

Panchayati Raj Institutions and Joint Forest Management Committees: Estrangement to Engagement

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Abstract

The sector-wise process of decentralisation of management of natural resources in India, though laudable, brought along with it a host of conflicting issues which still remains unsolved. One such issue is the overlapping and conflicting functions and powers of Panchayati Raj Institutions (PRIs) and Joint Forest Management Committees (JFMCs). Therefore, either a clear delineation of functions between these two institutions need to be spelled out or more synergy between these institutions developed for efficient and sustainable development planning of village resources especially, forests. While some argue for making JFMCs a committee of the Panchayat, there are others who propagate retaining them as separate entities. The objective of this study is to analyse the functioning of a parallel body -JFMC- and to explore whether it strengthens or undermines the role and functions of Panchayati Raj Institutions. Parallel bodies refers to those bodies whose functional domain overlaps with that of the panchayats or which are presently functioning in such a way as to hinder/ support the decision making powers/ effective functioning of the Panchayats. States have been examined to know their response to the linkage. While it is well established that PRIs have superior legal status than JFMCs, the devolution of forestry related functions to JFMCs in exclusion of PRIs is not possible. Neither can it be advocated that JFMCs be replaced by PRIs. The feasible solution lies in developing synergy between these institutions.

Keywords: Decentralisation, natural resources, PRIs, JFMCs, conflicting, synergy

INTRODUCTION:

India has witnessed a paradigm shift away from state controlled approaches to creating spaces for community participation in management of natural resources. The National Forest Policy (NFP), 1988 and the subsequent Joint Forest Management (JFM) Circular of 1990 opened up forest management to local communities from the earlier exclusive domain of the Forest Department (FD) by handing over joint responsibilities of forest management and protection to JFMCs and the FD.

Joint Forest Management (JFM) is an approach and program initiated in the context of the National Forest Policy of 1988 wherein state forest departments support local forest dwelling and forest fringe communities to protect and manage forests and share the costs and benefits from the forests with them.

The Constitutional (Seventy Third) Amendment Act, 1992 widened the space for community

participation and promoted empowerment at the grassroots level by establishing the three-tier PRIs as democratically elected institutions of local self- governance. PRIs exist in the country today cementing the involvement of people for development of rural areas. Schedule XI of the Constitution lists 29 subjects with respect to which PRIs may prepare and implement plans for economic development and social justice for the area under their jurisdiction. This Act is a significant attempt to decentralise decision-making on several issues, including forestry.

In 1996, the Panchayats Extension to the Scheduled Areas (PESA) Act extended the provisions of the Seventy Third Amendment to Scheduled areas and provided extensive powers to *Gram Sabhas* (general body of the village *Panchayat*) for management of natural resources in areas under their jurisdiction. PESA mandated the states to enact their *Panchayat* legislations in consonance with the customary laws and traditional management practices of community resources.

PANCHAYATS AND JFMC: OVERLAPPING INSTITUTIONS

JFMCs and PRIs may have different nature and scope, yet both represent major steps towards decentralisation of power and control over natural resources. Certain inherent problem exists because of the conflicting and overlapping functions of JFMCs and the PRIs. The overlap between these institutions is established on examining the areas common to the 73rd Amendment and

National Forest Policy viz minor forest produce; social and farm forestry; fuel and fodder; welfare of weaker sections, particularly the Scheduled Castes and Scheduled Tribes; implementation of land reforms; land improvement, land consolidation and soil conservation.

PESA, 1996, appears to be in conflict with JFM, as it seeks to transfer the ownership of NTFPs to the Gram Sabha (first tier of Panchayat s), while the same rights are also conferred to the JFMCs through the JFM Resolution.

The 73rd Amendment and PESA infer that PRIs have to be actively involved in the process of local level planning along with implementation of development schemes. In PESA areas, concurrence of *Gram Sabhas* is mandatory for implementing any development programme in these areas. Moreover, the list of 29 subjects brought under PRIs overlaps considerably with the functions of the JFMCs.

The conflict between PRIs and JFMCs is also facilitated due to lack of role clarity of PRIs with regard to forestry functions. This confusion is aggravated by divergent viewpoints of the central ministry. MoEF does not support devolving substantial functions to PRIs on forest management

On the other hand Union Ministry of Rural Development (MoRD) calls for greater devolution to

Panchayats including forestry related functions.

