Chapter-IV

HISTORY OF PRIS IN BIHAR
In the last days of the British rule, the provincial congress Government under the overall leadership of Mahatma Gandhi decided to take advantage of the provincial autonomy by creating statutory panchayats in the state in 1937. However, it could finally take shape after independence, the Bihar Government enacted the Bihar Panchayati Raj Act 1947, and it was implemented throughout the state in the following years. The aims and objectives of the legislation noted that the act was enacted to established local self government in the rural communities so that they could work their social and economic development. The legislation was according to the provision in article 40 of the constitution enacted a few years after the enactment of the Bihar Panchayati Raj Act 1947. This Act assigned the village panchayats some executive functions of implementing development programmes and power of trying and deciding minor civil and criminal cases. Bihar, thus, has the distinction of being one of the first states of India to enact a formal legislation on Panchayats. (Dutta, 2004:49 and Kumar, 2007:50).

Bihar, like many other states elected these Panchayats but only at the village level. A three-tier Panchayati Raj system was enacted in the country following the recommendation of the Balwantry Mehta Committee in 1958. Not to be left behind, Bihar also legislated its
Panchayat Samiti and Zila Parishad Act 1961 and created only two new units of rural local Government - Panchayat Samiti and Zila Parishad – the primary unit, the village Panchayat being already in operation since 1948. Bihar embarked on its journey towards greater decentralization with these two acts. (Ghosh, 2001:1681 and Kumar, 2007:52).

Only halfhearted attempts were made to implement the Panchayati Raj Institution in the state. It took two years for the state Government to draft a bill on the lines suggested by the Mehta team and another three years to have the law passed by the legislature and consented to by the governor. The implementation of the Bihar Panchayat Samitis and Zila Parishad act 1961 even in the few districts was delayed for about three more years. It took nearly two decades to enforce it throughout the state. The Panchayat Samiti and Zila Parishad were installed initially in the two districts of Ranchi and Bhagalpur in 1964 and in the same year the Government issued an ordinance for the postponement of the act of 1961. However, in 1965 Dhanbad was also covered by PRIs. The entire 14 district remained under district boards managed by the officials. In 1973 the PRIs were set up further in five districts of Santhal Parganas Giridih, Palamu, Hazaribagh, and Singhbhum. It was not before early eighties that all districts could be
covered by the PRIs. Thus the Panchayats Samitis and Zila Parishad took a long time to be established in all the districts and could, in fact, never get institutionalized in the true sense of the term as properly functional institution. Hardly ever did the three tier functioned simultaneously in any district (Kumar, 2007: 53 - 54).

The Panchayat elections were held in 1978, at the initiative of Karpoori Thakur, then chief minister of Bihar. The Panchayat elections of 1978 marked a shift in political power from the upper caste to the backward castes. Karpoori Thakur had implemented the Mungeri Lal Commission Report which entailed reservation in the states Government jobs for the backward caste (annexure I castes) and (annexure II caste) in Bihar. After the implementation of the report, the whole states got engulfed in agitation either in favor of reservation by backward castes or against the reservation by upper castes. The politics of Bihar has completely changed since then. There were two immediate results-firstly, the backward castes got political power for the first time, and they got the distinct identity. Secondly, most political parties got split vertically on the basis of the social divide between backward castes and upper caste. In this Karpoori Thakur was able to mix reservation with Panchayat elections. In the absence of full political support at the state level, He had opted for decentralization by
giving power to the backward castes. Thus he was able to strengthen his position at the state level by getting political support from the backward castes belonging to many political parties (Gupta, 2001:2742).

In Bihar, the process of decentralization of power stopped after 1983 but the process of giving power to the backward castes could not be stopped. By the time Laloo Prasad came to power in the wake of the Mandal Commission, the electoral empowerment of the backward castes had taken place. While political insecurity had made Thakoor hasten the process of decentralization, Laloo Prasad could afford to ignore it because of his relative social and political stability which he derived from the support of the backward castes. He was politically more engaged with the implications of the collapse of the upper castes power in the 1990 assembly elections. The subsequent election of 1995 and 2000 further strengthen his political support. He could not afford to weaken his position by the decentralization of power which could strengthen the powerful upper castes in rural areas (Gupta, 2001:2742).

