
UNIT 13 FEATURES OF 73rd AND 74th CONSTITUTIONAL AMENDMENT

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13.0 LEARNING OUTCOME

After studying this Unit you should be able to:

- Identify the background of revitalisation of local governance;
- Understand the features of 73rd and 74th constitutional amendment;
- Discuss the initiatives after economic reforms; and
- Outlines the functioning of local governance in various states after the amendment.

13.1 INTRODUCTION

The revitalization of Panchayati Raj manifested through the 73rd Constitutional Amendment owes its origin to the dynamic leadership of Rajiv Gandhi. In his address to the 5th Workshop on 'Responsive Administration' held at Coimbatore in June, 1988, he said that *"If our district administration is not sufficiently **responsive**, the basic reason is that it is not only sufficiently **representative**. With the decay of Panchayati Raj Institutions, the administration has got isolated from the people thus dulling its sensitivity to the needs of the people"*. With events moving at a faster pace, Panchayati Raj emerged as a major institutional channel of such administration.

The Constitution 73rd Amendment Act, 1992 came into effect from 24th April 1993. No one disputes that it is a historic legislation. The basic question arises as to what was the basic spirit behind this legislation? Was it limited to the passing of conformity acts and endowing panchayats with some administrative and financial powers or to make them genuine institutions for participatory self-government? The emphasis has been so far on the former, which has made panchayats mere implementing agencies of central and state schemes, passed on to them, with funds. The basic objective of the democratic decentralization through reactivation of the Panchayati Raj system was to realize Gandhiji's concept of "Swarajya" (*Ibid.*). In this Unit we will be discussing the various features of the 73rd and the 74th amendments.

13.2 INITIATIVES TOWARDS CONSTITUTIONAL STATUS TO LOCAL GOVERNANCE

As is known, both the amendment bills (64th and 65th) could not sail through the Parliament because of opposition from the Rajya Sabha. Allegedly and arguably, they put local governance under direct control of the Centre, which was resented by the states. However, these two bills provided enough opportunity for a national debate as to whether the PRIs should be given constitutional status. The bills also helped the members of the Parliament to go into the details, as and when opportunity came, through more suitable amendments. By the time the mid-term Lok Sabha assembled, the consensus emerged that PRIs be given Constitutional status and suitable provisions be made so as to enable these institutions to function as an agent of change and development at the local level. After coming to power in 1991, the Congress Government gave top priority to the PRIs and brought out the Constitutional 72nd Amendment Bill, 1991. The Bill was passed by the Parliament on Dec 22, 1992 and is now known as the Constitution 73rd Amendment Act, 1992.

The institutionalisation of democratic decentralisation in the form of statutory PRIs thus opened a new chapter in the history in India and gave a new turn to the evolution of rural local self- government institutions. The term institutions of self-government have been interpreted in two ways; *firstly*, the constitution says that the Panchayats are institutions of self-governance, implying that they must have autonomy and the power to govern in an exclusive area of jurisdiction. In its essential element, the 73rd Constitutional Amendment gives Panchayat this distinct status. Therefore, it is the de facto third tier of governance. *Secondly*, it strengthens 'administrative federalism'. Professor S. Guhan argues that the provisions of 73rd Amendment strengthen administrative federalism in order to facilitate and encourage delegation of administrative and financial powers from the states to the local bodies. Their administrative powers and to discharge their responsibilities, are entirely derived from legislation that will have to be passed by the states.

13.2.1 Features of 73rd Constitutional Amendment

- 1) Part IX has been inserted immediately after 'Part VIII' of the Constitution and after the 'Tenth Schedule' of the Constitution, 'Eleventh Schedule' has been added (Article 243G) which gives the detail list of functions to be performed by PRIs. Panchayats shall be constituted in every state at the village, intermediate and district levels, thus bringing about uniformity in the PR structure. However, the states having a population not exceeding 20 lakh have been given the option of not having any Panchayat at the intermediate level.

- 2) While the elections in respect of all the members to Panchayats at the level will be direct, the election in respect of the post of the Chairman at the intermediate and district level will be indirect. The mode of election of Chairman to the village level has been left to the State Government to decide. All members including the chairperson shall have the right to vote.
- 3) Reservation of seats for SC/STs has been provided in proportion to their population at each level. Not less than one-third of the total membership has been reserved for women (in both reserved and general category) and these seats may be allotted by rotation to different constituencies in a Panchayat. Similar reservations have been made in respect of the office of the chairperson also.
- 4) A uniform term of five years has been provided for the PRIs and in the event of dissolution or super session, election to constitute the body should be completed before the expiry of six months from the date of dissolution. If the remainder period is less than six months, fresh elections may not be necessary. Panchayat constituted upon dissolution may continue for the remainder of the period (Bajpai and Verma, 1995).
- 5) With a view to ensuring continuity, it has been provided in the Act that all the Panchayats existing immediately before the commencement of this Amendment Act will continue till the expiry of their duration unless dissolved by a resolution to that effect passed by the State Legislatures concerned or any law relating to the panchayats which before the amendment came into force, not inconsistent with its provisions shall continue, unless amended or repealed.
- 6) There shall be an Election Commission for the conduct of all elections to the panchayats consisting of a State Election Commissioner to be appointed by the State Government. It shall also be in charge of superintendence, direction and control of the preparation of electoral rolls.
- 7) The State Legislature have been given the power to authorise the Panchayats to levy, collect and appropriate suitable local taxes and also provide for making grants-in-aid to the Panchayats from the consolidated fund of the concerned state.
- 8) A State Finance Commission has to be constituted once in every five years to review the financial position of the Panchayat and to make suitable recommendations to the Governor as to the principles which should govern the distribution between the state and the panchayats of revenue, whether net proceeds of the taxes, duties, tolls, and fees leviable by the state or grants in aid and recommend measures to strengthen the financial position of the panchayat bodies and deliberate on any other matter referred to it by the Governor. The Constitution 73rd amendment act adds a sub clause (bb) to Article 280 of the Constitution. According to this sub clause, the Central Finance Commission, in addition to other stipulated duties, shall also make recommendations to the President regarding the measures needed to augment the then Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State (Bajpai and Verma, 1995).
- 9) The State Legislatures should bring in necessary amendments to their Panchayat Acts within a maximum period of one year from the Commencement of this Amendment Act so as to conform to the provision contained in the Constitution

Observations on the 73rd Amendment Act

The 73rd Amendment Act, 1992, has only provided the general guidance for the effective and efficient working of panchayat raj institutions (PRIs) in India. It has granted the PRIs Constitutional status and some sort of uniformity by making three-tier system a permanent feature; regularity, by making election an imperative after the termination of the PRIs after every five years and provision of the State Election Commission to conduct and supervise the election; and more financial autonomy with the constitution of the State Finance Commission, to outline its major contributions.

Firstly, the most debated problem till recently was giving constitutional recognition to the PRIs. It was often observed by the scholars that the founding fathers of the Constitution gave only lip service to democratic decentralisation by mentioning it in Article 40 of the Constitution in (Part IV) the Directive Principles of State Policy. But after the 73rd Constitutional Amendment Act, the PRIs have got constitutional legitimacy. Indian federalism has moved a step further in that up till now there had been two tiers of governance; henceforth, there would be three acknowledged tiers of governance. However, there is a strong body of opinion that in order to give an air of finality to the scheme, a separate list, namely the panchayat list could have been included in the seventh schedule, which lists subjects for legislation into the Union, the State List and the Concurrent List.

Secondly, the present amendment does address the issue of uniformity of structure across the country but leaves certain important matters, such as size of a panchayat at a level, to the discretion of the state governments.

Thirdly, PRIs by and large, had failed because of irregular elections and frequent suppression and suspension. The chronic problem was rightly been taken care of by the recent amendment. However not all states have been dutiful in complying with the provisions. Court intervention has been necessary, as for example, in the case of Orissa and Uttar Pradesh to secure compliance (Chaudhrai, 2003). Courts also had to intervene to ensure compliance with the reservation clause in Punjab and Uttar Pradesh.

