



## ASSESSMENT OF PANCHAYATI RAJ: A STUDY OF KASHMIR VALLEY

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*“Local –self government denotes the right and capability of local authority within the limit of law to regulate and manage a significant share of public affairs under own reasonability and the interests of the local inhabitants”.*

(European Charter of local Government. Part (1) Art 3).

**Abstract:** In today’s globalised world, there is growing emphasis on and recognition of the importance of the quality of democracy at the local level (State of Local Democracy Assessment Framework International IDEA). In the modern period decentralisation the power to the people is one of the central Pillar of democracy. Through this decentralisation at the grassroots level the common citizen is connected with the process of planning, decision making and development of the country.

In the Indian context, the vocabulary of this process of decentralisation is termed as Panchayati Raj. This Indian model of Panchayati Raj is of enormous interest to the developing as well as the developed countries across the globe (Panchayati Raj Report 2015-16) our country has signed memorandum of understanding with various countries like Afganistan, Switzerland, the kingdom of Norway and on the 6th BRICS summit held in Brazil in 15-16, July 2014. The Honourable Prime Minister in his interventions announced some new initiatives is “To promote engagement between BRICS states, cities and local bodies”. In 2016 also in 8th BRICS Summit hosted by India. The Ministry of Panchayati Raj proposed as part of the BRICS conference to organise interaction between BRICS countries on local governance and participatory budgeting in October 2016 (Panchayati Raj Report 2015-16).

The current paper is based on both secondary as well as primary data. The primary data has been collected in the district Anantnag of Jammu and Kashmir.

**KEYWORDS:-** PANCHAYAT RAJ OF JAMMU AND KASHMIR, PANCHAYATI RAJ ACT OF 1989, THE PERCEPTIONS OF PEOPLE ON PANCHAYATI RAJ AND DEVELOPMENT OF SUBALTERN SECTIONS.

### Introduction

The Panchayati Raj was the chief ambition of the father of the Nation Mahatama Gandhi in his magazine Harijan (July 22, 1946) wrote that ‘Independence must begin at the rearward end. Thus, every village will be a republic or Panchayat has full powers. It follows, therefore, that every village has to be self- sustained and capable of managing its affairs’ (Mir, 2002). To be up to the ambition of the father of the nation the framers of the Indian constitution inserted Article 40 in the constitution, which says “The state shall take steps to organize village Panchayat and bestow them

with such powers and authority as may be essential to allow them to perform functions as units of self-government”.

Before the Panchayat Raj, the first Prime Minister J. L. Nehru launched the community development and national extension service program in 1952 to accelerate the velocity of pace of rural growth in the country. Three Lakh villages were covered under the program until 1959 ( Mir, 2002). Later on, due to the failure of this program, it was closed, and the Panchayati Raj was introduced in the country on the recommendation of Balwant Rai committee. The committee recommends the three-tier model of local governance that is Gram Panchayat, at the village level, Panchayat Samiti at the block level and Zila Parishad at the District level. In rundown to this number of committees and working groups set up by various governments of the country to empower these local bodies in this direction, the 73rd constitutional amendment was the landmark in the context of empowerment of these local institutions which provided a constitutional status to these institutions. And this act provides the 33% reservation of marginalised groups at all three tiers of local government. In contemporary many of the states provide 50% reservations for the women

#### **Jammu and Kashmir and Panchayat Raj:-**

The Panchayat Raj in Jammu and Kashmir is an original concept; it was the Maharaja Hari Singh, the ruler of the state who planted the sapling of Panchayati Raj in the state in 1935 when he promulgated the first Village Panchayati Regulation Act No 1. ( Mathew, 2013). The preamble of the act states it is “expedient to set up in Jammu and Kashmir State, the Village Panchayats to assist in the civil and administrative criminal justice and also handle the sanitation and other mutual concerns in the Village, (Panchayati Raj regulation Act 1935). It is evident from the preamble that the chief principle behind the announcement of this Panchayati act was not to encourage local-government but to utilise these institutions primarily as the administrative wing of the government of the civil government and criminal justice ( Baba, 2002). The principle behind this routine was to keep an eye on the actions of the National Conference which was on the front line of the state freedom struggle and also ( Punjabi, 1990). Nonetheless, the Panchayat Raj 1935 act was amended in 1941, 1951 and 1958.

