



**FACULTY OF JURIDICAL SCIENCES**

**COURSE: LLM TWO YEARS Constitutional & Administrative Group /Criminal group/ corporate & business group**

**Semester-II**

**SUBJECT: Law and social transformation in India**

**SUBJECT CODE: LLM-221**

**NAME OF FACULTY: DR. SHIV KUMAR TRIPATHI**

# Lecture-22



Democratic Decentralisation:

Context

73rd and 74th Constitutional Amendments, by constitutionally establishing Panchayati Raj Institutions (PRIs) in India, mandated the establishment of panchayats and municipalities as elected local governments.

They devolved a range of powers and responsibilities to the local governments and made them accountable to the people for their implementation, but very little actual progress has been made in this direction even after more than 25 years.

Democratic Decentralisation: Devolution of Power

Democratic decentralization is the process of devolving the functions and resources of the state from the centre to the elected representatives at the lower levels so as to facilitate greater direct participation of citizens in governance.

Devolution, envisioned by the Constitution, is not mere delegation.

It implies that precisely defined governance functions are formally assigned by law to local governments, backed by adequate transfer of a basket of financial grants and tax handles, and they are given staff so that they have the necessary wherewithal to carry out their responsibilities.

Local government, including panchayats, is a state subject in the Constitution, and consequently, the devolution of power and authority to panchayats has been left to the discretion of states.

The Constitution mandates that panchayats and municipalities shall be elected every five years and enjoins States to devolve functions and responsibilities to them through law.

A study for the Fourteenth Finance Commission by the Centre for Policy Research, shows that all States have formally devolved powers with respect to five core functions of water supply, sanitation, roads and communication, streetlight provision and the management of community assets to the gram panchayats.

Issues with Local Governments in India

**Insufficient Funding:** The money given to the local governments is inadequate to meet their basic requirements.

**Inflexibility in spending the allocated budget.** The use of money is constrained through the imposition of several conditions.

There is little investment in enabling and strengthening local governments to raise their own taxes and user charges.

Lack of staff: Local governments do not have the staff to perform even basic tasks. Furthermore, as most staff are hired by higher level departments and placed with local governments on deputation, they do not feel responsible to the latter; they function as part of a vertically integrated departmental system.

Untimely and delayed elections: States often postpone the elections and violate the constitutional mandate of five yearly elections to local governments.

In Tamil Nadu, panchayat elections have not been held for over two years now, resulting in the State losing finance commission grants from the Union government.

Local governments are merely acting as an implementation machinery rather than policy-making body for local development. Technology-enabled schemes have further downgraded their role.

Corruption: Criminal elements and contractors are attracted to local government elections, tempted by the large sums of money now flowing to them. A market chain of corruption operates, involving a partnership between elected representatives and officials at all levels.

However, there is no evidence to show that corruption has increased due to decentralisation.

Decentralised corruption tends to get exposed faster than national or State-level corruption. People erroneously perceive higher corruption at the local level, simply because it is more visible.

However, we can keep track of corrupt local government representatives more easily than those at the higher levels.

#### Suggestions to Improve Functioning of Gram Panchayats

Gram sabhas and wards committees in urban areas have to be revitalised to achieve the objective of people's participation in real terms.

The Standing Committee on Rural Development, that submitted its report in July 2018, recommended that state governments should put a quorum in gram sabha meetings for participation of panchayat representatives, including women.

Local government organisational structures have to be strengthened with sufficient manpower. Serious efforts should be made towards recruitment and appointment of support and technical staff to ensure the smooth functioning of panchayats.

Devise a comprehensive mechanism for taxation at the local levels. We cannot have accountable GPs, without local taxation.

There is a need for bottom up planning especially at the district level, based on grassroots inputs received from Gram Sabha.

Strengthening of panchayats through capacity building and training should be given more encouragement from the centre and state governments. This would enable them to prepare better Gram Panchayat Development Plans, as well as become more responsive towards citizens' needs.

Funding: Ministry of Panchayati Raj should monitor the release and expenditure of Finance Commission grants to ensure that there is no delay in their release.

It should also be ensured that grants are utilised in a proper and effective manner.

Panchayats should also be encouraged to carry out local audits regularly so that Finance Commission grants are not delayed.

#### Way Forward

India's efforts in decentralisation represent one of the largest experiments in deepening democracy.

India has a robust democratic structure for local governance, what we need to practice is the robust democratic culture and giving life to our existing structure.

Local bodies need to be seen as institutions of self-governance not as 'delivery mechanisms' to fulfill Gandhi's vision of Gram Swaraj.

Bottom of Form

