CHAPTER – 07

CONCLUSION
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The provision under Article 40 of the constitution of India, which says “the state should take steps to organize village panchayats & endow them with such powers & authority, as may be necessary to enable them to function as units of self government was incorporated. Art 40 of the constitution of India legitimizes the rural self-government as a high objective of legislative & executive endeavour of the state. It is rather an embodiment of the most cherished dream of constitution makers & objectification of the most widely held consensus. The directive principles did not mention panchayats at any other level besides the village. However, later the middle tier (panchayat samiti-taluk panchayat) & the district tier (Zilla parishad) became important levels & structures in what came to be known as PANCHAYATRAJ INSTITUTIONS (PRIs).

The Constitution 73rd Amendment Act 1992 was a landmark in the history of decentralised governance. It made panchayats the third tier of the Government with reasonable substance & contents in terms of power & authority. The Act 1992 came into force from April 24th 1993. In May 1993, Act 1992 was notified by the central government & as such has become a part of the constitution of India. As a result panchayat Raj institutions have become the third layer of the governmental system & so for the constitutional status is concerned, for the first time, on par with the central & state governments. The panchayat Raj institutions (PRIs) came into being as institutions of self-governance. Articles 243,243A to
243-o in part IX of the constitution of India deals with panchayat Raj institutions [PRIs]. It enjoys the status as enjoyed by the parliament & state legislatures in terms of its existence & is a permanent institution with specific role & responsibilities.

The constitution in its 7th schedule, under Article 246 lists the local government1 legislation as being reserved to the states. The entry is very wide & empowers the state legislature to legislate with respect to any subject relating to local government. It can also confer such powers as it itself possesses, upon a local authority, including the power of taxation (within the limits of list 2), for the purpose of local self-government.2 The only constitutional provision, which can be invoked by the union government if it wishes to intervene regarding local government, is the presidential veto over legislation, which has been referred by the state governor.

The 73rd Amendment Act 1992 extended to all states & union territories with some exceptions, especially the V3 & VI4 schedule areas. However, though the constitution of India provided for these areas to be exempted from the new panchayat Raj dispensation, & gave the power to the parliament to extend the amendment to these areas with suitable modifications & exceptions, most of the states extended the provisions of the main 73rd Amendment Act to the tribal area covered under the fifth schedule. And, after the passage of the provisions of panchayat Raj (extension of scheduled areas) Act 1996, that the states have modified their Acts.

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1 Local government, that is to say, the constitution & powers of municipal corporation improvement trusts, district boards, mining settlement authorities & her local authorities for the purpose of local self-government or village administration.
3 The areas declared so far under the V schedule are in the states- Andhra Pradesh, Orissa, Bihar, Madhya Pradesh, Rajasthan, Gujarat, Maharashtra, & Himachal Pradesh- often called the central tribal belt.
4 The Sixth schedule to the constitution covers the entire states of Meghalaya, Mizoram, Assam & Tripura.
It provides for direct election to all the seats of the panchayats at the village level to the body at the Taluk level (Intermediate block samiti) & Zilla levels. It provides for a fixed tenure of 5 years, & next elections to be held within a period of six months in the event of super session of any panchayat or at the expiry of its period. The Amendment Act also provides for a compulsory three tier system in all the states, except where the population does not exceed 20 lakhs. In the latter case, the states can have the option not to have the block samitis. The 73rd Amendment Act provides for reservation of seats for scheduled castes, scheduled tribes in proportion of total population of scheduled castes & scheduled tribes to the population of the area.

The Amendment Act 1992 links the various panchayat tier system by an arrangement providing for interlocking membership. The heads of the village panchayats are to find representation in the intermediate bodies & the heads of the latter in the district level bodies. The elected representatives in the national level (MPs) & state legislatures (MLA/MLCs) may be made members of the intermediate & district level.

The people's participation at the local level in administrative & political matters is a necessary prerequisite for strengthening a sense of maturity among the masses & for the development of locality to solve their problems. The people possess adequate right to express their meaningful demands & they could themselves provide solutions to those problems. The term 'development' includes not only material improvisation but also mental, moral, philosophical & if possible

5 Art 243, C & 243k of the constitution of India.
6 Art 243 E of the constitution of India.
7 Art 243 E (3)(a)(b) of the constitution of India
8 Art 243 B (1) of the constitution of India.
9 Art 243(B) (2) of the constitution of India.
10 Art 243(D) of the constitution of India
11 Art 243 C (3) of the constitution of India.
spiritual that gives an opportunity for the people to exercise political power in responsibility. This could be leading to “empowering the people”

When people are given an opportunity for constant participation in this process & this is possible only through the means of decentralisation. i.e., political decentralisation. Decentralisation of planning in the real sense would therefore, imply handing over planning functions to the panchayat Raj institutions.