During the post-independent period, the N.C 1948 leadership adopted the Naya Kashmir Manifesto 1944 a blueprint program for the future development of the state, and it was this Manifesto which provided food for the institutional agreement for the grassroots empowerment. A new chapter of growth witnessed in the state under the new leadership during this phase the state was characterised by the economic stagnation and educational backwardness. Hence the new leadership under Shiekh Mohammad Abdullah took some bold steps to accelerate up the speed of economic development in the state. In this instruction the first shows of large landed estates abolition act 1950. It was the first experiment in the entire subcontinent, and this mighty act provided the solid base for the Panchayat Raj system in the state ( Baba, 2002). The state government also replaced the Panchayat act 1941 by act of 1951. Even after the removal of Shiekh Abdullah’s government in 1953 was a blow to the entire reform process upshot of which the local government became dysfunctional in

the state ( Baba, 2002). During this period the democratic aspirations of the people of the state were undermined, and the democratic institutions were subverted which encroached the faith of the people on these democratic institutions and the democracy at the grassroots became non-existent ( Ahmad, 2009). The post era of 1953 witnessed a continuous phase of deterioration of democracy and subverting of democratic institutions under this situation it was useless to imagine democracy to function at the grassroots level particularly Panchayats ( Punjabi, 1990).

#### **State Constitution 1957 and Panchayat Raj:-**

Jammu and Kashmir have adopted the constitution in 1957. The state constitution says in the part IV directive principle of the state policy that the state shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as a unit of self-government. Thus, under the shadow of state constitution and influence Balwant Rai Mehta Report of 1957. The report made strong recommendations for the decentralisation of power to lower levels through the institutions of panchayats? As a result of the state once again amended the panchayat act 1951 and enacted the new panchayat act in 1958. The panchayat act of 1958 did not show any fruitful results at the grassroots level repercussion of which the panchayats remains inactive even afterwards. The death of a compulsory provision for the regular elections and the lack of financial autonomy was the critical lacunae in the act ( Choudhary, 2012).

#### **Indra – Abdullah Accord in 1975 and Panchayat Raj:-**

The Indra Abdullah accord brought some constructive change and began the period of political stability in the state ( Ahmad, 2009). The state govt introduced new innovative planning model which was termed as single line administration model. Under this model, the planning was decentralised with the construction of district planning boards. The district boards were given powers to formulate the roadmap planning and monitor its implementation. The meetings of the district boards in which whole cabinet and the heads of the departments participated were held at the district to take the spot policy decisions and grant the district budget; the entire process is called single line administration. Its vital concern was to decentralise the administration and construct the participatory foundation at the district level ( Muhammad, 2000). Despite the decentralisation process the state government immediately did not re-activate the local democratic institutions (Baba, 2002). Even after the Indira Gandhi-Abdullah accord of 1975 panchayats in the state remain inactive, and these panchayats could not be rejuvenated and remained without any linkages to another institutional framework ( Punjabi, 1990).

#### **The Jammu and Kashmir Panchayati Raj Act, 1989:-**

To see the development regarding the Panchayati Raj in other states of the nation, the state government come with fresh and comprehensive legislation which is called the Jammu and Kashmir Panchayati Raj Act 1989. It was in this perspective that two senior Ministers of the state cabinet of that time Muhammad Shafi and Abdul Rahim instead visited the Karnataka and Andhra Pradesh to see the working of new Panchayati Raj with their naked eyes ( Baba, 2002). In this way, the Jammu and Kashmir village panchayat act of 1958 was replaced with fresh legislation of Jammu and Kashmir Panchayati Raj act 1989. The remarkable feature of this act was the

provision of Panchayat Adalats, and the act gives the three-tier model of panchayat these are:-

- Halqa Panchayat.
- Block development council.
- District Planning and development board.

