

# Report on Legal framework and Status of Devolution in Bihar

A study by Anode Governance Lab, Bangalore

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The study team consist of

Divya Krishnakumar

Padma Baredy

Sonali Srivastava

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# Chapter 1: Context at PRADAN and Approach of the Study

## 1.1. Study: Bihar Legal Framework

*“Independence must begin at the bottom. Thus, every village will be a Republic or Panchayat having full powers. It follows, therefore, that every village has to be self-sustained and capable of managing its affairs even to the extent of defending itself against the whole world.”*

**- Mahatma Gandhi**

Founded in 1983, PRADAN has evolved over the past four decades as one of the prominent Indian non-profit organisations (NGOs) working on poverty alleviation through a people centric approach. PRADAN’s work has reached over 10 million people in 9127 villages across 40 poorest districts in seven states<sup>1</sup>. PRADAN has been engaged in Bihar with National Mission Management Unit (NMMUs) and State Rural Livelihood Mission (SRLM) to facilitate livelihood enhancement for the past 8 years and impacted up to 34,557 households. In the last four and a half years, the team has mobilised over 17,896 women to form 1545 SHGs and successfully set up systems for nurturing the women’s collectives. As PRADAN continues to work with women’s collectives, they are keen to work towards strengthening the supply side of governance and service delivery by engaging with local government institutions in Bihar. PRADAN envisions leveraging the powers and funds available to panchayats to improve the status of various development indicators. The Bihar team was encouraged from the success stories of PRADAN's pilot programs in Jharkhand.

In Jharkhand, PRADAN initially focused on enhancing the capacity of 15 Gram Panchayats (GPs) to strengthen local governance, leveraging the Gram Panchayat Organisation Development (GPOD) framework in partnership with Anode Governance Lab. This initiative has now expanded to include over 115 GPs throughout Jharkhand. PRADAN has also collaborated with Jharkhand’s Panchayat Raj Department (PRD) which has led to significant achievements such as increase in the state’s spend of Rashtriya Gram Swaraj Abhiyan (RGSA) funds from a mere Rs. 8.2Cr to Rs. 79 Cr on panchayat capacity building, streamlined curriculum and training for Gram Panchayat Development Plan (GPDP) etc. Encouraged by these achievements, PRADAN aims to replicate this work in other states such as Bihar, where the team has already initiated efforts with a few Gram Panchayats. Within PRADAN, engagement with the Local Governance theme has received a further fillip, as it is now one of the 8 Centres of Excellence created within the organisation, based on recommendations by McKinsey and Co., as well as PRADAN’s Vision 2030 with a goal to impact 50 million lives by 2030.

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<sup>1</sup> PRADAN (2022-23), Annual Report

In line with its vision and to develop an in depth understanding of local governance processes in Bihar, PRADAN commissioned Anode Governance Lab, a consultancy firm engaged in developing governance solutions to undertake a four-month research study in 2023-24 to assess the state's legal framework and status of devolution, specifically focusing on the Panchayat Raj institutions.

Anode works on the premise that a GP can deliver its constitutional mandate, provided it is a robust organisation, with streamlined systems, structures and processes. It adopts organisation development principles to engage with panchayats, with the belief that people are participants and not recipients to any change process.

Elected members (and citizens) are the key constituencies to bringing any change at panchayat levels. However, there are many externalities which impact functioning of Gram Panchayats: A landmark law on Panchayati Raj institutions came into effect on April 24, 1993 - the 73rd Constitutional Amendment. It is important to understand and reflect upon whether Panchayat Raj Institutions serve the purpose they are mandated for and what has worked to enable them to function as true units of self- government.

A question that needs to be explored: Is there an enabling legal devolution to the Panchayati Raj Institutions by the state government, given that devolution of powers and responsibilities to Panchayats is the prerogative of the State Legislative Assembly<sup>2</sup>? Further, even in the presence of enabling legal mandate, does the State administration allow space for Panchayats to function as institutions of local self-government, or are the panchayats primarily implementation arms of the state? Is there an aware citizenry which performs its role as an oversight body, through various mechanisms instituted in the Panchayat Raj Acts, such as Gram Sabhas, Beneficiary committees etc.? Do Panchayats have access to information to aid their decision-making?<sup>3</sup>

