CHAPTER X.

Government Control over the Panchayati Raj Institution in West Bengal.

The degree of State control over the Panchayati Raj Institution has become a controversial subject. Irrespective of the form of government, the local bodies are not coordinate with the general or regional governments, but are subordinate to them. "Local authorities cannot really be independent for that would make them States and take them outside the field of local government." It is a truism that the Panchayati Raj bodies in West Bengal are not sovereign since they are political institutions created by laws passed by the State Legislature. "In law, local authorities are simply the creatures of the legislature, set up and destroyed by it at its pleasure." 

As it has been well-said, "The basic problem for any country establishing a system of local government is how to ensure that that system manages to do three things simultaneously - these are: to develop as independent centres of creativity within the state, to foster political understanding and participation by the people in their own programmes, in the programmes of the state and to ensure that these policies and programmes are carried out effectively and according to proper standards. Volumes have been written about the conflicts that arise between these three aims. What becomes clear
from the dialectic on the subject is first of all that no absolute balance between these can be established for all time. For some countries more independence and less control is required, for others the reverse is the case, and even within the same country the situation changes over time and from place to place. Thus, for example, in Sudan at a time when political acrimony triumphed over the well-being of the local community, very severe control was imposed. Equally, where local authorities were in the rudimentary stage of understanding, then a detailed and close administrative supervision was required. Such a condition was experienced in the United Kingdom until quite recently and this control was in fact only little lightened until major reforms of 1959. In the United Kingdom they were probably continued too long, but no one can question the wisdom of government imposing in the early stage of the system, i.e., the first forty to fifty years, their general policy and their general standards upon the local authorities. Concrete examples can be produced to show the reluctance of local authorities to raise revenue for local services they did not feel were necessary and of local authorities who sought to economise by providing, at a sub-standard level, services had in fact been authorised by the national parliament. This does not take into account defective technical resources, particularly professional skills in the local authorities during the early period and the great education and action programme which will bring local authorities to understand their responsibilities and privileges,
their problems and the methods of approaching solution of these. When they fail to accept necessary implications of the vital situation, then action is required. The government must be prepared to exert pressure to achieve the fulfilment of its necessary programmes, and if necessary to carry through the required action itself. 13

Thus, the degree of subordination of the local bodies to State Government differs from country to country. In France, for instance, the local bodies consider that their duty is to carry out within their localities the will of the Central Government. They are mere delegates of the Central Government. On the other hand, in Great Britain, the local government structure is constituted largely by statute. Here the local authorities regard themselves as carrying out the law according to the will of the inhabitants of the locality subject to the general supervision of the Central Government. The latter system has largely been adopted in Bengal and other States. In the absence of proper control and supervision by the State Government the rural local bodies may exceed the limits or abuse their powers and arrive at wrong decisions. Moreover, the State Government is accountable to the State Legislature for the lapses of these institutions. Hence they are subjected to a variety of controls by the State Government. These controls are exercised through the legislature, the judiciary and the executive. Of these three types of control, the control exercised by the executive is very extensive in West Bengal.
Here the rural local bodies are the creatures of the State Legislature and, therefore, their powers, functions and duties are clearly specified and well defined by the Acts. In the West Bengal Panchayat Act, 1957 it is the State Government that can annex, separate or transfer a particular area of a Gram Panchayat. Finally, it has power to frame rules and bye-laws in pursuance of the provisions of the Acts.

The Act of 1957 confers on the executive wide powers of supervision over the Anchal and Gram Panchayats or the Joint Committee. The Officers of the Panchayat Directorate (Director, Joint Director, Lady Panchayat Officer, District Panchayat Officer, Inspector of Panchayats, Extension Officer, Panchayat), the Divisional Commissioner, the District Magistrate and the Sub-Divisional Officer acting as the prescribed authority under the Act have the right to inspect any office, service, work or record of the two lower Panchayats. Again, these Officers have been given power, for the purposes of inspection or examination, to ask the Panchayats or the Joint Committee to produce any book, record and other documents and to furnish any return, plan, accounts or report. It seems to many that these elaborate arrangements for Government supervision over the rural local bodies have been extended to such an extent that these bodies have been converted into the Departments of Government. As a result of these arrangements the Anchal and Gram Panchayats are losing the initiative and boldness to take up any plan through self-confidence. But
Fortunately the Government has not yet posed any threat to the autonomy of these institutions.

Most of the Panchayats in West Bengal have not attained the desirable level of efficiency and most of the leaders of these institutions have not the requisite experience and training to run these institutions. Naturally, these institutions require proper government supervision and the leaders do not mind if their powers are encroached. Practically no high level officers pay any visit to these institutions. The Block level Officers supervise the Gram and the Anchal Panchayats generally postmortem-wise.

