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INTRODUCTION

The constitution (73rd Amendment) Act 1992, was a landmark in the history of decentralized governance in India. It made panchayats the third-tier of government with reasonable substance and contents in terms of power and authority as well as creating adequate space for women and marginalized groups in the federal set up.

The role of panchayat Raj institutions (PRIs) as grass roots of democracy and of the planning process is becoming more obvious today for all discerning eyes in the context of modern democracy and developmental exercise.

The Panchayat Raj institutions are unique in the area of governance & their importance has, however, increased enormously in modern times. Panchayat Raj institutions today not only undertake the age old civic or municipal functions like maintaining sanitation, public health, roads & drains & others so vital for civilizing the citizens environment & life, but also act in the context of planned development as agents of socio-economic development & in the context of democracy as the reins over local bureaucracy outposts of self-governments & schools of democracy.¹

It was Herman finer who equated local government with such political devices as federalism, proportional representation etc., as a safeguard against

¹ Umapathy.M. A history of local self-government in Karnataka, Prasaranga, University of Mysore, Mysore, p-1
tyranny. Local assemblies of citizens constitute the strength of the people. Town meetings are to liberty what primary schools are to science; they bring it within the people's reach. A nation may establish a system of free government but without the spirit of liberty. Local government is that part of the state government in a federal set up, dealing mainly with local affairs, administered by authorities, subordinate to the state government. Adult residents will be electing the local government independently of the state authority & normally the state government has no jurisdiction within the local area in respect of matters administered by the local government .The local government derives its power from a portion of the same electorate from which the state government derives its power. However, the local governments are created through the enactment of the state legislature.

The local government's jurisdiction is limited to specific area as stipulated in the law sanctioning it. It has no legislative power. They cannot do many things without the explicit sanction of the state government. Its power to raise finance is restricted. It is subordinate to the state government which may control, supervise, suspend & dissolve a local government.

The local self governments in India have their presence both in urban & rural arena. The rural local government includes panchayats at different level with respective jurisdictional powers & Gramasabha

1.1. HISTORICAL SETTING:

Democracy at grass roots or panchayat Raj is an ancient concept which has long history in India. The panchayats are the oldest administrative institutions in the country of villages –India. The tradition of having panchayats has been one of

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2 Herman finer-English local government 1950. p.15
5 Sri Ram Maheshwri. Local government in India,lakshmi narayan agarwal educational publishers, Agra 6th ed.p-4
the fundamental concepts of Indian culture.⁶ The panchayat Raj system in its historical context has been in India since the Vedic era.

The historical account provided by Megasthenes⁷ about town administration stated that those in charge of the city were divided into six bodies. Each body has to look after specified subject & area. For instance, industrial arts has to be taken care of by the members of group one. The second group of members attends to the entertainment of the foreigners, and the third group of members was to inquire births & deaths. The fourth group was concerned with the levy & collection of taxes & Identification of tax evaders. The fifth group supervised manufactured articles which were sold by public notice. This was followed by sixth & the last group that consisted of those who collected the tenth of the prices of articles sold by the public notice.⁸ Likewise, in the periods of the Maurayas & the Gupthas references are found of a village & district respectively. The Maurayas & Gupthas administration provided a systematic base to the panchayat Raj system. During the mughal administration, panchayats used to perform works relating to administrative, social & economic development.⁹

The uncertain political environment continued till the establishment of imperial British powers. And, by the time of the British rule in India, panchayats had practically lost their importance & identity. British government has established the local self government by 1800 which was prominently a medium for collecting revenue. A district local fund was created consisting of a local cess of one Anna in a rupee, of land revenue, toll & ferry charges & cattle pond receipts¹⁰. The district local fund committees were empowered to incur expenditure on local works & education. Taluk level committees were also

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⁶ M.R.Biju, Decentralisation, National publishing house, jaipur, editorial note, p-xi
⁷ ibid
⁸ Baburaya Chandramappa, The role of PRI’s in socio-economic development of sc/st s, Dissertation submitted to Gulbarga university, p-1
⁹ M.R.Biju, op cit, p-xi
¹⁰ ibid
established. The true spirit of local government can first be traced to Lord Mayo's resolution of 1870 which proposed a sharing of revenue with the provinces.\(^{11}\)

The Lord Ripon's Resolution of 1882 on local self government\(^{12}\) came between Indian councils Act 1861 and 1892. The 1862 Act established governor-general's council and the governor's council in provinces. The centralized administration of British control at the top was the governor-general, with provinces ruled by governors responsible to the Governor-General. The district officers called collectors, District magistrate or deputy commissioners looked after the district administration with absolute independence. The pyramid of control was a combination of centralization & decentralization. The 1892 Act\(^{13}\) enlarged the size & powers of these councils.

