

## **Kurukshetra Summary July 2018**

### **Panchyati Raj: Achievements, Gaps and Challenges**

- The nation is celebrating the 25<sup>th</sup> anniversary of the new generation of Panchyats and Municipalities. On April 24, 1993 Panchayats and on 1 June 1993 the Municipalities were endowed “with such powers and authority as may be necessary to enable them to function as institutions of self-government”.
- It was the Balwantrai Mehta Committee’s recommendations (1957) that gave birth to the contemporary Panchayati Raj.
- Given the severe social and political constraints – social inequality, caste system, patriarchy, feudal setting, illiteracy, uneven developments – within which it had to function, the New Panchayati Raj has opened a new chapter in local governance.
- We have also witnessed a steady progress as far as the inclusion of excluded sections of our population in the decision making process from village to the district level is concerned. Women have entered public life in a big way. In 2015, 13,41,773 women got elected to local governments specially the women belonging to Scheduled Castes and Scheduled Tribes have secured their due share.
- There are numerous elaborate mechanisms at Central and State levels to ensure accountability and efficient utilization of public funds. There are institutional mechanisms for audit. At another level, India has the unique distinction of creating a constitutional forum for direct democracy – the Gram Sabha – with special powers for overseeing the local development and expenditure. The concept of ‘social audit’ has emerged from these innovative steps.
- Today, while State governments decide to postpone Panchayat election on one pretext or other. In this context we must remember the judgement by the five-judge constitution bench headed by Chief Justice Y.K. Sabharwal (2006). The judgement stated that the Municipalities and Panchayats were the pillars of grassroots democracy and Election commissions in the States, “not yield to situations that may be created by vested interest to postpone the elections”.
- Two fundamental changes have come about in Indian democratic polity: (i) The democratic base of the Indian polity has wended, and (ii) It has brought significant changes in India’s federalism making it a multi-level federation with democratically elected local governments at the districts and below.

- The local government system, which was inaugurated with great enthusiasm, is facing enormous problems and powerful enemies. This is time for all concerned to take up seriously to study and conduct research to find out whether we have an empowered local government in reality with 29 subject to Municipalities?
- The capacity building of the elected Panchayat representatives is a continuous process. In fact, every district must have a training centre for elected local government representatives.
- Different states have benefitted differently from assistance being provided by the Centre as they have dealt with local government institutions in different manner. For instance, when the Eleventh Finance Commission had set apart 10,000 crores for panchayati raj institutions and urban local bodies for the period 2011 to 2015, according to the figures available, many state governments could not claim the funds amounting to 14646 crores rupees from the Central Government because they did not fulfill certain basic criteria set up by the Union Government for transferring these funds.
- Only four states – Kerala, Chhattisgarh, Gujarat, Haryana, Rajasthan- could get the full amount. Many states have gone to the extent of suggesting that the Central Government must deal directly with the local governments.
- There are two areas the Union Government and the State Governments must focus on: First, The District Planning.
- Only in very few states, the planning begins from neighbourhood groups, reaching the districts and the State Planning Board, in a scientific way. Therefore, what we find in the villages is: trust deficit.
- Second, the Gram Sabha. Are the Gram Sabhas merely recommending/advisory bodies to the Panchayat? Isn't their decision, binding upon the Panchayats?
- According to Article 243-A of the Constitutions of India, "A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law provide."
- But today, Gram Sabha is the most marginalised institution of local governments.
- The Union Government and all the State Governments must launch a national campaign to conscientise the people, the officials, the civil society, political leaders as to how the "institutions of self-government" could be brought to the centre-state. Ultimately, we have to work for creating a 'culture of local government' in our social and political system.

**Rashtriya Gram Swaraj Abhiyan**

- Rashtriya Gram Swaraj Abhiyan (RGSA) is an effort to reach out to marginalised groups in rural areas through strong Panchayats and effective people's participation. India lives in rural areas where nearly 2.55 lakh Panchayat in which about 31 lakh elected representatives are participating.
- Among them, about 46 per cent (14.39) lakh are women. The position with regard to empowerment of these institutions with respect of triple Fs (function, functionaries and fund) is not encouraging.
- One of the reasons of such a state of affairs is lack of capacity of elected representatives and lack of proper support mechanism.

**Objectives of the RGSA:**

The main objectives of the RGS are

- (i) Develop government capabilities of PRIs to deliver on the SDGs
- (ii) Enhance capabilities of Panchayats for inclusive rural governance with focus on optimum utilization of available resources and to address issues of national importance.
- (iii) Enhance capabilities of Panchayats to raise their own sources of revenue
- (iv) Strengthen Gram Sabhas to function effectively as the basic forum of people's participation with focus on marginalized groups, transparency and accountability within the Panchayat system
- (v) Support creation of enabling provisions for effective implementation of development programmes
- (vi) Promote devolution of powers and responsibilities to Panchayats according to the spirit of the Constitution and PESA Act 1996.
- (vii) Develop a network of institutions of excellence to support capacity building and handholding for PRIs.
- (viii) Strengthen institutions for capacity enhancement of PRIs at various levels and enable them to achieve adequate quality standards in infrastructure, facilities, human resources and outcome based training.
- (ix) Support Panchayats for local economic development and income enhancement with a view to sustainably increase economic activities, focused on processing and marketing of local product.

