CHAPTER XI

Panchayat Court.

In India the administration of Justice by the Panchayats is as old as the villages. Scholars might differ in their opinion whether the ancient village assemblies were truly bodies of local self-government. But so far as purely judicial functions are concerned they are unanimous. In the 'Srritis' references to these institutions for the purpose of judicial work are found. ¹

'Puga' (a court constituted by men of different castes and occupations inhabiting the same village), 'Sreni' (a court constituted by traders and artisans including men of different castes pursuing similar means of livelihood), 'Mula' (a court composed of kinsmen for arbitration in small matters) were concerned with the administration of justice in the villages.² Each previous one was superior to the next succeeding one in the matter of deciding disputes. The decisions of these popular courts were supported both by the legal sanction of punishment inflicted by the monarch and by the moral sanction of public opinion. These institutions, of course, with some modifications continued to flourish down to the British era.

The decline of these indigenous institutions after the downfall of the Mughal empire no doubt enfeebled Panchayats but the process was accelerated with the advent of the British largely
due to the change brought about by the introduction of the administration of justice, police administration, etc. The Criminal and Civil Procedure Codes introduced by the British Government ignored and tended to oust the indigenous method of judicial administration. "The panchayat organization probably touched rock bottom in 1850's and 1960's. But long before that enthusiastic British administrators coming on this indigenous institution which still possessed vitality had already begun to realise its importance in the administration of the country."  

The British Government aimed at revising the system of judicial Panchayat, and, therefore, passed regulations in Bombay and Madras in 1802 and 1816 respectively. But these experiments were not successful. The Government made another attempt by establishing the Royal Commission on Decentralization in 1907. The Commission submitted its Report in 1908 and suggested, inter alia, that judicial administration would be more effective and popular if the village panchayats were entrusted with summary jurisdiction in petty civil and criminal cases.  

After considering the views of the Provincial Governments on the recommendation of the Royal Commission the Government of India passed the Resolution of May, 1915. This Resolution left the matter to be regulated by the Provincial Government. In Bengal for the first time the Bengal Village Self-Government Act, 1919 gave legal sanction to the decision of petty civil and criminal cases by persons elected by villagers.
Like the Act of 1919, The West Bengal Panchayat Act of 1957 contains provisions for the establishment of Nyaya Panchayat at the Anchal Panchayat level of the State. Nyaya Panchayat is a continuation and modification of the old Union Bench and Union Court. The fundamental idea behind the creation of a Nyaya Panchayat as a judicial body is to dispense justice on the spot and at the very door of the villagers in certain civil and criminal cases. The real object and function of the administration of justice is to serve the common man. This object can be fulfilled if justice is cheap and easy. The Nyaya Panchayats are expected to fulfill this object. It can bring justice within the access of the poor rural people, and can administer it in a speedy way without undergoing the lengthy procedure of the regular courts. The villagers welcome an institution near at hand composed of men who know them, their customs and habits and who are expected to give them a better deal than the judges of the distant regular courts. "A system of administration of justice based on sound common sense which is made available at the doorstep of the villagers which is cheap and effective, which is not procedure-ridden with its consequent delays, which seeks more to compose differences than perpetuate them, which is undertaken by persons who live in the same area, speak the same language and perhaps think on many matters, which is homely, informal and open to the public gaze and which has a hoary past is bound to command
ready acceptance and this perhaps explains the near unanimity which exists on the subject. 5

The Parish Councils in England and the Communes in France, unlike Panchayats in West Bengal, have no judicial function. The Communes in Switzerland and the Soviets in Russia have, however, limited judicial power. But the scope of the judicial power of the Panchayats in West Bengal is wider than that of these foreign local courts.

