# Contemporary Issues - 4 Governance/National

## 22 Coalition Government

### Why a two party or a workable multi-party system has not emerged in India so far?

Norman, D. Palmer states that no effective Democratic Party system in the Western sense has emerged anywhere in Asia. In West the tradition of parties is deep rooted and literate and economically fortunate peoples had long experience with party system, thus multiparty system is successfully surviving.

Most of the Asian countries were under colonial rule for a long time and got independence after World War II. This situation of their also contributes a lot in the shaky party system.

Social and political institutions work in a society and they cannot be understood properly without knowing basic structure of that society. Ours is a heterogeneous society, Caste community and religion are significant units of social and political actions. Rigid social structure and sentimental attachment to religion make Indian masses unfit for the two party systems. India is still under the alluring influence of local and regional loyalties. During the freedom struggle these feelings and attitudes submerged in the unity move against the Britishers.

Once Independence was achieved the traditional pressures (caste, religion, region) reasserted themselves and became the basis for political parties. This resulted in complex mixture of traditional and modern political institutions. The result is today's mess of political parties.

With an electorate, which is politically illiterate, socially backward, economically poor and culturally wedded to the whims of caste, religion acts as the biggest obstacle to development of stable government system.

### What are the merits of coalition Governments?

We need to understand that the concept of coalition government originated in India because of regional disparity and the failure of national parties to meet the aspirations and needs of all the states. Thus the merits of coalition government are:

1. The coalition government addresses the regional disparity more than the single party rule. It may not perform at its best but it is always good for inclusive growth of all the regions, of all the people of a country than the high growth of only selected people and region.

2. Coalition government is more democratic, and hence fairer, because it represents a much broader spectrum of public opinion than government by one party alone. In almost all coalitions, a majority of citizens voted for the parties which form the government and so their views and interests are represented in political decision-making.

3. Coalition government creates a more honest and dynamic political system, allowing voters a clearer choice at election time. In countries with coalition governments the greater number of political parties gives the voter a more honest choice and brings differences of opinion out into the open for debate.

4. Coalitions provide good government because their decisions are made in the interests of a majority of the people. Because a wide consensus of opinion is involved, any policy will be debated thoroughly within the government before it is implemented. Single-party government is much more likely to impose badly thought-out policies upon parliament and people, perhaps for narrowly ideological reasons (for example, the emergency rule under Mrs. Indira Gandhi).

## What are the problem areas of coalition government?

### 1. Effect on Lok Sabha

The single greatest problem generated by coalition government in Lok sabha is political instability. In coalition politics a government always suffers from a survival instinct. It is just pursing one point agenda; to somehow remain in power. In such a situation good governance inevitably becomes impossible. Regional parties supporting government are more interested in their regional agenda than the national issues. These unstable governments' results in inefficient governance which in turn harms the development need of the country.

### 2. Effect on party

Coalition government results in decrement of the power of the party as the balance of power is inevitably held by the small parties who can barter their support for concessions from the main groups within the coalition. This means that a party with little popular support is able to impose its policies upon the majority by a process of political blackmail. The party has to be depended on other parties for any decision. The implementation of policies get delayed thus effect the nation as a whole.

### 3. Effect on Prime Minister's Authority

Coalition government may reduce the effectiveness post of PM because of some compulsive factors. He is not free to implement decisions due to constant pressure from other parties members.

### 4. Effect on working of government

Coalition governments are definitely far less effective, non durable, and non-dependable as compared to the governments formed by any one party with a definite ideology and principles. In coalition governments, MLAs and MPs from all the parties are given portfolios/ministries and appointed as Ministers. These ministers are appointed on the recommendations of the parent party, without taking the qualification, character and criminal clean record of the MLAs and MPs. Thus affects the proper functioning of the government. Example - Policy paraysis during VPA–II.

### 5. Effect on political system of the nation

Coalition politics leads to the criminalization of politics. The nexus is present between ministers and criminals. The parties in coalition recommends name of ministers for the important posts hence more and more people with money and muscle power are getting tickets from the political parties.

### 6. Effect on executives

The executives does not perform at their best as the coalition politics pressurize them to concentrate on populist measures and long term dimensions get missed. The presence of unqualified ministers at their top reduces their confidence on government thus their working efficiency reduces.

**7. Effect on economy**

Coalitions provide bad government because they are unable to take a long term view. Coalitions generally lead to formation of popular policies just to attract common man and thus affect the economy in the long run.

Frequent elections acts as burden on the government exchequer thus decreases the government spending which can lead to slow growth.

**8. Effect on common man**

Coalition government generally leads to formation of populist schemes which never get implemented in the long run. The slow growth of economy affects the livelihood of common man and brings them at the verge of poverty.

# 23 DELEGATED LEGISLATION

'Delegated Legislation' means the exercise of legislative power by an agency which is subordinate to the legislature.Delegated legislation is, at times, referred to as "Ancillary", "Subordinate", Administrative Legislation or as Quasi-Legislation". Delegated legislation is a technique to relieve pressure on legislature's time so that it can concentrate on principles and formulation of policies.

## Why delegated legislation becomes inevitable?

***The reasons as to why the Parliament alone cannot perform the jobs of legislation in this changed context are:***

- Certain emergency situations may arise which necessitate special measures. In such cases speedy and appropriate action is required. The Parliament cannot act quickly because of its political nature and because of the time required by the Parliament to enact the law.
- The bulk of the business of the Parliament has increased and it has no time for the consideration of complicated and technical matters. The Parliament cannot provide the society with the requisite quality and quantity of legislation because of lack of time. Most of the time of the Parliament is devoted to political matters, matters of policy and particularly foreign affairs.
- Certain matters covered by delegated legislation are of a technical nature which require handling by experts. In such cases it is inevitable that powers to deal with such matters is given to the appropriate administrative agencies to be exercised according to the requirements of the subject matter. "Parliaments" cannot obviously provide for such matters as the members are at best politicians and not experts in various spheres of life.
- Parliament while deciding upon a certain course of action cannot foresee the difficulties, which may be encountered in its execution. Accordingly various statutes contain a 'removal of difficulty clause' empowering the administration to remove such difficulties by exercising the powers of making rules and regulations. These clauses are always so worded that very wide powers are given to the administration.
- The practice of delegated legislation introduces flexibility in the law. The rules and regulations, if found to be defective, can be modified quickly. Experiments can be made and experience can be profitability utilized.

However the attitude of the jurists towards delegated legislation has not been unanimous. The practice of delegated legislation was considered a factor, which promoted centralization.

Delegated Legislation was considered a danger to the liberties of the people and a devise to place despotic powers in few hands. It was said that delegated legislation preserved the outward show of representative institutions while placing arbitrary and irresponsible power in new hands. But the tide of delegated legislation was high and these protests remained futile.

A very strong case was made out against the practice of Delegated Legislation by Lord Hewart who considered increased governmental interference in individual activity and considered this practice as usurpation of legislative power of the executive. He showed the dangers inherent in the practice and argued that wide powers of legislation entrusted to the executive lead to tyranny and absolute despotism.

