

## CHAPTER—I

### AN OVERVIEW OF THE PANCHAYAT RAJ INSTITUTIONS

#### 1.1 Introduction

With a view to promote greater autonomy at the grass root level and to involve people in identification and implementation of developmental programmes, the Seventy third Constitutional Amendment Act, 1992 was promulgated. The main features of the amendment are:

- Establishment of a three tier structure of local self-government in rural areas i.e. panchayats at the village, Intermediate and District levels<sup>1</sup>.
- Regular elections every five years.
- Proportionate seat reservation for SCs / STs as well as for women not only in membership of Panchayats but also for posts of chairpersons.
- Constitution of State Finance Commissions to recommend measures to improve the finances of Local bodies.
- Constitution of State Election Commissions.
- Gram Sabhas at the Gram Panchayat level.

Besides being institutions of self government and performing agency functions in respect of Central or State government sponsored schemes of community development or direct delivery programmes, the PRIs were intended to be developed as powerful institutions of economic development. The eleventh schedule of the constitution enlists 29 functions to be devolved to the PRIs. However, it does not automatically confer any powers to them to carry out these devolved functions. The State legislature has been empowered to decide and confer powers and responsibilities in this regard.

Consequent to the 73<sup>rd</sup> amendment, the Sikkim Panchayat Act, 1993 was enacted which envisaged a two-tier Panchayat system in the state of Sikkim. The Act came into force w.e.f. 10<sup>th</sup> August 1995. The first general election for the Zilla Panchayats and Gram Panchayats was held in 1997. Since then the general elections are being held every five years and the last general election was held in may 2002 excepting two peculiar panchayats in North District (Dzumsa) where the elections are held every year.

The Act extends to the whole of Sikkim (except small towns) and a population of 4.8 lakh come under the purview of the Act.

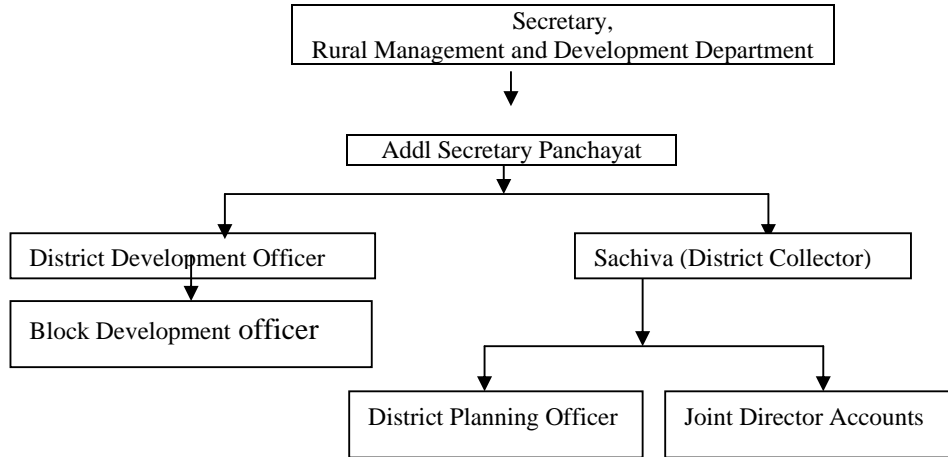
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<sup>1</sup> It was also provided that panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakh.

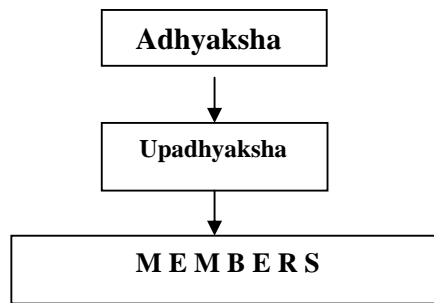
## 1.2 Organizational structure of the PRIs

There are 4 Zilla Panchayats and 166 Gram Panchayats in the state. Rural Management & Development Department (RMDD) is in the charge of administrative control over the effective running of the system. The organogram given below depicts the organizational structure of the department and the PRIs.

