

## Local Self Government:

Constitutional Mandate: **Article 40 Organisation of village panchayats- A Gandhian Principle which promotes democratic decentralisation of power.**

- The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government
- Local Government is given under State List of Seventh Schedule .

Local self-governance is linked to the idea of subsidiarity and is typically grounded on two broad arguments.

- First, it provides for **efficient provision of public goods** since governments with smaller jurisdictions can provide services as per the preferences of their residents.
- Second, it **promotes deeper democracy** since governments that are closer to the people allow citizens to engage with public affairs more easily.

# COMMITTEES on PRIs

## Balwant Rai Mehta Committee: (1957)

1. Recommended the establishment of the scheme of 'democratic decentralization'.
2. Establishment of a three-tier panchayati raj system
3. Village panchayat should be constituted with directly elected representatives, whereas the panchayat samiti and zila parishad should be constituted with indirectly elected members.
4. All planning and development activities should be entrusted to these bodies.
5. Adequate resources should be transferred to these bodies to enable them to discharge their functions and fulfil their responsibilities.

## L M Singhui (1986)

1. The Panchayati Raj institutions should be constitutionally recognised.
2. Nyaya Panchayats should be established for a cluster of villages.
3. The villages should be reorganised to make Gram Panchayats more viable. It also emphasised the importance of the Gram Sabha and called it as the embodiment of direct democracy.
4. The Village Panchayats should have more financial resources.
5. The judicial tribunals should be established in each state to adjudicate controversies about election to the Panchayati Raj institutions, their dissolution and other matters related to their functioning.

## Ashok Mehta (1978)

The three-tier system of panchayati raj should be replaced by the two-tier system, :-

1. Zila parishad should be the executive body and made responsible for planning at the district level.
2. Official participation of political parties at all levels of panchayat elections.
3. Panchayati raj institutions should have compulsory powers of taxation to mobilise their own financial resources.
4. Regular social audit by a district level agency and by a committee of legislators.
5. A constitutional recognition should be accorded to the Panchayati Raj institutions.

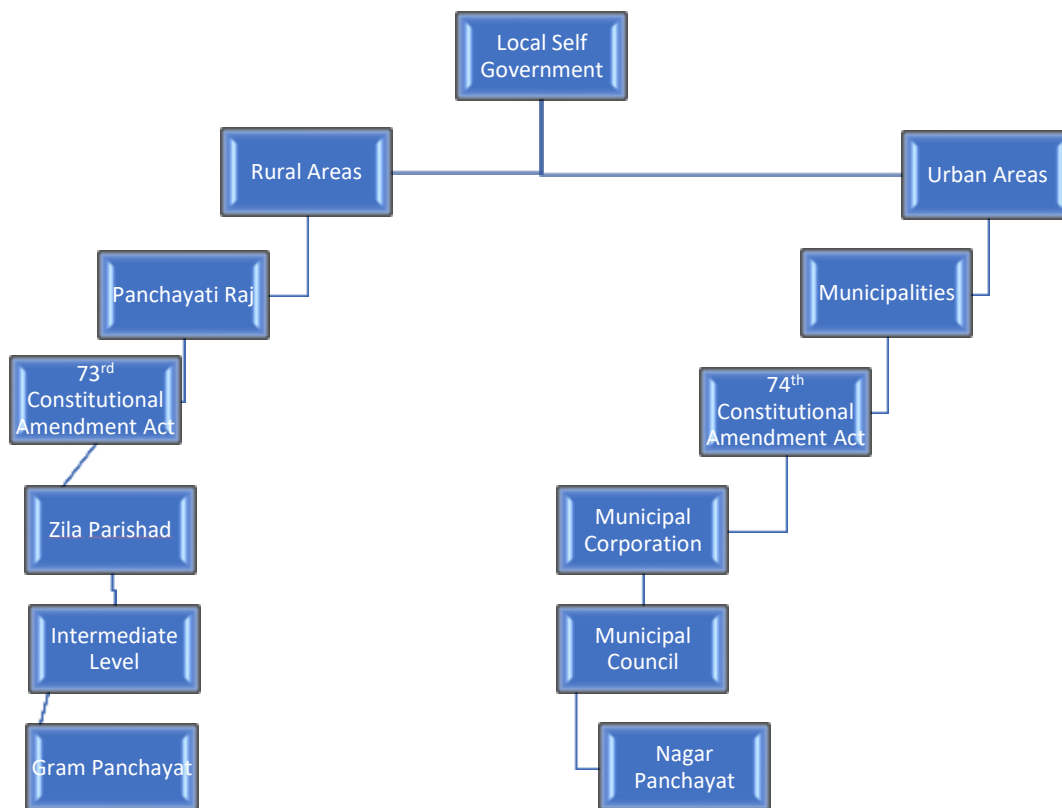
## P K Thungon

1. Constitutional recognition must be granted for Panchayati Raj.
2. Suggested a 3-tier system with village, block and district levels.
3. Zila Parishad plays an important role and acts as a planning and development agency in the district.
4. Panchayati Raj must have a fixed tenure of 5 years.
5. The maximum time for supersession of a body must not be greater than 6 months.
6. A Planning and coordination committee at the state level with the Presidents of Zila Panchayat as members and minister of planning as the Chairman must be set up.
7. The subjects for the Panchayats to administer must be incorporated in the constitution on schedule 7 lines.
8. Reservations for women, SC and STs.
9. A Finance commission in each state to lay criteria and guidelines for financial devolution.