- (x) Promote e-governance and other technology driven solutions to enable good governance in Panchayats for administrative efficiency and improved service deliver.
- (xi) Recognize and incentivize PRIs based on performance.
- The RGSA would be having various components like Central Component in the form of national level activities including 'National Plan of Technical Assistance', 'Mission Mode project on e-Panchayat, incentivization of Panchayats' and State component in the form of capacity building of PRIs.
- There are certain conditions to be fulfilled by the States and Union Territories to access fund under RGSA. These are
  - (i) Regular conduct of election to Panchayats or local bodies in non-part IX areas under the superintendence and control of the State Election Commission (SEC).
  - (ii) Not less than one third reservation for women in Panchyats or other local bodies.
  - (iii) Constitutions of State Finance Commission (SFC) every give years, and placement of Action Taken Report on the recommendations of the SFC in the State legislature.
  - (iv) Constitution of District Planning Committees (DPCs) in all districts, and issuing of Guidelines/rules to make these functional.
  - (v) Preparation and submission of detailed annual State Capacity Building Plan for PRIs to Ministry of Panchayati Raj.
  - (vi) Co-location of Common Service (CSCs) with the Gram Panchayat Building.

#### **Incentivization of Panchayat**

- In order to encourage competitive spirit among Panchayats and States, awards will be given to best performing Panchayats and States/UTs in recognition of their good work for improving delivery of services and public goods.
- Deen Dayal Upadhaya Panchayat Sashaktikaran Puraskar would be given to best performing Panchayats for overall governance and difference thematic categoris like Sanitation, natural resource management, development of marganised groups, etc.
- Nanaji Deshmukh Rashtriya Gaurav Gram Sabha Puraskar To gram Panchayats who have made outstanding contribution to the local socio-economic development by involving Gram Sabhas and e-Panchayat Puraskar would be given to states in recognition of significant progression implementation and roll out of e-Panchayat Mission mode project.

- The Panchayat Enterprise Suit (PES) (e-applications) developed by MoPR under e-Panchayat Mission Mode Project will form the bedrock of e-enablement of Panchayats to increase their effectiveness for governance and service delivery.
- Under RGSA, Gram Sabhas would be strengthened in Fifth Schedule Areas.
- Comprehensive communication strategy is very important for better governance through Panchayats and therefore IEC activities in the form of (i) Awareness drive in campaign mode in line with Gramoday-se-Bharat Uday Abhiyan or Panchayat week/fortnight celebration across the state (ii) Showcasing good practices and innovations by Panchayats (iii) Use of social media, mobile apps, audio visual media, community radio. (iv) Communication materials including printing, and publication as well as electronic and social media would be funded under RGSA.

**Conclusion:**

- The ministry of Rural development has released a report entitled “Performance Based Payments for Better Outcomes in Rural Development Programmers”. In this report among others, it is empathized that capable Panchayats can address the rural development programmers effectively.
- And for making Panchayats capable they not only need training but also support mechanism in the form of requisite personnel and infrastructure. The RGSA addresses all these issues at cutting edge levels.

**Financial Strengthening Of Panchayats**

- The devolution story in India began 25 years back with the path-breaking 73<sup>rd</sup> and 74<sup>th</sup> constitutional amendments, under which the third tier of the government; Panchayat and Municipalities were constituted and significant powers and responsibilities were devolved to them.
- However, there institutions have experienced constraints of funds, clarity of functions and control over functionaries.

**Fiscal Devolution to Local Governments:**

- The Fourteenth Finance Commission (FFC) made path breaking recommendations. Over the previous Finance Commissions, there is a substantial increase in the quantum of resources allocated to the rural and urban local bodies.

- Additionally, the FFC guideline clearly stated that the fund should not be parked with the state Government for more than 15 days. In case of delay, the states should pay interest to the GPs.

**Purpose of the Grant:**

- The grant is two parts; basic and performance grant. The basic grant provided are intended to be used to support and strengthen the delivery of basic services including water supply, sanitation including septic management.
- The basic grant will be released to rural local bodies with 90 percentage weightage to 2011 population and 10 percentage weightage to the area.
- The performance grants are designed to serve the purpose of ensuring reliable audited accounts and data of receipts and expenditure and improvement in own revenues. The *eligibility conditions for availing performance grant* is that panchayats shall submit audited accounts and show increase in their own revenues. The State may issue further eligibility criteria for the panchayats to be eligible for the performance grant.

