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PANCHAYATI RAJ IN HIMACHAL PRADESH: AN INTRODUCTION**KHEM RAJ****RESEARCH SCHOLAR****DEPARTMENT OF POLITICAL SCIENCE****HIMACHAL PRADESH UNIVERSITY****SHIMLA****ABSTRACT**

The Himachal region before 1947 consisted of thirty small princely states, all independent of each other but under the suzerainty of the British Crown. Hence, there was no single panchayat act in operation in all these states. But the Punjab Village Panchayat Act 1939, had been adopted where the rulers were enlightened. The state of Himachal Pradesh came into existence on 15 April 1948 with the merger of these thirty princely states of Shimla and other Himalayan regions in and around the Shivalik Hills. It underwent a series of metamorphic changes, both political and administrative, till 25 January 1971, when it became the eighteenth state of the Indian union.

KEYWORDS

panchayati raj institutions, 73rd amendment, local Government.

INTRODUCTION

The origin of panchayats in the territories now constituting Himachal Pradesh dates back to 1908 when Raja Bijai Chand of Kehloor (Bilaspur) established quomi (caste) panchayats in his state. There were three major castes- Brahmins, Thakur Rajputs and Rajputs-recognised by the Raja of Bilaspur for this purpose. These Guomi Panchayats, although established for only three major castes, were not just castes panchayats.

The Bilaspur ruler also constituted a central health and education committee to manage the problems of health and education in his state. This committee, along with the quomi/panchayats, could be considered the forerunner of panchayat institutions in the state. It was partly elected and partly nominated with ten members and one chairperson. Five members were elected from five one-member constituencies and the remaining five members were nominated by the ruler. The state also had halqa and pargana councils with their pradhans, up-pradhans and secretaries. The pargana councils had more or less the same functions as the panchayat samitis in other states. They ceased to function in 1950 following the extension of the Punjab act of 1939 to Bilaspur state.

Most of the other princely states in the region also had their traditional panchayats. For example, in Sirmour, Lahaul Spiti, Kullu and Kangra regularly established panchayats had been in operation. Sirmour, in fact, had implemented the Punjab act of 1939 and formed three panchayats: Dadahu, Sarahan and Majra. Lahaul Spiti had its regularly constituted panchayats from November 1944 when thirteen panchayats came into existence. The new state of Himachal Pradesh adopted the Punjab Village Panchayat Act, 1939, as the first step towards introduction of a panchayat system in 1949 and in that year itself established a total of 186 panchayats in its four constituent states. The breakup was: Mahasu, 45; Mandi, 33; Chamba, 54; Sirmour, fifty-four. In 1950, the Punjab Village Panchayat Act was extended to Bilaspur state also.

INDEPENDENCE AND AFTER

The state legislature passed the Himachal Pradesh Panchayat Raj Act in 1952, in order to bring the working of panchayats in tune with the local conditions and with the growing aspirations of the people for democratisation. Thus, Act authorised the state government to establish a gram sabha for a village or a group of villages and a tehsil panchayat for every tehsil or sub-division. The president of the gram sabha was the pradhan, who, along with the up-pradhan, was to be elected for three years from amongst the members. An executive committee of the gram sabha, also elected, was called the gram panchayat. There was reservation of seats for SCs as well as for women in the gram panchayat. The act provided for seventeen functions for the gram panchayat besides sixteen discretionary functions. A gram panchayat was given power under the act to maintain and seek improvement in schools and hospitals and also help in the establishment of primary schools. A gram sabha could also report the misconduct of certain officials to the higher authorities.

The Act of 1952 required a district to be divided into circles for which a Nyaya Panchayat was established. Every gram sabha in a circle selected fifteen members of prescribed qualifications for the Nyaya Panchayat. By 1954, a total of 426 panchayats (one in each patwari circle) covering 13,606 villages had been established in the four districts constituting the state in addition, there were twenty-six tehsil panchayats and three zila panchayats. The tehsil as well as zila panchayats were established through indirect elections.