***Factors Responsible for the Growth of Delegated Legislation***

***(a) Lack of time for the legislature to shape legislative details which are technical in nature where administrative expertise is required. E.g. Environmental Standards, Intellectual Property Law, Legislative Measures to control, eradicate AIDS, Measles.***

***(b) The subject-matter of legislation being, technical, complex and unsuitable for debate in the legislature.***

***(c) Democratization of rule-making process by providing for "consultation with affected interests".***

***(d) The advantages of Flexibility, Elasticity Expedition and scope for Experimentation when the delegated legislation technique is employed. Further, socio-economic schemes being experimental in the initial stages and the practical difficulties at the stage of implementation cannot before seen.***

***(e) Delegated legislation technique has the attribute of adaptation to unknown, future conditions without formal legislative amendments.***

## Scope of delegated legislation

Delegated legislation means legislation by authorities other than the Legislature, the former acting on express delegated authority and power from the later.

In order to avoid the dangers, the scope of delegation is strictly circumscribed by the Legislature by providing for adequate safeguards, controls and appeals against the executive orders and decisions.

The power delegated to the Executive to modify any provisions of an Act by an order must be within the framework of the Act giving such power. The power to make such a modification no doubt, implies certain amount of discretion but it is a power to be exercised in aid of the legislative policy of the Act and cannot i) travel beyond it, or ii) run counter to it, or iii) certainly change the essential features, the identity, structure or the policy of the Act.

Under the constitution of India, articles 245 and 246 provide that the legislative powers shall be discharged by the Parliament and State legislature. The delegation of legislative power was conceived to be inevitable and therefore it was not prohibited in the constitution. Further, Articles 13(3)(a) of the Constitution of India lays down that law includes any ordinances, order by law, rule regulation, notification, etc. Which if found inviolation of fundamental rights would be void. Besides, there are number of judicial pronouncements by the courts where they have justified delegated legislation.

While commenting on indispensability of delegated legislation Justice Krishna Iyer has rightly observed, that the complexities of modern administration are so bafflingly intricate and


GS SCORE

bristle with details, urgencies, difficulties and need for flexibility that our massive legislature may not get off to a start if they must directly and comprehensively handle legislative business in their plentitude, proliferation and particularization Delegation of some part of legislative power becomes a compulsive necessity for viability.

## Modes of control over delegated legislation

The practice of conferring legislative powers upon administrative authorities though beneficial and necessary is also dangerous because of the possibility of abuse of powers and other attendant evils. There is consensus of opinion that proper precautions must be taken for ensuring proper exercise of such powers. Wider discretion is most likely to result in arbitrariness. The exercise of delegated legislative powers must be properly circumscribed and vigilantly scrutinized by the Court and Legislature is not by itself enough to ensure the advantage of the practice or to avoid the danger of its misuse. For the reason, there are certain other methods of control emerging in this field.

***The control of delegated legislation may be one or more of the following types: -***

(1) Procedural;

(2) Parliamentary; and

(3) Judicial

***Judicial control can be divided into the following two classes: -***

(i) Doctrine of ultra vires and

(ii) Use of prerogative writs.

### A. Parliamentry Control

Every delegate is subject to the authority and control of the principal and the exercise of delegated power can always be directed, corrected or cancelled by the principal. Hence parliament control over delegated legislation should be living continuity as a constitutional necessity. The fact is that due to the broad delegation of legislative powers and the generalized standard control also being broad, the judicial control has shrunk, raising the desirability and the necessity of parliamentary control.

In the USA the control of congress over delegated legislation is highly limited because neither is the technique of laying extensively used nor is there any congressional committee to scrutinize it.

In England due the concept of parliamentary sovereignty the control exercised over delegated legislation is very broad and effective.

In India the parliamentary control of delegated legislation is implicit as a normal constitutional function because the executive is responsible to the parliament.

### B. Procedural Control

Parliamentry control over administrative rule is admittedly weak because the legislaters are sometimes innocent of legal skills. A constant search therefore is on for an alternative mechanism which besides providing an effective vigil over administrative rule making can guarantee effective people participation for netter social communication, acceptance and effectively of the rules.

Procedural control mechanism has the potential to met the above noted requirements for allowing specific audit of rules by those for whose consumption they are made. Procedural control mechanism operates in three components:

1. Drafting
2. Antenatal publicity
3. Consultation
4. Postnatal publicity

C. Judicial Control

In India the judicial review of administrative rule making is subject to the normal rules governing the review of administration action. This judicial review of administrative rule making cannot be foreclosed in any manner by the enabling act. In State of Kerala v. K.M.C. Abdullah & Co. the S.C. held that the validity of such a phrase as "shall not be called in question in any court" in the enabling act. In the same manner in G.O.C. v. Subash Chandra Yadav the S.C. held that an act providing that rules made there under on publication in official gazette would be 'as if enacted' in the act. Cannot take away judicial review. Grounds of invalidity may arise on the following counts:

1. That the Enabling Act is Ultra-vires the Constitution
2. The Administration Legislation is ultra-vires the Constitution
3. That the Administrative Legislation is ultra-vires the Enabling Act

Delegated legislation has the same legal standing as the Act of Parliament from which it was created. Delegated legislation has been endorsing bureaucratic self-preservation as well as frustrating administrative reforms requiring with the changing needs of democracy. Besides, in promoting unreasonable and arbitrary exercise of powers, delegated legislation is negatively influencing institutionalisation and internalisation of democratic value system key to institutionalisation of democracy.

GS SCORE
An Initiative by - S. K. Mishra, IAS (Retd.) & Manoj K. Jha
IAS 2015
Under the expert guidance of
S. K. Mishra, IAS (Retd.) & Team.
GS Mains 2015
✓ 300 Hrs. / 80 Days Comprehensive Courses
✓ Tests & Answer Writing Sessions
✓ Full coverage of all four Papers
✓ Complete Study Material
Batch Starting: 20th January, 2015
Ethics Integrity & Aptitude
✓ By S. K. Mishra, IAS (Retd.)
✓ Complete Coverage of Syllabus
✓ 45 Days Comprehensive Course
✓ 4 Tests Including Model Answer
✓ Comprehensive Study Material
✓ 100 Case Studies
Batch Starting: 5th January, 2015
Essay Writing
10 comprehensive classes that emphasises on Writing Skill, Building Conceptual Clarity & Developing Analytical Ability to handle essays on diverge topics.
Batch Starting: 9th January, 2015
Ist Floor, Apsara Arcade, Karol Bagh, New Delhi-5, Karol Bagh Metro Gate No. 5
9953607114, 9953595114
www.iasscore.in

# 24 Election Commission and Electoral reforms

India is a Socialist, Secular, Democratic Republic and the largest democracy in the World. The modern Indian nation state came into existence on 15th of August 1947. Since then free and fair elections have been held at regular intervals as per the principles enshrined in the Constitution, Electoral Laws and System.

The Constitution of India has vested in the Election Commission of India the superintendence, direction and control of the entire process for conduct of elections to Parliament and Legislature of every State and to the offices of President and Vice-President of India.