**Decentralized Planning:**

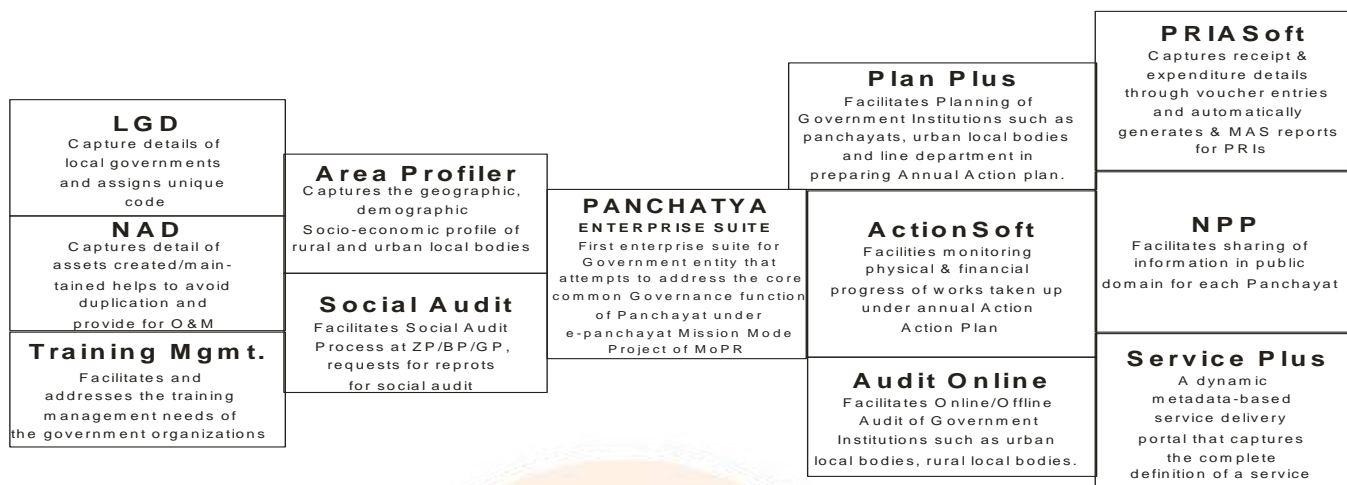
- The Ministry of Finance issued guidelines for the release and utilization of the FFC grants to the local bodies. The directions stipulate that proper plans are to be prepared by the gram panchayats for the basic services within the functions devolved to them as per state Government laws before incurring expenditure under the FFC award.
- These plans have to be participatory plans involving the community, particularly the Gram Sabha, in the formulation of priorities and Projects.
- The GP development plan will have to have a clear component addressing vulnerabilities of poor and marginalized people and their livelihood opportunities through an integrated poverty reduction plan.
- The institutional mechanism for facilitating and developing the GPDP are varied in different states. For instance, the state of MP had designed a state scheme named Panch Parmeswar predominantly utilizing funds of the 13<sup>th</sup> FC, which was continued utilizing the 14<sup>th</sup> FC resources.

**Panchayat Enterprises Suite (PES) application for DPGP:**

- The current planning system largely involves preparation of scheme wise plans at the district level often leading to lack of convergence with other ongoing schemes of the government. To address these concerns, the Ministry of Panchayati Raj has conceived a software viz,



PlanPlus, the software application facilitates the consolidation and integration of all plans of all planning units.



### Positive Outcomes:

1. With increases devolution to local governments, the per capita availability of funds has increased from Rs. 96 per capita in Eleventh FC grant to Rs. 240 per capita in the Twelfth FC to Rs. 488 under the FFC.
  2. The Panchayats have a greater autonomy to decide on which basic services it wants to spend the allocated funds.
  3. The direct funds provided to the Gram Panchayats, without sharing of resources with the other tiers of Panchayati Raj System i.e., Block and Zila Panchayats, substantially increased the availability of resources to the Gram Panchayats to deliver the basic services suggested by the FFC.
- Further, the FFC recommends one-tenth of the grants to be performance-based.
  - The grant comes in the form of a reward for doing well rather than an aid to cover a failure.

### Challenges:

- The utilization of the FFC funds by the states governments allocated for the Village Panchayats has a larger variation.
- States were able to utilize less than half of the allocated resources.

- As the data is drawn from the Plan Plus software of the Government of India where every state is expected to report their expenditure related to FFC in rural areas, there is possibility of under reporting. Many states have not reported their data as they have developed their own software for management of finances for Panchayat accounts such as Panchayat Darpan (Madhya Pradesh) and Panchtantra (Karnataka). This could also be one of the reasons for apparent underutilization.
- Within the FFC grants, most states tied the grant to the priorities decided by the states. GPs have several developmental challenges and consequently several competing demands from different sections of the voters/citizens. As a result critical services like piped water supply repair of ponds etc remain unaddressed.

**Conclusion:**

- The Fourteenth Finance Commission recommendations are path breaking to strengthen local governments. Fiscal decentralization and the trust based approach have empowered our Gram Sabhas and Gram Panchayats to address the local needs.
- The State Governments should trust the village Panchayats and provide them flexibility to utilize the untied funds to meet the local needs. Decentralized planning will be a motivating exercise for the citizens if their demands are heard, accepted and fulfilled.

