

POWER TO PEOPLE IN MEGHALAYA



Editors

J. V. Karna • L.S. Gassah
C.J. Thomas

POWER TO PEOPLE IN MEGHALAYA

(Sixth Schedule and the 73rd Amendment)

Edited By

M.N. Karna

L.S. Gassah

C.J. Thomas



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FOREWORD

It gives me immense pleasure to write the foreword to this book. The present study is based on the research papers presented and discussed at the Sub-Regional Workshop on Panchayati Raj sponsored by the Rajiv Gandhi Foundation, New Delhi and organised by the Indian Council of Social Science Research during October 12-14, 1995 at Shillong.

The Seventy-Third Amendment Act seeks to ensure democracy at the grass roots, as it intends to give power to the people. The authors of the various articles presented in this book extensively analysed the existing traditional political institutions in Meghalaya and the relevance of 73rd Amendment Act to the State of Meghalaya. I would resist the temptation of commenting on the book further. I only wish the work finds proper attention from policy makers both in Meghalaya and New Delhi, students, scholars, officials at the Autonomous District Councils and the general public.

December, 1997

Professor B. Pakem
Vice-Chancellor, NEHU
&
Chairman, ICSSR-NERC
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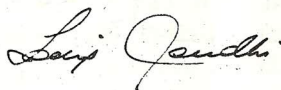
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RAJIV GANDHI FOUNDATION

Sonia Gandhi
Chairperson

MESSAGE

The legislation to amend the Constitution to detail the provisions in respect of Panchayati Raj and Nagarpalikas is an important milestone in bringing to reality my late husband's vision of a new and effective system of local government. He staunchly believed that people had to be empowered to have a greater and more meaningful say in their own affairs at the grassroots level in addition to the national and state levels. Without this there would remain a sense of alienation of the common person from the system of governance. His vision was that of an effective and responsive third-tier of representative government which would be the bedrock of our democracy in practice.

The legislation, important as it is, has to be followed up with much hard work in its effective implementation. The purpose of the workshops being organized under the auspices of the Rajiv Gandhi Foundation is to identify impediments and hinderances to the proper functioning of the Panchayats and institutions of self-governance, and to suggest remedial measures. It is only through widespread discussion and mass involvement that Panchayati Raj Institutions will become true and effective means of self-governance as mandated in the Seventy Third Constitutional Amendment. I wish your endeavours every success.



INAUGURAL ADDRESS

Shri M M Jacob

Governor of Meghalaya

I am thankful to the North Eastern Regional Centre of Indian Council of Social Science Research for inviting me to inaugurate the Sub-Regional Workshop on Panchayati Raj this morning. It is really very encouraging to see that the Rajiv Gandhi Foundation has selected Shillong as the venue for the Workshop despite the lack of adequate facilities available here for holding such an important function. I am told that the Rajiv Gandhi Foundation has constituted a Task Force on Panchayati Raj primarily to act as a catalyst for proper implementation of the Seventy-third Constitutional amendment so that the Panchayat units that are being set up will truly be institutions of self-government. The present workshop is a part of the series of Regional and Sub-Regional Workshops which have been sponsored by the Foundation in different parts of the Country. I am happy to see that a good number of prominent persons including important academicians are present here. It is also heartening to note that the number of senior citizens attached to the three Districts Councils of Meghalaya, Non-Governmental organizations and Government officials have evinced keen interest in the Workshop by actively participating in its deliberations.

Panchayats have been part and parcel of rural Indian social life since time immemorial. India is a land of villages. More than 80 percent of its population live in villages. Panchayati Raj system in India has been in existence in some form or other during different periods of our history. But during the long period of foreign rule, the traditional frame of this body underwent some changes. When India became independent, it was imperative on the part of the Government to bring the small communities of villages into the orbit of democratic structure. There is no Panchayati Raj system in Meghalaya but the traditional tribal community, village and social structures have deep roots. The

development programmes are implemented through the agency of Block Development Committees consisting of Gram Sevaks, progressive farmers, members representing women's organizations, Co-operative Societies and small industries etc. The District Councils which are the creatures of the Sixth Schedule to the Constitution are highly democratic bodies charged with the administration of land, forest, trade, traditional and customary laws and practices. They also have some developmental role but it sometimes overlaps with that of the State Government.

