

CHAPTER-I

INTRODUCTION - PRIs IN THE STATE OF BIHAR

1.1 Background

The 73rd Constitutional Amendment gave constitutional status to Panchayat Raj Institutions (PRIs) and established a system of uniform structure, regular elections, and regular flow of funds through Finance Commission, Central and State Government *etc.* As a follow up, the States are required to entrust these bodies with such powers, functions and responsibilities so as to enable them to function as institutions of self-government. In particular, the PRIs are required to prepare plans and implement schemes for economic development and social justice including those enumerated in the XI Schedule of the Constitution.

After the 73rd amendment, the Government of Bihar enacted the Bihar Panchayat Raj Act (BPRA), 1993, subsequently replaced by the Bihar Panchayat Raj Act (BPRA), 2006 and a three tier system of Panchayat Raj, Zila Parishad (ZP), Panchayat Samiti (PS) and Gram Panchayat (GP) came into existence after first general election held in April/May 2001. As of March 2011, there were 38 ZPs, 531 PSs and 8463 GPs in the state. At the state level, Panchayati Raj Department co-ordinates and monitors the functioning of PRIs.

1.2 State Profile

The state of Bihar with an area of 94,163 km² accounts for about three *per cent* of total geographical area of the country. It has a population of 10.38 crore (approx.) which accounts for 8.6 *per cent* of the population of the country. It has very high density of population (1102 per km²). The decadal growth of population in 2011 is 25.07 *per cent* which is the highest in the country.

As per provisional data of census 2011 share of Rural population is 88.70 *per cent* of the state population. The comparative demographic and developmental picture of the State is given in **Table - 1**.

Table - 1
Important Statistics of the State

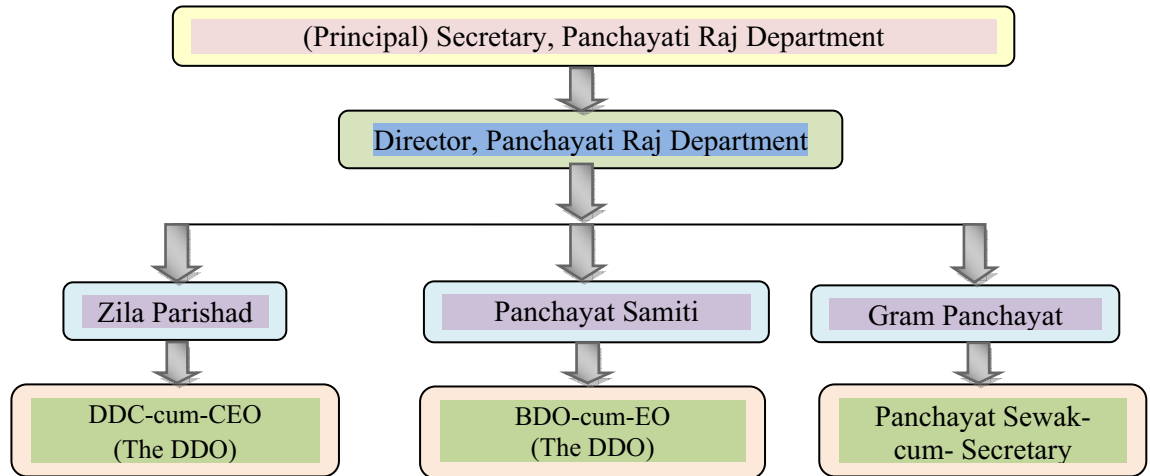
Sl. No.	Particulars	Unit	State figure	Ranking among states	All India figure
1	Share in Country's Population	per cent	8.58	3	NA*
2	Share of Rural Population	per cent	88.70	2	68.84
3	Total Area	km ²	94,163	12	32,87,240
4	Population Density	per km ²	1,102	1	382
5	Literacy rate (2011)	per cent	63.82	28	74.04
6	Sex ratio	per 1000	916	23	940

(Source: Census-2011(provisional))

