sub-sec.(l) of the 7th S.Zilla Parishads Act, 1963.
are lately set up by the N.F.S. scheme are generally
given over one lakh per year as Government
grants and these blocks would consist of 75,000 of
population. The comparison of the amount of fund
available to a block with the number of population
shows that the grant will be slightly more than Rupee
one per head. It has been recommended that about
Rs.400 crores (a) Rs.10 per capita of rural population
be allotted in the fourth plan for this purpose. If
Samitis and Panchayats contribute an equal amount,
unspecified development schemes of the order of Rs.800
crores can be executed during the fourth plan to which
the rural population will be contributing directly.

But the aforesaid recommendation of the
Study Team on the enhancement of Government Grants and
contribution for the progress of community development
and Panchayats all over India has found little acceptance
when the draft outline of the fourth plan shows the
allotment of Government contributions to the tune
of Rs.200 crores for the purpose.

The amount of Government Grants received
by the Anchalik Parishad shall also be apportioned
between the Anchalik Parishad and its constituent
Gram Panchayats. The Act, in its sec.65 sub-sec.(2)
has made it clear that 'an Anchalik Parishad shall not

1. Ibid, P-28.
2. Fourth Five Year plan - A draft outline, P-185.
undertake or execute any scheme confined to an area over which a Gram Panchayat has jurisdiction and, thus, after the receipt of the Government allotments the Anchalik Parishad shall inform each Anchal Panchayat for communication to Gram Panchayats concerned of the probable Government allotments which may be made available to each Gram Panchayat during the next financial year for execution of projects within the limits of Gram Panchayats under different heads of the schemetic Block Budget or under various development schemes of different departments of Government in the State Plan.

Provisions for contributions and Grants made to the Anchalik Parishad fund by the Zilla Parishad have also been incorporated in the Act. The Act in its section 18 sub-sec.(3) lays down that a Zilla Parishad shall not undertake or execute any scheme confined to a block unless the implementation of such a scheme is beyond the competence of the Anchalik Parishad concerned financially or otherwise. In the latter case the Zilla Parishad may execute the scheme itself or entrust its execution to the Anchalik Parishad and give it such assistance as may be required. Thus, it is laid down that the Government allotments to a Zilla Parishad for schemes under the

State Plan, which are confined within a Block and which the Anchalik Parishad is competent to execute, shall be reallocated by the Zilla Parishad to the Anchalik Parishad and shall be shown in the Zilla Parishad Budget accordingly.

The Anchalik Parishad can enrich its fund by mobilising loans from the central or state Government. If this loan received by the Parishad proves insufficient, the organ can also take loans from the people or from any financial institution on security of its assets. It is contended that so long as the Panchayati institutions are to be financed only by taxes or grants they will be incurably feeble and will never be able to fight with any degree of success the demons of poverty, squalor, illiteracy and superstition which dominate the rural life. Thus, attempts should be made to help them to start remunerative undertakings and thereby increase the scope for non-tax income. It is obvious that development of remunerative undertakings involves loan capital and this ought to be provided for both by the Government and the public. It has been observed that State Governments provided to Panchayati Raj institutions small loans and Grants for the building up of remunerative assets. Thus, it is an imperative need of the hour that the

1. No. 54(4) of the W.B.Zilla Parishads (Election, constitution and Administration) Rules, 1964.
amount of loans granted by the State Government should be enhanced and the institutions must not content with the loans provided by the Government, it has also to look to other sources like the public and other financial institutions of the country.

The next very important source of revenue is the levy of tolls on persons, vehicles or animals or any class of them at any toll-bar established by it on any road other than a Kutch road or any bridge vested in it or under its management. An Anchalik Parishad may also levy tolls in respect of any ferry established by it or under its management. The Act has also empowered the organ to levy the following fees and rates, namely:

(1) Fees on the registration of vehicles;
(II) a fee for providing sanitary arrangements at such places of worship or pilgrimage, fairs and melas within its jurisdiction as may be specified by the State Government by notification;
(iii) a fee for license for a Fair or Market held within its jurisdiction;
(iv) a fee for license to be taken for any trade or business declared by the State Government to be offensive or dangerous;
(v) a water rate, where arrangement for the supply of water for drinking, irrigation or any other purpose is made by the Anchalik Parishad within its jurisdiction;
(vi) a lighting rate, where arrangement for lighting of public streets and places is made by the Anchalik Parishad within its jurisdiction.

But it is to be noted in this connection that the levy of tolls, fees and rates on the aforesaid items can never be permitted if AnchalPanchayat has already done the same or is competent to do the same.