**Capacity Building of Panchayats**

- Any discussion on capability building of 'institutions' of Panchayats should take into account three aspects. First, what are the capacity requirements of Elected Representatives (ERs) and staff.
- Second, who are the ERs and the officials of Panchayats; what are their social and educational backgrounds. The third and final aspect which is dependent on first two is how to ensure timely capacitating of the institutions and people therein.

**Capability Needs:**

- Panchayat members are expected to respond to various demands from the locals, as well as from external agencies including state and central governments.
- Panchayat functionaries should be well aware about the intricacies of Management and Finance of Panchayats, including the procedures to conduct Panchayat meetings, Gram Sabha meetings, the roles, responsibilities and rights of institutions of Panchayats and their limitations.



- There are several common issues, which concern every Panchayat across all states. These include basic services and social welfare etc. Issues in communal harmony, human rights, climate changes, environmental issues, disasters and changing demographic profile and other important issue of local governance. Across all states, the roles of Panchayats in implementations of Centrally Sponsored Schemes are also increasing.
- The respective State Finance Commissions can also provide funds for Panchayats for various works. All these have implications on capability building of Panchayats.

**People to be capacitated:**

- The training and capability building of Panchayat Functionaries are quite challenging in terms of the sheer number of trainees, as well as trainee diversity and varying contextual situations.
- Beside these core functionaries, department devolved to Panchayats, need to understand the Panchayati Raj system, as well as their roles in it. They need to be also dis-oriented (From departmental vertical accountabilities to accountability towards people and Panchayats), oriented, sensitized and trained.

**Modes of Capability Building:**

- The Ministry of Panchayati Raj, prepared a National Capability Building Framework in 2014 to provide guideline to states for training contents, types of trainers and modes of training. It proposed the engagement of various training institutions of central and state government, accredited NGOs, academic institutions and mass media in undertaking various types of capability needs of the Panchayati Raj system. The State Institutes of Rural Development (SIRDs) have been at the forefront for providing institution-based trainings.
- The National Institutes of Rural Development and Panchayati Raj (NIRD Y PR) in Hydrabad act as a national nodal institute for all SIRDs.
- Though institution-based training is critical, it also has limitations in reaching and catering to a very large number of stakeholders.
- The institution-based training may also be a bit disenabling to many villagers, especially women whose mobility is socially restricted. There cascading trainings are very popular mode of providing trainings. A cascade mode of training enables decentralization of training to many locations, such as district, block and even village or cluster of villages levels.
- Though cost and time intensive, exposure visits have been found to be one of the most effective way of capacity building. These visits provide great opportunities for peer learning.

**Challenges:**

- Despite allocations of good training grants the SIRDs and other training institutions are not able to qualitatively train even half of the elected representatives and functionaries within 6 months of getting elected/posted.
- Most of the training in majority of states remain (Panchayat) Sarpanch and (Panchayat) Sachive centric.
- Elected representatives differ in age, experience, educational status, caste, ethnicity, gender and income groups. In order to 'achieve the target' on paper , training institutions often overlook these diversities and so, learning suffers.
- It has become a trend to include the roles of Panchayats in the guidelines of almost all development schemes, which are being implemented in the rural areas. However actual practice reveal that Panchayats are burdened with many additional functions without any addition support.
- That means existing members of Panchayats and the staff have to verse and support the implementations of these programmes with neither any training, nor additional human resources supports.
- Panchayat are receiving promising grants from different sources of central and provincial governments. This, however, increases their dependency and so, raises questions of the financial freedom of a statutory institution, which a Panchayat is.
- Panchayats were not generating their own resources to the tune of even 5% of their total revenue income. This is perhaps one of the most important areas for capacity building of Elected representatives and Panchayat functionaries.

**Way Forward:**

- Capability building is not a standalone solution. Parallel initiatives are necessary in strengthening the PRIs. Panchayats should be first appropriately empowered to play their constitutional roles. For that, appropriate powers and authorities must be devolved to them devolving due Functions, Funds and Functionaries.
- With reference to ongoing training and capability approaches, urgent steps must be taken to ensure the accountability of training institutions, in order to ensure timely and quality training of all. Delayed training make training useless. All elected representatives must be provided quick orientations within 6 months of being elected.

Programme Delivery Through Panchayats

- There is enough evidence to show that notwithstanding excellent work done by some village Panchayat, delivery of government programmes through panchayats, has benefitted a few, often belonging to the local dominant agricultural casters, and has not empowered the poor and other disadvantaged sections as desired.
- Panchayats function more or less as “political” bodies. They are not functioning as institutions of self-governance in true sense.
- An assessment by the Planning Commission (2001) showed that gram sabha meetings were regularly held only in few places, and in most cases, participation in such meetings was low.

