

73rd Amendment for Rural Development: A Critical Viewpoint

Dr Khagen Das
Assistant Professor of Economics
Pub Kamrup College
Baihata Chariali-781381, Assam.

Introduction

The 73rd Amendment Act, 1992, which came into effect from the 24 April 1993, of the Constitution of India has made various provisions under the Articles 243 A, B, C, D, E, F, G, H, I, J & K for the Panchayati Raj Institutions (PRIs) to ensure effective democratic decentralization in rural India. Keeping in view the provisions of 73rd Constitutional Amendment Act, State Panchayat Raj acts have been constituted and accordingly a three-tier system of Panchayat Raj, Consisting of Zilla Panchayats at the District level, Panchayat Samitis or kshetra Panchayats or Anchalik Panchayat at intermediate level & Gram Panchayats at the village level. It was expected that the PRIs would properly utilize the development funds as per the local needs and aspirations of the local people, create opportunities for employment in rural areas, develop infrastructures and assist the government in removal of poverty. Thus, it would act as an agency of the government for the rural development at the village level. After the 73rd Amendment of the Constitution of India, much attention has been drawn towards the state-local bodies' relationship and particularly on the crucial issue of financial and functional devolution from the state to the local bodies. Because the planners realized that without having uniformity between the assigned functions and the financial resources, successful functioning of the local bodies is not possible. For effectiveness of the PRIs for rural development, the provisions made under different articles of the 73rd Amendment Act must be vivid from the viewpoint of devolution of functions and finance, administrative powers, transparency, sustainability, accountability, etc. Otherwise, the goal of rural development is not possible to achieve by Panchayati Raj Institutions. In this light, this paper has made a critical analysis of the various provisions the 73rd Amendment Act.

Various Provisions under different Articles of 73rd Amendment.

The 73rd Amendment Act, 1992 has made various provisions under the Articles 243 A, B, C, D, E, F, G, H, I, J & K for the PRIs to ensure effective democratic decentralization in rural India as well as sound rural development.

243A. Gram Sabha: Article 243A confers the formation, powers and functions of Gram Sabha.

It is a body constituted by all the persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level. It is considered as grass root level body of decentralization. Since all the persons registered in the electoral rolls are the members of the Gram Sabha, there are no elected representatives. Further Gram Sabha is the only permanent unit in the Panchayati Raj system and not constituted for a particular period.

243B. As per this article, each state government has to form three tiers Panchayats, i.e., Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part. However, Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243C. Composition of Panchayat:- As per this Article all the seats of a Panchayat have to be filled by direct election from territorial constituencies in the Panchayat area and, for this purpose, territorial constituency has to be constituted on the basis of population.

243D. This Article has made the provision for reservation of seats. for Scheduled Castes and Scheduled Tribes. Seats have to be reserved in each Panchayat in the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation of different constituencies in a Panchayat.

243E. This article has fixed the duration of five years for each tier from the date appointed for its first meeting unless sooner dissolved under any law.

243F. As per this article a person may be disqualified for being chosen as, and for being, a member of a Panchayat, if he is so disqualified by or under any law for the time being in force for the purposes of elections to the legislature of the State concerned.

243G. As per the Article 243(G) of the 73rd amendment of the Constitution of India, the State governments are required to devolve adequate powers and functions to PRIs in order to make them institutions of self governments.

243H. The Article 243(H) empowers the state legislatures: (a) to authorize by law, to levy, collect and appropriate specified taxes, duties, fees and tolls on Panchayats; (b) to assign state taxes, duties, fees and tolls to Panchayats for specific purposes; (c) to provide grants-in-aid to the Panchayats from the Consolidated Fund of the state; (d) to constitute specified funds for creating all money received by or on behalf of the Panchayats and for their withdrawal.

243 I. The Article 243(I) stipulates that the state government should constitute a State Finance Commission within one year from the date of commencement of the 73rd amendment of the Constitution of India and at the expiry of every fifth year thereafter to review the financial position of the Panchayats and to make appropriate recommendations to improve their finances.

243J. This Article has made the provision for Audit of accounts of Panchayats. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

243K. As per this Article the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Panchayats is vested on State Election Commission.

Critical View on Various Provisions

1. Although it serves as foundation of the Panchayati raj, yet it is not among the three tiers of the same. The powers and functions of the Gram Sabha are fixed by the state legislature by law. It is against the spirit of democratic decentralization.

