



**Obstacles and Challenges before Panchayati Raj in Jammu in Kashmir:
A case study in south Kashmir**

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Abstract

Panchayati raj institution is an essential growth of democratic decentralisation from central to rural government. People residing in rural areas implicitly understand the beauty of democracy through the phenomena of Panchayati Raj and it has been providing enormous opportunities to the people of rural areas for their own development. Panchayati raj system has been given rights to the people to participate in decision-making process at the village level. Panchayati raj had been existing in India since from long time. During British period Panchayati raj has been starting by Lord Ripon in 1882. Gandhiji, the father of nation had considered that village panchayat as an important device to initiate democracy at the grass root level and for rural development. The term Panchayati raj implies member (people) of five which are responsible for rural development and further settling disputes at the village level. In 1992, 73rd amendment has amended in the constitution which gives constitutional status to Panchayati raj and widened powers and functions to the Panchayati raj. Unfortunately, in Kashmir due to human right violation and political instability circumstances always remain tense. In the study as for as Jammu and Kashmir is concerned, the pattern of Panchayati raj is as similar as in India but history is totally different. Through this study it is clearly shown why Panchayati raj in Jammu and Kashmir has not been functioning properly since from its establishment in 1989. In the study main focus has given to the obstacles and challenges before the Panchayati raj in Jammu and Kashmir and in the study, it has clearly shown the legal framework of Panchayati raj institution in state. In the study both mostly secondary data has been used, data has collected from Google, books, magazines, newspaper and journals.

Keywords Panchayat raj, obstacles, challenges, Militant, Gram sanga, Panchayati Adalat.

Introduction

‘India is poor because villages of India are poor. India will be rich if the villages of India are rich. Panchayats should be given greater powers, for we want the villagers to have a greater measure of Swaraj (self- government) in their own village’

-Jawahar Lal Nehru

Panchayati raj is vital part of government. It is a vernacular and an age-old concept in India. Government in India has diverse into three levels; Centre government, state government and local self-government. According to V. Venkata Rao, ‘Local self-government is that part of the government which deals with from the most part of local affairs and governed by the authorities of supplementary to the state government but elected alone of the state authority.’ The concept Panchayati raj is a south Asian political system mainly has found in India. The word Panchayat means “assembly of five” and Raj signifies “rule,” which suggests social affair of five People and Raj plans to Supervise. As such Panchayati Raj supposes a social gathering of five people for the

welfare of their concerned problems in their region and to settle disputes and clashes at the village level. In India the term Panchayati raj make sure that it is accountable for local administrative concerns, particularly in local areas. Through the process of decentralization of government people coming close to governance and got conscious of their responsibilities towards government and it also felt them that they are part of government somehow. It has been existing almost all states in India except some northeast states these are Nagaland, Meghalaya and Mizoram. Displaying of structure of Panchayati raj runs at the grass root level. By the possibility of Panchayati raj institution (PRI) people in villages settle disputes and participating on the decisions in political endeavours for their very own welfare. Despite of that panchayats at villages has its commencement in old India. A sort of village committee of trustees or a relationship of the occupants of the village including village panchayat or Gram sanga performed in legitimate and lawful limits. Reference of Panchayati Raj in the form of Gram sanga had been found in Manusmriti and Kautilaya's Arthashastra (400 BC). In the amid of the British time period the probability of law-based decentralization provincial region Government is the delayed consequence of Excellent Moyo's objectives (1870) and Ruler Rippon's objectives (1882). Gandhiji (father of nation) considered that Swaraj (village self-government) now transform into the basic pillar of Panchayati raj in India. After the independence of India in January 1957, government of India selected several committees to take a glance at made by committee Working Development Programme 1952 and National extension service 1953, propose measures for their better working. Baiwant Rai Mehta committee was the first appointed in 1957, Ashoka Mehta committee was appointed in 1977, second was G. V. K Rao committee 1985, third one was L M Sanghi committee in 1986 and others. These committee's gathering's which were appointed by the government has given the right shape to the Panchayati Raj institution. These committee of trustees recommends different tiers of Panchayati Raj, for instance, three-tier Panchayati raj structure, two-tier and somewhere like in Karnataka four-tier Panchayati raj system was practiced.¹

Finally, 73rd Amendment act 1992 had been amended in 1992 which provides constitutional position under article 40 to Panchayati raj structure. Rajasthan was inaugural state to develop Panchayati raj institution. Arrangement was presented officially by Nehru on October 2, 1959, Nagaur district of Rajasthan and followed by Andhra Pradesh and other states. Despite of that an extensive part of the states made Panchayati raj institution (PRI) by mid 1960s. There were stands out beginning from one state.

