CHAPTER VII

COMPOSITION AND MEMBERSHIP OF PANCHAYATS.

The composition of a Panchayat body is determined by various factors, such as the creation and development of local leadership and training of people in for the maintenance of the democratic spirit.

The village Choukidary Act 1870, which was introduced in the Zamindari areas of the old Assam Province covering the districts of Cachar, Sylhet and Goalpara, provided for the constitution of village Panchayats with the number of members between 3 and 5. The District Magistrate had the discretion to fix the number of members of a village Panchayat and to appoint the members accordingly. The members could be either party elected and party nominated or wholly nominated. As the Panchayat was required to maintain village chaukiders for the purpose of watch and ward of the village and to collect chaukidary taxes, its function was very much limited. That is why a village Panchayat was formed with a few members only, and sometimes even with one member in exceptional cases.

The Assam Local Self Government Act 1915 as amended in 1926 fixed the strength of a Panchayat at not exceeding 9. It was left to the discretion of the Deputy Commissioner to fix the number of members within the prescribed limit and to appoint the members. Such members were either party elected and party nominated or wholly nominated.
The Chairman of a village authority was either directly elected by the villagers or nominated by the district authority.

**THE ASSAM RURAL PANCHAYAT ACT 1948.**

The Assam Rural Panchayat Act 1948 provided for two types of Panchayats, Rural Panchayat and Primary Panchayat. A Primary Panchayat was composed of all adults having permanent residence in the area. The Primary Panchayat could elect one President, one Vice-President and several members to the Primary Panchayat Executive Committee. The number of members of the Executive Committee was originally prescribed between 9 and 15. Later on by an amendment of the act in 1955 the minimum and maximum number were prescribed as 6 and 11 respectively.

The Rural Panchayat was composed of the representatives elected by the Primary Panchayats. Every Primary Panchayat could elect one representative to the Rural Panchayat. No person who was convicted of an offence of moral turpitude, ordered to give security for good behaviour, dismissed from Government service, insolvent, tout, and held any service of profit under the Government or Rural Panchayat could be elected as a member of the Rural Panchayat. The Government could appoint any Government Officer as ex-officio member of a Rural Panchayat for the rendering of expert advise.
The President and Vice-President of a Rural Panchayat were elected by the members from amongst themselves. The President could form an Executive Council of the Rural Panchayat by selecting such number of members not less than 5 and not more than 9. Every member of the Executive Council was assigned by the President certain duties and functions of the Rural Panchayat. The members of the Executive Council were responsible to the President and they held office at his pleasure. Thus there was a Cabinet system of Government in the rural areas of Assam.

But the eligibility of a person holding service of profit under the Government to become members of a Rural Panchayat was vehemently criticised by some people. According to them such persons should be debarred under the same consideration as they were debarred from the Assembly membership. In this connection, it will not be out of place to say that the Assembly membership is meant for forming a Government. As such the disqualification of a person holding any service of profit under the Government for becoming an M.L.A. is reasonably justified. Under the same consideration it can be said that the persons holding any service of profit under the local bodies should be debarred from the membership of such bodies. But it can not be concluded that the persons holding service of profit under the Govt. should also be debarred from the membership of the local bodies.
Secondly a member of a Panchayat may not be required to devote most of his time in the Panchayat matters. He can very well discharge his functions in the spare time without detriment to his normal duties under the Government. It is seen that quite a good number of such persons are holding responsibilities of different voluntary organisations or establishment in the villages. It may be argued that if a person holding an office of profit under the Government is to be accepted as member of a Panchayat, he may not be able to offer his services satisfactorily. It will however entirely depend on the ability of the person concerned. I think there should not be any objection if he can discharge his Government duties sincerely and efficiently and at the same time can devote his spare time for the Panchayat membership. For an able and efficient person it will not be difficult to render service to a Panchayat.