In Himachal Pradesh, the tehsil panchayats were already functioning as the second tier when the Balwant Mehta Committee Report was being implemented in other states of India. The tehsil was an administrative revenue unit and was not coterminous with a block. There were ten to forty members in each tehsil panchayat. Some of these members were nominated by the state government and each panchayat used to return one member. The tehsildar used to be its president. The Himachal Pradesh Act of 1952, was repealed in 1968 when the state legislature passed a new panchayati raj act. This act provided for a uniform System for the Entire State, including Bilaspur and other areas transferred to it. The panchayats in these areas had been working in accordance with the provisions- of the Punjab legislations of 1952, and 1961 when the Himachal Pradesh Panchayat Raj Act, 1968, came into force on 15 November 1970, that is, two years later. By then the newly merged areas had already constituted a total of 1,965 gram panchayats, 29 panchayat samitis and 3 zila parishads under the Punjab statutes adopted by them.

THE 1968 ACT

The Himachal Pradesh Panchayat Raj Act, 1968, was enacted to incorporate the major recommendations of the Balwant Rai Mehta Committee. Accordingly, a panchayat samiti was constituted for every block. It consisted of primary members (who were all the pradhans of the gram panchayats in the block), and co-opted members. The provision applying to the primary members was, however, amended in 1991. The amended Act laid down that, the primary members would be elected by secret ballot by the members of the gram sabhas with one member from every two contiguous gram sabhas, subject to a minimum of ten members. The pradhans and up-pradhans of the gram sabhas, who were also the pradhans and up-pradhans of the gram panchayats, were elected from amongst the members of the gram Sabha, by secret ballot and direct vote. The Act of 1968 also provided for representation of women in case there were no primary women members in the panchayat samiti. Only two women were to be co-opted from among the panches from the block. Similarly, a maximum of four panches belonging to the SCs were to be co-opted if there was no SC primary member.

A special feature of the panchayat samiti in Himachal Pradesh was that, it had directly elected primary members and its chairperson wrote the annual confidential report of the Block Development Officer. The Act of 1968, conferred twenty-Seven duties on gram panchayats but the funds made available to them were extremely limited. It was just not possible for a gram panchayat with hardly any source of income to perform even duties like sanitation and maintenance of public utilities.

The 1968 Act had in fact vested real powers in the District Collector, Sub-Divisional Magistrate and the District Panchayati Raj Department. The slogan of democratic decentralization was misleading. There was no real power either with the pradhans of the gram panchayats or with the chairpersons of the panchayat samitis.

Implementation of the act of 1968, whether it related to powers, duties, functions or taxation, required prior approval or sanction of the state government, in other words, of the director of panchayats or the District Collector.

The most important official dealing with Panchayati Raj Institutions at the grassroots level (Gram Sabha/Panchayat) was the secretary of a gram panchayat or of a group of panchayats, who was appointed by the director of panchayats. This was the start of an attempt to control gram panchayats, although the secretary was supposed to act under the overall supervision of the pradhans.

Functional jurisdiction of the gram panchayat was the requirement for prior approval by a deputy commissioner of plans for under taking any work involving more than 500 rupees. The previous sanction of the Deputy Commissioner had to be obtained when a panchayat needed to borrow money and the conditions imposed by him had to be accepted. The prior permission of the Deputy Commissioner was necessary even for the imposition of a special tax on the adult male members of the panchayat for the construction of any public utility.

A draconian clause of the 1968 Act empowered a Deputy Commissioner or a Sub-Divisional Officer to suspend the execution of a resolution or order of a gram panchayat or prohibit the implementation of an act. Another clause was the one authorizing the state government, or the Deputy Commissioner, to suspend a panch during the course of an enquiry or for any other recorded reason. Such unlimited powers had made the district and state bureaucracy the unquestioned masters of panchayati raj institutions in the state. Although the Himachal Pradesh Panchayati Raj Act of 1968, had reaffirmed the belief in the three-tier system, the three zila parishads which were dissolved in 1957 were not brought to life again.

The impact of the Ashoka Mehta Committee's report of 1978 was insignificant on the panchayati raj system of the state. The only recommendation of this report accepted by the state government pertained to the direct election of members of the panchayat samiti. But even this was made mandatory only under the Himachal Pradesh Panchayati Raj (Amendment) Act in 1991.¹

STATUS OF PANCHAYATI RAJ INSTITUTIONS

Despite such deliberate attempts to suppress the Panchayati Raj Institutions in Himachal Pradesh, these had survived as formally constituted institutions and organizations. Gram panchayats and panchayat samitis enjoyed a certain level of status and power. Government officers on their visits to the villages or blocks, always asked for the pradhans or the chairpersons of the panchayat samitis, and this official recognition was of significance in the villages. Although the financial position of these institutions was weak, they had status and prestige in the eyes of the common man. It is true that, persons with some economic status became chairpersons of the panchayats, but caste leaders and popular social workers were also favoured in panchayat elections.