NA: Not Applicable

1.3 Organisational Structure of PRIs

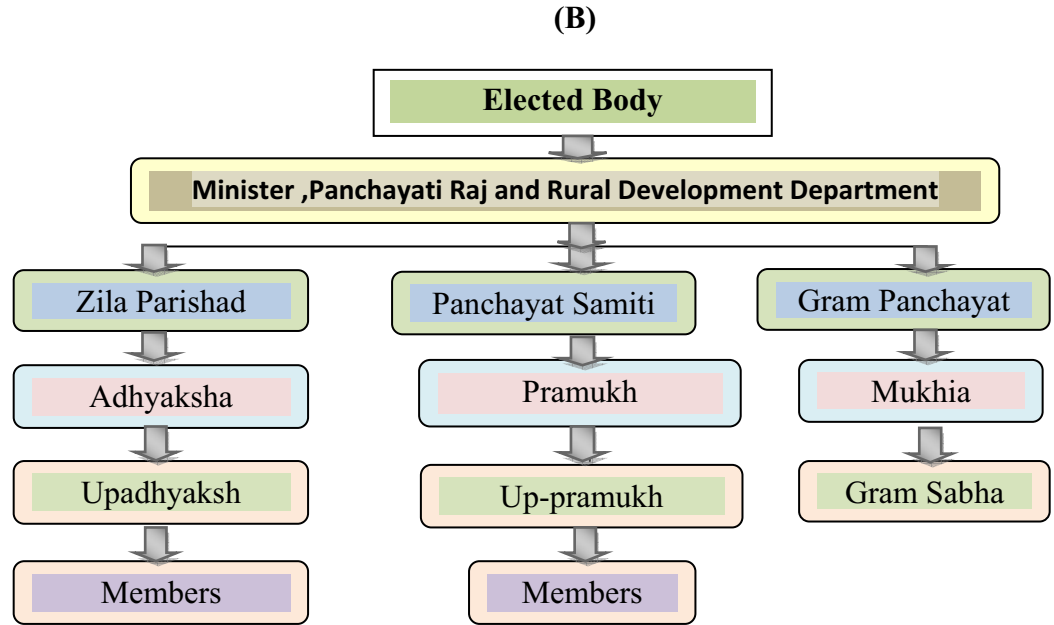
(A) Administrative set-up¹



¹ The DDC-cum-CEO of Zila Parishad carries out the policies and directives of the ZP, discharges duties defined under the Act, controls the officers/officials of ZP, has custody of all papers and documents of ZP and draws and disburses money.

2. The functions of the B.D.O.-cum-E.O. in Panchayat Samiti are to exercise all the power conferred under the Act, lay down the duties of officials, supervise and control the officers and officials under him, supervise the execution of all works, have custody of all papers and documents of Panchayat Samiti including drawal and disbursement of money out of the PS fund.

3. The Mukhia is responsible for convening the meeting of Gram Sabha, maintenance of the records of GP, financial and executive administration, supervision over the work of GP employees and transaction of business connected with the Act.



1.4 Powers and Roles of State Government in relation to PRIs

The **Table - 2** depicts a brief summary of Powers and Role of the State Government in relation to PRIs under BPR, 2006:

Table - 2
Powers and Role of State Government

Authority	Powers and Role of State Government
Section 27 of BPR Act 2006	Taxation by Gram Panchayat A Gram Panchayat may impose yearly Tax on occupants of holdings; On professions, trades, callings and employments <i>etc.</i> carried on or held within the local limits of its jurisdiction subject to approval of maximum rate of taxation by the State Government.
Section 146 of BPR Act 2006	Power to frame rules Government may, by notification in Gazette, make rules to carry out purposes of BPR 2006, subject to approval by the State Legislature.
Sections 150 and 152 of BPR Act 2006	Model Regulations and Inquiry State Government has power to make model regulations for PRIs and inquire into affairs of Panchayats.
Sections 166 and 167 of BPR Act 2006	Development and Planning Every Gram Panchayat is to prepare a development plan every year and submit it to the Panchayat Samiti. Each Panchayat