If the legislative and the executive powers are united in the same body of persons, there can be no liberty if the judicial power is not separated from the legislative and the executive powers. To secure impartial justice Panchayat Court should be separate from, and be completely independent of, the Panchayat Executive. The principle of separation of judiciary from the executive has been enshrined in the Directive Principles of State Policy. 6 But this principle is still to be fully implemented in West Bengal. Moreover, the Panchayats have been made development-oriented. The time devoted to local planning and development hardly leaves to the Panchayat executive any time for judicial administration. Extension methods cannot flourish in an atmosphere of magisterial authority. Nor can justice remain equitable and impartial when its administration is combined with executive responsibility. 7 Therefore, the separation of Nyaya Panchayat from the Panchayat executive is considered essential. Under the Bengal Village Self-
Government Act of 1919 a sub-Committee of the old Union Board was entrusted with judicial functions. But under the present Panchayat Act of 1957 the Nyaya Panchayat as a judicial body is elected by, but separate from, and independent of, the Anchal Panchayat. The Nyaya Panchayat is, indeed, an improvement upon the Union Board system at least in this respect.

There is a provision in the Act that each Anchal Panchayat will be provided with a Nyaya Panchayat. The Nyaya Panchayat is treated as a part of the local self-government in the rural areas in West Bengal. An Anchal Panchayat cannot proceed on its own to elect its Nyaya Panchayat. It can proceed only when it is authorised by the State Government by notification to do so. But out of 2,926 Anchal Panchayats only 52 Anchal Panchayats have set up Nyaya Panchayats by the year 1964 and these are only in the Districts of Burdwan, Malda and West Dinajpur. Thus in the whole of West Bengal only 2 per cent of the Anchals have constituted Nyaya Panchayat. This shows that people's enthusiasm has not been sufficiently aroused since one of the main functions of the Anchal Panchayat is to constitute and maintain a Panchayat Court. The Government thought that further establishment of Nyaya Panchayats should be stopped until the defects in the laws and the Rules are removed. But new Rules were never framed, and for that reason no new Panchayat Court have been established since 1964. The proposed amendments in the matter are under the consideration of the Government of West Bengal for a decade. This indicates that the
Government has not taken any active interest in providing the Anchals with Nyaya Panchayats.

A Nyaya Panchayat consists of 5 members, to be called Vicharaks. They are elected by the Anchal Panchayat from amongst the members of the Gram Sabhas within its jurisdiction. Thus the judges must be bonafide members of the Gram Sabha. The West Bengal Panchayat (Amendment) Act, 1959 which came into effect from November 5, 1959 provides that the number of Vicharaks of the Panchayat is five, one Vicharak being elected from each Gram Sabha. It is further provided that where the number of Gram Sabhas in any Anchal is more than five, the Gram Sabhas shall be divided into five groups and one Vicharak shall be elected from each group, and where it is less than five, one Vicharak shall be elected from each Gram Sabha and the deficiency in the membership of the Nyaya Panchayat shall be filled up by election from such Gram Sabha or Gram Sabha as may be determined by the Anchal Panchayat. Thus democracy pervades in the selection and election of the Judges in the local judiciary, that is, in the Nyaya Panchayat in the rural areas in West Bengal. The judges of the Nyaya Panchayats are indirectly elected. If they are directly elected by the members of the Gram Sabhas, it might have lowered the standard of the judges and they might also be directly thrown into the vortex of local politics.
A member of the Gram Sabha is not eligible for being elected to the Nyaya or the Anchal Panchayat if -

(1) he is under 25 years of age; or

(2) he has been dismissed from the service of the Central or State Government or local authority for misconduct involving moral turpitude; or

(3) he has directly or indirectly any share or interest in any contract with the Gram Panchayat; or

(4) he is of unsound mind; or

(5) he is an undischarged insolvent; or

(6) any tax, toll, fee or rate due from him by the Union Board or the Panchayat for the year previous to that in which the election is held remains unpaid.

(7) Any person who has been convicted by a criminal court of an offence punishable with imprisonment for a period of more than six months shall not be eligible for election as Vicharak in the Nyaya Panchayat. On application made by such disqualified person the State Government may remove the disqualification.

