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Judicial Overreach \Rightarrow A criticism of Judicial Activism

In the cases of Judicial Activism, Judiciary has called upon the executive to perform its obligation under the constitutional mandate. It will be against the scheme & philosophy of the constitution if the judiciary oversteps & interfere in the mandate of executive & legislature. According to Justice J.S. Verma, "The judiciary should only compel performance of duty by the designated authority in the case of inaction or failure, while a take over by the judiciary of the functions allotted to another branch is inappropriate. Judicial Activism should neither be adhoicism or judicial tyranny."

In 2007, several judges of eminence called for restraint or curtailment & asked the course to

adhere to the principle of Separation of Power. Judges must have modesty & honesty & should not behave like emperors. Unjustifiably trying to perform executive & legislative function & trespassing their authority would disturb the balance of power between 3 organs of the govt. Subsequently, conscious minimisation of judicial assertiveness is a demand of time otherwise the judicial activism could change into judicial despotism.

Local government

73rd Constitutional Amendment Act, 1992

[Committees before the 73rd Act; → cover from Laxmikant]

It becomes operationalised on 24th April, 1993 by which a new chapter — Chapter IX — the panchayats had been added in the constitution & a new Schedule i.e Schedule XI having 29 functional items was incorporated to the constitution. Apart from this several set of articles starting from Article 243—2430 were incorporated where to regulate the structure, functioning & authority of PRIs.

Article 243 → Definition

According to this Article gram Sabha means a body consisting of persons registered in the electoral rolls relating to a village

a level
Intermediate level means, specified by Governor

Panchayat means an institution of self-government.

Village means a village as specified by Governor.

Article 243 A → Gram Sabha

This article provides that Gram Sabha may exercise such powers & performs such functions which are specified by State legislature.

Article 243 B → Constitution of Panchayats

It is required for every state to establish 3 levels of Panchayats i.e. Gram Panchayat
Intermediate "
Zila Parishad.

However, states having population of less than 20 lakh may not create Intermediate Panchayats.

Article 243 C → Composition of Panchayats

- Every member at each level of Panchayats shall be elected directly by the people & for this purpose the whole Panchayat area is divided into territorial constituencies (Wards).
- Chairperson of Gram Panchayats shall be elected in the same manner which State legislature by law determines, while chairpersons of Intermediate & Zila Parishad are elected by & amongst the members of the concerned panchayats.
- State legislature by law can provide representation to the chairman of Gram Panchayat at intermediate level & chairman of intermediate Panchayat at Zila Parishad level.
- State legislature by law can also provide representation to with the power to vote to MPs, MLAs & MLCs

at the intermediate level & upper level.
It means the actual embodiment of
Direct Democracy in gram Panchayat
in which there is no external
representation.

Article 243 ▷ →