In the context of the community development programme the Balbantrai Mehta Committee recommended for a three tier Panchayati Raj structure with Panchayat at the village level, Panchayat Samity at the Block level and Zila Panchayat at the district level. These three institutions are to be interlinked and form parts of the same structure. As regards constitution of these bodies the committee suggested that :-

(a) The Panchayat Samity should be constituted by indirect elections from village panchayats.
(b) Each of the municipalities lying enclave within the jurisdiction of a Block should elect from amongst its own members, one person as a member of the Panchayat Samity.

(c) Where the extent and importance of the local cooperative organisation in a Block justify, a number of seats equal to 10% of the number elected should be filled by the representatives of directors of cooperatives either by cooption or by election.

(d) The constitution of the Panchayats should be purely on an elective basis with the provision for cooption of two women members and one member each from the Scheduled Castes and Scheduled Tribes. No other special groups should be given special representation.

(e) To ensure necessary coordination between the Panchayat Samities, a Zila Panchayat should be constituted consisting of the Presidents of these sanities, M.L.As. and M.Ps. representing the area and the district level officers. The collector will be its Chairman and one of his officers will act as Secretary.

THE ASSAM PANCHAYAT ACT 1959.

The Assam Panchayat Act 1959 adopted most of the recommendations of the Mehta Committee with regards to the
constitutional structure and composition of the Panchayati Raj Bodies. There are however certain departures, variations, and innovations to suit the local conditions. This was done following the recommendation of the fifth meeting of the Central Council of Local Self Government held at Hyderabad in 1950 which stated that - "While the broad pattern and the fundamentals may be uniform, there should not be any rigidity in the pattern. In fact, the country is so large and Panchayati Raj is so complex a subject with far reaching scope for trying out various patterns and alternatives."

As regards the departures from the Mehta Committee recommendation in the Assam Panchayat Act 1959 it appears that firstly while the committee suggested for a district level Zila Parishad, the Assam Act provided for the establishment of a Subdivisional level Mahasama Parishad. This was necessary in view of the fact, that while many other States had the District Boards, the Assam had the Local Boards in the Subdivisional level with identical powers and functions.

Secondly while the Committee suggested not to give special representation other than the women, Scheduled tribes and Scheduled caste, the Assam Act provided for special representation of the tea garden population. This was considered necessary in view of a large coverage of the State by the tea gardens.
Thirdly, while the Committee recommended for cooption of two women in a Panchayat, the Assam Act originally provided for one woman only. But it had to provide for two women by Assam Panchayat (amendment) Act 1967 soon after realisation of the inconveniences faced by one woman member.

Fourthly, while the Committee recommended that the collector should be the Chairman of the Zila Parishad, the Assam Act provided that Chairman would be a non-official, elected by the members of the Parishad. It was argued that there should be no going back to the official Chairmanship since the local Boards were hitherto managed by the non-official Chairman quite efficiently.

Fifthly, the Act provided for the Gaon Sabha or general assembly of all the assembly voters of the Gaon Sabha area. Every voter was statutorily recognised as a Gaon Sabha member. Such members could elect the Gaon Panchayat or Executive Committee of the Gaon Sabha.

This provision was considered necessary to facilitate direct participation of the Villagers in their democratic institution.

**GAON PANCHAYAT.**

Under the provisions of the Act, a Gaon Panchayat was composed of the elected and coopted members.
A Gaon Sabha with a population of 2500 could constitute its Gaon Panchayat with 11 members and one additional member for every 500. But subject to the maximum of 15 members including the President and Vice-President. As regards coopted members the Gaon Panchayat could coopt two women members if no women members were elected or one woman if only one was elected. The Gaon Panchayat could also coopt one member each from the scheduled castes and scheduled tribes communities where the population of each such communities was five percent or more of the total population in the Gaon Sabha and no person could be elected from the respective communities.

ANCHALIK PANCHAYAT.

This Act originally provided for the constitution of the Anchalik Panchayat with following categories of members:

1. One representative to be elected by each Gaon Sabha having its population not more than 2500 and one additional representative for every additional population of 2500 subject to the maximum of three members.

