

## **Striking at Roots of Democracy – The Karnataka Panchayat Raj Ammendment**

**26 June 1975** – 32 years ago - India was plunged in political gloom when Indira Gandhi declared a State of Emergency. Our right to dissent and free speech were suspended and those who still refused to keep their own council were thrown in jail. Democracy was set aside for authoritarian reign. The reasoning was that democracy was breeding strikes and protests that had paralysed the government and hurt the economy. The arguments in favour of declaring a state of emergency were that the government was hampered in its attempts to administer the state in the face of massive political opposition, desertion and disorder across the country and programmes and funds were lapsing. Many welcomed this. Trains ran on time, corruption was minimal and there were no strikes. However, the price we paid for this was very high - our freedom as citizens of the largest democracy in the world.

**2007** – Over the past five years a very different scenario is being played out with the same consequences – a silent and deliberate erosion of democracy, democratic structures and systems. There are increasing examples of a very strong thrust towards a neoliberal state. The moves to Privatise Water; the replacement of militant organisations with passive local bodies that act as extensions of state; the strong lobby to include mandatory representation from Corporate and Academic Institutions in Municipal Bodies; the proposed amendments to the FCRA that will render all NGOs except those that tow the government line non-existent; the recent move by the Government of Karnataka hand over SIEMAT, an apex body for state education, to a Corporate Foundation and several other such examples. If this scenario plays out India will no longer be a democracy and we will lose our freedom.

One example of this was acted out in Karnataka recently. The passing of an amendment to the Panchayat Raj Act giving MLAs powers over grama sabhas and panchayats that runs contrary to the spirit of decentralisation and the Constitution itself. If this amendment becomes law – the price we pay will be our right as rural voters to participate directly in local self government in Karnataka. We will lose the only forum we have, the Gram Sabha, to exercise our right to choose beneficiaries for all government funded programmes. This could also become a precedent to further curtail other rights of panchayati raj institutions in the state.

This disturbing event, the hurried passage of amendments to the Panchayat Raj Act by both houses of the legislature, virtually passed unnoticed by the media though there was pandemonium in both houses. In the legislative assembly, the opposition staged a walk out that actually helped the passage of the amendment. In the legislative council, the vote was evenly split, and was followed by Chairman B K Chandrasekhar exercising his casting vote in favour of the government.

Some background on the Panchayat Raj legislation in the state is required to understand the damage this amendment will cause to local government in Karnataka. On close examination it is clear that Panchayati Raj is being stymied at every turn. A popular notion is that the law is weak in this regard, the natural consequence of the Article 243G giving flexibility to States to determine the ambit of devolution to Panchayats. However, a closer examination of facts shows that this is incorrect – in fact, most States have passed strong laws, but these are weakly implemented. On the other hand, the means adopted to institutionally weaken Panchayati Raj are not through the law, but through executive actions ranging from the crude to the subtle. All have one striking similarity – they have been quite effective so far. (See box)

Grama Sabhas have been given a unique position as institutions of participatory governance under the Constitution. Article 243A defines a Grama Sabha as being a body of voters (citizens) of a village within a Panchayat. Under the constitutional pattern, Grama Sabhas provide the platform for citizens to participate in local governance beyond casting their vote and partake in decisions regarding their village and is the foundation for effective participatory self governance or Panchayat Raj.

The Karnataka Panchayat Raj Act 1993 initially had provided for relatively weak Grama Sabhas. Under Section 3 of the Act, Grama Sabhas were to meet at least once in six months and if Grama Panchayats failed to convene them the Executive Officer of the concerned Taluk Panchayat was authorised to do so. Then the Grama Sabha only had recommendatory powers under the law. The law also provided that in case the Grama Sabha failed to identify beneficiaries for schemes within a reasonable time, the Executive Officer shall, in consultation with the Grama Panchayat, identify such beneficiaries. Obviously, there was low confidence about the capacity and interest of Grama Sabhas and they were routinely ignored by higher levels.