Thus in the Act there is a long list of disqualifications for being elected a judge of the Nyaya Panchayat. But the Act does not prescribe any positive qualification of a judge. As a result efficient and qualified persons might not be elected Vicharakas.
Every Nyaya Panchayat constituted under Section 70(1) must be notified in the Official Gazette, and the judges must be approved by the District Magistrate. A Nyaya Panchayat comes into effect with effect from the date specified in the said notification. The term of the office of a Nyaya Panchayat is for four years and it shall be counted from the date of the notification. The members of the Nyaya Panchayat continue in office until the election of the Nyaya Panchayat by the newly elected Anchal Panchayat after a general election.  

Every Nyaya Panchayat elects the Pradhan Vicharak from among its members. He presides over its sittings, and in his absence the Vicharaks present at the sitting of the Nyaya Panchayat, elect one of them to be the Pradhan Vicharak for the purpose of that sitting. Three Vicharaks will form the quorum of the sitting and the decision will be made by majority votes. The Pradhan Vicharak or the Vicharak who will preside over the sitting in the absence of the Pradhan Vicharak will have a casting vote in the event of an equality of votes among the Vicharaks.

A member of a Nyaya Panchayat may tender his resignation during his term of office in writing to the District Magistrate, and if the resignation is accepted by the prescribed authority, the member shall be deemed to have vacated his office. The West Bengal Government has declared the District Magistrate to be the prescribed authority to whom a member of a Nyaya Panchayat may submit his resignation letter.
The Government of West Bengal may also remove a member of a Nyaya Panchayat, by an order in writing, for "good and sufficient reason" to be stated in such order. There is, of course, no universally applicable formula of what constitutes good and sufficient reason. Each case has to be judged on its own facts. Before removing a member, he must, however, be given an opportunity of being heard in accordance with the rules prescribed by the Government.  

When the place of a member of a Nyaya Panchayat becomes vacant by his resignation or otherwise, a new member shall be elected by the Anchal Panchayat, and he shall hold office so long as the member whose place he fills, would have been entitled to hold the office if such vacancy had not occurred.  

Nyaya Panchayats have civil and criminal jurisdiction. The civil jurisdiction of a Nyaya Panchayat extends to suits for money due on contracts, suits for the recovery of movable property or the value of such property, suits for compensation for wrongfully taking or injuring movable property, and suits for damages by cattle trespass. In the exercise of its civil jurisdiction and within the territorial limits of its parent Anchal Panchayat, a Nyaya Panchayat can, however, entertain such suits only when their value does not exceed one hundred rupees. But there are a few exceptions to this provision. No suit lies in any Nyaya Panchayat on a balance of partnership account, for a share under an intestacy
or for a legacy under a will, or if it be a suit by or against the State', by or against minors or persons of unsound mind, for the assessment, enhancement, reduction, abatement, apportionment or recovery of rent of immovable property, or by a mortgagee or a mortgagor of immovable property. Apart from these limitations, a Nyaya Panchayat cannot try any civil suit or criminal case in which the Anchal Panchayat concerned or any Gram Panchayat within the Anchal Panchayat or any member of such Nyaya Panchayat is interested. Again, a Nyaya Panchayat cannot entertain any civil suit when it is withdrawn by the District Judge on the ground that "the suit is one which should not be tried by the Nyaya Panchayat." The reason appears to be that complicated questions of law and fact might be involved in such suits even though the basis of this limitation has not been specifically stated in the Act. Thus the civil jurisdiction of the Nyaya Panchayat, though very limited, is an exclusive one.

As regards criminal jurisdictions, a Nyaya Panchayat may try petty criminal cases which involve the offences specified in Schedule III, Part A of the West Bengal Panchayat Act, 1957. It may also try any offence specified in Schedule III, Part B of the same Act, if the case is transferred to it by the District Magistrate, Sub-Divisional Magistrate or any other qualified Magistrate. The same set of offences were tried by the Union Bench under the old Union Board.
With regard to the offences specified in Schedule III, Part A, the Nyaya Panchayat has exclusive jurisdiction within the territorial limits of an Anchal Panchayat constituting the village court. There are, however, two important limitations to this power. In the first place, a Nyaya Panchayat cannot try a case in which the Anchal Panchayat constituting it, any Gram Panchayat within such an Anchal or any member of the Anchal Panchayat is interested. The purpose is to vindicate any protect the impartiality of the village court. In such circumstances it is the duty of the Nyaya Panchayat to report the matter to the District Magistrate or the Sub-Divisional Magistrate who may withdraw the cases to their files or transfer them to any other court. Nyaya Panchayat may also direct the petitioner to move the higher court when it lacks jurisdiction, or when the case is one for which the sentence which it is competent to pass, would be inadequate.