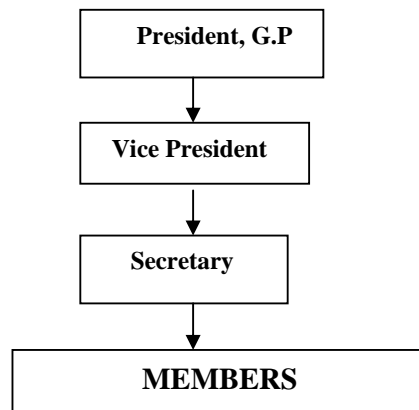
### Administration



### Elected Body (Zilla Panchayat)



### Elected Body (Gram Panchayat)



### **1.3 Powers, functions and duties vested with the PRIs**

The Act vests a PRI with the following powers and duties: (i) to prepare development plan/annual action plan; (ii) to implement schemes for economic development and social justice as may be drawn up by, or entrusted upon it (In pursuance of 11<sup>th</sup> Schedule of the constitution); in respect of 20 devolved functions,. (iii) to manage or maintain any work of public utility and (iv) to collect revenue for utilization of such funds for development work.

### **1.4 Audit arrangement for PRIs.**

Accounts of PRIs are being maintained as per Sikkim Gram Panchayat (Financial ) Rule ,2004 and Sikkim Zilla Panchayat (Financial)Rule,2001. As per provision of the Sikkim Panchayat Act, 1993 the State Government is to appoint Auditor for audit of the accounts of ZP and GP. As per recommendations of Eleventh Finance Commission and guideline issued by Ministry of Finance, the Comptroller and Auditor General of India is to exercise technical guidance and supervision over the Director, Local Fund Audit / any other authority vested with audit of PRIs. As no DLFA exists in the State, Accountant General of Sikkim had been entrusted with audit of PRIs under section 20(1) of C&AG, DPC Act initially for a period of five years with effect from August 2001. This was however amended (October 2004) and in addition to above provision the C&AG has also been entrusted the audit of accounts of PRIs .

Audit of the Gram Panchayat is being conducted triennially and ZPs annually by the office of the Accountant General since May 2003. Audit methodology and procedure adopted for audit was as per audit guidelines /Standards Prescribed by C&AG.

### **1.5 Funding and lodging of funds**

The PRIs are solely funded by the Government. The funds for ZPs and GPs are to be kept in Savings Bank Account at the nearest Scheduled Bank or a Co-operative Bank. Centrally Sponsored Scheme funds are kept in banks in Savings Account according to guidelines of the respective schemes. Expenditure from these accounts are incurred on village development activities, office expenses and contingencies as per requirement. Payment of cheques are requires to be authorized by the designated State Govt . Officer.

### **1.6 Source of Revenue**

In terms of Section 39(1) and 40(1) of Sikkim Panchayat Act, 1993 subject to the rates which may be fixed by the State Government, a ZP may levy taxes, rates, and fee on the subject mentioned at clause (a) to (l) of Rule 40. Similarly Zilla Panchayat may also levy taxes, rates and fees with the approval of State Government on the subject mentioned in 77(1), clause (a) to (k) of Sikkim Panchayat Act, 1993.

Despite the provisions as above, the GPs and ZPs had neither collected nor taken any step to identify the areas where taxes can be imposed by it for obtaining approval of the Government. The broad source of revenue both – Central and State for the period from 2002-03 to 2006-07 are given below:-

**Chapter –I – An overview of Panchayat Raj Institutions**

Year	Central grants									State Grants (Development Funds)		Direction & Administration		Fund Transferred from other Department		Total	Grand Total
	EFC		TFC		SGRY		NREGA		TOTAL	ZP	GP	ZP	GP	ZP	GP		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
02-03		109.80			350.26	141.99			602.05		22.80	94.80	49.64	58.00		225.24	827.29
03-04		105.80			575.40	375.68			1056.88	200.00	1660.00	152.49	108.00	43.63	12.17	2176.29	3233.17
04-05		182.40			514.11	249.16			945.67	200.00	830.00	177.00	103.00			1310.00	2255.67
05-06			39.00	91.00	862.20	213.40			1205.60	200.00	1660.00	178.09	115.85	25.60	6.14	2185.68	3391.28
06-07					518.07	298.91	312.35	468.52	1597.85	240.00	1660.00	165.00	75.65	10.00	2.00	2152.65	3750.50
<b>Total</b>		<b>398.00</b>	<b>39.00</b>	<b>91.00</b>	<b>2820.04</b>	<b>1279.14</b>	<b>312.35</b>	<b>468.52</b>	<b>5408.05</b>	<b>840.00</b>	<b>5832.80</b>	<b>767.38</b>	<b>452.14</b>	<b>137.23</b>	<b>20.31</b>	<b>8049.86</b>	<b>13457.91</b>

\* In addition rice valued Rs 587.30 lakh was also released to PRIs during 2002-03 to 2006-07, which were not reflected in the above table.