In 2001, Shri M.Y. Ghorpade, then Karnataka's Minister of Rural Development and Panchayat Raj in Karnataka constituted a working group under the Chairpersonship of the Development Commissioner, Shri N. Viswanathan to make recommendations on Panchayat Raj reform. In its report submitted of February 2002, the Working Group recommended several measures for strengthening Grama Sabhas. These recommendations included changes in the law to provide for Ward Sabhas at the neighbourhood level below Grama Sabhas. An elaborate process for beneficiary selection by Ward and Grama Sabhas for Government programmes was also suggested. Amendments based on these recommendations were intensely debated both outside and within the legislature. In mid-2003, while presenting the draft amendment bill to the Assembly, Mr. Ghorpade himself suggested that they should be examined by a Joint Select Committee. After a detailed examination by the Joint Select Committee, the bill was passed unanimously by both houses of the legislature in September, 2003. The Act, a tribute to the wisdom and statesmanship of Mr. Ghorpade, was uniformly acknowledged as a big step forward, putting Karnataka in the forefront of good Panchayat Raj practice.

The landmark changes brought about in 2003, apart from establishing a two tier system of Ward and Grama Sabhas for effective and greater people's participation also listed as many as 29 functions for them, including approval of annual plans, generating proposals and determining priority of schemes, identifying beneficiaries, water supply and streetlight arrangements and promoting adult education.

In respect of beneficiary selection the new law left no room for doubt. Section 3(3)(b) of the amended Act provided that Ward Sabhas would identify the most eligible persons from its area for beneficiary-oriented schemes on the basis of fixed criteria and prepare lists of eligible beneficiaries in order of priority and forward it to the Grama Panchayat. These lists were then to be placed by the Grama Panchayat before the Grama Sabha, which under Section 3A (3) (c) would consider the Ward Sabha lists and prepare the final lists of eligible beneficiaries in order of priority. For good measure, the law also provided that once such detailed beneficiary lists were prepared by the Grama Sabha they could not be changed by any higher authority.

Last week's amendment has set the clock back in no uncertain terms. It inserts similarly worded provisos to Section 3(3) (b) and 3A (3) (c), stating that if the Grama Panchayat fails to discharge its duties in respect of *housing schemes or programmes funded by the Government*, then a committee headed by the members of the legislative assembly of the constituency shall select the beneficiaries from the list prepared by the Grama Panchayat! In one stroke, the legislator becomes the final arbiter over decisions of the Grama Sabha! These provisos are dangerously open ended.

MLAs argued that Gram Sabhas were not competent to choose beneficiaries for housing and other government funded schemes in Karnataka as Gram Panchayats were not holding Gram Sabhas and funds were lapsing. They voted for an amendment that imposed conditionality on this right and allowed for the constitution of MLA headed committees to perform this task. Who is to decide that a Grama Panchayat has failed to discharge its duties? Who will constitute the committee? Why specifically mention housing schemes? What is the implication of providing scope for taking away the powers of the Grama Sabha in respect of all Schemes of the Government? The crudeness of the amendment and the naked arrogance of legislators supporting it, takes one's breath away.

Though the unseemly hurry with which the amendment was introduced and passed shows a blatant lack of due processes, this was a long time coming. Interestingly, a year back, the government tried to bring in the same amendments through an ordinance. However, saner counsel prevailed after upright officers in the RDPR department fought tooth and nail against it. The State's secretary of Parliamentary Affairs and Legislation Sri. Bore Gowda also objected to this provision on the grounds that taking away powers given to Panchayats and Grama Sabhas signified a reversal of Panchayati Raj and therefore required presidential assent. He also voiced the view that taking away powers specifically in respect of housing schemes would contravene article 14 of the Constitution. On what grounds does the government justify that for all other schemes the Grama Sabhas have the power, and supposedly the intelligence, to select beneficiaries but when it comes to the selection of people for housing, they are incapable and therefore should not have the right?

This time around, there were no niceties of consultation. Again the secretary Parliamentary Affairs and Legislation Gowda voiced the same objections, but they were ignored. Currently, the top bureaucrat at the state's RDPR Department is M R Sreenivasa Murthy who paid no heed to Gowda opinion. The upright officers who objected earlier are no longer around – they have been replaced by those more compliant, who have with alacrity prepared the crude and dubious draft amendment. No select committee was set up to consider the serious implications of such a legislation and no discussions were held with experts and

concerned individuals. The government did not invite public opinion. Worst of all, the Gram Panchayats themselves were not consulted or even informed!