It was a long cherished dream of our Father of the Nation, Mahatma Gandhi to see 'Gram Swaraj' in post-Independent India. In furtherance of our national urge to establish Panchayati Raj several attempts were made by various States in India to achieve this laudable objective. The experiments carried out during the early years of our community development efforts, in States like Rajasthan, Andhra Pradesh and Gujarat helped us to understand the implications of this system vis-a-vis the legislative bodies at States and national level. I recollect the various steps taken by the late Prime Minister Rajiv Gandhi in eliciting public opinion through a series of conference of Parliamentarians, other elected representatives and civil servants, to work out a system congenial to the nation. Rajiv Gandhi was a young and dynamic statesman with lofty vision and firm purpose who handled the manifold problems faced by our nation with courage and determination. It was he who took the lead in preparing the nation for transferring power to the people through elected Panchayats by necessary legislative backing. Rajiv Gandhi had a great faith in the capacity and wisdom of our people. In the true spirit of statesman he said : "We trust the people. We have faith in the people. It is the people who must determine their own destinies and the destiny of the nation. To the people of India, let us ensure maximum democracy and maximum devolution. Let the people be empowered."

The atmosphere created by the tireless efforts of Rajiv Gandhi is not only favourable but essentially congenial to introduce basic changes even in the existing institutions of self-government.

The historic 73rd Amendment which has given a Constitutional status to Panchayats in the country is a major development in the post Independent India. This 73rd Constitutional Amendment has given the Panchayat system not only identity and

legitimacy but has made it a true institution of self-government. Now it is in a position to involve itself in active process of decentralized planning. By providing reservation of not less than one-third of the total number of seats and offices for women, a landmark decision has been taken to empower women. Through the establishment of State Finance Commission adequate funds have been ensured to the Panchayats to carry out their plans. Specific responsibilities have been entrusted to the Panchayats to prepare plans for economic development and social justice in respect of matters listed in the Eleventh Schedule. Thus endowed with constitutional status possessing comprehensive power and authority, the Panchayats are going to play an epoch making role in the rural transformation in the country. It will bring about a vibrant democracy and development at the grass-root level. Only strong democratic, dynamic and responsive self-governing institutions can ensure a genuine participatory developmental process at the village level. By involving the local people in the process of decision-making a true peoples' path of development can be attained.

It is noteworthy that a workshop on Panchayat has been organized at a place which has been kept out of the purview of the Seventy-third Amendment. The amendment provides that nothing in this Part shall apply to the Scheduled Areas referred to in Clause (1) and the tribal areas referred to in Clause (2) of Article 244 and to the States of Nagaland, Meghalaya and Mizoram. It is not difficult to ascertain why these tribal areas have been excluded from the scope of the Amendment. Although the existing arrangements in these areas have necessitated the present step, it can, however, be mentioned that the philosophy and ideology of panchayat are not alien to tribal societies. The tribal people have been living in a strong and autonomous village setting. The traditional institution of village Durbar or Village Government has been a constant source of all social, cultural, economic and political activities at and across the villages. These age-old self-governing institutions have been endowed with considerable power and authority. Their mandate has been so encompassing that no one could escape their command. The tribal people have, no doubt, successfully negotiated with the problems of their daily life while preserving their identity and ethos but it is my considered view that no society and people can afford to remain isolated from the modern development and change.

A special provision in the form of Sixth Schedule was incorporated in the Constitution just after Independence to provide separate political and administrative structure for the hill tribal areas of the North East. The primary objectives of this arrangement have been to maintain the distinct customs and culture of the people so that they could preserve their identities. Accordingly, the Autonomous District Councils have been functioning in Meghalaya for more than four decades. The structure and function of these Councils have been adequately tested during this period. I, however, feel that a detailed in depth study of the present arrangements should be undertaken keeping specially their power, functions and effectiveness in view. An investigation into the existing tribal institutions in the villages, their linkages and relationships with the Autonomous District Councils and the State Government within the framework of the division of power and functions will also be in order. It may also be emphasized that a comparative assessment of the prevailing institutional structure and positive aspects of the sound of ideology and principles behind the Panchayati Raj as incorporated in the 73rd Amendment Act 1992 may also be useful in the present context. I have no doubt that such an exercise will help to see whether the basic principles of the Seventy-third Amendment can be harmonized with the local ethos, tradition and institutions so as to have democracy and autonomy with continuity.