Furthermore, the Director of Panchayats and the District Magistrate have the power to suspend or cancel any resolution passed or order issued or prohibit the doing of any act which is about to be done or is being done by an Anchal Panchayat or a Gram Panchayat if they think it illegal or harmful to public cause. The aggrieved party has, of course, the right to appeal to the Commissioner of the Division only when the prescribed authority interferes by suspending or cancelling what has been done or is about to be done by the Panchayat, and the decision of the Commissioner is final. The District Magistrate is solely responsible for the maintenance of law and order in the District. Therefore, the authority of the District Magistrate to suspend or cancel any resolution or order or act of the Panchayats cannot be questioned, if the actions of the Panchayats pose any law and order problem. But sometimes
the Director of Panchayats and the District Magistrate are subject to political pressures and then their authority to decide upon the competence of the rural local body is likely to raise controversy. Naturally, it would have been better if the aggrieved Panchayats were allowed to appeal to the independent Judiciary instead of the Divisional Commissioner.

There is another aspect of government control which is more serious and undesirable. The District Magistrate has been given extraordinary power to remove the Adhyaksha and Upadhyaksha of the Gram Panchayat and the Pradhan and the Upa-Pradhan of the Anchal Panchayat for recalcitrance, ineptitude and the like after giving them an opportunity to show cause. The District Magistrate has also the authority to remove an elected member of the Gram and the Anchal Panchayats for abuse of power or on grounds of moral turpitude, incapacity or absence for three months, etc. after a show cause notice. The aggrieved by the order of the District Magistrate has, of course, the right to appeal to the Commissioner of the Division within 30 days from the date of the order, and the decision of the Commissioner is final.

Apart from the power to remove a member or an office-bearer of any Panchayat, the State Government has been authorised to reconstitute or supersede the Gram or the Anchal Panchayats if it is satisfied on the report of the District Magistrate that the Panchayats are persistently making default in performing their
duties or exceeding or abusing their powers. The maximum period of
supersession is two years,\textsuperscript{11} and the Government may extend the
period of suspension for such further term, not exceeding two
years, as it may consider necessary.\textsuperscript{12}

There is no limit to the time of suspension under the
Bengal Municipal Act. But so far as the Panchayats are concerned,
the West Bengal Panchayat Act provides that the period of super-
session must not exceed two years. Therefore, this provision is
less stringent than that of the Bengal Municipal Act. Not only
the local bodies but also the State Governments can be superseded
and there can be President's rule over an entire State. Therefore,
it is not improper that the residuary power should be vested in the
State Government to correct.

Under the Constitution the political responsibility of the
entire nation is divided between the Union and the State Governments.
There is no provision for local bodies anywhere in the operative
parts of the Constitution. Therefore, so far as the powers of the
local bodies are concerned, delegation comes from the State
Government, which must have the residuary power to intervene in
case of mal-administration.

In case a Gram Panchayat or an Anchal Panchayat shows its
incompetence to perform its duties or abuses its powers, there
are two courses left to the Government - either to reconstitute
the body or to supersede it according to the gravity of the case. It has been found in many areas that whenever there is a fresh election which takes place in any place, generally the same set of people come back in these local bodies which had been superseded, with the result that maladministration continues. In such cases, supersession is necessary for putting an end to corruption.

The Government control over the Anchalik and the Zilla Parishads is also substantial and extensive. In the first instance, the State Government has been empowered to rescind any resolution passed by a Zilla Parishad or an Anchalik Parishad or any Standing Committee thereof. The Government may resort to such a measure if it is satisfied that the resolution is illegal or harmful to public cause. Such an intervention by the Government may be justified in the public interest.

But there are other aspects of Government control which are more serious and drastic. The State Government has the authority to supersede a Zilla Parishad or an Anchalik Parishad on the grounds of incompetence or persistent default in the performance of the duties or for excessive abuse of its powers. So far as the power of supersession is concerned the position of the upper two bodies appears to be better compared to the lower two tiers as the former have been given an opportunity of making any representation against the proposed order. The Bengal Act III of 1885 made identical provisions of supersession with regard to the District Boards. The
only difference is in the duration of the period of supersession.
In the old Act the period was three years and in the Act of 1965
this has been reduced to two.