The Grama Sabhas are **the** deciding body in this regard; the only platform we have that recognises the right of every citizen to participate in decision making, a major step towards realising self governance and this amendment revokes this right. The amendment to the Panchayat Raj Act virtually puts MLAs in the driver's seat in respect of the selection of any beneficiary for any scheme. The message is loud and clear - People are now being held to ransom by their MLAs who want to usurp virtually all powers, including those given to constitutionally mandated local bodies. This trend is not confined to Panchayats – now MLAs want more powers in Urban Local Bodies and University senates too!

The main trigger that set the MLAs on this course of action was their loss of power and control over government funded programmes. There are innumerable government schemes, the central government funded schemes by the Rajiv Gandhi Housing Corporation alone are 7 including the Ashraya, Ambedkar rural and urban and Indira Awaz Yojana. These programmes are a large source of kick backs from individual beneficiaries and contractors and also a way of collecting potential 'grateful' voters. In the year 2006-7 in Karnataka, the Ashraya Scheme alone distributed more than 3,54,000 houses at Rs: 25,000 per home. While the STSC community receive this as a full subsidy other BPL families availed a 50% subsidy and a 50% as a repayable loan. Of the 3,54,000 beneficiaries at least 20-30% were bogus, many already possessing homes and others concocting false proof of construction in collusion with their MLAs.

The normal procedure is that Gram Panchayats are notified about these programmes very late and are given very short notice, rarely more than 10 days, within which they have to call a Gram Sabha (giving 1 weeks notice). The common scene at such gram sabhas is that thugs sent by the MLAs disrupt the proceeding resulting in the termination of the gram sabhas and of course by then there is no time to call another one! The beneficiaries are not selected, the funds lapse and the MLAs crow about the inefficiencies of the Panchayats! In March 2007 an order was passed that the choice of beneficiaries shall be done at gram sabhas called for the purpose and that the proceeding be compulsorily video graphed. This is posing problems for MLAs and so the amendment.

We need to ask our legislators - is it their business to select beneficiaries for programmes? Are they legislators or chief executives of their constituencies? Is our vote a general power of attorney? Can MLAs take away the powers of others that we have elected to represent us in the Panchayats? Can MLAs usurp the rights of the Grama Sabhas? Do MLAs have knowledge and insights that are superior to the members of a Gram Sabha regarding the needs and situation of individuals in each Gram Sabha?

While we are witnessing the darkest hour of the Panchayats, there is also a silver lining. Not all MLAs or bureaucrats are Panchayat unfriendly. At the two day Sammelan organized by the Institute of Social Sciences in Bangalore a fortnight ago to celebrate twenty years of Panchayati Raj in Karnataka, several MLAs who had risen from the Panchayats spoke of their commitment to decentralization. When the amendment was presented in the legislature, both in the Assembly and the Council they were met with stiff resistance. MLAs such as Sharanagowda Patil (Raichur), D.R. Patil (Gadag), Dr. H.C. Mahadevappa (Hunsur), Shri Araga Gnanendra (Thirthahalli) and several others forcefully asserted that the government's action was ill advised. In the Council the vote was tied, till the Council Chairperson tipped the balance by his casting vote. Among the legislators who voted in favour of the amendment were Srirama Reddy, J C Maadhuswamy, Jayprakash Hedge, D H Shankar Murthy, and Basavaraj Horatti. The Deputy CM and Minister for Parliamentary Affairs and Legislation abstained among several others making the passage of the amendment so much easier for the ruling party.

Clearly, the primary responsibility for weakening Panchayat Raj must rest with the Chief Minister. Apart from the platitudes that he mouths on Panchayat Raj in meetings and seminars, Mr. Kumaraswami has done precious little for Panchayats during his tenure. He is a member of the Empowered Sub-Committee of the National Development Council on the Administrative and Financial Strengthening of Panchayati Raj, but it is common knowledge that he has not attended a single meeting so far, preferring to send his RDPR Minister to represent him. Most of the new initiatives of the Government have been distinctly anti Panchayat such as the Suvarna Grama Scheme, meant for composite village development that virtually bypasses the Gram Panchayats and invalidates their rightful role in planning and implementation. Karnataka's Rural Development Minister, Mr. C.M. Udasi, has the worst track record of any RDPR Minister in recent times. His anti Panchayat Raj position is clear from the amendment he has tabled and plainly reveals his real intentions, making a mockery of a job that has been held by visionaries such as Abdul Nazeer Saab and M.Y. Ghorpade.

