CHAPTER -III

DYNAMICS OF THE PANCHAYATI RAJ SYSTEM IN KERALA

3.1 INTRODUCTION

Prior to its formation into a single political unit in 1956, Kerala comprised of three distinct administrative units - Travancore, Cochin and Malabar, the first two being native principalities, while the third a part of the Madras Presidency under British India. The people of these units were bound by a common language, namely, Malayalam. It is the organisation of Indian states on linguistic basis during the post-independence period that brought together the above three units into a single state. Travancore and Cochin were integrated on July 1, 1949 and the third unit, Malabar, with the rest on November 1, 1956.

All the evidences show that local bodies had functioned in all the territorial units even from the earlier days, when the whole region now known as Kerala formed part of the larger unit Tamizhakam (Tamilland) which lay beyond the Western Ghats. The participative character of the local bodies, gradually gave way to their domination by certain castes following the Aryanization of South India. British administrators have
described these caste-dominated bodies as village republics or the village 'Parliament'. William Logan’s account is worth recalling. The *nad* or country was a congeries of ‘taras’ or village republics and the kuttam or assembly of the *nad* or country was a representative body of immense power which, when it existed, set at naught the authority of the ruler and punished ministers when they did unwarrantable acts³. The early British administrators also asserted repeatedly that the Hindu village system did not exist in Malabar under the Madras Presidency⁴. In Kerala, the local bodies were in the form of caste or tribal assemblies in ancient times, feudal oligarchic bodies and the *kuttam* in the medieval times, and the village Sabhas in later medieval times⁵.

3.2 DEVELOPMENTS OF PANCHAYAT ORGANISATION

The most significant of Sri Mulam Thirunal’s reform was the formation of the Legislative council consisting of members from the Taluk level onwards. He considered their forum as a means to express the wishes of the people with regard to the administration of the state. In due course election was introduced and women voters also enjoyed the right to vote. The Government of Travancore initiated a village Panchayat Act on January 25, 1925⁶. The object of this regulation was to initiate the institution of self-government from the very bottom, viz., from the village itself, in other words, to make the village a vital part in the system of government⁷.

The next development of Panchayat Organisation took place in 1937 when the Travancore Village Union Act IX was passed by which 39 village
unions were constituted. The Act not only dealt with the constitution of village unions, their administrative functions and powers, but also included provision for a separate fund, appointment of Registrars of Village unions, delegation of powers by government, liability of members for loss, institutions of legal proceedings against any village union members, or officer and the like.

3.2.1 Decentralisation in Kerala

Indian independence was a great stimulus to the concept of local self-government and its extension to remote areas. States under the Indian union were saddled with the new responsibilities assigned to them by Directive Principles of State Policy. Article 40 of the Indian Constitution specifically directs all state governments to take steps to organise Village Panchayats and to endow them with such powers and authority as may be necessary to enable them to function as units of self government.

In Kerala too, local government in general and Panchayat in particular made rapid strides in their growth and progress. The integration of Kerala state into a single unit, the functioning of democratically elected government in the state, the enhanced civic consciousness and demands for economic and social transformation, the acceptance of the welfare concept, the adoption of a socialistic pattern of society and the impact of Gandhian concept, and earnest desire for local bodies - all these contributed to the importance of the concept of Panchayat.
After the Merger of Travancore with (1949) a Panchayat Act was enacted in 1950 because the Government took notice of the difference that existed between the Travancore and Cochin systems. According to the provisions of the Act, the state was split into 548 Panchayats, out of which 52 Panchayats belonged to the newly found Madras state. In Malabar area, after the Madras Village Panchayat Act of 1950, the District Boards were deprived of their control over the Panchayats. At the time of the states' reorganisation the number of Panchayats that became operational stood at 893.10

The efforts at decentralisation of the Panchayat administrative system in Kerala between 1950 and 1970 are specially marked by the appointment of three statutory committees for the purpose - the Administrative Reforms Committee (1958), The Commission for Delimitation of Panchayat Areas (1959) and the Administrative Reorganisation and Economy Committee (Vellodi Committee 1965). The recommendations of the committees were accepted with some amendments made to the provisions, after a marathon discussion in the State Legislative Assembly.11

3.2.2 Structural Patterns of Panchayats

The structural patterns of the Panchayats were laid down on the basis of their annual income12. The number of members for each Panchayat was determined by the Government through an act on the basis of population, but subject to a maximum of seven. Provision for reservation of one seat in
a Panchayat for Scheduled Castes and Scheduled Tribes was provided, if their population was not less than 5% of the total electorate in that area. The term of an elected member was a period of three years. The administration of the Panchayat was vested with a Committee comprising of the President, the Vice-President and all the members of the Panchayat with the President as the Chairman.

The Panchayats of the state exercised some judicial functions also in 1950, the Government enacted an Act by which it was vested with the power to nominate for each village, a village council of the members. The Panchayats were allotted more functions and the system of adult franchise was introduced. There was separate executive officer for each Panchayat. There was steady increase in revenue. The average population of a Panchayat area ranged from 10,000 to 20,000. Panchayats were formed primarily on the basis of the principle that there should be one Panchayat for every village. In June 1953, the Panchayat general election was held in Travancore - Cochin State to elect members to the newly formed Panchayats.

