

CHAPTER-XI**OBJECTIVES-PANCHAYAT RAJ INSTITUTIONS-GRAM SABHA**

The Constitution (73rd Amendment) Act, 1992 has added a new part IX consisting of 16 Articles and the Eleventh Schedule to the Constitution. The 73th Amendment envisages the Gram Sabha as the foundation of the Panchayat Raj System to perform functions and powers entrusted to it by the State Legislatures. The amendment provides for a three tier Panchayat Raj System at the village, intermediate and district levels. Article 243A provides that the Gram Sabha may exercise such power and perform such functions at the village level as the Legislature of a state may by law provide. The 73rd amendment thus envisages the Gram Sabha as the foundation of Panchayat Raj System. "Gram Sabha" means a body consisting of persons registered in the electoral rolls comprised within the area of Panchayat at the village level. In the Panchayat Raj System Gram Sabha is the only permanent unit. Duration of Panchayat i.e. Mukhiyas and other members of Panchayat continue for 5 years only from the date appointed for the first meeting, but the villagers do not change.

Empowerment of Gram Sabha means strengthening of the Panchayat Raj Institution (PRIs). Success or failure of this system depends upon the strength of the Gram Sabha. The eleventh scheduled of the constitution created by the 73rd Amendment contains 29 subjects on which the Panchayats shall have administrative Control, Article 243H empowers State Legislature to make by law provision for imposing taxes etc. by the panchayat. Obviously these panchayats before imposing any levy or tax in the village would be required to get clearance from the respective Gram Sabha.

Drafting and implementation of development plans for the uplift of the villages would be vetted and monitored by the Gram Sabhas.

Panchayat Raj Institutions (PRIs)

Panchayat Institutions are the vehicles of political empowerment of people at the grass root level for shaping their own destiny. A vast majority of people are living at the grassroots level in the rural and remote areas without any touch of modern day. A large section of such deprived people belong to Scheduled castes, Scheduled tribes and other Backward casts as also women in general at the grass root level.

In Bihar, election of PRIs could not be held after the Constitution (Seventy third) Amendment Act, 1992 which became effective from 24th April 1993.

The state of Bihar had well organised and efficiently functional Panchayat Raj Institutions. The Mukhiya (Chairman) of the Gram Panchayat, which is the lowest unit of the PRI at the village level, is the kingpin at the grassroots level. The District Magistrates, Sub Divisional Officers and Block Development Officers had often noted with surprise and at times with embarrassment that before any government machinery could move to provide relief to the people in the rural areas affected by natural calamities like flood, fire etc, the Mukhiya of the local gram panchayat was already there by the side of the affected people. Though most of the Mukhiyas generally represented the feudal elements in the villages, nevertheless, their apparent benevolent gesture and prompt response to the need of the affected people had made the institution of Mukhiya very popular among the rural people. The previous election to the PRIs in Bihar was held during May-june 1978 and thereafter the PRIs did not have any popular mandate.

The three tier Panchayat Institutions in Bihar consist of a Gram Panchayat at the lowest level, Panchayat samiti at the Block level and Zila Parishad of the District level. The chairman of the Gram Panchayat is called

Mukhiya, the chairperson of the Panchayat Samiti is called Pramukh and the Chairperson of the Zila Parishad is called Adhyaksha.

Bihar after 73rd amendment of the constitution enacted Bihar Panchayat Raj Act, 1993 making provisions regarding reservation for the Scheduled Castes, the Scheduled Tribes, Women, and Backward class of citizens. These reservation provisions invited writ petitions before Hon'ble High Court Patna (CWGC No. 3351 of 1994- Krishan Kumar Mishra and others). The Hon'ble High Court vide its order dated 19th March 1996 in CWJC no. 3351 of 1994 with eleven other CWJCs quashed certain provisions of the Bihar Panchayat Raj, 1993 regarding reservation. The net results of the above judgement was that seats can be reserved for the Scheduled Casts, the Scheduled Tribes and Women and the offices of Chairpersons cannot be reserved as these posts are to be treated as single post. As regards reservation for Backward class of citizens, the Hon'ble High Court quashed Schedule of the Act with a direction to revise the list of Backward class of citizens. In other words, until a new Schedule containing the list of Backward class of citizens is in position no reservation can be given to such class of citizens.

