

CHAPTER 3

DEVOLUTION OF FUNCTIONS

Rural Local Bodies:

4.3.01 Article 40 of the Constitution of India in its Directive Principles of State Policy entrusted to the States the responsibility of organising Village Panchayats and endowing them with such powers and authority as may be necessary to enable them to function as Units of Self Government. The term 'State' according to the Constitution, includes both the Union and State Governments.

4.3.02 Panchayat Raj Institutions which were constituted in the late fifties and early sixties in various States with the aim of public participation in development programmes have unfortunately lost their pre-eminence for a number of reasons. Lack of uniform principles among the States, absence of periodic elections, meagre participation of the vulnerable sections of the rural population like SCs/STs and women in these democratic Institutions, inadequate administrative, technical and accounting infrastructural support to these institutions, weak financial base and above all, a dilution of the Political will on the part of the State to endow these institutions with adequate functions and powers have contributed to the ineffective functioning of the Panchayat Raj Institutions. The Government of India on its part, has been making an earnest endeavour since the advent of the planning era, to ensure creation and strengthening of units of Local Self Government in our country. This endeavour is manifest in the constitution of several expert bodies such as the Balwantraj Mehta Committee whose recommendations paved the way for the emergence of the existing pattern of Three Tier Panchayati Raj System in Rural Local Government. Study team on Panchayati Raj Finances headed by Thiru. K. Santhanam, Study Group on Budgeting and Accounting procedures of Panchayat Raj Institutions headed by Thiru M. Ramakrishnayya, study team on the Audit of Accounts of Panchayati Raj Bodies headed by Thiru. R.K. Khanna, Committee of Panchayati Raj Institutions headed by Thiru Ashok Mehta have made several significant recommendations which evoked a positive response from the State Governments. Besides these efforts, the Government of India have consistently been playing a promotional as well as a participatory role in strengthening the Panchayati Raj Institutions.

4.3.03 Against this back drop, the Government of India took the historical initiative of enacting the 73rd Amendment Act to the Indian Constitution and thus facilitated the emergence of vibrant, meaningful units of Rural Local Government. Article 243(G) of the Amended Constitution has spelt out the powers, authority and responsibilities of Panchayats as indicated below:

4.3.04 "Subject to the provisions of the 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 XI Schedule".

4.3.05 The amendment to the Constitution which confers Constitutional Status on the Panchayatiraj Institutions viz; District Panchayats at the District level, Panchayat Unions at the intermediate level and Village panchayats at the Village level is undoubtedly a land mark in the process of democratic decentralisation in decision making. 29 subjects have been assigned to the Panchayati Raj Institutions as per XI Schedule of the 73rd Constitution Amendment Act 1992.

4.3.06 In devolving specific or itemwise functional responsibilities and powers on each layer of Panchayati Raj it has been hoped that the State Governments would be guided mostly by the principle of "relative operational capability". Given a set of specific functional responsibilities transferable to Panchayatiraj sector, the relative capability of each layer in performing a given function may guide their vertical division. In this connection, the principle of "Subsidiarity" can also be kept in view. Also, it is necessary to ensure that the vertical division of responsibilities does not offer scope for overlapping or multiple jurisdictions.

4.3.07 The functional responsibilities of the Panchayati Raj Institutions can be divided into three broad categories, viz; civic, developmental and welfare functions, though these categories may not in practice be mutually exclusive in some cases. The Village Panchayats are ideally suited to perform the civic, developmental and welfare functions due to their direct and close proximity to the people, especially where people's initiative, support and participation would play a crucial role. The middle layer can perform functions relating to planning and implementing agency at the Block Level of development programmes and also take up civic functions which are common to villages. The District panchayat seems to be an ideal Unit for performing functions relating to Planning, Co-ordination, Supervision, review and monitoring of all programmes and take up common programmes involving more than one Panchayat Unions.

4.3.08 As narrated earlier, in the 73rd Constitutional Amendment 29 functions have been indicated under XI Schedule for the devolution to Panchayatiraj Institutions. Based on this, in Tamil Nadu through the new Tamil Nadu Panchayats Act, 1994, 29 items have been proposed for devolution to the Panchayats in three layers. (Schedule IV). In the District sittings conducted by the State Finance Commission, the representatives of people, viz; Ex-MLAs, Ex-M.Ps and Ex-Chairmen/ Presidents of Local Bodies have expressed their views in favour of devolution of

functions to Rural and Urban Local Bodies forthwith. The Collectors who have expressed their views in their District memorandums have also emphasised this.

4.3.09 The 29 items proposed for devolution are only illustrative and not exhaustive. More items can be devolved, depending on the capacity of the Panchayati raj Institutions to discharge them satisfactorily and serve the people better.

4.3.10 For any devolution of functions to be meaningful, it must be accompanied by the devolution of functionaries (staff) and funds. Therefore, the scheme or package of devolution must contain these three 'F's (Functions, Funds and Functionaries) together. Though there are various facets of devolution viz; Planning, Review, Administrative Control, Funds Control, Execution etc, to be meaningful, the devolution should be total. But it may take some more time for total devolution. However, in cases where public participation is already available in different forms, like in Co-operatives, the devolution to Local Bodies may be limited to items like identification of needs, planning and review, and need not be overlapping.

4.3.11 Though the State have adopted the 29 items as proposed in the XI Schedule for devolution to Panchayati Raj Institutions through Tamil Nadu Panchayats Act 1994, the functional devolution have not yet been defined clearly for each tier. With a view to clearly demarcate the function to each tier, the State Finance Commission initiated action and held discussions with the concerned Secretaries to Administrative Departments in the Secretariat and also the Heads of Departments numbering 17. The functions to be devolved for each layer have been finalised on mutually accepted basis and the details furnished to the Secretaries to Government concerned for issue orders of Government early (Appendix No.104).

Urban Local Bodies:

4.3.12 Similarly, devolution of Functions to Urban Local Bodies viz: Town Panchayats, Municipalities and Municipal Corporations has been given in XII Schedule of the 74th Constitution (Amendment) Act 1992, and have been incorporated under concomitant amended Acts of the respective urban local bodies in the State.

4.3.13 Through the amended Tamil Nadu District Municipalities Act 1920, the Government have included 18 functions for devolution (Schedule X) to Town Panchayats and Municipalities. Similarly for Municipal Corporations, 18 functions have been included by the Government for devolution as per the Amendments to the respective City Municipal Corporation Acts. It is seen that out of these 18 functions included for Urban Local Bodies, 10 functions are already among the functions partly or fully discharged by the Urban Local Bodies themselves. For devolving the remaining functions, the State Finance Commission held discussions with the respective Secretaries to Government and the Heads of Departments and a consensus has been arrived at for the initial devolution. The package is furnished in Appendix No.105. The Secretaries to Government have been requested by the State Finance Commission to arrange for issue of orders of Government devolving the functions to the Urban Local Bodies early.

4.3.14 The Commission recommends that

though the 29 items and 18 items have been adopted in the concerned State Acts, for devolution to Panchayati Raj institutions and Municipal Bodies respectively, the items have not been defined clearly for each tier. With a view to clearly demarcate the items to each tier,

the State Finance Commission had initiated action and held discussions with the concerned Secretaries to Government of the State Government and their Heads of Departments. For devolution, items have been finalised on mutually agreed terms and a model package furnished to the Secretaries to Government concerned for issue of early Government orders. The consensus by and large was that devolution should be gradual and in phases. The devolution of functions should be accompanied with concomittant funds and functionaries. The details are given in Appendices no . 104 & 105. These packages may be adopted.