This conflict is accentuated by the fact that large investment in JFMCs through externally aid is being made. The funding to JFMCs in cases is larger than total development funds with *Panchayats*. Replacing JFMCs with PRIs is perhaps not in line with the agreement with external financial institutions as well as donors. This results in tendency of JFMCs having weaker legal position than *Panchayats* dominating due to larger funds availability, leading to conflicts

One of the biggest shortcomings of the JFM Programme is that it lacks a firm legal basis. Many states have attempted to overcome this by conferring legal status to JFMCs. The States of Himachal Pradesh, Uttar Pradesh, and Jammu & Kashmir have brought the scheme of JFM under the legal framework by enacting Rules under their respective forestry legislations. While certain other states are in the process of vesting legal status to JFM. The inadequate legal backing of JFM has resulted in increased conflict between these two institutions.

Moreover, members of JFMCs are also electorates of the PRIs, leading to further 'conflicts' and confusion on their roles and responsibilities.

Therefore, either a clear delineation of functions between these two institutions need to be spelled out or more synergy between these institutions developed for efficient and sustainable development planning of village resources especially, forests. While some argue for making JFMCs a committee of the *Panchayat*, there are others who propagate retaining them as separate entities.

PRO-PANCHAYAT:

Panchayats enjoy due legal status under the constitution and the State *Panchayat* laws. Even in the case that no effective devolution of powers to PRIs in forest management has taken place, the constitutional mandate cannot be ignored. On the other hand, JFMCs originate essentially from policy prescriptions, which are easy to modify. For instance, in Orissa, JFM groups formed on the basis of 1988 and 1990 Government Resolutions were declared null and void by the resolution of July 2003.

Some thinkers argue that it might be better to make the JFMC a committee of the *Panchayat*. This move would give JFMCs the required legal recognition and also solve the issue of coordination. Further, this would automatically grant linkages to JFMCs with other committees of PRIs at three tiers (village, block and district) and thus help them in gaining greater access to decision-making forums.

PRIs have a democratic set-up where the executive is answerable to elected representatives of people. A JFMC, on the other hand, is a body nominated by the government. Furthermore, JFMCs tend to be heavily controlled and managed by the FD as these committees are funded, monitored and guided by the orders of the state department officials. Based on this argument

of democracy, the report of the “Task Force on Devolution of Powers and Functions upon PRIs (2001)” calls for making JFMCs accountable to *Panchayat* bodies.

It has been argued that JFMCs are smaller than PRIs and thus manageable. This argument is based on the assumption that PRIs do not provide space for smaller specialised local groups. This argument is not necessarily true as standing committee or subject specific committees can be formed under PRIs. The West Bengal system is an example where a committee of PRIs has been effectively involved in forestry activities.

PRO-JFMC:

It is argued that JFMCs are specialised bodies and technically better placed to manage forests than *Panchayats*. The *Panchayats* lack requisite capacities in terms of technical know-how as well as funds to manage forests effectively. It is further argued that *Panchayats* have to work on 29 items while the role of JFMCs is limited to a specific objective of forest management.

Another argument that supports JFMCs is the understanding that each settlement must have its own institution to manage its common resources, rather than *Panchayats* that cover several settlements and, in cases, several villages. This inevitably leads to the conclusion that effective management of common resources cannot be provided by elected *Panchayats*.

It is argued that JFMCs are apolitical bodies while *Panchayats* serve their own political agendas. Supporters of user groups argue that the apolitical nature of JFMCs should not be given up as here people can talk freely without party affiliation or vote-bank politics. There are also apprehensions that forests are rich commercial resources, and if the *Panchayats* are given authority to manage these, they would go in for quick results, leading to long-term losses.