Furthermore, the District Magistrate or the Sub-Divisional Magistrate may withdraw the case to his own file or transfer it to any other Magistrate if he is of the opinion that "the case is one which should not be tried or heard by the Nyaya Panchayat." The reason appears to be that complicated questions of law and fact might be involved in such cases as in civil suits. Moreover, if any party informs the Nyaya Panchayat of its desire to apply for transfer, the Nyaya Panchayat is bound to stay further proceedings before it for a reasonable period to enable the party to make an
application to the appropriate court and to obtain an order thereon. Thus the civil and criminal jurisdiction of the Nyaya Panchayat has been severely restricted.

Unfettered by the codes of Criminal Procedure and Civil Procedure the parties to a case or suit may compound any offence or offences triable by a Nyaya Panchayat. There is no elaborate list of persons, as in Section 345, Cr. P.C. Code, by whom offences may be compounded. It, therefore, seems that "parties" include their agents. All composition, however, receives effect only when the Nyaya Panchayat accords its permission. In the case of civil suits the Nyaya Panchayat has no discretion in the matter of enforcement of compromise. If a suit is adjusted wholly or in part by any lawful agreement or compromise, the Nyaya Panchayat is bound to pass a decree in terms of it. The purpose of these two sections (76 and 85(5)) is to bring about an amicable settlement of the dispute that might arise between the parties in the villages. In majority of the cases or suits the Nyaya Panchayats actually try to find out a compromise formula between the parties to a conflict, civil or criminal.

"There shall be no appeal by a convicted person in any case tried by a Nyaya Panchayat," and "the decision of a Nyaya Panchayat in every suit shall be final as between the parties to the suit." Thus it is clear that an absolute and exclusive jurisdiction has been given to the Nyaya Panchayat to pass decisions in respect of certain criminal and civil cases.
The District Magistrate or the Sub-divisional Magistrate may, however, cancel or modify any order of conviction or of compensation made by a Nyaya Panchayat or direct the re-trial of any case by a court subordinate to him if he is satisfied that "failure of justice" has occurred. He may do so of his own motion or on the application of any of the parties concerned within thirty days from the date of the order of the Nyaya Panchayat. Similarly, the Munsif may, on the application of any party to the civil suit made within thirty days of the decree, cancel or modify the decree of the Nyaya Panchayat or direct a re-trial of the suit by the same or any other Panchayat Court if he is satisfied that "there has been a failure of justice." Under the Bengal Village Self-Government Act, 1919 such power of revision was vested in the District Judge instead of the Munsif.

The power of a Magistrate or a Munsif to review the decision of a Nyaya Panchayat is wholly unfettered. The Magistrate or the Munsif acts "as a persona designata. So High Court cannot, it seems, interfere." But it can interfere, in appropriate cases, in exercise of its superintending jurisdictions.

The power of the Nyaya Panchayats to impose fine or to award compensation is very limited, and this limited power brings down the prestige of the village court to the villagers. It can inflict no imprisonment. The Nyaya Panchayat is, however, competent to impose a penalty of fine up to Rs. 50.00 upon the persons convicted for committing offences. Main purpose is to compensate the complainant.
With this idea in view the Nyaya Panchayat directs that the whole or part of the fine recovered may be applied in payment of compensation for any loss or injury caused by the offence.

