

CHAPTER - III

COMPARATIVE STUDY OF PANCHAYAT RAJ ACTS 1983 AND 1993.

The Mysore (Karnataka) Village Panchayats and Local Boards Act, 1959 introduced the system of Panchayat Raj in Karnataka. This Act provides directly elected Taluka development Boards and Village Panchayats. It made the District Development Council as a consultative, advisory and co-ordinative body. No plan or non-plan scheme or staff was transferred to these elected bodies though these bodies were utilised by the state government/^{to} implement various local schemes. In the process of Planned development they were almost entirely conceived as implementing bodies and not as plan formulating bodies. This experiment in democratic decentralisation was short lived.¹

For the better implementation of the rural programmes and to strengthen the local bodies, the Janata government which came to power in 1983 enacted new legislation, namely ' The Karnataka Zilla Parishads, Taluka Panchayat Samitis, Mandal Panchayats and Nyaya Panchayats Act, 1983.' This Act was enacted on the recommendations of the Asoka Committee which submitted its report to Central Government on Panchayat Raj System. This 1983, Act, provides different type of patterns of rural local bodies in the state. This Act was introduced by elections in 1987. First and last elections are conducted to Mandal Panchayats and Zilla Parishads all over the state in January 1987. These local bodies worked only for five years from 1987 to 1992. Because this act was replaced by another new Act in 1993.

In 1989 the Congress (I) returned to power in the state and tried to change the 1983 Act. It is because, Congress (I) was against this Act, at the time of enacting the Act, at both levels i.e. inside and outside the legislature. Therefore, after the completion of the duration of Mandal Panchayats and Zilla Parishads, it enacted new legislation on Panchayat Raj, called The Karnataka Panchayat Raj Act, 1993, in the place of 1983 Act. The 1993 Act is based on the provisions of the 73rd amendment of the Constitution. This Act contains 18 chapters, 321 sections and four Schedules, whereas, the 1983 Act contains 15 Chapters, and 319 Sections with 5 Schedules. An attempt has been made in this Chapter to bring out the comparative aspects of both the Acts of 1983 and 1993.

Gram Sabha :

In Karnataka, the Gram Sabha is the basic tier of the system and is an electoral college comprising all of the eligible voters in the village. Both the Acts contain the provisions regarding the constitution of Gram Sabha in Chapter II, Section 3 in Acts of 1983 and 1993, which gives the details in this chapter, about the Gram Sabha meetings, organization and functions. Both the Acts justified the importance of the Gram Sabha, they are required to meet often but at least twice in a year and six months shall not intervene between any two meetings. The meetings of Gram Sabha would enable to explain to the people, what programmes the Mandal Panchayats are executing in their area and to channelise the people's feedback to the Mandal Panchayat.

The powers and functions of the Gram Sabha described by the both Acts are same. The Gram Sabha discusses and reviews all development programmes of the village, selects beneficiaries for all beneficiary oriented programmes transferred to the Panchayat Raj System. The 1993 Act says that, in case the Gram Sabha fails to identify the beneficiaries within a reasonable time, the Executive Officer shall in consultation with the Gram Panchayat identify the beneficiaries. Such power is not given to the Secretary of the Mandal Panchayat by the Act of 1983.

Many Mandal Panchayats have failed to conduct the meetings of the Gram Sabha punctually in the last two three years. Therefore, the new Act 1993, section 3, provides that if the Gram Panchayat fails to convene Gram Sabha, the executive officer shall convene the Gram Sabha². Thus in new Act also, the Gram Sabha acquired its place with slight changes.

Mandal Panchayat and Gram Panchayat :

The Mandal Panchayat is the first elected tier of Panchayat Raj system above the Gram Sabha as provided by the 1983 Act. By grouping a number of villages, Mandal Panchayat was constituted in Karnataka on the basis of Asoka Mehta Committee recommendations. Every Mandal Panchayat is constituted with a population of not less than 8,000

and not more than 12,000 except in Malnad districts. One member is elected for every 400 rural population on the basis of Adult Franchise. The elections of Mandal Panchayats are conducted on the party basis. The total number of seats depend upon the size of population of the Mandal Panchayat. It consists of both directly elected and nominated members. Twenty five percent of the membership is reserved for women and 18% for scheduled caste and scheduled tribes. The Heads of the Mandal Panchayat are called by the name Pradhan and Uppradhan. They are elected by the elected members of the Mandal Panchayat. The Act provides that, office bearers may be removed by passing a vote of no-confidence not less than 2/3rd majority in the Mandal Panchayat.