Once the tenure of the elected Gram Panchayat came to an end in 1983, the Bihar government took recourse to promulgate ordinances to give new lease of life to its PRJs. Through this novel devices, the successive Government of Bihar went on extending tenure of mukhiyas
and pramukh after every six month by re-promulgating the same ordinances. Earlier, Bihar had already earned the infamy for its rule through ordinances but not contended with this dubious distinction the state continued with this pattern of decentralization through ordinances fore more than 15 years (Ghose, 2001:1681). During this period a large number of mukhiyas grew old and died. In their place were brought a new type of mukhiyas – nominated by directorate of Panchayat, Patna. In fact, this task of nominating mukhiyas became the full-time job of one of the deputy directors otherwise in-charge of the panchayat election at the directorate. Most importantly, all through this period, a few seats in the legislative council (upper house of the Bihar assembly) reserved for the legislature indirectly elected by an electoral college comprising elected members of both the panchayat and municipal bodies, remained vacant. Such a flagrant violation of the constitution never became an issue for the political class in Bihar. After all, the continuation of the panchayats was a precondition for receiving the rural development funds from the union ministry of rural development, particularly under the Jawahar Rojgar Yojna whose quantum, since 1985 onwards has increased with every budget (Ghose, 2001:1681).
Since there was no participation of all section of the society like weaker sections and women in Panchayats up to 1980s, a large section of the people remained deprived of benefits of development. In view of this parliament enacted 73rd Constitutional Amendment in which there was reservation of seats for women and other weaker section. All the states governments were directed to implement provisions of the 73rd Constitutional Amendment in their states with immediate effect. Following the directives of the Central Government the Bihar Government enacted the Bihar Panchayati Raj Act, 1993 (Dutta, 2004:50). The new Bihar Panchayati Raj Act 1993 implemented by the Bihar Government throughout the state an order issued by the Panchayati Raj directorate. This new act repealed the old Panchayati Raj Act 1947 and the Bihar Panchayat Samiti and Zila Parishad Act 1961. It has the advantage the consolidating the two acts into one (Matthew, 2000:82).

The act seeks to strengthen the Gram Sabha so that its meetings have to be held every three months. It would consider and look into the statements of accounts, audit report, budgets development program and the reports of the vigilance committees but will not approve them. Vigilance Committees are to be created by the Gram Sabha from the members outside the panchayat, and through these committees the
Gram Sabha may control and play a useful role in panchayat activities. The act provides for direct election of mukhia and other Panchayat members. The election of member of Panchayat Samiti and Zila Parishad is also direct, but the election of the block Pramukhs and Zila Adhyaksha is indirect. The act reserves one third seats for women. This includes one third of SCs / STs / BCs seats the number of which is determined in proportion of the population belonging to these categories in the area. The same ratio would prevail in Samitis and Parishad while the ratio of Mukhias, Pramukh and Adhyaksha would also be the same, as these posts are also reserved in the same way the reserved seats would be allotted on the basis of rotation (Matthew, 2000:83).