2. One representative to be elected by Chairman of the Co-operative Societies.

3. One coopted member each from the scheduled caste and scheduled tribes communities where population of each such communities is five percent or more of the total population in the Block and no person was elected from the respective communities.
(4) All the M.L.A.s. whose constituency falls within the Anchalik Panchayat area as ex-officio members.

The President and Vice President of the Anchalik Panchayat were elected by the elected and coopted members from amongst themselves.

This pattern of composition of the Anchalik Panchayat was considered to be defective for some reasons—firstly, there was no direct organisational link with the Gaon Panchayats. A member of the Anchalik Panchayat representing a Gaon Sabha could ignore the needs and wishes expressed by the Gaon Panchayat and developed the tendency of assuming full authority in respect of any work of the Anchalik Panchayat in that Gaon Sabha area. Secondly, there was no provision for representation from the tea garden areas and forest villages though such areas were included within the jurisdiction of Anchalik Panchayats. Thirdly, there was no provision for representation of women in the Anchalik Panchayat.

The Amendments to the Act in 1960 and 1964 made some changes to remove the defects as stated above. According to these Amendment Acts the Anchalik Panchayat was constituted with the following categories of members.

(1) All Presidents of the Gaon Panchayats falling within the jurisdiction of the Anchalik Panchayat.

(2) One third of the total number of the above Gaon Panchayat Presidents subject to the minimum of three are to be elected by all members of the Gaon Panchayats.
(3) Two women members are to be coopted by the Anchalik Panchayat if no any women member is elected and one woman member if only one is elected.

(4) Such number of representatives from the Tea Gardens and forest villages as may be nominated by the Government.

(5) The representation of scheduled caste or scheduled tribes communities and from the Co-operative Societies was continued.

(6) The President and Vice President of the Anchalik Panchayat were to be elected by the members from amongst them.

DISQUALIFICATIONS

Under the provisions of this Act the following persons were disqualified to become President, Vice President and member of any Gaon Panchayat, Anchalik Panchayat or Mahkuma Parishad, if he -

(1) has been convicted of an offence involving moral turpitude unless a period of four years elapsed from the date of his release; or

(2) has been ordered to give security for good behaviour under Section 110 of the code of criminal procedure 1898; or
(3) dismissed from Government service for commission of acts involving moral turpitude unless a period of five years elapsed from the date of dismissal; or

(4) has been declared as uncertified bankrupt or undischarged insolvent or tout or

(5) holds any service of profit under Government, or any educational institution receiving Government grant, or holds any remunerative office or any contract under Gaon or Anchalik Panchayat, Mohkuma Parishad or Panchayat Adalot, or

(6) has been convicted of an offence punishable under Section 135 or Section 136(2)(A) or the Representation of People Act 1951 or has been found by competent authority to have resorted to corrupt practices, or

(7) has been defaulter of any tax, rate etc of the Panchayats or of any loan of a Cooperative Society.

Besides disqualifying certain offenders and otherwise bad elements of the Society, the Act has debarred many persons of good qualities and social status. All persons holding office of profit under the Government and more particularly the teachers of the educational institutions were disqualified. As a result, quite a considerable number of college and school teachers, Government contractors, Mauzadars etc who were active and vocal in the affairs of the villages and so long kept themselves engaged in the village development activities
were virtually ousted from the Panchayats. Whatever may be the reason for prescribing such disqualifications, this had affected adversely the development of the villages.

**MAHKUMA PARISHAD**

According to the provision of the Act as amended in 1966 the Mahkuma Parishad consisted of the following categories of members:

1. The Presidents of all Anchalik Panchayats
2. One representative from each of the Anchalik Panchayats
3. The Deputy Commissioner or Subdivisional Officer or the Sadar Subdivisional Officer as the case may be.
4. The M.Ps. and M.L.As. representing the Mahkuma Parishad area.
5. The Chairman of Municipalities, Town Committees and Cooperative Central Bank as ex-officio Members.
6. The Mahkuma Parishad is to co-opt one member each from the scheduled castes and scheduled tribes communities if no such member is elected and two women members if no woman is a member or one if only one is a member.