2. In respect of the devolution of functions, although 29th developmental functions are transferred to the Gram Panchayat but in case of transfer of functionaries, the situation is very poor. The functionaries of the Gram Panchayat are the elected representatives and two supporting staffs who are government servants. The supporting staffs are one secretary and one tax collector for the each Gram Panchayat.
3. Though as per the Article 243H respective State Finance Commission recommends but in many cases, these recommendations are not executed even after by the State Government. For example, the more buoyant taxes like sales tax, excise tax, etc, are not transferred to the PRIs. Similarly, though State Finance Commission recommends for the mobilization of revenue from the own sources but no effective mechanism has been given for that. Moreover, the SFC reports have paid far less attention to the issues of autonomy, financial management and auditing procedures.
4. The existing mechanisms of the own revenue collection, which basically consist of the review of the appropriate legal provisions are very lengthy and complicated. The Panchayats can mobilize the own revenues from the own sources only after framing the bye-laws which have to be approved by the respective intermediate Panchayat and Zila Panchayat and finally by the state government. It has also been prescribed that the taxes, etc., shall be imposed, assessed and realized at such time and in such manner as may be prescribed. Any person aggrieved by the assessment, levy or imposition of any tax or fee by the Gram Panchayats may appeal to the intermediate Panchayats. In turn, any person aggrieved by the order of the intermediate Panchayats, may appeal before the Zila Panchayat, whose decision in this regard shall be final. The State Government may, however, suspend the levy or imposition of any tax or fee at any time and rescind such imposition in consultation with the Zila Panchayat. Ultimately, the whole system becomes very complex and influenced by the political party interest.
5. It is observed that there is conflict regarding the functioning, powers and procedures of the Gram Sabha. For instance, (i) the law have prescribed at least two meetings of the Gram Sabha in a year. Unfortunately, the minimum has been interpreted as a maximum. (ii) Provision doing away with the need for quorum for the adjournment of the meetings of the Gram Sabha has reinforced the tendency to view the Gram Sabha meetings as a mere formality (iii) State laws have prescribed certain specific functions for the Gram Sabha. The Gram Sabhas are to recommend and suggest, consider annual accounts, administrative reports, audit notes, etc., which could be ignored by the Gram Panchayats.
6. Maintenance of sustainability of decentralization in every sphere of socio-economic activity through the PRIs is one of the basic objectives of the 73rd amendment of the Constitution of India. But, there are certain provisions and contradictions in the 73rd amendment of the Constitution of India which adversely affect the sustainability of these institutions. The 73rd amendment of the Indian Constitution makes the provision of reservation for women and scheduled castes/scheduled tribes people. But, these seats are to be allotted by rotation to different constituencies. In practice, this implies that a woman or a scheduled caste/tribal individual elected to a Gaon Panchayat will have to bear the responsibility normally for a term of five years, with no prospect of re-election. The existing provisions do not provide any incentive for the elected persons

to satisfy their commitment rather he/she will be dominated by self interest, prejudice, etc., with little concern for the community's development.

7. Similarly, lack of clear-cut demarcation among different tiers of the PRIs, regarding their tax base, the system of policy implementation framed by the centre, competitions among different tiers for powers and functions, etc., are contrary to the sustainability of the democratic decentralization process.

Conclusion

The 73rd amendment of the Constitution of India has given the constitutional status to the PRIs as local-self governments so that they can prepare the development plans, execute them and monitor their implementation independently. They have to explore the capacities of the rural individuals, utilize the rural resources to the greatest possible extent. The PRIs have to remove the problems like rural poverty, unemployment, inequality, etc., in such a way that both the horizontal and vertical equality can be established and social justice and peace is sustained. For making the Panchayat an effective local-self government, the financial autonomy through the mobilization of the own revenues from the own sources along with some other measures may be considered as vital. Finances of the Panchayats should match expenditure assignments related to the transferred activities. This calls for twofold approaches – first, demarcation of a fiscal domain for the Panchayats to tap resources directly from both the tax and the non-tax sources and second, devolution of funds from the Central and the State Governments. Besides this there should be functional and financial autonomy of the PRIs. Without autonomy, PRI would be failing to prepare rural development plans on the basis of local needs, aspirations and resources. The state and central governments must have honest intention to the PRIs. Without good will, PRIs would be used by rural rich in favour of them and the rural poor will be mute supporters.

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