Lord Ripon's resolution of 1882 stressed the educative aspect of administration. According to Lord Ripon, it is not primarily with a view to improvement in administration that this measure is put forward & supported, but it is chiefly defined as an instrument of political & popular education.\(^{14}\) Then the recommendations of the Royal commission on decentralization came in 1909\(^{15}\) & Minto Morley reforms.\(^{16}\) The important resolution on local self-government of 1918\(^{17}\) accompanied the Montague-Chelmsford reforms of that period.\(^{18}\) The next

\(^{11}\) ibid

\(^{12}\) This resolution has been significantly called as the Magna carta of the local self government in India, which has not only attempted to effect revolutionary constitutional changes especially in rural self government but also gave clarion call for a new & fresh spirit & faith in the local self government institutions. M.P. Sharma, local self government in India, Kitab Mahal, ed 1954,p-7

\(^{13}\) The Indian councils Act 1861 was the first constitutional reform legislation enacted by the British parliament after the crown took over India from the company in 1858.

\(^{14}\) As quoted in Biju, op cit .p-xi

\(^{15}\) The Royal commission on decentralization appointed in 1906 submitted its report in 1909. This report succeeded Ripon's resolution in moulding local government in India.

\(^{16}\) Minto-Morley reforms resulted in the Indian council's Act 1909 which further enlarged the size, powers & status of the executive & legislative councils in India & also provided for Indian representation on them.

\(^{17}\) The 1918 resolution on local self government provided for elective majorities, wider suffrage, nominated official experts on local bodies without the voting right, non-official chairman, financial autonomy & so on. See the text of the resolution in panchananda mukerjee Indian constitutional documents (1600-1918), Thacker spink & co, Calcutta, 1918, vol I part IX pp 696-718.

\(^{18}\) Montague-Chelmsford recommendations resulted in the government of India Act 1919. It introduced Diarchy 'a scheme which transformed certain subjects to popular ministers while it reserved others for governors' control at the provincial level. Local self government as one of the transformed subjects got a better deal in the hands of the popular ministers.
important piece of legislation was the Bombay village panchayat Act 1920. Under this Act, the panchayats were constituted into an elected body. The members were elected by adult male villagers. District local boards were vested with the power to supervise & control panchayats. The Hatch committee was appointed in 1925 to consider the position of village panchayat. It recommended the enfranchisement of women, handing over the control of bazaars, & slaughter houses, etc. It further recommended contributions of funds to the panchayats by District level boards & the governments. As a result of the Bombay village panchayat Act, 1930 empowered the village panchayat to take up various activities, including some socio-economic functions & gave them power to levy various taxes & duties to increase their income.\textsuperscript{19}

Although the Panchayat were revived by Lord Ripon in 1882 they did not in real sense represent the will of the people & the panchayats could hardly be said to be a local self government. It was vested with little power & was totally controlled by the government & its authorities. People had little say in the administration of the village by the government\textsuperscript{20}. The ‘popular education’ through the system of local self government as envisaged by Lord Ripon in 1882 was hardly realized in the next generation of British rule in India.

Mahatma Gandhi criticized the role of the British government\textsuperscript{21} in the following words: panchayats have an ancient flavour, it is a good word. It literally means an assembly of five elected members by villagers. It represents the system, by which the innumerable village republics of India were governed. But, the British government, by its ruthlessly thorough method of revenue collection almost destroyed the ancient republics which could not stand the shade of revenue collection.

\textsuperscript{19} Though the village panchayat did not become truly democratic or vibrant institutions of self governance, yet by 1925 eight provinces had passed panchayat Acts & by 1926 six native states had also enacted panchayat laws. Many others passed similar laws.

\textsuperscript{20} M.R.Biju, op cit P xi

\textsuperscript{21} The 'young India' 28/5/1931 as quoted in M.R. Biju, op cit, p xii
The ancient Indian concept of panchayat Raj has greatly appealed to the Indian mind that the system has never ceased to exist. In one form or the other the panchayat existed in India even before its recent introduction with constitutional status. The British had even thought of manipulating the device of thought, which it can endeavour to get the ideas transmitted to the villages, to get the plans drawn up for them executed.22

The concept of ‘power to people’ finds an important place in Gandhi’s view on panchayat Raj. The greater the power of panchayats the better for the people. He had dreams of democracy commencing from the villages. He believed that democratic freedoms have to be founded in institutions of self governance in every village of India. It was essential creed of Gandhi’s manifesto for freedom that free India’s democratic institutions would be built from our villagers upwards to the highest tier in the nation’s capital. As a matter of fact, panchayat Raj was an important component in Gandhi’s vision of future India in which economic & political power was decentralized & each village was economically self reliant. The rural character of the economy & the need for regeneration of rural life was stressed by Gandhi. He was in favour of giving power to the people in the villages & seeking participation in governing the country.

