

PANCHAYATI RAJ IN JAMMU AND KASHMIR: SUCCESS OR FAILURE?

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ABSTRACT

Panchayati Raj is a system of rural local self-government, responsible for rural development and governance of local affairs by the local bodies elected by the local people. Except a few states and certain areas, panchayati raj exists in all the states of India and was established by the acts of respective state legislatures. Panchayati raj system in Jammu and Kashmir has its own peculiar history. This system in the union territory has been in existence from the very past. But its prevailing arrangement is according to the Jammu And Kashmir Panchayati Raj Act-1989 and the act was amended several times till date. The concerned authorities have taken several steps for its empowerment, success and in achieving its objective of democratic decentralisation and rural development. For the establishment of Panchayati Raj, elections were also held in the union territory. Despite the steps taken, there are various issues due to which Panchayati raj has not been able to organize, flourish and deliver the functions according to its capability. Thus, there is a need to activate and revitalize Panchayati Raj in Jammu and Kashmir.*

Keywords: - Panchayati Raj, Self-government, State, Union Territory, Empowerment, Democratic decentralisation.

*After the Government of India revoked the special status conferred to Jammu and Kashmir under Article 370 of the Indian constitution in 2019, the Parliament of India passed the Jammu and Kashmir Reorganisation Act, 2019, which contained provisions that dissolved the state and reorganised it into two union territories-Jammu and Kashmir and Ladakh, with effect from 31 October 2019¹

INTRODUCTION

In India, Mahatma Gandhi had advocated the idea of village republics and village self-government. Assessing the importance of panchayats, Gandhiji quoted "When the panchayat raj is established, public opinion will do what violence can never do." Most of the state governments in India established panchayats soon after Indian Independence from the British rule. Panchayati Raj led to democratic decentralization whereby authority was rationalized among the institutions of governance at the central, regional and local levels with powers and functions being shifted to the lowest institutional or local level. Decentralization ensures the participation of people in decision-making process. In India, The panchayati raj bodies were constitutionalized by the Government headed by Prime Minister Narsima Rao by 73rd constitutional amendment act, 1992 and came into force on 24 April, 1993.

In the State of Jammu and Kashmir, the Panchayati Raj was introduced by Maharaja Hari Singh by promulgating the first Village Panchayat Regulation Act No. 1 in 1935. This act was amended in 1941. Naya Kashmir (New Kashmir) Plan (1944) submitted by Sheikh Mohammad Abdullah to Maharaja Hari Singh, also stressed the importance of democratic decentralization, social justice and economic reconstruction. Later on in 1951, the panchayat act of 1935 was replaced with Act-V of Samvat-2008 and this act provided for the establishment of village Panchayats. After this Jammu and Kashmir Panchayat Act of 1958 and Jammu and Kashmir Panchayati Raj Act, 1989 were passed. Thus the state of Jammu and Kashmir advanced gradually in improving the panchayati raj system. Panchayat elections were held in 2001, 2011 and 2018. Recently elections of chairpersons of Block Development Councils (BDC) were held in 2019. In spite of these efforts, the Panchayati Raj Institutions (PRIs) established by Jammu and Kashmir Panchayati Raj Act, 1989 have not fully developed in the union territory. The aim of this research paper is to recognize the loopholes in the structure and functioning of PRIs, suggest the alternatives and to assess whether panchayati raj in Jammu and Kashmir is going to achieve success or not.

HISTORY OF PANCHAYATI RAJ IN JAMMU AND KASHMIR.

As far as Panchayati Raj is concerned, Jammu and Kashmir has its own distinctive history. The presence of Panchayats in the union territory can be traced back to 1935 when the first Village Panchayat Regulation Act No. 1 was publicized by the then Maharaja Hari Singh. According to the preamble of the Act "it is expedient to establish in Jammu And Kashmir State the village panchayats to assist in the administrative, civil and criminal justice and also to manage the sanitation and other common concerns of the village". It clearly shows that the main aim of this Act was not to promote Panchayati Raj in the state but to use panchayats in assisting judicial and civil administration². This Act was limited in its aims and exclusive in nature. There was no appearance of a democratic character. The Act made provisions for the elections of panches numbering 5-7, out of these one panch was to be appointed by panchayat officer called Wazir-re -wazarat. The officer was authorized to frame rules and regulations for conducting elections of panches. The Act also mentioned tough qualifications for the voters and the franchise right was limited to a very few – educated, paying taxes, holding property or earning a minimum of salary³. Scrutiny of the main functions assigned to the panchayats reveals that out of a total of 58 provisions of the Act, 47 dealt with judicial functions.

The non-judicial functions of the panchayats mainly comprised supervision, construction and maintenance. The supervisory functions in the Act were related to supervision of village schools, supervision of village officials and labourers and supervision of public land and buildings. An interesting feature of the Act was that the Department of Revenue was given the responsibility for creating panchayats. In 1936, the Department of Panchayat and Rural Development was established and associated to the Revenue Department. The main function of this department was to oversee the functioning of the panchayats apart from providing necessary funds. It was under this department that "Dehat-Sudhar Committees" (Village Reform Committees) were planned to advise panchayats. Due to the nondemocratic nature of panchayats, people lost faith in the panchayati Raj institutions⁴. The Act of 1935 was amended in 1941 and added a wide range of subjects to the original Act. The panchayats were delegated with the power to maintain all public roads, movable and immovable public properties and other structures in the villages. They were also empowered to levy taxes, settle the local disputes and generate resources for the development of the village. One of the most important works done by the Rural Development and Panchayati Department was a survey of 1,300 villages listing their economic, social and cultural situations. The Panchayat Raj during this period initiated the first ever adult education drive in collaboration with the state education department. Village libraries were opened and community radio sets were installed in 24 villages. In addition to the revenue collected by levying taxes, government provided an assistance of Rs. 40,000 in 1937-38 and Rs. 3, 85,000 for the period 1945-49 to the panchayats⁵. Despite these initiatives, policy statements and even some initial successes, the Panchayati Raj institutions could not prove effective and feasible instruments of grassroots development.