Thus from the year 2002-03 to 2006-07 total receipt including food grains of PRI was Rs 13,704.56 lakh.

(Source:Rural Management &Development Department)

### 1.7 Budgetary Control

The following table shows the provisions in the State budget and release of funds there against by the RMDD alongwith funds actually made available to the PRIs during 2002-03 to 2006-07.

Year	Budget Provision		Amount Released		(Rs in Lakh)
	Plan	Non Plan	Plan	Non Plan	Of which amount actually released to PRIs
2002-03	254.24	22.80	254.24	22.80	277.04
2003-04	2226.29	22.80	2226.29	0.00	2226.29
2004-05	830+662.40	22.80	830+662.40	0.00	662.40
2005-06	2153.94	22.80	2153.94	0.00	2153.94
2006-07	2175.00	22.80	2140.65	0.00	2140.65
<b>Total</b>	<b>7471.87</b>	<b>114.00</b>	<b>7437.52</b>	<b>22.80</b>	<b>7460.32</b>

(Source: Rural Management and Development Department)

The RMDD had no consolidated information on the amount of funds received by PRIs directly from the Govt. of India during the period.

Apart from the above funds, the PRIs received Rs 1.66 crore during 2002-03 to 2005-06 from various line department for implementation of Programme for socio economic Development within their functional area.

The RMDD could not however furnish any information on total expenditure by the PRIs out of the Fund received by them during the above period. In the absence of centralized consolidation and lack of details at the individual PRI level, it was not possible to assess the final position of PRIs as a whole.

Accepting the above observation the department intimated that they had engaged a private auditor for the year 2005-06 to prepare annual accounts which will indicate the expenditure and balance of funds.

Thus, out of above 5 years, fund position of GPs for only one year was available with the department.

### 1.8 Allocation and Utilisation of Eleven Finance Commission and State Finance Commission grants

**EFC Grant-** The total share of Sikkim under EFC grant was 5.30 crore of which Rs 5.29 crore was received and distributed to PRIs. The district wise disbursement was as under:-

**(Rupees in lakh)**

<b>Sl.No.</b>	<b>Name of District</b>	<b>Through whom disbursed</b>	<b>Total no. of GPs</b>	<b>Amount disbursed</b>
1.	East	District Development Officer ( East)	50	159.35
2.	North	District Development Officer (North)	20	63.73
3.	West	District Development Officer ( West)	51	162.52
4.	South	District Development Officer (South)	45	143.40
		<b>Total</b>	<b>166</b>	<b>529.00</b>

The year wise allocation and Utilisation of EFC grants are as under

**(Rupees in lakh)**

<b>Year</b>	<b>Allocation Made to Gram Panchayat</b>	<b>Expenditure</b>	<b>Remarks</b>
2000-01	25.00	25.00	Fully utilised
2001-02	106.00	106.00	-do-
2002-03	109.80	109.80	-do-
2003-04	105.80	105.80	-do-
2004-05	182.40	182.40	-do-
<b>Total</b>	<b>529.00</b>	<b>529.00</b>	

As per Para 2.2 of EFC Guideline, a portion of Local bodies' grants were provided for maintenance of accounts and audit and for development of database. The database was required to be developed at the district, State and Central Government levels to be made easily accessible by computerization. The ultimate aim was to make it freely available through V-sat. Accordingly Rs 13 lakh was provided for Creation of database. The data was required to be collected and compiled in Standard format as prescribed by C&AG. However, no database was created as of November 2007. The responsibility for creation of database rested with the State Government as they were primarily responsible for the audit of accounts of PRIs as envisaged in Panchayat Act (Rule 48). It was seen that the administrative department had not initiated any step for audit by the State Government nor created any database. This was disquieting in view of prescription of formats which interalia comprised annual budget estimate, receipt and payment etc. to facilitate database by RMDD. in consultation with AG.

Further, Rs 6.36 lakh provided for maintenance of accounts were utilised in full for maintenance of accounts by GPs and ZPs in the formats prescribed by AG in consultation with RMDD. It was noticed that the prescribed formats were issued to all the GPs. Although data were not created but annual accounts of all GPs were prepared through the chartered accountant upto 2005-06 at one go.