Establishment of enquiry committees with a desire to study & reform the local governments, by the provincial ministers under the short lived “provincial Autonomy” scheme came under the government of India Act 1935.23

22 Baburaya Chandrammappa. op cit p-2
23 This Act which came in to force by 1939 was the last constitutional reform effected by Britishers before they quit India in 1947. This enactment has introduced the scheme of provincial Autonomy. Under this scheme the provincial government became popular & autonomous with regard to all provincial subjects including local self government. Popular ministers took interest & appointed enquiry committee into the affairs of local self government to reform them.
1.2 PANCHAYAT RAJ AFTER INDEPENDENCE

When India became independent, the constituent Assembly for framing the constitution of India has appointed the committee, for drafting up the union constitution. The drafting committee has made no mention of panchayat Raj as Gandhian ideals. When the constitution of India was being framed, village panchayats or any panchayat at a higher level were not made a mandatory part of the politico-administrative setup. This was mainly due to the opposition by Dr Ambedkar, who felt that village level decision making could never be in the interest of the depressed & weaker section of the society. He called the ‘village republics’ the ruination of India & the village ‘a sick of localism’, a den of ignorance, narrow mindedness & communalism. These views of Ambedkar were strongly opposed by a number of members of in the constituent Assembly who did not share the same antipathy towards the villages & believed in Gandhi’s views of Gram swaraj. However, after the debate, & more as compromise & a concession, the panchayat found mention in the directive principles of state policy, i.e., Article 40 of the constitution.

The directive principles are not enforceable through a court of law & in a way are instrument of instructions in the governance in the country. Art.40 of the constitution of India reads as follows; ORGANISATION OF VILLAGE PANCHAYATS:-The state shall 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. As a consequence of this, many of the states enacted legislations setting up panchayats at the village level. The main intention of introducing panchayat Raj institution is to provide democracy from the top to the grass root level ensuring involvement of the people in all activities & process of governmental development. The people enjoying the liberty of a sound

24 Dr Ambedkar ... constituent Assembly Debates
25 Entry 5 – local govt- state list, schedule VII of the constitution of India enables the state legislature to make law for the constitution & powers of local self government or village administration.
democracy should participate in the government activity, because both union & the state governments are functioning through the elected representatives of the people.²⁶ The sovereignty lies with the people. The union & state governments derive their authority from the people (sovereigns) through adult franchise. All funds that the union & state governments spend came from the people through direct & indirect taxes. It is the bound duty of a dutiful citizen to prefer right things & should exercise their rights to observe how the governments are functioning.

It is relevant to mention that the directive principles did not mention panchayats at any other level besides the village, though later, as we shall see, the middle tier (panchayat samithi-taluk panchayat) & the district tier (Zilla parishad) became important levels & structures in what came to be known as PANCHAYATRAJ INSTITUTIONS (PRIs). It is worth mentioning that while all the talk & idealism of self-governance & local autonomy & decision making centered around the concept of village panchayat, what eventually evolved was panchayat Raj(PR). The latter word almost has implications of rule & power sounding almost like an alternative to the British Raj; as if to say & suggest that we had British Raj earlier, now it is time for panchayat Raj.²⁷

After the constitution of India coming into force on 26th January 1950, in its full pledged form the government clearly recognized that without definite far-reaching rural development programmes alleviation of poverty & associated problems would remain a distant dream.

The community development programmes (CDP) introduced in 1952 & intensified from 1953 onwards had sought for regional approach to planning &

²⁶ House of the people(lok sabhas) –union parliament & state legislatures(vidhana sabha's ) are consisting of representatives of the people & executives(ministers) at both the levels are responsible or answerable to the respective popular houses op the people in a parliamentary form of government.
²⁷ The term ‘panchayat Raj’ came into vogue conceptually as process of governance-it refer to a system organically linking people from the Grama Sabha to the lok sabha. Etymologically, it is derived from .
development of the rural areas. The National development council (NDC) affirmed
the objective in introducing democratic institutions at the district & block
suggesting that each state should work out the structure which is suited to its
conditions; otherwise we would never be able to evoke local interest & excite
initiative in the field of development. However, it was only when the committee
on plan projects (CPP), 1957 which reviewed the working of community
development programmes (CDP) & national extension service (NES) since 1952,
came out with its report containing an idea of panchayat Raj (PR) as a means of
people’s participation in community development & other governmental
programmes.

The community development programmes (CDP) was launched on 2nd Oct,
1952 in 55 pilot projects. The objectives of the CDP were, first, increase
employment & increase production by the application of scientific methods of
agriculture including horticulture, animal husbandry, fisheries, etc., & the
establishment of subsidiary & cottage industries, secondly, self-help & self
reliance, & the largest public extension of the principle of co-operation & thirdly,
the need for developing a portion of the vast unutilized time & energy in the
countryside for the benefit of the community.

