



Panchayati raj system in Haryana

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Abstract

This article seeks to cover the some aspects of Panchayati Raj System in Haryana. Through this system a three tier Panchayati Raj System was established in each district of Haryana. It has three vital elements-gram panchayat, panchayat samiti and zila panchayat. This Article is also trying to explore the effects of 73rd Constitutional Amendments on Panchayati Raj and also features of Panchayati Raj in the State. At the mid part of this Article it describe the Haryana Panchayati Raj Act, 1994. The Haryana Panchayati Raj Act, 1994 incorporated all the essential provisions of the 73rd Amendment Act. It has made the Gram Sabha a soul of Panchayati Raj System. It provides a platform for the direct participation of the people. In order to ensure that gram sabha becomes a true democratic institution, the Act confers a number of powers and functions on the gram sabha. At the end part of this Article it conclude that there is yawning gap between our theoretical and practical approaches to the implementation of Panchayati Raj system in Haryana.

Keywords: panchayati raj, Haryana

Introduction

The Panchayati Raj Bill was passed by the Indian Parliament in 1992. According, a three tier Panchayati Raj System was established in each district of Haryana. It has three vital elements-gram panchayat, panchayat samiti and zila panchayat. The tenure of gram panchayat as well as that of city committee is five years. After every five years, these self-governing institutions elect members for themselves under the watchful eye of the election Commission of the state. The self-governing institutions of villages and cities make plans for the economic development of the residents. These make plans for delivering social justice to the masses and also implement them. These have the rights to impose some taxes and fees on the citizens as well as collect the same from them. The state Government also gives grants to such institutes. Every village has a village panchayat, called gram panchayat. The voters of each village elect the members of their gram panchayat through direct elections. This procedure is carried out in the presence of the representatives of the election commission of the state. The gram panchayat works for a period of 5 years. There are provisions to include women, STs and SCs in the gram panchayat of each village. One-third of the seats to be filled by direct elections on every gram panchayat are reserved for women. At least one-third of such seats are reserved for women as are reserved for the SCs and STs. So much so, there is also reservation for the post of Chairman of the gram panchayat. There is a provision to make a member of SC or ST or a woman as the Chairman of the panchayat. Every gram panchayat makes plans for the social and economic development of the villagers whom it represents. It has the right to levy some taxes or fees on the villagers. The state Government also gives grants to gram panchayats. Some issues or areas of operation of gram panchayats are: land reforms; small canals; khadi and village industries; fuels;

roads, ghats; education; health; elimination of poverty; chakbandi (land demarcation); animal husbandry; potable water; cattle feed; bridge; rural electrification; local fairs; family welfare; and public distribution system.

Effects of 73rd and 74th Constitutional Amendments

The following changes have been effected by 73rd [1] and 74th Amendments [2]:

1. Elections shall be held for all the seats of the panchayat.
2. One-third of the seats shall be reserved for SCs and STs.
3. One-third of the seats shall be reserved for women.
4. Out of the seats reserved for SCs and STs, one-third of the seats shall be reserved for women of these very categories.
5. There shall be reservation of seats for the SCs and STs for the post of the chairperson of the panchayat.
6. There shall be reservation of seats for women for the post of the chairperson of the panchayat.
7. SCs and STs shall not be debarred from contesting elections for such seats as are not reserved.
8. Women shall not be debarred from contesting elections for such seats as are not reserved.

Panchayati Raj Institutions

Panchayati Raj Institutions are operating at the grassroots levels in Haryana. Their performances are commendable.

Some of the Features of the Panchayati Raj in the State are as follows

1. The Haryana Panchayati Raj Act has been modified to make such institutions efficient.
2. According to the modified Act, gram sabha must be held at least twice a year-on 13 April and on 2 October.
3. The post of Sub-Sarpanch has been quashed. The provision of bringing a no-confidence motion against the

Sarpanch has also been quashed.

