

## SYNOPSIS AND LIST OF DATES

That the Present Writ Petition is being filed in the Public Interest under Article 32 of the Constitution of India for enactment and implementation of the 73<sup>rd</sup> and 74<sup>th</sup> Amendment of the constitution of India into the States. 73<sup>rd</sup> and 74<sup>th</sup> Amendment of the Constitution of India was done with the spirit to make the Panchayats of country self-dependant and to bring the Gram Swaraj, the dream of Rashtrapita Shri Mahatma Gandhi into the country. There were 29 subjects which were to be transferred by the state Government to the Panchayati Raj Institution and 18 subjects were to be transferred to Municipalities by the State but surprisingly after 28 years of the constitutional amendment no state could achieve this. The Founder of Panchayati Raj system Shri Balwant Rai Mehta through their finding in Balwant Rai Mehta Committee has recommended elections in Panchayat to be irrespective of the Political Parties, but now all parties are participating in the Panchayat Election which is against the basic principle of Panchayati Raj Institution.

The relevant dates and events are as under:

Vedic Era

In old Sanskrit "Scriptures" the word "Panchatayan" has been mentioned which means a group of five persons, including a spiritual man.

In the "Rigveda" there is a mention of Sabha, Samiti and Vaidatha as local self-units,

these were the democratic bodies at the local level and the King used to get the approval of these bodies regarding certain functions and decisions.

Ramayan Era

Administration was divided into "Pur" and "Janpad" or City and Village.

Mahabharat Era

At the time of "Mahabharata" over and above the Village, there were units of 10,20,100 and 1000 village groups, Gramik was the Chief Officer of the Village, Dashap was the officer of Ten Villages, Vinshya Adhipati, Shat Gram Adhyakshya and Shat Gram Pati were the chiefs of 20,100 and 1000 villages respectively.

Ancient Period

In the ancient period there is a mention of Village Panchayat in Kautilya's ArthaShashtra, the town was referred to as Pur and its chief was Nagrik and the local bodies were free from any Royal interference.

1882	Lord Ripon has first introduced the concept of Self Government in India.
1919	Under the Government of India
1935	Act more focus was given on self-Government and self-government became more powerful and wide.
1957	Balwant Rai Mehta Committee was formed to examine the working of the Community Development Programme and the National Extension Service.
24.11.1957	Balwant Rai Mehta committee submitted its report and recommended the establishment of the scheme of 'democratic decentralisation' which finally came to be known as Panchayati Raj.
02.10.1959	National development Council has accepted the recommendations of the committee and Tristariya Panchayat System was launched by then Prime Minister Shri Jawahar Lal Nehru in Nagaur District, Rajasthan.

1992	73 <sup>rd</sup> and 74 <sup>th</sup> Amendment of the Constitution was passed the Parliament.
24.04.1992	73 <sup>rd</sup> Amendment of the Constitution was came into force.
01.06.1993	74 <sup>th</sup> Amendment of the Constitution was came into force.
.03.2021	Hence this Petition

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (CIVIL) NO.                      OF 2021**  
**(Under Article 32 of the Constitution of India)**

**IN THE MATTER OF :**

Rudra Vikram Singh

..... **Petitioner**

Versus

1. Union of India  
Through Secretary  
Ministry of Panchayati Raj  
11<sup>th</sup> Floor, J.P. Building,  
Kasturba Gandhi Marg,  
Cannaught Place, New Delhi  
Delhi- 110001
2. Union of India  
Through Secretary  
Ministry of Law  
4<sup>th</sup> Floor, A Wing, Shastri Bhawan  
New Delhi, Delhi- 110001
3. State of Haryana  
Through Secretary  
Department of Law & Justice  
Haryana Civil Secretariat,  
Sector-1 Chandigarh -160001
4. State of Punjab through Secretary,  
Department of Law & Justice,  
Punjab Civil Secretariat,

Chandigarh – 160001.