Development of Panchayati raj institution in Jammu and Kashmir

Decentralization of Government make sure people's contribution in decision making process at the gross root level. Through the mechanism of decentralization Panchayati raj institution has recognized as major device of democracy and becomes it truly typical and approachable. In Jammu and Kashmir, primary foundations of Panchayati raj was imbedded by Maharaja Hari by passing Jammu and Kashmir village Panchayat Regulation Act (Act No 1). He wants to build Panchayati raj institution more valuable through this act. Singh in 1935. At the point when the first track through town Panchayati goals act no. 1 gone by Maharaja Hari Sing by a Revision in 1941,

¹ Siga, G. (2014). Evolution of Panchayati Raj in India with Special Reference to Arunachal Pradesh. *International Journal of Humanities & Social Science Studies*, 1, 225-240.

rundown of elements of the 1935 control were enlarged. By a demonstration of 1951 Panchayati raj institution was embraced to be restored. Jammu and Kashmir government from the point of established of the Panchayat act in 1958 succeeding the 1952 demonstration different committees of trustees were endeavoured on Panchayati raj in Jammu and Kashmir. At last in April 1988 it was presented in get together of Jammu and Kashmir and appeared in March 1989 (known as J&K Panchayati raj act 1989). Jammu and Kashmir have followed three-tier of Panchayati raj as most of the states adopted this pattern.

1. Halqa Panchayat,
2. Block development chamber and
3. District arranging and advancement board

In addition to those there has been Panchayati Adalat which enjoys both criminal and civil jurisdiction. However, Jammu and Kashmir have its own Panchayati raj act 1989, which differs from 73rd Amendment act of 1992. Jammu and Kashmir have failed to hold regular Panchayati election, owing to the absence of state election commission and state finance commission. State Government has not afforded financial and security support to the Panchayati raj. Funding to the Panchayati raj that mostly remains available to them is in relation to some centrally sponsored schemes which are function by Sarpanches and panches in state Jammu and Kashmir these were the rare concerns which are tackled by Panchayati raj (Kumar). Panchayati Raj Institution in Jammu and Kashmir has been suffering from major issues and challenges.²

Impact of 2011 Panchayat election upon Panchayati raj

According to the Panchayati Raj Demonstration of 1989 and the alteration principles of 1996, the competition for the Halqa panchayats out of the blue were held in 2001 and from that point in 2011 was main fruitful panchayat decision following a hole of 23 years. Indeed, even despite the fact that in 2011 unsettling was going ahead in Jammu and Kashmir notwithstanding that people take an interest energetically and deliberately ignored to Hurriyat's boycott call against Panchayat race. Especially youngster takes an interest in the race of election as a competitor and voter. Free and fair election was held in which voter turnout was recorded around 85%. The state Government give 33.3% reservation to STs, SCs and Ladies' in the decision, the total number of Panches were 28248 out of which 9424 was ladies. Consequently, Panchayati raj system is a decentralized type of Government wherein every village oversees its own undertakings. It assumes majority rule decentralization to the locale level and underneath, which are perceived as the organizations of self-government. Be that as it may, in present situation Panchayati raj in Jammu and Kashmir are aggravate especially in Kashmir area.³

² Punjabi, R. (1990). Panchayati Raj in Kashmir Yesterday, Today and Tomorrow. *Panchayati Raj in Jammu & Kashmir*. Concept Publishing Company, New Delhi, 37-49.

³ Wani, A. A. (2011). 2011 Panchayat Elections in Kashmir: A Case for Democratic De-centralisation. *South Asian Survey*, 18(2), 279-292.

Obstacles, Issues and Challenges of Panchayati raj in Jammu and Kashmir

❖ Impact of militancy upon Panchayati raj

Rise of militancy and establishment of Panchayati raj system started simultaneously in 1989 in Jammu and Kashmir. Militancy in Kashmir valley arises due to various reasons such as delay in solving Kashmir issue, failure of Muslim United Front (MUF) in 1987 election, miss-governance and renunciation of democracy. Unfortunately, the principles of democracy had not worked in a way that it was expected to work in a free society. The entire Valley was on boil, chaos and disorder that has been continuing from the 1990s. Militancy in Kashmir valley remains the major obstacle to the development of state, and concerns such as elections at the Centre level, state level and village level (Panchayat election) and other social and economic welfare of the state. Due to militancy Panchayati raj was mostly was affected. Militants warned people not to participate both as a voter and as a candidate in election campaign. Almost 25 Panchayats had been killed since from 2011. Although there is no any full proof evidence against the involvement of militants behind these Panchayat casualties it was just allegation upon militants. Around 150 Panchayats resigned during the year of 2015 because of these threats received from militants through social media, posters even sometimes used to go their home, Panchayat members mostly in South Kashmir region has more been affecting with militancy.⁴

