

APPENDIX - II

The Constitution (Seventy-third Amendment) Act, 1992

Statement of Objects and Reasons appended to the Constitution (Seventy-second Amendment) Bill, 1991 which was enacted as the Constitution (Seventy-third Amendment) Act, 1992

STATEMENT OF OBJECTS AND REASONS

Though the *Panchayati Raj* Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons including absence of regular elections, prolonged supersession, insufficient representation of weaker sections like Scheduled Castes, Scheduled Tribes and women, inadequate devolution of powers and lack of financial resources.

2. Article 40 of the Constitution which enshrines one of the Directive Principles of State Policy lays down that the 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. In the light of the experience in the last forty years and in view of the short-comings which have been observed, it is considered that there is an imperative need to enshrine in the Constitution certain basic and essential features of *Panchayati Raj* Institutions to impart certainty, continuity and strength to them.

3. Accordingly, it is proposed to add a new Part relating to *Panchayats* in the Constitution to provide for among other things, *Gram Sabha* in a village or group of villages; constitution of *Panchayats* at village and other level or levels; direct elections to all seats in *Panchayats* at

the village and intermediate level, if any, and to the offices of Chairpersons of *Panchayats* at such levels; reservation of seats for the Scheduled Castes and Scheduled Tribes in proportion to their population for membership of *Panchayats* and office of Chairpersons in *Panchayats* at each level; reservation of not less than one-third of the seats for women; fixing tenure of 5 years for *Panchayats* and holding elections within a period of 6 months in the event of supersession of any *Panchayat*; disqualifications for membership of *Panchayats*; devolution by the State Legislature of powers and responsibilities upon the *Panchayats* with respect to the preparation of plans for economic developments and social justice and for the implementation of development schemes; sound finance of the *Panchayats* by securing authorisation from State Legislatures for grants-in-aid to the *Panchayats* from the Consolidated Fund of the State, as also assignment to, or appropriation by, the *Panchayats* of the revenues of designated taxes, duties, tolls and fees; setting up of a Finance Commission within one year of the proposed amendment and thereafter every 5 years to review the financial position of *Panchayats*; auditing of accounts of the *Panchayats*; powers of State Legislatures to make provisions with respect to elections to *Panchayats* under the superintendence, direction and control of the chief electoral officer of the State; application of the provisions of the said Part to Union territories; excluding certain States and areas from the application of the provisions of the said Part; continuance of existing laws and *Panchayats* until one year from the commencement of the proposed amendment and barring interference by courts in electoral matters relating to *Panchayats*.

4. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI; G. VENKAT SWAMY.

The 10th September, 1991.

THE CONSTITUTION (SEVENTY-THIRD AMENDMENT) ACT, 1992

[20th April, 1993.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Constitution (Seventy-third Amendment) Act, 1992.

(2) It shall come into force on such date_680 as the Central Government may, by notification in the Official Gazette, appoint.

2. Insertion of new Part IX.- After Part VIII of the Constitution, the following Part shall be inserted, namely:-

PART IX

THE PANCHAYATS

243. Definitions.- In this Part, unless the context otherwise requires,-

(a) "district" means a district in a State;

(b) "*Gram Sabha*" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of *Panchayat* at the village level;

(c) "Intermediate level" means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;

(d) "*Panchayat*" means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;

(e) "*Panchayat area*" means the territorial area of a *Panchayat*;

(f) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(g) "village" means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

243A. *Gram Sabha*.- A *Gram Sabha* may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

243B. Constitution of *Panchayats*.- (1) There shall be constituted in every State, *Panchayats* at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in clause (1), *Panchayats* at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243C. Composition of *Panchayats*.- (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of *Panchayats*:

Provided that the ratio between the population of the territorial area of a *Panchayat* at any level and the number of seats in such *Panchayat* to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a *Panchayat* shall be filled by persons chosen by direct election from territorial constituencies in the *Panchayat* area and; for this purpose, each *Panchayat* area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the *Panchayat* area.

(3) The Legislature of a State may, by law, provide for the representation-

(a) of the Chairpersons of the *Panchayats* at the village level, in the *Panchayats* at the intermediate level or, in the case of a State not having *Panchayats* at the intermediate level, in the *Panchayats* at the district level;

(b) of the Chairpersons of the *Panchayats* at the intermediate level, in the *Panchayats* at the district level;

(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a *Panchayat* area at a level other than the village level, in such *Panchayat*;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within-

(i) a *Panchayat* area at the intermediate level, in *Panchayat* at the intermediate level;

(ii) a *Panchayat* area at the district level, in *Panchayat* at the district level.