The 1983 Act provides that, the Mandal Panchayat should meet atleast once in a month and discuss the developmental works of the Mandal Panchayat.

The Act of 1993 changed the name, the Mandal Panchayat to Gram Panchayat. It is the first elected body of the rural people of Panchayat Raj institutions. The new Act provides a village or group of villages having a population of not less than five thousand and not more than seven thousand to be a Panchayat area and in Malnad districts an area with a population of not less than 2,500 may be so declared as a Panchayat area.³ The members of the Gram Panchayat should be elected directly by the people on the basis of adult franchise. One member should

be elected for every four hundred rural population or part there of the Panchayat area. Seats are reserved in Gram Panchayat for Scheduled Castes and Scheduled Tribes and women. Not less than 15% of the total number of seats in the Gram Panchayat should be reserved to the people of scheduled castes and not less than 3% in the case of scheduled tribes. One third of the total number of seats ^{of} /the Gram Panchayat shall be reserved ₄ for persons belonging to the Backward classes.

The Act of 1983 did not provide the reservation for Backward classes. But for the first time, the 1993 Act reserved one third seats for these classes. This Act also provides that, not less than one-third of the seats reserved in each category should be reserved for women belonging to scheduled castes and scheduled tribes and also to Backward classes. Another not-able factor of this Act is, out of non-reserved seats one-third seats will be reserved for women. The 1983 Act, reserved 25% of the total seats for women, but this new Act gives more scope to women of all categories to participate in the development of the village. No Act of Panchayat Raj of this country, provides such type of reserved seats for women. Those who have attained the age of twenty one years are qualified to contest the elections of Gram Panchayat.

The office bearers are known as the Adhyaksha and Upadhyaksha. They are elected by the members of Gram Panchayat. The high light of this Act is that, not less than 15% of the total number of offices of Adhyaksha and Upadhyaksha are reserved for scheduled castes,

3 % for the scheduled tribes and 1/3rd number of offices should be reserved for Backward classes and 1/3rd number of offices are reserved for women in each category and non reserved offices of Adhyaksha and Upadhyaksha in the state. Generally, these offices are acquired by the high caste people in India but now the posts of office bearers are also reserved for low caste and weaker sections of the society which is a landmark contribution of the Act of 1993.

The term of office of the Adhyaksha and Upadhyaksha is five years. The Act of 1983 and 1993 provided that, one third of its members are required for quorum for the meeting of Mandal Panchayat and Gram Panchayat respectively. According to 1983 Act, each member of the Mandal Panchayat is paid Rs. 15/- per day for his attendance for the meeting of Mandal Panchayat or its committees. But this amount is raised up to Rs. 20/- by the Act of 1993. Both the Acts encourages the constitution and working of committees. The same committees are provided by the both the Acts which are as follows:

- i) Production Committee.
- ii) Social justice committee, &
- iii) Amenities committee.

More or less the same functions are performed by the Mandal Panchayat and the Gram Panchayat. Chapter VI of the 1983 Act, gives the details of the functions, which are performed by the Mandal

Panchayat. The developmental functions included like sanitation and health, public works and amenities, developmnt of agriculture, horticulture,, and animal husbandary within the area of Mandal. It also performs such functions which are essential for welfare of scheduled castes, Scheduled Tribes and Backward classes. Supply of water for drinking and other purposes. It serves for the development of Mandal area. Soil conservation, assistance ^{to} Villagers during scarcity conditions and natural calamities. It will enclurage cottage industries, the co-operative societies, social forestry and welfare of women and children. It has power to organise rural sports and implementation of schemes of adult literacy.