The new act has provision in section 157 (f) the existing Panchayats will continue to function as per new act till election to the Panchayat are held. The state government took benefit of this lacuna and silence of the 73rd Amendment to the Constitution of India regarding the first election after the enactment of States Panchayati Raj laws to put off election to the Panchayats. While elections were held twice in almost all the states, in Bihar the first election could not take place till April, 2001. Delimitation of the Panchayat was first issue and the state government referred the case to the State Election
Commission. The real problem however cropped up on the issue of reservation. Though the constitution has provision for the reservation of posts for the SCs and STs, it is silent reservation of posts for Backwards Classes and has left this to the discretion of State. Accordingly, Bihar legislature passed a law to fix quota for the Backward Classes. This infuriated a section of society and they moved to the Patna High Court with a petition. After lengthy hearing the Patna High Court ruled on March 18, 1996, that single post like Mukhiya, Sarpanch, Pramukh and Adhyaksha would not be reserved. It also ruled that reservation would not exceed 50 per cent of the total seats in different tiers of Panchayats. It was against this decision that the Bihar Government filed a petition in the Supreme Court. On February 24, 1997 the bench of judges hearing the case dissolved the Panchayat for which the elections were held in 1978. It vested the work of Gram Panchayat on Gram Sewaks and that of Panchayat Samiti on Block Development Officers. On July 22, 1997 the Supreme Court bench ruled that no election could be held till it gave the verdict. This created a peculiar situation as funds for rural development continue to lapse. The Central Rural Development Secretary made it clear that no fund would be allocated till elections were held. Meanwhile, another case was filed by the Panchayat Parishad, a network of Mukhiyas of the state, over the delay on ruling. After the Panchayat Bachao Abhiyan
was formed with a view to fighting the cause of the people who had been deprived of their rights. To press the point further the various social organizations of the state launched a signature and postcard campaign. Their target was to collect one lakh signatures. The post cards were addressed to Supreme Court and a copy of each was sent to the president the Prime Minister, the Chief Minister and the State Election Commission. In another development the Rural Development Minister announced in July 1998 in the State Legislative Assembly that the government would hold Panchayat election in the state only after the Supreme Court disposed of the petition challenged the Patna High Court order striking down certain provision of reservation in the Bihar Panchayati Raj Act, 1993. On March 28, 1999, activist of the Bihar Pradesh Lok Samiti and the Manav Jodo Abhiyan decided to organize dharna at all the district headquarters on April 8 to mount pressure on the government to hold Panchayat election at the earliest. Due to joint effort of several NGOs Panchayat bachao abhiyan and several activists the Patna High Court ordered the Bihar government announced that it would hold election to panchayats and local bodies in February 2001. But the High Court order put the State Government in a fix as it ruled out any reservation for single posts. Thus, it kept post of Mukhiyas and Sarpanch at the Gram Panchayat level, Pramukh at the Block level and Adhyaksha at the District level out of ambit of
reservation. Besides it directed the government to keep the reservation within 50 percent. Then government decided to make suitable amendment in the Panchayati Raj Act, 1993. After the amendment it took several months and lastly panchayat election took place in April 2001 (Dutta, 2004:52).

The Panchayat election could not be avoided due to the intervention of the Patna High Court. The broad results of the election largely conform to the social and political trends in Bihar since the last panchayat election in 1978 which had gradually strengthen the hold of the backward castes on the states political power structure. The 2001 panchayat election will go down in the history of Bihar as turning point for the electoral empowerment of the backward castes. Till recently, they were not given political and social importance although they constitute more than 33 per cent of the total population. In these panchayat elections, however, they have decisively established their identity. Not only they emerged as chairman of Zila parishad, but a large number of them have been elected either as mukhiays or as a member of the Zila Parishads (Gupta, 2001:2743).

Besides backward castes, even the schedule castes candidates have performed well in panchayat elections. A number of schedule castes members have got elected from the flaming fields of south Bihar.
plain, the most developed part of the state- the very area where they had to face the main burnt of the atrocities from the upper castes armed outfits, like Ranveer Sena. The panchayat elections have shown the heightened awareness of the schedule castes. About 1.6 percent of the total number of mukhiyas is from the schedule castes and they all got elected in direct contest. They were not given the luxury of reservation (Gupta, 2001:2744). Thus there is due representation of the backward castes and scheduled castes in PRIs in Bihar. They have been elected as members as well as mukhiyas and chairman of Zila Parishad. There is empowerment of the backward castes and schedule castes in Bihar in PRIs. The Muslim community in Bihar can be considered to be empowered if it gets due representation in Parliament, state legislature and PRIs. It is also necessary for the Muslim community to participate in decision making in these bodies as members and in position such as mukhiyas and chairman’s. The empowerment of Muslim communities in this way can lead to its socio-economic development.

GRAM PANCHAYAT

The District Magistrate declares the area of Gram Panchayat. The population of G.P. is normally 7000. The President of G.P. (Mukhiya) to be elected directly. The Vice President (Up- Mukhiya) to be elected or selected among the elected members of G.P.
Function of G.P.