Fourthly, the Gram Sabha is an institution, which provides an opportunity to participate meaningfully in governance, to all the people willing and capable of participating in the development process. The 73rd Constitutional Amendment makes the establishment of Gram Sabha mandatory. It however, leaves it to the State Governments to spell out its jurisdictions and powers. Most state legislation assign to Gram Sabha a ceremonial, tokenistic role, e.g., endorsing proposals, making recommendations, considering annual accounts, reviewing development plans, scrutinising completed works. Other functions entrusted to Gram Sabha include those like promoting harmony and unity in the village, mobilising voluntary labour and contributions in cash or kind, rendering assistance in implementation of development schemes, and promoting programmes for adult education and family welfare (Sharma, 2004). Moreover scepticism has been expressed regarding direct election for the village panchayat, as arguably it would make him a 'first among equals' relegation other participants to a less significant position. Besides, the presence of MPs and MLAs in local bodies might overwhelm local leaders (Chaudhari, 2003).

Fifthly, yet another problem relating to the functioning of the local bodies has been the love-hate relationship between the local level bureaucracies and the elected representatives of PRIs. Due to the lack of defined roles for the two, both have had a contentious working relationship rather than displaying the required harmony. This has been one of the practical and the more important reasons for the failure of PRIs. The cooperation of the

bureaucracy would be vital in working out the details of devolution of powers and functions, as stipulated by the act, in each case, for instance. If such cooperation were not forthcoming, implementation of programmes and policies would run into roadblocks, making the ideal of local self-governance more a chimera. If the bureaucracy continues to be unenthusiastic about local self-governance, as it has been in the past, for rationales of its own, most initiative for empowerment of local self-governance and the ideal of participatory democracy itself would be lost. Hence the chief but unrecognised player in the venture is the bureaucracy. Much would depend on the way it perceives this change and vouches or otherwise for it. It would help to inquire in to the “rationales” for which local government has been considered unfit to shoulder the responsibility for development on the part of the responsible administrators and redeeming the same. Cooperation and commitment the part of the bureaucracy would be crucial in bringing about the desired state of affairs with respect to local governance and administration. Significantly, devolution is an executive process, which means that the statutory provisions need detailing in terms of administrative rules and procedures-procurement rules, reporting structures, compensation schemes, accounting systems etc. without which the statutory provision is a mere skeletal framework without much substance to it. This is necessary if the 11th and 12 schedules are not to get reduced to being mere shopping lists (GOI, 2001, WB, 2000, in Chaudhari, 2003).

And finally, other problems related to PRIs, during the last three decades have been the status of Panchayat Samitis and Zilla Parishads, the inadequacy of finances and lack of involvement of PRIs in rural development planning. The amendment has tried to take care of all of these problems by bringing them into the statute book. However, certain problems have persisted. There has been a general reluctance to concede political space to the underprivileged in panchayats. As aforesaid, Punjab and Uttar Pradesh reportedly have not been dutiful in implanting the reservation provision of the act. Hence, could it be claimed with any degree of confidence that the backward sections would be articulate and effective or rather, and more realistically, they would get overwhelmed, as is feared, by the power elite? Would the state bureaucracy, affect a change in stance and work in cooperation with the local government? Or would a stint with a panchayat, harm the individual career prospects of bureaucrats? Would devolution of powers and functions, in fact, take place in practice as it is stipulated on paper? Would increase in private and foreign stake in urban development skew the balance against the urban poor in plan priorities? These and others would be some of the pertinent questions that would need to be continually monitored by means of empirical research and rectified by policy in this regard, on course.

As per Palanithurai and Raghupathi, democratise decentralisation follows the new public management principle in that the intent is to improve service delivery by invoking demand through institutions like the District Planning Committee and the Gram Sabha and adjusting/modifying supply accordingly. There is a paradigm shift from macro to micro concerns in planning. Development paradigm suffered hitherto due to an overemphasis on macro concerns. Democratic decentralisation would counter this tendency by encouraging interest articulation on the part of the underprivileged, and the ‘unequally placed’ at the local level. Also, in view of the expansion of the market and shrinking of the state sector, democratic decentralisation is the counterfoil, the state has attempted by enlarging the arena of ‘choice’ available to the people by providing for multiple service delivery and self help options as against the monopoly of the state which had created a climate of corruption and inefficiency. In this way the state has attempted to discharge its constitutional

obligations in the changed dispensation, towards the people of the country, given the imperatives/constraints of globalisation, liberalisation and privatisation. By institutionalising peoples' participation in administration, the state has created an alternate service delivery mechanism to the bureaucracy, which is set to further shrink in the coming days as liberalisation gathers momentum. As per Chaudharai (2003), the timing of 1991 trade and industrial policy reforms coincides roughly with the initiative for democratic decentralisation. Trade and industrial policy reforms were initiated due to the economic crisis owing primarily to fiscal management; endemic inefficiency, corruption and waste on the part of the State bureaucracy that had brought things to such a state, that nothing short of a paradigm shift was called for to redeem the situation; nothing short of a system overhaul. In 1991, consequently in the wake of a serious balance of payments crisis, the government initiated a broad package of economic reforms, which is being followed and furthered even today, irrespective of the party in power, involving dismantling of the infamous industrial licensing regime, deregulation of domestic industry, trade liberalisation measures, opening up of the economy to foreign direct investment and financial sector reforms. Aim of all these measures put together is to cut on the non-performing state apparatus and instead, yield functional space to the private and the civil society, typified by the non- government sector in active cooperation with the state agency, who in turn would henceforth, function more as facilitators and catalysts, rather than 'monopolists'. This would give the broad framework of "reinventing government" for the sake of good governance (Osborne and Gaebler, 1991). Though the idea of local governance reform was conceptualised sometime later, consensus emerged soon, as the failure of the Indian developmental state in terms of human development and poverty alleviation was ubiquitous. "The aim", therefore, "was to reconfigure the structure of government"(Chaudhari, 2003). Though inertia in the old order giving way to the new is expected, reform efforts would need to be continued to remove roadblocks, whether structural or attitudinal, as and when, any, is/are encountered. One indication all ready is the discretionary provisions; the effort obviously has to been not to irk power centres at the sub- national level and secure consensus for democratic decentralisation within the 'givens', which give to us the "environment of constraints" in Simonian terms.

There are a few glaring limitations in the framework. The 29 subjects mentioned in the 11th schedule do not give power to legislate to the local bodies, only to take decisions. The State Finance commissions' recommendations are not mandatory in nature. It is completely up to the State Governments to devolve/not to devolve, functions, functionaries and resources on the local bodies as per the constitutional scheme. The 29 items are handled by different ministries and are not in the hands of the Minister of Panchayati Raj and Rural Development. Coordination and cooperation from these different ministries would be needed to secure needed devolution, which could be brought about only by the Chief Minister. He has to feel committed enough to the cause of Panchayati Raj. Rules need to be evolved to guide Panchayat Raj administration that should be compiled in a handbook and circulated in the regional language for the knowledge of everybody concerned. Devolution of functions need to follow a set process. Activities need to be mapped, requisite skills identified and developed at the local level, with the cooperation of the bureaucracy; communications have to flow uninterrupted from the state officials to the local functionaries. Leaving things to the sweet will of the State Government would not help matters (Ministry of Rural Development Occasional paper 5 cited in Palanithurai and Raghupathi's). Unfortunately however, indications from various states in this regard, except a few states, which have zealously followed the ideal of local self-governance, like West Bengal, Karnataka and Gujarat and Maharashtra, have not been encouraging.

Gujarat and Maharashtra passed legislation in the 1960s transferring many activities, including primary health care and education to district panchayats. In both the states, funds were devolved and as well as a separate administrative service—the panchayat service in Gujarat and the Maharashtra Development Service in Maharashtra, were started wherein state level bureaucrats could be sent on deputation to work with district panchayats. In the mid-80s, Karnataka devolved many significant developmental functions to the panchayats. The task of devolution is being attempted in a most perfunctory manner. There is no systematic process in place. West Bengal has been another state, where concerted efforts have been made to nurture local bodies as developmental outfits by devolution of powers and functions (Chaudhari, 2003).