The preamble of the Act of 1989 states that ‘whereas it is expedient to promote and develop Panchayati Raj in the state as an Instrument of vigorous local self-government to secure active participation of the people in the decision making process and for overseeing implementation of developmental programmes’. From the preamble of this act, it is clear that the aim of this act to make local government strong and secure active participation. If we compare the preamble of the Village Panchayati Regulation Act of 1935 and Jammu and Kashmir Panchayat act 1989 we see a shift from the development of self- government, as the first one focuses on assisting the administration and the second one emphasis on the betterment of local governance. The difference the first generation and second generation of Panchayats is the shift in focus from the development of self – government in its full meaning ( Mathew, 1999).

#### **The milieu in the state after the enactment of the Panchayat Raj act 1989:-**

The milieu of the Valley after the Enactment of Panchayat Raj act 1989 was unhealthy as a significant conflict started in the Valley which affects every corner of life in the state. It was the period when the majority of the people lost faith in the electoral process, and the state became worse and germination of grave militant activities. And because of this conflict, the political leadership of the valley lacked the authority to govern effectely ( Baba, 2002). The repercussion of this the provisions of this act was not implemented. The Panchayat institutions were almost closed down because it was feared that these institutions might be captured by the rebel groups to run the parallel government in the valley (Wani, 2015). The culmination of armed militancy made it arduous to pay attention beyond maintaining law and order. That time there was a complete lack of political environment in which these Panchayat institutions could be established. The atmosphere of the valley was so violent that mainstream political parties and leaders could not work freely in the valley (Chowdhary, 2012). It was the period when the state Assembly was dissolved, and the state was placed under Governor Rule later on Presidential rule continued until 1996. In 1996 fresh assembly elections were conducted and the National Conference formulated the Government Therefore the N.C government on 29 Nov. 1996 formulated the Rules concerning the Panchayat Raj of the state. Actually, after passing the Jammu and Kashmir Panchayat Raj act of 1989 in the state legislature, the state govt was unable to formulate the rules because of deep conflict. These rules are called Panchayat Raj rules 1996. In this regard, the state Govt issued an order in 1997 consequence of which 2700 Panchayats Halqus were constituted, 1470 in Kashmir division and 1230 in Jammu Division ( Chowdhary, 2012).

#### **Panchayat Elections of 2001:-**

It was the year 2001 when the state government shows gravity in conducting the Panchayat election in the state. 2001 panchayat elections were almost the paper exercise (Chowdhary, 2001). These Panchayat elections of 2001 were partial and

were only on the paper as half seats remained empty ( Kumar, 2011). These elections generated a positive reaction in the Jammu region, but in Kashmir, the majority of the constituencies remain vacant due to the fear of Militancy and most of the people raised doubts regarding these elections as these elections were not fitted with the provisions of the 73rd constitutional amendment (Ahmad, 2009). In the valley, all almost all the opinion groups at that time questioned the reliability and the relevance of 2001 Panchayat election because of deep turmoil ( Baba, 2002). The Panchayat elections of 2001 were conducted according to the provisions of the Panchayat Raj act 1989. The Hurriyat leaders issued the boycott call the poll was conducted under the supervision of the chief electoral officer.

**FIGURES OF SRPANCH AND PANCH CONTITUENCIES AND BLOCKS OF 2001 PANCHAYAT ELECTION.**

PROVINCE	NO.OF SARPANCH CONSTITUENCIES	NO.OF SPANCH CONSTITUENCIES	NO OF BLOCKS
JAMMU	1230	10090	57
KASHMIR	1472	10469	64
<b>TOTAL</b>	<b>2702</b>	<b>20559</b>	<b>121</b>

Source: - Chowadary, 2012.

