Occasional Monograph
No. 2

A REPORT
On
SARPANCHE'S ACTIVITIES
In
GRAM KACHAHARI
In
BIHAR

A JOINT PRESENTATION
BY

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Report on Ex. Sarpanch’s Activities in Gram Kachahari

[The System of Gram Kachhari is included in the 73rd Amendments, but is not in operation]

I Coverage
1. Number of Panchayats - 53
2. Number of Districts - 12
3. Number of Respondents (Ex. Sarpanch) - 62

I Educational Qualification

Table - 1

<table>
<thead>
<tr>
<th>Educational Qualification</th>
<th>No. of Respondents</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Non-matric</td>
<td>33</td>
<td>53%</td>
</tr>
<tr>
<td>2. Matric</td>
<td>18</td>
<td>29%</td>
</tr>
<tr>
<td>3. Intermediate</td>
<td>06</td>
<td>10%</td>
</tr>
<tr>
<td>4. Graduate</td>
<td>04</td>
<td>06%</td>
</tr>
<tr>
<td>5. Post Graduate</td>
<td>01</td>
<td>02%</td>
</tr>
<tr>
<td>Total</td>
<td>62</td>
<td>100%</td>
</tr>
</tbody>
</table>

The above table reveals the Educational Qualification of the Ex. Sarpanchs. The Sarpanchs are elected in the Gram Kachhari and there is no criteria of minimum educational qualification for contesting the election.

53% of the Ex-Sarpanchs were non-matric, 29% matric, 10% Intermediate, 6% Graduate and 2% Post-Graduate. One of them had studied law.

A Sarpanch must have understanding of legal framework without which it is not expected to do justice in cases of litigation in the village.

The purpose of Gram Kachhari is to provide fast decisions in cases of litigation without going into complex legal procedures of court.

Table - 2

<table>
<thead>
<tr>
<th>Age group</th>
<th>No. of Respondents</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>45-50</td>
<td>08</td>
<td>13%</td>
</tr>
<tr>
<td>50-55</td>
<td>15</td>
<td>24%</td>
</tr>
<tr>
<td>55-60</td>
<td>09</td>
<td>14%</td>
</tr>
<tr>
<td>65-70</td>
<td>09</td>
<td>14%</td>
</tr>
<tr>
<td>70-75</td>
<td>09</td>
<td>10%</td>
</tr>
<tr>
<td>75+</td>
<td>06</td>
<td>10%</td>
</tr>
<tr>
<td>Total</td>
<td>62</td>
<td>100%</td>
</tr>
</tbody>
</table>

{1}
- Forwarding the cases to SDO which involves amount more than Rs. 500
- Disposal of civil suits as well as criminal cases.
- Power to award punishment and imprisonment
- Imposition of punitive fine up to Rs. 100/- and imprisonment up to one month
- To summon the accused and witness
- Preside the court of Gram Kachahari
- Recording the statements of the parties
- Hearing of cases falling under rules 144, 107, 323, 294, 504, 26, 397, 506 of Indian Penal code
- Disposal of cases referred by higher courts of Munsif Magistrate and above
- Imparting/justice to villagers

I Nature of cases for hearing and disposal
- Land dispute, partition of movable and immovable properties
- Domestic dispute
- Civil suits and criminal cases
- Gambling and intoxication
- Public nuisance
- All related cases as per provision of Panchayati Raj Act 1947
- Violence
- Theft of all nature including cattle, crops etc.
- Atrocity towards women
- Marriage dispute
- Communal dispute
- Extortion
- Dishonesty in money transaction and other dealings
- Field grazing
- Mutation

II Process of Hearing of cases in Gram Kachahari
- Decision on mutual consensus - consent of nominated Panchs
- Initiate proceedings on oral or written complaints
- Issue of summon to parties
- Nomination of two panches by each party
- Recording of statements and evidence, their examination and cross examination by the parties
- To deposit the fee of Rs.1.25 before the filing of complaint, as cost fee
I Proceedings

Mr. Jwala Prasad of Saraiya dismantled his old house and decided to construct a medicine shop at that place. As the new construction proceeded up to plinth level, the action of Sri Jwala Prasad was objected by Sri Yadu Ram on the pretext that during construction his 9 decimal land had been encroached by Sri Jwala Prasad. A case was lodged against Jwala Prasad in the court. The decision at the court was taking long time and both of them were incurring a lot of expenses. So they decided to approach the Panch for an amicable solution. Unfortunately, the Panch could not settle the dispute. The matter was referred to the Sarpanch.

The Sarpanch agreed to settle the case on two conditions that
   a) he would obtain signature of both the parties on plain paper
   b) both the parties would produce one witness each

Both the parties agreed to the pre condition of the Sarpanch. Sarpanch called two independent witnesses and one witness from each of the parties. The Sarpanch decided in presence of all the witnesses that the disputed land should be given to Jwala Prasad who would pay Rs. 500 to Yadu Ram in lieu of the land and for meeting the legal expenses incurred by him so far. Both the parties were satisfied by the decision and the case was withdrawn from the District Court.