Discretionary Provisions

Discretionary provisions leave a lot to the free will of the State Governments. Besides certain less significant issues like nomenclatures of panchayats, etc. some critical matters have also, been made discretionary, like determination of size in terms of population and area, mode of election of chairperson, the powers and functions of the Gram Sabha, devolution of power and authority to institutions of self governance at the local level, accounting and auditing at the local level, which if not attended or handed properly, in right earnest, could dilute the expected outcomes considerably. Indications are already there. Village Panchayats in Kerala and West Bengal are considerably larger than in other states. While it could be said that this has been rightly left to the historical legacy and administrative convenience of each state, the tact remains that this does not bring administration to the “door step of the people,” which is the, main hypothesis of proposed change. Given below is a list of the discretionary provisions of the 73rd amendment act in brief (Bajpai and Verma, 1995):

- 1) Nomenclature of panchayats and chairpersons
- 2) Size in terms of population and area covered for village and intermediate level
- 3) Composition of panchayats; representation (whether or not to provide) of the chairpersons at a level in the next successive higher level; MPs and MLAs belonging to the upper and lower houses of state and union legislatures, representing that constituency; mode of election of the chairperson of the village panchayat, that is, whether direct or indirect; *manner in which* various seats would be circulated for giving effect to reservations; provide or not for reservations for backward class of citizens.
- 4) Powers and functions of Gram Sabha
- 5) Devolution of powers and functions to panchayats at the appropriate level with respect to preparation of plans for economic development and social justice, and implementation of the same as well as in relation to the matters listed in the 11th schedule ascribed to the local bodies.
- 6) To decide what taxes, duties, tolls and fees *would be leviable* by the panchayats, and to establish procedures, limits and conditions for the same and those that would be levied and collected by the states and assigned to the panchayats.
- 7) To decide the amount of grants-in aid that will be provided to the panchayats from the consolidated fund of the state.

- 8) To authorise the panchayats at all different levels to create a fund for crediting all the money received thereto and withdrawals therefrom.
- 9) To provide for the composition of the Finance Commission, the qualifications requisite for members, manner of their selection, powers and functions, and the Governor shall cause to be laid before the legislature of the state its recommendations along with the explanatory memorandum with respect to the action taken by the government.
- 10) To make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.
- 11) To determine the conditions of service and tenure of office of the State Election Commissioner and to make provision with respect to all matters relating to or in connection with election to the panchayats. However the office of the state election commissioner has been treated as on par with the judge of a high court to ensure neutrality and impartiality on his part and secure autonomy as would be necessary for discharge of his constitutional responsibilities. Hence, the State Election Commissioner shall be removed from his office in like manner and on the like grounds as judge of a High Court. The condition of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment and the Governor of the state when so required may put at his disposal such staff as may be required for the discharge of any function.
- 12) To make provisions regarding all matters in connection with elections to the panchayats.
- 13) To make provisions with respect to the:
 - a) The composition and functions of the District Planning Committee;
 - b) The manner in which the post of the chairperson of the DPC shall be filled; not less than 4/5 of the total members shall be elected by the members of the district level panchayat and municipalities, from amongst themselves, in proportion to the ratio of the population of urban areas and rural areas in the district.
- 14) Provision regarding panchayats, or any law relating to panchayats in existence before the amendment, continuing if not dissolved, amended or repealed respectively has been kept discretionary.

13.2.2 Features of the 74th Constitutional Amendment

From the very beginning, since independence, the urban local government received a step-motherly treatment from those who stood for the cause of self-government at the grassroots level in India. Like the 73rd amendment, the 74th amendment also lays down the structure of urban local bodies; provides for their regular, free and fair elections; makes provision for reservation of seats for SC, ST and OBCs; fixes their term to five years; protects them against arbitrary dissolution, specifies their powers and responsibilities; and attempts to strengthen the fiscal base of the urban local bodies. It does two more things, which are not to be found in the 73rd amendment; that is that, besides elected, it also provides for nominated members for decentralised planning.

In the 43rd year of the Republic of India, 1992 the Constitution (74th Amendment) was passed which came into force on 1st June 1993. Two important Committees, namely (1) Committee for District Planning (Article 243ZD, (DPC) and Committee for Metropolitan

Planning (Article 243 ZE, (MPC) have been constituted. The features are discussed below:

- 1) Constitutional status has been accorded to Urban Local Government bodies. Three-tier structure has been envisaged, whereby there would be municipal corporations, for larger areas, municipal councils for smaller areas, and nagar panchayats for villages in transition to becoming towns. Since, "Local Government" is a state subject, the state legislatures have been left within their powers to define the details of the powers and functions of different units of urban government institutions whose broad outline only has been drawn by the Parliament.
- 2) Direct election to these Municipal bodies by the people in the manner as the elections are held for the Lok Sabha and State Assemblies has been provided. For the purpose of elections, the Municipal elections are to be conducted by the State Election Commission.
- 3) Reservation of one-third of seats for women including women belonging to Scheduled Castes and Scheduled Tribes is ensured.
- 4) The State Finance Commission would ensure financial viability of the Municipalities. Municipal funds have been augmented through taxes, tolls, duties and fees, grants-in-aid.
- 5) Urban municipal institutions of self-government have been endowed with power and authority to formulate and implement schemes for economic development and social justice on 18 subjects.
- 6) Developmental Committees, namely, (DPC) and Metropolitan Planning Committees have been constituted. Thus, planning in India has been decentralised up to the grass-roots level.
- 7) For better proximity with citizens, wards committees have been constituted.
- 8) The 74th CAA and also the 73rd CAA (on Panchayats) have created local self government institutions through out rural and urban India with powers (29 for rural and 18 for urban) delineated, devolution, deliberative and executive wings of government created, authority and responsibilities defined, developmental committees (DPC, MPC) and Finance Commission constituted; and within each Municipality, Wards Committees and Zonal Committees have been constituted.

Observations on the 74th Amendment

The two (73rd and 74th) Amendments to the Constitution mark a watershed in the evolution of local government in India. For the first time the Panchayati Raj Institutions in rural India and the municipalities and municipal corporations in urban India have been accorded constitutional status by these two Amendments. They have been raised to the status of 'governments' at the local level like the Union Government at the national level and the State Government at the state level (Bhattacharya, 2004).

The Nagar Palika Central Legislation i.e., the 74th CAA has scattered spatially hundreds of small local governments through out India. Governments with their respective territorial jurisdictions have been formed. India has, thus, become a "federation of federations". The 74th CAA has not only constitutionalised the status of urban local government but also improved its life, structure, working and finance (Dash, 2004).