In 1944, Sheikh Mohammad Abdullah launched "Naya Kashmir" plan. While launching this plan, he said "all Jammu and Kashmir National Conference considers the 'Naya Kashmir' Programme as a blue print for the future political and economic set up in the state. We have formulated this programme with this objective in view. From the political angle it aimed at achieving a responsible government based on democratic principles. All institutions of democracy from panchayats to national assembly shall be constituted through the due process of elections. Independent judicial system shall be an important component of the system and executive shall be made accountable to the people".⁶ The ideal of authorizing grass root level political institutions was fused into the Constitution of the State, after the post-accession period. The Constitution made it "obligatory for the state to take steps to organize village Panchayats and endow them such powers and authority as may be necessary to enable them to function as units of self-government." (Article 16, Directive Principles, Constitution of Jammu and Kashmir) In 1951, the government replaced the Panchayat Act of 1935 (as amended in 1941) with Act-V of Samvat 2008. By this act, a single panchayat was to be constituted for five to seven villages. In the panchayats, there were both elected and nominated members. Election of Members was done by a show of hands and some members were nominated by the Panchayat Officer. The head of the panchayat-Sarpanch was elected by the members of the panchayat and not by general electorate. This Act also laid the foundation for a joint committee of panchayats that had the power to perform inter-panchayat development works. By March 1951, 540 panchayats had been established in the state. By March 1954, this figure has risen to 751, covering 4774 villages⁷.

In 1958, the state of Jammu and Kashmir passed-The Jammu and Kashmir Village Panchayat Act of 1958 that prescribed a two-tier panchayati raj system-Gram Panchayat at the village level and Block Panchayat Board at block level. The act empowered the state government to establish a Gram panchayat in every village and to define the territorial jurisdiction of the panchayats.⁸ In Block Panchayat Board, each Panchayat was to be represented by one member and had the function of suggesting advices for the development of the block in respect of communications, irrigation facilities, government dispensaries, veterinary dispensaries, schools, local industries, medical relief and drinking water.⁹ The act also laid the foundation of Panchayat Adalats. The government controlled the Panchayats in a number of ways. In addition to elected panches, the Government had the power to nominate some of the *Panches*. As per the Act, the number of elected panches and the number of nominated panches was to be determined by the prescribed authority.¹⁰ Besides this, the government had the power to suspend, supersede or dissolve a Panchayat. By 1962 the total rural population that amounted to 6956 was covered by the panchayats and average population per panchayat came out to be 3,098. The number of Gram Panchayats increased from 936 in 1962 to 1483 in 1977-78. Average population per Gram Panchayat diminished from 3,098 in 1961-62 to 2,543 in 1967-68 but in 1990 this figure again improved to 3,218 Compared to 2,386 at the all India level. The number of villages per Gram Panchayat was about 4.7 in 1990 compared to 2.8 at the all India level.¹¹ The Panchayat Act of 1958 failed to strengthen the Panchayati Raj institutions in the state. The absence of a compulsory provision for regular elections, non-implementation of Panchayati Raj Programmes above village level and the deficiency of financial autonomy were the major drawbacks of the Act. The method of paying grant-in-aid to panchayats was ended in 1967-68 and in its place it was decided to provide loan for creation of remunerative assets.¹²

In 1975, Indra-Sheikh Accord was signed between Kashmiri politician Sheikh Abdullah and then Prime Minister of India Indira Gandhi and this allowed the former to become Chief Minister of Jammu and Kashmir. At this stage, it was realized that without people's participation, the development cannot be achieved and the need was to decentralize the planning process.

With the Establishment of district planning boards, the planning was decentralized and this made the District as a planning unit. The board was provided with the powers to formulate long and short-term plans and supervise their implementation. The meetings of district development boards were held in the districts to take several important decisions and to approve the district budget. This whole process was termed as single line administration.¹³ Its main purpose was to decentralize the administration and establish a participatory base at the district level. With time, the need was felt that the decentralization of planning should be extended down to the block level and the state government made blocks as the primary units of planning.

The Jammu and Kashmir Panchayati Raj Act 1989

The Jammu And Kashmir Panchayati Raj Bill was introduced in the Jammu and Kashmir legislative assembly in April 1988 and passed in March 1989. The Governor gave his assent to the bill in July 1989. The preamble of the act states "Whereas it is expedient to promote and develop Panchayati Raj in the State as an instrument of vigorous Local Self Government to secure the effective participation of the people in the decision making process and for over-seeing implementation of developmental programmes."¹⁴ The Act furnishes a three-tier Panchayati Raj system consisting of Halqa Panchayat, Block Development Council and District Planning and Development Board. In addition, the Act also provides for a Panchayat Adalat for every halqa.

Halqa Panchayat¹⁵

The Act states that there shall be a Halqa Panchayat for every halqa. "Halqa" means the area comprising a village or such Contiguous number of villages as determined by government.