Moreover, considering the age, character and antecedents of the first offenders the Nyaya Panchayat may release them after due admonition. It may also release such offenders on probation of good conduct on execution of a bond for a maximum sum of Rs. 50.00 to keep peace and be of good behaviour for a period not exceeding one year. This gives the offenders a chance of reforming themselves.

This is what a Nyaya Panchayat generally has to do in the villages.

Furthermore, if the Nyaya Panchayat is satisfied that the petition, criminal or civil, is frivolous, vexatious or false, it orders the complainant to pay compensation not exceeding Rs. 25.00 to the accused.

In case of civil suits the Nyaya Panchayat has been authorised to "pass such decree as may seem just, equitable and according to good conscience." The decree includes the amount of prescribed fees, the amount to be paid to witness, the persons by whom such amounts are payable, etc. The Nyaya Panchayat has full power to determine the costs incidental to all civil suits, and also to determine by whom and to what extent such costs are to be paid. Any formal rules about procedure and evidence do not apply to any trial before a Nyaya Panchayat.
Nyaya Panchayats are not, however, competent to order imprisonment, simple or rigorous. They cannot even inflict imprisonment in default of payment of fine. If the fine or compensation in a criminal case is not realised, the Nyaya Panchayat has to forward the matter to the nearest Magistrate who does the needful. But "all fees imposed and all sums due on bonds and all sums decreed under this Act by a Nyaya Panchayat may be realised under the orders of the Nyaya Panchayat in the same manner as an arrear of rate or tax." If the village court granting a decree is unable to effect satisfaction thereof, it has to grant the decree-holder a certificate to that effect stating the amount due to him and the amount due as costs of the suit. Then the decree-holder may apply to the court of the Munsif who has to execute the decree as if it were executing a decree passed by itself.

The procedure followed by the Nyaya Panchayats have been simplified as far as possible, and all technicalities have been dispensed with. Unlike the ordinary courts it is unfettered by any formal rules of procedure or of evidence. Therefore, the provisions of the Court-fees Act, 1870, the Code of Criminal Procedure, 1898, the Code of Civil Procedure, 1908 and the Indian Evidence Act, 1872 do not apply to any trial before a Nyaya Panchayat. Under the Act the judicial Panchayat is required to be guided by the procedure prescribed by the Government.
has not yet framed such rules. Therefore, in exercising its criminal and civil jurisdiction the Nyaya Panchayat is presently left to be governed by a procedure all its own, the enforcement of its decisions and orders. Legal practitioners have been debarred from practising before these courts.

A case before a Nyaya Panchayat is instituted by a petition made orally or in writing to the Anchal Secretary who is the ex-officio Secretary to the Nyaya Panchayat. In his absence a judge of the village court may entertain such a petition. If the petition is made orally, certain formalities about signature, etc. are observed, and then the petitioner is directed to appear before the Nyaya Panchayat on a particular date. A civil suit is instituted in the same manner as a criminal case.

If the petition is not otherwise dismissed, the Nyaya Panchayat summons the accused to appear and answer the petition. The accused has to appear personally unless he is permitted to appear by agent or the accused is a woman. If the accused fails to appear, the Nyaya Panchayat reports the fact to the nearest Magistrate who issues a warrant for his arrest, and when arrested forwards him for trial to the Panchayat Court. The Nyaya Panchayat may try the case on the day the accused appears but if that is not possible, it may release him on his executing a bond not exceeding ₹25.00 to appear before it on any subsequent day. If the accused fails or refuses to execute a bond, the village
court has no other alternative but to send him back to the Magistrate for disposal of the case in the same manner and under the same procedure as if the complaint was made before him. Such a time-taking procedure cannot prevent justice from being delayed. Moreover, the wealthy persons or the unwilling persons may find scope for evading the jurisdiction of the village court, and thereby put the poor villagers to troubles. Furthermore, a Nyaya Panchayat may, by summons, send for any person excepting a woman for evidence or for the production of any document. But it can only sentence a recalcitrant witness who disobeys summons without lawful excuse, to a fine not exceeding twenty-five rupees. It cannot, however, bring the witness before the court. This limited authority of the village court erodes its image before the villagers. Hence the laws are to be amended to enhance the authority of the Panchayat court and thereby its prestige.