However, certain questions remain unanswered. First and foremost, the very exercise of classifying an area, rural or urban is a confused one. Some of the states with larger concentration of non-municipal activities like the Gujarat, Kerala, Tamil Nadu and West Bengal have nearly two-thirds of towns as census or non-municipal towns. In spite of predominance of non-agricultural activities in these towns, they are not accorded the municipal status. The state governments are interested in retaining their panchayat status, as they fetch grants under rural development schemes. Their classification as 'urban' would require the government in turn to give them grants. On the other hand, local bodies lose out because urban local bodies have the benefit of better sources of finance, such as the property tax, entertainment tax and service charges, which are lost if the urban classification is not given. Moreover, panchayats are easier to control than urban bodies and hence, the power elites prefer the rural tag. Besides, in the BIMARU states like Rajasthan, Uttar Pradesh, and Madhya Pradesh, districts are carved out for political reasons; which defies theoretical logic. It was pointed out as early as during the 1961 census, that instead of the two fold classification into rural and urban, there should be threefold classification, into urban, sub urban and rural, as it conforms better to reality. Owing to all of this confusion, all urban areas defined by census are not necessarily accorded the municipal status. On the other hand, all settlements accorded municipal status are automatically declared as urban. Hence, there is a need to redefine the rural and urban boundary keeping in view their revenue potential in order to reorganise them as urban or rural local bodies. Another problem is that of urban outgrowths, which are the urban areas that develop around the fringes of a cantonment board because of a university or a port etc. Since, these areas lie within the geographical limit of an adjoining village panchayat, the municipality does not govern them even though they are urbanised. Since they are too small they cannot be set up as independent municipalities. This problem needs to be addressed since vital revenue is lost if they are erroneously classified (R.B. Bhagat)

For the first time the DPCs (District Planning Committee) under 243Z (d) have got constitutional status by way of 74th Constitutional Amendment Act. Here we must mention that the Planning Commission is an extra constitutional body and even then it is so powerful that every year all the State Governments come begging before the Planning Commission for funds. But unfortunately the institution, which has got constitutional status for District Planning, is largely ineffective. The need of the hour is that the DPCs should be made effective and the district plan prepared by the PRIs and the Municipalities should also approve the State Government without any change. This is also desirable that the DPC may issue guidelines to lower level units in regard to their annual action plan and consolidated five years plan.

What is significant, however, is that apart from the traditional municipal functions, municipal bodies, as per article 243 W, have been allocated the function of preparation of "preparation of plans for economic development and social justice, which suggests their elevation from mere instrumentalities for 'agency functions' to responsible bodies for development planning. Traditionally, municipal bodies had been endowed with the responsibility of providing some basic amenities of civic life. Services such as water supply and sanitation, roads and drains, street-lights collection and disposal of solid waste, maintenance of public places, burial grounds and crematoria, cattle ponds, registration of births and deaths, maintenance of markets and some regulatory functions relating to construction of buildings, public health areas such as eating places, slaughter houses and tanneries, etc. The 74th constitutional amendment broadens the range of functions to be

performed by the urban local bodies to arenas such as urban and town planning, regulation of land use planning for economic and social development, ‘safeguarding the interests of weaker sections of society’ including the handicapped and mentally retarded, slum improvement and upgradation, urban poverty alleviation and promotion of cultural, educational and aesthetic aspects. The subject of cattle pounds has been extended to include, prevention of cruelty to animal (The Tenth Plan, 2002-07).

Also significantly, there are around 73,000 elected representatives in the ULBs all over the country. This shows that democracy has percolated down to the lowest level and is effective at the grass roots; at least the right start has been made. As per the official document, the role set out for the ULBs in the immediate future will be:

- to be responsive and accountable to the community
- to develop cities with standards of service comparable to the best in that particular category; and
- to constantly improve their capabilities so as to equip themselves to undertake their tasks in resource raising, service provision and poverty alleviation(ibid).

As can be seen, the tasks are onerous. The question is, whether requisite institutional capacity has been created and whether the administrative expertise exists to carry through the aforesaid functions. The success of the venture, if it is not to be a mere paper venture, would depend on the commitment of political parties ruling different states to developing *institutional capacity and administrative capability*, through training elected local functionaries in the nuances of administration through workshops organised for the purpose and thereupon, delegation of tasks. As per the New Public Management principle, that is the guiding maxim behind democratic decentralisation in the present context, innovative regimes such as public-private participation, in urban infrastructure development and channelising of non-government organisations in a synergetic mode with the government to augment ‘total (system) capacity at the local level. Development of capacity is crucial since that would encourage the state bureaucracy to delegate, since there would be the assurance that the task would be successfully accomplished. Since delegation thrives on trust of the subordinate’s capability, the same would have to be developed to create the right environment for delegation.

Moreover, like the eleventh schedule, it is not clear how the three tier bodies would work in tandem to accomplish the tasks, as these subjects are not clearly demarcated between different local units of the urban local government, leaving it to respective states to work out the arrangements by themselves in this regard. This has given the states the liberty to impose their own choices in this respect, which has at times created more confusion than order, regarding what is to be delegated and what is not. This has created a much undesirable situation of flux in the local administration scenario. This is not conducive either to its sustenance or development in the future. Notably, the 64th and the 65th amendments were defeated in the Rajya Sabha, because they did not give this much discretion to the states in the design of local government reforms (Chaudhari, 2003). The new amendments divide the provisions into mandatory, denoted by “shall” and discretionary, denoted with “may”. In many cases although the powers have been transferred on paper, their actual transfer has not taken place, and the concerned government departments at the state level retain monopoly over those subjects who are handling them directly rather than operating through the concerned local unit. Similar is the case with transfer of funds. This is critical since the main problem that the local units have always faced hitherto, has

been lack of financial resources. In the absence of proper funds, powers become meaningless because the same cannot be translated effectively into real efforts and outcomes. An obvious contradiction is that on the one hand the local bodies are staving for funds but on the other hand, elected representatives want more allowances and other perks and facilities in view of their newly acquired constitutional status. The above bottlenecks need to be taken care of if the Constitution (seventy- fourth) Amendment has to become a reality, both in letter and spirit.

74th Amendment Act provides for the constitution, by every state, of a State Finance Commission, within one year of the amendment and thereafter every five years, regarding the financial resources of local bodies. Unfortunately, the recommendations of the Commission are not binding on the respective states. But still the Municipalities blame the State Governments that they are not getting the required finances to run the urban body.

In spite of the fact that the 74th Amendment visualises the 'people's participation' as one of the main objectives, the people's actual participation in the municipal affairs of the city is still limited. Major cause of this attitude is that the people look towards the municipal bodies with inherent suspicion and take it for granted that their problems and grievances will not be taken care of.

As most of the municipalities are badly governed, no private party is willing to shake hands with the municipal authorities. Private parties also think that to push their project through the municipal authorities is really time consuming and wasteful (Dixit, 2004). Lot of effort would need to be put in to change this negative perception of municipalities. The effort has been made on paper. Now the constitutional scheme needs to be worked out in practice. Computerisation would help cut on delays; there would be more certainty about records and also their timely availability. Training of municipal personnel has to be taken up in right earnest to develop requisite 'managerial' capabilities among staff, so work is performed on the basis of sound managerial principles.

13.2.3 Decentralised Planning in Context of 73rd and 74th Constitutional Amendment Act

Efforts to establish suitable planning machinery at the local levels have been half-hearted. The effective decentralisation in planning in India existed at the state level vis-à-vis planning at the state level seems to depend very much on the size of the state (Rao, 1989). The Planning machinery at the district level was weak both in terms of technical expertise and financial resources. There was virtually no such co-coordinating agency, which could take the responsibility to link various existing programmes and schemes so that they can be implemented effectively. Decentralised planning at the District level was effective precisely in those states where performance in respect of land reform was better like West Bengal, Karnataka, and Jammu and Kashmir belongs to this category (ibid).

All the Committees prior to 73rd and 74th Constitutional Amendment advocated decentralized planning. All these efforts culminated into the presentations of two bills viz., 64th and 65th Constitutional Amendment Bills in the Parliament in the election year of 1989 for providing Constitutional status to the local government institutions in the rural and urban areas respectively. The two bills though crucial steps towards decentralised planning were passed by the Lok Sabha but fell in the Rajya Sabha due to want of majority. Thus it is obvious that none of these attempts towards decentralized planning in the post-independence era (before the passage of 73rd and 74th Constitutional Amendment Acts)

could satisfy the set of requisites the research team developed. Therefore, these efforts could not give desired results and the idea of decentralized planning remained a distant dream.

It was felt necessary to build up and strengthen the planning capabilities at the district and block levels. Accordingly, the 73rd and 74th Amendment Acts were enacted. With the PRIs and Municipalities setting constitutional status by way of the 73rd and 74th Amendment Acts respectively decentralised planning has got a new responsibility of formulation and implementation of the programmes of economic development and social justice. It may be said that now onwards there would be three-tier in the planning process, viz., the centre, the states and the Panchayats (Kumar, 1997).