The efficiency and delivery mechanism of panchayats can be improved by adopting the following ways:

- **Involve them in social sector:** Panchayats should be made more active in education, health, SHGs, watershed, nutrition, pastures and forestry programmes, which require people to come together as equals and work through consensus.
- **Encourage them to use Fiscal Powers:** There is overwhelming dependency of panchayats on government funding. How these funds are used is not properly audited. These funds are a soft option and discourage any effort to generate local revenue. When panchayats do not raise internal resources and instead receive funds from outside, people are less likely to request a social audit if they are not asked to pay taxes.
- At the village level, an important power devolved to panchayats is the right to levy tax. Only a small number of village people are aware of this fiscal power, as it is in disuse. Very few panchayats use their fiscal power to levy new taxes. Today the panchayats hesitate to levy and collect taxes, as they prefer the soft option of receiving grants from GOI.
- **Grants from FFC:** Panchayats have either not been given sufficient tax assignments to raise revenue locally, or wherever powers are given are not exercised by them. Assam, Bihar, Orissa, Punjab and Rajasthan continue to report zero tax through panchayats. These states are in the immediate danger of losing the liberal FFC performance grant.
- **Timely and credible Audit:** Large expenditures are now being incurred by village panchayats. Their accounts are to be audited by Local Fund Audit but there are several problems, First, there are huge arrears, and in some cases accounts have not been audited for more than ten years. Secondly, the quality of their reports is very poor, thirdly, there are

complaints of corruption and Lastly, elected non-officials are not held accountable for any lapses noticed in their reports.

- **Grade Panchayats:** The quality of work done by panchayats should be closely monitored. Based on these reports, panchayats should be graded, and future funds should be linked with their grade.
- Through a carefully designed methodology it is quite possible to measure the performance of panchayats, and to what extent they are inclusive and participative.
- **Improve Social Capital:** The role of community is crucial for achieving higher quality of education in rural areas. Better social capital will result in a higher level of participation of the community in the schooling process and it also acts as watch dog by way of exerting pressure on the teaching community.
- **Encourage Transparency:** Four key features are associated with success in peoples' empowerment transparency, participation, inclusion and ownership. Panchayats can increase transparency by holding open meetings, sharing the minutes of meetings with the community and publicly naming people who fail to follow the rules or pay their taxes.
- For instance, malnutrition rate was effectively reduced from 50 per cent to 25 per cent in Thailand in just about ten years by insisting that weighing of children be done every month openly in a village fair where all parents would participate.
- On the other hand, in India Angawadi Centre which work under the Panchatyas in many states get away by bogus reporting and considerably concealing malnutrition, as there is no community pressure on the Anganwadi workers to report honestly.
- **Improve Governance:** effective panchayats would also require effective districts and block level administration. Hence effort towards better accountability and performance from local bureaucracy should go simultaneously along with building local Panchayat capabilities.
- One should start decentralizing administrative and financial function after putting in place some of the critical accountability mechanisms, so that decentralisation does not lead to favouritism, nepotism, and corruption, or abdication of responsibilities.

#### **PESA IN TRIABL AREAS**

- It was almost after forty-five years of Independence, the government realized that the delivery system in the tribal/rural area was not effectively operational; and without functional participation of people through panchayats, development of people through panchayats, development of rural and tribal areas will not be sustainable. As a result, the introduction of 73<sup>rd</sup> Constitutional Amendment Act was enacted in 1993.

- Tribal communities are most marginalized section of the Indian society. The Working Group (1996) of the Ninth Five Year Plan suggested participatory planning as a necessary prelude for growth and equity in tribal areas which have not gained significance from the development process since Independence.
- In order to strengthen the grassroots level local bodies and to provide self rule of tribal, the Part IX of constitution which deals with Panchayats has been specially extended through an Act of Parliament called *Panchayats Extension to Scheduled V Areas Act (PESA) 1996*. Prior to this Act, a committee was constituted under Shri Dilip Singh Bhuria to examine various dimensions of self rule of Tribal. Under PESA, special treatment has been given to the social, political, cultural and economic aspects of tribal life.
- One of the highlighting features of PESA is its suggestion that “every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identify, community resources and the customary mode of dispute resolution”. In addition to this, the Central Act of 1996 provides extensive powers to Gram Sabha in the Scheduled Areas in the following sectors:
  - (i) Approval of plans, programmes and projects for social and economic development prior to their implementation;
  - (ii) Identification of beneficiaries of anti poverty programmes; and
  - (iii) Certify utilization of fund spent by the Panchayat.
- PESA further provided that the Gram Sabha or Panchayat at appropriate level shall have the following powers:
  - (i) to be consulted on matter of land acquisition and resettlement;
  - (ii) grant prospecting licence for mining lease for minor minerals and concessions for such activities.
  - (iii) Planning and management of minor water bodies.
  - (iv) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant
  - (v) the ownership of minor forest produces
  - (vi) the power to prevent alienation of land and to restore any unlawfully alienated land of a scheduled tribe.

(vii) the power to manage village markets

(viii) the power to exercise control over money lending to scheduled tribes.

(ix) the power to exercise controls over institutions and functionaries in all social sectors, and

(x) the power to control local plans and resources.

