

***Panchayati Raj System Of Jammu And Kashmir: Issues And Challenges*****Mehwish Bukhari**

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**Abstract:**

Panchayati Raj institution is a fundamental tool of Indian vote based decentralization process from central government to rural government. Panchayati Raj framework is the main source which gives an extraordinary chance of full democratic based government system, political mindfulness, insurance of rights, equitable basic leadership process, self-government, and political power, to the rural individuals. Panchayati Raj institution is a genuine process which gives single administrative arrangement and advancement to the Indian rural masses. Panchayati Raj plays a pivotal role in bringing and strengthening democracy at grass root levels in India. In State of Jammu and Kashmir panchayati Raj Institution was enacted by the Act of 1989. Present paper is a detailed study of panchayats as units of rural local self government, various problems faced by these institutions and the difficulties faced by the Jammu and Kashmir Panchayati Raj institution in the present situation.

**Keywords:** Democracy, Decentralization, Panchayati Raj, Constitution. Panchayati raj acts.

***1. Introduction***

The panchayati raj system is not a new concept to India; it has been one of the most archaic systems of local self government in rural India reflecting the essence of direct democracy. The concept has its roots in South Asian region especially India. Panchayati raj is paramount to Indian democratic governance. Indian Government is divided at three levels i.e. Centre, state and local. Local self-government deals with the local affairs of the villages and the authorities who govern are supplementary to the state government but elected independent of the state authority. The Panchayat consists of assembly of five members who govern the village. The meaning of Panchayati Raj is 'Rule of Five Members'. Thus, Panchayati Raj system is 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' (Siga. G, 2014). The Panchayati raj system in India insures that it is accountable for local administrative concerns, particularly in rural areas. The process of decentralization of government makes people close to governance and conscious of their responsibilities towards government. The process also makes them feel that they are part of governance somehow (ibid). The system also works at the grass root level that represents the culture of direct democracy.

The panchayati Raj system exists in almost all states of India except some of the states such as, Mizoram, Meghalaya, Nagaland and Northeast. The existence of Panchayati raj institutions in villages make peoples' life easy as it settles local disputes and endorse them to participate in political decisions that leads to their own welfare. In ancient India, there was concept of Panchayats in the form 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'. The Manusmriti and Kautilaya's Arthashastra , includes reference of Panchayat system in the form of Gram sanga (R. Gull, 2017). Further, during the British period, the creation of law-based decentralized provincial government is an example of panchayat raj mentioned in Mayo's objectives (1870) and Ruler Rippon's objectives (1882). The Report of the Royal Commission on Decentralization (1909), and the Government of India Acts of 1919 and 1935 have further contributed in this direction (Malik, 2002). The great philosopher, Gandhi ji known as father of nation, also laid stress on village self-government i.e. 'Swaraj' which is now the basic pillar of Panchayati raj in India.

After Independence of India, the government took several measures to establish organized structure of Panchayats in India. In January 1957, government of India, created several committees to take a glance at Working Development Programme 1952 and National extension service 1953 to propose measures for their better working. The various committees appointed by the government were Balwant Rai Mehta committee in 1957, Ashoka Mehta committee in 1977, G. V. K Rao committee 1985, L M Sanghvi committee in 1986 and others (K.Subash, 2003). These committees recommended different tiers of Panchayati three-tier Panchayati raj structure, two-tier and four-tier Panchayati raj system that is found in Karnatka. Several attempts were made to get the Bill passed in the Parliament to assign constitutional status to Panchayats.

Finally, Panchayati raj structure was given constitutional status under article 40 in 1992 by 73<sup>rd</sup> Amendment act. Rajasthan was inaugural state to develop Panchayati raj institution. The official arrangement of Panchayat structure was presented by Nehru on October 2, 1959, in Nagaur district of Rajasthan and followed by Andhra Pradesh and other states. The Panchayati raj institution (PRI) was accepted by other states by mid 1960s (C.Bidyut, 2003).