13.3 INITIATIVES AFTER ECONOMIC REFORMS

In the wake of economic reforms initiated by the Narasimha Rao led Congress ministry in the early nineties, the need for democratic decentralization planning was once again realised. This realisation led to the passage of much talked about constitutional amendment acts. The two acts were regarded as milestone of decentralised governance and decentralised planning. In view of this, it becomes imperative to see as to how akin these two acts are to the idea of decentralised planning i.e., to what extent they satisfy the following pre-requisites:

- 1) Creation of regular bodies in the planning hierarchy;
- 2) Decentralisation of power and functions to each of these tiers;
- 3) Devolution of financial resources to each of these tiers;
- 4) Subordination to higher political echelons rather than to bureaucracy;
- 5) Assigning professionally trained manpower to each of these tiers;
- 6) Devising effective co-ordination mechanism among these tiers; and
- 7) Devising means to ensure effective people's participation.

Creation of Regular Bodies

Article 243B provided for the creation of a three-tier structure of panchayats at the village, block and district levels. Further, Article 243E provided for a fixed tenure of five years of these local bodies. Legislatures of all the states to which the Acts apply in consonance with the provisions of the two acts have created the necessary structures in the urban and rural areas and are holding regular elections to them. This shows that that 73rd and 74th Constitutional Amendment Acts satisfy essential pre-requisites of decentralised planning.

Devolution of Financial Powers

The 73rd and 74th Constitutional Amendment Acts have favoured devolution of financial powers (through creation of 11th and 12th Schedules vide which functional and fiscal powers have been devolved to them) upon the local governments institutions. However, it is pertinent to note, "The two schedules by themselves do not contain subjects of 'revenue resources' except by way of incidental receipts. The taxes, duties, tolls and fees to be levied by them and assigned to them and the grants-in-aid to be given to them are left to the discretion of the state governments (Ibid).

The two acts also provided for the appointment of Panchayat Finance Commissions, to look into the needs of the rural and urban local bodies in totality and make suitable recommendations so as to enable these institutions to perform the assigned functions effectively. This was definitely a landmark step in the direction of providing financial autonomy to the local bodies. But it is noteworthy that though most of the states have constituted the PFCs, but many of them have not yet submitted their reports and, in the case of those state finance commissions which have submitted their reports, no tangible action has been taken on their recommendations.” Thus, the above analysis shows that much leaves to be done for devolution of financial powers to these institutions and hence, the third pre-requisite of decentralised planning under the two Acts also seems to be half heartedly attempted.

Subordination to Higher Political Echelons Rather than to Bureaucracy

As also hinted earlier, one of the significant postulates of democracy is the subordination of bureaucracy to the democratically elected representatives of the people. This is because bureaucracy is a good servant but a bad master. This is as much applicable at the grassroots as at the centre and the state levels. Ironically, however, the enactments of the different states have given upper hand to the bureaucracy vis a vis the representatives of the people at the local level”(*Maheshwari, (1992-93)*). The higher bureaucracy under the Acts of various states has been given the powers to suspend and even supersede these institutions. In most of the states, it is the district level functionaries who regulate and control the working of these institutions. For instance, Section 47(1) of the Harayana Panchayati Raj Act, 1994 empowers the District Development and Panchayat Officer or the Sub Divisional Officer (Civil) to suspend the execution of any resolution or order of the Gram Panchayat or prohibit the doing of any act. In this connection, the observations of Gangarde are also worth mentioning:

“*The Karnataka Panchayati Raj Act* vests the power of adjudging the performance of the panchayats with the bureaucracy. Under the *Bihar Panchayati Raj Act, 1993*, officials are also the controlling authority. Panchayat leaders have to tender their resignations to bureaucrats. The *Harayana Panchayati Raj Act* also confers most of the powers on the bureaucracy or the government, leaving little room for panchayat to work independently. In several cases the order of the Director, Panchayat, is not only final but also cannot be questioned in any court of law. The government can cancel any resolution of the Panchayat under the pretext of it being against the public interest. The Kerala Panchayat Act is also an effort towards establishing of Officer’s Raj in place of people’s Raj. *The Himachal Pradesh Panchyati Raj Act* has not given administrative and financial autonomy to panchyats for discharging their responsibilities effectively. *The Punjab Panchayti Raj Act* empowers the Director, Panchayt to remove any Sarpanch. The U.P. Assembly ratified the Action such a hurry that the opposition was not given a chance even to discuss it. *The Andhra Pradesh Panchayat Act*, too is no exception where control over the Panchayat by the Bureaucracy is concerned (Gangarde, 1995).

Assigning Professionally Trained Manpower

Planning is a specialized activity requiring technical skill, information and database, which the people’s representatives in a democracy cannot be expected to possess. Moreover, they are elected to the offices for a short period. On the other hand, bureaucracy, being permanent, has wide field experience and knowledge. Further, most of the information lies in the official records, which remain in the custody of the bureaucracy. Thus in a

democracy, it is essential for planning to assign professionally trained manpower to the people's representatives and make them subordinate and subservient to the later. The dichotomy is that they are always made responsible for the formulation and implementation of local plans without making the local bureaucracy subordinate and subservient to them. Rather, most of the authority has ever rested with the district administration. It is mainly because "historically, local government was virtually a part of district administration and with the emergence of the democratic aspirations of the people, was gradually made a separate entity but was ever looked upon as only an offshoot and satellite of the district administration. Local government has formidable competitor and revival in the form of district administration"(Maheshwari, 1992-93), op. cit).

The 73rd and 74th Amendment Acts as well as the Acts of the various state governments have also not made any progress in the direction of assigning professionally trained manpower to the local bodies and bringing the local bureaucracy under the local popular control. Therefore, the 73rd and 74th Amendment Acts have also not been able to qualify this prerequisite of decentralised planning.

Devising Effective Coordination Mechanism

Multi-level planning, which is essential for decentralised planning, leads to mere misuse and wastage of scarce resources. It becomes obligatory to develop and devise inter-linkages among the plans formulated at different levels. Thus, devising effective coordination mechanism is one of the essential prerequisites of decentralized planning. In this connection, 74th Amendment Act made a revolutionary step by providing for the creation of District Planning Committees (DPCs) to coordinate the plans framed by the various tiers of local bodies both in the urban and rural areas. Article 243Z(D) of the 74th Amendment Act also provides the setting up of District Planning Committees—consisting of the elected representatives of both the urban and rural areas—in every district to prepare composite plan for the whole district.

However, the implementation of this provision leaves much to be done. Undoubtedly, the formation of DPCs is a step towards making decentralization 'pro-poor yet' even after more than a decade from the effect of 74th Amendment Act many states are yet to constitute the DPCs in their respective states(Chatterjee, op. cit). In so far as the creation of DPCs , which is a statutory obligation of the state governments, is concerned, some of the states" have only set them up formally without making them operational. Andhra Pradesh has not even set them up. Although a few states like Kerala and West Bengal have taken to decentralize planning earnestly, the tardiness of the others in constituting and operational sing the DPCs may limit their role as instruments of decentralized planning (Mathew,) 2000). Even in the state like Karnataka where panchayats have taken roots and had once become a model of decentralized planning (under 1985 Act), DPC is not functioning properly (Mishra, 2000 op. cit.). Amazingly, provision for constituting DPCs is not made in the Gujarat State Panchayati Raj Act (Chandrashekhar, 2000).

People's Participation

People's participation is a must for the success of every plan. People's participation in the context of decentralized planning means their direct involvement at the level of both plan formulation and implementation. The necessity of people's participation in planning was highlighted in the fifth five-year plan. Perhaps the most effective system of securing people's participation in decentralised planning is through the constitution of Gram Sabhas at the village level. Though the role of the Gram Sabha was recognised even earlier and

in some of the states, it was even provided a statutory status as far back as 1960s, but it was the 73rd Constitutional status to this body. The Act provides that a Gram Sabha is to be constituted in each village, exercising such powers and performing such functions at the village- level as the State Act may provide. It consists of all registered voters in the area of the Panchayat. The significance of the institution lies in the fact “it is the only political institution in the country in which direct democracy is in operation.”(Maheshwari, 1992-93,op. cit), It has been rightly observed that the Gram Sabha is the “unique forum for collective thinking, planning, and decision –making and overseeing different activities in the village. This institution is designed to help in bringing common people to the decision-making and uplift the status of women and the depressed classes (Sharma, 2003).