The 73rd Amendment, which in a way took into account the cumulative assessment of panchayat Raj over the years, was a culmination of earlier attempts to improve the working of panchayat Raj & remove some of the defects & short comings identified by the Ashok Mehta committee & subsequent committees. The Amendment bill in its statement of objectives & reasons referred to the short comings in the following words: “Though the panchayat Raj institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status & dignity of viable & responsible people’s bodies due to a number of reasons including absence of regular elections, prolonged suspensions, insufficient representations of weaker sections like scheduled castes (SC), scheduled tribes (ST) & women, inadequate devolution of powers & of financial resources”

In order to remedy these defects & short comings & to provide a constitutional status to the panchayat Raj institutions, the 73rd amendment contained both binding & discretionary features. The binding features are as under:

1. Constitutional status to panchayat Raj institutions including the Gram sabhas. A gram sabha consisting of all registered voters within the panchayat area is to exercise such powers & perform such functions as the state legislature may provide statutorily.

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14 Art 243 B of the constitution of India.
15 Art 243 A of the constitution of India.
2. Seats have been reserved for SCs & STs in proportion to their population, one-third of these reserved seats are meant for women of SC/ST category. One-third of the total of the seats have been reserved for women which includes seats reserved for SC/ST women. Seats on similar basis have also been reserved in regard to chairpersons Mandatory reservation of seats for scheduled castes, and scheduled tribes (in proportion to their population) & women (one-third) at all levels, including that of chairpersons.

3. Direct elections of members at all the three levels of panchayat for every five years with fresh elections being mandatory before ending the term or within six months in case of dismissal. Indirect elections for chairman at intermediate & district level

4. State finance commission to suggest ways of devolution of funds & of financing panchayat Raj institutions.

5. State level election commission to conduct elections for panchayat Raj institutions

The state legislatures have been also given discretion to provide, inter alia, for:

1. Reservation for other backward classes (OBCs) & association of MPs/MLAs in panchayat Raj institutions in ex-officio capacity

2. Associating chairpersons of panchayats at intermediate level (Taluk level) & Taluk panchayat chairpersons at Zilla panchayat level.

3. Endowment of panchayat Raj institutions with powers, authority & responsibilities for preparation of plans for economic development & social justice & implementation of schemes, especially for the suggested 29 activities listed in the eleventh schedule of the constitution of India.

4. Imposition of taxes & fees & duties by panchayats & may be assigned a share in state government taxes & grant in aid.

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16 Art 243 D of the constitution of India
17 Art 243 E (1) of the constitution of India.
18 Ibid
19 Art 243 (C) (5) (b) of the constitution of India
20 Art 243 I of the constitution of India
21 Supra, note 56.
22 Art 243 C (2) (C) & (D) of the constitution of India
23 Art 243 C (3) (a) & (b)
24 Art 243 G read with 29 subjects in the eleventh schedule empowers the legislature of a state to endow the panchayats with such powers & authority necessary to function as institutions of self government.
5. Committee system in panchayats which is a distinguishing feature of the PRIs & the committees are the sheet anchor of local government.

It is worth mentioning that while all the talk & idealism of self-governance & local autonomy & decision making centered on the concept of village panchayat, what eventually evolved was panchayat Raj (PR). This ideology was further strengthened by the constitutional (73rd Amendment) Act 1992. The Amendment Act has conferred the constitutional status to the panchayat Raj institutions, with a mandate that all the states should enact law relating to panchayat Raj institutions & establish them within one year from the date of Amendment Act. As the constitutional tradition remains in the minds of the citizens & is respected by their leaders, the constitution of India would guide the course of panchayat Raj institutions & endow every step in the progressive realization of idea with necessary sanctity & sanctions. Thus, Mahatma Gandhi's dream of Gram swaraj was fulfilled by this 73rd constitutional Amendment. The union panchayat Raj Act 1993 was brought into force with effect from April 24, 1993. The objects & reasons of the Act, states the imperative need to ensure in the constitution of certain basic & essential features of panchayat Raj institutions to impart certainty, continuity & strength to them.