4. The Sarpanch has to give up his charge (duties) within 7 days from the date of publication of the election schedule.
5. If a Sarpanch keeps a cash amount that is 21 per cent in excess of the stipulated amount, then he would be liable to pay punitive interest at the rate of 21 per cent.
6. If a Sarpanch or panch is reluctant to appear in a court case, then he may be suspended for a period of six years.
7. Lavatories are being constructed in rural areas. The rates of subsidies for general persons and STs are 50 per cent and 90 per cent respectively. STs give 10 per cent as the unskilled labour put in by them to make such lavatories. The State Government gives loans to dig well, install tubewells, construct shops and erect staff quarters.
8. The State Government grants minimum Rs. 2400 and maximum Rs. 8400 to Village Panchayats. In addition to this, Rs. 25 lakh are being granted to Panchayat Samities and District Council. This amount of money will be expended on the maintenance of their buildings.

Main Provisions of Haryana Panchayati Raj Act, 1994

The Haryana Panchayati Raj Act 1994 incorporated all the essential features of the 73rd Constitutional Amendment Act. It has made the gram sabha a soul of the panchayati raj system. It provides a platform for the direct participation of the people themselves. It is mandatory to hold at least two gram sabha meetings annually in the month of May and November. The Act provides for a quorum to convene the meetings of gram sabha, which is fixed at one-tenth of the total voters of villages^[3]. Further, the Act makes a provision for the sarpanch to hold three^[4] consecutive meetings of the gram sabha, his sarpanchship may be automatically ceased from the date on which second meeting was to be held. In order to ensure that gram sabha becomes a true democratic institution, the Act confers a number of powers and functions on the gram sabha. The Block Development and Panchayat Officer (BDPO) and the Gram Sachiv, attend every general meeting of panchayat samiti and gram panchayats respectively. And for any reason beyond his control, the is unable to attend every meeting, the Social Education and Panchayat Officer (SEPO) or block extension officer attends the meeting. This will facilitate not only in discussing the various issues but also helps to build mutual confidence and understanding between the members of the gram sabha and the local level bureaucracy. Several functions have been entrusted to the gram sabha. such as review of annual statement of accounts and the report on administrative activities, and developmental affairs of the panchayat like the location of schemes and other works, including consideration of the budget prepared by the gram panchayat and the execution of future development programmes and the plans. Infact, the gram sabha is to develop a system of internal checks and balances to ensure larger involvement of people in developing programmes, enhance political and administrative awareness, inculcate community spirit to facilitate direct communication between the people and the elected leaders and finally to create in the gram sabha a reservoir of power, authority, ownership by empowering it to play the role of a parent body^[5]. The Act provides for direct election of members to the panchayati raj institutions at all the three

levels on the basis of wards for the gram panchayat and territorial constituencies in the case of panchayat samitis and zila parishads. The Act makes it clear that the minimum number of gram panchayat members will not be less than 6 and not more than 20^[6]. In case of panchayat samiti members, one member for every 4,000 population will be elected and the number of elected members will be 10 to 30. Similarly, the zila parishad will also have 10 to 30 directly elected members and one member will be elected for every 40,000 population. The Act provides that the government will divide a district into wards in such a manner that the population of each ward be the same throughout the district. This will ensure that all the territorial constituencies have the same number of voters^[7]. Provision has been made for ex-officio membership for Members of Legislative Assembly (M.L.As) in the panchayat samitis; while the Members of Parliament (MPs) have been kept out. The MLAs also could have been kept out from this body as in the case of Maharashtra. In zila parishads, both MPs and MLAs have been made ex-officio members with right to vote except in the election and the removal of president. Legislators have bigger roles to play in Assemblies and Parliament. Their presence in panchayati raj institutions will affect the smooth and frank discussions in the meetings of panchayat samitis and zila parishads. Involvement of MPs and MLAs had resulted in the past in emergence of groups and factions thereby affecting the functioning of panchayati raj institutions^[8].

All the chairpersons of panchayat samiti will also be ex-officio members of the zilla parishad. Similarly, sarpanches of the gram panchayats. equal to the one-fifth of the total number of panchayat samiti seats, will be the ex-officio members of panchayat samitis for one year by rotation and lots^[9].