5. State of Oddisha  
Through Secretary,  
Department of Law & Justice,  
Government of Oddisha,  
General Admn. Dept. Orrisa Secretariat,  
Bhubaneshwar -751001.
6. Government of Gujarat  
Through Secretary,  
Department of Law & Justice,  
Block No.1, 3rd floor,  
New Sachivalaya Complex,  
Gandhinagar -382010.
7. Government of Andhra Pradesh  
Through Secretary,  
Department of respondent Law & Justice,  
Secretariat Building, Hyderabad-500 001.
8. Government of Arunachal Pradesh  
Through Secretary,  
Department of Law & Justice, Secretariat  
Itanagar -791 111.
9. Government of Assam  
Through Secretary,  
Department of Law & Justice,  
Block-C, 3rd Floor, Secretariat,  
Dispur, Guwahati781006.
10. Government of Bihar  
Through Secretary,  
Department of Law & Justice,  
Old Secretariat,  
Patna 800 015
11. Government of Chhattisgarh  
Through Secretary,

Department of Law & Justice,  
D K S Bhavan, Room No. 207,  
Mantralay, Raipur-492 001.

12. Government of Goa  
Through Secretary,  
Department of Law & Justice,  
Secretariat, Porvoriam,  
Goa-403001.
13. Government of Himachal Pradesh  
Through Secretary,  
Department of Law & Justice,  
Secretary, Department of Law & Justice,  
Secretariat, Shimla-171001.
14. Government of Jammu & Kashmir,  
Through Secretary,  
Department of Law & Justice,  
Secretary, Department of Law & Justice,  
Civil Secretariat,  
Shrinagar-190001.
15. Government of Jharkhand  
Through its' Secretary,  
Department of Law & Justice,  
Secretariat, Ranchi, 834001.
16. Government of Karnataka  
Through Secretary  
Department of Law & Justice,  
Vidhana Soudha, Bangalore-560001
17. Government of Maharashtra  
Through Secretary,  
Department of Law & Justice,  
Room No.518, 5th Floor,  
Main Building Mantralaya,  
Mumbai-400032.

18. Government of Madhya Pradesh  
Through Secretary,  
Department of Law & Justice,  
Vallabh Bhavan,Bhopal-462003
19. Government of Manipur  
Through Secretary,  
Department of Law & Justice,  
Room No.171 South Block,  
Secretariat,Imphal-795001.
20. Government of Meghalaya  
Through Secretary,  
Department of Law & Justice,  
Main Secretariat Building,  
Shilong-793001.
21. Government of Mizoram  
Through Secretary,  
Department of Law & Justice,  
Civil Secretariat, Block –C,  
Aizwal -796001.
22. Government of Nagaland  
Through Secretary,  
Department of Law & Justice,  
Secretariat, Kohima797001.
23. Government of Pondicherry  
Through Secretary,  
Department of Law & Justice,  
Beach Road, Pondicherry.
24. Government of Rajasthan  
Through Secretary,  
Department of Law & Justice,  
Department of Law & Justice,  
Secretariat ,Jaipur-302005



25. Government of Sikkim  
Through Secretary,  
Department of Law & Justice,  
Tashiling Secretariat,  
Gangtok -737101.
26. Government of Tamil –Nadu  
Through Secretary,  
Department of Law & Justice,  
Secretariat, Chennai-600009.
27. Government of Tripura  
Through Secretary,  
Department of Law & Justice,  
Civil Secretariat, Agaartala799001.
28. Government of Uttar Pradesh,  
Through Secretary,  
Department of Law & Justice,  
Lal Bahadur Shastri Bhavan,  
UP Secretariat, Lucknow-226001.
29. Government of Uttarkhand  
Through Secretary,  
Department of Law & Justice,  
Uttarakhand Secretariat  
4B Shubhash Road,  
Dehradun -248001
30. Government of West Bengal  
Through Secretary,  
Department of Law & Justice,  
Writers' Building, Kolkata - 700001.
31. Government of Kerla  
Through Secretary,  
Directorate of Health Services  
General Hospital Services,

General Hospital Junction,  
Thiruvananthapuram,  
Kerala. Pin Code - 695035.