Election Commission of India is a permanent Constitutional Body. The Election Commission was established in accordance with the Constitution on 25th January 1950.

### Composition of the Election Commission:

Art 324 provides for a Chief Election Commissioner to be appointed by the President. He can also appoint any number of Election Commissioners. Originally the commission had only a Chief Election Commissioner. It currently consists of Chief Election Commissioner and two Election Commissioners.

For the first time two additional Commissioners were appointed on 16th October 1989 but they had a very short tenure till 1st January 1990. Later, on 1st October 1993 two additional Election Commissioners were appointed. The concept of multi-member Commission has been in operation since then, with decision making power by majority vote.

The decisions are arrived at by either consensus or majority in a multi-member Election Commission. There is a provision to appoint Regional Commissioners before each general election to Lok Sabha and State Assembly and before the general election and thereafter before each biennial election to the Legislative Council. The President appoints them in consultation with the Election Commission.

### Removal of the CEC and Election Commissioners:

The CEC can be removed only on the same grounds and in the same manner as a judge of the Supreme Court. An Election Commissioner or a Regional Commissioner can be removed by the President only on the recommendation of the Chief Election Commissioner.

### Functions of the Election Commission:

The Election Commission superintends, directs and controls the elections to Parliament, State Legislatures and Union Territories, Presidential and Vice-Presidential elections. In this regard, it performs the following functions:

(a) Preparation of electoral rolls.

(b) Conduct of elections.

(c) Counting of votes and declaration of results.

(d) To advise the President in regard to the question whether a Member of Parliament (Art. 103) or a State Legislature has become subject to any disqualification (Art. 192).

(e) To advice the President in the appointment of Regional Commissioner.

The Constitution contains a bare outline of the law of election and the powers and functions of the Election Commission. The detailed provisions are contained in the following Acts:

- The Presidential and Vice-Presidential Election Act 1950.
- The Representation of People Act, 1950.
- The Representation of People Act, 1951.
- The Delimitation Act, 1972.

### Advisory Jurisdiction & Quasi-Judicial Functions

Under the Constitution, the Commission also has advisory jurisdiction in the matter of post election disqualification of sitting members of Parliament and State Legislatures. Further, the cases of persons found guilty of corrupt practices at elections which come before the Supreme Court and High Courts are also referred to the Commission for its opinion on the question as to whether such person shall be disqualified and, if so, for what period. The opinion of the Com-

mission in all such matters is binding on the President or, as the case may be, the Governor to whom such opinion is tendered.

The Commission has the power to disqualify a candidate who has failed to lodge an account of his election expenses within the time and in the manner prescribed by law. The Commission has also the power for removing or reducing the period of such disqualification as also other disqualification under the law.

### Independence of the Election Commission:

The role of the Election Commission is pivotal. Impartiality of elections is vitally linked to the independence of the Commission. Other provisions dealing with CEC and Election Commissioners are dealt with in the Chief Election Commissioner and other Election Commissioners (conditions of service), Act.

In the performance of its functions, Election Commission is insulated from executive interference. It is the Commission which decides the election schedules for the conduct of elections, whether general elections or bye-elections. Again, it is the Commission which decides on the location polling stations, assignment of voters to the polling stations, location of counting centres, arrangements to be made in and around polling stations and counting centres and all allied matters.

## ISSUES IN ELECTORAL POLITICS OF INDIA

The election at present are not being hold in ideal conditions because of the enormous amount of money required to be spent and large muscle power needed for winning the elections. The major defects which come in the path of electoral system in India are: money power, muscle power, criminalisation of politics, poll violence, booth capturing, communalism, castism, non-serious and independent candidates, etc.

**Money Power:** Electioneering is an expensive affair in every democratic polity which plays a more vital role in India. Money power plays in our electoral system destructive role affecting seriously the working of periodic elections, It leads to all round corruption and contributes mainly to the generation of black money economy which rules at present our country. A prospective candidate in each constituency has to spend millions of money towards transport, publicity and other essential items of election campaign. In recent years the election expenses have increased beyond any limits due to the desire on the part of every political party to spend more than their rivals in the fray. This seems to be continued even today with more disastrous consequences of an overflow of black money into the corridors of political parties despite the liberalized economy induced to the political system of country. Elections in India so far from a common man, only those people can participate in elections as a candidate who has a lot of money, because today vote is not a mean of public opinion. It is being purchased.

**Muscle Power:** Violence, pre-election intimidation, post election , victimisation, most of the riggings of any type, booth capturing both silent and violent are mainly the products of muscle power. These are prevalent in many parts of the country like Bihar, Western Uttar Pradesh, Maharashtra etc. and this cancerous disease is slowly spreading to south like in Andhra Pradesh, Criminalisation of politics and politicalisation of criminals, freely indulged in now, are like two sides of the same coin and are mainly responsible for the manifestation of muscle power at elections. By using of violence, the criminals are able to achieve success at elections for their benefactors.

**Misuse of Government Machinery:** It is generally complained that the government in power at the time of election misuse official machinery to further the election prospects of its party candidates. The misuse of official machinery takes different forms, such as issue of adver-

tisements at the cost of government and public exchequer highlighting their achievements, disbursements out of the discretionary funds at the disposal of the ministers, use of government vehicles for canvassing etc. The misuse of official machinery in the ways mentioned above gives an unfair advantage to the ruling party at the time of elections. This leads to misuse of public funds for furthering the prospects of candidates of a particular party.

**Criminalisation of Politics:** During the election period, newspapers are usually full of information about the number of criminals in the field sponsored by every party. The reason of the criminals behind entrance to politics is to gain influence and ensure that cases against them are dropped or not proceeded with. They are able to make it big in the political arena because of their financial clout. Political parties tap criminals for fund and in return provide them with political patronage and protection. Rough estimates suggest that in any state election 20 per cent of candidates are drawn from criminal backgrounds: Mafia dons and other powerful gangsters have shown that they can convert their muscle power into votes often at gun point. Voters in many parts in the country are forced to vote for the local strongman. Tickets were given to the candidates with criminal records even by National Party. All these instances reported time and again show that democracy in India has largely failed to be what it was meant to be because the electoral system has been perverted. At one time politicians hired criminals to help them win elections by booth capturing. Today, those same criminals have begun entering parliament and the state legislature.

**Non-Serious Candidates in Political Parties:** In recent years there has been a steady increase in the number of candidates in elections. The number of candidates has swelled due to the participation of Independents. They contest elections light heartedly and lose their deposits. Non-serious candidates are largely floated by serious candidates either to cut sizeable portion of votes of rival candidates or to split the votes on caste lines or to have additional physical force at polling station and counting centers. The multiplicity of candidates causes inconvenience to election authorities in the management of elections. The voters are also handicapped in identifying the candidates of their own choice. This affects the sanctity of elections. This onslaught of non-seriousness has to be halted.