The functions of the Gram Panchayat are provided in schedule I⁶ of the 1993, Act. Some new functions are added by the Act to perform by the Gram Panchayat like development of fisheries in the villages, promotion and development of non-conventional energy schemes, promotion of public awareness and participation in poverty alleviation programmes ensuring enrollment and attendence in primary schools, participation in effective implementation and monitoring, promotion of public awareness with regard to the distribution of essential commodities, monitoring the public distribution system etc; and all functions which are performed by the previous Mandal Panchayat. These new functions are given to the Gram Panchayats for the all round development of the villages.

In the financial matters, the Act of 1983 gives the power to Mandal Panchayats to levy the taxes and collect the fees by different items such as tax on lands, buildings professions, trades, fairs, vehicles and marriage tax and fees on bus stands, markets, cart stands water ect. This amount goes to Mandal Panchayat Fund which is established by the Act of 1983, Under Section 114 (1). Other than taxes and fees, the government shall give a grant at the rate of ten rupees per person residing in the Mandal area calculated on the basis of the last preceding census provided that 25 % of the amount so granted shall be paid by the government to Zilla Parishad. Further, a Mandal Panchayat may levy a duty on transfers of immovable property.

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The 1993 Act established the Gram Panchayat Fund which consists the same items of taxes and fees which are collected by the Mandal Panchayats. The new Act provides for a basic grant out of collection made by the government by the way of local cess and all items of land revenue. Apart from the taxes and fees of the Gram Panchayats, the government shall make annually a grant of one lakh rupees to each Gram Panchayat which shall be utilised for meeting the electricity charges, maintenance of water supply schemes, sanitation and other welfare activities.

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The government may make discretionary grant to the Gram Panchayats with some conditions.

For the development of the village the new Act tried to strengthen the financial position of the Gram Panchayat. Both the Acts

provided a executive officer called as Secretary to maintain the official records and to execute th functions of the Panchayats.

TALUKA PANCHAYAT SAMITI AND TALUKA PANCHAYAT :

The Act of 1993 provides to constitute a Taluka Panchayat Samiti at every Taluka of the state. The Taluka Panchayat Samiti is purely a nominated, advisory and supervisory body. These Taluka Panchayat Samitis are constituted on the basis of Asoka Mehta Committee recommendations. According to 1983 Act, the Taluka Panchayat Samiti was to be composed of nominated, ex-officio and co-opted members only. The Taluka Panchayat Samiti consisted of the members of the State Legislature, the elected members of the Zilla Parishad, who represent the Taluka, Pradhans of all Mandals of the Taluka are the ex-officio members of the Taluka Panchayat Samiti. President of the Taluka Agricultural producers co-operative marketing society, President of the Primary land development Bank and five members belonging to scheduled castes, scheduled tribes, Backward classes and women co-opted by resolution of the Taluka Panchayat Samiti and approved by the Zilla Parishad.

The members of the Legislative Assembly representing the major part of the Taluka shall be the Chairman of the Taluka Panchayat Samiti who will preside over the meetings of every month. If he remains absent, the samiti elects one member to preside over the meeting. This samiti works as an executive committee of the Zilla Parishad.

The new Act, 1993 provided that, each Taluka has a ' Taluka Panchayat '. It consists of the elected and other members. One member should be elected for every 10 thousand population or part thereof, of the Taluka. A Taluka having less than one lakh population, shall be a minimum of eleven elected members.¹⁰ The other members of the Taluka Panchayat are as follows :

- 1) The members of the House of people and state legislative assembly representing a part or whole of the Taluka, whose constituences lie within the Taluka.
- 2) The members of the Council of State and the state legislative council who are registered as electors within the Taluka, and
- 3) One-fifth of the Adhyakshas of the Gram Panchayats in the Taluka by rotation for a period of one year as the Assistant Commissioner may by lot.¹¹

These members are entitled to take part in the meetings of the Taluka Panchayat with voting power. 15 % of the elected seats of the Taluka Panchayat are reserved for scheduled castes, 3 % for the Scheduled Tribes and 1/3rd of the total number of seats should be reserved for persons belonging to the Backward classes and one-third seats reserved for each category of persons belonging to the Scheduled castes, Scheduled Tribes and Backward Classes and those of the non-reserved seats

in Taluka Panchayat shall be reserved for women. The age limit to contest the election of Taluka Panchayat is 21 years and the term of office of the elected members should be of five years.