The various programmes of community development (CD) as mentioned
earlier, to attain the above said objectives were carried out through the government
departments. The bureaucracy has certain in-built structural limitations which do
not provide initiative to the beneficiaries. The local community was receiving
programmes without much involvement of its own in formulating them.
Programme planning, formulation of policies, decision-making, & implementation

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28 Perse, Balwant ray committee report. Desai vasant (Ed) power to the people, Himalayan publication Bombay. P.39
29 Popularly known as Balwantray mehata committee
30 Meenakshi Hooja, Institutions of self governance: panchayats M.R.Biju, op cit p 3
31 M.R.Biju, op cit. p xiii
32 Community is a term which is applied to the societies & social groups where they are considered from
the view point of geographical distribution, individuals & institution of which they are composed.
fully looked & cared by officials. This is because at that time, the local governments were not the self governments & there was no participation of local people. As a result, people’s programmes were carried out with government participation rather than people’s participation.

However, with all its vitality, institutional structure, built in methods of administration, the CDP was found wanting. It was loosing its ‘extension’ content, & its ‘method’, elements were making the system more rigid, centralized, expenditure based, & was concentrating on ‘physical outputs’ as against ‘non-physical’ out puts which ultimately sustain & increase the major capital stock of an industrial nation.33

Thus, finally the CDP was basically a method commonly described as the extension approaches programme being transitory in character in the sense of being related to the stage of development in the economic growth of the country. In contrast to this panchayat Raj is a means category concept, if not an end itself.34 As a method CDP was not extraneous to panchayat Raj which in fact would well to adopt, absorb & work through the extension approach. Thus, the spirit of CDP can be kept intact & even nourished with popular support & participation within the fold of panchayat Raj, provided the element of power is not allowed to subjugate the extension approach & negate it in implementation.35 Such a synthesis would not merely contribute the survival of the community development tradition but, far more than that, would strengthen the working potential of panchayat Raj as a development mechanism36

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33 M.R. Biju op cit p, xiv
34 Thinkers like Jayaprakash narayan( J.P.) believed so
35 M.R.Biju op cit ,p xiv
36 Ibid.
1.3 DECENTRALISED DEMOCRACY

Local self-governments depend on the culture & ideology of decentralized democracy. The transfer of legislative, administrative & judicial authority from a centralized government (centre or state govt) system to local government system can be termed as decentralised democracy. It is not mere delegation of power by superior authority to subordinate authority. Decentralisation is transferring decision-making power & functions from the union & state governments to the local self-governing bodies with a view to transforming the society & injecting greater degree of efficiency. Whereas, democratic decentralisation seeks to associate the people’s participation in the decision making process at the grass root level. Political & administrative decentralization is the means of promoting people’s participation & co-operation in the process of democratic development. More effective popular participation in local affairs including activities of central & state governments that are carried out locally is made possible by decentralised democracy. Democracy indicates the rule of people, i.e., the people must exercise political power & decentralized democracy desires the rule of people & the accountability of the administrators to the people at the grass root level. In other words, people have to participate in both political & administrative fields. Democratic decentralisation relates primarily to political & administrative fields. And, herein administrative decentralisation is responsible, as in union parliament & state legislatures, to politically decentralised peoples power.

The architect of modern India, Jawaharlal Nehru, who gave a new nomenclature to the ‘democratic decentralisation’, wanted that every Indian village must have sovereignty of its own & to develop on its own accord. He preferred the term ‘panchayat Raj’ to ‘democratic decentralisation’ because it conveyed the essential message to the people of rural areas. He saw the panchayats indispensable for the development of the country. He believed that progress would not really reach 5,00,000 villages of India by imposition from above. Progress
would come only through the efforts of the people themselves through institution directly elected to carry out their will. He wanted “the panchayats” to be elected by the people & endowed with the powers & authority & charged with the responsibility to become the primary means of development. He wanted finances to be developed on the panchayats to make them viable, responsible & disciplined.\(^{37}\)

The contextual link between the two\(^{38}\) & the failure of the community developmental conscience in the rural areas, which made the Balwant ray Mehta report recommendations, the three tier scheme of democratic decentralisation.

The Panchayat Raj therefore, recommended as a remedial measure for the shortfalls of community development programme in its basic objective of creating a self help rural community. The panchayat Raj has already learnt its lessons from community development. The development of self-helping rural community which was the basic postulate of community development programme gave a meaningful goal orientation to panchayat Raj & the extension approach which had been the ministry of the former, & to enrich the operation of the latter.\(^{39}\)

Balwant Ray Mehta headed a study team which had been set up by the committee on plan project (CPP), itself constituted in 1956 by the National development council (NDC) to inquire into the reasons for lack of involvement & participation of the people in the development programmes being implemented under the plans & especially the CDPS & NES programmes.