32. U. T. of Andaman & Nicobar  
Through Secretary,  
Department of Law & Justice,  
Islands Secretariat, Port Blair,  
Andaman -744101.
33. U.T. of Chandigarh  
Through Adviser to Administrator,  
Secretariat, Sector 9,  
Chandigarh -160001.
34. U .T. of Dadra & Nagar Haveli  
Through Administrator,  
Secretariat, Silvassa-396230.
35. U. T. of Lakshadweep  
Through Administrator,  
Secretariat, Kavaratti – 682555.
36. U. T. of Daman & Diu  
Through Administrator,  
Fort Area, Secretariat Moti  
Daman-396220.
37. Bhartiya Janta Party  
Through it's President  
6-A Pandit Deen Dayal Upadhyay Marg  
Near ITO, Minto Bridge Colony  
Barakhamba, New Delhi  
Delhi- 110002.
38. Indian National Congress  
Through it's President  
24, Akbar Road, New Delhi  
Delhi-110001.

39. Samajvadi Party  
Through it's President  
19, Vikramditya Marg  
Gulistan Colony, Lucknow  
Uttar Pradesh -226001
40. Bahujan Samaj Party  
Through it's President  
Mohan Road, Alam Nagar  
Near Kabristan, Lucknow  
Uttar Pradesh – 226017
41. Network 18  
Through it's Directors  
FC-7, Film Cily, Sector 16A  
Noida, Uttar Pradesh- 201301
42. India Today Group  
Through it's Directors  
FC- 8, Film City  
Sector 16A, Noida  
Uttar Pradesh -201301
- ..... Respondents

**A WRIT PETITION IN PUBLIC INTREST UNDER  
ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR  
ENACTMENT AND IMPLEMENATION OF THE  
PROVISIONS OF 73<sup>RD</sup> AND 74<sup>TH</sup> AMENDMENT OF  
THE CONSTITUTION OF INDIA**

To,

The Hon'ble Chief Justice of India  
And his Campanion Judges of the Supreme Court of  
India at New Delhi,

The Humble petition of the Petitioner above named-

**MOST RESPECTFULLY SHOWETH :**

1. That the Petitioner is filing the Writ Petition in the Public Interest under Article 32 of the Constitution of India for enactment and implementation of the 73<sup>rd</sup> and 74<sup>th</sup> Amendment of the constitution of India.
2. That the Petitioner is filing the instant Writ Petition in Public Interest. The Petitioner has no personal interest in the litigation and the petition is not guided by self gain or for gain of any other person/institution/body and that there is no motive other than of Public Interest in filing the Writ Petition.
3. That the petitioner has based the instant Writ Petition from authentic information and documents made available through publically available documents, either obtained through RTI or from the websites of the Government.
4. That the Petitioner is filing the present Writ Petition for the common cause and the benefits of the society at large.
5. That affected parties by the orders sought in the Writ Petition would be the Union of India, Government of all the states in India, Political Parties, Media houses, who have been made as Respondent to the best of the knowledge of the Petitioner, no other bodies/ persons/institutions are likely to be affected by the orders sought in the Writ Petition.

6. That the Respondent Nos. 37 to 41, the private parties are the Political Parties and Media houses challenged in the Writ Petition and therefore Respondent 37 to 41 are the necessary party and needs to be heard under the principle of Natural Justice before passing any order.

That the Petitioner belongs to a Village and General Secretary in All India Panchayat Parishad (an organisation founded by Shri Balwant Rai Mehta, founder of Panchayati Raj System in 1958) and Practising Advocate in Supreme Court of India.

8. That there is no Civil, Criminal or Revenue litigation involving the Petitioner which has any legal nexus with the subject matter of the present Writ Petition.
9. That this is the first Writ Petition filed by the Petitioner in this Hon'ble Court on same or similar issue, and Petitioner has not filed any other Petition related to the subject matter in any other court or authorities.

