

# Significance of Panchayati Raj in implementation of the Right of Children to Free and Compulsory Education Act (RTE Act 2009)

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## Abstract

This paper discusses the role of Panchayati Raj in the implementation of the Right to Education Act in Gujarat. Panchayati Raj Institution is a three-tier system of administration established at the grass root level with the 73rd and 74th constitutional amendments. For democratic decentralisation of administration, the development of rural areas and the empowerment of local political bodies, the Panchayati Raj Institutions (PRI) are created which are more accountable to local citizens and appropriate to local needs and preferences. The Panchayati Raj institutions have a legitimate jurisdiction over 29 areas including elementary education and can delegate the authority related to education, including primary and secondary schools, technical training and vocational education, adult education and non-formal education, and spread of literary and cultural activities. The role of Panchayati Raj Institution members in management of education specially in elementary education has been discussed by many commissions and committees on education after Independence. The RTE Act 2009 has also recommended for the involvement of local representatives in the School Management Committees (SMC), which will monitor the functioning of school.

**Key Words: Panchayati Raj, Gujarat, Right to Education Act 2009**

## Introduction

Politics as a activity is central to human existence. American political scientist Harold Lasswell has aptly described politics as "who gets what, when and how". It is a constant struggle for power among individuals and groups. The location of power defines the strength or weakness of a particular entity. In the domain of political philosophy and political theory it has been a matter of controversy among scholars as to where should the power be located. Whether it should be centralised or decentralised? Both the views are significant in their own ambit and have immensely contributed in shaping political and institutional structures across the world. A decentralized form of government in India, was an idea, fondly envisaged by the Mahatma Gandhi in his thought of nation making. He vouched for a system wherein, each village would be self-governed and responsible for its own affairs, which he called "Gram Swaraj". However, the constitution makers designed a totally different system wherein power was highly centralized at the centre. They argued that villages in India stood for all social oppressions and therefore, a strong parliamentary democratic state was the need of hour to fight all these social oppressions. Subsequently, Panchayati Raj institutions became a part of Directive Principles of State Policy under Article 40 which states that "the State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government". But its implementation was ignored in the absence of any noteworthy legislations by centre or state governments.

## Panchayati Raj in India

The Gandhian dream of Gram Swaraj was however fulfilled in a different form with the publication of Balwant Rai Mehta Committee report in 1957, which recommended the establishment of the scheme of 'democratic decentralisation' that ultimately came to be known as Panchayati Raj. The report mainly recommended the establishment of a three-tier panchayati raj system— a 'gram panchayat' at the village level, a 'panchayat samiti' at the block level and a 'zila parishad' at the district level which would be linked through indirect elections. The report further recommended for a genuine transfer of power and responsibilities to these bodies, transfer of adequate resources; all welfare schemes and programmes at the three levels to be channelled through these bodies only, and the three tier system to facilitate further devolution and disposal of power and responsibility in future. All these recommendations of the committee were accepted by the National Development Council. Though the council did not insist on a single rigid pattern and left it to the states to evolve their own patterns suitable to local conditions, it insisted that the basic principles and broad fundamentals should be identical throughout the country. Rajasthan was the first state in India to establish Panchayati Raj institution on October 2, 1959, in Nagaur district. Andhra Pradesh was the second state to adopt Panchayati Raj institution and eventually most of the states adopted the system. By mid 1960s most of the states had created panchayati raj institutions, however, there were differences among states with regard to the number of tiers, relative position of samiti and parishad, their tenure, composition, functions, finances and so on. Subsequently, several other committees like the Ashok Mehta Committee, GVK Rao committees, L.M. Singhvi Committee, etc., contributed to building the institution of Panchayat Raj in India with their relevant recommendations. However, it was with 73rd and 74th Constitutional Amendments Act in 1992 that Panchayati Raj institutions got their constitutional status. Panchayati Raj Institution was established as a three-tier system of administration at the grass root level for the development of rural areas, with the Gram Panchayat at the Panchayat level where chairman of Panchayat (Mukhiya) is the head, the Panchayat Samiti at the block level where chairman of Panchayat Samiti (Pramukh) is the head, and Zila Parishad at the district level where chairman of Zila Parishad is head. For democratic decentralisation of administration and the empowerment of local political bodies, the Panchayati Raj Institutions (PRI) are created which are more accountable to local citizens and appropriate to local needs and preferences.

With this development, the Panchayati Raj institutions could now have a legitimate jurisdiction over 29 areas including elementary education. With the constitutional status, the Panchayati Raj bodies were delegated the authority related to education, including primary and secondary schools, technical training and vocational education, adult education and non-formal education, and spread of literary and cultural activities. (Kumar & Mohalik, 2017).

## The Right of the Children to Free and Compulsory Act (RTE Act 2009)

With the 86th constitutional amendment, India became the 135<sup>th</sup> country in the world to adopt Right to Education as a Fundamental Right. The provision for the free and compulsory education was enshrined in the Constitution in the Article 45 of the Directive Principles of the State Policy which stated that the State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years. But being a Directive Principle, it was non justiciable.