The unkindest cut of all was Professor B.K. Chandrashekar's role in the passing of this bill. A close confidant of Mr. Ramakrishna Hegde and Abdul Nazeer Saab and a former member of the Rajiv Gandhi Foundation's task force on Panchayati Raj, Prof. Chandrashekar has had a long standing reputation of being a Panchayat Raj supporter. However, on Friday his actions came as a shock. As Chairperson of the Council betrayed the Constitution to which he has sworn allegiance. After allegedly pleading with the RDPR Minister to withdraw the bill, when a tie was reached he inexplicably cast his vote in favour of the bill on the weak plea that he could not let the government down! In one stroke, Mr. Chandrashekar cast the final stone and will go down in history as the one who delivered a mortal blow to Panchayat Raj in Karnataka. His urbane voice can never ring true and his sincerity to Panchayati Raj will always sound contrived after his recent conduct in the Council.

MLAs must be reminded that we have not given them open ended powers to pass laws to keep every privilege for themselves. People elect legislators primarily to enact law and not to control the delivery of services that are, in accordance with the Constitution, to be delivered by Panchayats. Legislators cannot look at works undertaken in their constituencies with a proprietorial air. It is public funds that are being spent by Panchayats – these funds are not the pocket money of MLAs. The works undertaken or the services delivered cannot be owned by any category of elected member. Legislators have already enriched themselves by providing a local area fund for themselves - now they wish to override all the decisions of Panchayats and Grama Sabhas on beneficiary selection. The larger implications of this amendment should not be forgotten. It is time that people know exactly where their elected representatives stand on the issue of strengthening Grama Sabhas – and particularly to know who has let them down at the time of reckoning.

What next? First, this is not the time for seminars and intellectual discussions in confined halls. Our inaction and apathy at this stage will only encourage more unconstitutional actions. If this amendment should become part of the law, the government could at any time, without any notice to us, revoke our participative rights and decisions. Rather than moving towards the vision of our founding fathers of Gram Swaraj and active and informed civil society participation, we are regressing towards a dictatorship of legislators over citizens and other levels of elected government. This is not an issue that concerns the Panchayat members alone – undermining the Ward Sabhas and Grama Sabhas truncates the powers of the people themselves. This action of the government calls for widespread protest. In 32 years we seem to have come full circle. If we truly believe in democracy, now is the time to defend it.

### [Nandana Reddy and Damodar Acharya](#)

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#### **BOX**

**Some of the obvious and not so obvious executive actions used to institutionally weaken Panchayati Raj are as follows:**

##### **1. Fiscal Strangulation:**

- (a) **Deny funds to Panchayats, except for a few central or state schemes, which are expressly mandated to be implemented by Panchayats.** (*All states except Gujarat, Maharashtra, Karnataka, Kerala, Chhattisgarh, MP and Rajasthan do not have a separate budget window in which funds meant for Panchayats are placed.*)
- (b) **Even though budget windows are formally created, continue mismatch between functional and financial allocations.** (*Karnataka, till 2004 October, when the mismatch was largely corrected, except for a few gaps. Now the mismatch is again growing. Rajasthan, where the budget window is a charade – a researcher recently found that the total allocation in 8 heads under education, created in the Panchayat sector contain Rs. 8,000/-! Mirror heads of account on the State side contain all the money*)
- (c) **Hide embarrassing information on denial of funds to Panchayats, by putting out smokescreens of 'empowerment' and 'participation'.** (*West Bengal did not give any funds to Panchayats on account of SFC recommendations for four years. So much for their claims on participation!*)
- (d) **Allocate funds to Panchayats in budgets, and then deny access to them in treasuries.** (*Kerala, in 1999-2000. Karnataka, on occasions too numerous to mention!*).