The Nyaya Panchayats have been given, though limited, exclusive jurisdiction in certain civil and criminal cases. Therefore, proper supervision of the Panchayati administration of justice is necessary. This power of supervision has been invested in the District Magistrate, District Judge, the Sub-Divisional Magistrate or the Munsif. They are required to inspect the proceedings and records of cases and suits maintained by Panchayat courts which are within the jurisdiction of these inspecting officers. This implies that during inspection these officers can rectify the mistakes done by the Panchayat Courts. It has, however, been found
that none of the Nyaya Panchayats has ever been visited by these Officers. The Extension Officer of Panchayat alone does all these works of supervision while he audits the Anchal accounts. But he has no legal training; neither he is empowered by the Act itself to supervise the legal function of a Nyaya Panchayat. Therefore, a special cadre of officers should be appointed to supervise the Panchayati administration of justice. This is considered essential as the lapses of most of the Panchayat courts are largely attributed to lack of proper supervision by Government Officials.

In the whole of West Bengal so far there are 52 Nyaya Panchayats. But many of these institutions are not functioning at all. In some of the Anchals, of course, the objects with which these bodies were established have been fulfilled. These Panchayat Courts have opened an opportunity to the poor villagers of getting their affairs judicially settled in a very cheap and informal way. Table No. 10 shows that in 1967-68 521 criminal cases and 153 civil suits were disposed of by these Nyaya Panchayats. Orders passed by the Nyaya Panchayats were set aside under Sections 77 and 93 of the West Bengal Panchayat Act, 1957 in 71 and 72 instances respectively. Only in 21 per cent of these cases revisions were allowed.
The achievements (State level) of the Nyaya Panchayats during the year 1967-68 are shown below in a tubular form.

<table>
<thead>
<tr>
<th>No. of</th>
<th>No. of</th>
<th>Criminal cases disposed of</th>
<th>Civil suits disposed of</th>
<th>No. of cases in which Nyaya Panchayat's order was set aside.</th>
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<tbody>
<tr>
<td>Naya Panchayats</td>
<td>in West Bengal, functioning in</td>
<td>cases</td>
<td>Cases brought forward</td>
<td>Cases of current year</td>
</tr>
<tr>
<td>No. of cases</td>
<td>No. of persons</td>
<td></td>
<td>No. of</td>
<td>No. of</td>
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<tr>
<td>1</td>
<td>2</td>
<td>3(a)</td>
<td>3(b)</td>
<td>3(c)</td>
</tr>
<tr>
<td>52</td>
<td>43</td>
<td>55</td>
<td>51</td>
<td>156</td>
</tr>
</tbody>
</table>

Source: Directorate of Panchayats, Government of West Bengal.
But the number of cases disposed of and revised is not an index of popularity of the Nyaya Panchayats. Honesty and impartiality are not always found. Local pressure sometimes vitiates the judicial administration of the Panchayat as an impartial tribunal. Corruptions in different forms prevail in a number of these local judicial bodies.

Considerable delay occurs in disposal of cases and the execution of the decision of the Panchayat courts requires much time because they have to depend on some other agencies for execution. Moreover, as the Anchal Secretary is the ex-officio Secretary to the Nyaya Panchayat, he has to exercise multi-farious duties in an Anchal. Naturally, he cannot devote much time to the village court. It is, of course, better if a Secretary of its own is appointed by the Nyaya Panchayat because it is independent of, and separate from, the Panchayat executive.

At the Anchal level very few competent persons exist to man the two institutions - the Anchal and the Nyaya Panchayats. Most of the competent persons that now exist in the Anchal have chosen the village court to enjoy more power and prestige. As a result the interest of the members in the Gram and the Anchal Panchayats has flagged considerably.