Forest Department does not favour leaving critical resource such as forests solely in the hands of *Panchayats*. The JFM Guidelines of MoEF (2002) follows the similar line of argument when it says that “*The relationship between Panchayats and JFMCs should be such that the JFMCs take advantage of the administrative and financial position and organisational capacity of the Panchayats for management of forest resources. However, the unique and separate non-political identity of the JFMCs as ‘guardian of forests’ should be maintained and ensured.*”

CASES FROM STATES:

To have a better understanding, it is essential to examine these issues of conflicts and concerns in terms of how some states have responded to link PRIs and JFM.

a. Odisha:

Odisha is one of the few states where concerted efforts were made at the policy level to link *Panchayat* with JFM. In the state PESA is also applicable. The *Orissa Gram Panchayats (MFP Administration) Rules, 2002* vests certain powers to the PRIs with respect to administration of NTFPs. Similarly the *State Policy on Procurement and Trade of NTFPs, 2000* also calls for role of PRIs in trade and procurement of NTFPs. JFMCs in the state are headed by

Nayab Sarpanch (elected head of *Gram Sabha*) and ward members of *Panchayats* are ex-officio members.

The *Gram Panchayat* constitutes the JFMCs on recommendation of concerned forester and constitutes an executive committee for the purpose of implementation of the JFM Programme with approval of the Conservator of Forests. The state also has supervisory role for PRIs through constitution of a sub-committee on JFM by the *Gram Panchayat* which reviews once in a quarter, the functioning of the JFMCs.

However, there are also certain contradictions in the policies. The State JFM guidelines does not provide details on the composition, constitution and the functions of sub- committee on JFM by the *Gram Panchayat*. Further, the State NTFP Policy explains that the *Panchayats* ownership of NTFPs does not extend to Protected Areas and Reserve Forests and is limited to territorial jurisdiction of *Gram Panchayats*. This can act as another potential source of conflict as tribals residing within such areas have been collecting NTFPs from these forests only.

b. West Bengal:

The State has a strong decentralised structure and the state government has emphasised on bringing about closer linkage between the PRIs and JFMCs. The powers of Panchayat in West Bengal include promotion of village plantations, social forestry, farm forestry and NTFPs. The State JFM Resolution, 1997 innovatively links JFM with *Panchayats*. The Forest Department officials are given *Panchayat* related designations to perform field level functions under Jawahar Rozgar Yojna and Employment Assurance Schemes. The forests thus created become responsibility of Forest Department and they are made responsible for technical aspects of estimation, execution, supervision and maintenance.

Currently under JFM (except from the Darjeeling Gorkha Hills) the PRIs, play an important role in the constitution of JFMCs, monitoring and supervision, conflict resolution and distribution of benefits. At the institutional level, the PRI representatives are also the members of the executive committee of the JFMCs. A strong point in the state is that endorsement of *Panchayat* is necessary for inclusion in executive committee of JFMC as well for dissolution of JFMC.

Forest Department on its own can't dissolve FMCs. The state of West Bengal like Orissa has initiated detailed activity mapping for the *Panchayat* subjects, in which activities are assigned to each PRI tier, without any scope for overlapping of responsibilities within these tiers.

d. Andhra Pradesh:

The State of Andhra Pradesh envisages a limited role for PRIs in forestry and accordingly minimal power has been allocated to PRIs through both JFM resolutions and *Panchayat* laws. The state has devolved the decision making process and moved from JFM to Community Forest Management (CFM) but the PRIs are not involved in discharging any forestry related responsibilities. The State has adopted PESA but hasn't formulated enabling rules which are

mandated for exercising this power, making the provisions ambiguous and non effective. Furthermore, Andhra Pradesh Scheduled Areas MFP (Regulation of Trade) Regulation, 1979, is applicable in Scheduled areas allowing Girijan Cooperative Corporation (GCC) Limited, Vishakhapatnam, to be the sole agent for the purposes of purchase and trade of NTFP on behalf of the government.

This is contradictory to provisions of PESA, which vests control of NTFP with *Gram Sabha* rather than any other institution/organization. In the Forest Order of 2002 (Andhra Pradesh Community Forest Management Project- Comprehensive Orders), it is mentioned that the Sarpanch (elected head of *Gram Sabha*) should be consulted while earmarking forests in the vicinity of JFMC for CFM. In addition to this an Advisory Council is constituted at JFMC level, whose meetings is chaired by Sarpanch. This council is responsible for review of micro plans and annual plans of JFMCs. However, in reality, in majority of cases the constitution of this advisory council has not taken place. In congruence with Seventy Third amendment, the State Government decentralised activities and transferred all functions related to social and farm forestry, which is undertaken outside the forest areas, to PRIs but kept Reserve Forest and Protected Areas outside the *Panchayat's* purview.