However, the 73rd constitutional Amendment, which gave birth to the third generation of panchayats, has not clearly specified the functions & powers of panchayats. Instead, it has left to the discretion of state Governments. It is clear from the Article 243-G, which says that the legislature of the state may, by law, endow the panchayats with such powers & authority as may be necessary to enable them to function as institutions of self Governance. Such a law may also contain provisions for the devolution of powers & responsibilities upon

25 Art 243 N
panchayats at the appropriate level subject to such conditions as may be specified therein, with respect to;

a) The preparation of plans for economic development & social justice.

b) The implementation of schemes for economic development & social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh schedule.

As per the union Act, all states were to amend or pilot fresh Acts on panchayats within a year. All the states have enacted their conformity Acts within the stipulated time & constituted panchayats. But elections were not held in time in a number of states. In view of the constitution (73rd Amendment) Act 1992, the Karnataka panchayat Raj Act 1993 came into force. This Act incorporated the essential features of the constitution 73rd amendment & established elected bodies at the three tiers—the village, Taluk & district levels, so that there is “greater participation of the people”

The power sharing with panchayats is no mandatory on the part of the state governments before the 73rd constitutional Amendment in 1992. A third stratum of government is essentially a constitutional requirement. To what extent this requirement is fulfilled will depend on how far the state legislatures are preferred to go in endowing the powers & legitimate authority to their panchayats. However, states sharing power with panchayats depends on the political will at the state level.

State of Karnataka became the first state to bring the panchayat Raj legislation in conformity with the constitutional (73rd Amendment) Act 1992 & to hold elections to the panchayat under its Act 1993.

27 It has, however, been seen that in most of the case the delay in holding elections was due to court cases, natural calamities or law & order problem. In most of the court cases, the grievances of aggrieved parties related to reservation of seats for SC/ST/OBC/women/delimitation of constituencies, percentage of reservation of chairpersons of lower tier to higher tier.
THE KARNATAKA PANCHAYAT RAJ ACT 1993

SALIENT FEATURES

i) Formation of Gram sabha at village level;

ii) Uniform three-tier structure at village, taluk & district levels with exemption for intermediate level in states with a population less than 20 lakhs.

iii) Direct election to all seats for all members at all levels;

iv) Indirect election to chairpersons at intermediate & apex levels;

v) Reservation on rotational basis for the SCs & STs in proportion to their population both for membership as well as chairpersons of panchayats at all levels;

vi) Reservation of not less than one-third of the seats & offices for women;

vii) Five years of term of office;

viii) Fresh elections within six months in case of super-sessions or dissolution;

ix) Devolution of powers & responsibilities by the state & implementation of plans & schemes relating to the subjects listed in the eleventh schedule of the constitution of India;

x) Setting up of state finance commission after five years to review the financial position of these institutions & to make suitable recommendations to the state government on the distribution;

xi) Setting up of state election commission for holding panchayat elections under its superintendence, direction & control;

xii) 74th constitutional amendment to the constitution providing for constitution of district planning committee to prepare a draft plan of the whole district comprising panchayats & municipalities.²⁸

²⁸ Although, this provision is part of the 74th Amendment Act, the states have agreed to extend it to the 73rd Amendment Act. Hence, for all practical purposes within the constitutional framework & legal structure.
The Karnataka panchayat Raj Act 1993 establishes a three-tier panchayat Raj system in the state with elected bodies at Gram, Taluk and district level for greater participation of the people & for more effective implementation of rural development programmes. The three-tiers of the panchayat Raj are;

1. Gram panchayat / village panchayat
2. Taluk panchayat
3. Zilla panchayat

The three-tier panchayat Raj system is based on the population as ascertained at the last preceding census of which the figures have been published.

It was felt that that the small sizes of the Gram panchayats constituted under the Act 1993 were not economically viable. Karnataka government therefore promulgated an ordinance amending sec 4 & 5 of the Karnataka panchayat Raj Act to restructure the Gram panchayat constituencies & to increase the number of electorates under each constituency. So even through the first five year term of the panchayat Raj institutions elected in 1993 was successfully completed in 1999, elections for next term were postponed since the changes required to be made by the ordinance would take some time.