To effectively engage with Panchayats, it is crucial to have a comprehensive understanding of the devolution of functions, funds, and functionaries. This requires understanding the distinct roles played by the three tiers of Panchayat Raj, as well as Gram Kachahari and Gram Sabhas in Bihar. Understanding the de jure (of law) and de facto (in fact) status is essential, which involves thorough research, tracking, and analysis of relevant legal documents, as well as assessment of how the prescribed provisions are being implemented on the ground. Furthermore, it is essential to analyse socio-political dynamics and other factors that enable or hinder effective implementation of these provisions. The legal framework study in Bihar has been designed primarily with the purpose of gaining

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<sup>2</sup> Article 243-G, Part IX, Constitution of India

<sup>3</sup> Anode Governance Lab (2017), MP Legal Framework Study Report

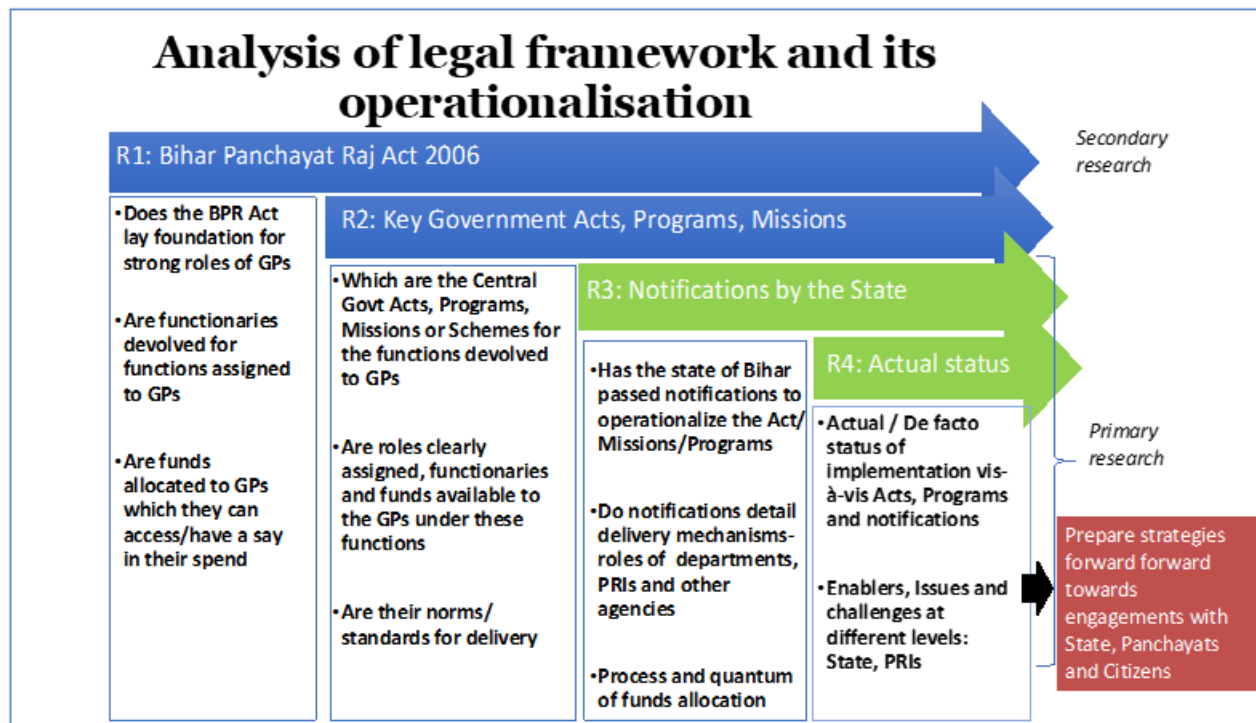
a better understanding of the devolution status in the state of Bihar, from de jure and de facto perspectives, titled "Legal mandates for local governance and democratic processes in Bihar", and includes:

- a. Analysis of the **Bihar Panchayat Raj Act, 2006 and various amendments**
- b. Study of various **rules and notifications issued by the state** to understand the extent of its devolution of functions, funds and functionaries.
- c. Analysis of present **status of functions** which are **transferred to PRIs and Gram Sabhas**
- d. Analysis of present **panchayat level planning processes** including GPDP and VPRP
- e. Analysis of present **PRI- CBO** interface and opportunities
- f. Recommendations for **identification of 2- 3 functions/sectors** where there is potential for panchayats to deliver for future engagement.
- g. **Strategies and road map** around building capacities for strengthening governance and democratic processes.