**SFC Grant** - The 73<sup>rd</sup> Constitutional amendment provides that every five years, the State Government shall appoint a Finance Commission to review the financial position of the Panchayats and recommend as to (i) the distribution between the State and the Panchayats, of the net proceeds of taxes, duties, tolls and fees leviable by the State, which may be apportioned between them and how allocation would be made among various tiers of panchayats; (ii) what taxes, duties, tolls and fees may be assigned to the Panchayats; and (iii) grants-in-aid to Panchayats. The report of the Commission together with a memorandum of action on it was to be laid before the State legislature.

In pursuance of Article 243I of the constitution (Seventy Third) Amendment Act, 1992 the State Government constituted the First State Finance Commission in 1998 and the Second State Finance Commission in 2003. The Second State Finance Commission had submitted a report which was examined by a Committee of Senior Officers constituted by RMDD.

The Committee examined the Report and submitted its recommendations to Govt, which was tabled and passed in the State assembly during February 2006. The SFC had recommended broadly 8 points in connection with financial matters. The main recommendations were as under:-

- ⇒ Introduction of new taxes, Rates, Fees etc- These were mainly on User charges for drinking water, User charges for the use of Irrigation water for Irrigation channels, Taxes on issue of clearance certificate for construction of new houses, fee for occupation of Govt. constructed Haat sheds, Taxes on fairs, Mela markets and entertainments, Service charges for registration of birth and death etc.
- ⇒ Preparation of Budget and enactment of Sikkim Gram Panchayat Financial Rule.
- ⇒ Proper Planning, Monitoring and evaluation of the Programme.
- ⇒ Reconciliation of Accounts.

In all cases of recommendation some portions were accepted, some portion are under study on the assessment and the rest have been kept in abeyance. The PRIs have been directed to prepare annual budget with effect from 2008-09.

In reply to slow implementation of recommendation of SFC, the RMDD stated that the recommendation of SFC requires preparatory measures to be taken. The introduction of taxes charges, fees, etc requires Act and Rules to be framed. These are yet to be framed by the State Government. The PRIs were dependent on grants from Government through various departments, hence annual budget were not prepared. . It further stated that the administration of the PRIs are being streamlined through establishment of the Block Administrative Centres and strengthening the Zilla Panchayats administration. The Finance Commission Division of the Finance, Revenue and Expenditure Department has been identified to follow up on the recommendations of the SFC. The strengthening of planning, monitoring and evaluation is being conducted. The accounts are being reconciled since 2005-06.

Thus there was delay in implementation of recommendation due to non fixation of time limit to the Committee of Senior Officers for submission of report and secondly due to non issue of directives from the Government for implementation of recommendation passed by the Government even after one year from date of acceptance of recommendation at the assembly by the Government. Further action in this regard is awaited.



### 1.9 Sectoral Analysis

The information regarding budget provision, release of fund and expenditure incurred under Plan and Non Plan on important sectors like education, health, nutrition, social forestry, solid waste management, sanitation, water and housing etc was not accounted by Rural Management & Development Department. Hence, the progress of work done under these important sectors could not be analysed.

Accepting the above observation department stated that fund was provided to PRIs alongwith guidelines for utilization under the above sector.

### 1.10 District Planning Committee

The 74<sup>th</sup> Amendment Act, 1992 of Constitution provides for the constitution of District Planning Committee (DPC) to consolidate the plans prepared by the Panchayat into the Draft Development plan for the district. The amendment also envisages active involvement of the people (beneficiaries/use group) in formulation of District Plan and implementation of scheme/maintenance of assets created. Keeping in view the above provision, DPC was constituted in all the four districts w.e.f. 25 September.2003. However, the DPC neither consolidated the Plans prepared by the Panchayat nor prepared the Draft Development plan for the district as of East, West, North and South.

Accepting the above observation the department stated that the PRIs prepared its five year plan in 2006 for the first time. These plans were consolidated by DPC and forwarded to the Planning Department. The preparation of annual plans was proposed to start from 2008-09.

Further action in this regard is awaited. (October 2007).

### 1.11 Assets Management

There is no centralized system of account of value of assets created by the PRI. Almost 50 percent of PRIs did not maintain Moveable and Immoveable Assets registers. Thus year wise position of value of assets created could not be ascertained in audit. Further there is no record to establish the account of transferred assets and liabilities. Despite codal provision and observations made by audit for physical verification of Assets, the same was not conducted by PRIs.

In reply, the department stated that assets register was maintained since 2005-06, but in absence of any documentary evidence the reply cannot be accepted.