- Every Halqa Panchayat shall have Halqa Majli's consisting of all the persons whose names exists in the electoral roll for such Halqa Panchayat.
- The Sarpanch shall summon at least two meetings of Halqa Majli's in a financial year.
- Every Halqa Panchayat shall consists of such number of Panches not less than seven and not more than eleven including the Sarpanch, as the prescribed authority may, from time to time, fix in this regard and in every panchayat Halqa, the Panch Seats Shall be reserved for:
 - a. the Scheduled Castes and
 - b. the Scheduled Tribes
 - c. not less than one-third of the total number of Punch seats reserved under above provision shall be reserved for women belonging to the Scheduled Castes or, as the case may be the Scheduled Tribes.
 - d. not less than one-third (including the number of Panch seats reserved for women belonging to Scheduled Castes and the Schduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat by such authority and in such manner as may be prescribed.
- The Sarpanch shall be elected directly by the electorate of Halqa Panchayat in such manner as may be prescribed.
- The Naib-Sarpanch shall be elected by the Panches of the Halqa Panchayat from among themselves at the first notified meeting of the Halqa Panchayat after its constitution.

The superintendence, direction and control of the preparation of electoral rolls for and the conduct of all elections under the Jammu and Kashmir Panchayati Raj Act 1989 shall vest in an Election Authority known as the State Election Commission. The Commission shall consist of a State Election Commissioner, to be appointed by the Governor on the recommendation of a committee consisting of the:

- Chief Minister. (Chairman)
- A Senior Minister to be nominated by the Chief Minister. (Member)
- Speaker of Legislative Assembly. (Member)
- Minister In charge Panchayats. (Member)
- Leader of opposition in Legislative Assembly. (Member)

The State Election Commissioner shall hold office for a term of five years from the date on which he enters his office or until he attains the age of sixty five years, whichever is earlier. The State Election Commissioner shall not be removed from his office except by an order made by the Governor on the ground of proved misbehavior or incapacity after an enquiry conducted by a sitting or a retired judge of the High Court, on a reference made to him by the Governor.

For every Halqa Panchayat there shall be an electoral roll, which shall be prepared by Election Authority in accordance with the provisions of this Act.

Sarpanches of Halqa Panchayats shall be elected by electorate of the Halqa Panchayat. The elections to the Halqa Panchayat shall be held one month prior to the expiry of term or within six months from the date of supersession. The Sarpanch, the Naib-Sarpanch and every panch of the Halqa Panchayat shall remain in the office for a period of five years from the date of its formation. A person shall be disqualified to be a member of Halqa Panchayat, if he

- is not a permanent resident of the State.
- is the employee of the Government or any local body.
- is below twenty-five years of age.
- is of unsound mind and stands so declared by a competent court.

- has been declared insolvent by a competent court.
- is a salaried servant of a Halqa Panchayat.
- is a Lamberdar (Numbardar) or Village Chowkidar.
- has been dismissed from the Government service, a local body or Halqa Panchayat.
- has been convicted of and sentenced for an offence.

Functions of Sarpanch and Naib-Sarpanch:-

- The Sarpanch shall preside over the meeting of the Halqa Panchayat and shall be responsible for maintenance of the records of the Halqa Panchayat.
- The Sarpanch shall be generally responsible for the financial and executive administration of the Halqa Panchayat and shall exercise administrative supervision and control in accordance with the rules framed in this behalf over the staff of the Halqa Panchayat.
- In the absence of the Sarpanch, the Naib-Sarpanch shall preside over the meetings of Halqa Panchayat.

Removal of Sarpanch and Naib-Sarpanch of Halqa Panchayat.

A Sarpanch or a Naib Sarpanch shall be deemed to have vacated his office immediately if a resolution expressing want of confidence in him is passed by a majority of not less than 2/3rd of the total number of the panches of Halqa Panchayat at a meeting specifically convened for the purpose in the prescribed manner on the following grounds:

- Gross misconduct.
- Negligence in duty.
- Failure to attend six consecutive meetings of the Halqa Panchayat.

A Sarpanch, Naib-Sarpanch a Panch of Halqa Panchayat may resign from his office by writing to such authority as may be prescribed and his office shall thereupon become vacant.

Whenever a vacancy occurs by the death or resignation of panch or Sarpanch, the vacancy shall be filled by election or nomination as the case may be within six months.

Government can also supersede the panchayats if in its opinion the panchayats fail to perform the duties imposed on it by or under this act.

Property of Halqa Panchayat

- Public village road, within the Halqa Panchayat area other than those under the control of any Department of the Government.
- Property movable and immovable which has been transferred to a Halqa Panchayat by the Government, any public body or an individual.
- Buildings, slaughter houses, manure and night soil, dumping sites, structures and water reservoir built by a Halqa Panchayat from its own funds or from contribution by Government, any public body or an individual.
- Rubbish, sewage, filth, bones, village cleaning, dead bodies of animals and other matters collected by the Halqa Panchayat under this Act.
- Trees and grass growing on property belonging to the Halqa Panchayat, fruit and other produce thereof and windfalls thereon, Drains, tanks, ponds, wells, springs, streams, khuls, ghats, nullahs and quarries in the Halqa Panchayat area which do not belong to any person or a group of persons or to the Government and declared to be such property by a resolution of the Halqa Panchayat.

The Halqa panchayat shall have power to acquire, hold and dispose of the property and enter into any contract in accordance with the laws and rules in force.

Powers and Functions.

According to the Act, the functions of Halqa Panchayats include:

- To prepare the developmental plans for the Halqa.
- To take steps for the implementation of the developmental plans.
- To specifically deal with the problems of soil conservation, water management, social forestry, rural industrialization, agriculture, sheep and animal husbandry, sanitation, health and other welfare programmes.
- Regulations of buildings, shops and entertainment houses and checking of offensive or dangerous trades.
- Construction and maintenance of slaughter houses, regulation of sale and preservation of meat and processing of skins and hides.
- Regulation of sale and preservation of fish, vegetables and other perishable articles and food.
- Regulation of fairs and festivals.
- Preparation and implementation of special developmental plans for alleviating poverty and employment generation through and besides programme, like Integrated Rural Development Programme, National Rural Employment Programme, Rural Landless Employment Guarantee Programme and Housing of Scheduled Castes and Backward Classes.