The first official recommendation for the inclusion of a fundamental right to education was made in 1990 by the Acharya Ramamurti Committee. In the subsequent developments, the Supreme Court of India in the cases- Mohini Jain Vs State of Karnataka in 1991 & Unnikrishnan Vs State of Andhra Pradesh in 1993 - interpreted the fundamental right to life under Article 21 of the Constitution as the right to live with human dignity and all that goes along with it. With that view the Supreme Court asserted that in order to fulfill the life and dignity of an individual the right to education is necessary. Therefore, the Right to Education flows

directly from the Right to life.<sup>1</sup>With the insertion of Article 21 (A), Right to Education Act was passed in the Parliament in 2009 and it came into effect in April 1<sup>st</sup>2010. The Act provides that<sup>2</sup>–

- Every child of the age of 6-14 years shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education.
- A child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age; Provided that where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time limits, as may be prescribed: Provided further that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.
- For the purposes of admission to elementary education. The age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1856 or on the basis of such other document, as may be prescribed. No child shall be denied admission in a school for lack of age proof.
- All children who complete elementary education shall be awarded a certificate.
- Financial burden will be shared between state and central government.
- State governments will lay down model rules for the implementation of the Act in their respective states.
- Provides for 25 percent reservation for economically disadvantaged communities in admission to Class One in all private schools.
- Mandates improvement in quality of education.
- Calls for a fixed student-teacher ratio.
- School teachers will need adequate professional degree within five years or else will lose job.
- School infrastructure (where there is problem) to be improved in three years, else recognition cancelled.

### **The Panchayati Raj & The Right to Education Act (2009)**

Many commissions and committees on education after Independence has emphasised on the role of Panchayati Raj Institution members in management of education especially in elementary education. The local authority is defined under the RTE Act 2009 as "a Municipal Corporation or Municipal Council or Zila Parishad or Nagar Panchayat or Panchayat, by whatever name called, and includes such other authority or body having administrative control over the school or empowered by or under any law for the time being forced to function as local authority in any city, town or village".

The RTE Act 2009 under section 9 indicates different duties of local authority in the implementation of the act-

- To provide free and compulsory education to each child through government and aided school.
- As per the RTE Act 2009 section -6, in case of non availability of schools local authority have to start school within three years of time period after implementation of RTE Act 2009.
- There will be no discrimination among children belonging to weaker section, disadvantaged groups and no child will be held back for any reason.

<sup>1</sup> Coomans, Fons, Justiciability of the Right to Education (December 15, 2009). Erasmus Law Review, Vol. 2, No. 4, pp. 427-443, 2009. Available at SSRN: <http://ssrn.com/abstract=1542676>

<sup>2</sup> Ministry of Human Resources Development (2009), Government of India, The Right to Free and Compulsory Education Act

- The local authority shall maintain a record of all children, in its jurisdiction, from their birth till they attain 14 years of age.
- Local authority have to monitor about enrollment of each and every child, their attendance and completion of their primary education in their jurisdiction
- Local authority should provide school building, academic staff and their study material
- As per the RTE Act section - (4) it is compulsory to give special training for the child who is above six year and directly access to the age appropriate class
- Local authority should ensure to bring qualitative elementary education as per the indicators given in the Act for numbers of teachers in the school, school building, working days, library and sports.
- To ensure timely framework of curriculum designs for primary education
- To organize training for teachers
- To ensure that a child belonging to nomadic tribe is enrolled in the school
- Local authority must take care of the school
- To prepare academic calendar

Further, under the section 21 of the RTE Act a school management committee (SMC) consisting of elected representatives of local authority, parents or guardians and teachers of the school has to be formed. One elected member of local authority decided by local authority shall be a member of the SMC. The SMC is entrusted with duties like- monitoring the school functionary, prepare school development plan and recommend, monitoring of grant received from state government/local authority/ any other source, explain about the rights received by the children under RTE in simple and creative style, ensure implementation of sub section (K)N(G) of Article 24 and Article 28 of RTE ACT 2009, ensure nominations, and regular presence of children of nearby areas of the school, monitor so that norms and criteria for the school prescribed in schedule of Right of children to Free and Compulsory Education, bring to the notice of local authority any violation the RTE act especially physical punishment and mental torture of children, entry on entry and non-payment of financial assistance in time, prepare a scheme to identify requirements of children who have been deprived from admission/ who have not completed primary education, monitor and identify handicapped children, their nomination and facilitate their education, appoint manager, cook and assistant of mid- day meal case.

## Conclusion

The role of Panchayati Raj institutions have expanded after the advent of RTE Act 2009. PRIs have been identified as the local authority by the act to carry out several functions like implementation of the act, grievance redressal mechanism, etc. However, the careful analysis of the act reveals that there has been an over lapping of functions at several levels.

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