During these times\textsuperscript{29}, some of the issues that were identified while implementing the Act 1993 were:

(i) Weak Gram sabha,
(ii) Bureaucratic domination in panchayat Raj Administration at different levels,
(iii) Devolution of powers & functions between & among tiers; &
(iv) Rigid control & supervision of officials over panchayat Raj elected functionaries.

\textsuperscript{29} 1993 to 1999.
To overcome these lacuna & for rendering panchayat Raj institutions further effective as units of local self government at all tiers the state government has appointed an expert committee under the chairmanship of P.R.Nayak. The committee has to suggest for better Administration & functioning of the panchayat Raj institutions in the state. The committee having submitted its report on 19th March 1996, which the state government accepted, & in contemplation of implementing these recommendations, it was proposed to bring about comprehensive amendment to the Karnataka panchayat Raj Act 1993,

TRANSFER OF FUNCTIONS: EMERGENCE OF PANCHAYTS AS INSTITUTIONS OF SELF GOVERNANCE FUNCTIONARIES

Article 243-G of the constitution of India envisaged panchayats as institutions of self-governance, which means that they should enjoy functional, financial & administrative autonomy. In this study, it is intended to verify the extent to which the panchayats have emerged as institutions self-governance in their functioning.

As regards the transfer of functions, the basic principle has not been adhered to by the states while allocating functions among the three tiers of panchayats. As mentioned earlier, the state Governments were supposed to transfer to panchayats functions pertaining to 29 subjects listed in the Eleventh schedule of the constitution of India. State Government of Karnataka has transferred 29 subjects to panchayats. However, though state has given number of responsibilities to the panchayats, these have not been put into practice. Departments of Governments still exercise the power of supervision & control over the schemes of subjects transferred to the panchayats. This in turn has adversely affected the efficiency & effectiveness of the panchayats in Karnataka.

30 What can be done at a particular level should be done at that level only.
The state Government of Karnataka is implementing even decentralised programmes mainly through bureaucratic structure, which is against the spirit of the 73rd constitutional Amendment Act. Where the programme was a content of people’s participation & social mobilisation, bypassing panchayat bodies by bureaucracy poses a serious challenge to the system of panchayat due to its poor involvement.

DEVOLUTION OF POWERS & FUNCTIONS TO THE PANCHAYAT RAJ INSTITUTIONS

The mandatory provisions of the 73rd constitutional Amendment Act are yet to be implemented in letter & spirit by most of the states even after 16 years after the said Act was brought into force in 1993.

Regarding the transfer of functionaries, the state panchayat Acts present a gloomy picture. These Acts provide power for inspection, inquiring into their affairs, suspension of panchayat resolutions & issuing directions to state governments. These provisions are more draconian than Art 356 of the constitution for the removal of state Government by the centre. The state should know that charity begins at home. Besides, the key functionaries, namely, secretaries & Executive officers at all levels of panchayats are state Government employees. For ensuring Administrative autonomy, the panchayats should have their own service cadre. State Government of Karnataka has transferred functionaries pertaining to all 29 subjects to the panchayats. However, it is also pertinent to mention that many officials of state Government posted at the district & taluk levels did not want to work under the administrative control of elected panchayats.

32 A separate common notification for the post of panchayat development officers respectively for each district has been issued by panchayat department of Government of Karnataka in July 2009.
The subordination of panchayats to the routine administration has been further accentuated by a number of factors.

1. The goal of self Government has been subordinated to all that passes for development.

1.2 The goals of development are set by Governments, which are more sensitive to state legislature than to panchayats.

2. The executive authority for these goals has traditionally been the routine district administration.

3. Because the constitutional (73rd Amendment) Act has only illustratively indicated the functions of panchayats instead of allotting them specifically to panchayats, it has only ended up confirming the traditional practice under which the district bureaucracy has always had authority over most of these “development Functions”. The subordination was further accentuated when an old agency the bureaucracy, “the District Development Board” was imposed in the state on Zilla panchayats, the apex of panchayat pyramid.

The biggest obstacle continues to be the opposition of MLAs & MPs who see panchayats as poachers on their traditional powers. They were able to defeat an attempt made to keep MLAs & MPs out of the panchayat system. In the present circumstances, they can continue to defeat them. Added to that there is a large overlap between what legislator can do with the power of patronage given to them through their discretionary funds, & what panchayats are supposed to do according to the 73rd constitutional Amendment. Can these circumstances be changed? Where exactly the problem lies? This has to be studied though the solution to the problem is not anytime soon.