"Cheap and speedy justice has a fascination of its own. But generally when it is cheap and very speedy it hardly remains justice. Amateur justice has hardly ever succeeded in any country. England
has been its stronghold. The Justices of the Peace recruited from the leisured classes have disposed of petty cases for long. But even in this country a movement has been set on foot against this arrangement of things, and it should be noted that this movement is gaining in strength and momentum even today. It is no idle speculation that the days of amateur justice are numbered.58

It has, therefore, been suggested by a school of thought that at the initial stage the Nyaya Panchayats should not be given any exclusive power. Rather they should function as a "Compromise-effecting agency" and not as an instrument for trying cases and suits. Their point of argument is that the Panchayats should develop as municipal bodies, and when they attain the maturity as local bodies, the Panchayats should certainly take over the law and order functions in addition to developmental and welfare functions.

Since 1919, however, the rural areas in West Bengal have been enjoying a system of local government invested with the powers of settling petty disputes. Today the administration of justice by the Nyaya Panchayats is, however, being challenged by some. But possibly the critics forget the very basis of law. The basic philosophy of law is that it is the reflection of the will of the people. Particularly in a democratic country the sovereign people are the prime movers of the Government. With this idea in mind they have been vested with the power of local development and planning through their elected bodies like the Panchayats. It
naturally follows, therefore, that in the administration of justice the people should not be denied the right to exercise their sovereign power. Justice, in the last analysis, springs from the people. The people's elected body should, therefore, be vested with the judicial power to try petty cases both civil and criminal. Nyaya Panchayat is one such elected body of the village people which may prevent the occurrence of conflicts and resolve the differences before they take an acute form. They also relieve the regular courts which are overburdened with cases. If differences are resolved and conflicts dissolved, amity will pave the way for real community development in the villages. If the Nyaya Panchayats are not entrusted with judicial powers to settle small and petty disputes of villages, how can one expect the panchayats to shoulder the immense responsibilities of all-round rural development. As Sri S. S. Khera says: "If panchayati raj cannot be trusted with a judicial function, if a panchayat cannot be trusted with settling petty disputes .......... , then perhaps it is equally unsafe to entrust it with the carrying out of function upon which the whole welfare of the village depends." In the administration of justice to the villages the Nyaya Panchayats may have certain loopholes or faults. But the regular courts also are not completely free from such faults.

The continuous scandal about the administration of law by the regular courts is its delays. There are huge arrears in these courts in West Bengal. The poor illiterate litigants in the villages
would have to suffer unnecessary harassment and large expenses. They would have to undertake long journeys to the Sub-divisional Head Quarters where the Courts are situated. The present Chief Justice of the Calcutta High Court, Shri Sankar Prasad Mitra has recently suggested that a rural subordinate judicial service should be created to relieve the regular courts. It will bring inexpensive and speedy justice to the door of the poor villagers. Something of the kind is obviously required. The Nyaya Panchayats can assume the functions of the proposed rural subordinate judicial service if their powers and jurisdiction are increased.

It must be admitted that the proper administration of law and justice is the sine qua non for the security of the rights and privileges of the citizens. But a Vicharak to be able to pass proper and correct decision must have the requisite judicial training, an impartial frame of mind and so on. Great care must, of course, be taken by the members of the Anchal Panchayat before the Judges of the Panchayat Courts are selected.