Authority	Powers and Role of State Government
	<p>Samiti is to prepare every year a development plan for its area including the development plans of the concerned Gram Panchayats and submit it to the Zila Parishad. Every Zila Parishad is to prepare every year a development plan for its area including the development plans of the concerned Panchayat Samitis and submit it to the District Planning Committee (DPC).</p> <p>The State government is to constitute in every district a DPC to consolidate the plans prepared by the Panchayats and the Municipalities in the district to prepare a draft development plan for the district as a whole.</p>
Section 172 of BPR Act 2006	<p>Removal of difficulties If any difficulty arises in giving effect to the provisions of the Act, the State Government, may by order, do anything necessary to remove the difficulty.</p>

1.5 State Finance Commission

The First State Finance Commission (SFC) was constituted in April 1994. The SFC did not make any recommendation.

The Second SFC was constituted in June 1999. The Commission recommended distribution of Tenth and Eleventh Finance Commission grant to the ZPs, PSs and GPs in the ratio of 1:6:93 respectively. The State Government distributed the grant in the ratio of 2:6:92 to ZPs, PSs and GPs. The commission also recommended the rate of taxes and fees to be imposed by the PRIs. The Government was yet to make provisions in this regard as per Fourth SFC Report (June 2010).

The Third SFC (November 2004) in its recommendation no. 3.10 stated that an amount not exceeding three *per cent* of the states' total tax revenue from its own taxes net of the collection costs shall be devolved to the PRIs and Urban Local Bodies (ULBs). The share of each PRI shall be limited to the resources raised by the respective ZPs as a matching contribution. It was recommended that the liability of the current annual salary in the year preceding to the year of implementation should be taken as base and cleared by sanctioning grant of that amount to the local body in the year of implementation. Thereafter, each year there will be tapering of 20 *per cent* over the base year so as to stop at the end of

the fifth year. Acting upon the recommendation of third SFC, the State Government provided Matching and Salary Grant as mentioned in **Table - 3**.

Table – 3

Matching and Salary Grant to ZPs

<i>(₹ in Crore)</i>			
Particulars	2007-08	2008-09	2009-10
Matching Grant	6.66	9.72	10.74
Salary Grant	16.51	13.68	9.37

(Source: Fourth SFC Report (June 2010))

The Fourth SFC was constituted in the year 2007. The commission recommended (June 2010) to support the identified priority and other programmes of the local bodies and a share of 7.5 per cent in state's own tax revenue (net of collection costs) should be devolved on to the Local Bodies. The State Government is yet to prescribe the maximum limits of taxes that can be levied by the PRIs which resulted in non-levy of any taxes at all. The State Government should either notify these rates forthwith to enable the PRIs to raise resources or amend the law so that there will be no need to have government approval.

1.6 Devolution of Functions, Functionaries and Funds (3Fs) to PRIs

The Government of Bihar has transferred (September 2001) 79 functions to GPs, 60 functions to PSs and 61 functions to ZPs of 20 departments (**Appendix-I**)². But, the Fourth SFC viewed that devolution was not operative as the schemes were not included in the Annual Action Plan in respect of works transferred. The transfer of functionaries to PRIs was not done which is a pre-requisite for successful functioning of Local Self Government at the grass root level. Devolution of funds by the State Government was not effective as the departments concerned continued to receive budgetary allocations in respect of transferred functions. The actual transfer of functions, functionaries and funds to PRIs is yet to be effected by the Government of Bihar for strengthening the PRIs to effectively discharge their 29 subjects listed in XI Schedule of article 243G of the Constitution.

² *Fourth State Finance Commission Report (June 2010)*

1.7 Non-Levy of Taxes

The BPRA, 2006 have provisions for taxes to be imposed by the PRIs. As per section-27 of the Act *ibid* the Gram Panchayats may impose taxes on holdings, professions, registration of vehicles, water and lighting charges and conservancy tax where such services are provided.