**Castism:** Although there is hardly any instance in India of a political party being totally identified with any particular caste group, yet there are cases of certain castes lending strong support to particular political parties. Thus while political parties struggle among themselves, to win different caste groups in their favour by making offers to them, caste groups too try to pressurize parties to choose its members for candidature in elections, If the caste group is dominant and the political party ,is an important one, this interaction is all the more prominent. Caste dominates the political field, especially at the lower level. The emergence of regional parties and the "withering away of national outlook and spirit? thus sets off another crisis. Candidates come to be selected not in terms to accomplishments, ability and merit but on the appendages of caste, creed and community. Ultimately caste becomes the deciding factor on selection. Caste based politics and castism are eroding the "unity? principle in the name of regional autonomy.

**Communalism:** The emergence of India as a "secular? state, the politics of communalism and religious fundamentalism in the post independence period has led to a number of separate movements in various states and regions of the country. Communal polarization, rather multipolarization, has posed a threat to the Indian "political ethos of pluralism, parliamentarianism and federalism. The dynamics of national and state politics of the "last decade is a mute witness of the clashes and conflicts between the so-called. "Secularist and the communalist?. Although a comprehensive constitutional amendment Bill (8Oth Amendment Bill) and Representation of the People (Amendment) Bill 1993 were introduced to de-link polities from communalism, castism, and linguism etc. by the minority Government, these could not pass through the Parliament. Caste and religion have in recent years emerged "as rallying points to gain electoral" support.

Unfortunately there is a tendency to play upon caste and religious sentiments and field candidates in elections with an eagle eye on the caste equations and communal configurations.

**Lack of Moral Values in Politics:** There has been very sharp erosion in the ideological orientation of political parties. Party dynamics in India has led to the emergence of valueless politics much against the ideals of the father of the nation, Mahatma Gandhi, who suggested that the Congress party should be disbanded after the achievement of Independence and its members should engage themselves in the service of the people. While Gandhi taught us tremendous selflessness, self sacrifice and service, to the people, such inspirational values, the democratic norms and institutions have been destroyed systematically over the last years of the working of the Constitution. In the process, both the politicians and political parties have lost their credibility, the ultimate value that should bind them with the masses.

The money and muscle powers are the basic evils that pollute and defile the process and motivate participants to resort to mal practices in elections. This leads to the decline of moral values in the arena of electoral politics. Radical measures- legislative administrative and reformatory are needed to stem the root that is eating vitiate of the democratic process. A game can be fair only if the players are honest and true to its spirit.

## Important Electoral Reforms proposed

*A: Recommendations for Electoral Reforms*

1. **Remove criminals from politics -** For upholding the highest traditions of probity and morality in public life, any person against whom charges have been framed by a Court of Law of offences should be banned from contesting any elections.

2. **Declaration of sources of income by candidates -** Along with the declaration of their assets and liabilities candidates should also declare their income and sources of income at the time of nominations.

3. **Implement a multi-party system for appointments of the CEC and SEC -** CEC should be appointed through a multi party system including the Prime Minister, Leader of the Opposition, the Speaker of the Lok Sabha, Deputy Chairperson of the Rajya Sabha and the Chief Justice. A similar process should be implemented for appointments of SEC.

4. **Implement ceiling on expenses of political parties during election period -** To make the current laws on election expenses more effective, ceiling should be imposed on expenses during elections made by political parties as well.

5. **The requirement for winning election should be "50% + 1 of the registered votes cast" –** To stop candidates and parties from asking votes on caste, religion and regional basis and to help stop division in Indian society based on these parameters, a requirements should be made to declare a candidate as winner only if the candidate gets more than 50%+1 vote. In the case when no candidate gets required number of voters, there should be a runoff between the top two candidates getting maximum votes. It is worth noting that 50%+1 of the votes cast is an easier requirement for being declared elected, a more stringent requirement, and the ideal to ensure appropriate and proper representation, would be 50%+1 of the registered votes.

6. **Reduce the time provided for filing election expenses -** A candidate presently can file accounts of elections expenses within 30 days which reduces the time given for filing election petition to 15 days. There is a need for amendments to sections 78, 81 and 84 of the R.P. Act, 1951 to reduce the period of filing accounts of elections expenses by contesting candidates to 20 days so that the time available for filing election petition would increase to 25 days.


GS SCORE

7. **Action against candidates who fail to file their election expenses -** Any candidate who fails to file their election expenses within the given time should face penalty, including not being allowed to take oath until they fulfill this obligation.

8. **Legal sanction for the filing election petition against candidates who lose elections -** There is no provision for election petitions or other actions against candidates who lose elections. There needs to be a legal sanction against losing candidates also for filing an election petition who are guilty of corrupt practice in terms of section 123 of the R.P. Act, 1951.

9. **Strict penalties against those involved in electoral malpractices -** The relevant sections of the Representation of People Act (RPA) pertaining to electoral malpractices need to be amended and stricter penalties imposed. Electoral malpractices should be declared criminal offenses carrying a sentence of two years or more.

10. **Law against the use of excessive money in elections by candidates -** The excessive use of money in elections vitiates democracy. Anyone who breaks the law by giving money and gifts to voters, or exceeding the legal spending limits should have his/her election set aside.

11. **Provision for verifying the declarations in the affidavits of the candidates -** The information given in the affidavits of the candidates on criminal charges, assets etc. should be verified by an independent central authority in a time bound manner. Provision should be made for strong action on finding serious anomalies.

12. **Prohibition of taking other offices after retirement of The Election Commissioners –** The Election Commissioners should not be eligible for any office after retirement for a period of at least 5 years. They should also not be allowed to join any political party for a further period of 5 years after retirement.

*B: Recommendations for political reforms*

1. **Introduce provisions for inner-party democracy within political parties –** Although India is a democratic country, our political parties which run this democracy are highly undemocratic in their functioning. Provisions should be made to introduce inner-party democracy within the political parties. This should include mandatory secret ballot voting for all elections for all inner party posts and selection of candidates, as suggested by Law Commission Reforms and practiced in Germany, by the registered members, overseen by Election Commission of India.

2. **Bring financial transparency in the accounts of political parties -** There is a great need to bring in financial transparency in the accounts of political parties. The Income Tax returns and the contribution reports of political parties should be made open for scrutiny by public. In addition, the maintenance of accounts by political parties and audit thereof by agencies specified by the Comptroller and Auditor General should be made compulsory.

3. **Regulate the registration and de-registration of political parties -** Amendment of Sec. 29A of the R.P. Act, 1951 empowering the Election Commission to regulate registration and de-registration of political parties.

4. **Bring in a comprehensive bill to regulate working of political parties -** The draft Bill to regulate Political Parties, as given in the 170th Law Commission Report Part III: Chapter I should be passed by Parliament. Strict rules should be enacted through law for all the inner functioning of the parties, including elections of office bearers, selection of candidates for elections, etc.

5. **Declare Political parties as Public Authorities –** As political parties work for the public in public space and are responsible for making government to run the country and they also use government facilities, they should be declared as public authorities so that they come under the ambit of RTI.

6. **Affidavit information of candidates to be certified by Political Parties –** Since the candidates are given tickets largely by political parties without any public debate or involvement of their primary members, the information submitted in their affidavits should be certified by Political Parties. It is after all these parties only that know these candidates to be worthy enough to get their tickets. In case the information furnished by the candidates is found incorrect, the political party should also be held accountable.