3.2.3 Administrative Reforms Committee - 1957

Administrative Reforms Committee was the background of decentralized functionality of Panchayats in 1956, when the Kerala State was formed merging Travancore-Cochin State with Malabar. There were two pieces of legislation on local government, the Travancore-Cochin Panchayat Act 1950, which was in force in Malabar area. In 1958 the
government of Kerala sought to consider all the acts, rules and regulations on the recommendation of the Administrative Reforms Committee headed by the then Chief Minister, E.M. Sankaran Namboothiripad. The Administrative Reforms Committee approached their task with a view to democratize the whole administrative system and machinery in accordance with the new areas of development. It includes within its scope the running of administrative machinery, seeking cooperation and participation of people, informing and educating the public and finally organizing a sound system of planning based as much on the participation of people at each level as on the best technical economic and statistical information available. Therefore the pattern of placing also is to be altered right form the top to bottom and vice-versa. In a nutshell the objectives of local bodies are not merely to collect revenues and maintain peace but to promote action. For this, the method was to be democratic and the machinery had to be responsible to the peoples’ representative.

During the time, the Balwantray Mehta Study Team was at work at all India level in accordance with the new policy pattern of the Planning Commission of India. The Commission reiterated the widely felt need for creating a well organised democratic structure of administration within each district and added, “in this structure, village Panchayats, will have to be organically linked with popular organization at a higher level”. The working of developmental schemes entrusted with the Panchayat could not
yield the desired effect for lack of peoples’ participation and also due to absence of a proper structural linkage with the upper tiers.

A Committee was constituted under O. Chandu Menon, in 1958 to examine the question of delimitation of Panchayat areas. The Commission strangely recommended for an economically viable Panchayat area to the extent possible, so that the administration could be carried on without waiting for the allotment of funds by the superior authorities. Each district has about 100-200 Panchayats under its jurisdiction whereas under each Block the number is between 10-15. The Committee suggested Panchayati Raj system of administration in Kerala in which Panchayat, Taluq Council, Block and District Council - all could be organically linked and the principle of democratisation and decentralisation would be present in its entirety at the sub-state level.

Following the recommendations of the Administrative Reforms Committee and the Delimitation Commission, a Kerala Panchayat Bill was introduced in December 1958. After one year, the Kerala District Council Bill was also introduced in April 1959. Neither could, however, be enacted into law then, as the Legislative Assembly of Kerala was dissolved on 31st July by the President of India.

3.2.4 The Kerala Panchayati Raj Act - 1960

The government of Kerala enacted in 1960, a Kerala Panchayat Act unifying the existing laws in the Malabar and Travancore - Cochin regions
of the state and enlarged the functions and financial resources of the local bodies. The Acts' proposal is that the Panchayat should be the only organisation at the village level between government and the people and that they should be the media through which the villages can come into contact within the government. The Act of 1960 contained the list of duties and functions of Panchayat in Kerala.

Replying to the debates on the Panchayat Bill 1960, the Minister for Local Government, P.P. Ummer Koya said “The Panchayat and Gram Swaraj envisaged in this Bill is the recognition of the right of the people to govern themselves and it is going to make very great changes, in the political life of the State of Kerala because the Panchayats are ultimately going to decide how a citizen should live and he should take care of himself from the cradle to the grave.” The women members in the Legislative Assembly demanded provisions to protect the women’s rights and even urged for reservation of seats for women. Pattom A. Thanupillai, the then Chief Minister of Kerala, said, “It is only by imposing trust in the Panchayats by giving wide powers and opportunities to them that we can reach our goal of full, self-sufficient, self-government.” With the enactment of the Kerala Panchayats Act, 1960, the State of Kerala had accepted a uniform law for the administration of Panchayats.

The Kerala Panchayat Council Bill - 1964 was introduced in the Legislative Assembly on the lines of recommendations of the Balwantray Study Team. A point referred to by the Study Team was the organisation of
departments at all levels, state, region, district and below. The Committee recommended that there should be a ‘Taluq Samiti’ above the Panchayat not as an advisory body as suggested by the first Statutory Committee, but a democratic body with real powers.

In March, 1987, the government appointed a one man Commission to advise on the measures to be taken for decentralisation of power at the district and lower levels. The Commission was in search of a Panchayati Raj system, i.e, an integrated structure of local government, with an elected Council at the District level, a nominated Samiti at the Taluq level between the District and the Panchayat, and a village Panchayat at the lowest level. It has been suggested to create an ‘Election Commission’ for all the local government institutions.

The empowerment of Panchayat through meaningful decentralisation was also visualised in the Report of 1987. The most significant changes sought to be made in relation to the Panchayat bodies are - declaring Panchayat President as the executive authority of the Panchayat in accordance with the general principles of democratic functioning followed in the country and also in harmony with such provisions that exist in the states - like West Bengal, Karnataka and Andhra Pradesh, to reduce the proposed administrative and supervisory control of District Councils over the Panchayats so as to make the latter function with their powers directly derived from the state government.
There was great public enthusiasm over the proposed decentralised planning and the Panchayat system. There must be consistency and commitment in the policy of the government for the whole process of decentralisation to be meaningful. Lack of political will and political stability would lead to dismal failure of the system. It would not be out of place to state here the fate of Kerala District Councils enacted as the upper tier in the Panchayati Raj system of administration in 1989. The beginning of a new phase in the functioning of local government can be seen in 1971 when the government of Kerala introduced in the State Assembly, 'The Kerala District Administration Bill 1971'.