❖ Impact of Violence's upon Panchayati raj in Kashmir

Violence has become a multi-disciplinary approach, it may be political violence, social violence, and human right violence. It can be scrutinized in different social scientific viewpoints. For Mills 'all politics is scuffle for power, the ultimate power is violence' (Mills, 1956). It has been observed wherever and wherever violence's took place it impacts whether it is political, social and religious, it impacts were upon people and their society. Kashmir is the unmanageable dispute between India and Pakistan. Since from 1989, thousands of people from Kashmir were abducted, tortured, humiliated and killed because of this dispute. Some of the major incidents of massacres and rape related issues has been mentioned in the study these are, Bijbehara massacre on October 1993 which took place between the peaceful protester and the 74th Battalion Border Security force (BSF) in the Kashmir valley. According to hearsay the BSF had fired upon the crowd without any cause, this massacre takes the life of 51 civilians. Another massacre was happen on January 1990, while the Indian paramilitary forces Central Reserve Police Force (CRPF) opened fire upon the protesters at the Gowkadal area of Srinagar, this incident was known as Gawkadal massacre, it has been believed as "the worst massacre in Kashmir history" at least 50 people were killed. The massacre has happened just a day after the Government appointed Jagmohan as the Governor of Jammu and Kashmir. Since from militancy 41,000 people have last their life in Kashmir, as per latest Government data, the casualties included civilians, security personnel and militants these

⁴ Greater Kashmir (2015). 13 panchayat representatives killed since May 2011

<http://www.greaterkashmir.com> >...

are 14,000, 5,000 and 22,000 respectively since from 1990 to 2017. Which means an average of 4 deaths per day or 1519 casualties per year in the state. Killing is enough to describe violence, women's has been raped by the militants, Ikhwan and Indian forces, as per the Human Right Watch report on February 23, 1991 a major rape incident was occurred in the twin village of Kunan and Poshpora located at Kupwara district in Kashmir when Indian army launched nocturnal Search and Interrogation operation. It was reported that at least 100 women were gang raped by soldiers that night⁵. After that on May 2009 two young women were abducted, rape murder allegedly by Indian troops in mysterious circumstances. This kind of Incidents are responsible for alienation of people from mainstream. This arises outrage among people against the government. And it also leads to demonstration, protest and boycott against Panchayati campaign elections etc. Owing to violation in Kashmir Panchayati election was delay in many times. In 2016 government announces Panchayat polls date, however circumstances were not favourable for panchayat polls in valley. In recent past in 2018, Panchayat election was held although it seems impossible as state emergency is prevailing in Kashmir. Despite of all, governor successfully conduct panchayat election in valley, total voter turnout was recorded 32.3%. In South Kashmir region, voter turnout has been recorded 5%, in which, Shopian (0%), Pulwama (0.6%), Anantnag (6.2%) and Kulgam (14.5%) were recorded.

❖ Lack of awareness

Since from the last decade situation is very tense in Kashmir, melancholy among masses are noticeably seen. Under these miserable conditions they are not interesting to participate in elections. On the other hand, unconstitutional party such as separatist leaders and militant organizations constantly try to make distance to the masses from polls. There are some other reasons mentioned in the above are responsible to keep people away from Panchayats and other institutions. There is no proper understanding of Panchayati raj among people at villages, lack of knowledge regarding Panchayati raj, less political socialization, terror threats and pathetic political system, etc. Lack of communication channels through which people getting aware of Panchayati raj even Panchayat members unable to develop awareness and strengthen trust among people Panchayat election. On the other intimidations receiving from militants' people deliberately keeps themselves away from Panchayati raj. Thus, there is a need to afford support of both the elected representatives and the community members to comprehend the significance of Panchayati Raj, its role and importance in the entire practice of sustainable development.⁶

❖ 73rd Amendment 1993 was not implemented

73rd Amendment act had introduced in 1992, by the congress administration under the Prime Minister P.V. Narsimha Rao. It decentralizes power at the grass root level. Eleventh schedule of Indian Constitution consists 29 functional items related to Panchayats. Furthermore, the Act provides wide power and authority to the Panchayati Raj institutions. It also provided reservation