## ***2. Development of Panchayati raj institution in Jammu and Kashmir***

The process of decentralization of government involves people's contribution in decision making process at the gross root level. The Panchayati raj institution was introduced to the state of Jammu and Kashmir by Maharaja Hari Singh by passing Jammu and Kashmir village Panchayat Regulation Act i.e. Act no. 1 in 1935. His aim was to create more valuable Panchayati raj institution through this act. The Panchayati goals act no. 1 went under revision in 1941 by the Maharaja, whereby, elements of 1935 control were enlarged. The demonstration of 1951 made Panchayati raj institution to be restored (Punjabi, R. 1990).

The government of Jammu and Kashmir, with the establishment of Panchayati raj system introduced various committees of trustees on Panchayati raj in Jammu and Kashmir. Finally, in April 1988, the act 'J&K Panchayati raj act 1989' was presented that appeared in March 1989 (ibid). The state of Jammu and Kashmir has established three-tier Panchayati raj like most of the states of India. The patterns of three tiers are as follows:

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

There is Panchayati Adalat also in addition to the above three that deals with both criminal and civil Jurisdiction. Jammu and Kashmir has its own Panchayati raj act 1989 that differs from 73<sup>rd</sup> Amendment act of 1992. The state of Jammu and Kashmir has established the Panchayati raj institution but has failed to implement it in a true sense. The state does not hold regular Panchayati Election due to the absence of state election commission and state finance commission (Iqbal Mohd, 2011). The Panchayati raj institution in J&K suffers from various issues and challenges as states' government fails to provide financial and security support to the Panchayati raj institutions. There is lack of funds to the panchayats, if available, that are created

in relation to some centrally sponsored schemes. These kind of problems are rare concerns of Sarpanches in J&K (Joshi R.P. 2005).

### **3. Panchayati raj system in Jammu and Kashmir: Issues and Challenges**

#### **3.1. Lack of participation of people in panchayat election**

Democratic culture demands high people's participation for the overall development of the society. Participation makes citizens to choose their local leaders and guide them leaders regarding good welfare schemes for them. This includes the input output channel of demand and supply between leaders and their subjects and that leads to effective governance. For the election of representatives, participation of all citizens is necessary in elections so that system can become more accountable and transparent. The success of the panchayats in Kashmir is paramount for Indian unity and democratic culture. Panchayati raj system in Jammu and Kashmir is the only strong tool that links the state's three regions- Jammu, Kashmir and Ladakh that are divided by language, religion, topography, food, dress and politics (Mishra A.K, Akhtar Naved, & Tarika Sakshi, 2012).

#### **3.2. Violence in Panchayati raj in Kashmir**

These days violence has become an another factor that made the practice of democratic principles unsuccessful in the state of J&K. It has developed into various dimensions such as political violence, social violence, and human right violence. The Kashmir valley has been a disputed land between India and Pakistan that is still not resolved. The dispute led to abduction, torture, humiliation, killings of thousands of people till now (Gursharan Kaur and Paramjit Kaur Dhindsa, 2012). Numerous incidents of massacres and rape related issues has been mentioned in studies, for instance Bijbehara massacre on October 1993, that occurred between the peaceful protester and the 74th Battalion Border Security force in Kashmir. It is said that the BSF attacked the crowd without any cause. The massacre took the life of 51 civilians. There are number of such massacres that take place in the valley of Kashmir (ibid). Another such massacre was Gawkadal massacre happened in January 1990, Whereby, Indian paramilitary forces Central Reserve Police Force (CRPF) opened fire upon the protesters at the Gowkadal area of Srinagar. It is considered as "the worst massacre in Kashmir's history". Following to Jagmohan's appointment as the Governor of Jammu and Kashmir, the massacre took place. According to

latest Government's data, the casualties include civilians, security personnel and militants; there numbers are 14,000, 5,000 and 22,000 respectively since 1990 to 2017. Thus, it shows that an average of 4 deaths per day takes place or 1519 casualties per year in the state. Killing is not the only form of violence in Kashmir, women's are being raped by the militants, Ikhwan and Indian forces as well. According to the Human Right Watch report, on February 23, 1991, a barbaric rape incident occurred in twin village of Kunan and Poshpora of Kashmir during nocturnal Search and Interrogation operation by Indian army. It was reported that at least 100 women were gang raped by soldiers that night (Sheikh, Y. A. 2014). Such incidents create fear among public and make them alienate from mainstream. This also leads to outrage among people against the government that result into demonstration, protest and boycott against Panchayati campaign elections etc.