Under section 55, the PSs have power to tax ferries, fee on registration of vehicles, conservancy tax for sanitation, licensing of *hats* and *bazaars*, water tax, lighting tax where the service is provided by the Samiti.

Under section 82 of the said act, the ZP may impose taxes on *Ghats*, registration of boats and vehicles, conservancy tax, licensing of *melas*, charges for lighting arrangements and water tax. These taxes are subject to such rules and the maximum rates as the Government may prescribe.

Despite above mentioned provisions regarding taxations, the GPs and the PSs have not augmented their own sources of revenue so far, because the State Government has not yet notified maximum rates of taxes, tolls and fees *etc.* to be imposed by them. This has also been noticed by Fourth SFC (June 2010).

1.8 Audit Arrangement

As per Section 31, 59 and 86 of BPRA, 2006, the audit of PRIs will be carried out by the authority as may be prescribed by the State Government. The Government of Bihar declared the Examiner of Local Accounts (ELA), Bihar as prescribed audit authority of PRIs and the audit is to be conducted as per provisions of the Bihar and Orissa Local Fund Audit (LFA) Act, 1925. Accordingly the ELA, Bihar conducts audit of PRIs under supervision of the (Principal) Accountant General (Audit), Bihar. The ELA is assisted by the Local Audit Department (LAD) in discharge of his duties and responsibilities.

The Local Audit Reports of the audited PRIs are sent to the CEOs concerned in ZPs, EOs in PSs and Mukhias in GPs for ZPs, PSs and GPs respectively with copy to Panchayati Raj Directorate. The follow up action on the Audit Report is to be taken by the executive of audited entities and Standing Committees on Finance, Audit and Planning in ZPs and PSs.

Further, as per recommendation of the Principal Accountant General (Audit), Bihar, the State Government has constituted a three tier committee for compliance of annual reports (March 2010).

The First level committee will function at District level which will be headed by the District Magistrate (DM). It has the responsibility to ensure the compliance of audit reports received by PRIs/ULBs of that district.

The Second level committee has been set up at department level, which will be headed by the Secretary of the department. It will review the status of compliance made by the district level committee. Both the committees will have a member nominated from the ELA, Bihar.

The Third and apex level committee will be headed by the Principal Secretary to the Finance Department, Government of Bihar. (Pr.) AG (Audit), Bihar has been made a member to this committee. The committee will meet once in six months to review the function of District level committees and Department level committee and issue necessary guidelines.

In respect of the above, only three meetings (April 2010 to January 2013) were held at the district level without any effective results. No meeting has been held at the department level and thus committees at these two levels were almost non-functional as a result of which no review has been done by the apex level committee.

1.9 Audit Coverage

Audit of the accounts of 38 ZPs, 135 PSs and 313 GPs for the period up to 2009-10 was conducted during the year 2010-11. Important audit findings in respect of the selected 19 ZPs, 68 PSs and 136 GPs are summarised in the succeeding chapters and paragraphs.

1.10 Status of Recovery by Surcharge Proceedings

As per Section 9 of the LFA, 1925, the ELA, Bihar is empowered to order recovery of any loss due to negligence and misconduct of employees and loss of stores through surcharge from persons responsible.

In five ZPs *i.e.*, Gaya, Jehanabad, Rohtas, Samastipur and Darbhanga seven cases of surcharge notices involving ₹ 6.22 lakh against 24 surchargees were issued by the ELA, Bihar in the year 2010-11 (**Appendix-II**). Surcharge notices have been issued to the person(s) responsible for lapses through the DMs but reports of serving the surcharge notices have not yet been received in any case (August 2012).

1.11 Impact of Audit

During the year 2010-11 recoveries amounting to ₹ 25.76 lakh were made at the instance of audit.

Table - 4
Recovery at the Instance of Audit

<i>(₹ in Lakh)</i>		
Audit Entities	Number of Audit Entities	Amount Recovered
Zila Parishads	7	23.06
Panchayat Samitis	4	2.20
Gram Panchayats	2	0.50
Total	13	25.76