**Panchayat Election 2001**

District	No. of Panches	No. of Sarpanch Elected	No. of Sarpanch Vacancies	No of Panches Elected	No of vacancies of Panches
Srinagar	93	67	26	247	419
Kupwara	224	168	56	915	556
Baramullah	276	162	114	902	1246
Leh	68	68	-	448	-
Kargil	65	65	-	453	-
Budgam	199	61	138	315	1129
Anantnag	309	251	58	1191	1051
Pulwama	236	202	34	684	902
<b>Kashmir Division</b>	<b>1470</b>	<b>1044</b>	<b>426</b>	<b>5155</b>	<b>5303</b>
Jammu	295	294	01	2443	05
Kathu	183	182	01	1391	03
Poonch	115	115	-	1026	02
Udhampur	215	212	03	1792	48
Dodo	262	216	46	1698	302
Rajori	160	160	-	1364	12
<b>Jammu Division</b>	<b>1230</b>	<b>1179</b>	<b>51</b>	<b>9714</b>	<b>376</b>

Source: PANCHAYATI RAJ IN JAMMU AND KASHMIR Panchayati [shodhganga.inflibnet.ac.in/bitstream/10603/51984/10/10\\_chapter%203.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/51984/10/10_chapter%203.pdf)

**Participation of Women and Panchayat 2001**

District	NO. OF WOMEN	
	SARPANCH	PANCH
Srinagar	-	01
Kupwara	-	2
Baramullah	-	04
Leh	-	36
Kargil	-	2
Badgam	-	2
Anantnag	02	24
Pulwama	-	-
<b>Kashmir Division</b>	<b>02</b>	<b>71</b>
Jammu	01	42
Kathu	01	23
Poonch	01	13
Udhampur	03	38
Doda	01	26
Rajoori	-	24
<b>Jammu Division</b>	<b>7</b>	<b>166</b>

Source: PANCHAYATI RAJ IN JAMMU AND KASHMIR Panchayati [shodhganga.inflibnet.ac.in/bitstream/10603/51984/10/10\\_chapter%203.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/51984/10/10_chapter%203.pdf).

The data from Kashmir division from the above table clearly shows that the total number of women elected as Sarpanch is only two while as the number of women elected as punches are 71, on the other hand, the data of Jammu division shows the total number of women elected as a serpent are 7 and 166 as panches.

**Post-2001 period and Panchayat institutions in the State:-**

Even the Panchayat elections of 2001 in the state which provides an exciting picture, the Panchayats has virtually remained dysfunctional in the state. However, the Government took some steps for the development of marginalised sections of the society under the pressure of civil society therefore in September 2003 the state Government decided to provide a 33% reservation for women in the Panchayat Raj institutions by amending the Panchayat Raj act 1989. The state Government also announced its determination to do away with nominations to grass root level democratic institutions ( Mathew, 2013). In 2004 the state Government too amended the Panchayat Raj rules 1996 by adding the following at the end of the Sub-rule (1) of Rule 4

The Director, Rural Development Department shall:

- *Determine the number of Panch seats reserved for the Scheduled Castes, Scheduled Tribes and women in every Halqa Panchayat as per with subsection 3 of part 4 of the Act.*
- *Allot the bench seats reserved for the women, Scheduled Castes and Scheduled Tribes, as the case may be, by rotation after every General Halqa Panchayat election.*

- *And distribute the Panch seats reserved for the Scheduled Castes and Scheduled Tribes as far as workable in those areas in a Halqa Panchayat where the dimension of their population is relatively big*

Although this amendment the Panchayats of the Kashmir valley remains dysfunctional because of some reasons

- Lack of political gravity to empower them.
- Killing of Panches and Sarpanches by the Militants in the Valley.
- Lack of devaluation of functions to these institutions by the State Government.
- Funds crunch faced by these institutions in the state due to the lack of the Finance Commission at that time.
- Lack of consciousness among the masses regarding the provisions of Panchayat Raj.
- Poor infrastructures
- Political interference in the conclusions of these local body institutions.