- All matters involving regulation, supervision, maintenance, and support, incidental to, or necessary for the more efficient discharge of the above functions and those which may be entrusted to Halqa Panchayat under the provisions of the Act.

Block Development Council (BDC)¹⁶

For every Block in the State, Government shall constitute a Block Development Council. The Block Development Council shall consist of:-

- a Chairman.
- all Sarpanches of Halqa Panchayats falling within the Block.
- Chairman, Marketing Society within the jurisdiction of the Block : Provided that the prescribed authority may, if it is of opinion that Woman or Scheduled Castes or any other class are not represented in the Block Development Council, nominate not more than two persons to be members of the Block Development Council.
- Every Block Development Council shall have a Chairman who shall be a person qualified to be elected as a Panch.
- Every Block Development Council shall have a Vice-Chairman who shall be elected by the members of the Block Development Council from amongst themselves.
- The Block Development Officer shall be the Secretary of the Block Development Council.

The Chairman of Block Development Council shall be elected by the electoral College comprising Panches and Sarpanches of Halqa Panchayats falling within the Block. The election of the chairman of the Block Development Council shall be held one month prior to the expiry of the term. Every Block Development Council shall hold its meeting once in a month.

Powers and functions of the Chairman and the Vice-Chairman.

- The Chairman and in his absence the Vice-Chairman, shall preside over the meeting of the Block Development Council
- The Chairman and in his absence the Vice-Chairman shall exercise general control and supervision over the staff and affairs of the Block Development Council.

The term of office of the Chairman of the Block Development Council shall be five years from the date he is declared elected. The term of office of the Vice-Chairman and other members of the Block Development Council shall be co-extensive with the term of their office as Sarpanch of the concerned Halqa Panchayat.

Removal of Chairman.

The Chairman of the Block Development Council shall be deemed to have vacated his office if a motion of no-confidence moved against him by any member on any of the following grounds, is carried by a majority of not less than two-third of the total number of Panches and Sarpanches of Halqa Panchayats of the Block at special meeting convened for the purpose in such manner as may be prescribed.

The grounds for disqualification are:

- gross misconduct
- negligence in duty

Property and finances of the Block Development Council

- Block Development Council shall have the powers to acquire, hold or dispose of property and enter into a contract in accordance with the rules in force.
- For every Block Development Council, there shall be constituted a "Block Development Council Fund" comprising grants made by the Government having due regard to the number of Panchayat Halqas in a Block and the revenues assigned by the District Planning and Development Board.

Powers and Functions.

The Block Development Council shall perform the following functions:

- Constructions, maintenance and supervision of Inter-Halqa Panchayat Communication System.
- Administrative and technical guidance to Halqa Panchayats and review of their work.
- To supervise plans relating to agriculture, rural development, animal husbandry/sheep husbandry, social forestry, education and public health.
- Supervise and monitor the implementation of poverty alleviation programmes like Integrated Rural Development Programme, National Rural Employment Programme, Rural Landless Employment Guarantee Programme.
- Undertake measures for effective supervision and monitoring of various developmental programmes.
- To carry out such other functions as may be entrusted to it by the Government or by the District Planning and Development Board.

District Planning and Development Board¹⁷

Each District shall have a District Planning and Development Board. The District Planning and Development Board shall comprise the following:-

- a. Chairman of the Block Development Councils of the District.

- b. Members of Parliament representing the area.
 - c. Members of the State Legislature representing the areas within the District.
 - d. Chairman of the Town Area Committees at the District.
 - e. President of the Municipal Council, if any.
- The Chairman of the Board shall be nominated by the Government from amongst the members of the District Planning and Development Board.
 - The Vice- Chairman shall be elected by the members of the District Planning and Development Board from amongst themselves. No Government servant shall be elected as Vice-Chairman of the Board.
 - The District Development Commissioner shall be the Chief Executive of the District Planning and Development Board and he shall be assisted by the District Level Heads in discharge of functions as such.

Finance

All the funds provided by the Government or any other agency, meant for the Development of District will flow through the District Planning and Development Board as per the District plans.

Functions

The District Planning and Development Board shall perform the following functions:-

- To formulate developmental programmes for the District and indicate priorities for various schemes and consider issues relating to the speedy development and economic upliftment of the District.
- To review periodically progress and achievements of development plans and schemes and make suitable recommendations.
- To formulate periodic and annual plans for the District.
- To formulate and finalize the plan and non-plan budget for the District.
- To lay down the policy guidelines for the Block Development Council and Halqa Panchayat.
- To approve the budget of the Block Development Council and supervise and co-ordinate their work.
- To undertake special measures for alleviating poverty and employment generation and extending assistance to Halqa Panchayats in this behalf.
- To promote and assist co-operative institutions.
- To perform such other functions and duties as may be assigned or entrusted to it by the Government from time to time.

Panchayati Adalat⁸

There shall be a Panchayati Adalat for every halqa. The Panchayati Adalat shall comprise five members who shall be nominated by the prescribed authority out of the panel prepared and recommended by the halqa Panchayat out of its electorate. Each member of Panchayat Adalat should:

- be literate.
- have attained the age of 30 years.
- not be a Sarpanch, Naib-Sarpanch or a Panch.
- not be under the employment of the Government or any local body or corporation.

The term of member of the Panchayati Adalat shall be five years from the date of nomination. Three members of the Panchayati Adalat, shall form the quorum. The Panchayat Adalat enjoys criminal as well as civil jurisdiction. The criminal jurisdiction is vast and includes a significant range of offences under the Ranbir Penal Code, Samvat 1989. Civil jurisdiction is limited to claim of the value of Rs. 3,000 involving suits for ascertained sums, for damages, for breach of contract not effecting immovable property, and compensation for wrongly taking or injuring immovable property. The constitution of Panchayati Adalat at halqa level is a very praiseworthy development.