Section 38 of the Zilla Parishads Act, 1963 has authorised the Zilla Parishad to issue instructions to the District School Board for the transfer of management of schools to Anchalik Parishads and it is obligatory on the part of the District School Board to give effect to such instructions if they are found not contrary to the provisions of the Bengal (Rural) Primary Education Act, 1930 and any directions of the Education Department of the State Government. The aforesaid transfer of the management of Educational Institutions must be

associated with necessary funds for the conduct of the same. Thus, it is provided in the Act that all receipts in respect of any school, hospitals, dispensaries, buildings, institutions or works, vested in, constructed by or placed under the control and management of, the Anchalik Parishad will form a part of the Anchalik Fund.

On elementary education it has been observed that wherever the maintenance and extension of elementary education in its area has been transferred to a Samiti, it suddenly adds up significantly to the importance and dignity of that Samiti. Elementary Education is one of the natural and essential functions of Panchayati Raj and we consider that its transfer to Samiti or Zilla Parishad is eminently desirable. We, therefore, recommend that this should be done in every state. Its actual day to day management should vest in a Board set up by Samiti / Zilla Parishad on which not only members of that body but also others with special knowledge and experience in the proper development of education should find a place.

The rest of the many important sources of revenue of the Anchalik Parishad are the sums received

1. Sec. 85, sub sec. (i), sub cl. (e) of the W.B. Zilla Parishads Act, 1963.
as gift or contribution and all income from any trust
or endowment, fines and penalties imposed and realised
under the provisions of the West Bengal Zilla Parishads
Act, 1963 or of the bye-laws made thereunder and all
other sums received by or on behalf of the Anchalik
Parishad. A perusal of the Act shows that Anchalik
Parishad has enormous opportunities of enhancing its
revenues but at present very few of the Anchalik
Parishads in West Bengal have taken recourse to taxation
and imposition of fees as said beforehand and they are
mainly dependent on government grants for the major
portion of their revenues.

But the quantum of development works of the
Anchalik Parishad solely dependent on Government Grants and
contributions will fail to produce a marked impression
on rural life. It is mostly found that out of Rs. one
lakh as annual Government Grant earmarked for each Anchalik
Parishad under the N. E. S. Scheme a major portion is
spent on Block establishment leaving a very little
sum for development works. A survey of expenditure
incurred in a district consisting of about 16 lakhs
of people and having 19 Anchalik Parishads revealed the fact
that approximately one third of the total amount was used for
development works in the year 1965-66.

A serious anomaly was created by the Act in
recognising the administrative and financial control of the
Anchalik Parishad over its constituent Gram and Anchal
Panchayats while

1. Sec. 85, sub-sec. (1) cl. (f)(g) and (h) of the W.B. Zilla
2. The figures were collected from the District Development and Panchayat Office, Suri, Birbhum.
entrusting the S.D.O. (the ex-officio Inspector of Panchayats), with the final power of passing the budget estimates of both the Gram and Anchal Panchayats. It may be said in defence that the S.D.O. is a member of the Anchalik Parishad as well as its Chief Executive Officer, so the aforesaid power might be retained by him. But it must be noted in this connection that he has been a member without any voting right. Furthermore, he is a member who is not a nominee of the people but a nominee of the State Government. Under the present state of circumstances it will be good enough if the passage of the budget estimates of both the Gram and Anchal Panchayats is totally left in the hands of the Anchalik Parishad in order to observe the democratic spirit and tradition in this age of decentralisation of power and authority. In view of the aforesaid facts the approval of the budget estimates of Gram Panchayats has been given over to the Anchal Panchayat concerned and the approval of the budget estimates of the Anchal Panchayats has been left in the hands of the immediate higher organ - Anchalik Parishad concerned.

The resources of the Zilla Parishad:

In the present context of democratic decentralisation and the Panchayati administration the Zilla Parishad stands at the apex and the Gram Sabha at the base. With the establishment of a Zilla Parishad in the district it serves as a connecting link between the Gram Sabha and the State Legislature. In the present set-up the Zilla Parishad occupies a vital position in the district administration.

It is observed that the Zilla Parishad of Maharashtra has been designed to take over the entire functions of Government at the district level except law and order, justice, national and State highways, college and University education and institutions of importance for the State as a whole. It is always desirable that so vital an organisation like Zilla Parishad must be associated with sufficient financial resources at its command, failing which the organ will lose its vitality, its worth and dignity.