The Congress Government under the primeministership of P.V. Narasimha Rao once again considered the matter of the constitutionalizing of panchayati raj bodies.

This bill finally emerged as the 73rd Constitutional Amendment Act, 1992 and came into force on 24 April, 1993

These amendments **mandated that State governments constitute panchayats (at the village, block and district levels) and municipalities** (in the form of municipal corporations, municipal councils and nagar panchayats) in every region. They sought to institute a third tier of governance in the federal framework through the devolution of functions, funds, and functionaries to local governments. These amendments, which came into force in 1993, were revolutionary; they changed the scope and extent of India's democracy. **From a mere 4,000 MLAs and MPs, the number of our elected representatives exploded to nearly 3.2 million.**



The 73rd and 74th amendments **require States to vest panchayats and municipalities** with the authority “**to enable them to function as institutions of self-government**”, including the **powers to prepare and implement plans and schemes for economic development and social justice**. They also **mandate the regular conduct of local elections, provide for the reservation of seats for Scheduled Castes, Schedules Tribes and women in local councils, and institute participative forums like gram sabhas** in panchayats and ward committees in

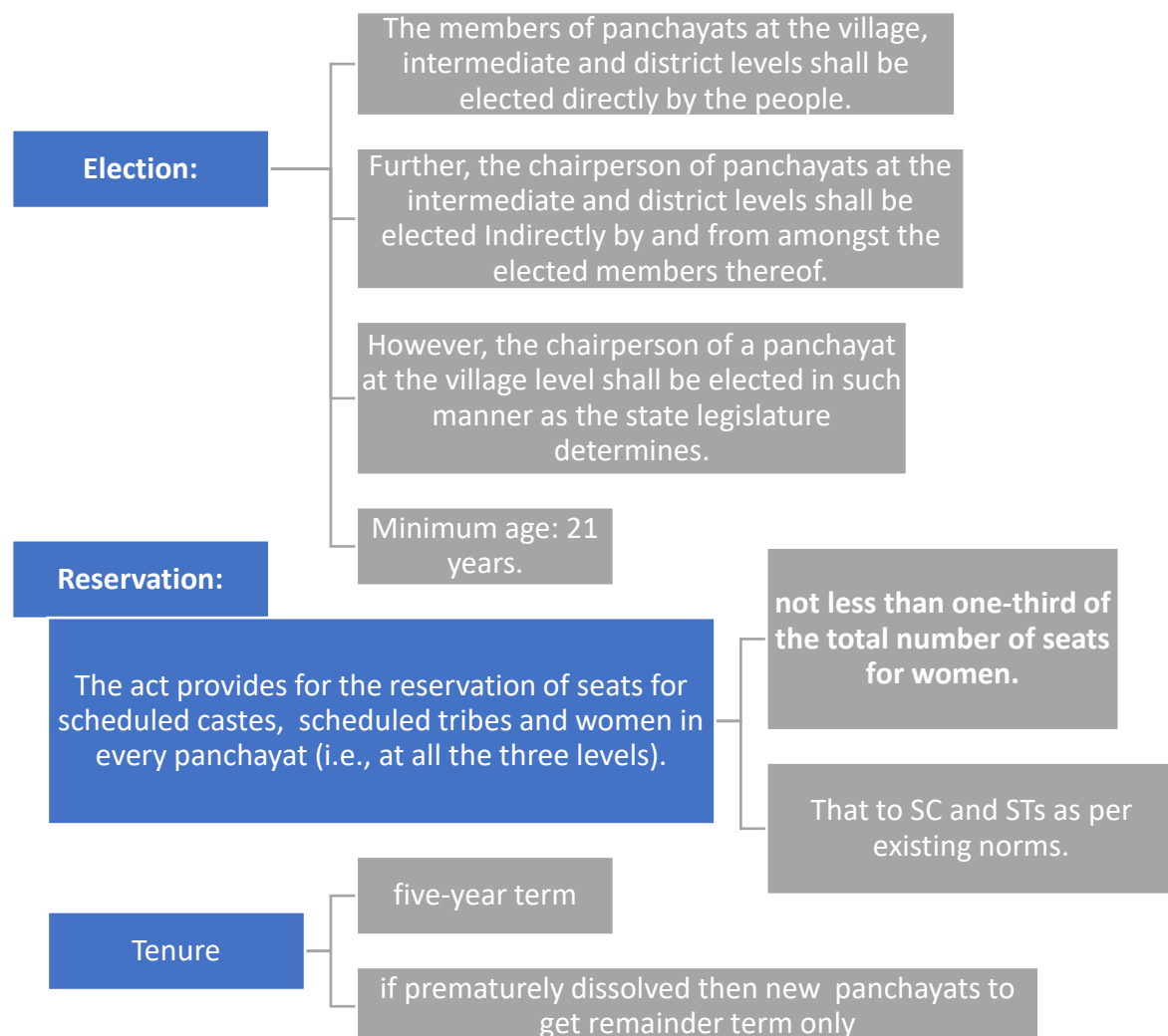
municipal corporations. Hence, the core values that the amendments sought to entrench are that of deepening local democracy and devolving functions for meeting the ends of economic development and social justice.