### 1.12 XIIth Finance Commission Grant

Sikkim's share under the XIIth Finance Commission (TFC) Grants payable during the period 2006-10 is Rs 13.00 crore for PRIs. PRIs are to utilise the funds for scheme of water supply and sanitation. The state has to mandatorily transfer the grants released by the centre to PRIs within 15 days of the same being credited to the State's Account. In case of delayed transfer to PRIs

beyond the specified period of 15 days, the State Government shall transfer to PRIs interest at Bank rate alongwith such delayed transfer of grants.

The Particulars of receipt and release of fund in this regard are given below.

(Rupees in crore)

Sl. No .	Allocation of fund	Period	Year of receipt	Amount	Amount Year of Release	Amount	ZPs	GPs
1	13.00	2006-2010	2005-06	1.30	2006-07	2.60	0.39	0.91
2					2007-08	2.60	0.78	1.82

It would be seen from the table above, that although the State Government received the TFC grants during 2005-06, it was released to the PRIs only during 2006-07 after the delay of 122 days. Though interest on delayed transfer of grants was required to be transferred along with the release of grants to the PRIs, the State Government has not transferred interest at bank rates@ 3.5 percent applicable for saving account for such delayed transfer of TFC grants (1.52 lakh). Finance department had agreed to pay the interest amounting to Rs1.20 Lakh (March 2007),but the same could not be released to the PRIs It was also observed that though allocation of Rs 36.40 lakh was communicated to the RMDD in March 2006, the grants could not be utilized due to non-receipt of communication/clarification regarding short release of Rs 93.60 lakh. The RMDD transferred the TFC grant only in July 2006 after receipt of allocation for the entire grant of Rs 1.30 crore.

Thus, lack of co-ordination between RMDD and Ministry of Finance led to delay in release of the 1<sup>st</sup> instalment of TFC grants (2005-06) by 122 days. Further, due to delay in utilization of the grants released, GOI did not release the 2<sup>nd</sup> instalment of 2005-06 and the 1<sup>st</sup> and 2<sup>nd</sup> instalment of 2006-07 and 2007-08 amounting Rs 6.50 crore resulting in non-implementation of the envisaged development works thereby depriving the beneficiaries of the intended benefits. In addition state government fund amounting to Rs. 3.90 lakh also remained blocked.

### **1.13 Internal Audit.**

As per section 48(2) of Sikkim Panchayat Act, 1993 an officer not below the rank of Chief Accounts Officer of the Sikkim State Finance and Accounts Service appointed by the State Govt. shall audit the accounts of Gram Panchayat as soon as may be after the end of each financial year in the manner provided under chapter IX of the Act. It was observed that no such internal audit of Panchayat institution was conducted till date (October 2007).

### **1.14 Irregular Expenditure amounting to Rs 33.84 lakh**

As per Rule 126 and 127 of Sikkim Financial Rules, purchases costing Rs.0.10 lakh and above are to be made through State Trading Corporation of Sikkim. In exceptional cases of urgency, direct purchases are to be made with the specific prior approval of the Finance Department. When purchases are made

from open market directly the system of open competitive tender should be adopted.

A test check of 22 GPs of West District upto 2006 revealed that in all cases an amount of Rs 33.84 lakh was paid to various suppliers for purchase of various items without observing prescribed procedure.

The matter was reported to the department. Further reply is awaited (March 2008).

### 1.15 Non maintenance/production of Records

As per rule 7(1) and (2) of “Sikkim Gram Panchayat Financial Rules 2004”, the accounts of the Gram Panchayat Funds shall be maintained in the manner specified in the rule and the various forms set out in the schedules appended to this rules. It shall be mandatory for each Gram Panchayat to prepare and maintain following books of accounts and statement in the prescribed forms.

1. Cash Book
2. Monthly receipt and payment accounts
3. Annual receipt and payment accounts
4. Monthly reconciliation statement
5. Inventory register for moveable assets
6. Inventory register for immoveable assets

.However, a test check of 80 GP out of 166 GP revealed non maintenance of records in all the GP as required under aforesaid/ above mentioned rules. Due to non maintenance of basic records financial position of the Panchayats could not be ascertained in audit. Details of such cases are given in **appendix I**.

Further, during the test check of records in respect of 20 GPs, the details of which are given in the **appendix II**, it was revealed that the respective GPs could not produce the relevant records given below as required by audit.

- (i) Cash Book. - 14 PRI
- (ii) Asset Register – 13 PRI
- (iii) Paid vouchers – 12.80 lakh.

Reasons for non production of records are still awaited (March 2008).