

Polity Class 41

6th December, 2023 at 9:00 AM

Gram Nyayalayas: (9:19 AM)

- They are mobile courts to provide inexpensive justice, in rural areas.
- Set up under the Gram Nyayalayas Act, 2008.
- They are supposed to be headed by a judicial officer called the Nyaya Adhikari.
- Nyaya Adhikari is appointed by the state government in consultation with the concerned High Court.
- It may also have social activists and lawyers as members.
- They shall not be bound by the Indian Evidence Act, etc. but to be based on the Principles of Natural Justice.
- Competent in dealing with cases of both Civil and Criminal natures.
- Gram Nyayalayas will be manned by Judicial officers (Shortage is a problem).

Lok Adalats: (9:28 AM)

- They are set up by either the center, state, or district authorities, from time to time where cases that are petty in nature are lined up. Both civil and criminal in nature.
- Both parties are lined up, and proceedings are governed as per the principles of natural justice.
- The judgments are final and binding.
- They are competent only for offenses of 'compounding' in nature.
- They are set up on a periodic basis, to resolve cases in large numbers.

Permanent Adalats: (9:32 AM)

- The Permanent Adalats were added under Section 22 B of The Legal Services Authorities Act, 1987.
- Supposed to take up cases related to Electricity bill disputes, etc.
- They are statutory bodies.
- To set up Permanent Adalats, the Legal Services Authority Act was amended in 2002.

Performance of Lok Adalats in India: (9:37 AM)

- They have helped in fulfilling the objectives under Article 39A to provide justice and free legal aid to citizens in India.
- They have been successful in disposing of a large number of petty cases in the country.

- For example, during the five year period between 2016 to 2020, Lok Adalats disposed of almost 52 Lakh cases.
- The State Legal Services Authorities have been regularly organizing Lok Adalats in the states to relieve the burden on the regular courts.
- The Supreme Court has also taken the initiative of organizing National Lok Adalats on specific days in a year to dispose of a large number of cases.

Issues associated with the Lok Adalats: (9:41 AM)

- It has often been noticed that the Lok Adalats focus on the disposal of cases rather than providing justice.
- It is often criticized that the views of the Lok Adalats are shaped by the individual view of the conciliator rather than a settlement between the parties.
- At times, they have been accused of coercing the parties to settle rather than a consensus-based approach.
- The term Lok in Lok Adalat is considered a misnomer, as there is little involvement of people in decision-making.
- Even though they have been set up to provide access to justice for the poor, they have often favored the more powerful parties.

Local Self-Government: (9:53 AM)

- 1952: Community Development Plan, to bring rural development, community-led by program by the District administration.

Balwant Rai Mehta Committee:

- Examining the performance of the Community Development Program.
- The need for elected representatives was felt.
- A three-tier arrangement was suggested:
- Village Panchayat (democratically elected), Panchayat Samiti at the block level, and Zila Panchayat (Chairman: District Collector).
- Various states enacted the Panchayati Raj Act.
- Rajasthan Panchayati Raj Act was passed and on 2nd October 1959, the first Panchayat was established in Nagaur district.

Ashok Mehta Committee: (10:8 AM)

- Revival of Local Self Government.
- It called for a 2 tier arrangement: Mandala Panchayat and District administration.
- Recommended reservations for the SCs/STs as well in PRIs.
- A separate ministry should be created in every state for Panchayati Raj Institutions.

Significance of local self-government: (10:14 AM)

- It establishes grassroots democracy, without which, democracy at the top cannot succeed.
- They act as the School of Democracy at the local level, training the leaders for the future.
- Local governments have a better sense of problems faced by people at the local level.
- And are better equipped to solve those problems.
- The spending by local government is more economical and there are fewer chances of leakages.
- Local inhabitants can exercise vigilance over overspending of the funds.
- They make direct democracy possible at the grassroots level by encouraging the participation of people.

Structure and the composition of the Panchayats: (10:24 AM)

- **Three Tier Structure:**
- 1) Gram Sabha: all the adults on the electoral roll in the village.
- 2) Panchayat Samiti: at the intermediate, block; the chairperson will be elected by indirect election, i.e. elected members will choose one among themselves.
- It will also have other members, chairpersons of village panchayats, MLAs, MPs, and MLCs, as decided by a state law.
- 3) Zila Parishad: The members would also be chosen directly by the voters residing in the District/Zila. Chairperson would also be chosen by and among the members of Zila Parishad, by indirect elections.

Reservations in the Panchayati Raj: (11:04 AM)

- **Article 234D:**
- SCs/STs reservations proportion to their population.
- Women: at least 1/3rd of the population for seats/position of chairperson. 50% in some states.
- OBCs in proportion to their population. Based on a state law.
- **Article 243E:**
- Duration of Panchayats: normal tenure is 5 years: SL may be provided for the earlier dissolution of panchayats.
- In case of normal tenure: before the end of the tenure.
- In case of dissolution: elections should be completed within 6 months of dissolution.
- If the remainder period is more than 6 months: the New Panchayat tenure will be the remainder of the period of the previous Panchayat.

- If the remainder period is less than 6 months: Then a full 5 years tenure.

Functions of Panchayats: (11:26 AM)

- Powers, authority.
- Preparation of plans for economic development.
- And implementation of schemes for economic development and social justice.
- States may devolve powers to the Panchayats.

Sources of funding of Panchayats: (11:39 AM)

- Mentioned in Article 243H.
- Powers to collect taxes, etc.
- To be determined by state law.
- Own sources of Panchayat.
- Duties, tolls, etc.
- Maybe some taxes collected by the state may be assigned to the Panchayats.
- Provide for making such grant in aid to the Panchayat from Consolidated Fund of State.

State Finance Commission: (11:43 AM)

- According to the provisions of Article 243I.
- For 5 years by the Governor of the State.
- Taxes, etc. collected by the State may be distributed to the panchayats.
- The report of the State Finance Commission along with the Action Taken Report of the government has to be tabled in the state legislature.

State Election Commission:

- Provided by Article 243R.
- Appointed by the Governor of the State.
- Protection:
- Conditions of the service cannot be varied to disadvantage, after appointment.
- Removal shall happen in a manner and grounds of the judge of a High Court.

Exceptions to the application of Panchayati Raj Provisions: (11:52 AM)

- They will not apply to the:
- 1) Schedule V areas, and
- 2) Schedule VI as well.

- 3) Nothing in this part shall apply to the states of Nagaland, Mizoram, and Meghalaya.
- 4) Areas of Manipur have district councils.
- 5) District-level Panchayats of Darjeeling.
- 6) Reservations for SCs shall not apply to Arunachal Pradesh.
- Panchayat (Extension to Scheduled Areas) Act:
- PESA, 1996: Provisions related to Panchayats in a modified manner have been extended to scheduled areas.

Positive outcomes of 73rd CAA:

- Successful in creating another layer of government.
- Schools of democracy.
- As many as 2.5 lakh institutions of local self-governance.
- Regular elections to the Panchayats.
- Women have entered Public life owing to the Constitutional provision.

Issues in the functioning of PRIs: (12:09 PM)

- Lack of funds with PRIs.
- Structural variations among states, e.g. AP, UP, and MP have a high population catered by the panchayat.
- The State Finance Commission is not binding on the State Government.
- DRDAs headed by bureaucrats usually dominate the democratically elected PRIs.
- Finances of local bodies: PRIs generate only 5% of their finances.
- Traditional dynamics of caste dominates in Panchayats.

Topic for the next class: Recommendations for improving PRIs, etc.