## 1.2. Methodology

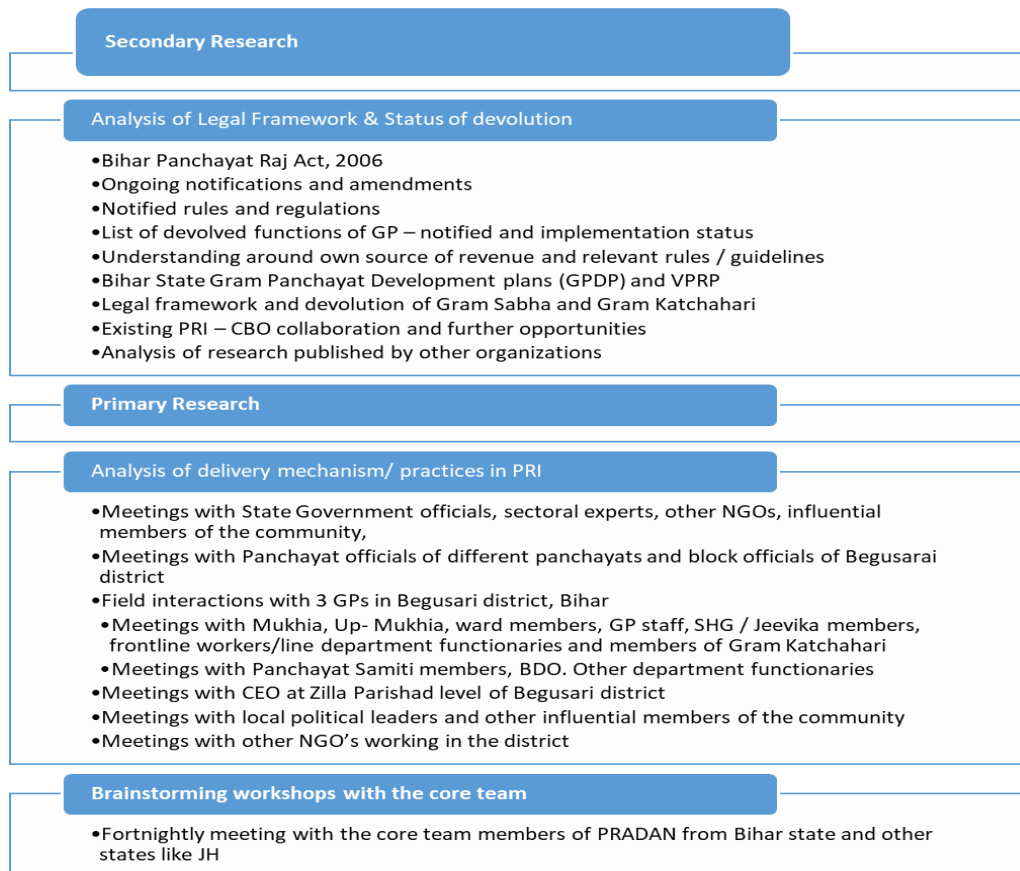
The four-month legal framework study followed a mixed methodology involving both primary and secondary research. Methodology consisted of following steps for delivering the required outcomes as envisaged.

*Image 1: Methodology of legal framework study for Bihar*



- a. **Desk / Secondary Research** of existing published and other documents e.g. The Bihar Panchayat Raj Act 2006, Central and State Finance commission reports, guidelines and government orders related to PRIs, allied laws, studies done previously, reports by other CSOs and government agencies, etc.
- b. **Field visits (GP/Block/District level)** to understand the actual status of devolution on ground, through meetings with different stakeholders at different tiers of Panchayati Raj system, for e.g. Panchayat members and staff, such as ward members, Mukhiya, Up-Mukhiya, Panchayat Secretary, Sahayak, Frontline workers, SHG/Jeevika members, Panchayat Samiti members, BDO, Gram Kachahari, as well as ZP members, District Chief Executive Officer (CEO), local Member of Legislative Assembly (MLA) and other influential members.
- c. **Meetings with state officials** in the PR department as well as in line departments at the Taluka and Zilla Panchayat levels, to access and analyse government regulations and orders. Participate in workshops, if any, held by the state department to build relationships and trust for long term collaborations.
- d. **Workshop with the State team of PRADAN** to share findings as well as to collaboratively create the way forward.