Going through the powers and functions transferred among the three tiers of the panchayats one finds several sections which empower either bureaucracy or government and, therefore, undermines the role of gram panchayat, panchayat samiti and zilla parishad. A few examples are given. As per Act if any person disobeys the order of the gram panchayat, he shall be punished to the extent of Rs. 1000. But the Act has the provision that any aggrieved person may, within a period of 30 days of such orders, appeal to director whose decision shall be final and shall not be liable to question in any court of law. In case of panchayat samiti also, chairperson has no control over its executive officer except securing implementation of resolutions. In similar ways, the chair person of zila parishad has an administrative supervision of the chief executive officer for securing implementation of resolutions of decisions of zila parishads or any committee thereof. This type of vertical control of bureaucracy is against the letter and spirit of the decentralisation. The real devolution can only be realized when each tier of panchayat raj shall have their own bureaucracy^[10].

The Act in case of panchayat samiti^[11] and zila parishad^[12] have empowered both director, panchayat and government to suspend chairpersons, vicechairpersons or members respectively if any criminal offence is established against them. This provision does not provide an organic link among these three tiers of the governance. The link can only be maintained if he controls zila parishad, zila parishad controls panchayat samiti and panchayat samiti controls gram

panchayat.

Among the normal qualifications and disqualifications prescribed for the candidates contesting elections to panchayati raj institutions, an important step introduced in the new Act, that a candidate with more than two children will be disqualified from contesting election in any of these bodies. However, a person having more than two on or up to the expiry of one year of the commencement of this act will not be deemed to be disqualified ^[13]. But now this clause has been abolished with effect from January 1, 2005 ^[14].

With regard to reservation, seats are reserved for scheduled castes in proportion to their population at all the three tiers and one third seats are reserved for women in the same pattern. This apart, the Act, provides that each panchayat, panchayat samiti and zila parishad has one member belonging to the backward classes and such seats may be allotted to the wards having the maximum population belonging to this category. The number of offices of chairpersons reserved under and are rotated to different panchayats, panchayat samitis, and zila parishads, in the order based on size of population belonging to these categories ^[15].

Under the new Act, panchayati raj institutions needs to perform all developmental functions as given in the 11th Schedule of the Constitution. The Haryana Act, has demarcated the 29 subjects for gram panchayat and panchayat samiti. As for zila parishad, it has not been clear how many subjects in the 11th schedule are given to uppermost tier. In accordance with the Constitution Amendment, the Act has provided for the constitution of a State Finance Commission to review the financial condition of the panchayati raj bodies and to make recommendations to the State governments. The Act is silent about the grants to the gram panchayat to meet certain defined expenditure ^[16].

Haryana Panchayat Raj Act states that District Planning Committee constituted under the Haryana Municipal Act, 1973, shall consolidate the plans prepared by the gram panchayats, panchayat samitis and zilla parishads and also prepare a draft development plan for the district as a whole as per the provisions of Article 243ZD of the Constitution of India ^[17].

The judicial functions enjoyed so far by the gram panchayat are no more with this body as they have not been made part of the Act. This is a sheer example of disempowering the gram panchayat through latest Panchayat Act. The judicial functions should have been part of the legislation because it is desirable to give speedy and economical justice to locals by their own people. Moreover, it have become important in the present situation in which the judiciary is not expanding ^[18].

Amendments in the Haryana Panchayati Raj Act, 1994

The Haryana Vidhan Sabha on February 9, 1999 passed an Amendment Act to provide the smooth functioning of panchayati raj institutions by abolishing the post of upsarpanch which had become a hurdle in the working of gram panchayat. The amendment made in section 11 (i) of the Act, makes a provision for convening of two general meetings to be fixed by the Block Development and Panchayats Officer (BDPO) concerned. The number of gram sabha members required to call extraordinary general meeting of gram sabha reduced from one fifth to one-tenth ^[19].

It was also made mandatory for panches to attend gram sabha meetings. Also, the charge would have to be handed over within seven days of the publication of the election schedule. It would be mandatory to ensure handing over charge before general elections of panchayati raj institutions ^[20].

The amendment empowered the concerned sarpanch to safeguard street pavements against digging. No street or pavement in a village would be dug, altered or damaged in any manner by any person for any purpose except with the prior permission of the sarpanch or block development and panchayat officer concerned. Such a permission would be granted only after the person seeking permission deposits an amount as prescribed to restore the street or pavement to its original state ^[21].