- In Scheduled Areas, the village level situation is different from the high expectations created by PESA. State Acts are also confronting with the provisions of PESA. The issue of tribal non-tribal leadership in Scheduled Areas has created new political equations.
- It can be argued that despite the specific provision provided through PESA, there is a gap between macro level decisions and grassroots level reality. Tribal regions have their own peculiarities. The main actors in panchayats are traditional leader, new entrants, local bureaucracy, non-tribal society and government departments' like- forest and revenue.
- The traditional leadership generally looks at the decentralised process as a rival parallel institution and challenge to their natural stronghold. The entrants to panchayats are not fully acquainted with the provision of PESA and therefore their understanding of this aspect needs to be broadened. Planning and management of minor water bodies is entrusted to gram sabha but there are other institutions as well to gram sabha but there are other institutions as well as look into this matter.
- Amendments have been made in Acts for mining lease, exploitation of minor minerals, minor forest produce, to prevent alienation of land but still there are dilemmas of sharing the strong hold in implementation process.

**Exposure towards PESA:**

- It is indeed a matter of concern that overwhelming majority has very less exposure towards special status of panchayats in fifth scheduled areas.

**Gram Sabah:**

- There is almost no change in the perception of Panchayat raj representative regarding gram Sabha. This is also because the level of exposure among the tribals is very low and women Panchayat raj representative have hardly any understanding of these issues.
- There is meagre knowledge about the special rights of gram sabha in scheduled areas among the gram Sabha members.



- The presence of government officials is regular; this is because the gram sabha is a platform where from all the government schemes are initiated and the decisions and programmes of the government are percolated down;
- Very few try to know the problems of villagers and put them in gram sabha meetings for the simple reason that it is significant from the point of view of implementation of PESA.

**Natural Resource Management:**

- Management of natural resource according to indigenous knowledge of tribal is one of the main activities under PESA. Few representatives do know one of the very important tasks assigned by PESA Act of management of natural resources (land, water and forest) through gram Sabha. Government/forest department has control over minor forest produce.

**Protection of Cultural Identity:**

- Gram Sabha has the responsibility of conservation and protection of traditions, rituals and cultural identity. Surprisingly, this fact is not known to majority.
- Illiteracy has been termed as one of the most crucial problems faced by the Panchayat members. Training, an essential tool of equipping the people with capacity to run Panchayat affairs, has not been carried out to make the Panchayat representatives aware about the importance of PESA and the procedural aspects of Panchayat raj institutions.

**Conclusion:**

- In recent years, many reports- The Report of Expert Group of the Planning Commission on Development Challenges in Extremist Affected Areas' (2008), "The Sixth Report of the Second Administrative Reforms Commission" (2007) 'The Balchandra Mungekar committee Report' (2009), etc. have clearly underlined the dismal situation of the implementation of PESA.
- There is an urgent need to break the culture of silence among tribal and to strive for capacity building, sensitization and orientation to improve the tribal self-rule scenario.

**Women in Panchayat**

- The United Nations (UN) adopted Convention on the Political Rights of Women in 1952. UN has organized four World Conference on Women. Fourth was held in **Beijing in 1995** and it declared that women's equal participation in decision making is not only a demand for simple justice or democracy but can also be seen as a necessary condition for women's interests to be taken into account. It also affirmed that women should have at least a 30% share of decision making positions.

**Constitutional Provisions:**

- Article 15 (3) to the Constitution of India empowers State to make special provisions for women.
- To make use of potential of women and also to empower them, 73<sup>rd</sup> Amendment Act 1992 (73<sup>rd</sup> CAA) for the first time provided one-third reservations for women in Panchayati Raj Institutions (PRIs)
- However, journey of political empowerment of women in Panchayats has evolved gradually. Balwant Rai Mehta Committee Report (1959) had suggested only that the 20-member Panchayat Samiti should co-opt or nominate two women interested in work among women and children.
- The Ashok Mehta Committee Report (1978) recommended a two-tier Panchayat system, in which the two women who polled the highest number of votes in the Panchayat election would, even if they failed to actually get elected, stand co-opted into the Panchayat.
- National Perspective Plan for Women (1988) recommended 30 percent reservation for women in these bodies.
- Although 73<sup>rd</sup> CAA provides for only 1/3<sup>rd</sup> reservation for women in PRIs. As many as 19 states have raised reservation of seats and offices of chairperson to women to 50%.

**Challenges before Elected Women Representatives (EWRs):**

EWRs continue to face many challenges. Important among these challenges are:

- (i) **Patriarchy:** Except a few tribal societies, particularly in north-east, Indian society in general continues to suffer from patriarchy.
- (ii) **Caste System:** Community or khap panchayats functions parallel to panchayats and pressurizes EWRs to act in a particular way.

**(iii) Lack of Cooperation from Line/Sectoral Departments:** EWRs, particularly the first timers find it very difficult to deal with officials of block/district administration and of line/ sectoral departments. Bureaucratic apathy and corruption is rampant which makes these EWRs demotivated and disenchanted from the panchayati Raj.