In fact it is the only “forum, which can ensure direct democracy. It offers equal opportunity to all the citizens of a village to discuss, criticize and approve or reject the proposal of the panchayat executive and assess its past performance and is a watchdog of democracy at the grassroots level”(Mathew, 2000, op.cit)

Thus, it may be said that since the two Constitutional Amendment Acts have not satisfied the basic pre-requisites of decentralized planning, the claim of their being revolutionary steps in the direction of decentralized planning is hollow. Further, the idea of decentralized planning, unless any such effort in this direction satisfies the above said pre-requisites, would remain a distant dream.

The Constitution (73rd Amendment) Act 1992 has been passed by the Parliament with a view mainly to strengthen and revitalize the Panchayati Raj bodies so that they can sub serve the needs of the millions that live in rural areas. The first sign of a healthy democracy is that evolving of a mechanism for arriving collective decisions by involving the people who are most affected by them. Decentralisation is the vital mechanism through which democracy becomes truly representatives and responsive. The linking mechanism between effective administrative set up and participation is the delegation of powers to the people at the grassroots level. In a country like India where majority of its people lives in rural areas, decentralization of governance should not remain at local level as a mere creed, but it should be an operational imperative. After independence the focus of the rulers shifted from regulatory to welfare administration.

The crucial challenge ahead was the upliftment of the rural masses from an utmost poverty. Number of rural development schemes evolved in this regard could succeed due to lack of active participation of the people at the implementation level. Prior to the historic 73rd constitutional Amendment, any references to the decentralization of local government was confined to the Directive Principles of State Policy. The successive central and state governments have tried to shift the responsibility to one another in implementation of the decentralization schedule. The 73rd amendment has given a new lease of life to Panchayati Raj Institutions, where central and state governments have to delegate all powers to Panchayats to enable them to function effectively as self-governing institutions. It provides for the reservation of seats and offices for SC/STs, OBC and women, fixed tenure for Panchayats, prevents its dissolution and provide more powers and functions of the Panchayats. It also provides for the constitution of a State Election Commission for the conduct of election to the PRIs and a State Finance Commission to review the financial position of the Panchayats and to make recommendations to the Government (Krishna, 2005).

13.4 FUNCTIONING OF PRIs IN VARIOUS STATES AFTER 73RD AMENDMENT

All the states completed the process of enacting fresh legislation on strengthening the PRIs on April 23, 1994. As many as eleven states pushed through fresh legislation in 72 hours, some of them even in the early hours of April 23, 1994 to beat the stipulated deadline of April 23, 1994, the day Panchayats became part of the Indian constitution. However, the 73rd Constitutional (Amendment) Act is not applicable to Jammu and Kashmir, Mizoram, Nagaland and certain Scheduled Areas of the country. However it did contain a provision for future extension of the act to scheduled areas. As per that, parallel provisions regarding local government in scheduled areas was ultimately enacted through the provisions of panchayats by the Extension to the Scheduled Areas Act of 1996. But mere legislative enactments do not ensure effectiveness and viability of the PRIs in the States. What is more important is their operationalisation.

Andhra Pradesh

The Andhra Pradesh Panchayati Raj Act 1994 became on May 30, 1994. In the Gram Panchayats the existing Sarpanchas were re-nominated as “in-charge Sarpanchas.” In Andhra Pradesh, the Gram Panchayats have to perform 12 obligatory functions and 27 optional functions, apart from the 29 subjects mentioned in Schedule I of the Andhra Pradesh Panchayati Raj Act, 1994 which is a replica of the Eleventh Schedule. The Mandal Parishads in the state have to perform functions specified in Schedule I of the Act besides functions mentioned in Schedule I of the Panchayati Raj Act under 4 broad items (i) Community Development (ii) Animal Husbandry and Fisheries, (iii) Agriculture, (iv) Health and Rural Sanitation (Vittal, C.P 1988). The irony is that even after holding elections to Panchayati Raj bodies in the state, powers and functions were not transferred to the PRIs to the desired extent let alone financial resources. The State Assembly has amended the Andhra Pradesh Panchayati Raj Act to provide for depositing all funds received by the Panchayats under the Jawahar Rozgar Yojana(JRY) and the Employment Assurance Scheme (EAS) in the nationalized banks, cooperative banks or post-offices.

Bihar

Though the Bihar Panchayati Raj Act came into force on August 6, 1993, election to all the three tiers of PRIs has not been conducted so far. Even threat of Central Government to stop release of funds for rural development for failing to hold election in time has not been effective. The provision of reservation of seats was utilized by him for crating vote banks for the State Assembly election (Mishra, Kumar and Pal, 1996.).

Gujarat

The Gujarat Panchayati Raj Act became effective from August 26, 1993 and the elections to the local bodies were held in May- June 1995. The autonomy of the local bodies like the Panchayats in Gujarat as elsewhere has been marginalized by the increasing influence of the MLAs and MPs in era of coalition government. The MLAs who by threatening to join some other exercise control over the Chief Minister are strong enough to influence the activities of the panchayats even after the 73rd Amendment Act (Purohit, P.V, 1998). As a result of decentralization process in Gujarat all developmental activities were transferred to the PRIs. However, so far as funding is concerned, it remains in the hands of the government, and district bodies hardly had a say in fund allocations. In Gujarat,

the powers and functions were assigned to the PRIs in a big way. The state government has transferred all the developmental machinery to the District Panchayat and below i.e., Taluk Panchayats and Gram Panchayat. The Gram Panchayat has powers to impose about 20 different taxes and fees and the Taluk Panchayat has powers to increase the taxation rates of Gram Panchayats.

Haryana

So far as Haryana is concerned, the elections to all the three –tiers were conducted in December- January 1994-95. The State Government has delegated more powers to the PRIs. These include control and inspection of the schemes and programmes launched by the Departments of food and supplies, Education, Public Health, Women and Child Welfare, Agriculture, Horticulture, Animal Husbandry, Forests, etc. besides the schemes of the Panchayat Department. The records of the PRIs had been made accessible to all voters and members of the Gram Sabha. Gram Panchayats provide all details of income and expenditure incurred on various schemes on a board known as ‘Vikas Patt’ put up at each Panchayat.

Karnataka

Karnataka was the first state to pass the new legislation on April 7, 1993, which became effective from April 30, 1993. The Gram Panchayat elections were held on non-party basis on December 29, 1993, which was landmark in itself as 43 per cent of those elected, were women and 32 per cent belonged to SC/STs. A Review Committee, popularly known as the Nayak Committee, was appointed by the State Government to look into issues and problems viz. a weak gram Sabha, bureaucratic dominance in Panchayati Raj administration at different levels, devolution of powers and functions between and among the tiers, absence of provision for Nyaya Panchayats, accommodating different reserved categories as chairpersons in a term of Five years. The Committee forwarded its recommendations in a report submitted to the Government on March 19, 1996. In the light of the given issues, the meaningful recommendations were accepted by the Government in the form of the 3rd Amendment to the Act of 1993. With these amendments, Karnataka is moving towards realizing the ‘spirit’ of the provisions 243G of the 73rd Amendment which implies that PRIs should become institutions of self- government (Subha, K, 1998). The Government of Karnataka is trying to curb corruption at the grassroots by bringing elected chairpersons under the purview of Lokayukt. Besides, the Government is also thinking to come out with a bill on Naaya Panchayats and the District Planning Committees will be operating the way it is envisaged in the Constitutional Amendment so as to lead to genuine decentralized planning (Ibid.)