The Ministry headed by A. K. Antony on August 1, 1978 proposed the Kerala District Administration Bill. The Legislature passed the Bill in 1979 when the Chief Ministership was in the hands of the CPI leader P.K. Vasudevan Nair. In 1987, E. K. Nayanar returned as Chief Minister. The implementation of the District Administration Act was one of the promises of the Left Democratic Front in its election manifesto and it did implement it in 1991. Until then there were only village level Panchayats functioning under the Kerala Panchayat Act 1960. The District Administration Act vested the District Councils with vast powers and responsibilities covering as many as 151 items under 18 heads. Every District Council shall be a body known by the name of the district.
3.3 THE KERALA PANCHAYATI RAJ ACT - 1994

The Kerala Panchayati Raj system came into operation from 30th September, 1995 and the powers were formally transferred on 2nd October 1995. The 73rd Amendment visualised the Panchayati Raj as institutions of self-government. Article 243-G reads, "subject to the provisions of the Constitution, the Legislature of a state powers and authority as may be necessary to enable to function as institutions of self-government". The Kerala Panchayati Raj Act was passed by the Kerala Legislative Assembly on 23rd April, 1994, which substitutes the Kerala Panchayati Raj Act 1960 and District Administration Act 1979 and is intended to incorporate the provision of the 73rd Constitutional Amendment giving constitutional status for Panchayati Raj system in India.

The Panchayati Raj in Kerala is not seen as a hierarchy. There exists organic linkage between the three tiers in the form of ex-officio membership at the higher level. But each tier is independent of others and performs certain exclusive functions given to it. The departments transferred are thirteen in the case of Gram Panchayats, nine to Block Panchayats and ten to District Panchayats. For co-ordination purposes the elected presidents of the lower tiers are ex-officio members of the next higher tier with full rights of voting except in elections to various offices and in no confidence motions.
3.3.1 Village Panchayat

Article 243-B of the constitution deals with setting up of Panchayats at three levels. In Kerala, Panchayat connotes the village Panchayat. The Kerala Panchayati Raj Act 1994 envisages a village Panchayat for each village. It has been viewed as the root of democracy and an effective tool for the participation and involvement of the people in the democratic process. In Kerala village Panchayats are fairly large having a population of around 25000 on an average. The Act has considerably empowered the village Panchayats by giving control over all local level institutions except Upper Primary and High Schools. The village Panchayat has their own source of income and get reasonable amount from grants and share of taxes. Village Panchayats have been provided with the major share of Plan funds. The village Panchayats of Kerala are viable administrative units capable of performing most of the local government functions envisaged in the Eleventh schedule of the Constitution.

The members of the village Panchayats are elected directly by the people on the basis of adult suffrage and its membership varies from 8 to 15 depending on the population. According to section 29 of the Act, no person shall be qualified for election as member of the Panchayat (a) unless his name appears on the electoral roll for the Panchayat area. (b) unless he has completed his twenty first year of age (c) unless in the case of the seat reserved for Scheduled Castes and Scheduled Tribes, the person is a
member of any of the Scheduled Castes Scheduled Tribes. (d) unless in the
case of a seat reserved for woman, the candidate is a woman.

For the purpose of election, each Panchayat area is divided into
wards on the basis of total population of the village or villages constituting
the Panchayat area. Every ward is a single member constituency. Seats
should be reserved for Scheduled Castes and Scheduled Tribes in each
village Panchayat. One-third of the reserved seats shall be set apart for
women belonging to Scheduled Castes and Scheduled Tribes. One third of
the total number of seats, both in reserved and unreserved categories, shall
be set apart for women in every Panchayat and seats may be allotted by
rotation.

After the elections are over, the members elect from among
themselves the President and Vice-President of the Panchayat. The
chairperson of each level of Panchayats shall be reserved for Scheduled
Castes and Scheduled Tribes in proportion to their population on rotation
basis. One-third posts of chairpersons of each level of Panchayats shall be
reserved for women on rotation basis. The members, once elected, hold
office for a period of five years. But the Government may reduce the term
by notification in the Gazette. If Panchayat is dissolved before the expiry
of the term, election is to be conducted within a period of six months of the
dissolution to reconstitute the Panchayat. Gram Panchayat is the strongest
of the three –tiers with 32 mandatory functions and 125 other functions
falling under 17 broad heads. This is the only body that has its own sources
of income. Since village Panchayat was in operation before the enactment of the present Act, it is not facing that many operational problems.

3.3.2 Block Panchayat

The number of directly elected members of Block Panchayat should not be less than eight and should not exceed 15. The Block Panchayat consists of (a) the elected members of the block and (b) the Presidents of the Village Panchayats with the Block Panchayat area. All levels of Panchayats will consist of persons elected directly from the territorial constituencies in the Panchayat area. The territorial constituencies shall be divided in such a manner that the ratio between the population of each constituency and the number of seats allotted to it should be uniform throughout the Panchayat area as far as practicable. All members of the Panchayat, whether or not directly elected, shall have the right to vote in the meetings of the Panchayat.

The President and Vice President of the Block Panchayat shall be elected from among the directly elected members of the Block Panchayat. Seats shall be reserved for Scheduled Castes and Scheduled Tribes in each Block Panchayat. One-third of the reserved seats shall be set apart for women belonging to Scheduled Castes and Scheduled Tribes. One-third of the total number of seats, both in reserved and unreserved categories, shall be set apart for women in every Panchayat and seats may be allotted by rotation.
The middle tier, the Block Panchayat is a new entity in Kerala. Almost all political parties and even elected representatives of Block Panchayat questioned the need for this body. The Minister of Local Administration spoke of winding up this body after the present term by bringing about necessary amendments to the 73rd Amendment Act. But at the same time the role of Block Panchayat is very crucial for Block level planning and rural development.