The committee came out with the following main recommendations:\(^{40}\)

1. A three tier system of panchayat Raj from the village to the district Level functionally independent with multi level linkage be created.

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37 Nehru in the period after 1958 was intensely interested in decentralisation & panchayat Raj as a means of taking democracy down to the grass root level.
38 Democratic decentralisation & panchayat Raj
39 Baburaya chandrammappa .op cit p.12
40 M.R.Biju op cit ,p. 4
the institutions envisaged were Zilla parishad at the district Level, panchayat samithi-taluk panchayat (The most important Administration & planning unit) at the block level, & Gram panchayat at the village level

2. There should be genuine transfer of power from the states to Panchayat Raj institutions.

3. Adequate resources should be transferred to these bodies. These bodies should obtain the resources they need partly by means of Taxes & also through contributions from state authorities for various Development programmes.

4. All developmental schemes at these levels should be channeled through the Panchayat Raj institutions.

On the basis of the recommendations of the committee report most of the states setup panchayat Raj institutions.

1.4: EMERGENCE OF PANCHAYAT RAJ INSTITUTIONS IN POST INDEPENDENT INDIA

The development of panchayat Raj, therefore, can be said to be logical outcome of the community development programme. Panchayat Raj is the most important potential invention of independent India & is a complex system of rural local self-government. With the rise of Panchayat Raj, a new phase of local government was ushered in by democratic decentralisation to make the lower units of administration more popularly elected, more socially broad based & more engaged in the wider range of activities than hitherto.

The philosophy of decentralisation claims that all powers & responsibilities regarding development matters intimately affecting the rural people should belong

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41 The Balwantray committee had also suggested that collector should be the chairman of Zilla parishads but while implementing the recommendations most states decided to have an elected non-official as the chairman.
42 Rajasthan was the first state to establish the Panchayat Raj, & it was inaugurated by the then prime minister Jawaharlal Nehru at Nagore on 2nd oct 1950 as cited in M.R.Biju op cit p 4
to a viable socio economic community. Thus, the unit of local government must be sufficiently small so that people can understand it. It must be sufficiently near so that people can live up to its expectations.

Panchayat Raj is regarded as the heart & soul of Indian politics. The health & strength of Indian democracy depends on its sound functioning. It is the agency of social progress, economic stability, social prosperity, & political development. The objectives of panchayat Raj are decentralization, development, social change & institutional leadership under its aegis forms the nucleus of new emerging elite in rural India.

Sri Jayaprakash Narayan (J.P) emphasized on the self management of affairs of the rural local levels by villages themselves. He maintained that it should in turn mean maximum of initiative autonomy & control in terms of powers of deliberation autonomy & constitutional terms of powers of deliberation, policy formulations, planning, implementation, raising & allocation of resources, supervision & control. The great system is laid on the autonomous character of panchayat Raj institutions, which are virtually visualized as power systems at the rural local level through the need for minimum control.

There has been little importance given to the self management aspect of panchayat Raj institution. The process of democratic decentralisation is approached in the spirit of delegation. When panchayat Raj institutions were broadly projected, the two assumptions were; (1) the panchayat Raj is an extension of community development (CD) both in its objectives & programme. (2) And, this naturally follows as a power mechanism. The empirical conceptual angle of panchayat Raj can be seen in this manner. Likewise, on the operational plane the

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43 The expectation would be those powers & responsibilities which can better be exercised by some other governmental organization at a higher level & for a larger area of operation & those technological improvements which favour larger units of administration.
44 M.R.Biju op cit p xv
relevance of panchayat Raj can be seen in political, public & statutory images of it.\(^{46}\)

The Panchayat Raj in its modern form is of recent origin. To many, it represents an institution closer to Indian tradition or even revival of the past rather than a radical innovation. The modern format of ‘panchayat Raj’ has passed through four distinct phases within a short span of three decades of its coming into existence in the post independent India. Distinct phases\(^{47}\) are;

(i) The phase of ascendancy- 1959 to 1964.
(iii) The phase of decline- 1969 to 1983.
(iv) The phase of revival- 1983 onwards...

In the post emergency period of 1977 & during the Janata government at the centre a fresh effort was made to infuse life & vitality into the panchayat Raj system, Ashok Mehta committee was set up & following its recommendations, a model bill was prepared with an intention that every state government would follow the pattern & pass the Bill. However, this did not materialize.