Kerala

In Kerala, the new Panchayati Raj system came into operation from September 30, 1995. Though organic linkage exists between the three-tiers in the form of ex-officio membership at the higher level, each tier is independent of others and performs certain exclusive functions given to it (John, Oommen, 1998). The Government on August 17, 1996 formally inaugurated the People’s Campaign for the Ninth Plan. Under this process, people are to be mobilized through the local bodies in all stages of development planning from formulation, implementation to maintenance. With the landing of the people’s campaign for the Ninth Plan the state has entered into an era of a new development culture. The campaign has also contributed towards people’s unity in development action and has generated a new development consciousness in the State (Biju, M.R., 1998). The

State Planning Board has announced new norms for allocation of Plan funds to the local bodies. The block and gram panchayats would get a weight age of 65 per cent age points for population, excluding that of SCs and STs (Panchayati Raj Update, March 1998). The PRIs in Kerala are in a better position now when compared to previous years. Apart from constitutional protection, it has that resource—finance and that too in plenty, which it lacked before.

Madhya Pradesh

Madhya Pradesh is the first State to have elections at all levels under the new constitutional provisions. The elections for Gram Panchayat, Janapad Panchayat and Zilla Panchayat were held in May-June 1994. The first meeting of the elected Panchayats was held in August, 1994 and August 20, 1994 was observed as ‘Adhikar Divas’ as all the elected office bearers of the PRIs took charge of their offices. As against 29 subjects, 23 subjects are reported to have been transferred to the PRIs. The remaining items are with the concerned departments requiring necessary action in this regard. The State Government is not able to channelise funds beyond what it receives from the centre for JRY and EAS even after setting up SFC. Finally, there are reports of planned attempts by bureaucracy to underline the powers of the elected panchayats (Vittal, C.P., 1998).

Maharashtra

In Maharashtra the elections to the three-tiers of PRIs were completed in September 1995. The State Government has reduced the terms of Chairpersons of Zilla Parishads and Panchayats Samities from five years to one year. Of the 29 Zila Parishads in Maharashtra, ten have been reserved for various categories of people to be decided by draw of lots. (Panchayati Raj Update, February 1997). The Thane Zilla Parishad has undertaken an action programme to activate the gram sabha in the district. The response to the action programme was good in the district as a whole but it was more so in the tribal areas. Gram Sabhas in all talukas except two went off successfully in about 83 percent of the Gram Panchayat areas. (Panchayati Raj Update, June 1998) Zilla Parishad has planned to mobilize popular participation in development works to ensure greater transparency and accountability in the working of the Panchayats.

Orissa

Orissa has been the first state to implement 33 percent reservation of seats for women in Panchayats, having 2, 500 representatives in the Panchayats. A unique provision of Orissa Gram Panchayat Act states that if the Gram Panchayat Sarpanch elected or nominated is not a woman, the office of Naib-Sarpanch will go to a woman. In Orissa, the Panchayats are having effective role in socio-economic development. The role of the Panchayats is being publicized through films, photographs, wall writings, group discussions etc. In October, 1997 a meeting of Presidents and Vice –President of over 20 Zila Parishads was convened in Bhubaneswar in which they expressed their concern over the state Government’s failure to transfer to them powers stipulated in the 73rd Amendment Act (Panchayati Raj Update, November, 1997). In early 1998, the State Government had directed all the district collectors to ensure autonomous functioning of Panchayat institutions. It was observed that the Sarpanchas do not inform the people about the meetings of ‘palli sabhas’ and ‘gram sabhas’. The gram sabha meetings are called without a prior notice. Besides, they are also not held regularly. Some of the Gram Panchayats are functioning very effectively and have been awarded cash prizes to three gram Panchayats, viz, Ghanantri Panchayat, Kotapeta Panchayat and Padmapur Panchayat under Rajagada Panchayat

Samiti, for their good performance in development, utilization of JRY funds, sanitation, literacy, old age pensions, Indira A was Yojana (IAY), family welfare and other areas (Panchayati Raj Update, June 1998)

Punjab

So far as the State of Punjab is concerned, the Government passed a fresh legislation, constituted a separate SEC as well as SFS, and held elections to the village Panchayats, Panchayats Samitis and Zilla Parishads in 1993-94. Subsequently, the Government also identified the schemes and selected the departments which were to be transferred to the PRIs, by the beginning of 1997. The Punjab Panchayati Raj Act 1994 violated the provisions of the 73rd Amendment Act which aimed at extending power to the grassroots level by providing for direct elections for the membership of Panchayats Samitis and Zilla Parishads. The Act, on the other hand, by inserting a clause, allocated only 40 per cent seats by direct elections and the remaining 60 percent by indirect elections from amongst the Sarpanches themselves (Verma, 1998).

In the case of Punjab, the empirical findings show that most of the Sarpanchas, Chairpersons and Vice-Chairpersons represent a relatively better off families from the economic point of view. In fact the leading agricultural families have captured most of these positions. Apart from that many state level leaders have pushed in their blood relations such as sons, brothers, nephews in these positions. It was a surprise to note that even in those village Panchayats where the SCs have a majority, land owing Jat-sikhs have been elected as Sarpanchas (*ibid*). The State Government dissolved all the panchayats in the State and the elections to all the three tiers of PRIs were held in June – July, 1998. Although the elections were held on non-party basis, various political parties had fielded candidates as independents. For the first time as many as 4, 124 women have been seen elected as Sarpanchas in the present panchayats elections (Panchayati Raj Update, June, 1998).

Rajasthan

In Rajasthan, the elections for the three tiers of PRIs were held in 1995 under the supervision of SEC and these institutions have come into position after March 1995 (Hooja, 1998) The State Government has transferred Rs.164 crores to Panchayat Samitis for taking up development works of various categories. Earlier, the expenditure used to be made by the departments concerned. The Panchayat Samitis would spend the money on the works identified in the meetings of elected representatives. Previously, although the Panchayat Samitis and village Panchayats had been authorized to utilize the funds for development, supervisory powers had been vested in Zila Parishads.

Tamil Nadu

In the case of Tamil Nadu, the new Panchayati Raj System came into effect from April 1994 and the elections were conducted in 1996. The Panchayats in Tamil Nadu have been assigned three broad types of functions- mandatory, discretionary and those entrusted by government notification (Sekhar, 1998).The PRIs in Tamil Nadu continue to remain as welfare institutions rather than the village republics with the power of self- rule (*Ibid. p.91*). An ‘innovative mode of funding’ has been devised by the Tamil Nadu Government, to enable the financially weak rural local bodies overcome the lacuna in the population based devolution formula for the panchayats. In this mode of funding an outright grant from the equalization fund is given to the financially weak panchayats.

Uttar Pradesh

In the case of UP, the legislative formalities were completed in April 1994 and the elections to all the three tiers of PRIs were conducted in April 1995. In accordance with the Tenth Finance Commissions recommendation, the gram panchayats have been allocated Rs. 189.8 crore for construction of roads and drainage (Panchayati Raj Update, March,1998). The State Government has decided to decentralize the administration. Under the new scheme, village panchayats would be granted direct control over officials functioning in their jurisdictions. The Panchayats would appoint these officials belonging to 10 departments, including primary education, healthcare, and rural development and also supervise their activities.

West Bengal

In West Bengal, the Panchayat elections were held in May 1993, in which the left front, particularly the CPI(M), had gone home with a larger majority. Gram Sansad has substituted the institution called Gram Sabha. This is an institutional innovation for ensuring effective participation of the people (Datta, 1998) The Gram sansads are authorized to transact annual or half yearly meeting and such other business relating to the affairs of the Gram Panchayat as may be agreed upon by the persons present at such meetings. It has to be admitted that with the functioning of the Gram Sabha and the Gram Sansad, the formation of the District Council in West Bengal, the Panchayats in the state have become responsive and effective vehicles for identification and resolution of local problems, for ensuring social justice, and for improving the quality of life to the rural people (Ray, 1998). After the completion of five years terms, elections to all the three tiers of PRIs were held on May 28, 1998. The State Election Commission (SEC) conducted the elections for the first time. The State budget for 1998-99, presented in the State Assembly on March 23, proposes to arm panchayats with a wide range of new functions in education, health and rural electrification sectors. It also provides for setting up 1,000 "new type of primary educational centres" in addition to an equal number of conventional primary schools under the supervision of panchayat Samitis. Similarly, in the health sector, the Panchayat Samitis will take control of new primary health centres. Besides, the government proposes to set up a corporation to coordinate with the Panchayats in implementing rural electrification programmes (Panchayati Raj Update, March, 1998).