I hope this timely workshop in its deliberations for the next three days will initiate a valuable discussion on the Panchayati Raj in the State. I am eagerly looking forward to its recommendations which I sincerely feel would be of immense importance for all of us committed to the decentralization of power. I am confident that the Panchayati Raj institutions will cover the North Eastern region in greater depth and detail as suggest a workable and meaningful resolution, so as to make Panchayati Raj a useful and result-oriented mode of self-governance, which would be in the interest of the community, the State and the country.

With these words and wishing the Sub-Regional Workshop on Panchayati Raj all the best, I have great pleasure in inaugurating the Workshop.

INTRODUCTION

The Panchayati Raj has been acclaimed as an essential element of Indian democracy. Ever since the Balwant Rai Mehta Committee recommended the statutory panchayat system in India way back in 1957, several attempts have been made, at the national as well as state levels to strengthen it in the country. Although the panchayat had found a place in the constitution of India under the Directive Principles of State Policy - yet, the panchayats have not been able to deliver goods effectively due to the absence of constitutional status. In order to rectify this basic lacuna, the Congress government under the leadership of Rajiv Gandhi, (during his short span of political life) took the major step in providing the constitutional status to the panchayats when he introduced the constitution Sixty-Fourth Amendment Bill in the Lok Sabha in May 1989. The Lok Sabha supported and passed it, but the Rajya Sabha could not enact it. However, it was in 1991, the constitution Seventy-Third Amendment Bill was brought in the Lok Sabha, which passed it on December 22, 1992, and the Rajya Sabha approved it, the following day. After the ratification of more than half the States, the President gave his assent to the Bill on April 20, 1993, and it became an Act with effect from April 24, 1993.

The Seventy-Third Amendment Act seeks to ensure democracy at the grass roots, as it intends to give power to the people. It aims at decentralisation of political administration and institutions for development. It envisages to achieve grass root democratic polity by making panchayati raj system an instrument of local government and community development. The Act provides for a constitutional status to the Panchayats and gives reservation to women and other weaker sections to ensure their participation at all levels of the panchayat system. Such a decentralisation is of great significance as people have been given much power and responsibility in carrying out the development programmes.

The Seventy-Third Amendment Act contains Article 243M which states that the Act is not applicable to the States of Nagaland, Meghalaya and Mizoram. The Act also has not been extended to the District Council areas of Manipur and the areas covered by the Gorkha Hill Council in the Darjeeling District of West Bengal. Further it is not applicable to the Fifth Schedule areas in the country and the Sixth Schedule districts and regions. The Parliament has been authorised by the law to extend it to these two categories of areas, subject to such exceptions and modifications as may be specified. It has also been clarified that such a law is not to be deemed as Amendment of the constitution.

While enacting the constitution Seventy-Third Amendment Act, it appears that the Parliament decided deliberately that the provisions of the Act should not be imposed to the Fifth Schedule areas and the Sixth Schedule districts and regions. The reason is that they have their traditional system similar to the panchayati raj that must not be disturbed.

The entire State of Meghalaya is covered under Sixth Schedule of the constitution. The main aim of such an arrangement has been to maintain the distinct customs and culture of the people and to ensure autonomy of the tribal people. Accordingly, the Autonomous District Councils have been functioning here for more than four decades. However, with the enactment of the Seventy-Third Amendment Act to the constitution of India on the panchayats a substantive change has taken place in the country. Endowed with the constitutional status coupled with tremendous power and authority, the panchayats are expected to bring a vibrant democracy and true autonomy at the village level. Naturally, the new panchayati system has substantial benefits to offer.

It is in this background that the Rajiv Gandhi Foundation had undertaken the task of organising a series of National, Regional and Sub-Regional Workshops on Panchayats in different parts of the country during the last three years to create awareness with regard to the various provisions of the Seventy-Third Constitution Amendment Act 1992 and to identify impediments in the effective functioning of the panchayati raj institutions. One such Sub-Regional Workshop was organised at Shillong by the North Eastern Regional Centre of the Indian Council of Social Science Research during 12-14 October 1995. The basic objective of this workshop was to initiate the debate and ascertain people's opinion about the rel-

evance of the Seventy-Third Amendment Act to the areas covered under the Sixth Schedule in general and Meghalaya in particular. The most crucial issue under the discussion was how it is possible to harmonise the basic principles of the Amendment Act with the local ethos, tradition and institutions so as to have true democracy and autonomy with continuity. The Workshop thus attempted to generate public debate and by doing so intended to pave the way for implementing the Seventy-Third Amendment Act in the State with such exceptions and modifications as may be required.