Function and powers of Gram panchayat

1. Preparation of annual plans for the development of the Panchayat area.

2. Preparation of annual budget.


4. Removal of encroachment on public properties.

5. Organizing voluntary labour and contribution for community works.

6. Maintenance of essentials of Gram Panchayat

7. Agriculture including Agriculture extension.


10. Social and Farm forestry, Minor Forestry Produce, Fuels and Fodder

11. Khadi Village and Cottage Industries

12. Rural Housing

13. Drinking Water
14. Roads, Building, Culverts, Bridges, Ferries, Waterways other means of communication.


16. Rural Electrification.

17. Poverty Alleviation Programs.

18. Education including primary secondary schools.


20. Cultural Activities.


22. Women and Child Development.

23. Welfare of weaker sections and in particular the scheduled castes and scheduled tribes.


25. Construction and maintenances of Cattle Sheds, Pounds and Cart Stands.

**Assigned function**

According to Act, Government may transfer the management and maintenance of forest situated in the Panchayat area, management of wasteland, grassing lands or vacant land “belonging to the
Government” collection of land revenue “on the behalf of the Government” and the maintenance of such records.

**Standing Committee**

Every G.P. shall constitute the following three Committees by election of selection. These Committees are:

- Production committee.
- Social justice committee.
- Amenities committee.

Each Committee shall consist of not less than three and not more than five members. The President shall be an ex-officio chairperson of all the three committees. The Social Justice Committee shall include at least one women member and one SC. However, the G.P. has power to revise or modify any decision of these committees.

**Taxation Power of G.P.**

The G.P. may impose yearly tax on the following:

- House tax
- On Professional, trade, etc.

The G.P. can also realize the following fees:

- Fees on registration on vehicles.
• Fee for providing sanitary arrangement at such places of pilgrimages, fares and means.
• Water tax
• Lighting fee
• Conservancy tax

The G.P. can make Bye-law

The G.P. has the power to make bye-laws with the approval of Z.P.

**G.P. to prepare annual budget.**

The G.P. shall prepare annual budget of its estimated receipt and disbursement for the following year and shall get approved in its meeting by a majority of its members present.

**Staff of G.P.**

According to Act each G.P. shall have a Government appointed secretary.

**Power of Government to dissolved and reconstitutes Panchayats**

The Government by an order published in the officials Gazette, dissolve a Gram Panchayat on the ground that its area has been altered
and its need to be constituted a fresh. This clearly shows the powerful role of the State Government has in the G.P.

**PANCHAYAT SAMITI** (PS)

For every development Block there shall be a Panchayat Samiti. It shall consist of directly elected members, each member representing a population of approximately 5,000. The elected member of the PS shall elect/select two members from among themselves as its President (Pramukh) and Vice President (Up- Pramukh). The P S shall meet at least once in every two months. Half of the total number of the members shall form the quorum for the ordinary meetings.

Besides the directly elected members, the PS also has G P president under their PS, MP, MLA and MLC of their areas are the ex-officio members.

**Function of PS**

According to Act PS has been assigned twenty seven functions. But this assignment of the functions is subject to such conditions as may be prescribed by the government from time to time. This clearly shows that government control over the PS.
Function and powers of Panchayat Samiti

1. Subject to such conditions as may be prescribed by the Government, from time to time, the P S’s shall undertake the following:

   (I) Preparation of annual plans in respect of the schemes entrusted to it by virtue of act and these assigned to it by the Government or the Z.P. and submission thereof within the prescribed time for integration with the District Plan.

   (II) Consideration and consolidation of the annual plans of all Gram Panchayats in P.S. and submission of the consolidated plans to the Z.P.

   (III) Preparation of annual budget of the Panchayat Samiti and submission of the consolidated plan to the Zila Parishad.

   (IV) Performing such functions and executing such may be entrusted to it by the Government or the Z.P.