**(iv) Inadequate Capacities**

**(v) Rotation of Terms:** Policy of reservation for only one term and rotation of reserved seats and posts of chairperson also hinders consolidation of leadership qualities among EWRs as it takes time for them to learn the skills of handling and negotiating various conflicting interests within the Panchayat.

**(vi) Encroachment and Non-Payment of Taxes/Fees:** Elected representative in general and specially EWRs face resistance from community if they want to remove encroachment from Panchayat land/properties.

**(vii) Two child Norm:** A few States are still continuing with the two child norm for contesting Panchayat elections. In rural areas women hardly have any say in the number of children in the family and such laws restrict their entry into panchayats.

**(viii) Inadequate Women Panchayat Functionaries:** EWRs are more comfortable with women functionaries. However, there are very few women Panchayat functionaries.

**Initiatives of Governments:**

- The Ministry of Panchayati Raj (MoPR), commissioned a Study on elected women representatives in Gram Panchayats. This Study helped analyse various issues related to EWRs.
- For capacity building of ERs of PRIs, the Ministry of Panchayati Raj has been making continuous efforts by launching and implementing various schemes like Rashriya Gram Swaraj Yojana (RGSY); Panchayat Mahila Evam Yuva Shakti Abhiyan (PMEYSA); capacity building component of Backwards Region Grants Fund (BRFG), Rajiv Gandhi Panchayat Sashaktikaran Abhiyan (RGPSA) and recently launched Rashtriya Gram Swaraj Abhiyan (RGSA).
- For the capacity building of EWRs in PRIs, National Capability Building Framework (NCBF) of the MoPR has recommended customized training programmes based on training needs assessment.

- For effective utilization of Fourteenth Finance Commission (FFC) grants. MoPR has developed model guidelines and manual for preparation of holistic participatory Gram Panchayat Development Plans (GPDP).
- To ensure women's participation in decision making, States have been provided financial and technical assistance by MoPR for capacity building of EWRs and SHGs on preparation of GPDP.
- Self-Help Groups (SHGs) have emerged as an important support institution for EWRs to PRIs. In Kerala where Kudumbashree has promoted active SHG movement, a very high proportion of elected representatives are from SHGs background.
- Sumit Bose Committee on Performance Based Payments for Better Outcomes in Rural Development Programmes has observed that SHGs being active organizations of women can hope to link up with elected women representatives in a mutually beneficial partnership. Ministry of Rural Development of India too has issued a comprehensive advisory and guidelines in May 2018 on Panchayat – SHG convergence at GP level.
- MoPR has organized special events like orientation of women Sarpanches at national level, one such event was organized at Vijaywada in 2016 for women Sarpanches from Fifth Schedule Areas.
- To put a curb on the cases of proxy attendance by relatives of women EWRs, States have been advised to issue order that the officers; in whose presence such meetings are held, should be proceeded against departmentally. MoPR has also issued advisories to States to instruct GPs to celebrate international women's day on 8<sup>th</sup> March and to involve SHG women and women Swachhata Doots actively in these celebrations.

**Way Forward:**

- Government of India may revive the proposal to amend Article 243D of Part IX of the Constitution to increase reservation for women in Panchayats from existing one-third to 50% across States. This proposal may also contain a provision to provide for rotation of reserved seats in Panchayats for a minimum of two terms instead of one at present.
- In some of the standing committees/sub-committees such as those looking after subjects such as women and child development, drinking water and sanitation, education, health etc., EWRs may be more effective. State governments may make it mandatory to have an EWR as chairperson of these committees.
- Like Maharashtra, other States may also make it mandatory to organize Mahila Sabha (women Gram Sabha) immediately before the meeting of Gram Sabha.

- Recruitment of women as Panchayat secretaries at all the three levels of PRIs will also create a comfortable working environment for EWRs.
- Governments may also provide additional honorarium to EWRs particularly from marginalized communities.
- Government of India in collaboration with State governments and State Election Commissions must also prepare a socio-economic profile data base of all EWRs in PRIs.
- Such details will not only provide information on their current profile but will also help plan interventions for their capacity building and empowerment.
- A multi-stakeholder's, collaborative, multi-pronged, systematic efforts to enhance capacities of EWRs are required.
- Male elected representative and functionaries of PRIs and husbands of EWRs must undergo gender sensitization programmes.
- SHGs convergence with PRIs particularly with village level Panchayats must be pursued vigorously.
- Network of EWRs may be created at block and district levels. Their regular meetings will facilitate exchange of experiences in overcoming challenges.
- Finally as recommended by Aiyer Committee regular surveys of the status of EWRs and their performance and contribution in different parts of the country may be conducted by the government in collaboration with academic institutions.

#### **Deepening Grass Root Democracy In Sixth Schedule Areas**

- Article 243M of the 73<sup>rd</sup> Amendment to the Constitution exempts application of the provisions contained relating to Panchayats in certain areas of the country. These areas are Fifth Schedule Areas, Sixth Schedule Areas, 1996 (PESA) and other tribal areas. However, the parliament may by law extend the provisions of Part X of the Constitution to the Schedule Area and tribal areas referred in clause (I) subject to such exceptions and modifications as may be specified in the law.
- The government of India had constituted Bhuria Committee and on the basis of the recommendations of this committee, the (PESA) was enacted in Fifth Schedule Area.
- However, 73<sup>rd</sup> Amendment Act has not been extended to the 6<sup>th</sup> Schedule Areas and other tribal areas of the country.