The workshop was inaugurated by the Governor of Meghalaya Shri M.M. Jacob and chaired by Professor B. Pakem, Vice-Chancellor, North Eastern Hill University, Shillong. Shri D. Bandyopadhyay, Convenor, Task Force on Panchayati Raj, Rajiv Gandhi Foundation delivered a special lecture. While twelve papers were presented in three Plenary Sessions, the two Working Groups had detailed and frank discussions on the applicability of the Seventy-Third Amendment Act to Meghalaya and on finance and resource mobilization. The Valedictory Session was to be addressed by the Chief Minister of Meghalaya Shri Salseng C. Marak but he could not attend due to his sickness. His address was read by Professor M.N. Karna, the Director of the Workshop.

Some of the major viewpoints which emerged and recommendations provided at the Workshop are the following:

- 1) Further in-depth study of the relative functions/powers of the Autonomous District Councils under the Sixth Schedule of the constitution vis-a-vis the functions/powers of the panchayats enshrined by the Seventy-Third Amendment of the constitution be made by organising district level seminars at Tura, Jowai and Shillong.
- 2) The Autonomous District Councils under the Sixth Schedule of the constitution (Article 275(i)) should continue with greater financial support from the Union government. Simultaneously, there should be attempts to remove the defects in the present working of the ADCs.
- 3) One minority view was that the traditional institutions such as the Chiefs and their *Syiems* should be restored to their pre-British positions by statutory provisions. However, this will not be viable in the context of the Garo Hills.
- 4) The constitution (73rd Amendment) Act, 1992 be introduced in Meghalaya with suitable adoption of the traditional names.

Assuming that Meghalaya accepts the Seventy-Third Amendment Act, the Workshop further recommended:

- i) State Finance Commission be set up to look into and consider the matters of financial and resource mobilization aspects.
- ii) The financial and political empowerment as per the Seventy-Third Amendment should be seriously taken note of, political power *sans* financial power meaningless.
- iii) Finances should match functions at different levels or tiers of administrative hierarchy.
- iv) Empowerment at the grass-root level, that is, right from the village level, including financial power, should be extended in order to strengthen the democratic processes as well as decentralization of financial power. It was also felt that women and women NGOs should also be involved while deciding financial matters.
- v) A comparative study be conducted on the structure of income/sources or flow of income and the over-all financial position between the panchayati raj institutions and the Autonomous District Councils. Such structure of income should include both the tax and non-tax revenues.
- vi) An integrated approach to planning, programming and budgeting should be adopted with a view to effectively utilise the potential of decentralised planning.
- vii) A proper implementation of Article 243J of the Seventy-Third Amendment should be carried out in letter and spirit, especially with regard to periodical auditing of the accounts.

We take this opportunity to express our thanks and gratitude to the Rajiv Gandhi Foundation for sponsoring the Sub-Regional Workshop on Panchayati Raj in Shillong during October 12-14, 1995, under the Indian Council of Social Science Research, North Eastern Regional Centre at Shillong. We express our thanks to the ICSSR-NERC Screening Committee for asking us to edit the volume and particularly to its Chairman Professor B. Pakem whose constant help and support made the task easier. We also express the neat typing assistance rendered by Mrs. Jean Blah and Mrs. Carmela Shati. Lastly we owe our thanks and appreciation to Mr. Arun Kumar Verma, Regency Publications for having agreed to undertake the work of its publications.

POWER TO PEOPLE IN MEGHALAYA

Editors: M.N. Karna, L.S. Gassah and C.J. Thomas

The Panchayati Raj system has been acclaimed as an essential element of Indian democracy. The historic 73rd Amendment which has given a constitutional status to Panchayats in the country is a major development in the post-Independent India. This 73rd Constitutional Amendment has given the Panchayat system not only identity and legitimacy but has made it a true instrument of self-government. Now it is in a position to involve itself in active process of decentralised planning.

This book *Power to People in Meghalaya: Sixth Schedule and the 73rd Amendment*, contains a collection of research papers contributed by various scholars and activists drawn from different disciplines of Social Sciences which were presented in a Sub-Regional Workshop sponsored by the Rajiv Gandhi Foundation, New Delhi, during October 1995.

The book offers detail information about the Sixth Schedule and the 73rd Amendment, critical assessment of the working of Khasi, Jaintia and Garo Hills, Autonomous District Councils in Meghalaya and also on Women in Meghalaya.

This book will be of great help to the students, research scholars, administrators, planners, policy makers and to the public in general.

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