*Image 2: Details of research activities and documents analysed*



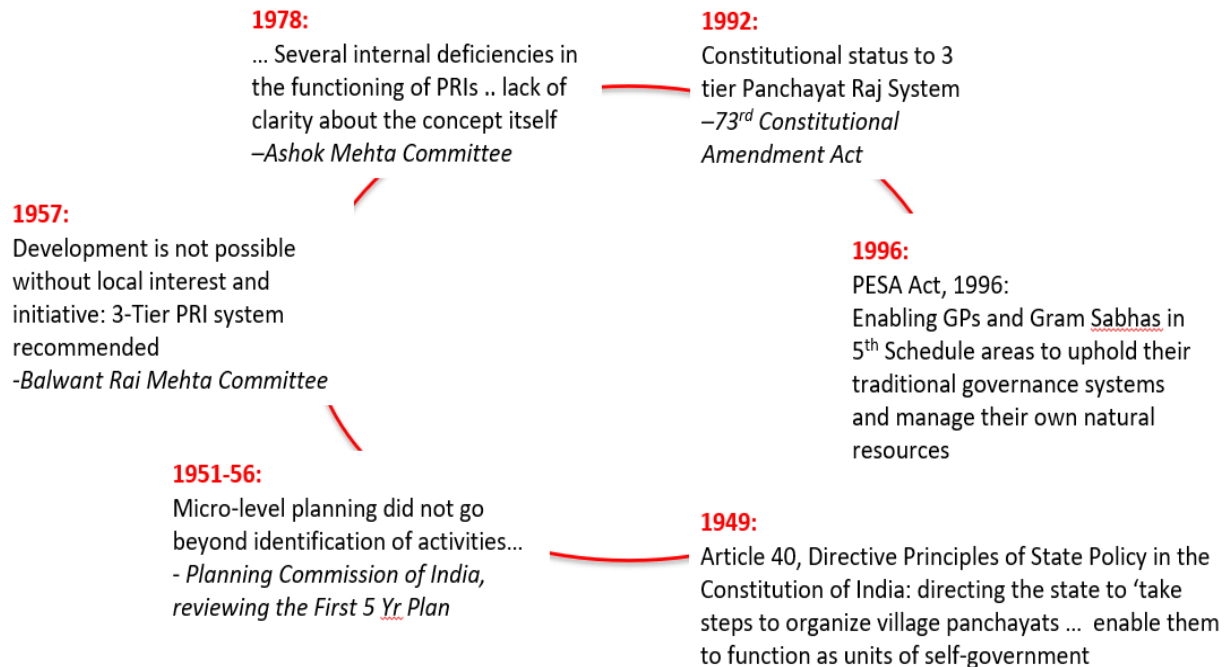
## Chapter 2: Constitutional Provisions and Context of Bihar

In this chapter, we explore the progression of the Panchayati Raj systems, encompassing key events such as the 73rd amendment, PESA, and FRA. We then delve into the historical evolution of Bihar's local governance system, tracing noteworthy events and transformations from the colonial period to the contemporary era.

### 2.1. Constitutional provisions related to Panchayati Raj in Bihar, including the 73rd Amendment to the Constitution, PESA and FRA<sup>4</sup>

The 73rd (and 74<sup>th</sup>) Constitutional Amendment Acts, 1992 have paved the way for decentralising and enabling local governance through establishment of the 3 - tier Panchayat Raj Institutions - the Gram Panchayat, Block Panchayat and District Panchayat, in the rural, and town councils in urban areas respectively. The 73<sup>rd</sup> Constitutional Amendment was a recognition of the fact that the earlier two-tier structure was not delivering optimally, with rural poverty at 37.3% of the total rural population in 1993-94 (Planning Commission). The third tier was seen as a plausible solution to this crisis<sup>5</sup>. The following diagram depicts the events that lead to the 73rd amendment and PESA Acts.

**Image 3: Journey of decentralisation in India since 1951**



<sup>4</sup> The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

<sup>5</sup> Anode Governance Lab (2016), Jharkhand Legal Framework Study

Article 243G of the Constitution of India recognises and acknowledges Panchayats as institutions of self-government and entrusts them with mandate to prepare plans for economic development and social justice, to enable them to deliver basic services to its citizens and address issues of the most marginalised communities living in the Gram Panchayat Jurisdiction<sup>6</sup>.