#### **Post-2001 election scenario:-**

After 2001 the Panchayat election was halted in 2011 after a break of ten years instead of mandatory five years (Mathew, 2013). The state govt shows the gravity in conducting the elections in the state. The poll was held peacefully even boycott call issued by the separatists and the huge turnout was recorded 79%, mostly the youth of the Valley participated in the election. The 2011 Panchayat election was the real Panchayat election in the valley (Omar Abdullah). The election was held in 16 phases from 13 April to 18 June. A big heap of enthusiasm was seen among the youth during the election as most of them were active during the election campaign. The 2011 Panchayat election was very different from the 2001 Panchayat in terms of the participation of the masses the number of electors rises from 1859311 in 2001 to 2519024 in 2011 (Chief electoral officer Jammu and Kashmir). The involvement of women was seen primarily from the Kashmir Valley as 9424 women Panches were selected from the state. Lack of reservation of women sarpanches saw only 28 women sarpanches elected out a total of 4130 posts in the 22 districts.

#### **The 2011 panchayat elections highlight the secular character of Kashmiri society:-**

The 2011 Panchayat election shows the secular character of Kashmiryat which is found in the genes of Kashmiri society. In the Wusun village, Aasha jee became the first Kashmiri Pandit to win the panchayat election by defeating a Muslim women Sarwa Begum in Muslim majority village in north Kashmir one of the areas disturbed by the conflict (The Hindu MAY 10, 2011). To quote the other example, another Kashmiri Pandit Makhan Lal won the uncontested Panch seat in the Muslim dominated Tahab village in Pulwama district, apart from this 25 Sikhs also won the election from Muslim dominated constituencies.

#### **Post-2011 Panchayat election:-**

Later on the landmark Panchayat election of 2011, the situation in the state, especially in the valley, took an ugly turn. A number of the elected representatives were targeted by the unknown armed men. During the interaction with the representatives, it was found that many of them left their homes for some time to protect themselves from the fear. The state government did show enough gravity in

empowering these local institutions in the state expect lip service. After the election the Government conducted a three days training programme at every block headquarter but the duration of that programme was very short, and it was mainly lecturing exercise, and it was very tough for these representatives to understand as they were coming first time in local politics (Bakloo, 2017). These half-hearted steps were taken, but that was not enough for the empowerment of these institutions. The representatives cannot fulfil the aspirations of the people for whom they were elected. These representatives have demanded the powers from the Govt for that they use every possible way as on April 2012 number of village elders and panchayat members sitting on the hunger strike protest against the alleged apathy of the state Government in empowering the Panchayats (Methew, 2013).

Apart from this, the people who voted are not well aware regarding the procedure of Panchayats which resulted in the elected Panches, sarpanches and the V.L.W. mutually take the advantage and use fund mostly for their development. The critical institution Block development council remains unelected the state govt cancelled the election of Block development because of their interests. It indicates the Govt was not serious in empowering the local bodies in the state. The common perception among the people of the valley regarding this panchayat election was that it was just a game sponsored by the centre and it has nothing to do with the development. Even Political parties related it to the Kashmir problem as Miss Sonia Gandhi openly said in a public gathering in Kathua Jammu that the massive turnout in the panchayat elections is the befitting reply to Pakistan (Bhat, 2012). At another side the infrastructure of the Panchayats in the state is not up to the mark the panchayat institutions of the state are structurally and operationally weak (Chowdhary, 2012) In the operational core of decentralisation index, support system index for devolution and in tier wise ranking index the state of Jammu and Kashmir are among the poor performers (Devolution Report 2015-16). It is apparent from the state report also that many new enacted blocks did not have a B.D.O as it was highlighted by the report published in the newspaper that over 170 C.D. blocks lack Panchayat inspectors and 79 B.D.Os (Daily Excelsior 2017). There are 1943 Gram Panchayats which are without buildings in the state, and all 4198 Gram Panchayats are without computers( Gramoday se Bharat Uday Abhiyaan pdf document at the website of Ministry of Panchayati Raj).