POST-73RD AMENDMENT DEVELOPMENTS

Himachal Pradesh enacted new panchayati raj legislation, the Himachal Pradesh Panchayati Raj Act, 1994 in conformity with the provisions of the Constitutional (Seventy-third Amendment) Act, 1992. The act of 1994 repealing the earlier state Panchayati Raj Act of 1968, became effective from 22nd April 1994. This act provided for a gram sabha and gram panchayats, panchayat samitis and zila panchayats at village, block and district levels respectively.

GRAM SABHA

In Section 3 of the Act, a gram sabha is to be constituted for a village or group of villages with not less than 1,000 and not more than 5,000 populations. In Schedule V areas, the population can be less than 1,000. The state can also decide to have a gram sabha for a village or group of villages with less than 1,000 or more than 5,000 populations keeping in view the geographical situation, lack of transport and communication, and for administrative convenience. An interesting feature is that a Gram Sabha area can be changed only on completion of tenure of the current elected members. The functions of the gram Sabha include: encouraging contribution of voluntary labour and contribution in cash or in kind, implementation of development Schemes for the village, promotion of unity and harmony among all sections of the society in the area, seeking clarification from the gram Panchayat Pradhan, up-pradhan and members on any activity, schemes, income and expenditure. The Gram Sabha considers and gives suggestions and recommendations to the gram panchayat on the annual budget, administration report, audit report, gram panchayat's report for the previous year's development programmes, current year's proposals, unity and harmony among all sections of the society and adult education programme in the village. The gram panchayat has to give due consideration to the Gram Sabha's suggestions and recommendations. The Gram Sabha will have two meetings in a year and the prescribed quorum for its meetings is one-fifth of its total membership.

GRAM PANCHAYAT

The Gram Panchayat is defined in the Act as the executive of the gram Sabha. Its membership ranges from 5 to 13 according to the population. There will be 5 members for a population of 1,500, 7 for a population between 1,500 and 2,500, 9 for 2,500 to 3,500, 11 for 3,500 to 4,500, and 13 members for a population exceeding five thousand five hundred. Reservation for SCs and STs is provided in proportion to their population with a minimum of one in number. The government can also reserve seats for Backward Classes. The gram panchayat meeting has been declared a public meeting and is to be held at least once every month. This Act gives twenty nine duties of the gram panchayat which are specifically in the nature of civic functions like sanitation, maintenance and repair of public wells, village roads, culverts, public street lighting and public land management. The government can also entrust to the panchayats the preparation and implementation of schemes for promoting economic development and social justice, including on subjects listed in Schedule Eleven of the Constitution.

The Gram Panchayat has the power to remove encroachments and nuisance. It can also regulate building construction after preparation of model schemes for the village. Under Section 16 of the act, it can inquire into complaints against the peon, bailiff, police constable, hawaldar, chowkidar, police guard, person in charge of irrigation, vaccinator, animal supervisor and gram sevak, about misconduct in their official capacity. The concerned senior officer, Deputy Commissioner or Sub-Divisional Officer (SDO) will take action on its report and inform it to the director of panchayats. Similarly, on a report of any person that a patwari, chowkidar, gram sevak or forest guard has failed to perform the duties assigned to him by any law or rule, gram panchayats can ask him to carry out the duty in a reasonable period, and if he fails, it can report to the concerned senior officer, or Deputy Commissioner, who will take action after appropriate inquiries and then inform the gram panchayat and the director of panchayats.

By a resolution passed by a two-thirds majority of the gram panchayat can also impose prohibition on liquor vending in the area. The gram panchayat is also to assist a government servant in carrying out his duties if so prescribed and to the extent practicable. A Gram Panchayat will have three standing committees: (1) Agricultural Production, Animal Husbandry and Rural Industry Committee; (2) Social Justice Committee for SC ST, OBC welfare and welfare of women and children; and (3) Amenities Committee for Education, Public Health, Public Works and other Works. The Act also provides for certain judicial functions and powers for gram panchayats.