- (e) **Pretend to give money to Panchayats, use them elsewhere.** (*Tripura claims officially that it gives funds to Panchayats at the rate of Rs. 100 per capita to GPs, Rs. 60/- to Intermediate Panchayats and Rs. 40/- to ZPs. This works out to a budget allocation of Rs. 72 crore for the State. Last year, the budget allocations were Rs. 46 crore, of which only 12 crore was released. A large portion of the funds were then reckoned as State share towards CSS, which were then implemented by parallel bodies such as the DRDAs!. Panchayats naively continue to believe that they get the full allocations – they parrot the official line when you visit them!*).
- (f) **Quietly write back funds given to Panchayats, as part of ‘structural adjustment’.** (*Trust the World Bank to think of this one! In Karnataka, in 2003-4, funds available in ZP accounts were written back to the State, without a word of warning. While some of the allocations written back were notional, such as salary savings, others were not, such as own revenues of ZPs and Earnest Deposits made by contractors bidding for tenders. The entire ZP mechanism ground to a halt in the peak working season as a result. Staff went without salaries for several months, before the matter was sorted out. Kerala followed this ‘good’ practice, but had to back off, because angry Panchayat representative associations hit the streets!*).
- (g) **Allow Panchayats to collect taxes, and then impose severe restrictions on how to spend funds.** (*Orissa, Tamil Nadu and Goa. In Goa, a Panchayat can earn Rs. 70 lakhs to Rs. 1 crore, but needs to get administrative sanction from higher authorities to spend Rs. 20,000. Don’t believe me? Visit Candolim Panchayat to find out!*).
- (h) **Cut allocations at source.** (*Tamil Nadu, where electricity bills are cut at source. In Karnataka, mayhem prevails. Electricity installations were not metered then billed on capacity and lump sum pro-rata deductions were made from Panchayats, thereby leaving no incentive for either metered billing or electricity saving by Panchayats. Matters were sorted out through a settlement on arrears followed by a new discipline of metering and billing. The Electricity companies defaulted on metering and Panchayats defaulted on payments even where they were metered. There is a standoff again and arrears have jumped to Rs. 600 crore plus. Back to square one!*).
- (i) **Deny tax assignments to Panchayats, on the ground of rationalization.** (*Karnataka gave about Rs. 40 lakhs to each Taluk Panchayat through the assignment of a surcharge on registration. In 2003-04, the surcharge was merged with the registration fee, as part of rationalization, again an idea of the World Bank. Since the surcharge did not exist, allocations to TPs came down to Rs. 1.5 lakhs!*)

## 2. Functional Strangulation:

- (j) **Create parallel bodies** (*examples too numerous to mention, but AP has taken this to the level of an art form.*)
- (k) **Use management options other than Panchayats even in Panchayat centric schemes.** (*Though the NREGA states that the CEO of the ZP, the District Collector or any other person nominated for that purpose can be appointed as the District Programme Coordinator, only Karnataka has appointed the CEO as the Dist Pgm coordinator, all others preferring the Collector. So much for NREGA being pro Panchayat! In Assam, the State has appointed the Collector as the coordinating officer for the Backward Regions Grant Fund – completely against the spirit of the guidelines, which are totally Panchayat friendly.*).
- (l) **Ring fence the Collector from Panchayati Raj.** (*Panchayati Raj has not changed the position of the Tamil Nadu collector a wee bit – he is now well trained to take the credit for the work of others. One Panchayat representative, speaking of the Tsunami said that while Panchayats did all the work, the Collectors did all the power point presentations!*).
- (m) **Give overriding powers to District Collectors to suspend Pradhans.** (*Best done in Punjab and Haryana, though Tami Nadu is not far behind.*).

## 3. The Humphrey Appleby technique<sup>1</sup>:

- (n) **Give all instructions in English, so that no Panchayat member is aware of them.** (*Simple and effective. Orissa practices this technique well.*).
- (o) **Deny existence of circulars empowering Panchayats – say that official copies are required.** (*In Karnataka, all circulars are placed in the State’s official magazine, Karnataka Vikasa, which goes to every*

<sup>1</sup> Treat Panchayats like mushrooms – keep them in the dark and feed them lots of bullshit.

*Panchayats. Even though written instructions exist that these circulars are to be treated as official copies, Panchayat secretaries routinely decline to operate them, stating that they do not have 'official copies'.*

- (p) **Issue circulars, then bury them.** (Several States have done this with activity mapping – Uttaranchal, Punjab, Haryana, Manipur, Assam, come to mind).*
- (q) **Lie about Panchayats, in official communications.** (Most PR secretaries are torn between telling the truth and officially concealing it. They choose the latter as it is safe.)*