### **3.3. Kashmir's failure to implement 73<sup>rd</sup> amendment act 1992 of Indian constitution**

The 73rd Amendment was introduced in 1992 by the Primes minister P.V. Narsimha Rao for decentralization of power at the grass root level. The Act has also provided wide power and authority to the Panchayati Raj institutions in India. The Constitution in its 11<sup>th</sup> schedule laid 29 functional items that are related to Panchayats. It has also provided reservation for women and weaker sections (Wani, 2011). Unfortunately, provisions of 73rd Amendment Act was not applicable in the state of J & K because of its own Panchayati raj act under article 370 of Indian constitution. Article 370 of the Indian Constitution provides special status to J&K, therefore, it has build its own Panchayati Raj that differs from 73<sup>rd</sup> Amendment Act's panchayati raj. However, some of its provisions were incorporated, through amendments, in the state Act. Due to lack of power and authority to Panchayats, people are less attracted towards panchayat culture. Devolution of power is not done appropriately and there remains conflict among decision-makers. Panchayat members are always transferred by officials at several places (ibid).

There are numerous instances, whereby, Panchs and Sarpanches protesting the non-delegation of necessary powers by the government. As in 2011, Panchs and Sarpanches of district Kulgam in South Kashmir came to the streets and staged rallies against government's failure policy to empower them" (ibid)

The Panchayati elections in Kashmir are delayed many times due to such violence practices as in 2016 government announces Panchayat polls date but such incidents and violence created

unfavourable environment for panchayat polls in the valley (Rising Kashmir, 2018). Only in 2018, elections were held in Kashmir, despite of state emergency in the state as governor remained determined for the successful conduction of elections in the state. It was reported that 32.3% voters were turnout. The disturbed region of South Kashmir was recorded with 5% voter turnout. Thus, violence is a big hurdle for the successful implementation of panchayati system in Kashmir.

### **3.4. Impact of militancy upon Panchayati raj institution in J&K**

Militancy is the major issue in the state of J&K that arises due to various reasons such as delay solving Kashmir issue, miss-governance and reunification of democracy, 1987 election, whereby, failure of Muslim United front. The Panchayati raj system and growth in militancy started simultaneously in 1989. The Kashmir valley went through lots of chaos, disorder, and anguish since 1990s. The democratic principles could not work in the state of Kashmir somehow that made the valley more worse and the system of Panchayat unsuccessful (Greater Kashmir, 2015). The issue of militancy in Kashmir is a big hindrance in the process of democratic development of the state, elections at the centre and state level, village level and socio-economic welfare. The militancy has affected Panchayati system at a large level in Kashmir as people are warned or threatened by militants not to participate in the village elections both as a voter and as candidate (ibid). For instance, 25 panchayats had been destroyed since 2011 but there is no proven evidence of involvement of militants in destroying these panchayats. In addition to this, more 150 Panchayats resigned due to fear of threats received from militants. The panchayats members of South Kashmir are mostly being affected by militancy (Indian Express, 2017). The State Government of Jammu and Kashmir had recently announced for new Panchayati Raj election which would be conducted from February 15, 2018. But separatists 'call for the boycott of Panchayati Raj election' and threat issued by the militant organization through an audio clip viral on social media said that “pour strong acid-sulfuric acid or hydroelectric “into the eyes those people how to stand for the upcoming Panchayati Raj election.<sup>36</sup> In this way, the present situation of Jammu and Kashmir Panchayati Raj is facing a big challenge especially from militant organizations and separatists groups.