The study was undertaken with reference to functions, finances & functionaries (triple Fs) of panchayats of district shivamogga, in terms of their

Chapter-4
Holalur Gram panchayat, Bhadravathi Taluk panchayat & Shimoga Zilla panchayat
autonomy in the areas of their operation or whether they remains the same as they were before the introduction of the central/state enactments in mid 1990s.\textsuperscript{36}

**POLITICAL SPACE FOR MARGINALIZED GROUPS & WOMEN:**

Political space is provided for marginalised groups & women in panchayats & for subsequent exposure to decentralised governance, planning, development & capacity building to some extent through imparting training. Besides, exposure to local governance by NGOs has given them some confidence in taking up leadership challenges in preparing & executing plans for economic development & social justice at the grass root level.

The electorate has evinced support for panchayats with its high turn out in panchayat elections. It has shown political maturity by electing more women & backward (lower) caste candidates than their prescribed quota. Visible changes in their status within their family & outside are noticeable after they have been elected. One of the significant achievements of the provisions of 73\textsuperscript{rd} constitutional Amendment Act concerning reservation seats & political offices in favour of women & the disadvantaged sections of the rural community is that it had improved their awareness & perception levels & has created an urge in them to assert their rightful share in the decision making process at the local level.\textsuperscript{37}

Thus, the affirmative action for these groups in local governance has resulted in social identities & political awareness among them & created an urge to become part of mainstream political, economic & social life. With initial clashes between ‘higher’ castes & ‘lower’ castes, there are indications of social cohesion at local levels. There is a necessity to verify whether the political space given to marginalized section has changed the asymmetrical social structure at the

\textsuperscript{36} Quite a development & growth could be traced in transforming Grass root democracy. However, self-sufficiency is yet to be realised at the appropriate level.

\textsuperscript{37} Report of the task force on panchayat Raj institutions(2001)-planning commission
local level & given greater space for their participation & involvement in decision-making.**

There are nearly 85,000 elected members of panchayats now, which can make them influential stake-holders in governance & a powerful factor in deciding the electoral fate of MLAs & MPs, though some times other way round is possible provided, the elected MLA or MP is stronger & had the say in getting tickets to aspirants for panchayat elections.

**FINANCIAL DEVOLUTION**

Giving functions to panchayats without providing adequate funds is meaningless. This in fact happened with the state panchayat Raj Acts. Before listing the functions to be performed by the panchayats, the state have introduced certain qualifying clauses like, it is within the limit of its funds, “to the extent of its funds allow to perform”, as far as the Gram panchayat funds at its disposal. This presents a hazy picture about the finances of panchayats* because it is the resources at their disposal that determine the role in performing developmental activities in their respective areas of operation. The Karnataka panchayat Raj Act 1993 provides for a grant arrangement for the gram panchayat under which a grant of Rs 5 lakhs** is to be given by the state Government. A study as to its utilization in a Gram panchayat to assess the performance of decentralised democracy may also be made, but the Researcher preferred not to venture in view of the topic not fitting into the terrain of his area of research.

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* Mahipal, op cit p 142.
** Mahipal op cit p,139
*• K.P.R.Act 1993; sec 206-gmat to Gram panchayat. - A grant of five lakhs rupees in place of two lakhs rupees was incorporated by Act no 37 of 2003 w.e.f. 1.10.2003.
DISTRICT PLANNING COMMITTEES

Article 243-ZD of the constitution envisages the constituting of District planning committees for integrating rural & urban plans prepared by panchayats & Municipalities & also to take into considerations spatial planning sharing of water & other physical & natural resources, integrated development of infrastructure & environment conservation in the District. These important functions of the committee, facilitates interface between panchayats & Municipalities. This will integrate rural & urban areas, which is essential for preparing a meaningful plan of the District as a whole.