10. **BRIEF FACTS OF THE CASE :**

- a. That the Petitioner is filing the Writ Petition in the Public Interest under Article 32 of the Constitution of

India for the enactment of 73<sup>rd</sup> and 74<sup>th</sup> Amendment of the Constitution of India and to enable the actual Panchayati Raj System in Panchayats of all states.

- b.** That as per the census data the current population of India is approx. 135 Crores and it became very difficult for any government to serve the last people of the country due to large population.
- c.** That Panchayati Raj Institution/system was launched in India to promote Rural Self Government, so that the local Government management of the local affairs could be done with local bodies who have been elected by the local people.
- d.** That in India the Panchayati Raj system is not a new term or arrangement but it was available in the Vedic era too. In old Sanskrit scriptures the word “Panchatayan” has been mentioned which means a group of five persons, including a spiritual man.
- e.** That in the Rigveda there is a mention of Sabha, Samiti and Vaidatha as local self-units, these were the democratic bodies at the local level and the King used to get the approval of these bodies regarding certain functions and decisions.
- f.** That at the time of Ramayana and Mahabharata concept of Panchayati Raj Institution was available, at the time of Ramayana Administration was divided

into Pur and Janpad or City and Village and at the time of Mahabharata over and above the Village, there were units of 10,20,100 and 1000 village groups, Gramik was the Chief Officer of the Village, Dashap was the officer of Ten Villages, Vinshya Adhipati, Shat Gram Adhyakshya and Shat Gram Pati were the chiefs of 20,100 and 1000 villages respectively.

- g.** That in the ancient period there is a mention of Village Panchayat in Kautilya's ArthaShashtra, the town was referred to as Pur and its chief was Nagrik and the local bodies were free from any Royal interference.
- h.** That before the independence too the English Government tried to introduce the Self-Government, and Lord Ripon has first introduced the concept of Self Government in 1882 in India and now the Prime Minister of India is also focusing more on self-Government and in his every speech after the era of Covid-19, he emphasis on Atm Nirbhar Bharat i.e. Self-Government.
- i.** That it is pertinent to mention here that the dream of Aatm Nirbhar Bharat or Self- Government will not be fulfilled unless the Panchayats of India will be more powerful in terms of rights, financial capacity and independence.

- j.** That in 1919 and in 1935 under the Government of India Act more focus was given on self-Government and self- government became more powerful and vide.
- k.** That our beloved Rashtra Pita Shri Mahatma Gandhi also dreamed about “Gram Swaraj”(Village Republics) and he always wanted to promote conversion of every village into a self- efficient autonomous entity where all systems and facilities for a dignified living are available. Once he said in essence democracy means all citizens take part in decision that affects them, “Twenty men sitting and ruling at Delhi or Madras is no democracy”. Gandhi Ji had spoken of Gram Swaraj in which adult villagers would annually elect the Government, which would have authority and jurisdiction in the fields of legislation, jurisdiction and executive decision making without interference from the state Government.
- l.** That at the time when maker of the constitution were busy in drafting the Constitution of India, a rough draft were shown to Shri Mahatma Gandhi, Gandhi Ji realised that there is no provision for Panchayats in this draft, and said if there is no Provision of Panchayats in the draft, the Constitution will not be said Our Constitution.
- m.** That First Prime Minister of India Shri Jawahar Lal Nehru while explaining essence of Gram Swaraj said



that “Democracy is not merely Parliament at top on in the states but something that trains every person to take his proper place and indeed any place”.

- n.** That after independence of India, Planning Commission has formed Balwant Rai Mehta Committee to examine the working of the Community Development Programme and the National Extension Service and to suggest measures for their better working under the Chairmanship of Shri Balwant Rai Mehta in 1957.
- o.** That Balwant Rai Mehta committee submitted its report on 24 November 1957 and recommended the establishment of the scheme of 'democratic decentralisation' which finally came to be known as Panchayati Raj. A true copy of the Report Submitted by Balwant Rai Mehta Committee on dated 24.11.1957 in annexed as **Annexure P-1** (Page to
- p.** That in the year of 1958 National development Council has accepted the recommendations of the committee and on 02.10.1959 Tristariya Panchayat System was launched by then Prime Minister Shri Jawahar Lal Nehru in Nagaur District, Rajasthan.
- q.** That Ashok Mehta Committee was formed thereafter in 1977 and as per the recommendation of Ashok Mehta Committee most of the states provided for political participation in Panchayat elections.