### Salient Features:

**Gram Sabha:** it is a village assembly consisting of all the registered voters in the area of a panchayat.

**Three Tier System:** The act provides for a three-tier system of panchayati raj in every state. However, a state having a population not exceeding 20 lakh may not constitute panchayats at the intermediate level.

Regular Election: Fixed a tenure of 5 Years and election before completion of a term of 5 years.



**State Election Commissioner:** In every state to conduct the election of panchayats.

The state election commissioner is appointed by the Governor.

**State Finance Commission:** After every 5 years to be constituted by the governor to recommend on the devolution of finances.


**Despite the constitutional mandate, the Local Self Government operate with limited autonomy: the reasons could be manifold.**

One, the limitation in the amendments themselves: - the failure of State governments and courts to implement and interpret the amendment in a narrow sense. Limitations include the **discretion given to the States regarding devolution of powers and levying of local taxes. State governments are reluctant to implement the 74th amendment** as cities are economic powerhouses and controlling urban land is important for financing State governments and political parties.

Though the courts have also mostly interpreted the 74th amendment narrowly, allowing State governments to retain their control over cities. But In this context, the Patna High Court's recent order declaring some provisions of the **Bihar Municipal (Amendment) Act, 2021 as unconstitutional is path-breaking**. The 2021 amendment **had transferred the powers of appointment of Grade C and D employees of municipalities from the Empowered Standing Committee of the municipality to the State government-controlled Directorate of Municipal Administration**. The court held that these provisions violate the 74th Amendment since the **re-centralization of power and the weakening of self-governance "are incompatible with the idea, intent and design of the constitutional amendment"**.

**Besides, there could be other reasons for failure:**

- **Staffing of local governments is scanty.** In some States, many panchayats share a single secretary, who operates from a shoulder bag, a jhola, carrying all the books. The sub-district staff are still controlled by the Collector, seen as the head of an anachronism, the district 'administration'.
- **Second, local governments are starved of money.** The Union Finance Commissions have made desirable recommendations, but the pitifully low finances that are devolved to local governments, **not more than 5% of the divisible pool of Union taxes, come with conditionalities that bind them to specific uses.**
  - While local governments have their own tax resources such as property taxes, in many States, there is no emphasis given to their



collection. Where they are collected, officers exert control over how local governments use their funds, by committing these to aggregate purchases tendered and arranged at higher levels.

- **Third is bureaucratic apathy:** the current notion is they would lose their pre-eminent positions of power over where, how and when government money is spent, if they actually devolved power to local governments.



Recommendation  
of 2<sup>nd</sup> ARC on Local  
Self Government

**Legislative Councils in all states:** to represent voices of LSG in same manner Council of States Does.

**More transparency appointment of State Election Commissioner:** by a committee consisting of CM, Speaker of Assembly, Leader of opposition- they will recommend the name and Governor will appoint

**Draft model law on devolution:** Central Government should draft a model law for devolution from states.

**Use of same electoral roll as used in Legislative assembly election** to avoid discrepancies as it has been found.

**Report of SFC and action taken report on the same shall be tabled within 6 months before Legislative Assembly**

**A dedicated Standing Committee on Local Bodies**

**approval of budget local bodies by state government should be discounted**

**Separate cadre and recruitment for local bodies**

Recommendation  
of 2<sup>nd</sup> ARC on Local  
Self Government

Recommendation  
of 2<sup>nd</sup> ARC on Local  
Self Government  
(Urban)

Set up a national commission on  
urbanization

Suggested four-tiered municipal set up:

1. Area Sabha (Like Gram Sabha)
2. Area Committee
3. Ward Committee
4. Municipal Corporation

Mayor to be directly elected

Separate cadre and  
recruitment for local bodies