3.3.3 District Panchayat

Chapter III of the Kerala Panchayati Raj Act deals with the composition of District Panchayats. The number of directly elected members of the district Panchayat should not be less than 15 and should not exceed 25. The District Panchayat consists of (a) the elected members and (b) the Presidents of the Block Panchayats of the district. In each District Panchayat seats are reserved for Scheduled Castes and Scheduled Tribes in proportion to their population in the Panchayat area and seats may be allotted by rotation. One-third of the reserved seats shall be reserved for women belonging to Scheduled Castes and Scheduled Tribes. One-third of the total number of seats both in reserved and unreserved categories shall be set apart for women in every District Panchayat and seats may be allotted by rotation.

The members of Legislative Assembly and members of Parliament have been kept out from the Block Panchayats and District Panchayats. All the Presidents of Block Panchayats will also be ex-officio members of
District Panchayat. Thus an organic link between different tiers of Panchayat Raj Institutions has been maintained with the lower body getting representation in the next higher body, which provides an opportunity for active participation in decision making. A District Panchayat shall have a President and a Vice-President elected from among the elected members of the district Panchayat. Section 156 deals with the responsibilities of the President and Vice President of a Panchayat.34 Every meeting of the Panchayat shall be presided over by the President, in his absence by the Vice President, and in the absence of both the President and the Vice-President, by a member chosen by the meeting to preside for the occasion. The President is expected to preserve order and decide all points of order and the decision of President in the matters shall be final. He has to supervise and control all the activities of the Panchayat personnel and prepare their confidential reports. The provision empowering the chairpersons of these bodies to supervise and control the working of the employees of the Panchayat concerned is noteworthy, for in the absence of this, the staff working under the Panchayat will show loyalty to the higher bureaucracy rather than the elected representative.

As per the provisions of the present Act there need be only one Standing Committee in Village Panchayats, two in Block Panchayats and four in District Panchayats. The President, Vice-President or Chairman of the Standing Committee of a Panchayat can be removed from office by passing a vote of no-confidence with a simple majority of the membership.
of the Panchayat concerned. If the no-confidence motion fails, after six months, another no-confidence motion can be tabled.

According to clause 159, the President, Vice-President, Chairman of the Standing Committee or any member of the Panchayat can be removed from office by the state government if such members, President, Vice-President or Chairman of the Standing Committee has been guilty of misconduct in the discharge of his duties or abuses his power or make persistent default in the performance of his duties and functions under this Act.

Section 179 provides for the appointment of a full-time Secretary for each Panchayat who shall be a government servant. At the Village level the Panchayat Executive-Officer will act as the Secretary. The Block Development Officers and Junior I.A.S Officers/Joint Secretaries/Joint Directors of Panchayats have been made Secretaries at the Block Panchayats and District Panchayats respectively. The Secretary is the most critical functionary of any Panchayat. Section 179(4) rightly obligates the Government to transfer a Secretary of the Panchayat if a decision to this effect is taken by a simple majority of the members. State government employees working for the Panchayat will be under the control of State Government. This will affect the smooth functioning of Panchayats since state government employees are likely to place their full loyalty and commitment to the government.

3.3.4 District Planning Committee

In accordance with the provisions of the 74th Constitutional Amendment Act and Article 243-ZD, a District Planning Committee having
representation of both the elected representative of both rural and urban areas, depending on the proportion as the population, is to be constituted. The main functions of the Committee is to prepare plans for the entire district as a whole. The Kerala Government has issued orders fixing the number of District Panchayat members, Municipal and Corporation members to be elected to the District Planning Committee. The Committee is to be formed with the District Panchayat president as the Chairman and the Collector as ex-officio member - Secretary. The Committee will have twelve members elected from among the members of the District Panchayat and Municipalities and Municipal Corporation, if any, in the District, and a nominee of the Government experienced in planning and administration. The Chairman of every District Planning Committee shall forward the development plan, as recommended by such committee, to the Government.

Under the original clause the District Planning Committee, were empowered to propose changes in the development plans of Village Panchayats for reasons such as wrong priorities, failure to adhere to subsidy norms, lack of adequate allocation of funds for Scheduled Castes and Scheduled Tribes development programmes and other draw backs. But Kerala Legislative Assembly adopted Panchayath Raj (Amendment) Bill in 1999 that seeks to curtail the power of the District Planning Committee in dictating the agenda of village Panchayats. “The new amendment would mean that any changes proposed by District Planning Committees in contravention of the provisions Act are challengeable before the court of law”. These amendments would have placed further restrictions on the powers of the District Planning Committees.
The dependence of the Panchayats on the state government can be seen in the provisions regarding grass-roots level planning. The village Panchayats has to submit copies of its schemes to the Block Panchayat and the latter in turn has to submit copies of the plan as well as those of the village Panchayat to the District Panchayat. The District Panchayats will then submit their schemes as well as the others to the District Planning Committee.

3.3.5 Functions, Powers, and Responsibilities of Panchayats at different levels

The ever increasing governmental activities have made devolution of powers, from higher to lower units of government, an inevitable necessity in modern times. "The Panchayats should play an important role in bringing about a more just and integrated structure in rural areas and in developing a new pattern of rural leadership"42. The powers and functions of the Village Panchayats are listed in schedule III of the Act. The powers and functions of the Block Panchayats are listed in schedule IV and those of the District Panchayats in schedule V of the Act. The powers, duties and functions of the village Panchayat, Block Panchayats and district Panchayats are basically derived from section 166, 172, and 173 respectively of the Kerala Panchayati Raj Act43.