- r. That undoubtedly this recommendation of Ashok Mehta Committee coupled with decisions of several states to involve Panchayats in development initiatives and delivery of various services to rural People, but it did not evolve as people's institution and largely failed to deliver what was expected from them.
- s. That in 1985 L. M. Singhvi Committee opined that in order to make the panchayats effective, such institutions should be declared as units of local governments and there should be a constitutional mandate upon the state government to ensure that the panchayat function as such. L. M Singhvi Committee also recommended non-involvement of Political Parties in Panchayat Elections. The committee also recommended to create Nyay Panchayats for villages. A True copy of recommendation of L. M Singhvi Committee Report is annexed as **ANNEXURE P- 2** (Page to ).
- t. That many other committees were formed to study the Panchayati Raj System in India along with above-mentioned committee's i.e. V. T Krishnamachari in 1960, Takhatmal Jain Study Group in 1966, in 1977 and G. V. K Rao Committee in 1985
- u. That after 34 yrs. Of Panchayat System launched in Rajasthan, and after 43 yrs. Of the Independence of India, The Parliament has passed 73rd and 74<sup>th</sup>

Constitutional amendment, in December 1992. A True Copy of 73<sup>rd</sup> and 74<sup>th</sup> Amendment of the Constitution is annexed as **ANNEXURE P-3** (Page to

- v. That through these amendments local self-Governance was introduced in Rural and Urban India.
- w. That these acts came into force as Constitution (73<sup>rd</sup> Amendment) Act, 1992 on 24.04.1992 and the Constitution (74<sup>th</sup> Amendment) Act 1992 on 01.06.1993.
- x. That these amendments were done to establish a three Tier system of Panchayat at the Village intermediate and district levels and municipals in the urban areas.
- y. That these amendments added two new parts to the constitution namely 73<sup>rd</sup> amendment added Part IX titled “The Panchayats” and 74<sup>th</sup> Amendment added part IXA titled “The Municipalities”.
- z. That this amendment implements the Article 40 of the DPSP says that “State shall take steps to organise Village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of Self- Government.”
- aa. That the basic units of the democratic system- Gram Sabhas (Villages) and Ward Committees (Municipalities) comprising all the adult members registered as voters.
- bb. That the Constitution envisaged that Panchayats will function as institutions of local government and prepare plans and implement schemes for economic development and social justice, but leaves the precise devolution of powers and authority to Panchayats to the States.

**cc.** That through this amendment it was stated that the legislatures are needed to enact laws to endow powers and authority to Panchayats to enable their functions of local Government. The 11<sup>th</sup> Schedule enshrines the distribution of powers between the state legislature and the Panchayats. These 29 subjects are as-

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.

18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centers and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

**dd.** That the states were expected to devolve adequate powers, responsibilities and finance upon these local bodies so as to enable them to prepare plans and implement schemes for economic development and social justice.

**ee.** That surprisingly no states could be able to manage to transfer all these subjects to Panchayats after 28 Yrs. Of the Panchayati Raj System in India. A true Copy of Statistical handbook released by Ministry of Panchayati Raj is Annexed as **ANNEXURE P-4** (Page to ).

**ff.** That some states have three tier panchayat systems Gram Panchayat at first level, Samiti, Mandal or Anchalik, Taluk or Block or Janpad or Union or Kshetra as Second Level and Zila or District as the Third Level, however some states have only two tier

Panchayat System Gram Panchayat and Zila Panchayat.