*Image 4: Constitutional Provisions that enable PRIs to function as self-governments.*

#### **Constitutional provision for enabling the PRIs as LSGs**

243G. Powers, authority, and responsibilities of Panchayats. – Subject to the provisions of the Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to **enable them to function as institutions of self-government** and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at appropriate level, subject to such conditions as may be specified therein, with respect to –

- a) The preparation of plans for economic development and social justice
- b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule

*Source: Constitution of India*

#### **2.1.1. PESA [Panchayats (Extension to the scheduled areas) Act, 1996]**

The provisions of the Panchayats (Extension to the scheduled areas) Act, 1996 (PESA) is another important legislation with special powers to tribal communities. The act aims to devolve powers to Panchayats or Gram Sabhas that fall under the Schedule V areas for the development of tribal areas. The Act came into effect on 24<sup>th</sup> December 1996 in 10 states<sup>7</sup> of the country with vast populations of tribal communities<sup>8</sup>. The fundamental spirit of PESA Act for tribal areas under the V Schedule is that rather than delegation, it devolves power and authority directly to Gram Sabha and Panchayats by paving the way for participatory democracy. Thus, the PESA Act has been an attempt to provide governance powers and dignity to tribal communities by including them in mainstream development. In the context of Bihar, forest and tribal communities are minimal and hence provisions of PESA may not be applicable. However, it will be interesting to analyse its applicability considering the large population density of the state.

<sup>6</sup> Riddhi Foundation (2017), A roadmap for strengthening Panchayati Raj Institutions in Bihar for Department of Panchayati Raj, Government of Bihar

<sup>7</sup> Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, Rajasthan and Telangana

<sup>8</sup> Concept note on the Provisions of the Panchayats (Extension to the scheduled areas) Act, 1996(PESA), NIRDPR



### 2.1.2. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, commonly referred to as Forest Rights Act, 2006

The Fifth and Sixth Schedules of the Constitution mandate that the claims of indigenous communities over tracts of land or forests they inhabit be protected. The Forest's Right Act, 2006 expands on recognising the rights of forest-dwelling tribal communities and other traditional forest dwellers over forest resources that these communities are dependent on for livelihood, habitation and other sociocultural needs. The Gram Sabha is authorised to initiate the process of determining the nature and extent of Individual Forest Rights (IFR) or Community Forest Rights (CFR). Rights of dwellers extend to extracting Minor Forest Produce, grazing areas etc., Relief and development rights, Forest management rights.

Bihar is broadly categorised as “No or extremely poor performing States in Terms of FRA Implementation<sup>9</sup>. There is a large gap between the number of claims and titles distributed, with just 121 titles distributed against over 8,000 individual claims in 2022<sup>10</sup>.

### 2.1.3. Colonial intervention and emergence of local governance: Formation of Bihar as a separate unit

The colonial intervention significantly altered villages and communities in India. Bihar was part of the Bengal presidency under the British until 1912. Here, the British were faced with the Ho, Munda uprisings in the 1800s and the Sepoy Mutiny in 1857. This 1857 revolt had put the imperial finances under considerable strain and it was therefore found necessary to finance local services through local taxation. Lord Mayo, the then Viceroy of India introduced the concept of elected representatives in urban municipalities in the year 1870. The Bengal Presidency including the province of Bihar created a new form of local governance system following the Mayo Resolutions of 1870<sup>11</sup>. In 1885 the Bengal Local Self Government Act created district boards and local boards at the district and sub-divisional levels. It was then united with Orissa to form a single province. In 1922, the Bihar and Orissa Village Administration Act created fully elected union boards and a few elected panchayats. Later, by the Govt. of India Act of 1935, Bihar became a separate unit and an independent State. It was in 1956 that an area in South - East Bihar (Purulia) was separated and incorporated into West Bengal as part of the Linguistic Reorganisation of Indian States. On 14th November 2000, Jharkhand State was carved out of the southern part of Bihar.

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<sup>9</sup>Source:[https://www.academia.edu/33832693/Promise\\_and\\_Performance\\_of\\_the\\_Forest\\_Rights\\_Act\\_A\\_Ten\\_year\\_Review](https://www.academia.edu/33832693/Promise_and_Performance_of_the_Forest_Rights_Act_A_Ten_year_Review) [2017]