The elected members may choose amongst themselves the Adhyaksha and a Upadhyaksha as office bearers. The offices of Adhyaksha and Upadhyaksha of Taluka Panchayats in the state are reserved for Scheduled Castes, Scheduled Tribes, Backward Classes and women. Not less than 15 % of the total number of office bearers in the state should be reserved for Scheduled Castes, not less than 3 % for the Scheduled Tribes 1/3rd seats for the persons belonging to the Backward classes and not less than one-third of the total number of offices of Adhyaksha and Upadhyaksha in the State from each categories so reserved and those which are non-reserved, must be reserved for women.

Such reservation system is not provided by the Act of 1983. The Chairman of the Taluka Panchayat Samiti was a member of Legislative Assembly. The 1993 Act, not only reserved the seats for Scheduled Castes and Scheduled Tribes and Backward Classes but, it reserved the office bearers for women of these categories. Such reservation system, is perhaps provided for the first time in the history of Panchayat Raj Institutions.

Both the Acts provided that one-third of the total number of members shall form a quorum for meeting. The 1983, Act provided that, The Taluka Panchayat Samiti should meet every month for transaction of

business, but the Act of 1993, says, a Taluka Panchayat shall hold a meeting for the transaction of business at least once in two months.

There is no provision in the Act of 1993, to appoint standing committees by the Taluka Panchayat Samiti. But the new act, provides three standing committees of Taluka Panchayat as follows :

- a) General standing committee
- b) Finance, Audit and planning committee
- c) Social justice committee.

For the first two committees, the Adhyaksha and for the third committee the Upadhyaksha shall be the ex-officio members and also Chairman of the respective committees. Each committee shall consist of not more than six members including the Chairman. These members of the committees should be elected by the members of the Taluka Panchayat from among the elected members.

The Taluka Panchayat Samiti did not perform any specific functions except to guide and supervise the Mandal Panchayats in the discharge of their functions. But 1993 Act, provides a list of functions which are performed by the Taluka Panchayat. They are as follows :

- 1) General functions consisting preparation of annual plans in respect of the schemes and providing relief in natural calamities.

- 2) Agricultural including agricultural extension.
- 3) Land improvement and soil conservation.
- 4) Minor irrigation, water management and watershed development.
- 5) Maintenance of Animal husbandary, dairying and poultry.
- 6) Development of fisheries.
- 7) Promotion of Khadi, village and cottage industries.
- 8) Implementation of housing schemes.
- 9) Supply of drinking water.
- 10) Social and farm forestry, minor forest produce fuel and fodder.
- 11) Roads, buildings, bridges, ferries, water ways and other means of communication.
- 12) Non-conventional energy sources.
- 13) Poverty alleviation programmes.
- 14) Education, including Primary and Secondary Schools.
- 15) Technical training and vocational education.
- 16) Adult and non-formal education.
- 17) Social and cultural activities.
- 18) Regulation of fairs and festivals.
- 19) Promotion of health and family welfare programmes.
- 20) Programmes relating to development of women and children.
- 21) Social welfare including welfare of the handicapped and mentally retarded people.

- 22) Welfare of the weaker sections, in particularly of the scheduled castes and scheduled tribes.
- 23) Maintenance of community assets.
- 24) Public distribution system.
- 25) Promotion of rural electrification.
- 26) Promotion of co-operative activities.
- 27) Promotion of libraries.
- 28) Such other functions as may be entrusted.¹²

By studying the above functions, one may point out that, the act of 1993, provides variety of functions which are to be performed by the Taluka Panchayat for the progress of the area and population of the Taluka. The Taluka Panchayat body is, comparatively stronger than the Taluka Panchayat Samiti of 1983 Act, because, Taluka Panchayat Samiti did not enjoy any executive functions, other than supervisory work.

The Act of 1983 does not provide any finance for Taluka Panchayat Samiti on an independent basis. They are dependent more upon the Zilla Parishads regarding their finances. But, the Act of 1993, creates the Taluka Panchayat fund, which consists the following items :

- a) The amount which may be granted or passed on to the Taluka Panchayat by the government or the Zilla Parishad.
- b) The proceeds of any fees imposed by the Taluka Panchayat.