The scope of the functions assigned to the village Panchayat, Block Panchayat and District Panchayat is no longer confined to what may be called 'civic functions' but is extended to development works and other
activities relating to Social Welfare etc. of local importance. The Kerala Panchayati Raj Act, 1994 provides that the following categories of responsibilities shall be assigned to the Village Panchayat: (1) Essential Responsibilities, and (2) Additional responsibilities. Among the essential responsibilities are construction, repairs and maintenance of drinking water wells and tanks, construction and maintenance of village roads, drains and culverts, the lighting of public roads and their protection, registration of births, deaths and marriages, preparation of annual budget, construction and maintenance of slaughter houses, destruction of stray dogs, formation of legal aid cells for weaker sections, maintenance of public latrines disposal of unclaimed corpses and carcasses, licensing of eating establishments, control of mosquitoes and the clearing of roads and streets and the removal of rubbish heaps.

The additional responsibilities include agriculture, animal husbandry, dairy and poultry, fisheries, social forestry, village and cottage industries, rural housing, drinking water, rural electrification, non-conventional energy sources, poverty eradication and village development programmes, education cultural activities, public health, social welfare, welfare of Scheduled Castes and Scheduled Tribes, public distribution system and public works.

The responsibilities of the Block Panchayats are listed in the fourth schedule of the Act. It includes agriculture, small scale industries, poverty eradication and village development programmes, public health, social
welfare, welfare of Scheduled Castes and Scheduled Tribes and public distribution system.

The fifth schedule of the Acts deals with the responsibilities of the District Panchayats. It covers agriculture, animal husbandry, irrigation, fisheries, village industries, housing, water supply, public works, electricity and non-conventional energy sources, poverty eradication and village development programmes, education, social welfare of Scheduled Castes and Scheduled Tribes, public distribution system, industries, revenue, co-operation, fisheries etc.

The committee on Decentralisation (Sen Committee) recommended that the district hospital and other hospitals servicing more than one Block or Municipal areas should be brought under the District Panchayats. It also recommended that all the district level health schemes like Tuberculosis/Leprosy/Blindness control, school health programme etc. should be implemented by the District Panchayats. No prior approval of the budget of Local Self-Government Institutions is required. The District Planning Committee can scrutinise the budgets and point out defects, if any, with reference to the budget guidelines issued by the Government.

"The increasing role of Panchayati Raj is in the developmental activities demands that they be adequately equipped with proper administrative machinery, sound financial resources and expertise to tackle different field problems". One of the basic objectives of decentralisation is
improvement in delivery of services. For this to be achieved, it is necessary to reverse the trend of deterioration in several public assets created ago. As there is general security of non-plan resources, it is possible that competing demands may restrict the non-plan allotments to Panchayats. This has to be guarded against. So the Sen Committee recommends that the Government should review, subject to its financial condition, its decision on the recommendations of the State Finance Commission regarding devolution of one percent of the State revenue and fixing of maintenance norms of assets at current rates. In the absence of adequate resources, it has become a dire necessity on the part of the Panchayats not only to appeal more and more to Government for increasing financial assistance, but also to utilise the voluntary services available in the villages by eliciting the cooperation of and participation by the villagers in the implementation of developmental and other activities after inculcating in them a consciousness of their duties and responsibilities in such matters.

Section 191(1) of the Act empowers the Government to take away any of the powers and functions that were being passed on to the Panchayats. These provisions could be misused for political ends and are bound to curb the freedom, enthusiasm and will to work in the local institutions. If the intention is to truly create grass-roots democracy then it follows that the power of dissolution should rest with the electorate and not with any other authority.
If it is to be noted that in the Kerala Panchayati Raj system there has been a decision to avoid a hierarchy among the three tiers of Panchayati Raj Institutions. Therefore, when powers are assigned to each of the Panchayati Raj tiers it has to be defined so that there is no unnecessary overlap among the functional domains of the three levels. While assigning function to the three levels the Sen Committee has been guided by certain principles. In the case of infrastructure projects the Committee has generally followed the service area approach. In the case of productive sectors and in social sectors, the Committee has given weightage to the principle of subsidiarity i.e., what can be done better at a lower level should be done at that level only and not at a higher level. In general for efficient functioning of Panchayats, Sen Committee suggested amendments to section 166, 172 and 173 of the Act.

The Constitution also provides for State Election Commission and Finance Commission. The elections to the Panchayats are to be conducted regularly under the overall supervision of the Election Commission of the State. The Election Commission will be headed by the State Election Commissioner who shall be appointed by the Governor. Elections are the process of ascertaining the sovereign will of the people. The reinforcement of the State Election Commission would go a long way in ensuring the independence of the electoral process from the executive arm of the Government. Chapter VII of the Kerala Panchayati Raj Act provides for a Finance Commission to be constituted once in every five years to review
the financial position of Panchayats. The main function of the Finance Commission is to review the financial position of the Panchayats and to recommend to the state the pattern of distribution of funds between the state and the Panchayati Raj Bodies. The flow of larger and assured funds to the Panchayati Raj body has been assured, which in turn, will strengthen the people’s involvement in the planning process.

3.4 GRAM SABHA UNDER KERALA PANCHAYATI RAJ ACT 1994

The Constitution of India in Article 243 makes the Gram Sabha an integral part of the three-tier Panchayati Raj system and provides for assigning functions to it. The Kerala Panchayati Raj Act details the structure and functioning of the Gram Sabha.

The Gram Sabha is the grass-root unit of planning in the village. The Gram Sabha is a sub-unit that represents a ward in a Panchayat. If a Panchayat has say 15 wards, then there will be 15 ward members, and they constitute the Panchayat Committee which takes all the decisions and makes all the allocations for development purposes. Gram Sabha must perform effectively a dual role ensuring the working of the Gram Panchayat strictly on its defined track and assisting the Gram Panchayat in performing the functions prescribed for it.