The state Government filed on SLP vide Special Leave Petition (Civil) no. 9724-9728 and 9819-25 of 1996. The Hon'ble Supreme Court passed an interim order on 22.7.97 with the observation that the matter should be placed before the Hon'ble Chief Justice of India for constitution of the appropriate Bench for the disposal of these matters. The State Government came to the conclusion that elections to Panchayats has been stayed by the Appex Court and accordingly the proposal to hold the election was shelved. There was another public interest litigation in the Patna High Court bearing CWJC no. 8765/1998 (Nand Kishore Singh versus Union of India and others). It was heard by the Chief Justice Ravi S.Dhawan and Justice Aftab Alam. When the Court asked the Advocate General why the election was not held, the Court was told that there was a stay order as an injunction from the Supreme Court. The Court sought the order from the State Counsel, but

the order as was claimed could not be produced. The High Court in its order of 13.4.2000 stated that the order of Supreme Court order "was being interpreted by tearing a phrase out of its context virtually by misinterpreting the Supreme Court order." The High Court further observed "the mystery of a non-existent injunction which was declared to exist, but is conspicuous by its absence. This is chicanery of legal engineering." The court also observed that "..... not to hold election (of Gram panchayats) would be a clear abnormality and against the mandate of the Constitution." Hon'ble High while concluding its order observed: "The court hopes that this furtherance of running a government not in keeping with the Constitution of India will cease. Local government without elected representatives is an insult to the Constitution of India". Again the State Government went before Hon'ble Supreme Court for clarification of the its order dated 22.7.1997. Apex court in its judgement on 29.8.2000 held that "there is no bar for holding elections to different Panchayats in accordance with law, as it stands today, which will be subject to the final decision in pending appeals."

Accordingly process of election to PRIs started in October 2000 and actual election was held in April 2001. That elections to PRI would be held in Bihar was a surprise to even to District Magistrates. The State Election Commission has observed in his report that it was shocked to find that "district administration (meeting of District Magistrates and Divisional Commissioners on 16th January 2001) was still doubtful about the intention of the Government and the Commission to conduct the election."

The 2001 election to PRIs has for the first time elected 44815 female representations in the PRI of which 9266 are SC females. Altogether 29962 S.C citizens have been elected in various units of PRIs. This has exhibited the establishment of grassroot democracy in Bihar.

However, full powers as assigned to the Panchayat Raj Institutions under the 73rd Amendment of Constitution or even under Bihar Panchayat Raj Act 1993 notified vide L.G.-1.020/93-274 Leg dated 28th October 1994, have not been delegated. Rules are yet to be notified empowering

functioning of the PRIs. Hon'ble High Court Patna in various writ applications have been observing against the state government on this abnormal delay in transferring actual power to PRIs. This has affected the moral of the elected representatives. Absence of any training facilities to these representatives have made them ignorant about their role as agents for ensuring economic development of their constituents and for establishing participative and accountable grass root administration.

Gram Sabha

Chapter II of the Bihar Panchayat Raj Act 1993 (Bihar Act 19 of 1993) enunciates powers and functions of the Gram Sabha. Section 9 of Chapter II lays down following functions of the Gram Sabha.

- (a) Rendering assistance in the implementation of developmental scheme pertaining to villages;
- (b) Identification of beneficiaries for the implementation of development schemes pertaining to the village;

Provided that in case the Gram Sabha fails to identify the beneficiaries within a reasonable time the Gram Panchayat shall identify the beneficiaries

- (c) Procuring voluntary labour and contributions in kind or in cash or both, for community welfare programmes;
- (d) Programmes of adult education and family welfare within the village;
- (e) Promotion of unity and harmony among all sections of society in the village;
- (f) Seeking clarifications from the Mukhiya and members of the Gram Panchayat about any particular activity, scheme, income and expenditure; and
- (g) Reports of the vigilance committee.
- (h) Such other matter as may be prescribed.

Section 7 of Chapter II of Bihar Act 19, 1993 also provides that the Gram Sabha shall consider following:-

- (a) The annual statement of accounts of the Gram Panchayat, the report of the administration of the preceding financial year and the last audit note and replies, if any, made thereto;
- (b) The budget of the Gram Panchayat for the next financial year;
- (c) The report in respect of development programmes of the Gram Panchayat relating to the preceding year and development programmes proposed to be undertaken during the current year;
- (d) Reports of the vigilance committee.

The above functions can be effective and meaningful only after a model plan of development of the village is before the Gram Sabha. Such development plan should be based upon economic requirements of the village for the villagers, through use of locally available resources, necessity of augmenting such resources (physical and financial) and methods through which the end result of task of socio-economic development can be achieved.

Preparation of model development plan for villages is basically to help the villages/Gram Sabha in accomplishing the target of development of the socio-economic conditions of the village. It is the most necessary vital tool in empowering Gram Sabhas to discharge their functions effectively and efficiently.