7. **Annual report by MPs and MLAs -** Elected MPs and MLAs should be required to give an annual report to their constituency giving details of their accomplishments for previous year and the plan for the next year. This report can be made available either at the Lok Sabha/ Rajya Sabha website or at Election Commission's website.

8. **Fast tracking of cases for MLAs/MPs –** All pending cases against MPs and MLAs should be fast tracked and brought to conclusion within a specific time(preferably one year). If these cases go to High Court or Supreme Court, they should be treated at a high priority in these courts too. These fast track courts should also have open and transparent hearings and witness protection. Any evidence of intimidation should be taken as evidence of guilt.

9. **A separate body to decide the salaries and perks of elected representatives -** There should be an independent body or commission that takes decisions on salaries and perks of elected representatives. It is a clear conflict of interest now where they fix their own remuneration.

*C: Recommendations for new rules by Election Commission of India*

1. **Make public the list of polling agents in advance –** The list of polling agents should be made public well in advance of the elections.

2. **Include civil society representatives as observers during elections –** There should be a mix of official and non official observers during elections, selected by the Election Commission. The same facilities and powers should be given to both categories of observers.

3. **Make election expense statements of the candidates/winners available through web –** Election Expense statements of the candidates/winners should be made available on the website of Election Commission as soon as they are filed by the candidates for public scrutiny. If the statement runs through several pages, at least their summaries should be put on the website.

4. **Appointment of the CEO from cadre of another state -** The Chief Electoral officer of a state is sometimes apprehensive that after his term is over, he will have to work under the same political authorities over which he exercised powers during elections as CEO. To enable a CEO to work fearlessly without these apprehensions, a CEO should be deputed from another state.

5. **Changes required in the affidavits -** Following changes should be incorporated in the existing format of the affidavit filed by the candidates contesting elections:

   - PAN declaration of candidates should be made mandatory in order to keep a continued check on their transactions and dealings. If PAN not given the nomination papers filed by the candidate should be rejected

- There should be a column in the affidavit wherein the candidates can declare any penalty levied on them with regard to taxes
- A column asking for the source of income of candidates should be provided in the affidavit
- In the assets part the candidates should not just disclose his assets but also the assets of all his close relatives as per the Company Law.
- Candidates should attach their IT returns with the affidavits filed by them.
- Affidavits should be certified by the Political Parties
- Candidates standing for elections should be announced 6 months prior to elections and they should submit affidavits stating the expected and approximate amount to be spend in elections by them and of the source thereof.

**SUGGESTIONS**

- At Present, the EC does not have independent staff of its own. Whenever elections take place, the Election Commission has to depend upon staff of Central and State Governments. The dual responsibility of the administrative staff, to the government for ordinary administration and to the EC for electoral administration is not conducive to the impartiality an efficiency of the Commission. Along with it comes the problem of disciplinary control over the staff deputed to do election work which generally generates confrontation between the Government and the EC. Now, when the elections have ceased to be a mere periodical affair, it is desirable that the EC should have a permanent electoral administration with adequate disciplinary control over the staff.
- Efficient Electoral Commission is a requirement of the day to conduct free and fair elections. Democracy and fearless elections cannot exist without each other. To stop unfair practices in elections like rigging by using official machinery and to ensure existence of democracy, following methods or means should be adopted. The CEC should not be at the mercy to Executive and Parliament for its requirements. He should have separate and independent election department to enhance its objectivity and impartiality.
- Political corruption should be stopped by providing funds to genuine candidates through political parties whose account should be auditable. Candidate involving in corruption should be disqualified.
- For having a true democracy the registration and recognition of the political parties should be fair and without any kind of influence.
- Mass Media should play a non-partisan role in election and as a safeguard of democracy.
- Periodic elections are the foundation of a democratic system. For fair electoral system every aspiring candidate must have fettered freedom to offer himself as a candidate for election and to conduct his election campaign in his own way so long as he keeps him within the law.
- Every voter must be perfectly free to vote without any fear of consequences and without being unduly influenced by anyone by improper means and inducement or pressure of any kind.
- The secrecy of voters? preference to any candidate should be maintained. The election machinery must function honesty and impartially at every stage.

- Parliament must pass a law dealing with this serious problem of de-listing of valid electorates from electoral rolls because illiterate electorate residing in far villages cannot watch over publication of electorate lists.
- Preparation of electoral rolls by EC are to be supervised at village level and certificates from officials who prepare electoral rolls to the effect that the electoral rolls have been thoroughly revised. They do not include that persons and legally disenfranchised citizens and intentionally no name should be left in them. Accountability to be fixed for intentional exclusion of name of voters from electoral rolls.
- The names of the voters may be included in the electoral rolls even at the time of casting of votes by the polling officer, when he finds a genuine case.
- Unearth and confiscate black money, which is widely used for buying votes.
- Make politicians as well as voters law abiding.
- Strictly apply the Code of Conduct and punish those who violate it.
- Revise voters lists in time to avoid bogus polling and correct mistakes in the lists.
- Prompt action by the judiciary, if any kind of violation is detected during elections.
- Declare elections results in mandatory. In democracy the public is most powerful entity.

**Recent steps taken**

- According to the recent ruling of Supreme Court charge–sheeted Members of Parliament and MLAs, on conviction for offences, will be immediately disqualified from holding membership of the House without being given three months' time for appeal, as was the case before.
- The new amendment in RP Act provide that every citizen of India, whose name is not included in the electoral roll and who has not acquired the citizenship of any other country and who is absenting from his place of ordinary residence in India owing to his employment, education, or otherwise outside India, (whether temporarily or not), shall be entitled to have his name registered in the electoral roll in the constituency in which his place of residence in India as mentioned in his passport is located.
- The Election Commission of India (ECI) has issued guidelines (PDF) regarding media coverage under section 126 of Representation of People Act, 1951. As per a press release issued by the ECI, Section 126 of the Representation of the People, 1951, prohibits displaying any election matter by means, inter alia, of television or similar apparatus, during the period of 48 hours before the hour fixed for conclusion of poll in a constituency. The expression similar apparatus includes websites, blogs, social media platforms, etc as well. This makes the enforcement of this prohibition very difficult as websites and social media platforms may not always be located within Indian jurisdictions. Realising the practical difficulties to regulate foreign websites and social media platforms, it has been proposed that Indian social media websites must be started. It is also been considered to force the technology companies to establish their servers in India so that Indian laws can be enforced more effectively. Foreign companies like Google, Facebook, etc are not complying with Indian laws and legal requests for information. They are taking shelter behind the conflict of laws in Indian cyberspace and are avoiding compliances with Indian laws. In these circumstances enforcement of the provisions of Section 126 of the Representation of the People, 1951 would be really challenging.

If the public do not vote in favour of criminals, dishonest and corrupt politicians who wish to purchase their votes by money or muscle powers, everything shall function nicely and the democracy will shine in the dark spectrum of hitherto corrupt and criminalised political system. So, though the EC is working hard in this direction, but it cannot succeed unless all political parties and voters realize their responsibility. Finally there should proper mechanism, fully functional and fully equipped to fight with any triviality.