Present Status of Panchayati Raj in Jammu and Kashmir

Structure

According to the Jammu and Kashmir Panchayati Raj Act 1989, there should be three Panchayati Raj Institutions in the State: Halqa Panchayats, Block Development Councils and District Planning and Development Boards. However at present only Halqa Panchayats and Block Development Councils are existing at village level and block level respectively.

Panchayat Elections 2001

Under the Panchayat Raj Act of 1989, the first election took place in 2001. In this election, in Kashmir Division there were 1470 vacant Sarpanch seats out of which 1044 were filled and 426 seats remained vacant. The total Panch vacancies in the division were 10458 out of which 5155 were filled and 5303 seats remained vacant.

In Jammu Division, there were 1230 vacant Sarpanch seats out of which 1179 were filled and 51 seats remained vacant. The total Panch vacancies in the division were 10090 out of which 9714 were filled and 376 seats remained vacant. There was no provision of reservation of seats for women in the 2001 Panchayat election. Due to this the representation of women was very insignificant. The elected Panchayats operated from 2001 to 2006. Even after the completion of the prescribed time period (five

years) new Panchayat election were not held till 2011 as the Government claimed that the prevailing situation was not feasible for conducting elections that time. The details of the election are given in table 1.1

Table 1.1:- Details of Panchayat Election held in Jammu and Kashmir in 2001.

District	No. of Panchayats	No. of Sarpanches elected.			No. of Sarpanch vacancies	Total No. of Panches to be elected	No. of Panches elected			No. of vacancies of Panches
		Male	Female	Total			Male	Female	Total	
Srinagar	93	67	--	67	26	666	246	01	247	419
Kupwara	224	168	--	168	56	1471	913	02	915	556
Baramulla	276	162	--	162	114	2148	898	04	902	1246
Leh	68	68	--	68	--	448	412	36	448	--
Kargil	65	65	--	65	--	453	451	02	453	--
Budgam	199	61	--	61	138	1444	313	02	315	1129
Anantnag	309	249	02	251	58	2242	1167	24	1191	1051
Pulwama	236	202	--	202	34	1586	684	--	684	902
Total (Kashmir Division)	1470	1042	02	1044	426	10458	5084	71	5155	5303
Jammu	295	293	01	294	01	2448	2401	42	2443	05
Kathua	183	181	01	182	01	1394	1368	23	1391	03
Poonch	115	114	01	115	--	1028	1013	13	1026	02
Udhampur	215	209	03	212	03	1840	1754	38	1792	48
Doda	262	215	01	216	46	2004	1672	26	1698	306
Rajouri	160	160	--	160	--	1376	1340	24	1364	12
Total (Jammu Division)	1230	1172	07	1179	51	10090	9548	166	9714	376

Source: Directorates of Rural Development, Srinagar/Jammu

From the data given in table 1.1, it is clear, that these elections were not conducted in a conducive atmosphere particularly in Kashmir division where 29% Sarpanch seats and nearly 60% panch seats remained vacant. The elections were held in a situation when contesting election and casting vote was considered as a threat to life. In view of the boycott calls and threats given by separatists and fundamentalists, many constituencies were declared vacant as no contestant came forward to contest election, while in many other constituencies, single candidate filled up the nomination form and was declared elected unopposed.

Panchayat Elections 2011

Panchayat elections 2011 were conducted in 16 phases starting from April 13 and ending on June 18, 2011. Prior to the elections, reorganization of districts and panchayats was done in 2006. The number of blocks increased from 121 to 143 and the number of districts increased from 14 to 22. The election rolls were revised, updated and computerized. The worth mentioning point about these elections was that in comparison to 2001 elections these elections took place in an environment somewhat free from fear and violence and this time the provision of reservation of seats for women was available and women showed improved representation in this election.

This time there were 4128 panchayat constituencies and through this election 4081 sarpanches were elected and 47 seats remained vacant. Out of a total of 29707 panch vacancies, 28248 were filled and 1458 seats remained unfilled. The details of the election are given in table 1.2

Table 1.2:- Details of Panchayat Election held in Jammu and Kashmir in 2011.

District	Total Number of Panchayat Constituencies	Total Number of Sarpanches elected			Total Number of Sarpanch Vacancies	Total Number Of Panch Constituencies	Total Number of Panches Elected			Total Number of Panch Vacancies
		Male	Female	Total			Male	Female	Total	
Kupwara	356	355	0	355	1	2716	1757	937	2694	22
Anantnag	297	296	0	296	1	2054	1364	673	2037	17
Bandipora	114	114	0	114	0	869	577	288	865	4
Baramulla	365	348	2	350	15	2906	1638	714	2352	554
Budgam	283	282	0	282	1	2155	1422	686	2108	47
Ganderbal	103	103	0	103	0	744	492	227	719	25
Kulgam	159	158	0	158	1	1060	716	324	1040	20
Shopian	103	102	1	103	0	763	443	177	620	143
Srinagar	10	10	0	10	0	79	53	25	78	1
Pulwama	186	166	0	166	20	1350	623	218	841	509
Leh	93	93	0	93	0	604	389	199	588	16
Kargil	95	95	0	95	0	659	452	204	656	3
Doda	231	230	1	231	0	1423	931	489	1420	3
Jammu	296	293	2	295	1	2160	1407	746	2153	7
Kathua	244	240	4	244	0	1644	1080	562	1642	2
Kishtwar	134	134	0	134	0	838	549	287	836	2
Poonch	189	185	4	189	0	1540	1013	524	1537	3
Ramban	124	123	1	124	0	832	539	292	831	1
Reasi	147	144	2	146	1	1014	638	354	992	22
Rajouri	295	284	5	289	6	2026	1282	690	1972	54
Samba	100	99	1	100	0	726	464	260	724	2
Udhampur	204	199	5	204	0	1544	995	548	1543	1
J&K Total	4128	4053	28	4081	47	29,706	18824	9424	28,248	1458