- c) All sums received by the Taluka Panchayats by the way of contributions from the government or any other authority or persons or by way of gift.
- d) The rent or other income from or sale proceeds of any immovable or movable property of the Taluka Panchayat.
- e) All other sums received from any source what soever.

The Taluka Panchayat has power to charge fees for any licence or permission issued by it. Other than fees, the government shall make a grant to every Taluka Panchayat to cover the expenses of the establishment at such a scale as may be determined by it. The government may also give a discretionary grant to the Taluka Panchayats to discharge their functions.

The 1983, Act provides that, the Block Development officer is the Chief executive officer of the Taluka Panchayat Samiti. But the 1993 Act, gives power to the government to appoint a Group 'A' officer to the state civil services or equal to the rank of the assistant commissioner to be the executive officer of the Taluka Panchayat.

Thus, the Taluka Panchayat is totally an independent and different body in composition, functions and financial sources than the Taluka Panchayat Samiti.

ZILLA PARISHAD AND ZILLA PANCHAYAT :

Zilla Parishad was the second directly elected body of the Panchayat Raaj system in karnatak, which is constituted by the Act of 1983. The Zilla Parishad consists the elected members of the district from different constituencies. Every 28,000 rural population elects one member to the Zilla Parishad 25 % of the total seats are reserved for women and not less than 18 % seats of the Zilla Parishad are reserved for persons of Scheduled Castes and Scheduled Tribes. Those who have completed 18 years are eligible to vote in the Zilla Parishad election. The term of the members of the Zilla Parishad is of five years.

Apart from the elected members, the Zilla Parishad also consists of the members of the parliament and State legislature whose constituencies cover the district or a part there of, are members of the Zilla Parishad with voting right. But they do not have the right to hold office in the Zilla Parishad. The President of the District Central Co-operative Bank is also the associate member of the Zilla Parishad without voting power. The office bearers of the Zilla Parishad are elected by the members of the Zilla Parishad and they are called as Adhyaksha and Upadyaksha. The Adhyaksha presides over the meetings of the Zilla Parishad and Upadyaksha does so in his absence. They enjoy the rank of Minister of State and Deputy Minister respectively. " In popular

parlance, the Zilla parishad President is the District Chief Minister. The Zilla Parishad constitutes 9 committees for the smooth functioning of the Parishad.

The Act of 1993, provided that, there shall be a Zilla Panchayat in the place of Zilla Parishad (Act 1983) for every district having jurisdiction over the entire district but, excluding the area of a Municipal Corporation, City and Town Municipalities and Sanitary Boards. The Zilla panchayat consists elected and other members one member should be elected for every 40 thousand rural population except for Kodugu, Uttar Kannada and Chickmangalur districts. In these districts, every 30 thousand rural population elcts one member to the Zilla panchayat. The seats are reserved for the persons of Scheduled Castes, Scheduled Tribes, Backward Classes and women. For these categories seats are reserved in a similar way as to the Gram Panchayat and the Taluka Panchayat by the Act of 1993.

The members of the House of people and the members of the State Legislative Assembly representing a part or whole of the district whose constituencies lies within the district are the ex-officio members of the Zilla Panchayat.

The members of the Council of State and the members of the State Legislative Council who have registered as electors within the district

and Adhyakshas of Taluka Panchayats in the district are also the members of the Zilla Panchayat. They shall be entitled to take part in the proceedings, and vote at ^{the} / meetings of the Zilla Panchayat.¹⁵ The term of the elected members is five years.

Adhyaksha and Upadyaksha are elected by the elected members of the Zilla Panchayat. The offices of Adyaksha and Upadyaksha are reserved for the persons of Scheduled Castes, Schedule Tribes, Backward Classes and also to women. The system of reservation of office bearers of the Zilla Panchayat is similar to the Gram Panchayat and Taluka panchayat by this new Act.

The 1993 Act, said that, the Zilla Panchayat shall hold a meeting for the transaction of business at least once in two months. But, the Zilla Parishad met every month for the transaction of business according to the provisions of the Act of 1983.