It is here necessary to highlight the revival phase of panchayat Raj from G.V.K.Rao committee (1985) to the new steps of constitutional support taken by the central government. Recognizing the fact that an integrated concept for growth & poverty alleviation would continue to be one of the principal areas in the seventh plan\(^{48}\), the government appointed a 12-member committee under the chairmanship of Dr G.V.K.Rao in 1985, to revive the administrative arrangements for rural development & poverty alleviation programmes. The committee

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\(^{46}\) Mathur & Iqbal narayan, panchayat Raj, planning & democracy, Asia publishing house, Bombay (1969)


\(^{48}\) See resolution No M 13043/S/83-RD- dated 25.3.1985. Planning commission, GOI, New Delhi. The GVK. RAO committee was appointed by the planning commission in 1985, to review the existing administrative arrangements for rural development & poverty alleviation.
recommended that the district should be the basic unit for policy planning & programme implementation. The committee also called for regular elections to panchayat Raj institutions.

In 1986 the government of India appointed a high power committee headed by LM Singvi to enquire into the working of panchayat Raj institution & to suggest ways & means of strengthening them. The committee held the view that panchayat Raj institution declined due to lack of conceptual clarity, absence of political will & denial of national priority, lack of continuous process of research, evaluation, feed-back & correction. The committee suggested that panchayat Raj institution should be organised in the manner of the process of democratic decentralisation for the grass root upwards & not as a gift of devolutionary process.49

The Panchayat Raj institutions traveled a long road to require a constitutional status distinct from a mere mentioning of it in the constitution in the form of Directive principles. The constitution of India envisaged organization of village panchayats & endows them with such powers & authority as may be necessary to enable them to function as units of self-government. It may be mentioned here that Ashoka Mehta committee (1978) made the first official recommendation for including panchayat Raj in the constitution in keeping with its approach that panchayats should be regarded as political rather than mere developmental institutions. The remarkable enthusiasm among the people in west Bengal, Karnataka, & Andhra Pradesh on the implementation of panchayat Raj strengthened the moves to incorporate constitutional provisions for it. During the prime minister ship of Rajeev Gandhi, this new trend-taking place at the grass root level of Indian Democracy was given a serious thought of.

49 By then, many states were already operating PRIs through their own laws which advocated decentralization, than devolution of state power.
In 1986, the consultative committee of the Indian parliament chaired by P.K. Thungon made recommendations for revamping the panchayat Raj institutions in the country. The committee strongly urged for giving constitutional status to the panchayat Raj institutions. Based on it, on 15<sup>th</sup> May 1989 the constitution (64<sup>th</sup> Amendment) Bill was drafted & introduced in parliament by the then Prime Minister Mr. Rajeev Gandhi. The Bill lapsed with the dissolution of the parliament.

1.5 THE CONSTITUTION (73<sup>rd</sup> AMENDMENT) ACT 1992

The Narasimha Rao government, which came to power after the general election of 1991, reintroduced the bill on the 16<sup>th</sup> September 1991 to incorporate local government including panchayat Raj endowing it with power, resources & independence for its effective functioning. The noticeable feature was that Rao government had consulted all major political parties in the drafting of the bill. The bill was referred to a joint committee of parliament. The committee after detailed deliberations presented its report to parliament in July 1992 taking into consideration the consensus evolved during the meetings of joint select committee & also the points raised by the various leaders of different political parties during the debate held in December 1992, necessary amendments were brought in by the government. The bill was passed with near unanimity by the lok sabha on 22<sup>nd</sup> December & by the Rajya sabha on 23<sup>rd</sup> December 1992. With its ratification by 17 state assemblies, it has emerged as the constitution (73<sup>rd</sup> Amendment) Act 1992 & came into force from April 24<sup>th</sup> 1993. In May 1993, the Constitution (73<sup>rd</sup> Amendment) Act 1992 was notified by the central government & as such has became 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. With the approval of the constitution of India & it is placed in the third stratum of the hierarchy of the institutions of the governance. Articles 243, 243A to 243-O in part IX of the constitution of India are dealing with Panchayat Raj institutions. It enjoys the status as enjoyed by the parliament & state legislatures in terms of its existence & is a permanent institution with specific role & responsibilities.

It provides for direct election to all the seats of the panchayats\(^50\) 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\(^51\), & 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\(^52\). The Amendment Act also provides for a compulsory three-tier system in all the states, except where the population does not exceed 20 lakhs.\(^53\) In the latter case, the states can have the option not to have the block samitis.\(^54\) The 73\(^{rd}\) 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.\(^55\)

The Amendment Act 1992 links the various panchayat tier system by an arrangement providing for interlocking membership.\(^56\) 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 & they may have the right to vote.