## 25 Fiscal Devolution to local government in India

The local self-governing institutions in rural India have a pivotal role in the implementation of development programmes and have become instrumental in designing development plans for rural areas and implementing them. The 73rd Amendment Act of the Indian Constitution has widely purveyed a set of legitimate powers to these institutions, with a stately objective to develop them as institutions of self-government. Hence, the powers and functions codified for these institutions under the purview of the Indian Constitution have explicitly pronounced the significance of these institutions. However, the current trend of functioning of rural local self-governing institutions in India provides a gloomy scenario because of their failure in tackling critical human development issues. Despite the presence of a progressive governance system such as the Panchayati Raj, the rural areas in India still face severe human development challenges. It is argued that the decentralised governing institutions can provide an accountable and transparent administration only when certain internal and external conditions like accountability, transparency, participation and fiscal transfers will be taken into consideration.

The Indian Constitution under its federal character has provided ample provision for sharing the powers between the centre and the states as well as between the states and the local governing institutions (both at rural and urban level). Centre-State fiscal relation has provided a wide array of the sharing powers for revenue generation, taxation and expenditure of revenue under the framework of the Indian Constitution. However, the legitimate evolution of the local self- governing institutions since 1992(73rd Amendment) has forced to question the issue of rationalisation in power devolution arena.

## Significance of Fiscal Decentralisation for Local Self-Governing Institutions

The whole idea of decentralized governance is based upon some key factors such as people's participation, accountability, transparency and fiscal transfers. Fiscal decentralisation, is an integral subset of decentralisation and assumes significance because without its proper functioning decentralisation becomes inoperative and meaningless. Fiscal transfers have an important influence on the effective functioning of democratic decentralised institutions, as they provide impetus to these institutions to work as self-governments by vesting autonomy to make timely and prompt decisions regarding their finances.

Fiscal autonomy of democratic decentralised institutions has been argued on the ground that "the guarantees for local autonomy lies in the way local governments have at their disposal financial resources which they can autonomously deploy to implement their local level development. Without financial resources any decentralised governance system is empty. Therefore financial resources must cement autonomy.

However, the opponents of fiscal decentralisation argue for limited fiscal devolution, with regard to collection of taxes from local revenues through managing available resources.

To summarise, Decentralisation in the current development scenario emerges as a key strategy of governance to address the long-standing human development issues. Fiscal decentralisation as an important subset of decentralisation has attained significance, as it is believed that fiscal transfer to local self-governing institutions can produce effective result in addressing the development needs.

**The 73rd Amendment Act:** The 73rd Constitution Amendment Act provided impetus to the LSGs in India by devolving requisite powers & functions, which are political and economic in nature. It is argued by the proponents of decentralised governance in India that the 73rd Constitution Amendment Act has ushered a greater degree of uniformity in structure(Three-tier), Composition(reservation for SCs, STs and women), powers and functions(financial and planning), of these institutions with an objective to achieve faster social and economic development.

The following are the important features of the act which pronounced the greater Fiscal autonomy to the PRIs in India;

- Devolution of powers including fiscal power: Devolution of powers including fiscal power to the PRIs is the most significant aspect that reflected through the 73rd Constitution Amendment Act. It was suggested that the functions of 29 subjects under the 11th Schedule of the Indian Constitution will be devolved to the PRIs for ensuring effectiveness in functional aspects. However, the current trend of power devolution to the PRIs has provided a dismal scenario because of the failure of different states in this regard, particularly with respect to the devolution of fiscal powers.
- **Assignment of revenue powers:** A significant component of the 73rd Amendment is vesting fiscal powers to the PRIs. An important component of such process is based on the collection of tax revenue from local sources, as assigned by the states to these institutions. 28 types of taxes and rates, which are eminently local in nature have been assigned to the local governments since the enactment of 73rd Amendment Act. However, fiscal autonomy of the PRIs is still largely regulated and controlled by the state.
- **Plan for Economic Development and Resource Management:** Another significant aspect of fiscal character of the 73rd Amendment Act is based on the preparation of plan for economic development, keeping the available resources in mind. This has been provided in order to retain the autonomy of the local self-governing institutions, which believed to be another assay in the area of fiscal autonomy. However, the current trend of promoting development

programmes and resource management has become handy, because of the existing macro and micro level difficulties.

- **Institutionalization of State Finance Commissions (SFCs):** The State Finance Commissions were created to examine fiscal relationships between the states and PRIs as well as the Urban Local bodies (ULBs) with regard to the collection of tax revenues by the latter and to suggest the necessary recommendations thereon. However, state level experiences show that the effective functioning of these institutions with regard to rationalising the fiscal relation between the states and local governments is questionable. The SFCs believed to have missed a great opportunity to contribute to the process of building fiscal federalism and their recommendations are largely ignored; this hampered the spirit of self-governments

To summarise, the 73rd Amendment to the Indian Constitution has aptly provided fiscal powers to the local self-governing institutions in order to make them more efficient and accountable. The act has also provisioned for the constitution of State Finance Commissions in the states to examine the fiscal scenario of the local governments and suggest suitable recommendations to the state to that extent. However, after two decades of enactment of 73rd Amendment, the fiscal positions of PRIs in different States highly disarray and asymmetric in nature. The problem of fiscal decentralisation presents two broad scenarios: policy failure or failure of state governments and failure of the local governments. These broad issues are analysed in the subsequent section in order to understand the major gray areas and deduce policy suggestions.

## Fiscal Decentralisation - Areas of Concern:

It is argued that fiscal decentralisation is the fiscal empowerment of the lower tiers of the government and involves the devolution of their taxing and spending powers along with the arrangements for rectifying mismatches in resources & responsibilities. However, the current fiscal power devolution to PRIs in India has been providing two broad areas in which the problems are prevailing.

**Policy failure:** An important feature of a successful system of fiscal federalism is the assignment of adequate revenue powers to sub-national governments that forge a strong link between revenue and expenditures at the margin. However, experience from different states reveals that, the fiscal devolution process has been more or less confined to the mere delegation of authority without devolving powers of taxation and revenue generation. There is no mechanism devised to assess(or map) the potential source of revenue of the PRIs, and therefore no mandatory targets have been set in this regard, which is yet another policy gap.

**Failure of the Local Governments:** The PRIs in major Indian states, have failed to utilize the potential revenue generation source, because of their over dependent nature and the serious capacity gap. Further, improving the revenue is largely linked to two major factors-appropriate redesigning of fiscal transfer system and proper institutional arrangements; both are lacking in the case of PRIs.

## Challenges:

A major portion of Part IX of the Constitution covering Articles 243C, 243D, 243E, 243 G and 243 K deals with structural empowerment of the PRIs but the real strength in terms of both autonomy and efficiency of these institutions is dependent on their financial position (including their capacity to generate own resources). In general, Panchayats in our country receive funds in the following ways:

- Grants from the Union Government based on the recommendations of the Central Finance Commission as per Article 280 of the Constitution.