Till April, 1969 no Parishad was superseded by the
But the Government of West Bengal issued an Ordinance in April,
1969 to bring the Zilla and the Anchalik Parishads under State
control and appointed Administrators for these institutions. This
action was taken under a new Section - Section 109A - inserted
in the Act by the Ordinance and subsequently passed by the State
Legislature. After the appointment of the Administrators all the
powers, duties and functions which may be exercised and performed
by the Zilla Parishad or the Anchalik Parishad or any Standing
Committee or by the Chairman or Vice-Chairman of the Zilla Parishad
or the President or Vice-President of the Anchalik Parishad have
to be exercised and performed by the Administrator in such manner
as the State Government directs. Whereby reason of any judgment,
decree or order of a competent court holding the constitution of a
Zilla Parishad or an Anchalik Parishad to have become defective or
for any other reason a Zilla Parishad or an Anchalik Parishad is
unable to function until it is reconstituted in accordance with the
provisions of this Act, the State Government may, by order, appoint
a person to act as the Administrator for the Zilla Parishad or the
Anchalik Parishad, as the case may be.
Explaining the object of the West Bengal Zilla Parishads (Amendment) Bill, 1969 in the Assembly Mr. B. Das Gupta, Minister-in-Charge of the Panchayat Department said that according to a decision of the Calcutta High Court in Ramnagar Anchalik Parishad in the District of Midnapore, the present constitution of the Zilla and the Anchalik Parishads established under the Act of 1963, had become defective. These bodies, he pointed out, could not function until they were reconstituted in accordance with the provisions of the said Act. This had necessitated to make provisions in the West Bengal Zilla Parishads Act for the appointment of an Administrator to exercise and perform the powers, duties and functions of the Anchalik Parishads and the Zilla Parishads until they were reconstituted.

The members of the opposition said that the Bill was brought forward for political motives and would not do good to the people. Replying to the point raised by the opposition the Minister said that the object of the measure was to eliminate corruption in the Panchayati Raj system of administration. In doing so if he indulged in politics there was nothing wrong in it.

It is interesting to note that the United Front Government, which came to power in 1967, had reasons to suspect that many of the Parishads did not utilise the funds sanctioned by the Relief Department of the Government in the desired manner. Grants were decreased. Thorough investigations were made against the Parishads
and the new Government desired to supersede some of them on grounds of inefficiency and misuse of public funds; but no case of gross irregularity could be made despite enquiries. The Parishads could not, however, be ultimately superseded because of the intervention of the Hon'ble High Court. But what the Government could not do during the two years preceding 1969 it did through the West Bengal Zilla Parishads (Amendment) Act, 1969. It seems to be an instance of legislative despotism over the local self-governments. Even responsible bodies think that "it is high time to consider very seriously whether the ups and downs of political parties should affect the Panchayats or conditions be created in which the Panchayats may function unaffected as an integral part of the Government."

To supersede the local body is the last weapon of control at the hands of the Government. Apart from this, there are other conventional methods of control, and inspection is one of them. The Commissioner or any other officer not below the rank of a Deputy Collector has been authorised to inspect any office, institution or records, registers or any other document maintained by the Anchalik or the Zilla Parishads. These Officers may require the two bodies to furnish such information as they think necessary.

It is wholly undesirable that a dispute between local bodies should go to a court of law, thereby encouraging local bodies to develop litigious habits and incur wasteful expenditure of public
money. Therefore, if any dispute arises between the two or more Zilla Parishads or between a Zilla Parishad on the one hand and the Anchalik Parishad on the other, it is imperative on the parties to the dispute to refer the matter to the State Government and the decision of the State Government shall be final.

It is a truism that local bodies are generally narrow in outlook and deficient in administration. To supervise and guide these bodies, therefore, the State Government is entitled to send any Officer to attend the meetings of the upper two tiers and of any Standing Committee thereof, for the purpose of furnishing facts, information and technical advice. The State Government has the exclusive power to make rules regarding recruitment, qualifications, scales of pay, conditions of service of the employees of the two higher tier Panchayats and also to give directions to these institutions. As a result of this sweeping power of control in the hands of the Government the Panchayati Raj Institutions in West Bengal have been reduced to the position of an agent of the Government, as in France, in the field of administration and development planning. The employees look, not to their respective Institutions but to the State Government for the redress of their grievances, and the Panchayat leaders look to the Government for necessary instructions or directions in the field of administration and developmental planning. It is true that the rural local bodies are still in their infancy, and therefore, they require an efficient system of guidance.
and supervision at the initial stage. But too strict a system of control for a long period may cripple the growth and initiative of these bodies. In order to allow these institutions to develop with a dynamic speed the Government should gradually exert less and less control over the Panchayati Raj Bodies.

Grant-in-aid is another means by which the Government controls the local bodies. The large amount of grants from the Government in proportion to rate revenue is both a cause and a consequence of an increase of Government control. Due to the dependence of the Panchayats on grants from the higher bodies or on grants from the Government these bodies are compelled to toe the line marked out by the Government and thereby to lose their autonomy. For, 'he who pays the piper, plays the tune.' "The diminished independence of local authorities is a reflection of, and is in turn reflected by, the diminished role of local sources of revenue." 26

Moreover, the Act of 1957 empowers the State Government to authorise any matter or thing to be done which appears to it to be necessary for the purpose of removing any dispute or difficulty concerning interpretation of any provision of this Act or any rules made thereunder or any matter arising out of or relating to such interpretation and even 'any matter not provided in the Act', in establishing, constituting or in the working of an Anchal Panchayat or a Gram Panchayat in any area. Mr. B.Mukherjee characterises
this section of the Act of 1957 as "Henry VIII Clause." "It is indeed difficult to conceive of wider powers for the State Government. It usurps by administrative ukase what is plainly the function of judicial tribunals." In so far as it is an administrative delegation, its legality, not its propriety, may be above question. By giving a blank cheque to the State Government for "any matter not provided in the Act," the Legislature virtually effaces itself and sets up a parallel law-making body through the administrative process. It is submitted that such unlimited delegation of legislative power is a flaw in the Act even from the legal point of view.