\(^50\) Art 243, C & 243k of the constitution of India.
\(^51\) Art 243 E of the constitution of India.
\(^52\) Art 243 E (3)(a)(b) of the constitution of India.
\(^53\) Art 243 B (1) of the constitution of India.
\(^54\) Art 243(B) (2) of the constitution of India.
\(^55\) Art 243(D) of the constitution of India.
\(^56\) Art 243 C (3) of the constitution of India.
The constitution of India provides for two independent authorities, one to
conduct free & fair elections\(^7\) to the Panchayat Raj bodies, & second, to develop
appropriate funds to make them financially sound.\(^8\)

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.\(^9\)

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
spiritual that gives an opportunity for the people to exercise political power in
responsibility. This could be leading to "empowering the people"\(^10\)

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,
impel handing over planning functions to the panchayat Raj institutions.\(^11\)

Art 40, of the constitution of India legitimises 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. This ideology was further strengthened by the

\(^7\) Art 243 K of the constitution of India – State Election commission which enjoys the constitutional status
& independence of a state appellate judiciary (High court)
\(^8\) Art 243 I of the constitution of India – State Finance commission.
\(^9\) Art 243 G of the constitution of India
\(^10\) Prasad Kamat, “Restructuring of planning” Rama Reddy (Ed) Pattern of panchayat Raj in India.
Macmillan co India ltd New Delhi (1977) pp 96-97
\(^11\) Mukherjee Shiba Prasad., Development Administration & panchayats (Ed) People’s representatives &
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\textsuperscript{62} 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 realisation of idea with necessary sanctity & sanctions.\textsuperscript{63}

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 & shortcomings identified by the Ashok Mehta committee & subsequent committees. The Amendment bill in its statement of objectives & reasons referred to the shortcomings 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 & shortcomings & to provide a constitutional status to the panchayat Raj institutions, the 73rd amendment contained both binding & discretionary features. The binding features are as under:

\textsuperscript{62} Art 243 N
1. Constitutional status to panchayat Raj institutions including the Gram sabha. 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.

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 parishad level.


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64 Art 243 B of the constitution of India.
65 Art 243 A of the constitution of India.
66 However, union cabinet took the decision on 27/8/2009 that reservation to women be extended to 50% in panchayat Raj institutions.
67 Art 243 D of the constitution of India
68 Art 243 E (1) of the constitution of India.
69 Ibid
70 Art 243 (C) (5) (b) of the constitution of India
71 Art 243 I of the constitution of India
72 Supra, note 56.
73 Art 243 C (2) (C) & (D) of the constitution of India
74 Art 243 C (3) (a) & (b)
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.

5. Committee system in panchayats which is a distinguishing feature of the PRIs & the committees are the sheet anchor of local government.

The 73rd Amendment Act 1992 extended to all states & union territories with some exceptions, especially the V & VI 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 there Acts.

In view of the constitution (73rd Amendment) Act 1992, the Karnataka Zilla parishads, taluk panchayat samitis, Mandal panchayats & Nyaya panchayat Act 1985 was repealed. In its place, 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”.

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75 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.

76 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.

77 The Sixth schedule to the constitution covers the entire states of Meghalaya, Mizoram, Assam & Tripura.

78 The bill was introduced by the Karnataka Govt in the legislative assembly on April 1, 1993 & was passed on April 7. Legislative council passed the bill unanimously on April 13. & it came into force from May 18, 1993.
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 the new Act 1993.

1.6 TASK AHEAD

We have by now a TWO & HALF DECADE of post Panchayat Raj experience in its functioning in state of Karnataka. An assessment of the constitutional framework & legal structure of panchayat Raj institutions has to be made in the context of its implementation & functioning of the panchayats. And in the backdrop 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 removing discrepancies in the allocation of functions, finances & functionaries & establishing organic links between & among the three tiers of the panchayats & composition of District planning committee. (D.P.C)

It should be kept in mind that constitutional Amendment along cannot be effective if demand for defacto decentralisation does not arise from the grass roots. For this, social mobilization 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 mobilization, nor initiate social movements by themselves because of their operational constraints. Social mobilisation could be done only through a social movement for greater autonomy of the panchayats in discharging their responsibilities. In this context, no initiative has been taken by the elected panchayat representatives to organise themselves for putting pressure on governments.

Consequently, pressure for greater autonomy for the panchayats is not coming from grass roots because on the one hand villagers do not consider

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79 1983 Act KPR, Act,1993 to 2008: 25 years
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 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.

1.7 STATEMENT OF THE PROBLEM & OBJECTIVES OF THE STUDY

The present study attempts 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 state panchayat Raj Act 1993, in the district shivamogga is intended.

The main objectives of the endeavour undertaken are as follows;

(i) To study & examine the existing constitutional provisions & important legislative & executive measures pertaining to the decentralised democratic structure governing panchayat Raj institutions.

(ii) Intended to discuss & evaluate the functioning of panchayats experience gained so far since K.P.R Act 1993 as to what extent certainty, continuity & strength have been imparted to panchayat Raj institutions.