The Gram Panchayat has taxation powers which include (1) house tax, (2) profession tax, (3) cess on stamp duty, (4) other taxes, fees or cess authorized by government. If a particular panchayat fails to impose a tax the government can itself impose it and it will be deemed to be a tax imposed by the panchayat. The fees which the panchayat can impose are service fees on sanitation, street lighting, registration of animal sold and rate on water supply. The panchayat can also impose special tax on each adult male for any public work construction with Deputy Commissioner's permission.²

PANCHAYAT SAMITI

A Panchayat Samiti is to be constituted for a block with one member for a population of three thousand. The total number of directly elected members from territorial constituencies will be not less than 15 for 45,000 population and not more than 40 for more than 1.20 lakh population. Members of the Lok Sabha, and Vidhan Sabha with a constituency wholly or partly in the block, and Rajya Sabha members who are registered voters in the area are also members. One-fifth of the gram panchayat pradhans are members of the panchayat samiti by rotation. In the panchayat samiti as well as in the gram panchayat the government can reserve seats for the backward classes.

The function of the panchayat samiti include the following: (1) 1RDP, agriculture, social forestry, fishery, health and sanitation, adult education, communication, public works, cottage industries, cooperatives, women, youth and child welfare, welfare of disabled, destitutes and backward classes, family welfare and sports; (2) Natural Calamities like fire, flood, drought arrangement of local pilgrimages and festivals (4) Management of public ferries and public markets, fairs and exhibitions. The government can also entrust other functions to it. The panchayat samiti will have three standing committees: General, Finance, Audit and Planning, and Social justice.

ZILA PARISHAD

The Zila parishad consists of directly elected members from territorial constituencies, one for 20,000 populations or part thereof and at least 10 members for a district with a population of 2 lakh. The Government has retained the power to notify that in the Schedule Area there will be no consideration of population. Members of the Lok Sabha with their constituencies in the District and members of the Rajya Sabha registered as voters, and all presidents of panchayat samitis are members of the Zila Parishad but if the MPs and presidents of panchayat samitis together exceed directly elected members, only one-fifth of the panchayat samiti presidents will be members by rotation.

The duties of the Zila Parishad are: (1) Control, Coordination and Guidance of panchayat samitis and gram panchayats. (2) Coordination and integration of panchayat samiti plans, coordination of special purpose grants, and requests of panchayat samitis, advising government on development activities, social forestry, family welfare, welfare of disabled, destitute women, youth and children and sports. The government can also entrust to Zila Parishads other functions within their competence, like preparation of plans for economic development and social justice and implementation of schemes, including those in the Eleventh Schedule of the Constitution. The Zila parishad has five standing committees: General, Finance, Audit and planning, Social Justice, Education and Health, and Agriculture and Industry in the panchayat samiti, the Block Development and Panchayat Officer (BDPO), and in the Zila Parishad, the District Development and Panchayat Officer (DDPO) have been designated as the secretaries in the act.³

GOVERNMENT CONTROL

The Government or an authorized officer can suspend a panchayat resolution. It can dissolve a panchayat if it does not comply with its orders or does not carry out its duties or misuses its powers. It can also inquire into the functioning of a panchayat and can remove any of its office bearers.

ELECTIONS

Elections to the Gram Panchayats were held in December 1991, and to the sixty-nine panchayats samitis. Elections to the Zila Parishads were not held. Although the state had 2,757 gram panchayats at that time, only 2,731 of them went to the polls. Elections to twenty-four gram panchayats in the whole of the Rohru block had been stayed by the court and the constitution of two gram panchayats in the Kunihar block of Solan district had been disputed. In Pragpur Panchayat Samiti (Kangra district) elections for the post of chairperson and vice-chairperson were not held.