2. Agriculture including agriculture extension.

3. Land improvement and soil conservation.

4. Minor irrigation, water management and watershed development.

5. Poverty alleviation program.

6. Animal husbandry, dairying and poultry.

7. Fisheries.
8. Khadi, village and cottage industries.

9. Rural Housing.

10. Drinking Water.

11. Social and Form Forestry, Minor Forest Produce, Fuel and Fodder.

12. Roads, building bridge ferries waterways and other means of communication.


14. Education including primary and secondary schools.

15. Technical training and vocational education.

16. Adult and non formal education.

17. Cultural Activities.


20. Women and Child Development.


22. Welfare of the weaker sections and in particular of the SCs and STs.

23. Maintenance of community assets.
24. Public distribution system.

25. Co-operation.

26. Rural electrification.

27. Libraries.

**Standing committee**

The PS shall have the three Standing Committees. These are:

- General standing committee.
- Finance, Audit and Planning Committee.
- Social Justice Committee.

The President and Vice President are the member of each committee while Executive Officer of P.S (Block Development Officer) shall be the ex-officio secretary of all the standing committee, the functioning of these committees shall follow the Guidelines laid down by the “Government from time to time”. Therefore, these committee are not really empowered to take their own decisions.

**Executive officer**

The Government shall appoint an officer not below the rank of the Deputy Collector as the executive officer of the PS.
The Executive Officer among other work "supervises and control" the executive of all works of PS.

**Taxation power**

The PS can levy tolls in respect of any ferry established by it or under its management. The PS can also levy the following fees:

- Fee on the registration vehicles.
- Fee for the providing sanitary arrangements.
- Fee for license of a market.
- Water rate.
- Light up rate.

**Budget of PS**

Every PS shall prepare in each year a budget of its estimated receipt and disbursement for the following year and shall get approved in its meeting by a majority member present.

**THE ZILA PARISHAD³ (ZP)**

For each district there shall be a Z.P. having jurisdiction of entire district excluding urban areas included in a Municipality or Municipal Corporation.
Corporation of Z.P

The ZP consist of directly elected member all President of PS Local MP, MLAs, MLCs. Each of 50,000 population elects a ZP members.

The elected members of the ZP elect/select president (Adhyaksha) and Vice President (Upadhyaksha).

The ZP shall meet at least once in three months.

Function of Z.P

The ZP is to make plans for economic development and promotion of social justice in the district and ensure co-ordinated implementation of such plans. According to Act, the ZP assigned twenty four functions.

Normally district magistrate (D M) is the Chief Executive officer of ZP. The Chief Planning Officer and the Chief Accounts Officer of the Z.P. shall be appointed by the Government and shall be drawn from the All India Services.

Function and power of Z.P

It shall be the function of a ZP to prepare plans for economic development and social justice of the district and to ensure the co-ordinate implementation of such plans those enumerated below:

1. Agriculture
2 Irrigation, ground water resources and watershed development

3 Horticulture.

4 Statistics.

5 Rural Electrification

6 Distribution of essential commodities.

7 Social Forestry.

8 Horticulture.

9 Soil Conservation.

10 Animal Husbandry and Diary.

11 Minor Forest Produce, Fuel, Fodder.

12 Fisheries.

13 Household and small scale industries.

14 Health and Hygiene.

15 Education.

16 Poverty Alleviation Programs.

17 Social reform activities.

**Standing committee at the Z.P Level**

There are provisions of five standing committees in Z.P. these are:
• A General Standing Committee
• A Finance Audit and Planning Committee
• A Social Justice Committee
• An Education and Health Committee
• An Agriculture and Industries Committee.

The Z.P. president is the Chairperson of the general and finance committee. Chief Executive Officer is the ex-officio secretary of all standing committees.

Budget

Every Z.P shall prepare in each year a budget of its estimated receipt and disbursement for the following year and the same to be passed by the majority of the members present.

Taxation

"Based on the Government prescription" Z.P may levy tolls in respect of any ferry established by it or under its management. Also levy the following:

• Fees on the registration of boats or vehicles.
• A fee for providing sanitary arrangements.
- A fee for license for fair or mela.
- A lighting rate.
- Water rate.

At each tier there are reservations of seats for women and backward classes. However, G P. President from the constitution provision.