Nevertheless for the constriction of Panchayat buildings, there was a unique scheme called Apna Panchayat Ghar, but still, there are some villages without own Government Panchayat Ghar. The participation of the common man in the Gram Shaba is abysmal because the elected members organise these meetings behind the doors. Actually, what is happening in the villages of Kashmir that a significant number of Panchayat representatives spend their term in contract work and increase their balances? These representatives mostly take the contract of all the Government projects in the area coming under the respective Panchayat.

Jammu and Kashmir are among the poor performers in the Panchayat (Devolution index of 2014-15). The works published in various journals regarding the Panchayati Raj of the state have highlighted the miserable and harsh impediments encounter by these institutions in the state. The common perceptions of the common man of the

valley regarding these institutions are as “the elected representatives show Lateen to us and the Panches and Sarpanch digest all the finances for their development”.

On the other hand, the representatives claim that the state got did not assign powers us which results we are unable to work for the people.

Most of the Elected representatives of the State were demanded the enforcement of the 73rd Constitutional amendment in the state which, according to them is the only source to empower the Panchayats in the state. It was the reason the state after the 2011 Panchayat election made some amendments in the Jammu and Kashmir Panchayat act 1989. The central provision which was added as the provision of state Finance commission, women reservation separate election commission for the Panchayats but these steps were not enough for the development of Panchayats in the Valley. The stand of Government regarding the enforcement of the 73rd constitutional amendment in the state is it will infringe the unique position of the State which is granted under article 370. However, the Panchayat members stated that it is only propaganda by the Govt to divert the people from the main agenda of local democracy empowerment. The representatives claimed if centre acts erode the position of the special status of the state then why state Government give consent to other central acts like AFSPA, MNREGA G.S.T. The representatives further stated that the state govt did not want to empower the local democratic institutions in the state. There are 4203 Village panchayats in the state, and all are powerless, and most of them face the human resource defect. See the below table which highlights the data on Activity count of Gram Panchayats during 2015-16

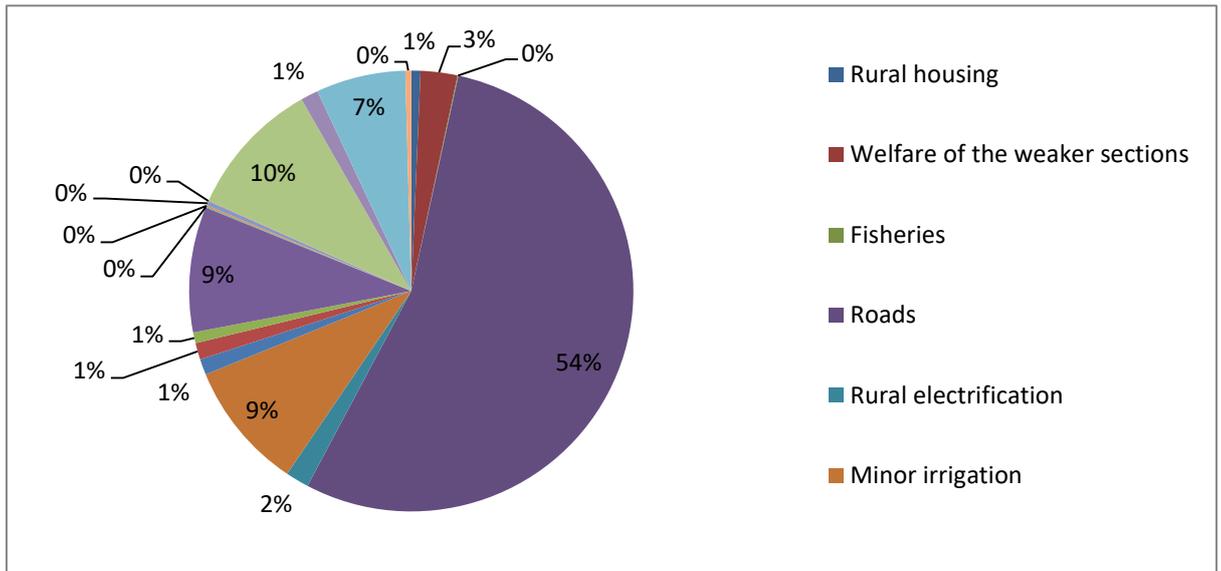
**Data Activity count of Gram Panchayat of Kashmir of 2015-16**