The suspension period has been raised from six months to one year as generally criminal trials and if enquiries do not conclude within six months resulting in reinstatement of sarpanches and panches. A provision would have also been made to abolish the condition of enquiry and consulting the panchayati raj institutions so that such institutions do not delay resolutions regarding carving out blocks. To discourage the tendency among the sarpanches of keeping cash beyond the prescribed limit a penal interest at the rate of 21 percent would be charged. To discourage the tendency of collusive attitude among the sarpanches and panches towards court cases, a provision have been made to disqualify them for a period of six years ^[22].

Section 215-A was inserted in Haryana Panchayati Raj Act, 1994 stating that if any dispute arises between two or more gram panchayat or between a gram panchayat and a panchayat samiti or between a gram panchayat and municipality, it would be referred to the prescribed authority whose decision thereon should be final and would not be questioned in any court of law ^[23].

Another amendment in section 3 of the Act was submitted in 2000 that if a gram panchayat, panchayat samiti or zila parishad, as the case may be, was not reconstituted before the expiry of its duration laid down in sub-section (1). It should be deemed to be dissolved on the expiry of the said duration and therefore, provision of sub-section (2) of section 52, sub-section (1) of section 111 or subsection (4) of section 158, as the case would be applicable. In case, elections to the panchayati raj institutions were not held in time this provision made it mandatory on the part of State government ^[24].

Section 11, further amended that every gram sabha should hold two general meetings one ranging from May 15 to June, 15 and another during from November 15 to December 15 each year at a time fixed by the Block Development and Panchayat Officer concerned ^[25].

The financial powers of the panchayats were enhanced from Rs. 25,000 to Rs. 1.25 lakh in 2000 for undertaking development work in the villages ^[26]. Again this limit of original work is increased upto 3 lakh for gram panchayat, 5 lakh for panchayat samiti and 10 lakh for zila parishad ^[27]. The state government provided a grant of Rs. 21.09 crore to panchayati raj institutions for undertaking development works in the villages. For the maintenance of community assets, a sum of Rs. 14.77 crore has been given, i.e, Rs. 10 lakh per block, increasing by 10 percent every year. A sum of Rs. 1 lakh for each block has been provided for the maintenance of

the buildings of the panchyati raj institutions. A one-time special grant of Rs. 25 lakh has been given for repair of zila parishad and panchayat samiti buildings. In order to improve sanitation and environmental conditions in the villages, a special grant of Rs. 2.92 crore was provided, increasing by 10 percent every year. A sum of Rs. 20.66 crore has also been given to these institutions according to the devolution prescribed by the 10th Central Finance Commission. The panchayats were authorised to give scholarships ranging between Rs. 10 and Rs. 25 per month as incentives to the meritorious students^[28].

The control of anganwari, supplementary nutritional diet, appointment of a anganwari helper, issuing of ration cards, opening of fair price shops, rural health centres, sub health centres and veterinary stock centres and appointment of agriculture extension workers is also rest with the panchayati raj institutions. Panchayat may give incentives for the promotion of animal husbandry, poultry farm and diary development. They are able to spend 70 percent of the amount received under the Swaran Jayanati Rozgar Yojna.

While the share of local bodies in the income from stamp duty have been increased from 3 percent to 4 percent, they can now implement schemes costing upto Rs. 3 lakh on their own. Local bodies are allowed to auction shops and convert leasehold commercial properties into free hold for a suitable fee^[29].

The Haryana Government constituted the Gram Vikas Samities to involve the people in development works. These samities comprised for seven to eleven^[30] members with a mahila panch, a panch belonging to the scheduled castes and backward classes, one ex-serviceman, two prominent residents of the village to be nominated by the gram sabha and headed by the sarpanch^[31].

A unique feature in this process was the presentati of village panchayat accounts by the gram sachivs. The total income, expenditure and overall financial position was put before the gram sabha and any one could examine or check the use of the funds. It was provided that an amount of upto Rs. 50 lakh be given to a Gram Vikas Samiti for its own account known as the Gram Vikas Nidhi^[32].