### **3.5. Illiteracy among Panchayati Raj members**

Illiteracy is another factor in Panchayati Raj system in Kashmir is illiteracy that poses challenge to its functioning. Most of panchayat members are illiterate. Education gives knowledge, awareness and wisdom to people so that good and fair decisions can be taken without any discrepancy. Education enables democracy to function in a proper manner. In Jammu and Kashmir often panchayat member are illiterate people, thus, they lack awareness about Panchayat system. They are unable to take wise decisions for the welfare of the societies. They lack capacity understand governmental policies, schemes, judicial processes or the Constitutional provisions. They also lack discussing capacity and communication to discuss with higher authority about the demands of Panchayat level schemes for village development. Due to absence of education, Panches and Sarpanches' are not able to read documents, sign or write their name and trust upon thumb imprint. Education is one of the key factors that affect panchayati raj system in Kashmir (Raghunadan, T.R, 2013)

### **3.6. Lack of awareness among masses**

The situation in Kashmir remains very tense and confusing that makes people away from political environment. Due to miserable conditions, people are not interested to participate in elections. Apart from this, separatist leaders and militant organizations constantly brainwash the masses to keep them at distance from polls (P. Rakesh, 2011). There is lack of proper understanding of Panchayati raj among the village people in Kashmir, less political socialization, terror threats and pathetic political system, etc. that tends to create lack of interest for Panchayats in Kashmir. There are no communication channels that can bring awareness among people for Panchayati raj. The Panchayat members are also unable to develop awareness and strengthen trust among people. On the other hand, militant threats make their situation vulnerable and people feel safe by keeping themselves away from panchayati polls (ibid). Thus, it is necessary to create awareness among people regarding local elections and to support both elected representatives and the community members to acknowledge the significance of Panchayati Raj system and the benefits it can provide to the rural society for its socio-economic development.

### **3.7. Lack of funds for panchayats**

Funds are highly important for welfare schemes and development of rural areas and their lack in J&K remains biggest hindrance to the Panchayats in the state. It has been observed by various studies that Panchayat members through consultation with Gram Sabha prepare a plan for the Development of their village but they could not succeed due to lack of funds from higher authorities. Their plans are changed by development and Rural department officers, which reflect direct attack on autonomy of village Panchayat (Chandra Pradhan Ram and Joseph K Siby Joseph, 2014). Thus, it is necessary to build capacities to all elected member of Panchayat so that they are able to handle funds and promote development schemes in their villages.

### **3.8. Panchayati Raj election's delay**

The J&K's Constitution, clearly mentions that Panchayat election will be held after every five year in the state. Due to violence and political instability in Kashmir, these elections could not conduct on time and gets delayed. For instance, first election was held in 2001, second in 2011 and accordingly third election should be held in 2016 but government failed to conduct Panchayati election till now (Singh Rajinder, 2018). In 2016, Legislative Council of Jammu and Kashmir passed an amendment bill for Panchayati Raj election to authorize indirect elections of Sarpanches by Panch's instead of a direct election. This poses a huge challenge to local level democratic culture. The state's Governor, N. N. Vohra in 2016 brought changes to issue Jammu Kashmir Panchayati Raj (amendment) Ordinance bill that provides authority to the State Chief Electoral Officer. And again, the governor in 2017 had proclaimed Jammu and Kashmir Panchayati Raj (amendment) law 2017 to stop the delaying in elections and start preparations for the conduct of the pending elections 2016. Afterwards, Rural Development Minister, Abdul Rehman Veeri and Chief Minister Mehbooba Mufti said that the "The situation of state is not in a favourable position for election and Panchayati Raj election cannot be held on 15 February 2016"(ibid).

### **3.9. Lack of security for panchayat leaders**

In 2011, in J&K, Panchayat election was held which was the overall enthusiasm of the people and a positive change for democratic resilience. It was recorded that 80% voters turned out. According to some estimates, the turnout in the Kashmir valley was over 77.71%. The young

people especially participated in the electoral process and most of them joined the election trying their luck as the candidates for Panch and Sarpanch constituencies. Unfortunately, the elections were held in a chaotic situation as armed conflict was prevailing at the same time in Kashmir. Most of the Panchs and Sarpanchs were killed by unknown gunmen in J&K after the election. Even the civilians were killed, especially women so that a message could deliver to voters that they should not be participate during the election. The killings of some Sarpanchs in the state have created an atmosphere of fear and insecurity. After killings, many Sarpanchs and Panchas had declared resignation. In Baramullah and Srinagar districts about 63 percent of the total Panch constituencies were declared vacant. Thus, the threat has created a demand for security and protection for Sarpanchs and Panchs life and their families. Minister for rural development and Panchayati Raj informed the state assembly that six Sarpanches were killed and three injured in Baramulla district, while three were killed and two injured in Pulwama. He also informed that in 12 districts of Kashmir, 20 Sarpanches and 128 Panches have resigned due to insecure conditions and threats from militants." Security is the main necessity for peaceful and fair election process (Times of India, 2011).