⁵ Kunan Poshpora incident-Wikipedia

<http://en.m.wikipedia.org> > wiki > Kunan Poshpora

⁶ Sheikh, Y. A. (2014). „Journey, Hurdles and Challenges before the Panchayati Raj Institutions in J&K'. *Research on Humanities and Social Science*, 4(14), 16-19.

for women and weaker sections. Unfortunately, provisions of 73rd Amendment Act was applicable in Jammu and Kashmir, as it has its own Panchayati raj act. Under article 370 of Indian constitution which gives special status to J&K. It has its own Panchayati Raj which are different from 73rd Amendment Act. However, some of its provisions were incorporated, through amendments, in the State Act. Lack of power and any authority to the panchayats people hardly attracted to the Panchayats Raj institutions. “If required powers are not devolution appropriately, there has been clash among decision-makers with each other. There has already been moving Panchayat members by officials at several places. There have many cases of Panchs and Sarpanches protesting the non-delegation of necessary powers by government. For instance, on December 15, 2011, Panchs and Sarpanches of district Kulgam in South Kashmir come to the streets and staged rallies against what they called the government’s failure policy to empower them” (Wani 2011b)

❖ **Illiteracy in Panchayati Raj**

Another concern to the Panchayati Raj system in Kashmir is illiteracy among the members of Panchayati raj. A person can get wisdom only from education, so a wise person makes a judicious decision in the society. Education is only tool people has an important impact on the politicians in both stable democracies and post-communist states. In Jammu and Kashmir often panchayat member are illiterate people, they cannot distinguish their Panchayat body appropriately. They could not appropriately make efforts for the well-being of the societies. They have no such capacity to properly understanding governmental policies, schemes and other measures, how to executing works, judicial processes or the Constitutional provisions, neither they know how to discussing concerns with higher authority nor they can demand Panchayat level scheme for village development, lack of communication skills among these members. It has been perceived that Panches and Sarpanches’ are enabled to read documents and put their seal to any page without knowing. Many of them are not able to sign or write their name and trust upon thumb imprint. Illiteracy among the leaders are one of the major issues before Panchayati Raj system in Kashmir.

❖ **Less participation of people in panchayat election**

In democracy people’s participation is essential for the overall development of rural masses. Participation mainly concerned with increasing the role of citizens to choosing their local leaders and to guiding these leaders what to do- in other words, providing ideas into local governance. This implies the inputs given by authority and includes people’s participation. To electing representative participation of all masses is necessary in election campaign, to make the system more accountable and transparent. The success of the panchayats in Kashmir has intrinsic merit and long-term ramifications for our unity. J&K’s Panchayati raj system has strong bridge value, being the only issue of substance that links the state’s three regions — Jammu, Kashmir and Ladakh — otherwise divided by language, religion, topography, food, dress and politics.

❖ **Lack of funds**

Lack of funding remains biggest hurdle to the Panchayats in J&K. In many cases it has scrutinize that the village Panchayat members with consultation of Gram Sabha prepared a plan for village level development. Same plan cannot be implementing for higher authority. The development and Rural department officers change these whole plans with their own consent, which is directly

attack on autonomy of village Panchayat. It is important to build capacities to all elected member of Panchayat which handle all these funds and implement it in all village level development of Halqa Panchayat.

❖ **Delay in Panchayati Raj election**

In the Jammu and Kashmir constitution, it has been clearly mentioned that Panchayat election will be held after every five year in the state, because of violence and political instability prevailing in Kashmir Panchayat election are not conduct on time. In the history of Kashmir first election held in 2001, second time in 2011 and third election should be held in 2016 but government failed to conduct Panchayati election till now. On July 2016, Legislative Council of Jammu and Kashmir passed an amendment bill for Panchayati Raj election to authorized indirect elections of Sarpanches by Pinch's rather of a direct election; it is also creating a big challenge to local level democracy. After some time in December 2016 state Governor (N. N. Vohra) alteration to issue Jammu Kashmir Panchayati Raj (amendment) Ordinance bill which authorize the State Chief Electoral Officer. And again, N. N. Vohra (Governor) on 4, November 2017, has authorized for the proclamation of Jammu and Kashmir Panchayati Raj (amendment) law 2017, that there should be no delay and start preparations for the conduct of the pending elections 2016 "Minister for Rural Development department Abdul Rehman Veeri and Chief Minister Mehbooba Mufti said after convenience all-party meeting to take decision on Panchayat elections, and came to the point that The situation of state is not in a favourable position for election and Panchayati Raj election cannot be held on 15 February 2016.⁷