The second category of members were included by the Assam Panchayat (Amendment) Act 1966 presumably to
accommodate some aspirants from amongst outsiders. According to this provision any voter within an Anchalik Panchayat area could stand to become a representative from the Anchalik Panchayat. Before this provision was made a person had to get himself elected as a member of the Anchalik Panchayat by the Gaon Panchayat members and then if the Anchalik Panchayat members elect him as president of the Anchalik Panchayat he would become a member of the Mahkuma Parishad. This had confined the leadership mostly with the local leaders.

The amended provision was very much effective in improving the quality of leadership in the Mohkuma Parishad by providing scope for the entry of some persons of ability and experience into Mahkuma Parishad.

THE ASSAM PANCHAYATI RAJ ACT 1972

The Assam Panchayati Raj Act 1972 provided for a two tier structure of Panchayats with Gaon Panchayats at the lower level and Mohkuma Parishad at the Subdivisional level.

This Act has completely eliminated the Gaon Sabhas and Anchalik Panchayats from the Panchayati Raj structure. According to this Act the Gaon Panchayat has a larger area with a population 15000 on the average and it is constituted with the following categories of members:
(1) Such number of members not exceeding 15 are to be elected from 15 single member constituencies by the Assembly voters of the Gaon Panchayat area.

(2) One Chairman of a Cooperative Society falling within the Gaon Panchayat area and one representative from adjoining tea garden are nominated by the Government as Ex-officio members.

(3) The Councillor of the Mohkuma Parishad elected from the Gaon Panchayat area as an ex officio member.

The President is elected directly by the general voters of the Gaon Panchayat and the Vice-President is elected by the Gaon Panchayat members from amongst themselves.

One of the important innovations of the Act with regard to constitution is the provision for reserved seats for the representation of scheduled castes, scheduled tribes and women members. Where the population of either scheduled castes or scheduled tribes is five percent or more of the total population in the Gaon Panchayat, the constituency having maximum number of population of such community is reserved for election of a member of that community.

As regards representation of women members two constituencies are treated as reserved for this purpose
and two women members are elected to the Gaon Panchayat. Such constituencies are determined by lot. Further, the women constituencies determined for one term will be dereserved for the succeeding term.

**MOHKUMA PARISHAD**

Under the provisions of the Act, a Mohkuma Parishad is constituted by the following categories of members:

1. One Councillor is to be elected from each Gaon Panchayat falling within the jurisdiction of the Mohkuma Parishad.

2. One representative from each of the Municipalities, Town Committees, Regional Board of Elementary Education and Central Cooperative Bank falling within the Mohkuma Parishad area.

3. Two representatives from the tea garden areas nominated by the Government.

As regards representation of the scheduled castes and the scheduled tribes similar provisions as that of the Gaon Panchayats have been made in respect of the Mohkuma Parishad also. But as regards representation of women only one Gaon Panchayat area is to be reserved for the purpose of electing one woman councillor to the Mohkuma Parishad.
Another important innovation of the Act with regards to the pattern of the Mohkima Parishad is that the Parishad is a general body of the Councillors in the form of a Legislative Assembly, and the executive Committee is in the form of council of Ministers. The Councillors are to elect one Chairman from amongst themselves for the purpose of conducting the meetings of the Mohkuma Parishads, one Chief Executive Councillor from amongst themselves for the purpose of exercising executive and financial powers of the Parishad. Besides, the Councillors are elected from amongst themselves the required members for different standing committees. The members of each such standing committees are to elect from amongst them one President of the Standing Committee.

All the Presidents of the Standing Committees become members of the Executive Committee of the Mohkuma Parishad by virtue of their Presidentship.

As the Mohkuma Parishad, its executive Committees and Standing Committees have been functioning since 1974, it is too early to comment on the suitability of the pattern and on the composition of these organs.