### **3.10. Large scale Corruption in Panchayat**

Corruption is the biggest factor that can create hindrance in any kind of government functioning. In Jammu and Kashmir, Panchayati raj system is under the umbrella of this great issue. It is embedded in every administrative department of Panchayat. It is mostly seen in *Halqa* Panchayat and administrative level in J&K Panchayat System. If the worker finished their work in January they will get there pay next year because of corruption. It means ground level corruption is more prevalent. Moreover, due to corruption, development schemes are not implemented at a full strength. Corruption is a big hindrance to grass root democracy (Rising Kashmir, 2018).

### **3.11. Lack of autonomy to Panchayat Raj institution**

In Jammu and Kashmir Panchayati Raj system is mostly governed by state government and administrative body. Panchayat development process is done at village level but payment system is controlled by administrative employees that create a great barrier between workers and village level development works. The worker's payments remain pending as administrative body does not pay them on time. The relation between Panchayat Raj system and state government is also

not good even though the act 1989 provides three tier systems but state government has failed to implement it ( Palanithurai. G,2006).

### **3.12. Seasonal Migration**

Seasonal migration is another reason that makes most of the population absent in Panchayati elections of J&K. For instance, if the Panchayat election in Kashmir held in the summer season, then most of the tribal population is not able to participate in this election as in summers, the nomadic tribes shift toward the hilly area with their cattle. The tribal population is third largest population of the state. Even then, these are deprived of Panchayati Raj development facilities that make the tribal less interested in Panchayati Raj election. Similarly winter season, is a great challenge because in winters almost whole Jammu and Kashmir is in grip of snow. Therefore, all work related to development is closed and maximum people remain in their houses in winter due to the heavy snowfall and cold, even if it is a time of election or any other development work. The climate and weather is also a challenge to the Panchayat system in Kashmir (MRD, 2013).

### **3.13. Poor infrastructure of Panchayati Raj system**

The Panchayati infrastructure is another issue in J&K as there is no developed Panchayati infrastructure in the village. If it's available, then the staff of Panchayat is not available there. There is lack of link road and good transport in most of the hilly areas that keeps people aloof from the system. Most of the time, it is seen that the polling station is away from hilly areas population and they could not cast their vote. Due to the lack of road and poor infrastructure, transport, people avoid all activities of the Panchayat. Thus, infrastructure is also a big challenge of Panchayati raj system (Kumar. A,2014).

### ***Conclusion:***

The state of Jammu and Kashmir has been suffering from major issues of instability and dispute between India and Pakistan. The Kashmir issue is still unresolved due to which, the principles of democracy cannot be seen in a true sense. The chaotic situation and various challenges make the state vulnerable and resilient for democratic culture. There are numerous challenges that are observed in the proper functioning of the panchayati raj system in J&K. The very first and

foremost challenge is that, J&K does not follow 73<sup>rd</sup> amendment act for its panchayati system. The other challenges are equally important such as rise of militancy, poor infrastructure, lack of autonomy to panchayats, lack of funds, security to panchayats, lack of education, etc. All such challenges are to be fought for the smooth functioning of Panchayati raj system in J&K that could be a great message for grass root democracy and also a unity for India.

These challenges can be fought with various peaceful measures but for this purpose state government needs to be cooperative and supportive with central government and Panchayats in Kashmir. The government should educate and make people aware of such systems and preach them lessons on democracy and development so that they do not hesitate or fear to participate in the panchayati elections. People should know the importance of such elections for the development of their society. Also, security is the main concern for people as well as panchs, therefore, it should be provided by the government to ensure people that no chaos will happen during the elections. Militants should be provided proper education and reformation camps should be there by the government to transform their thinking process. Such positive measures can bring some stable changes in the democratic functioning of the Kashmir.

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