Suggestions

In Jammu and Kashmir, Panchayati raj has always been in problematic condition. Establishment of Panchayati raj and the rise of militancy came into existence together. Militancy always remain major threat to the Panchayati Raj bodies. If the governance is to be contained in appropriate way, we need to comprehend that the Panchayat Raj bodies are to be made answerable before the higher authorities. Why cannot we go for the instrument which makes the Panchayats the bodies of model governance? If the government is arranging to fix the pay of Sarpanches then and there the first step, we must take is to guarantee the whole transparency in the working loops. If government is so worried why cannot we go for the laws which will convey the Panchayats under the promo of transparency? Most often we go through the dishonest of funds by the Panchayats in newspapers. The following proposals should be discussed so that PRI's in Jammu and Kashmir can be made well-organized and transparent: -

1. Government should create peaceful environment to dialogue with Separatists group. Which always remains threat to the Panchayat members.
2. There is a need to have a constant pattern of training programmed for PRIs officials. This training should have a basic prospectus common throughout the country.

⁷ ibid

3. Those panchayat members should not be permitted to become the part of elections that those have criminal background
4. Qualification should be made mandatory for Panchayat representatives, up to the 12th standard.
5. There should a complete mechanism of transparency concerning the works allocated to panchayats,
6. There should be a comprehensive instrument of social audit in panchayats.
7. There is a great need to implement all laws and clauses of 73rd Amendment Act in Jammu and Kashmir Panchayati Raj System.
8. A fixed monthly remuneration should be given to all Panchayati members of Jammu and Kashmir.

Conclusion

In present study, the challenges and issues before Panchayati Raj system in Jammu and Kashmir is much more as compare to other all Indian Panchayati Raj system challenges and issues. Jammu and Kashmir Panchayat Raj system is in miserable conditions nothing is going in a proper way. Panchayati Raj system is suffering from lot of challenges as all mentioned in the above. Likewise, political instability of state, different militant organizations are also responsible for creating challenges to Panchayat Raj system.

Decentralization of power to the village level is reflected real connotation of democracy. Jammu and Kashmir Panchayati Raj Act, 1989 had several drawbacks but still it also had possibility for progress. It could have certified to be a turning point in renewal of a rigorous and feasible Panchayati Raj System in the State, if the State were not confronted with continuous political instability which has overwhelmed its whole democratic process. But if social justice is objective of law i.e., equal distribution of resources to all social groups without panic or kindness, without appropriation or deficiency, — administration, political and economic power must be shared meritoriously with the people, with all the social groups, who resides this vast land. In the present scenario, the concept of Panchayati Raj has come to be recognized as enhance of democracy up to the village and has found favour amongst politicians. It is repeatedly said that mere use of the right to elect representatives in the central and the State legislatures is not enough for the ordinary people. In other words, the conception of participation of the masses should be considered as an ideological commitment and, therefore, what is needed is legislative and structural measures to give legality to people's participation. From the part of the Government, infrastructural facilities must be advanced so as to help in economic transformation of the villages. Furthermore, consolidation the Panchayats and giving them more powers could greatly help to upliftment rural sector and enhancing the conditions of the poorer divisions of the society.

In previous study, it is clearly mentioning that Panchayati Raj system are not functioning appropriately due to various hurdles issues, and challenges in Jammu and Kashmir. Challenges of Panchayati Raj system is much more as parallel to other all Indian Panchayati Raj system challenges and issues. These challenges are fear of militancy, miss-governance, Jammu and

Kashmir Panchayat Raj system is very poorest there is a temporary Panchayati Raj system; nothing is going in a democratic way. Panchayati Raj system is further suffering from structural and functional problem as all above mention. Likewise political condition of state, 73rd Amendment Act 1992 of Indian constitution was not implement in the state of Jammu and Kashmir, which provide extension powers to the Panches and sarpanches, lack of proper guidelines, unawareness of Panchayati, , lack of infrastructure, lack of funds, lack of transparency, corruption, delay in Panchayati election, uneducated Panches and Sarpanches, threats from, different militant organization, These are the challenges that Panchayats raj has faced in Jammu and Kashmir.

This will guarantee non-interference of Block Development offices (BDOs) in day to day activities of panchayats. Elections must be held compulsorily to these Panchayats after every five years to make sure continuity in local self-governance. There must be enough allocation of power and authority to these local bodies so that to make the ideas of democratic decentralization meaningful. Government should provide resources to Panchayats to make financially healthy by adequate allocation of funds and by enabling them to raise their own funds. The law and order must be improved. To inspire people to be a part of participatory Government. Problems of corruption in the Panchayati Raj Institutions must be prevented, to reaffirm people's faith and trust in these institutions. Government officers should also be informed about the significance of Panchayati Raj and its constitutional status.

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