At the administrative level of the Zilla Parishad Government control is not as effective as at the administrative levels of the lower three Panchayats. The Executive Officer of the Zilla Parishad sends his confidential report, initialled by the Chairman of the Parishad, to the District Magistrate, and the latter sends this report to State Government with his comments on it. Although the District Magistrate is the principal representative of the State Government in the District, he does not, thus, directly control the Zilla Parishad in the same manner as he does the other lower tiers. His control is limited to making his observations on the report.

The Government control over the lower three tiers of the Panchayati Raj Institution is maintained through the Block Development
Officer. B.D.O. is the ex-officio Chief Executive Officer of the Anchalik Parishad. He sends the confidential reports, initialed by the President of the Parishad, through the S.D.O. to the D.M. and the latter sends them to the State Government with his observations on them. B.D.O. is generally a member of W.B.J.C.S. He is a staff of the Department of Agriculture and Community Development, and is directly responsible to the S.D.O. and the District Magistrate. He has to work with the help of 9 Extension Officers. These Extension Officers are under the control of their respective Departmental Heads in the Directorate and also of the Block Development Officer and the President of the Anchalik Parishad.

W.H. Morris-Jones has nicely described the position of the B.D.O.:

"B.D.Os. more often than not found release from their own double subordination (to the higher C.D. levels and to the Collector) by turning their own block specialist staff into subordinate assistants and by bossing the VLWs." Thus multiple loyalty, inter alia, has created a lot of inter-personal tensions among the Panchayati Raj bodies in West Bengal, and sometimes produces a deadlock.

It has been alleged that there is a considerable paternalism and bureaucratic control over the Panchayati Raj Institutions in West Bengal. But it has also to be admitted that there are many regressive forces fully alive in the rural areas, like ignorance,
incompetence, castism, communalism, corruption, defalcation of funds, nepotism, etc., and as a guardian of the public against these evils the action of the State authority is not only useful but essential. The Panchayati Raj is fundamentally a dyarchy. It is a dyarchy because it envisages a joint endeavour by the people and the Government for the development of the locality. Therefore, the State Government has a vital role to play in ensuring the proper functioning of the rural local bodies. It is the responsibility of the Government to see that these institutions are efficiently organised, that they perform their functions properly and that they take adequate part in the implementation of the development programmes. Thus the control of the State Government has not merely a negative aspect but also a positive one - to guide, advise and encourage the rural local bodies to take active part in the development programmes. But unfortunately in West Bengal the Government seems to be exercising a formal and negative rather than a constructive and positive control. Field survey in different villages confirms this view. The prescribed authority of the State Government clothed with a variety of wide powers is apt to make or mar the successful working of the village democracies in West Bengal. If the prescribed authority is prone to an authoritarian rule, self-government in villages will remain a dream. Denuded of official complexes if he dedicates himself to the service of villagers
as a guide and guide only, the future of Panchayats as units of self-Government is in safe hands.\textsuperscript{31}

Control and supervision of the Panchayati Raj institutions is a highly delicate task. It may sometimes be motivated by political considerations, and instances are not rare. A need, therefore, exists for a separate body to advise the Government on major questions of policy in regard to Panchayati Raj institutions. "It is necessary to provide a machinery by which such advice and guidance can be made available to them in a friendly and informal manner and to decide the various issues and matters which come up to government with as little delay as possible."\textsuperscript{32}

In view of the multifarious duties entrusted to the rural local self-governing institutions, there is a strong need for the creation of a powerful body at the State Level to review and co-ordinate the activities of these institutions and recommend to the State Government on matters with respect to which Government decision would be necessary.
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5. Section 64(1)(c)(d), Ibid.

6. Section 64(1)(e), Ibid.

7. Section 64(5), Ibid.

8. Section 65(1)(2), Ibid.

9. Sections 20(1) and 28, Ibid.

10. Sections 65(3), 20(2) and 28, Ibid.


15. Section 108, Proviso, Ibid.


17. Section 109A(1), Ibid.

19. Ibid.
22. Section 101, Ibid.
23. Section 103, Ibid.
24. Section 112(d), Ibid.
25. Section 116, Ibid.