Source: Department of Rural Development and Panchayati Raj Government of Jammu and Kashmir

Panchayat Election 2018

Recently panchayat elections were held in the state in 2018. The elections were conducted in nine phases and lasted from 17 November to 11 December 2018. Polling was held on 17, 20, 24, 27 and 29 November and 1, 4, 8, 11 December and the entire poll process was completed by 17 December. The polls were held through ballot and migrant Kashmiri Pandits were also given opportunity to vote through postal ballots. There were a total of 4490 panchayat halqas in 316 blocks throughout the state.¹⁹ (Table 1.3)

Table 1.2:- Details of Panchayat Election held in Jammu and Kashmir in 2018.

Division	No. of Blocks	No. of Panchayat Halqas	No. of Punch Constituencies	Sarpanches elected unopposed	Punches elected unopposed	Poll going Sarpanch seats	Candidates in fray Sarpanch Seats	Poll Going Panch Seats	Candidates in fray Panch Seats	No. of electors	Polling stations setup
Kashmir	168	2375	18833	748	5775	790	1977	1805	3947	2991128	6445
Jammu	148	2108	16196	37	3500	2050	8149	12488	30445	2863080	15906
Total	316	4483	35029	785	9275	2840	10126	14293	34392	5854208	22351

Source: Chief Electoral Officer, Jammu and Kashmir.

The 2018 panchayat elections in Jammu and Kashmir displayed a healthy voter turnout. According to the chief electoral officer, the state recorded an average voter turnout of 74% over all the nine phases. But there were huge differences between the various regions of the state. The Jammu division recorded an average voter turnout of 83.5% and the 10 districts of the Kashmir Valley recorded just 41.3 %.(Table 1.4)

Table 1.4: Phase wise and region wise voter turnout Jammu and Kashmir Panchayat Elections 2018.

PHASES	JAMMU DIVISION	KASHMIR DIVISION	LADAKH	KASHMIR VALLEY	JAMMU AND KASHMIR TOTAL
Phase I	79.40%	64.50%	65.20%	64.40%	74.10%
Phase II	80.40%	52.20%	66.40%	44.20%	71.10%
Phase III	83.00%	55.70%	70.90%	48.20%	75.20%
Phase IV	82.40%	32.30%	NA	32.30%	71.30%
Phase V	85.20%	33.70%	NA	33.70%	71.10%
Phase VI	84.60%	17.30%	NA	17.30%	76.90%
Phase VII	84.80%	30.30%	NA	30.30%	75.30%
Phase VIII	85.10%	49.60%	NA	49.60%	79.90%
Phase IX	NA	38.80%	NA	38.80%	38.80%
ALL PHASES	83.50%	44.40%	67.80%	41.30%	74.00%

Source: Chief Electoral Officer, Union Territory of Jammu and Kashmir and Ladakh.

Block Development Council Elections 2019

Elections of Chairpersons of Block Development Councils were not held till 2019. The elections were for the first held in October 2019. For conducting these elections, one block was considered as one constituency and all the elected panches and

Sarpanches of the Halqa panchayats falling within the block constituted the Electoral College for that block. The details of the election are given in table 1.5

Table 1.5: Details of Jammu and Kashmir Block Development Council Elections 2019

District	Total No. of Blocks	No. of Blocks notified for election	No. of Male Electors	No. of Female Electors	Total Electors	Party Affiliation of Winning Candidate				
						BJP*	INC**	JKNPP***	Ind.****	Total
Kupwara	24	24	1949	834	2783	0	0	0	24	24
Anantnag	16	16	579	184	763	03	0	0	13	16
Bandipora	12	12	423	161	584	0	0	0	12	12
Baramulla	26	26	1035	415	1450	01	0	0	25	26
Budgam	17	16	468	182	650	02	0	0	14	16
Ganderbal	07	07	274	100	374	0	0	0	07	07
Kulgam	11	07	113	55	168	0	0	0	07	07
Shopian	09	08	61	21	82	08	0	0	0	08
Srinagar	04	03	34	09	43	0	0	0	03	03
Pulwama	11	09	107	25	132	04	01	0	04	09
Leh	16	16	496	248	744	07	0	0	09	16
Kargil	15	15	577	264	841	04	0	0	11	15
Kashmir Division	168	159	6116	2498	8614	29	1	0	129	159
Doda	17	17	1319	581	1900	05	0	0	12	17
Jammu	20	20	1805	898	2703	09	0	0	11	20
Kathua	19	19	1484	702	2186	09	0	0	10	19
Kishtwar	13	13	690	326	1016	07	0	0	06	13
Poonch	11	11	1372	697	2069		0	0	11	11
Ramban	11	11	796	354	1150	02	0	0	09	11
Reasi	12	12	919	420	1339	04	0	0	08	12
Rajouri	19	19	1823	864	2687	08	0	0	11	19
Samba	09	09	593	300	893	04	0	0	05	09
Udhampur	17	17	1399	673	2072	04	0	08	05	17
Jammu Division	148	148	12200	5815	18015	52	0	8	88	148
Grand Total	316	307	18316	8313	26629	81	1	8	217	307

*Bharatiya Janta Party, **Indian National Congress, ***Jammu and Kashmir National Panthers Party, ****Independent Candidates.

Source: Department of Rural Development and Panchayati Raj Government of Jammu and Kashmir.