The resources of the Zilla Parishad under consideration are more or less the same as those of the Anchalik Parishad with a major difference which must be noted in this connection. The Act in laying down that the Zilla Parishad shall receive contributions and grants, made by the Central or the State Government has said that the Zilla Parishad shall receive such part of land revenue collected in the district as may be determined by the State Government. The Zilla Parishad has also another source of revenue viz. the proceeds of cess levied in the district which the Anchalik Parishad has not.

In compliance with the provision of the Act that a part of land revenue collected in the district may be handed over to the Zilla Parishad the West Bengal Cabinet decided that they would hand over the entire

2. Sec.40 Sub-sec (1) cl.(a) of the West Bengal Zilla Parishads Act, 1963.
3. cl.(d) Ibid.
collection of land revenue in the districts to 1 Zilla Parishads. The fund thus accrued to the organ will be spent on health, education, irrigation and road construction etc. The new measure, adopted on the lines of Maharashtra would ensure financial freedom to the Zilla Parishad, and will enjoy more power to execute all sorts of development work in the district. Moreover, the measure would guarantee a better collection of rent since the tax payers would be directly convinced that their money would be utilised for the benefit of their own areas.

The total demand of land revenue in the State at present is ever 5. 7 crores and it is very likely that the apportionment of the amount amongst the districts in West Bengal will improve to a great extent the financial position of the present Zilla Parishad.

Prior to the emergence of the modern Zilla Parishad a District Board had an annual income of 5. 600,000 in average and it was observed in those days that with such small income it could not be expected that the District Boards in Bengal would find it possible to embark upon any comprehensive scheme of welfare for the people. Without being touched the existing sources of revenue a new source of land revenue and a development fund pertaining to the entire district have been allocated every year to the Zilla Parishad. Besides other

sources of revenue as said herebefore only the collection of land revenue will enhance the financial resources of the Zilla Parishad annually eight to ten times in average. So under the present circumstances it cannot be conceived that the Zilla Parishad will fail to achieve its desired objects.

Immediately after the establishment of the Zilla Parishad its revenues have been doubled and its revenues will grow continuously, as it is expected that, the execution of any development scheme of the district under the Five Year Plan will be done through the mechanism of the Zilla Parishad. The decision of the State Government regarding the realisation of land revenue by the Zilla Parishad has been resented in some quarters on the ground that this might not ensure better and greater collection of land revenue. It is argued that the Zilla Parishad being a local body will be more amenable to local influence and pressure and the organ in order to keep its popularity and goodwill intact might exempt an undeserving defaulter. Save and except this influence there are also political and other influences which ought to be taken into account before arriving at the aforesaid decision. So it is suggested that the liability of collecting the land revenue in the district should be retained by the State Government but the proceeds of the same should be entirely given over to the Zilla Parishad for the fulfilment of its statutory functions.

In the present set-up the Zilla Parishad has been made in some respects the authority through which redistribution of funds among the Anchalik Parishads and
3. See Chapter V.
Save and except its original source of revenue amounting to Rs. 6,00,000 a year which the Zilla Parishad had inherited from its predecessor—the District Board—the following figures show year to year Government Grants to Zilla Parishads in West Bengal.

<table>
<thead>
<tr>
<th>Grant Type</th>
<th>1965-66</th>
<th>1966-67</th>
<th>1967-68</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Grants for enhancing the income of Zilla Parishad</td>
<td>3,87,944</td>
<td>3,88,000</td>
<td>3,88,000</td>
</tr>
<tr>
<td>2. Grants made to the Zilla Parishads as a substitute of the shares offered for the Zemindars and Rayats under the cess</td>
<td>49,70,221</td>
<td>49,80,000</td>
<td>49,80,000</td>
</tr>
<tr>
<td>3. Grants allotted to the Zilla Parishads from the collection of Lord Revenues</td>
<td>15,14,268</td>
<td>19,07,000</td>
<td>19,08,000</td>
</tr>
<tr>
<td>4. General Grant scheme for the maintenance of the village roads by the Zilla Parishads</td>
<td>x</td>
<td>x</td>
<td>5,00,000</td>
</tr>
</tbody>
</table>

67,77,533 71,75,000 76,68,000

This amount of Government grant is shared by 15 Zilla Parishads in West Bengal. As a result of the enhancement of the quantum of Govt. Grants the income of the Zilla Parishads has been almost doubled i.e. the average income of the organ at present stands about 10 to 12 lakhs.

I. The figures were taken from "West Bengal"—a Weekly Paper, Saturday, August, 5, 1967.