Thus from the above cases, it is clear that at the state level, different states in India are adopting different strategies to forge a link between PRI and JFM. So in one hand, in states like Orissa and West Bengal, concerted efforts are being made to provide a link between JFM and PRI, in other states like Andhra Pradesh, contradictory policies exists that offers no scope for resolving the conflicts between PRI and JFM.

e. Madhya Pradesh:

A two year research study led by University of Cambridge was conducted in Harda forest that brought out interesting viewpoints on *Panchayat's* involvement in forestry. Contrary to the constitutional position through Seventy Third Amendment and PESA, most villagers in the study area were of the opinion that at the local level PRIs had no role in forest management. JFMC were recognised as independent institution supported by Forest Department.

The Forest Department officials at field level (forest division level) were of the view that the Forest Conservation Act, 1980 obviates PRIs from having any role in forest management. For example, in case of forest villages, developmental work proposed by Panchayat requires clearance from Forest Department. At the headquarters (State capital level), Forest Department officials opined that forests are outside the legal purview of the Panchayat, and PRIs can only have a role in forest management through existing JFMCs.

In Harda, the Mass Tribal Organisations (MTOs) play an important role and are fighting for increasing the rights of the *adivasis* (tribals) over forest land. Even they were of the view that *Panchayat* should be not be given any role in forest management since *Panchayats* are essentially very corrupt. They further argued that PRIs should not be given extra

responsibilities of forest management, since they were not even able to fulfill their own responsibilities. Most of the legislators shared the same view with MTOs that PRIs should stay away from forest management, as they were corrupt and politicised, and lacked capacity to protect forests.

However, some legislators supported involvement of PRIs to avoid creation of parallel institutions and fulfilling constitutional mandate of management of natural resources. Interestingly, PRI respondents from all three tiers (village, block and district) themselves agreed that Panchayat should have only a limited role in forest management, at best in a monitoring or supervisory capacity. The reasons provided include corruption and lack of transparency in *Panchayat* functioning, along with limited capacity for forest management, in terms of funds, functionaries and technical knowledge, limited their role, PRIs were not effective as they were captured by local elites and politicised and that current PRI officials do not have the technical capacity to undertake forest management.

CONCLUSION:

The symbiotic relationship between these two institutions is very much possible, as both of these are responsible for sustainable management of natural resources. Linking JFM based livelihoods to PRI based employment generation programmes, like in West Bengal, can be a mean through which people can benefit from resources of PRI in JFM. Efforts can be made so that the PRI funds can be shared with JFMCS through the District Rural Development Agency (DRDA) and Integrated Watershed Development Programme (IWDP). The *Panchayat* leadership could play important role in conflict resolution and work distribution of JFMC members. Linking JFMC with PRI can also help in establishing necessary forward and backward linkages for forest based livelihood programmes like value addition, processing and storage of NTFPs. Further, both these institutions can work in the area of their judicial competence. In forest lands JFMC might be appropriate bodies, where they could work under forest laws. In these areas JFMC can be made accountable to Panchayats at large.

Specialised *Panchayat* committee can be formed in areas under *Panchayat's* jurisdiction, to initiate collaborative forest management similar to JFM. State can divert requisite funds to these Panchayat committees and forest department can provide technical assistance. The central Government departments such as the MoRD, MoEF, Ministry of Tribal Affairs and the corresponding state departments should work together to bring about role clarity of PRIs and JFMCs at the village level along with promoting synergy between these two. To resolve conflicts arising due to injection of external funds to JFMCs, a clear system should be established to decide on the routing and disbursal of the funds. This fund routing and distribution system can also resolve conflicts between the two institutions in matter of nationalised NTFPs like tendu leaves.

It is well established that PRIs have superior legal status than JFMCs and the devolution of

forestry related functions to JFMCs in exclusion of PRIs is not possible. Neither can it be advocated that JFMCs be replaced by PRIs. The feasible solution lies in developing synergy between these institutions.

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