In the back drop of 16 years of experience suitable constitutional amendment & social mobilization appears to be imperative as a task ahead for strengthening the panchayats. The constitutional amendment should aid at remaining discrepancies in the allocation of functions, finances & functionaries & establishing organic links between & among the three/two tier of the panchayats & composition of D.P.C. It should be kept in mind that constitutional amendment along cannot be effective if demand for defacto decentralization does not arise from the gross roots. For this, social mobilisation is required although NGOs have been organising training programmes for capacity building of panchayats. They have neither been able to create an environment for social mobilisation, nor initiate social movements by themselves because of their operational constraints. Social mobilisation could be done only through a social movement for grater autonomy of the panchayats in discharging their responsibilities. In this context, no initiative has been taken by the elected representatives of panchayat Raj institutions to organise themselves for putting pressure on Governments.

Consequently, pressure for greater autonomy for the panchayats is not coming from the gross roots because on the one hand villagers do not consider panchayats as their problem solving institutions, & on the other hand, elected representatives of panchayat consider themselves helpless in solving people's
problem due to lack of control with them on issues affecting the villagers. In other words, the demand side of panchayat Raj in terms of asking for more power by the panchayats is badly lacking. Until, the political parties are prepared to accept effective decentralisation as one of the issues in their election manifestos, the panchayats will remain at the mercy of the central & state governments even after any number of amendments.

In the study under taken an attempt was made to look into the constitutional framework & the legal structure governing panchayat Raj institutions. In this connection, an endeavour to assess in general the implications of the Act & in particular the implementation of the Karnataka panchayat Raj Act 1993 was made through case law analysis. The apex judicial wing of the state has followed the precedent laid down by the Supreme Court of India on many issues related to panchayat Raj system. However, though most of the cases have been decided in the contextual background of parliamentary democracy at union & state level, still judicial inconsistency /waywardness could be traced in some of the cases decided by single judge / division bench. This depicts the picture that the court is simply doing legal justice & not understanding the ground realities. The judiciary is expected not to forget the constitutional philosophy behind decentralisation of power. Even the judicial power must be guided one like that in France that is for every exercise of discretion is a rule for future action. This may bring some consistency in judicial decisions relating to the working of panchayat Raj institutions.

The study took the stock of the experience of working of panchayat Raj institutions. The decentralised democracy for rural governance is purposive & its content should genuinely promote the purpose of “transparency, accountability, & participation” for good governance in a rule of law set up. This hypothesis was

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41 The union parliament wanted decentralisation even in the field of judiciary & thus enacted a law for the establishment of Nyaya panchayats. High courts of respective states have to make rules & regulations for the effective implementation of said Act. In fact, District judge (Shivana Gouda) of shivamogga has proposed at least three Nyaya panchayat courts for each taluk of the district.
tested in the course of study. The study is useful not only to common man, but more so to administrative policy makers, legislators, advocates, social activists, politicians, elected representatives of panchayat Raj institutions & for those who may involve in justice administration in the proposed Nyaya Panchayats & the like. The study is confined to the constitutional decentralised democracy for good governance within the discipline of law.

Thus Considering, difficulties being faced by the states in implementing the provisions of the 73rd constitutional Amendment, certain important reforms are urgently called for. Some of these demand further amendments to the existing constitutional provisions.

1. **Article 243-B may be amended to provide for mandatory constitution of a panchayat at the village level.**

Panchayats at the intermediate or district level or at both levels may be left to the discretion of the state legislature concerned. Considering the geographical area of an average district in the country, states should not however be allowed to have a single tier panchayat system. Also it may be specified that constitution of panchayats at the district level may not be necessary for the states having a rural population not exceeding 25 lakhs unless the state legislature concerned opts for it.42

2. **The composition of a panchayat & the mode of election of its Chairperson deserve to be revised.**

As regards the composition of the panchayats, it may be stipulated that not less than fifty percent of the total number of seats in each panchayat at the intermediate & district levels should be filled by persons chosen by direct election from the territorial constituencies in the panchayat area concerned. Similarly, not more than fifty percent of the total number of seats in these panchayats should be

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42 Dr Subramanyam, op cit
held by the chairpersons of the panchayats at the village & intermediate levels respectively. Thus, the intermediate & district-level panchayat comprise both directly-elected members & ex-officio members consisting of the chairpersons of the village-level & intermediate level panchayats respectively. So far as MLAs, MPs, & persons with specialized knowledge or experience are concerned, they may be represented only in the district-level panchayats with no voting rights.\(^{43}\) Indirect election restricted only to the chairpersons of the immediately preceding level of panchayats results in a Taluk panchayat president / Adhyaksha becoming the chairperson of a district-level panchayat, a situation that should be avoided.\(^ {44}\)

3. Need for prescribing criteria for seat of a person to be elected directly to taluk & district panchayat;

For instance, rural population covered by a territorial constituency of a directly elected person of the district-level panchayat could be made smaller than the population of the intermediate level panchayat. In regard to the directly elected members of the intermediate–taluk level panchayat, population covered by their territorial constituency could be made smaller than the average rural population of a village panchayat in the block.