- Devolution from the State Government based on the recommendations of the State Finance Commission as per Article 243 I.
- Loans/grants from the State Government.
- Programme-specific allocation under Centrally Sponsored Schemes and Additional Central Assistance.
- Internal Resource Generation (tax and non-tax).

***Across the country, States have not given adequate attention to fiscal empowerment of the Panchayats.***

**The challenges are:**

- Confusing power devolution agenda: The crucial factor that crippled the fiscal autonomy of the PRIs is the incomplete process of power devolution to the PRIs by different state governments. While states such as Kerala, West Bengal, Karnataka and Madhya Pradesh have devolved the desired powers to the PRIs, other states such as Odisha and Jharkhand are lagging behind in the process. A study conducted across Andhra Pradesh, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu, Odisha, Punjab, Haryana, Assam and Goa also discovered that most states granted a plethora of functional responsibilities but there was no executive follow-up of granting adequate powers, staff and additional financial resources.
- Poor budgetary allocation: The extent of fiscal devolution depends on the expenditure responsibilities and revenue assignments devolved to the lower tiers. However experiences from different States shows that, the fiscal allocations to the PRIs have declined sharply, which has restricted their development agendas. The total expenditure of the local governments(PRIs and Urban local bodies),as a proportion of the combined expenditure of the union, state and local governments was about 6.4% in 1998-1999 to 5.1% in 2002-03.This indicates the magnitude of fiscal poverty of rural local self-governing institutions in India.
- Tax Decentralisation & the role of SFCs: In most states, the reports regarding the recommendations of the SFCs were not taken into account which is another gray area in fiscal decentralisation. It was observed that the own tax revenue of the local governments has been declined from 5.71% to 3.97% in 15 major states in India. It is also argued that, the PRIs should have the right to collect taxes from private taxpayers which is not reflected in States' tax decentralisation agenda.
- Fiscal Dependency: It is argued that the so called financial decentralisation has given birth to fiscal dependency of the PRIs over central and state hierarchies. This scenario has led to the fiscal inefficiency of the PRIs by reducing their role as mere implementer of government programs. For the implementation of different programs the PRIs have to wait for "sanction orders" from upper level government departments, which hinder the timely and effective implementation of development programs.
- Gap in coordination: One of the most important pre-conditions for efficient fiscal federalism is clarity in the assignment system. Not only should the assignment system be clear as far as possible, but when there is overlapping, there should be systems and institutions in place to resolve it. However, in the case of PRIs, the intra and inter institutional coordination gap is also largely seen in the process of transferring funds to the PRIs, which is another challenging area in fiscal decentralisation. The flow of funds from higher to lower tiers has become cumbersome affair because of undue delay, technical incompetency and an attitude of high-handedness.

**Policy Recommendations:**

For fiscal decentralization to be effective, finances should match expenditure assignments related to the transferred activities. This calls for a twofold approach - first demarcation of a fiscal domain for PRIs to tap resources directly both Tax and Non-tax and second devolution of funds from the Union and State Governments.

In the Indian context, the concept and practice of local government taxation have not progressed much since the early days of the British rule. Most of the revenue accrual comes from taxation of property and profession with minor supplement coming from non-tax receipts like rent from property and fees for services. It is high time that a national consensus emerges on broadening and deepening the revenue base of local governments. a comprehensive exercise needs to be taken up in this sector on a priority basis. The exercise will have to simultaneously look into four major aspects of resource mobilization viz. (i) potential for taxation (ii) fixation of realistic tax rates (iii) widening of tax base and (iv) improved collection. This could be one of the terms of reference for the Thirteenth Finance Commission.

The PRIs in India need a greater degree of political will and effective fiscal devolution for functioning as institutions of self-governance. The following aspects need to be taken into consideration for this purpose.

- In order to widen their tax base the PRIs will need to explore additional sources of revenue. The Indian economy has done well during the past few years. Sectors like transport, tourism and infrastructure have grown remarkably and a part of this growth has also percolated to the rural sector. Rural bodies need to look beyond the traditional areas of lands and buildings and augment their resources by operating in newly emerging sectors through innovative tax/ non-tax measures e.g. fee on tourist vehicles, special amenities, restaurant, theatre, cyber café etc. Among the classical items of tax collection - imposition of profession tax, cattle registration fee and vehicle registration fee are the three notable areas which have not been exploited optimally by the Panchayats. The Panchayats need to be more imaginative and assertive in tapping such resources. The role of the State Governments should be limited to prescribing floor rates for such taxes and levies, so that Panchayats levy these taxes at a realistic rate.

- Apart from exploring new areas for taxation/levies and productive use of common properties, gradually the Panchayats could be encouraged to manage some important utilities. This will not only ensure better service delivery but will also propel Panchayats to make some profit and generate additional revenue for themselves. This would be particularly relevant for the higher tiers of Panchayats. Accordingly, at the block or district level the local bodies could be encouraged to manage utilities such as transport, water supply and power distribution on a commercial basis. They will need to collect realistic user charges for all such services.

- The royalty and other income from minerals such as dead rent, fees, cess and surcharge is a major source of revenue for the State Government. The revenue on account of royalty for major minerals is fixed by the Union Government and is collected and retained by the State Governments. In the case of minor minerals, State Governments have powers both to fix and collect royalty and dead rent. These powers however shall vest with PRIs.

- One of the effective and fair tools to improve revenue collection of the local bodies is to incentivise their efforts. Panchayats which have shown positive results must be suitably rewarded. This can be done by linking the Union Finance Commission and State Finance Commission grants to their own revenue generation efforts. States may also promote Panchayats to collect revenue by providing bonus payments at specified pre-announced rates to Panchayats which have demonstrated exemplary collection performance. However, while

incentivising better performance, it is equally important to instil some kind of fiscal responsibility mechanism like the system that exists between Union and the State Government. There are some States which have encouraged and supported their PRIs in exploring new areas of taxation and there are others which have not showed any initiative. There is a strong case to give some kind of incentive to the first category. Such incentivisation will in due course also motivate others. The Ministry of Panchayati Raj has evolved a Panchayats Empowerment and Accountability Fund (PEAF) to incentivise both empowerment of the Panchayats by the States, on the one hand, and accountability on the part of the Panchayats to Gram/Ward Sabhas on the other.

- In most States it is the Gram Panchayat which is primarily endowed with tax and non-tax revenue raising powers. In the field of tax revenue, only a few insignificant tax items have been kept with Intermediate Panchayats and Zila Parishads. In Orissa, all taxation powers lie exclusively with the Village Panchayat. The Rajasthan Panchayati Raj Act assigns some taxation powers to the Intermediate Panchayat Samiti but this power is limited only to a few select items like the Panchayat samiti tax on land rent, vikas tax and education cess. The Zila Parishad in Rajasthan can levy a surcharge on the sale of land in rural areas and surcharge on market fee. In Madhya Pradesh, taxes levied by the Intermediate Panchayats are the business tax and entertainment tax, whereas the Zila Parishads do not have any taxation powers. The Bihar Panchayati Raj Act gives powers to the Zila Parishads to levy fees on registration of boats/ vehicles, on sanitary arrangement in fairs etc., on public street lighting and toll on ferries and Panchayat Samitis hold concurrent powers in exactly the same areas of taxation.