In 2001 further amendment made in section 176 of Haryana Panchayati Raj Act, 1994, by inserting clause (aa) after clause (a) sub-section (4) of section 176. The clause includes, "if on holding such enquiry the civil court finds that

1. on the date of his election a returned candidate was not qualified to be elected;
2. any nomination has been improperly rejected, or
3. the result of the election, in so far as it concerns a returned candidate, has been materially affected by improper acceptance of any nomination or by any corrupt practice committed in the interest of the returned candidate by an agent other than this election agent or by the improper reception, refusal or rejection of any vote or reception of any vote which is void or by any non-compliance with or violation of the provisions of the Constitution of India or of this Act, or any rules or orders made under this Act, election of such returned candidate shall be set aside the fresh election may be held." In clause (b), for the word, brackets and letter "clause (a)", the words, brackets and letters "clause a or clause (aa)". shall be substituted^[33].

The State government decided to give annual awards to the best gram panchayats on the basis of performance and meeting of targets in the implementation of various schemes. The panchayat outperforming the others at the district level would be awarded a cash prize of Rs. 5 lakh and the State level outstanding panchayat would be given Rs. 10 lakh. The prize had been named Choudhary Devi Lai Memorial Award. The criteria for judging the performance of panchayats included removal of encroachments, recovering of house tax. cleanliness in the village, implementation of such schemes as Rural Employment Scheme, Indira Awas Yojana, Jawahar Rozgar Yojana, disbursement of pension and identification of beneficiaries, management of primary schools, dropout rate in the schools and health and medical care programmes^[34].

In 2003, rule 11 of section 14 of Haryana Panchayati Raj Act, 1994, was amended by inserting rule 11A and 11C for appointment, removal, duties and functions of gram vikas sahayak in each village to assist the gram panchayat. For the purpose^[35].

1. Gram panchayat would be appointing authority of gram vikas sahayak;
2. At the request of the gram panchayat for gram vikas sahayak the concerned sub-divisional officer (civil), having jurisdiction of the sabha area, would invite applications from amongst the inhabitants of sabha areas. The applications should be graduates and not less than 21 years of age. This sub-rule was further amended on October 14, 2004 for fixing the age limit from 21 to 32 years^[36].
3. A notice of atleast 10 days would be required for inviting such applications. The selection of gram vikas sahayak would be made by a selection committee consisting of the sub-divisional officer(civil) and the concerned after interviewing chairman panchayat samiti the candidates.
4. The Collector of the district would be appellate authority against the order of the selection committee;
5. The decision of the Collector would be final and no further appeal could be made against his orders;
6. In case a gram vikas sahayak wanted to contest the election to any of the Panchayati Raj Institutions or Vadhana Sabha etc. he would be required to resign from his office;
7. The gram vikas sahayak would discharge his duties upto the age of 60 years;
8. A gram vikas sahayak could be removed from his office by the subdivisional officer (civil) concerned, after giving him an adequate opportunity of being heard if
 - a. He is sentenced for an offence involving moral turpitude; or
 - b. He is indulged in negligence in the discharge of his duties or otherwise found incompetent; or
 - c. Owing to age of physical or mental incapacity, or absence from the sabha area, and unable to discharge his duties, or
 - d. He has taken part in any kind of agitation against the government or failed to give his active support to the government of the gram panchayat in the maintenance of law and order; or
 - e. A case against him in respect of any criminal offence is under investigation, enquiry or trial, if in the opinion of

the competent authority, the charge made or proceeding taken against him, is likely to embarrass him in the discharge of his duties;

9. If there is any loss, waste or misapplication of gram fund or to the property belonging to the gram panchayat due to his negligence or misconduct while working as gram vikassahayak, he would be liable for such loss, waste or misappropriation of gram fund or property belonging to the gram panchayat and gram panchayat would be competent to assess and recover amount due from him on account of such loss, waste or misapplication of such gram fund or property after following the principle of natural justice;
10. Gram vikas sahayak would maintain liaison between the State government, the gram panchayat and the inhabitants of the sabha areas;
11. He would assist the State government in effecting recoveries of dues relating to electricity bills or any other dues and disbursement of old age, handicapped and widow pension etc. on commission basis to be determined by the State Government;
12. He would be paid on honorarium of Re One ^[37] per month. Rule 11D and 1 IE related with section 15 of the Act provided that:
 - a. Formation of group of gram panchayats would be decided by the concerned block development and panchayat officer;
 - b. Application of service rules, 1979 to gram sachivs would mutatis mutandis apply to the circle supervisors.