4. Chairpersons of the village & taluk panchayats may be elected directly by the people.

For the panchayats at the district level, the person may be elected by, & from among its members whether or not chosen by direct election from the territorial constituencies. In short, the chairperson of a district-level panchayat should be elected by all the members of the panchayat concerned.

\(^{43}\) Dr Subramanyam, op cit p 15.  
\(^{44}\) ibid
5. Prescribing duration & manner of removal of the chairperson of a panchayat.

No resolution by the panchayat for removing its chairperson from office should be declared valid & effective unless such resolution is passed by a majority of not less than two-thirds of such members present & voting. There shall be an intervention of six months between resolutions of no-confidence.

6. The “mattes” listed in the Eleventh schedule to the constitution may be replaced by a specific “matters”.

Though the new ‘matters’ do not constitute the “local list” analogous to union & state list, it can contain a few basic services & revenue entries to be reserved for the panchayats. For instance, planning & implementation of schemes relating to drinking water supply, sanitation & drainage, lighting of streets & other public places, primary education, primary health care, rural roads, including internal roads, inter-village block roads, poverty alleviation or social welfare programmes etc., in the rural areas could be in the eleventh schedule. Similarly, tax on buildings & non-agricultural lands, professional tax, entertainment tax, advertisement tax, tolls licence fees, etc., could also find a place in the schedule. Article 243-G may be suitably amended in such a way that these matters are reserved by the state legislatures exclusively for panchayats.

In addition to these matters, states could devolve/entrust any power, authority or responsibility, to the panchayats in respect of schemes pertaining to any of the matters included in the state list of the constitution. In fact, inclusion of as many as 29 ‘matters’ in the existing Eleventh schedule is not necessary in as much as the states enjoy total freedom to entrust to or devolve on their respective panchayats responsibility or power in respect of any matter in the state list.

45 Dr Subramanyam, op cit p16
46 Ibid
7. District planning committees

It appears necessary to replace the provisions governing the ‘district planning committees’ by making it mandatory for the states to constitute District planning committees & for its composition & functions.

8. Grant in aid to states for panchayat activities

The states are saddled with the responsibility of conducting periodic elections, making arrangements for district planning, & capacity building of the elected functionaries of the panchayats through training, it is both appropriate & necessary to ensure that the additional financial commitment cast on the states in this regard is shared between them & the union government in a mutually – agreed manner.

9. Amending provisions relating panchayats

It must be pointed out that frequent tinkering with the constitutional provisions concerning the panchayats at the behest of individual states presages future difficulties. The hapless local political elite are getting disillusioned as they are not being consulted before proposing amendments that concern them. Against this backdrop, it is essential that a comprehensive review of the various constitutional provisions relating to the panchayats is made & suitable correctives applied, where necessary.

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47 The constitution (87th Amendment) bill 1999 seeks to amend clauses (2) & (5) of Article 243-C. Local Government being a state subject, no constitutional amendment is required for empowering the state legislatures to exercise their option in matters of composition & manner of election of members & chairpersons of their panchayats, unless such amendment seeks to provide for a new system which mitigates, if not eliminates, the deficiencies & defects of the system in vogue.

48 Karnataka state legislature attempted twice in 2007 & 2009 to amend Karnataka panchayat Raj Act against the interest of panchayat members.
10. Need to evolve training & awareness building for newly elected representatives in the third generation of panchayat Raj

To enable elected representatives they have to be provided with adequate knowledge & skills in the management of rural development activities. A time bound programme of training & orientation of local level leaders is considered as a pre-condition for the success of the panchayat Raj institutions. Orientations are to be followed up by refresher training course after a gap of two to three years on regular basis. In fact, a portion of the devolved funds should have been earmarked for training & awareness building because an urge for empowering panchayats has to emerge from the grass roots & for that awareness about decentralization is a must. Once, there is, pressure from below, there would be, simultaneously, response from above.\(^{49}\)