- The Commission is of the opinion that Village Panchayats must have primary authority over taxation within the tax domain assigned to PRIs. However, where a unit of assessment for imposition of taxes is larger or such taxation has inter-Panchayat ramifications, the higher formations - Intermediate Panchayat and Zila Parishad should be given concurrent powers subject to a prescribed ceiling. Running of small power projects, large scale mining activities, ferry services on a large river, are some of the areas which could be subjected to taxation by higher tiers. However, whenever a tax/fee is imposed by the Zila Parishad or Intermediate Panchayat, such tax or fee should be collected by the concerned Village Panchayats as if it were a tax or fee imposed by them.

- With regard to devolution of funds to the local bodies from higher tiers of government, the Commission holds the view that such transfers need to be unconditional so that the PRIs are able to take care of the local priorities. The approximate quantum of funds to be transferred for a block of five years should be indicated to the local bodies in advance so that the Panchayats can set minimum standards for delivery of services and for attainment of certain minimum levels in poverty reduction, education, healthcare etc. for the period of the allocation. This is an enormous task as setting standards and attainment levels and costing them would be intricate and challenging. But such an exercise is necessary for ensuring results-based performance by the PRIs. Funds should be devolved according to a formula and their predictability and assuredness should be ensured through bringing out a separate budget document for transfer of funds to local governments.

- Apart from the quantum of funds devolved to the PRIs and the procedure for its release, it is also important to ensure objectivity and transparency in its allocation. Problems of regional disparity and development of backward areas deserve special attention. The State Finance Commission should try to evolve an index of backwardness for devolution of funds to PRIs. The recommendations of the SFC need to be substantially guided by such a backwardness index.

- The Commission is of the view that except major Centrally Sponsored Schemes of the Union Government or special purpose programmes of the States, allocations to PRIs should be in the form of untied funds so that the PRIs can have some degree of flexibility in expenditure. The allocation order should contain only a brief description of objectives and expected outcomes. Also while releasing funds, the States should not impose conditions of utilisation, except those prescribed by the Finance Commission.

- Over the years, the demands of the rural sector have shifted from the basics - food, shelter and safety to quality life requirements - potable water, power for irrigation, education, improved healthcare services, physical infrastructure and agricultural inputs and services. The fund requirement for all these is enormous. Apart from making efforts to increase revenue realisation (both tax and non-tax), Panchayats may also need to borrow from banks/ financial institutions. The borrowing may be for improvement in delivery of services. Simultaneously, they also need to collect user charges from citizens to pay off their debt. In 1963, the Santhanam Committee on Centre-State relations had suggested that PRIs should be given powers to borrow or raise loans (the commercial banks were then reluctant to lend to the rural sector). The Committee suggested that Local Government Finance Corporations should be established in the States for this purpose. Many of the State Governments did set up such bodies. Whenever, Panchayati Raj Institutions had projects that seemed to be of a remunerative nature, they could approach such agencies for funds. Some of the Panchayats did take advantage of this facility and set up small projects, but their efforts towards collection of user charges were very unsatisfactory and most of them went into default. In the current liberalised credit scenario, local bodies can borrow from the market on the strength of their credit viability. Depending on the sustainability of the programme and the Panchayats' financial health, such initiatives of the PRIs need to be liberally encouraged. Once the projects start showing positive results, banks and other credit institutions will step up their activity in this sector. The Commission is of the view that the State Government should encourage such initiatives. The role of the State Government should remain confined to fixing the limits of borrowing as per the guidelines of the State Finance Commission.

- Fiscal devolution to PRIs should be realistic based on current development needs and priorities. It should be rationalise on the basis on assigned development programs to PRIs & extent of fiscal position.

- Financial allocation to PRIs should be based on certain minimum criteria like developmental needs of the people and areas. A clear cut mechanism needs to be devised for determining the budgetary allocations for the PRIs.

- PRIs need more orientation regarding functional duties and fiscal matters. Revenue generation should not be treated as non-obligatory function of PRIs and the States finance commissions' recommendation should be taken into consideration.

- The fiscal disbursement process should be free from bureaucratic incompetency and political control. The process should be done timely with maintaining utmost transparency.

Local Self-Governing Institutions in the current pace of Development have to play critical catalytic role, which can address the long-running human development issues like poverty and illiteracy. These Institutions in the context of 73rd amendment act, has received fresh impetuous which recognizes their status as Self-Government. However, the prevailing political climax coupled with bureaucracy-led administrative control has been reduced the sanctum sanctorum of these institutions, pushing them as another extension wing of the State and Central Government. The fiscal decentralisation of the Panchayats, which was given priority in the emergence of 73rd amendment, has lost direction and reached at such a stage, which urged a fresh policy review.

The issues of finance of the Panchayats remain in the nascent stages because of the utmost apathy shown by the political classes towards this end. Despite the constitutional mandate, poor finances have been restricted the functions of the local governments. The state governments should take these issues seriously and must change their policies regarding the fiscal devolution to the local governments. This should be done in keeping into mind the ongoing development trends and the development need of the rural areas.


GS SCORE

An initiative by: **S. K. Mishra, IAS** (Retd.) & **Manoj K. Jha**

IAS 2015

IAS Exam is persistently undergoing a change, being brought to ensemble the contemporary aptness. In the midst of this transition GS SCORE is starting GS Mains 2015 Programme under the expert guidance of **S. K. Mishra** & Team.

Batch Starts
5th January, 2015

GS Mains 2015

- ✓ 300 Hrs. Comprehensive Courses
- ✓ From 20th January to 10th April, 2015
- ✓ Full coverage of all four Papers
- ✓ Complete Study Material

Selective Learning Programme

Ethics Integrity & Aptitude
- ✓ By S. K. Mishra
- ✓ Complete Coverage of Syllabus
- ✓ 100 Case Studies
- ✓ 45 Days Comprehensive Course
- ✓ 4 Tests Including Model Answer
- ✓ Comprehensive Study Material

Essay Writing

10 comprehensive classes that emphasises on Writing Skill, Building Conceptual Clarity & Developing Analytical Ability to handle essay on diverge topics.

GS Mains 2015 Test Series
- ✓ 14 Tests
- ✓ 4 Full Tests
- ✓ Model Answer Hints
- ✓ Detailed Discussion
- ✓ Study Material for Current Affairs
- ✓ Start: 1st February, 2015

Distance Learning Programme IAS 2015-16

- In depth analysis of each subject
- Complete coverage of all topics
- Separate test for each subject area
- Comprehensive Tests for GS Mains & PT
- Separate module for Ethics Paper is also available
- Current Affairs • Essay • 24x7 Online Support

www.iasscore.in
Self Study Partner

For more information, Call
011 - 47058253

**Head Office: Rajender Nagar**
Off. No. 6, Ist Floor, Apsara Arcade, Karol Bagh, New Delhi-5, (Karol Bagh Metro Gate No. 5)

**9953607114, 9953595114**

www.facebook.com/iasscore