The office of the Gram Vikas Sahayak is abolished and provided that there shall be a Gram Sachiv for every gram panchayat or group of gram panchayats. The main duty of a Gram Sachiv is to maintain accounts, record and other property of gram panchayat as well as to assist in discharging the duties; functions and carrying out the resolutions of the gram panchayats. Under the overall control of sarpanch, he has to record the proceedings in proceeding book with signatures, prepare the replies of audit notes and submit to the Block Development and Panchayat Officer (B.D.P.O) after the approval of Gram Sabha within one month of the receipt of such notes ^[38].

There is a provision of exemption of house tax, where a house is vacant since last one year or owned or occupied by a person who was dependent of the member of the armed forces of the Union of India killed in action during the 1962, 1965 or 1971 war ^[39] or who is/are freedom fighter/children of freedom fighter ^[40]. So the provision of freedom fighter/children of freedom fighter was not in the original act, it was inserted in 2007.

Section 51(6) of Haryana Panchayati Raj Act, 1994 is related to handover the records, money or any property of gram panchayat in the possession of sarpanch to panch having majority in the gram panchayat, in case of removal of sarpanch. Another clause is added in this section in 2007 that if a sarpanch belonging to reserve category shall handover the above said record to a panch of reserve category, if no such panch is available than the record shall handover to the general category panch ^[41].

Till April 2007, there were 218 sections in Haryana

Panchayati Raj Act, 1994 but through Act No. 11 of 2007. another chapter XXII was introduced in this Act with sixty two section i.e. 219 to 280. All these sections are related to the establishment of Haryana Rural Development Authority (HRDA). The main objectives of HRDA are to promote, secure regulated development of the rural area including land and to provide amenities. sanitation, hygiene in rural areas and specially housing and residential facilities for weaker section. The main functions of the authority include the identification of rural area for declaration of development zone, preparation development plan for this zone, providing regulated growth through financial and technical support to panchayati raj institutions, distribution of house sites in the development zone, maintenance of building and community assets under its control or transferred to it by the government and any public authority, cleaning public roads, drains and other public places and any other functions conferred by the government. The composition of authority is by consisting of Chairman, Vice Chairman, Chief Administrator and six to twelve members. The term of the non-official members has been fixed to three years.

The authority would function through some committees and decision in the meetings shall be decided by a majority votes of the members present and voting and in case of equality of votes, the member presiding shall have a second or casting vote. The quorum for these meetings shall be one-third of the number of members actually serving for the time being but not less than four.

It is provided in section 19G of the Act and Haryana Panchayati Raj Finance, Budget, Accounts, Audit taxation and works rules, 1996 for honorarium and allowances for panchayati raj institutions members and this honorarium was fixed only for president, vice president zila parishad and chairperson panchayat samiti Rs. 3000/-, Rs. 2500/- and Rs. 2000/- per month respectively ^[42] but in April 2007 this honorarium has been extended to members, zila parishad, panchayat samiti and gram panchayat at the rate of Rs. 1000/-, Rs. 500/- and Rs. 200/- per month respectively ^[43]. Rules 28 of Haryana Panchayati Raj Election Rules, 1994 discuss about the fees required for filing the nomination form for election. So this fee has been increased since June, 2007 and Rs. 100/- Rs. 300/- and Rs. 400/- is required fees for member grampanchayat, panchayat samiti and zila parishad respectively, in case of SC and BC this fee is approximately half of general category candidates. The fees required for the post of sarpanch is Rs. 200/- and Rs. 100/- for second BC candidates ^[44].

Conclusions

The purpose of this chapter is to summarize the main points of the present study in the context of the prevailing socio-economic conditions and to make certain suggestions regarding further reforms which must be introduced in the entire structural and institutional framework of the Panchayati Raj Institutions that the yawning gap between our theoretical and practical approaches to the implementation of Panchayati Raj system is abridged. To achieve the real objectives, it will be imperative to introduce some more realistic and effective legislative measures to give certain definite powers to the people at grass-root level, and making women's participation

therein a compulsory legal requirement so that various developmental programmes relating to all round upliftment of women are made truly purposeful; and their effective implementation is ensured.

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43. Notification No. G.S.R. 15/H.A/I 1/1994/S. 209/2007 dated April 27, 2007.
44. Notification No. S.O. 50/H.A. 1 1/1994/S. 209/2007 dated June 6, 2007.9315001639