- gg.** That likewise 74<sup>th</sup> Constitutional Amendment Act 1992 proposes to constitute a uniform structure of Municipal Corporations, Municipal Council and Nagar Panchayat in transitional areas.
- hh.** That it is pertinent to mention here that as per the report of Balwant Rai Mehta Committee the elections had to be constituted for every five years at Panchayats and Municipal Corporations irrespective of the Political Parties. To avoid hatred between the members of Panchayat and to keep the Panchayat driven by the members of the Panchayat only political parties were kept away from the Panchayat Elections.
- ii.** That probably this was the reason why makers of the 73<sup>rd</sup> and 74<sup>th</sup> amendment have never mentioned anywhere about the involvement of the Political Parties in Panchayat Elections.
- jj.** That for some time after the amendment, elections held irrespective of the Political Parties in Panchayats but now the Political Parties are fielding candidates in the Panchayat claiming them as “Supported by”, however for Municipal Corporation elections Political Parties are already there in the battle.
- kk.** That in some states the Zila Panchayat (One body of Three Tier Panchayat System) election are being held on symbol of Political Parties.
- ll.** That the Political Leaders campaigning for their candidates through Social Media Platform with other modes in Panchayat Elections, and Media showing the Panchayat results as win by any Particular Party. A True copy showing Political Leaders campaigning for the candidates in Panchayat Elections, Political Parties announcing their candidates for Panchayat elections and media showing Panchayat results as

win of a Particular party is annexed as **ANNEXURE P-5** (Page        to        ).

**mm.** That the Balwant Rai Mehta Committee has recommended elections in Panchayats and Municipal Corporations irrespective of the Political Parties and for few years after the Panchayati Raj system implemented in India it got followed but now every political Parties are vehemently trying to enter in Panchayat election, however for Municipal Election Political Parties are already playing from front foot.

**nn.** That the reason behind irrespective of the Political Parties was to keep away the Parties from Local Government politics so that no hatred among the members of Gram Sabha.

**oo.** That if the Political Parties were allowed to enter the Panchayat Election, the dream of Local Government of the Makers of the Panchayati Raj Systems and the dream of Our RashtraPita Shri Mahatma Gandhi who dreamed for the Gram Swaraj will be in vain.

**pp.** That it is pertinent to mention here that Bihar and Karnataka Government in it's Notification said that Panchayat Election will not be held on Political Party basis, no one will be allowed to use any Party Symbol and any Political Party leader's photo on their posters, who so ever will use party symbol in their election their candidature will be rejected. A Media report for Govt. Notification is annexed as **ANNEXURE P-6** (Page        to        ).

**qq.** That surprisingly many states are not able to manage the elections on regular time interval and many time it happened that High Court has to intervene for conducting elections for Panchayats, in a recent case in October 2018 Hyderabad High Court directed Andhra Pradesh Government to conduct Panchayat Elections.

- rr.** That as per the Article 243 E every Panchayat, unless sooner dissolved under any law for time being in force, shall continue for five years from the date appointed and in the event of dissolution, elections compulsory within six months.
- ss.** That undoubtedly Panchayati Raj Institution has succeeded in creating another layer of Government and Political representation in many states, but at the grass root level it has failed to provide better governance.
- tt.** That the grey area in the Panchayats is the lack of adequate funds, and there is a need to enlarge the domain of Panchayats to be able to raise their own funds.
- uu.** That the 73<sup>rd</sup> Amendment only mandated the creation of local self-governing bodies, and left the decision to delegate powers, functions and finances to the state legislatures, resulting failure of actual purpose of Panchayati Raj Institution.
- vv.** That the interference of MLAs and MPs from the different parties in the functioning of Panchayats also adversely affecting their performance and now penetration of Political Parties into Panchayat Elections will lead more interference.
- ww.** That the transfer of various governance functions, like the provision of education, health, sanitation and water was not mandated, instead the amendment listed the functions could be transferred and left it to state legislature to actually devolve functions.
- xx.** That the power to tax, even for the subjects falling within the purview of Panchayati Raj Institutions, has to be specifically authorized by the state legislature, the Constitutional amendment let this be a choice open to the state Legislature – a choice that most states have never exercised.