Panchayat Bi-Elections 2020

Recently in February 2020, election authority of the Union Territory issued a notification for Panchayat bi-elections in order hold elections for the vacant seats that were created due to deaths and resignations of the previously elected Sarpanches and panches. Vacancies were also created as a result of elections for chairpersons to Block Development Councils in October 2019. But the elections were deferred by the election authority on the basis of credible inputs from the law enforcing agencies²⁰.

Representation

The Panchayat Raj Act of 1989 did not contain the provision for reservation of seats till 2004. In 2004, an amendment was passed which provided for 33% reservation for women and also reservation for SC and STs in proportion to the population. The responsibility of framing rules for rotation of seats for future elections was handed over to Director Rural Development. In 2001 panchayat elections, the representation of women was very low as the provision of reservation was not available then. In the panchayat elections of 2011 and 2018 as well as in Block Development Council Election 2019, women representation has increased to a great extent.

Steps Taken by The Government

Government has taken several steps to improve the structure and performance of the panchayats which include organizing capacity building programmes for Panches and Sarpanches, improvement in infrastructure and manpower and Audit of accounts. From 2006-2011 when the elected Panchayats were not in place, a parallel body named as the "Monitoring Committee" was constituted for the operation of the Centrally Sponsored Schemes. It comprised of the Gram Sevak, the ex-Sarpanch and a few prominent members of the village. It also included a woman and a member belonging to SC/ST community. Keeping in view the great eagerness shown by the voters in the recently finished elections and the enabling provisions in the Jammu and Kashmir Panchayati Raj Act, 1989, the government decided that a substantive and considerable devolution of

functions to the PRIs in the State would be in order. The role of the PRIs should not only be confined to the preparation of plans, but also extend to active supervision of the activities currently being performed by a number of departments at the local level. The Committee formed by government in 2011 recommended that the functions and activities related to the following departments be devolved to the PRIs in the manner suggested by the committee²¹.

- Agriculture Department.
- Animal & Sheep Husbandry Department.
- Consumer Affair & Public Distribution Department.
- Education (School) Department.
- Fisheries Department.
- Forest Department.
- Health & Family Welfare Department.
- Horticulture Department.
- Industries & Commerce Department.
- Public Health Engineering and Irrigation and Flood Control Department.
- Public Works (R&B) Department.
- Revenue Department.
- Rural Development Department.
- Social Welfare Department.

It was also ordered that the department concerned in consultation with the Finance Department / Planning and Development Department, shall identify the staff and funds to be transferred to the Panchayats for operation, maintenance and supervision of the identified subjects. Panchayats were also authorized to supervise and check attendance and punctuality of staff posted in such departments. Presently several Centrally Sponsored Schemes are being operated through the Panchayats. These include:

- Mahatma Gandhi National Rural Employment Guarantee (MGNREGA)
- Indira Awas Yojana (IAY)
- Swarnajayanti Gram Swarozgar Yojana (SGSY)
- Fourteenth Finance Commission.
- e-Panchayat.
- Shayama Prasad Mukherji Rurban Mission.
- Saansad Adarsh Gram Yojana.
- Pradhan Mantri Awas Yojana.
- Rashtriya Gram Swaraj Abhiyan.
- Swachh Bharat Mission-Gramin.

Loopholes

There is no doubt that the powers and functions pertaining to the Panchayats in Jammu and Kashmir have been elaborated by the Jammu and Kashmir Panchayati Raj Act, 1989 and with time the government also has enlarged the scope of Panchayats. More and more powers were delegated to them and various steps were taken for their effective functioning. But in reality, the Panchayats do not enjoy such powers and are not able to perform their respective functions in the Union Territory because of the following reasons.

- Lack of safe and sound social, economic and political environment.
- The Panchayats have to face various administrative problems like politicization of local administration, lack of co-ordination between the public and bureaucratic elements and indifferent approach of the government employees towards various developmental programmes.
- The political parties particularly the ruling party/parties are affecting the functioning of Panchayats to such an extent that it has led to politicization of Panchayats.
- Panchayats are not achieving success due to the factors like corruption, inefficiency, parochial loyalties, motivated actions, caste factionalism, inadequate regard for procedures and existing power elites. The power of the government to supersede panchayats also acts as a hindrance in achieving the objective of democratic decentralization.
- The Jammu and Kashmir Panchayati Raj Act, 1989 has not established Panchayati Raj Institutions fully on democratic pattern. The indirect election of Chairpersons of Block Development Councils and the presence of Government officials in the District Planning and Development Board violate sound democratic principles.
- Unnecessary delay in the elections to the Panchayats.
- All the factions in the society do not get sufficient representation in the Panchayats.
- Non implementation of 73rd constitutional amendment act 1992 of Indian constitution in the union territory till date.
- Lack of awareness and conceptual clarity in common masses regarding the structure, composition and functioning of Panchayats.

- Lack of adequate funds. The Panchayats have limited powers to impose taxes and the authorities have also failed to provide adequate funds to these institutions.
- Negligible participation of people in Panchayati Raj and lack of cordial relations between the people and officials.
- The infrastructure of Panchayats is very poor. All the Panchayat Halqas do not have Panchayat Ghars. Panchayat Ghars wherever present are in poor condition and are of no use.
- Failure of the government to provide security to the elected members of Panchayati Raj Institutions.
- Success of Illiterate persons in the elections to the panchayats.
- The three basic Panchayati Raj Institutions have never existed simultaneously in the Union Territory till date.