The Kerala Act has made it obligatory to hold at least two Gram Sabha meetings a year as has been recommended in the 73rd Amendment. In
Kerala Gram Sabha is constituted in each ward. A parallel is seen in Bengal also though it is known by a different name ‘Gram Samsad’. The quorum for meeting of Gram Sabha was 50\textsuperscript{53}.

The Panchayati Raj Act 1994. Section 3 provides for the following main features to Gram Sabha.

(a) Gram Sabha is based on the ward i.e., every ward has a Gram Sabha\textsuperscript{54}

(b) All adults belonging to the ward are members of the Gram Sabha.

(c) It shall be convened at least twice every year at a time and place notified by the Panchayat Committee\textsuperscript{55}.

(d) The Panchayat President will be chairperson and the concerned ward member will be the convener of the Gram Sabha.

(e) Gram Panchayat President will preside over the meetings, in his absence the Vice-president or the member concerned will perform this functions\textsuperscript{56}.

(f) The Gram Panchayat shall submit before Gram Sabha its reports regarding the previous years’ development activities carried out in the ward and the annual financial statement. It also has to present before the Gram Sabha those activities that are to be undertaken for the coming year together with estimate of expenditure\textsuperscript{57}.

(g) If any of the resolutions of the Gram Sabha are not executed, the President and the Convener should give explanation as to why it was not done.
The resolution and recommendation of the Gram Sabha should be given due consideration by the Village Block and District Panchayats.

Kerala Panchayati Raj Act, 1994 provides that the Gram Sabha shall perform the following functions.

(a) Rendering assistance and encouragement in the preparation of development schemes pertaining to the village and their supervision.

(b) The promotion of unity and harmony among all sections of society in the village.

(c) Mobilise voluntary labour and contribution in kind and cash for community welfare programmes.

(d) Rendering assistance in the implementation of development schemes pertaining to the village.

(e) Identification of beneficiaries for the implementation of development schemes pertaining to the village.

(f) Discuss the suggestions concerning the programme of adult education within the village.

(g) Such other matters, as may be prescribed.

(h) There are five rules relating to convening of Gram Sabha. They are:

(i) The meeting time will be between 8 a.m. and 6 p.m.
(j) The notice stating the place, date and time for the meeting of the Gram Sabha shall be published in public places, public offices, schools and office of the Gram Panchayat.

(k) An agenda for the meeting must be prepared by the Secretary in consultation with the President of the Gram Panchayat.

(l) Decisions-taken and resolutions passed in Gram Sabha by majority opinion must be sent to the Panchayat Committee within one week.

(m) The quorum of the Gram Sabha should not be less than fifty.

The Gram Sabha in the present Act is not an executive body. It represents all the voters in the ward, and they have powers to raise issues, ask for clarifications and suggest programmes for implementation. In Kerala there are roughly 1000 to 2500 voters in a ward. To find a place for the meetings is not easy in many rural areas. Viability of this institution would depend on the extent to which it can function effectively as a controlling mechanism and a body to mobilise local resources for development. Gram Sabha, in a way, is the most promising step taken by the government as a part of the process of decentralisation of power.

The Sen Committee recommended that the quorum of Gram Sabha should be raised to 10 percent and also recommended that the Gram Sabha should meet as frequently as possible, at any rate not less than once in three months. For the Gram Sabha, there should be written invitations to every household. The rights of the Gram Sabha should be specified: to know the
detailed estimates of the works proposed to be taken up and know the
detailed item-wise accounts of every expenditure incurred within the area
of the Gram Sabha. The Convener of the Gram Sabha should maintain a
record of the decisions taken in each meeting. This must be available in the
Panchayat office for reference and copying. According to the Sen
Committee recommendations, failure to convene Gram Sabhas should be
deemed to be a violation of the provisions of Kerala Panchayati Raj Act and
calls for penal action including loss of membership of the convener in case
of two consecutive instances of non-compliance. These are the major
modifications suggested by the Committee.

In September 1998, the Department of Local Administration issued
a circular regarding strengthening Gram Sabhas. As Gram Sabhas are
critical institutions in ensuring people’s participation, they need to be
strengthened. According to this circular, widespread, publicity should be
given to Gram Sabha meetings through invitation to all elected members,
officials, political parties, trade unions, voluntary organisations, libraries,
youth clubs, religious organisations, neighborhood groups etc. Notice
would be prominently displayed in all the public institutions of the ward
like markets, schools, ration shops, anganwadis, and also in the special
public information notice board that is being set up in each ward.
Panchayat should nominate one official to be the co-ordinator of the Gram
Sabha. All the Block Panchayat members and the District Panchayat

102
members should be informed about the date and venue of the Gram Sabha meetings.

The decisions of the Gram Sabha should be minuted by the co-ordinator and read to the Gram Sabha members before meeting is formally closed. The minutes should be entered in a well-bound minutes book. The President, Secretary and elected members and other officials should invariably sign the minutes. The signatures of as many participants as possible should be obtained. As per the circular the minutes of the Gram Sabha is a public document and copies can be given to any person on request and on payment of actual photocopying charge.