**DISQUALIFICATIONS**

Most of the disqualifications enumerated in the Assam Panchayat Act 1959 have been adopted in the present
Act with certain modifications. Firstly while a person ordered to give security for good behaviour under Section 110 of the Criminal Procedure Code could be qualified to become a member of the Gaon Panchayat, Anshalik Panchayat or Mohkuma Parishad after a period of four years of such order according to the old Act, the present Act reduced such period to three years. Secondly while the old Act disqualified a Government servant dismissed from service for commission of an act involving moral turpitude, the present act also included any such offender dismissed from the service under any local authority or institutions. Thirdly, while the old Act disqualified any defaulter of payment of any tax rates etc of the Panchayats and loan of any Cooperative Society, the present Act has disqualified only those who are defaulter for one year in respect of the same. Forthly, while the old Act specifically disqualified the persons holding any office of profit under Government, or any Government recognised educational institution or any remunerative office or contract under the Panchayat bodies, the present Act has simply debarred such person holding office of profit under the Government or the Panchayati Raj bodies. Fifthly the present Act has made a provision to disqualify a person of unsound mind if so declared by a competent court.
TERM OF OFFICE

The term of office of the Panchayat bodies at different times was 3-4 years. Under the village Chaukidary Act 1970, the term of a Panchayat was three years. But a member was not appointed again without his consent after the expiry of his term of office. He could however be appointed again without his consent after a period of three years was over from the expiry of his previous term. Under the local self Government Act 1915 and 1926, the term of office of a village Authority was three years and it could be extended for a period not exceeding one year. Under the Rural Panchayat Act 1948 the term of office of a member, President, Vice President of the Primary Panchayat Executive Committee and of the Rural Panchayat was three years. There was a provision under the Act that one third of the Rural Panchayat members would retire annually by the drawing of lots. This provision was later removed by the Assam Rural Panchayat (Amendment) Act 1955. The term of office of a member elected to fill a casual vacancy was the remainder of the term of the member whom he replaced.

Under the Assam Panchayat Act 1950 the term of office of the Presidents, Vice Presidents and members of the Gaon Panchayats, Anchalik Panchayats and Mohkuma Parishads was three years. This provision was explicitly expressed by the Assam Rural Panchayat (Amendment) Act 1960
in order to avoid any confusion regarding term of these Panchayat bodies. According to this amendment the three years term was to commence from the date of the first meeting of the respective bodies. Further it was provided that the term of office would include any period which might elapse between the expiration of the period and the date of the first meeting of the newly constituted body. It also provided that when a new body is duly constituted the old body stands dissolved.

As regards the casual vacancies of the Anchalik Panchayats and Mohkimā Parishads, the amending Act provided that the term of office of a member or the President or the Vice President to fill a casual vacancy would be the remainder of the term of office of the member, President or Vice President whom he would replace. Later, another amendment of the Act in 1962 provided for the extension of the term of office of all the Panchayat bodies by the Government for a period, not exceeding one year.

**THE ASSAM PANCHAYATI RAJ ACT 1972**

Under the Assam Panchayati Raj Act 1972, the term of office of the President, Vice-President and members of a Gaon Panchayat, and the Chairman, Chief Executive Councillor and Councillors of an Mahkuma Parishad is four years from the date of first meeting,
of the respective Panchayati Raj body. It has also provided that the term of office will include any period which may elapse between the expiration of the said period and the date of the first meeting of the newly constituted body and consequently the old body stands dissolved. The term of office of a person filling a casual vacancy will be the remainder of the term of office of the person whom he replaces.

It appears that there is little variation of the term of office of the Panchayat bodies constituted under different Acts. The Balvantral Mehta Committee (1957) suggested that the Panchayat Samity should have a life of five years and it should come into being some time in the third year of a five year plan. This suggestion however, could not be followed in the Assam Panchayat Act 1969 presumably for the reason that the Act was to be enforced at the beginning of the next plan. In this regard it may be said that if a legislative body can function for 5 years there is no sufficient reason why the term of office of an local body should be 3 or 4 years. The five years period for a Panchayat body is quite necessary for obvious reasons. Firstly, members of Panchayats require time to get themselves acquainted with the nature of the work. Secondly, the implementation of programme also requires time. Finally, frequent elections are costly. We therefore suggest that the term of office of all bodies should be five years.