Alternatives

- Panchayats should be made accountable to the citizens and should be allowed to exercise their powers and perform their prescribed functions.
- The administration of Union Territory should endow the panchayats with such power and authority as may be necessary to enable them to function as units of self-government.
- Panchayats should have their own autonomous jurisdiction without any external interference.
- The Panchayats should in reality be allowed to exercise the powers ceded to them by the authorities.
- Panchayats should be allowed to devise plans for socio-economic development and social justice.
- Elections to the Panchayati Raj Institutions should be held in time and members should be elected by direct election in order to uphold democratic principles.
- All the sects of society (women, SCs, STs etc.) should get adequate representation in the Panchayati Raj Institutions.
- Panchayats should be provided with adequate funds and personnels in order to discharge their functions properly.
- Necessary steps should be taken for making Panchayats free from corruption, political interference and influence of power elites.
- Different types of media like print and social media should be used to spread awareness among people regarding the structure, powers and functions of panchayats. People should also be made aware of the benefits they can have from the schemes operating through panchayats.
- Capacity building programmes for Panches and Sarpanches should be frequently organized.
- Information and Communication Technology (ICT) infrastructure should be made available to panchayats.
- Illiterate persons should be debarred from contesting elections to the Panchayats.

Conclusion

On the basis of the above observations, it can be concluded that the panchayati raj in Jammu and Kashmir is showing progress day by day. No doubt the Panchayati Raj Institutions in the union territory suffer from both structural and functional flaws and Jammu and Kashmir Panchayati Raj Act, 1989 has remained unsuccessful in achieving its goal of making panchayats as units of self-governance. But still the administration of the union territory is trying its best to improve the status of Panchayati Raj Institutions and bridge the gap between these institutions and the common people. Assessing the importance of Panchayati Raj, the people are also showing better participation in the affairs of panchayats. The loopholes in the infrastructure, redressal of grievances and rules governing the Panchayati Raj in the union territory need to be addressed in order to achieve its objective of democratic decentralisation.

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End Notes

¹ "Jammu Kashmir Article 370: Govt. revokes Article 370 from Jammu and Kashmir, bifurcates state into two Union Territories". The Times of India. PTI. 5 August 2019. Retrieved 5 August 2019

²Shri Prakash and Ghulam Mohammad Shah, Towards Understanding the Kashmir Crises, Gyan Publishing House, New Delhi, 2001, P.No.191.

³Riyaz Punjabi, Panchayati Raj in Kashmir Yesterday, Today and Tomorrow, in George Mathew's ed., Panchayati Raj in Jammu and Kashmir, Concept Publishing House, New Delhi, 1990,P.No 47.

⁴M. Aslam, Panchayati Raj in Jammu and Kashmir: Retrospects and Prospects, Concept Publishing House, New Delhi, 1999, P.No.82

⁵Shri Prakash & Ghulam Mohammad Shah, op.cit, P.No. 193.

⁶M. Shafi, Revival of Democratic Tradition, in George Mathew's ed., Panchayat Raj in Jammu and Kashmir, Concept Publishing House, New Delhi, 1990, P.No. 201.

⁷Mohammad Sultan, Jammu and Kashmir in Status of Panchayati Raj in the States of India, Concept Publishing House, New Delhi, 1995, P.No. 85-86.119

⁸Shri Prakash and Gulam Mohmmad Shah.

⁹Mohammade Sultan, 'Jammu and Kashmir', in George Mathew, Status of Panchayati Raj in the States of India, 1994, P.No 90

¹⁰Riyaz Punjabi, 'Panchayati Raj in Kashmir Yesterday, Today and Tomorrow; in George Mathew (ed) , Panchayati Raj in J&K, ISS, New Delhi, 1990, P.No 42

¹¹Shri Prakash and Gulam Mohmmad Shah, op.cit. P.No. 199.

¹²Shri Prakash and Gulam Mohmmad Shah, op.cit. P.No. 200.

¹³P. Sundaraja, op.cit. P.No. 139-40.

¹⁴Panchayati Raj Act 1989 and Panchayati Raj Rules, 1996, Government of Jammu and Kashmir, P.No. 1.

¹⁵Ibid. P.No.4-16.

¹⁶Ibid. P.No.16-19.

¹⁷Ibid. P.No.25-27.

¹⁸Ibid. P.No.28-36.

¹⁹<https://www.firstpost.com/india/jammu-and-kashmir-panchayat-elections-to-be-held-in-nine-phases-from-17-november-to-11-december-5194061.html>.

²⁰<http://ceojammukashmir.nic.in/>

²¹Report of the committee on devolution of powers to the Panchayats formed by government order No.447-GAD of 2011 dated: 13/04/2011.

References

1. Aslam, M. (1996), 'Local Self-Government in India: Retrospect and Prospects', Published in Role of Local Self-Government in Rural Development, Proceedings of International Workshop, Hyderabad, 27 November - 3 December 1995, New Delhi, AARRO Publications.
2. Buch, Nirmala (2010), From Oppression to Assertion: Women and Panchayats in India, New Delhi, Routledge.
3. Govt. of Jammu and Kashmir, Civil Sect., Rural Development Department, Notification, Srinagar, the 18th June, 2004.
4. Aslam, M. (1977), 'Land Reform in J & K', *Social Scientists* (November edition), 6(4): 45-48.
5. The Jammu and Kashmir State Finance Commission for Panchayats and Municipalities Act, 2011 (Act No. XVI of 2011).
6. Government of Jammu and Kashmir (2011), Panchayati Raj Act, 1989 and Panchayati Raj Rules, 1996 (Amended up to April 2011), Jammu and Kashmir, Rural Development Department.
7. Choudhary, Sushma (1990), 'Does the Bill Give Power to People?' in George Mathew: Panchayati Raj in J & K (ed.), New Delhi, Concept Publishing House.
8. D'Lima, Hazel (1983), Women in Local Government: A Study of Maharashtra, New Delhi, Concept Publishing Company.
9. Mohammad, Sultan (1995), 'Jammu & Kashmir', Status of Panchayati Raj in the States of India- 1994, ISS, New Delhi, Concept Publishing House.