The attendance of the Gram Sabha should be taken with name address, age, noting other details like whether belonging to scheduled Castes or Scheduled Tribes, whether the participant’s a woman or is an official etc. Gram Sabha should not be unwieldy. So the Sen Committee recommended that the wards have to be delimited in such a way as to have and electoral strength of 1000. If this is to be achieved then the number of wards should be raised from the present 15 to 25. The Committee also recommended for more subject-specific Standing Committees to enhance the level of participation of elected members in governance. The Legislative Assembly of Kerala adopted the above recommendations of the Sen Committee and effected appropriate amendment to the Kerala Panchayat Act in 1999.
A Committee of six Chief Ministers including Chief Minister of Kerala, Mr. E.K. Nayanar convened by the Prime Minister, Mr. I.K. Gujral in 1997 proposed that Gram Sabhas be the power centre in the Panchayati Raj System. On that occasion Prime Minister urged State governments to devolve more powers to Gram Sabha and it was emphasised that Gram Panchayats should derive power from the Gram Sabhas. 

The Union Minister for Rural Development and Employment, Mr. Baba Gowda Patil declared, 1999-2000 as the year of Gram Sabhas in order to speed up the programmes of decentralisation of power from higher level to village level. He also insisted on transparency and people's participation in development activities.

3.5 COMMITTEE ON DECENTRALISATION OF POWERS: APPROACH TOWARDS GRAM SABHA

The Committee on Decentralisation of Powers (1997) has attempted to bring about a restructuring of the Kerala Panchayati Raj Act, the Kerala Municipality Act and the allied Acts. The committee has recommended that there be an enabling provision to create participatory community structures to enable the poor to have a say in development matters like neighborhood groups, ward level and local body level organisations.

In order to protect the autonomy of the local bodies, the committee has reduced the scope of Government interference in their day to day affairs. The Committee could see the issues concerning decentralisation
from various points of view. This enabled the Committee to prepare a blend of the best available ideas and feasible propositions. The various ideas were put to rigorous examination in the Committee sitting before adopting them as recommendations.

In order to further the process of decentralisation and take power to the people, it is necessary to facilitate full participation of the people in the planning, implementation and monitoring of development programmers, and the Committee strongly feels that the Gram Sabha is the vehicle for achieving genuine people's participation. In fact the objectives of the system can be realised in spirit only if the Gram Sabhas are enabled to function effectively.

Since Gram Sabhas are of vital importance, they should not be unwieldy in size. Therefore an optimum strength of a Gram Sabha should be 1000 which would mean that the wards have to be delimitied in such a way as to have an electoral strength of 1000. The Committee also recommended that the maximum strength of village Panchayat should be raised from 15 to 25 by making necessary amendments to section 6 of the Kerala Panchayati Raj Act.

The committee had recommended the strengthening of the Gram Sabha by increasing frequency of the sessions from two to four in a year and quorum from the fifty members to ten percent. The committee had stated its intention to make the Gram Sabha the base of the Panchayati Raj
structure. In order to make Gram Sabha vibrant, the Committee suggested the creation of neighbourhood groups.

The Committee recommended the following functions, powers and responsibilities for the Gram Sabha.

1. To select beneficiaries in the case of beneficiary - oriented - schemes by applying the selection criteria fixed for a particular scheme either by the Panchayat or by the Government. In case the criteria are general, the Gram Sabha should first lay down the detailed criteria both for exclusion and selection, and then apply such criteria both for execution and selection and then apply such criteria and do the selection process from among eligible persons.

2. To verify the eligibility of persons getting various kinds of welfare assistance of Government like pensions, subsidies, ration schemes etc.

3. To suggest the location of street-lights, water taps, public wells, public sanitation units, minor irrigation facilities etc., pertaining to that ward.

4. To know the action plan for the next three months as far as various developments programmes are concerned.

5. To know the detailed estimates of the works proposed to be taken up in that ward.

6. To know the detailed item-wise accounts of expenditure increased within the area of the Gram Sabha.

7. To ascertain from the officials the services they will render and the works they are to do in the succeeding three months.
8. To generate proposals and indicate priorities for preparation of annual and Five Year Plans.

9. To set up sub-committees and neighbourhood groups to undertake or oversee any kind of work in furtherance of the rights and responsibilities of the Gram Sabha.

10. To know the rationale of every decision of the Panchayat concerning that area.

11. To know the follow up action taken on the decision of the Gram Sabha and to know the detailed reasons if some of the decisions cannot be implemented.

12. To discuss performance audit report.

Responsibilities of the Gram Sabha

1. Dissemination of information on development and welfare programmes.

2. Canvassing participation in health, literacy and similar development campaigns.

3. Collecting essential socio-economic data.


5. Resorting to moral suasion to pay taxes, repay loans, promote environmental cleanliness, maintain social harmony etc.

6. Mobilising local resources to augment Panchayat resources.

7. Supervising development works as Volunter teams.

8. Creating arrangement to report quickly incidence of epidemics, natural calamities, etc.
In order to help the conveners call the meeting including the recording of major decisions and take follow-up action and present the required reports and data to the Gram Sabha, it would be useful to have a designated official acting as the Co-ordinator.

According to the Kerala Panchayat Raj Act 1994 the quorum of the Gram Sabha was 50. The Sen Committee averred that the low quorum opens up dangers of misuse and manipulation, as it would be easy to cobble up the number required from among a closed circle of people. Considering the possibility of reduced attendance in areas peripheral to urban centres, it is suggested that a quorum of ten percent should be insisted upon. Since Gram Sabhas have now a lot of functions to perform and responsibilities to discharge, it is necessary to have more frequent meetings. It is suggested that the Gram Sabha should meet at least once in a quarter. Locally, arrangements can be made for each Gram Sabha to meet on prefixed dates every quarter. This can be given wide publicity. If this practice is followed, there would be no need to have ad hoc or hurriedly arranged Gram Sabhas. Such fixed date would also enable Panchayats at the three levels to take decisions in time so that Gram Sabha can make the necessary follow up selection of sites and beneficiaries. It is necessary to incur some expenditure for the convening of Gram Sabhas and powers are to be delegated to the Village Panchayats to incur the necessary expenditure.
Since Gram Sabhas are the most critical institution in ensuring the participation of the people, its regular meeting needs to be ensured. Failure to convene two consecutive Gram Sabhas should lead to automatic termination of the membership of the Panchayat member responsible.