Although the elections to the gram panchayat and panchayat samitis were held on a non-party basis, the two major political parties in the state, namely, the Congress and the Bharatiya Janata Party (BJP) took an active interest in them. Caste too played a significant role. People of a caste or community tended to vote for the candidate of the same caste or community. The next elections to panchayats in Himachal Pradesh were held in December 1995. These were conducted by the State Election Commission, set up under the 1994 Act. There was very high voter turnout for the polls. The polling crossed 90 per cent in certain areas of Mandi, Solan, Kangra and Shimla districts. On an average 80 to 85 per cent polling was recorded throughout the state. There was greater enthusiasm among women voters. Barring setbacks in some prestigious constituencies, the Congress-supported candidates were elected in a majority of the areas. In the elections 7,652 women were elected to different offices. Out of these 1,961 belonged to the scheduled castes and 439 to the scheduled tribes.

STATE FINANCE COMMISSION RECOMMENDATIONS

The State Finance Commission was constituted in April, 1994. The Commission submitted its report on 30 November 1996. It made the following observations and recommendations:

The existing provisions in the Act do not really allow a fair degree of freedom to the PRIs and the local bodies to raise resources through taxes and levies. The government could suggest maxima and minima rates for the imposts. The Government could also consider amending the statutes to provide for this flexible arrangement. In case, local bodies do not collect their statutory levies, the resource transfers recommended for them should not be made. The deficit of PRIs of ₹ 1,387.45 lakh from 1996-97 has to be filled by grants. For the delegated functions, a total sum of ₹. 3,750 lakh was estimated to be necessary.

For the maintenance of already created assets, a rural infrastructure Maintenance Corpus needs to be established, for which a sum of ₹ 1,280 lakh for a period of five years needs to be provided. For maintenance and creation of new assets, gram panchayats have to raise resources locally. For maintenance of water supply and irrigation schemes, additional amount would be required. For the payment of an honorarium to the chairpersons and to meet other expenses of gram panchayats and panchayat samitis for the five year period 1996-97 to 2000-2001, they should be provided with ₹ 095.471 and 63.39 lakh respectively. Each Zila Parishad should be given ₹ 300 lakh for constructing office buildings. Due to constraints on the state exchequer the revenue transfers of ₹19.13 lakh made to the PRIs in 1995-96 is assumed to be the fixed quantum of revenue transfer annually during the period 1996-97 to 2000-2001. The deficit between their revenue and expenditure has to be filled by gap-filling grants as stated above. All the recommendations of the SFC have been accepted by the state government.

PANCHAYATS IN SCHEDULED AREAS

The Himachal Pradesh Panchayati Raj Act, 1994, was amended in 1997, to extend the Panchayati Raj System to the Fifth Schedule areas in the state in conformity with the central law of 1996, on the subject. The amended legislation, the Himachal Pradesh Panchayati Raj (Second Amendment) Act, 1997, broadly follows the pattern of the central act, giving the Gram Sabha the pivotal position in the Panchayati Raj Structure in the tribal areas except in respect of grant of prospecting license or mining lease for or minerals. In these spheres, the Gram Sabha's recommendations shall merely be taken into consideration in taking the final decision instead of being mandatory as the central Act provides. Also, the panchayat had been empowered to exercise control over institutions and functionaries in all sectors, and over local plans and resources for such plans, including tribal sub-plans.

DISTRICT PLANNING COMMITTEE

Lok Sabha members, the Zila Parishad Adhyaksha, the Mayor of the Municipality at the District Headquarters and Members from Rural and Urban areas in proportion to their population will be members of the DPC. MLAs of the District and Rajya Sabha members registered in the district as voters are also its member. The Act has left on the mode of choosing the chairperson of the committee. The Zila Parishad Secretary will be the secretary of the DPC. The DPCs are still to start functioning in the state. The DRDAs in the state also continue to have the district collectors as the chairpersons. Panchayati Raj in Himachal Pradesh has come a long way from the stage of quomi (caste) panchayats to that of a statutory local self-government institution. It has become the embodiment of the hopes and aspirations of the under-privileged sections of society, particularly women.⁴

The state Government of Himachal Pradesh has further amended 73rd constitutional Amendment Act, and the special provision of 50 per cent reservation for women has recorded a remarkable fact in the history of Panchayati Raj System of Himachal Pradesh. The Himachal Pradesh Panchayat (Amendment) Bill was presented on 8th April 2008, and passed in the house, and then Himachal became the third state after Rajasthan and Madhya Pradesh to give 50 per cent reservation to women in Panchayats and local bodies. After that, 27th August 2008, the Central Government also passed a bill of 50 per cent reservation for women in Panchayati Raj Institutions. This bill absolutely helps in empowering women and helps in creating compassion to women related development issues. District/Block wise number of Gram Panchayats in Himachal Pradesh have been shown in table 1.1.