(4) The Chairperson of a *Panchayat* and other members of a *Panchayat* whether or not chosen by direct election from territorial constituencies in the *Panchayat* area shall have the right to vote in the meetings of the *Panchayats*.

(5) The Chairperson of -

(a) a *Panchayat* at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and

(b) a *Panchayat* at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

243D. Reservation of seats.- (1) Seats shall be reserved for-

(a) the Scheduled Castes; and

(b) the Scheduled Tribes,

in every *Panchayat* and the number of seats of reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that *Panchayat* as the population of the Scheduled Castes in that *Panchayat* area or of the Scheduled Tribes in that *Panchayat* area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a *Panchayat*.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled 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*.

(4) The offices of the Chairpersons in the *Panchayats* at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the *Panchayats* at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the *Panchayats* at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the *Panchayats* at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different *Panchayats* at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any *Panchayat* or offices of Chairpersons in the *Panchayats* at any level in favour of backward class of citizens.

243E. Duration of *Panchayats*, etc.- (1) Every *Panchayat*, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a *Panchayat* at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a *Panchayat* shall be completed-

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved *Panchayat* would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the *Panchayat* for such period.

(4) A *Panchayat* constituted upon the dissolution of a *Panchayat* before the expiration of its duration shall continue only for the remainder of the period for which the dissolved *Panchayat* would have continued under clause (1) had it not been so dissolved.

243F. Disqualifications for membership.- (1) A person shall be disqualified for being chosen as, and for being, a member of a *Panchayat*-

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a *Panchayat* has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243G. Powers, authority and responsibilities of *Panchayats*.- Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the *Panchayats* with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon *Panchayats* at the appropriate level, subject to such conditions as may be specified therein, with respect to-

- (a) the preparation of plans for economic development and social justice;
- (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

243H. Powers to impose taxes by, and Funds of, the *Panchayats*.-The Legislature of a State may, by law,-

- (a) authorise a *Panchayat* to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- (b) assign to a *Panchayat* such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- (c) provide for making such grants-in-aid to the *Panchayats* from the Consolidated Fund of the State; and
- (d) provide for Constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the *Panchayats* and also for the withdrawal of such moneys therefrom, as may be specified in the law.

243-I. Constitution of Finance Commission to review financial position.-(1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the *Panchayats* and to make recommendations to the Governor as to-

(a) the principles which should govern-

(i) the distribution between the State and the *Panchayats* of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the *Panchayats* at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the *Panchayat*;

(iii) the grants-in-aid to the *Panchayats* from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the *Panchayats*;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the *Panchayats*.

(2) The Legislature of a State may, by law, provide for the composition of the commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243J. Audit of accounts of *Panchayats*.- The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the *Panchayats* and the auditing of such accounts.

243K. Elections to the *Panchayats*.- (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the *Panchayats* shall be

vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the *Panchayats*.

243L. Application to Union territories.-The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243M. Part not to apply to certain areas.-(1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

(2) Nothing in this Part shall apply to-

(a) the States of Nagaland, Meghalaya and Mizoram;

(b) the Hill Areas in the State of Manipur for which District Councils exist under any law for the time being in force.

(3) Nothing in this Part-

(a) relating to *Panchayats* at the district level shall apply to the hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;

(b) shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

(4) Notwithstanding anything in this Constitution,-

(a) the Legislature of a State referred to in sub-clause (a) of clause (2) may, by law, extend this Part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting;

(b) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243N. Continuance of existing laws and *Panchayats*.-Notwithstanding anything in this Part, any provision of any law relating to *Panchayats* in force in a State immediately before the commencement of the Constitution (Seventy-third Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the *Panchayats* existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243-O. Bar to interference by courts in electoral matters.- Notwithstanding anything in this Constitution,-

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court;

(b) no election to any *Panchayat* shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.'

Constitution, after sub-clause (b), the following sub-clause shall be inserted, namely:-

"(bb) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the *Panchayats* in the State on the basis of the recommendations made by the Finance Commission of the State;"

Constitution, the following Schedule shall be added, namely:-

"ELEVENTH SCHEDULE

(Article 243G)

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 centres 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."