(iii) Based on the study data to suggest for constitutional amendments & social mobilizations to improve the relevance & efficiency of decentralised democratic governance.
1.8 HYPOTHESIS & IMPORTANCE

The primary hypothesis of this research study is to take stock of the experience of working of PRIs. In the progressive analysis it is intended to study, whether the legal framework of the PRIs in Karnataka are (or, are not) in tune with the stated objectives of democratic decentralisation and also whether the problems experienced in the working of PRIs have more to do with the inability of the functionaries of PRIs to understand and appreciate the true spirit of the Act (official as well as non official) than with the provisions of legal framework & thus, 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 will be tested in the course of study.

The study will ascertain: what is the constitutional framework & legal structure governing panchayat Raj institutions. As to what extent certainty, continuity & strength have been imparted to panchayat Raj institutions? Regarding devolution of powers & functions of the panchayats what legislators (MLA/MPs) 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 lays the problem? Whether the political space given to marginalized section has changed asymmetrical social structure at the local levels & given greater space for their participation & involvement in decision-making process. Whether the system & functional style of district planning committee is operational? What is the Extension Act 1996 says regarding schedule tribes? i.e., in brief.

The study will be useful not only to common man, but more so to administrative policy makers, legislators, Advocates, social Activists, politicians & elected representatives of PRIs & the like.
1.9 THE RESEARCH STUDY TERRAIN & INSTITUTIONAL JURISDICTION

Area of the study is confined to district SHIVAMOGGA-malnad region of Karnataka state. This area is part of the popularly known Sahyadri range of mountains, forms the heartland of Western Ghats, one of the world’s richest area in terms of its bio-diversity.

District of shivamogga, is an expanse of thick forest & lofty hills. The total area of this region is estimated approximately at 22,000 square kilometers. Most of the area is clasped with densely forested hilly terrain. Moist & dry deciduous jungles characterize the region. This region of malnad supports an astonishingly varied number of species both in terms of flora & fauna. Major crop include Areca nut, paddy, sugarcane, coffee, pepper, cardamom & Banana.

Structure of the family is still largely extended & joint family, although the nuclear families are surfacing at a rapid rate in recent decades. Malnad also houses a number of tribal communities & sub-cultural groups. The population of District of shivamogga\textsuperscript{80} as per 2001 census has touched 16, 42,545, of which 8, 11,986 are women & 8, 30,559 are men. The District also houses a sizeable child population with as many as 2, 08,163 children aged between 0 to 16 years.

There are 3, 41,224 families residing in the District. The rural population is almost double that of the urban population with 10, 71,553 people residing in rural areas compared to 5, 71,010 in urban centers. There are 2, 69,519 people belong to the scheduled castes & 55,997 people belong to the scheduled tribes in the district. The population of rural area is double that of urban & it is sparsely populated. Industrial backwardness along with rich & sound ethnic diversity & traditional life styles are hallmarks of the district shivamogga.

The literacy rate has touched 65% in the district with 10,68,934 literates out of total population of 16,42,545. There are around 5,73,611 illiterates in the district of which, 3,36,942 are women & 2,36,669 are men. The literacy rate of female in district fall short of the male literacy rate/figures. In Thirthahalli & Hosanagar taluks the male, female ratio is favourable to women. In all other taluks, there is disparity in the male & female ratio.

A comprehensive study is intended on the basis of which one could conclude how panchayat Raj elected members performed their role in panchayat Raj institutions, in the committees, in decision-making & formulation of rural development schemes. It is only on the basis of resolutions passed by the members of panchayats, reports published in the newspapers/bulletins that can be inferred that in each panchayat Raj institution how a member was assertive & active in decision making & to work for the cause of the electorate community.

1.10 SAMPLE & METHODOLOGY

The study samples consist of Zilla panchayat, shivamogga, Taluk panchayat of Bhadravathi & Holalur Gram panchayat of shivamogga taluk.

The methodology adopted in the present study bases heavily on qualitative data collected through both primary & secondary sources. The primary data is collected by the researcher through personal interviews of the rulers & ruled & administrative bureaucracy at the panchayat level. Additionally, general observation will also be used to support interview data qualitatively. Collected data is coded, presented in a tabular form, analysed & interpreted as in the standard socio-legal science research studies.

The secondary sources mainly are brochures, newsletters, books & periodicals on the subject matter published by the institutions itself & also as available in various other libraries & other such reports, websites.
1.11 \textbf{CHAPTERISATION}

The research study is planned in eleven chapters. The first chapter deals with the introduction, wherein; panchayat Raj institution in historical perspective is the subject matter. The second chapter is dealing with the evolution of legal structure governing panchayat Raj institutions in state of Karnataka. The third chapter deals with legal regime for decentralised democracy. The fourth chapter deals with devolution of functions, powers & resources to institutions of self-governance. The fifth chapter deals with "Efficacy of panchayat Raj laws in Karnataka. The sixth chapter deals with Functional approach of institutions of self-governance in district shivamogga. The study ends with chapter seven dealing with concluding remarks.