TABLE 1.1: DISTRICT/BLOCK WISE NUMBER OF GRAM PANCHAYATS IN HIMACHAL PRADESH

Sr. No.	Name of the Distt. Development Block	No. of Gram Panchayat	Sr. No.	Name of the Distt. Development Block	No. of Gram Panchayat
1.	Bilaspur		7.	Lahaul-Spiti	
1.	Sadar	39	1.	Lahaul	28
2.	Jhandutta	48	2.	Spiti	13
3.	Ghumarwin	40	Total		41
4.	Naina Devi	24	8.	Mandi	
Total		151	1.	Chauntra	40
2.	Chamba		2.	Balh	47
1.	Mehla	42	3.	Karsog	60
2.	Chamba	39	4.	Dharmapur	49
3.	Tissa	42	5.	Drang	40
4.	Salooni	46	6.	Gopalpur	41
5.	Bhatiyat	69	7.	Sundernagar	49
6.	Bharmour	29	8.	Mandi Sadar	61
7.	Pangi	16	9.	Gohar	37
Total		283	10.	Seraj	45
3.	Hamirpur		Total		469
1.	Sujanpur Tihra	20	9.	Shimla	
2.	Bijhri	48	1.	Mashobra	45
3.	Nadaun	58	2.	Basantpur	29
4.	Bhoranj	33	3.	Chopal	54
5.	Hamirpr	24	4.	Chhohara	31
6.	Bamsan	46	5.	Rohru	32
Total		229	6.	Jubala Kotkhai	48
4.	Kangra		7.	Theog	50
1.	N. Surian	46	8.	Rampur	31
2.	Indora	49	9.	Nankhari	17
3.	Nurpur	52	10.	Narkanda	26
4.	Fatehpur	54	Total		363
5.	Pragrpur	75	10	Sirmour	
6.	Dehra	64	1.	Pachhad	30
7.	Bhawarna	46	2.	Rajgarh	30
8.	Panchrukhi	37	3.	Nahan	34
9.	Lambagaon	55	4.	Sangrah	41
10.	Baijnath	48	5.	Shillai	29
11.	Kangra	55	6.	Paonta	64
12.	N. Bagwan	45	Total		228
13.	Rait	54	Solan		
14.	Sulah	47	1.	Nalagarh	69
15.	Dharamshala	21	2.	Kunihar	45
Total		748	3.	Dharampur	38
5.	Kinnaur		4.	Kandaghat	24
1.	Pooh	24	Total		211
2.	Kalpa	23	Una		
3.	Nichar	18	1.	Una	62
Total		65	2.	Amb.	51
6. Kullu			3.	Gagret	39
1.	Kullu	70	4.	Bangana	40
2.	Ani	32	5.	Haroli	42
3.	Banjar	36	Total		234
4.	Nirmand	26			
5.	Nagger	40			
Total		204			
		Grand Total			3226

Source: Panchayati Raj Department, Government of Himachal Pradesh.

CONCLUSION

Present form of Panchayati Raj bodies has a history of ups and downs behind them. A new life has been infused to the PRIs after the enactment of 73rd Amendment Act. More powers and functions have been transferred to these institutions apart from providing them a constitutional back-up-Panchayati Raj Institutions have been given the powers of taxations and also provisions have been made for providing other grants and funds to them. These institutions are now expected to play an important and effective role in the formulation, execution and evaluation of various poverty alleviation and other rural development programmes.

In fact, the 73rd Amendment of Indian Constitution is the landmark step. It has placed India in the category of those societies where the masses are really powerful and have power to decide their destiny. Due to socio-economic political impediments the process of democratic decentralization is not effective. Still the participation is pseudo participation. Masses are merely informed and issues are manipulated. But the causes of pseudo participation are poor human capabilities and lack of will on the part of politicians and bureaucrats to be responsive, accountable, efficient and effective. But these are the hassles which can be undone by the process of modernization of the rural society.

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