Some glaring differences between the Nyaya Panchayats and the ordinary courts are evident. First, the judges of the Panchayat courts must be the members of the Gram Sabha. This means that they must be villagers within the jurisdiction of the Anchal Panchayat concerned. Secondly, the Judges must be elected. Thirdly, the general procedure of justice is not applicable to the Nyaya Panchayats, and legal practitioners are not permitted to appear
before these courts. Each of these stands contrary to the existing well-defined judicial codes. A Nyaya Panchayat enjoys much more independence than an ordinary court. But much inconvenience may crop up from this over-independence. The judicial power entrusted to the village courts is meant for cheap and speedy justice being delivered to the village folk. The administrative success of this system depends on the quality and quantity of satisfaction the Nyaya Panchayats can render to the villagers in this respect. As a judicial body a Nyaya Panchayat has great responsibilities. The District Magistrate, the Munsif and the Sub-divisional Magistrates can cancel or modify any decision of the Nyaya Panchayat if there has been a "failure of justice". In that case the clients will be put to unnecessary troubles. No punishment can be inflicted before offence is proved. The Judges of the village courts must know what makes an offence and what proves an offence. Apart from the statutory laws, certain rules of natural justice have always been accepted in all civilized societies. No man can be condemned unheard or unsummoned, "no person shall be prosecuted and punished for the same offence more than once,"62 "no person accused of any offence shall be compelled to be likely to support a witness against him,"63 etc. These rules of natural justice should be known to the village judges and followed by them. Over and above, one should have a clear idea of the powers of the Nyaya Panchayat and the directives for the implementation of these powers.
The requisite qualification of a Judge, which have been discussed earlier, makes the appointment of a good judge a difficult problem. Officers qualified in law should be attached to mobile training units for the purpose of imparting legal training to the village Judges, and to supervise the administration of justice by the Panchayat Courts. The judges may be given some allowance, but should under no circumstance continue, after their appointment, as members of a political party.
REFERENCES:

8. Section 70(1), The West Bengal Panchayat Act, 1957.
9. Ibid.
10. Section 15, Ibid.
12. Section 70(4), Ibid.
13. Section 109, Ibid.
14. Section 111, Ibid.
15. Section 110, Ibid.
16. Section 80 (1), Ibid.
17. Section 81, Ibid.
18. Section 97, Ibid.
19. Section 98, Ibid.
20. Section 71, (1)(2), Ibid.
21. Part A:

(a) Offences under sections 26 and 27 of the Cattle trespass Act, 1871.

(b) Offences under enactments (other than the Indian Penal Code and this Act) or any rules or by-laws made thereunder which are punishable with fine only up to a limit of twenty-five rupees.

(c) Offences under section 34 of the Police Act, 1861.

(d) Offences under the Bengal Ferries Act, 1885, except those under sections 28 and 30.

(e) Offences under the following sections of the Indian Penal Code, namely: sections 160, 269, 277, 289, 290, 294, 323, 354, 341, 359, 426, 447, 504 and 510 and when the value of the property in the opinion of the Nyaya Panchayat is not over twenty rupees, sections 379 and 411.

22. Part B:

Offences under the following sections of The Indian Penal Code, namely: sections 283, 428, 450, 451, 506 and 509; and when the value of the property in the opinion of the Magistrate is not over twenty rupees.


25. Section 73(2), Ibid.

26. Section 98(1), Ibid.

27. Section 98(2), Ibid.

28. Section 76, Ibid.

29. Section 102, Ibid.
30. Section 85(3), Ibid.
31. Section 77, Ibid.
32. Section 93, Ibid.
33. Ibid. Section 78(1)(2), Ibid.
34. Section 77, Ibid.
35. Section 93, Ibid.
37. B. Mukherjee, The West Bengal Panchayat Act, 1956, S.C.
38. Act. 227, Constitution of India,
39. Section 78(1), The West Bengal Panchayat Act, 1957.
40. Section 78(3), Ibid.
41. Section 79, Ibid.
42. Field Investigation.
43. Sections 78(4) and 91(3), Ibid.
44. Section 91, Ibid.
45. Section 96, Ibid.
46. Section 78(2), Ibid.
47. Section 78(5), Ibid.
   Bengal Panchayat Rules, 1964.
49. Section 96(1), The West Bengal Panchayat Act, 1957.
50. Section 96(2), Ibid.
51. Section 103, Ibid.
52. Section 72, Ibid.
53. Section 75(1), Ibid.
54. Section 102, Ibid.
55. Section 104, Ibid.
56. Section 101, Ibid.
57. Section 100, Ibid.
58. Dr. N.C. Roy, Rural Self-Government in Bengal, 1936, University of Calcutta, P. 189.
59. S.S. Khers, District Administration in India, Asia Publishing House, 1964, Bombay, P. 211.
60. Ibid., P. 218.
63. Art. 20(3), Ibid.