Thus, the functioning of new panchayati raj reveals the fact that though the legislative formalities have been completed in almost all the States yet at the operational level, there are large variations between them. Elections to all the three tiers of PRIs have been completed in all the states except Bihar, where elections have been delayed for one reason or the other. In some states, viz. Karnataka, Punjab, West Bengal, PRIs have been constituted for the second time either because of completion of their tenure or due to dissolution. Still the highhandedness of bureaucracy, with a few exceptions, over the local autonomy prevails. We hope that PRIs may be deeply rooted in the rural community and may become the real vehicle of change and development in the countryside. The only danger which we visualize is from the side of the state governments (Singh, 1993).

So far as the assigning of powers and functions of each tier of PRIs is concerned, we find that the powers and functions entrusted to the PRIs vary from state to state. The experiences gained so far are that at the district level various line department/ agencies implement programmes and functions under the overall supervision and control of the District Collector/District Magistrate. And the PRIs have to be content with backseat driving (Vittal, op.cit.).

Thus, it becomes clear that the sphere of activity of each tier under each item has not been defined and left to the discretion of the concerned state government. In the changing scenario, Panchayati Raj has to devote itself to the task of development and PRIs should enjoy a large measure of autonomy to the extent possible.

13.5 FUNCTIONING OF LOCAL GOVERNANCE AFTER 73RD AND 74TH CONSTITUTIONAL AMENDMENT: OBSERVATIONS

There are some observations given below regarding the functioning of PRIs after 73rd and 74th Constitutional Amendment .It has been observed that there is a wide gap between theory and practice in implementation.

- Assets have been created under the various rural development programmes. But assets were not being utilised properly. Primary schools have been built but children are not going to schools and in some cases there are no staffs. Community scheme is a total failure because the people want that each and Sarpanch should do everything.
- It was found that beneficiaries for rural development programmes are not selected in proper manner. It is supposed to be selected in according to Base Line Survey (BLS). This BLS contains the names of those families are not included in the record available at Block and DRDA office. The list contains tax payees, as beneficiaries are the sufferers. With regards to loans and subsidy it was found that the total amount of loan is never given to beneficiary.
- So far as the meetings of PR bodies are concerned it is found regular. But meeting of Gram Sabha in all the three districts are not held regularly and even if they are held the adult members of the village do not attend them.
- According to the provisions of the new Act, 29 items have been given to the Panchayats. But it has been noted that very few of these subjects have been transferred to the Panchayats and are neither substantial nor meaningful. They are only supervisory in nature.
- It was also found that the ex-Sarpanchas with the help of the MLAs of the area, try to intervene in the working and functioning of the DPC, it was found that the women Sarpanch.
- With regard to the functioning of DPC, it was found that the most of the beneficiaries, people's representatives and even some of the officials are not aware of the constitution, composition and structure of the DPC.
- It was found that still MPs and MLAs are still controlling the PRIs. They get development work done in their area and as such the needy and the remote village get neglected and remain underdeveloped their dominance are also seen with regard to giving grants to Panchayats. They are giving grants to only those panchayats, which are dear to them.
- It was observed that due to the dominance of the MLAs and MPs and BDO cum Panchayat Raj Officer and their subordinate staffs virtually dominates over even upon

the articulate representatives of the Gram Panchayats.

- Ex-Sarpanchas with the help of the MLAs of the area, try to intervene in the working and functioning of the Sarpanchs especially the women Sarpanch.
- With regard to the functioning of the DPC, it was found that the most of the beneficiaries, people's representatives and even some of the officials are not aware of the composition, constitution and structure of the DPC.
- With regards to women's participation in the affairs of the panchayats, it was found that maximum numbers of them are still working on the advice of the male members of the family (Pal, 2002).

13.6 CONCLUSION

In a nutshell, it may be said that illiteracy, lack of training and prevalence of old traditionally dominant systems are the basic reasons for their non-performance. But this should not be taken as a sign of total surrender. We must realize that due to the new system gradually consciousness is coming among such sections of the rural community and they have raised their voice against exploitation and excess. In this connection, regular election to PRIs will prove to be a milestone towards enlightenment and social political consciousness of the weaker sections. Now they are coming up and quite vocal. In the coming years they teach lesson to the dominant sections of the society.

Local Government in India has not been a great success. A part of the fault lies in the system, a part in the immediate social environment but a large part is to attribute to the controlling state government itself. There are some areas of concern in local bodies. *The first area* of concern is the wide gap between the aspirations of the people and the performance by the grassroots institutions. *The second area* of concern is the mismatch between the financial resources of the local bodies and the functions allotted to them or between expenditure responsibilities and their own resources available. *The third area* relates to weaknesses in the working of Gram Sabhas. *The fourth area* of concern is to redefine and re-look at the picture of local bodies in the light of challenges, which they are facing. *The fifth area* is most important is the type of political culture that has been evolving in India. Let the local bodies guard themselves, let the local bodies change their attitude, policies, technology and systems and get empowered for better governance.

The ethos of democracy can find real nourishment only when power reaches the grassroots level. For the ordinary citizen, it is local democracy, which can have real meaning and significance. In a vast country where large masses are still unlettered, village panchayats and participative democracy can do wonders. If the aim is to establish a democratic society, where change is brought about by voluntary consent and willing cooperation and not by the force of arms, there may be no alternative to Panchayati Raj or Local Self Government Institutions. In that sense, the most revolutionary measures in recent decades have been the 73rd and 74th Constitutional Amendments. It is hoping that with this Indian democracy could become a unique model for the rest of the world.

13.7 KEY CONCEPTS

- Cabinet Government** : The British system, whereby the cabinet as a whole, rather than only the prime minister who heads it, is considered the executive, and the cabinet is collectively

responsible to the Parliament for its performance. In addition, the cabinet ministers are typically drawn from among the majority party's members in Parliament, whereas in the United States the cabinet secretaries are only from the executive branch.

- Constitutional Architecture** : The administrative arrangements created by a government's constitution - from the separation of powers to the requirement that specific departments be created or services performed.
- Regulation** : The totality of government controls on the social and economic activities of its citizens; the rule-making process of those administrative agencies charged with the official interpretation of laws.
- Statutory and Census Towns** : The Indian definition of urbanisation incorporates both administrative and demographic criteria. Two types of town are identified by the census. First one, are known as municipal or statutory towns and the second one, census or non-municipal towns based on the different criteria of their identification. The urban definition adopted in 1961 Census has the following criteria: (a) All places having municipal corporation, municipality, notified area committee and cantonment board, etc; (b) The places which satisfy the following criteria: (i) Population not less than 5,000 (ii) Density of population 1,000 persons per sq mile (400 per sq km), (iii) Seventy-five per cent of workers engaged in non –agricultural sector.
- Transitional Areas** : The 'transitional area', 'smaller urban area' or 'larger urban area' means such area as the governor may having regard to the population of the area, the density of population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, and the economic importance of other factors as he deem fit, specify by public notification for this purpose. Since the 74th amendment act does not define the population size and leaves it to the government to decide, which it does quite arbitrarily at present.

13.8 REFERENCES AND FURTHER READING

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13.9 ACTIVITIES

- 1) Discuss the features of 73rd and 74th constitutional amendment.
- 2) Briefly discuss the functioning of local governance in various states after the constitutional amendment.