In order to strengthen Gram Sabhas, it may be necessary to constitute support structures through community organisations like Neighbourhood Groups. Government should actively promote constitution of such groups and these groups should be given an autonomous area of functioning. All these provisions have been incorporated in the 1999 Amendments.

3.6 CONCLUSION

Since 1996, a number of reforms in the Panchayati Raj Act have been mooted and these were implemented with the passage of the Kerala Panchayati Raj Amendment Act 1999. An ombudsman has been set up to address complaints relation to acts of commission and omission of local bodies lodged by citizens and organisations. The quantum of funds transferred to the Panchayats has increased several fold. An Administrative Reforms Committee has been set up to suggest measures to implement the reforms introduced in recent years. All these developments as well as the elaborate and ambitious participatory planning has catapulted Kerala to the centre stage of decentralisation discourse in the country, and in some sense also the developing world. The contribution of Shri. E.M.S. Namboothiripad to these recent developments is particularly noteworthy notwithstanding the centralising nature of the party he represents.
NOTES AND REFERENCES


4. Ibid, p.113


9. *Constitution of India, Article 40*


12. Panchayats with an annual income of less than Rs. 15000/- and above were classified under Grade C, those having an annual income
of less than Rs. 15000/- more than Rs. 5000/- were listed in Grade II, while the rest were grouped under Grade III.

13. The Travancore-Cochin Village courts had taken steps for quicker and cheaper justice and also succeeded in discouraging litigation. There was a separate Department of Panchayat under a Director who had state-wide jurisdiction. There were first Assistant Director of Panchayats, one for each revenue district. The ultimate power vested with the government. The government possessed power to supersede a Panchayat under certain conditions specified in section 41 of the Act, viz, if a Panchayat is not competent to perform or if a Panchayat persistently makes default in performing the duties imposed by law or exceeds or abuses its powers.


24. *Kerala Panchayati Raj Act, Section 4(a)*


26. *Kerala Panchayati Raj Act Section 7(5)*

27. *Kerala Panchayati Raj Act Section 193 (1)*

28. *Kerala Panchayati Raj Act Section 6 (3)*

29. *Kerala Panchayati Raj Act section 8 (8)*

30. *Kerala Panchayati Raj Act section 8 (5)*

31. *Kerala Panchayati Raj Act section 8 (6)*

32. *Kerala Panchayati Raj Act, Chapter III clause 9*

33. *Kerala Panchayati Raj Act section 9 (5)*

34. *Kerala Panchayati Raj Act section 156 (2)*

35. *Kerala Panchayati Raj Act section 157 (12)*
36. Section 33 of the Kerala Panchayati Raj Act deals with disqualification or failure to lodge accounts election expenses. The Sen Committee also feels that this provision should be strengthened. (Jos Chathukalam, M.S. John, Panchayathurajum Sen Committiyum (Malayalam) December 1998, p. 120.) Defection in the local bodies of the state was banned with retrospective effect from October 2, 1995. The Ordinance is entitled as “The Local Self Government Institutions (Prohibition of Defection)” which seeks to provide for mandatory disqualification of Panchayat and Municipal Council members who defect from parties which had fielded them in the local bodies poll or joined a political party after getting elected as an independent. In a recent ruling the State Election Commission stated the elected members of Panchayat can be disqualified for defecting from the political parties on whose ticket they were elected. It is a significant feature in Kerala that in a large number of Panchayats, ruling group either the Left Democratic Front or the United Democratic Front holds power with a thin majority. In the two years since the Panchayat election (September 1995), there have been a number of instances of defection.

The Government of Kerala has accepted the recommendations of the Committee, to set up an Ombudsman consisting of seven members headed by High Court Judge to probe corruption and irregularities in the running of the civic bodies. The State Election Commission should be the authority to decide defection and the disqualification would take effect once the State Election Commission pronounces its decision.

37. Kerala Panchayati Raj Act, Section 179 (1)


44. *Kerala Panchayati Raj Act Section 166 (1) Schedule III*


50. *Kerala Panchayati Raj Act, 1994, Section 186(1)*

51. The second Finance Commission has been already appointed.

52. *Kerala Panchayati Raj Act, 1994, Chapter II, Section (3) (1)*

53. *Kerala Panchayati Raj Act (3)(4)*
54. Kerala Panchayati Raj Act Section (3) (2)
55. Kerala Panchayati Raj Act Section (3) (2)
56. Kerala Panchayati Raj Act Section (3) (3)
57. Kerala Panchayati Raj Act Section (3) (4)
58. Kerala Panchayati Raj Act Section (3) (5)
59. Kerala Panchayati Raj Act Section (8) (a)
60. Kerala Panchayati Raj Act Section (8) (b)
61. Kerala Panchayati Raj Act Section (3) (6) (b)
62. Kerala Panchayati Raj Act Section (3) (6) (a)
63. Kerala Panchayati Raj Act Section (3) (b) (d)
64. Kerala Panchayati Raj Act Section (8) (f)
65. Kerala Panchayati Raj Act Section 166(1) Schedule III
68. Ibid.
70. The Hindu, 1997. November, p.8

115