2) Case of Govardhan Rai Vs Jagannath Rai and Deb Raj Rai

A partition suit was pending in the court of munsif for more than 30 years. Being frustrated by the attitude of the court and lawyers the matter was brought before Sarpanch for settlement. Matter was settled convincingly by Panchs of Gram Kachahari, five nominated independent members. Partition of 16 Bighas of land was done between the aggrieved parties as per their consent and the partition deed was registered in the Registry Office. Being satisfied by the decision the case was withdrawn afterwards.

3) Case between Gulabchand Chaurasia Vs Nagina Chaurasia was settled at Gram Kachahari after being referred by SDO.
But he failed to submit his reply. However, the judgement delivered by the Sarpanch was not accepted by the Mukhiya and the case could not be settled by the Sarpanch. Later on all the records were called for and were forwarded to SDO. The land was partitioned into three parts and each one got the share.

7) Kaushal Singh Vs Jai Kumar of village Dhaihar, Panchyat Saraswa of Khagaria. 

Kaushal Singh & Jai Kumar were entangled in a land dispute. The matter was referred to the Sarpanch who called both of them in Gram Kachahari. On their written consent to abide by the decision, Panchs of Gram Kachahari inspected their land records decided the case in favour of Jai Kumar. Kaushal Singh also did agree with the decision.

8) In a village there lived a military personnel. His elder brother who was in the habit of committing theft but was never caught red handed. Once he was accused of a theft committed in the village. The case was referred to the Gram Panchayat where he was asked to accept his misdeeds to which he refused. However, he was asked to vow in the name of his younger brother whom he loved much. He was allowed to ponder for some time. Later on he realized his mistake and admitted his crime. He also promised not to repeat the same in future.

9) A land was sold with a condition to return to the seller the sale deed and the possession of the land if the payment of sale money is not made within the stipulated time. The purchaser failed to adhere to the time limit and the seller demanded return of sale deed and the possession of land. The purchaser was ready to offer other land of same area to the seller in lieu of the sold land. The land of the seller was located adjacent to his other land so he did not agree to the offer of the purchaser. Case went up to High Court but at last the case was settled at Gram Kachahari level.

10) Once there was a dispute of palm tree between Hindu and Muslim community in Shahganj village. Both the communities were adamant to have the palm tree in their possession. This resulted to communal tension in the village.

The dispute was settled by the Gram Kachabari and thus communal tension was eased.
65% of the respondents replied that their judgements were not challenged in the upper Courts. This claim relates to previous one. As judgement of 68% of the Sarpanchs were not challenged in higher Courts so question of justification did not arise. All judgments were treated to be justified. In case of 32% of respondents whose judgements were challenged in higher court, all but one, were treated as justified. In only one case though the judgement was treated as justified but sentence of punishment was reduced by the higher court.

Problems being faced by Panchayats in absence of Gram Kachaheri:

- Solving disputes at village level
- Control of Crimes at Grass root level
- Taking quick decision
- Disputes are not being deposed at local level
- Heavy economic burden on poor rural people for soliciting justice from district Courts
- Increase in the police interference and exploitation of people
- Increase in crimes,
- Free and unescorted movement of anti-social elements and criminals in villages.
- Absence of mutual trust and communal harmony
- Delay in justice
- Increase in cases in District Courts and increase in backlog
- Loss of time, energy and earning of poor in running from pillar to post for getting justice
- Instead of under going simple procedure of Gram Kachahari in its absence people are being compelled to undergo troublesome and lengthy processes.
- Poor people cannot dare to move district courts for redressal of disputes which results to increased work load of Mukhiya. He is expected to discharge his administrative and development work responsibilities besides this to look after legal business of Sarpanch in deciding and settling disputes and controlling crimes in the Panchayat. Because of his involvement at several places he spends less time on development work.
List of Covered Panchayat

1. Basanput
2. Bishunapur
3. Hossepur
4. Barimasti
5. Patuara
6. Parhari
7. Shaipur
8. Kaire
9. Koria Patti
10. Sahebganj (Pratap Patti - Nawagar Nizamat)
11. Imazpur
12. Basantpur - Chainpur
13. Balha Khirnia
14. Sarsawa
15. Gerihar
16. Buchha
17. Bishunpur
18. Phoolparas
19. Godiyari
20. Kala Patti
21. Jaukiya
22. Ahawar Kurhiya
23. Ram Nagar Bankat
24. Abhwanbhghar
25. Shah Jangi
26. Baijani
27. Gagdeshpur
28. Rajbara
29. Mushahari Alias Radhnagar
30. Manika
31. Lohiyoriya
32. Rohua
33. Selar Khurd/Paikuali Baddu
34. Kandha Gopi
35. Balesara Bala Hare
36. Machagar Jagdish
37. Hathua
38. Kharbhiya
39. Sungriyawan

40. Salarpur
41. Shahabanni
42. Haripur
43. Suggapatti
44. Sahasi
45. Dherhara Bhawadi
46. Neerpur Jagdishpur
47. Nalanda
48. Najara Medhban
49. Banneaul
50. Parjuar
51. Jamuari
52. Behata
53. Karhi

Total Panchayat - 53