- yy.** That the revenue generation for Panchayats is intergovernmental transfers, where state governments devolve a certain percentage of their revenue to PRIs. The constitutional amendment created provisions for State Finance Commissions to recommend the revenue share between state and local governments. However, these are merely recommendations and the state governments are not bound by them.
- zz.** That the Panchayati Raj Institutions also suffer from structural deficiencies i.e. no secretarial support and lower levels of technical knowledge which restricted the aggregation of bottom up planning.
- aaa.** That There is a presence of adhocism i.e. lack of clear setting of agenda in Gram Sabha, Gram Samiti meetings and no proper structure.
- bbb.** That in Panchayati Raj System Accountability arrangements remain very weak even after 26 years of PRIs constitutional arrangement.
- ccc.** That the issue of ambiguity in the division of functions and funds has allowed concentration of powers with the states and thereby restraining the elective representatives who are more aware and sensitive to the ground level issues to take control.
- ddd.** That after 26 years of decentralization of Govt. expenditure on Panchayats by the Governments are only 2 %, comparatively very low on other countries like OECD Countries (14 %), China (11 %), and Brazil (7 %).
- eee.** That the Ministry of Panchayati Raj since its inception in 2004 made a drive to encourage activity mapping in the states but slowed down year by year and reached nowhere.
- fff.** That several states like Chhattisgarh and Madhya Pradesh took to activity mapping but put them in cold storage for years.

**ggg.** That MPLAD and MLALAD (Local Area Development) continue to bypass Local Governments.

**hhh.** That the State Finance Commission a counter part of the Union Finance Commission is not independent bodies in the most states.

**iii.** That it is clear that the states can flout the constitution with impunity. The mandate to establish a District Planning Committee to prepare a draft development plan has been violated and distorted in the most states.

**jjj.** It will not be an exaggeration to say that the 73<sup>rd</sup> and 74<sup>th</sup> Amendment of the Constitution has been a classic case of upholding ceremonial process rather than instrumental process.

**kkk.** That the democracy, which is a Government of People, by the People, for the People, must ultimately win for it is not only an intrinsic value but is instrumental to ushering in inclusive and just society. This can not happen without developing democratic local Governance with a sense of urgency.

**lll.** That at the present and initial time of Covid -19 Pandemic across the world there was no way it could be tackled except through a measure of cooperation between the centre and states.

**mmm.** That to tackle the Pandemic situation Centre has offered flexibility to states to adopt guidelines to their respective circumstances and states have accepted the guidelines from the centre and also framed rules as per the situation.

**nnn.** That if there would have been a successful local level self-Government across the country, it could be tackled in more efficient way.

**ooo.** That the Kerla was the first state to have the Covid 19 Curve flat and State of Kerla was able to manage because their robust system of effective

devolution. Such devolution helped the KudumbShree Programme to function in association with the Panchyats only.

**ppp.** That at this Critical situation it was only Panchayat and subjects related to Panchayats were helped in the economy.

**Grounds:**

- A. Because Panchayati Raj System was introduced with the purpose of implementation of Local Self Government.
- B. Because the Panchayati Raj system is the heart of India since the Vedic era.
- C. Because entering of the Political Parties into Panchayat Election will give birth to hatred in the mind of the members of Gram Sabaha and will ruin the Basic Principle of Panchayati Raj Institution.
- D. Because the Founder of Panchayati Raj Institution Shri Balwant Rai Mehta has clearly said the Elections in the Panchayats must be held irrespective of the Political Parties.
- E. Because L. M Singhvi Committee has recommended to restrict the involvement of the Political Parties in the process of Panchayati Elections.
- F. Because the 73<sup>rd</sup> Amendment only mandated the creation of local self-governing bodies, and left the decision to delegate powers, functions and finances to the state legislatures, resulting failure of actual purpose of Panchayati Raj Institution.
- G. Because the transfer of various governance functions, like the provision of education, health, sanitation and water was not mandated, instead the amendment listed the functions could be

transferred and left it to state legislature to actually devolve functions.