Regarding the functions, the Parishad, had the regulatory functions which are essential for the implementation of the various development programmes which were assigned to the Zilla Parishad. The functions of the Zilla Parishad included achievement of the economic development of the whole district, function related to agriculture, animal husbandary, welfare of scheduled castes, Scheduled Tribes and other weaker sections, construction and maintenance of roads of the districts, management



of hospitals and dispensaries, irrigation and water resources development of horticulture, rural and cottage industries, co-operation, social education, fisheries, rural electrification and arranging State and National level exhibitions, seminars and conferences. The Zilla Parishad also performed the functions which were transferred by the Government to it. In short the all round development of the district was the main function of the Zilla Parishad.

An officer not below the rank of the Deputy Commissioner of the district was the Chief Secretary of the Zilla Parishad and he acted as the Secretary of the Zilla Parishad.

The Zilla Panchayat, according to the Act of 1993, performs the same functions which are performed by the Taluka Panchayat as put for the schedule III of the Act of 1993 which contains the functions of the Zilla Panchayat. It is to work for, over all supervision, co-ordination and integration of development schemes at Taluka and District levels and prepare the plans for the development of the district. The government appoints an officer not below the rank of Deputy Commissioner of a District as Chief Executive Officer of the Zilla Panchayat.

In financial matters the Zilla parishad fund, the source of which are from the government grants, rents from lands and property, interests, all fees and penalties paid to or levied by the Zilla Parishad and other

money transferred by the individual and industries. The ' Zilla panchayat Fund ' has also the same sources as previous Zilla Parishad Fund.

NYAYA PANCHAYAT :

In the Act of 1983, the provisions are made to establish Nyaya Panchayats at the Mandal level. The composition, powers and functions of the Nyaya Panchayats are described by the chapters 11 to 14 of the Act, 1983. The provisions of Nyaya Panchayats have not been enforced by the Government of Karnataka, in 1987, due to many reasons. The Act of 1993, is silent concerning to the establishment of Nyaya Panchayats. It does not have any provisions regarding the Nyaya Panchayats.

The above comparative study is based on only the structural patterns, compositions of different bodies, the office bearers, reservation system powers and functions of the different tiers of Panchayat Raj System in Karnatak in the light of two different Acts namely Act of 1983 and 1993. After the study, it is clear that, the 1993 Act tried to bring democratic decentralisation in a true manner, because as this Act provides, all the three tiers are constituted by elected bodies on the basis of Adult franchise. The 1983, Act did not reserve seats for Backward Communities but it is done by the Act of 1993. The reservations for women has been sizeably increased. The Government of Karnataka takes a bold step by reserving the offices of the Adhyakshas and Upadhyakashas to persons belonging to the Scheduled Castes, Scheduled Tribes, Backward Classes and women. No doubt this Act, tries to bring out the Woman from house

hold duties to participate in the local administrative affairs by making special privilege in the Act 1993 by way of reservation.

Another notable point of the new Act is that, the government will give annual grant of one lakh rupees to each Gram Panchayat to utilise for the purpose of electrification, maintenance of water supply schemes, sanitation and other welfare activities was not made available through 1983 Act, and which is necessity for local overall development.

The powers and functions of the Taluka Panchayat at Taluka level have increased more than the Taluka Panchayat Samiti which was only a supervisory and advisory body. The functions which are performed by the Gram Panchayats and Zilla Panchayats are also attractive. But, how this Act will be implemented and help to change the picture of rural development for better, cannot be as yet analysed as the different tiers of Panchayat Raj Act of 1993 are still ~~not~~ yet set up by elections.

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- 4) Ibid., Section 5(3) p. 11.
- 5) Ibid., Chapter IV Section 56, p.p. 46-87.
- 6) Ibid., Schedule 1, p.p. 229-236.
- 7) Act of 1983, Section 116 (5) p. 91.
- 8) Act of 1993, Section 212, p. 154.
- 9) Ibid., Section 206, p. 152.
- 10) Ibid., Section 121, p. 91.
- 11) Ibid., Section 120, p.p. 90-91.
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