- Meghalaya has been exempted under Article 243M and covered by the provisions of the Sixth Schedule. Some part of Mizoram has been exempted under Article 243M and some areas of the State are covered by the provisions of the Sixth Schedule.
- Bodoland, North Cachar and Karbi Anglong districts of Assam have been covered under sixth Schedule. The whole of Nagaland, hill area of Manipur and six districts of Mizoram have been exempted under Article 243M and not covered under Sixth Schedule.
- In fact, these areas are covered by State Laws governing Village Councils and out of these areas only the hill areas of Manipur have District Council. Parts of the hill district of Darjeeling, in West Bengal, covered by the Darjeeling Gorkha Hill Council have been exempted under Article 234 M of the Constitutions.

**Existing Practices of Governance:**

- Sixth Schedule areas and other tribal areas exempted under Article 243 M of the Constitution contain provisions relating to the administration of the tribal areas in the States of Assam, Meghalaya, Nagaland, Manipur, Mizoram, Tripura and West Bengal.
- There are Autonomous District Concils (ADCs) and Autonomous Regional Councils (ARCs) in these areas which have a long tradition of self-management systems including issues related to land, forest, shifting cultivation, village or town administration including village or town police and public health and sanitation, inheritance of property , marriage and divorce and social customs.
- The District and Regional Councils have judicial, executive and financial powers in their respective areas. Besides, Sixth Schedule also empower the Governor of concerned States with regard to constitutions of Districts and Regional Councils, dissolution of these Councils, affecting electoral representation in the Council area, enlarge or diminish or review decisions of Districts and Regional Councils, prior assent to laws, rules and regulations of these Councils, arbitration and appoint a commission.
- The main issue with regard to traditional governance in these areas is the lack of deepened decentralised governance. For instance, Village Councils do not exist in Council areas of Assam and Meghalaya. In Nagaland and Manipur, the Village Councils are often headed by traditional Village Chiefs. Elections to the Districts Councils of Manipur have not been held for decades.
- Parallel structure exist at the village level in Nagaland, which means the existence of two bodies in the village.



- In Tripura, the District Council has too much control over the Village Committee and this is against the spirit of independent rural self management government system.
- These institutions are not well empowered and equipped to handle the issues of the tribes with requisite autonomy.
- The 2<sup>nd</sup> Administrative Reforms Commission (ARC) in its Seventh Report entitled 'Capacity Building for Conflict Resolution' has dealt specially with 'Conflicts in the North East' focused on : (i) Autonomous District Councils in the Sixth Schedule areas (ii) Village-level self-governance therein and (ii) Tribe-specific Councils in Assam.

**Demand for Greater Autonomy:**

- Though ADCs have various regulatory powers, subject to the State control, but they would be more advantageous with respect to planning and development activities if 73<sup>rd</sup> Amendment is extended to these areas because ADCs depend on the State Governments for budget requirement.
- Although tribal system is egalitarian in nature, even then people's participation particularly women is negligible. For instance in Mizoram, representation of women in majority of the District and Village Councils is below 10 percent.
- People are not satisfied with the existing system of governance as it is driven by bureaucracy. "People overwhelmingly support the introduction to Panchayati Raj system as in other states".
- There are other salient features like elections of Panchayats within six months if dissolved, constitution of State Finance Commission for strengthening financial base of the Panchayats, State Election Commission to conduct elections of Panchayats and preparation of plans for economic development with social justice including 29 subjects listed in the 11<sup>th</sup> Schedule of the 73<sup>rd</sup> Amendment Act. Whenever these features are integrated with existing traditional system it would establish de facto rural government in these areas and such system would be a glorious example for the country and the world.
- The Ministry of Panchayati Raj has been engaged in strengthening grassroots democracy in NE region of the country. Following are some efforts towards this end:
  1. A consultation process has been initiated with concerned States and Ministries of Government of India.
  2. An inter-ministerial team from Ministries of Panchayati Raj, Home Affairs, Tribal Affairs and Development of North Eastern Region has been visiting these states since August 2010.

3. In August 2012, representatives from Karbi Anglong Autonomous Council (KAAC) and North Cachar Hills Districts Councils (Dima Hasao) (NCHDC) have met the then Panchayati Raj & Tribal Affairs Ministers and expressed the willingness to legislate for elected village councils in line with the principles of Panchayati Raj.

**Conclusions:**

- North-Eastern States have different rural governance structure in the form of ADCs, DCs and VCs. However with some exception, they are not upto the expectations of the people of region. There is no effective people's participation in socio-economic development of the region.
- The Ministry of Panchayati Raj must address this and make more efforts in extending deepened decentralised democracy through Panchayati Raj system in Sixth Schedule areas and other tribal areas of North East.