S. No	District	Total number of Gram Panchayats in the Districts.	Number of Active Panchayats in the Districts.	Number of inactive Panchayts in the Districts	Total number of activities
1	ANANTNAG	303	249	54	668
2	BADGAM	281	238	43	11489
3	BANDIPORA	114	2	112	16
4	BARMULLAH	367	68	299	213
5	GENDERBAL	112	4	108	47
6	KULGAM	171	143	28	550
7	KUPUWARA	356	281	75	750
8	PULWAMA	186	9	177	30
9	SHOPIAN	103	53	50	194
10	SRINAGAR	53	4	49	107

Source: - Plan Plus/ [www.planningonline.gov.in](http://www.planningonline.gov.in).

The above table gives the picture of active and in active panchayats in different districts of the Valley during the year of 2015- 16.

**Status of sector wise activity at Gram panchayat level of the J&K**



Source: - Report sector wise 2015-16 Plan Plus.

It is evident from the above report most of the funds have been used for the road construction 54%.

**Women and Panchayat institutions in Kashmir:-**

It was the 2011 Panchayat election where women were participated and contested elections and break the male-dominated politics it was the first real election (Omar Abdullah). Therefore first time that 33% Panch constituencies were reserved for the women in the state 1000 females panches were selected after the election but there was no female Sarpanch in 11 of the 22 districts out of the ten districts of Valley only two districts Baramullah and shopan have elected female Sarpanches (Kumar, 2012). It was found from the survey that most of the women who won the elections did not have any political background or experience. These Kashmiri women who have seen the poses of conflict and are highly suppressed by the male-dominated society. Therefore the 2011 Panchayat election provided the way to these women to participate in the decision making of the village. Hence it was the first experience for them to sit in the meetings and raise the issues concerning their wards. It was observed from the field that because of this election the physiological level was boosted among these elected women representatives, but at the same time, the fear of insecurity was in their heads as many panches were killed by the unknown persons. The second thing is lack of awareness regarding the panchayat raj among the elected members as well as among the people of the valley. However, the State Govt conducted three days training programmes at every block headquarters but these three days was not enough for those who are coming first time in politics (Bakloo, 2017). There were high hopes from the Panchayat election of 2011 in the state because of the massive turnout in the state. In reality, the State Government was not equipped and lost a golden opportunity to put an effective local government at the local level (Mathew, 2013). However, after the operation of Burhan Wani in 2016 the environment of the Valley once again boiled once again some educated youth of the Valley turned into the armed struggle which results the elections of the local

Panchayat once again became the prey of conflict. During this violence, various Panchayat houses were burned, and many representatives give resignation from politics.

**Conclusion:-**

In India, the local self-government is operated by the Panchayat Raj institutions in the rural areas and Municipalities in Urban areas. In spite of a myriad number of Government programmes for the empowerment of these institutions, the outcome is not so diligent. These institutions of local self-government have some constraints these are lack of devolution of functions, funds and functionaries inadequate infrastructure, weak human resources at a local level and inadequate capacities of elected representatives ( Narendra Singh Tomer). These above constraints are faced by all the local self-govt institutions of the country with different magnitude. In the context of the state Jammu and Kashmir, the institutions of local self-government institutions have double burden constraints on the constraints which every panchayat institutions face in the country another is the constraint is of armed conflict the people are alienated from these institutions. There a vast trust deficit among the people of the valley in these institutions. The young buds of the valley are going away from these institutions. There is an urgent need for civil society members and NGOs to educate the new buds of the valley regarding the importance of local self democracy.

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