- H. Because the power to tax, even for the subjects falling within the purview of Panchayati Raj Institutions is not specifically authorized and Constitutional amendment let this be a choice open to the state Legislature – a choice that most states have never exercised.
- I. Because the revenue generation for Panchayats is inter-governmental transfers, where state governments devolve a certain percentage of their revenue to PRIs. The constitutional amendment created provisions for State Finance Commissions to recommend the revenue share between state and local governments. However, these are merely recommendations and the state governments are not bound by them.
- J. Because some of the states have not even formed the State Finance Commission for recommending revenue share between state and local Governments.
- K. Because the Panchayati Raj Institutions suffer from structural deficiencies i.e. no secretarial support and lower levels of technical knowledge which restricted the aggregation of bottom up planning.
- L. Because the bureaucracy has not been sympathetic to the Panchayati Raj system as the bureaucratic gate keeping of Panchayats has always existed where bureaucrats throw rules at Panchayats but are never accountable to them.
- M. Because in Panchayati Raj System Accountability arrangements remain very weak even after 26 years of PRIs constitutional arrangement.
- N. Because the 73<sup>rd</sup> and 74<sup>th</sup> Amendment of the Constitution has been a classic case of upholding

ceremonial process rather than instrumental process.

- O. Because it is clear from the Provisions of the Amendment in the Constitution that the states can flout the constitution with impunity.
- P. Because the Panchayati Raj Institution represents the basic spirit of the India continuing since the Vedic era and if this Institution did not get strengthened then the whole concept of Gram Swaraj by Rashtra Pita Shri Mahatma Gandhi and the concept of Panchayati Raj in India by founder of Panchayati Raj System will be ruined.
- Q. Because strengthening the Local Government will strengthen the People of India and any welfare schemes could be reached to the Last people very easily.
- R. Because strengthening the Panchayati Raj System will make India ready to fight with any upcoming Pandemic like Covid- 19.
- S. Because there is no Break up of functional assignments in the hierarchy.
- T. Because there is no clear demarcation of function of each tier of the Government.
- U. Because there is no separate bureaucracy cadre for Panchayats except in Karnataka.

**PRAYER:**

In view of the facts and circumstances above, it is prayed that this Hon'ble court in the interest of Public may pleased to issue:

- a. A writ in the nature of Mandamus thereby directing all states to submit a plan and time period for implementing all provisions of 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment.
- b. A writ in the nature of Mandamus thereby directing Government of India to form a Committee to study the achievements/drawback so far after implementation of Panchayati Raj Institution in all states.
- c. A writ in the nature of Mandamus thereby directing all the states to submit a report of implementation of Panchayati Raj System in their respective states and report on Power transferred to the Local Government.
- d. A writ in the nature of Mandamus thereby directing all states and Political Parties to refrain from entering into Panchayat Election and not to campaign in the capacity of Party Worker, and not to propagate any candidate as supported by their respective Political Party fighting election for Panchayat.
- e. A writ in the nature of Mandamus thereby directing all states to formulate the Power transfer to Panchayati Raj Institution.
- f. A writ in the nature of Mandamus thereby directing all states to make all Panchayat financially independent by transferring power, 29 subjects mentioned in Schedule IX of the Constitution of India to Panchayati Raj Institution.

- g. A writ in the nature of Mandamus thereby directing all Media houses not to report the Panchayat Election Results as win of any Particular Party.
- h. Such order Writ (s), order (s), or direction as is deemed fit and proper in the premises of the case, which is not specifically prayed for hereinabove.

AND FOR THIS ACT OF KINDNESS THE PETITIONER SHALL AS IN DUTY BOUND EVER PRAY.

Drawn By

Filed By

Rudra Vikram Singh, Adv. Ashwani Kumar Dubey

Drawn on:

Advocate on Record

Filed on :