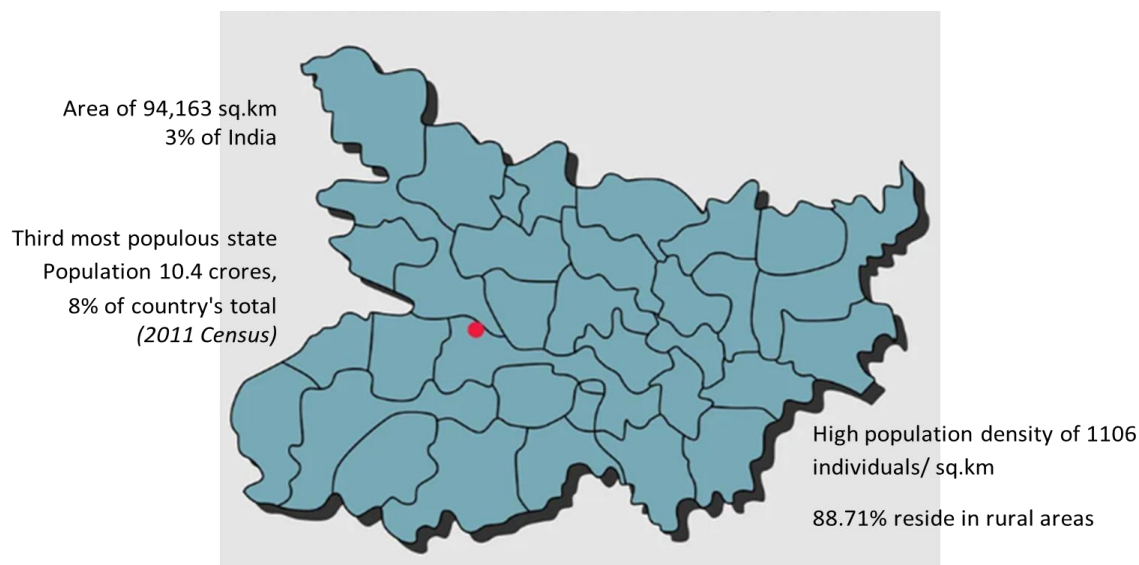
<sup>10</sup><https://www.thehindu.com/news/national/only-half-of-44-lakh-claimants-to-forest-land-given-title-rights-under-fra/article66263125.ece> [2022]

<sup>11</sup> Riddhi Foundation (2017), Gram Panchayats Development Plans in Bihar A Situation Analysis

## 2.1.4. Demographic and social context of Bihar

Bihar, covering an area of 94,163 sq.km, constitutes approximately 3% of the nation's total geographical expanse. According to the 2011 census, its population stood at around 10.4 crores (approximately 8% of the country's total population) and ranks as the third most populous state, following Uttar Pradesh and Maharashtra. Projections from the Ministry of Statistics and Program Implementation anticipate Bihar's population to reach 1.26 crores by the year 2023<sup>12</sup>. The decadal growth of population (82 million) for 1991 - 2001 is 28.43% which is the highest in the country. In the last census conducted in 2011, Bihar's population was recorded at 104 million, showing a growth rate of 25% compared to the previous census. The state faces a significant land-to-man ratio imbalance, evident in its high population density of 1106 individuals per sq.km. The literacy rate in Bihar is 47.53%, which stands as the lowest in the country. The majority, 88.71% of Bihar's population, resides in rural areas, primarily in remote regions, living largely disconnected from modern-day amenities. The State's economy is characterised by high incidence of poverty, low literacy rate, unemployment, and low per capita income. As a result, human development indicators in Bihar remain alarmingly poor.

**Image 5:** Map of Bihar and some population details



A significant proportion, around 77.6%, of the Scheduled Caste population in Bihar work as agricultural labourers, while less than 8% are cultivators, 3.3% are household workers, and 11.2% are engaged in other occupations. Most of the scheduled castes in Bihar are landless, and those who do own land typically possess small, infertile, un-irrigated, and economically unviable plots. Additionally, a considerable segment of the scheduled castes lacks homestead land and instead resides in huts on land belonging to landowners who employ them as sharecroppers and/or bonded labour.

<sup>12</sup> Ministry of Statistics and Program Implementation

Within the state, there is a vulnerable community known as the Musahars, who belong to the Mahadalit category. They are present in minority numbers in every Gram Panchayat of Begusarai District, as shared by the PRADAN team. The Musahar community faces challenges in integrating into mainstream social and government systems, such as education, and obtaining ration cards. The reasons behind these issues require further investigation and engagement. PRADAN has begun interacting with the Musahar community to understand and address these concerns.

**Table 1: Percentage of various social groups in Bihar**

Social Group	%
OBC/EBC (Yadavs, Kushwahas, Kurmis and others)	51%
SC (Mahadalits, Dalits)	16%
Muslim (Some sects)	16.9%
Forward caste (Bhumihar, Brahmin, Rajput, Kayastha and others)	20%
ST (Gond, Santhal, Tharu)	1.3%
Others (Christians, Sikhs, Jains and some Muslim Sects)	0.4%

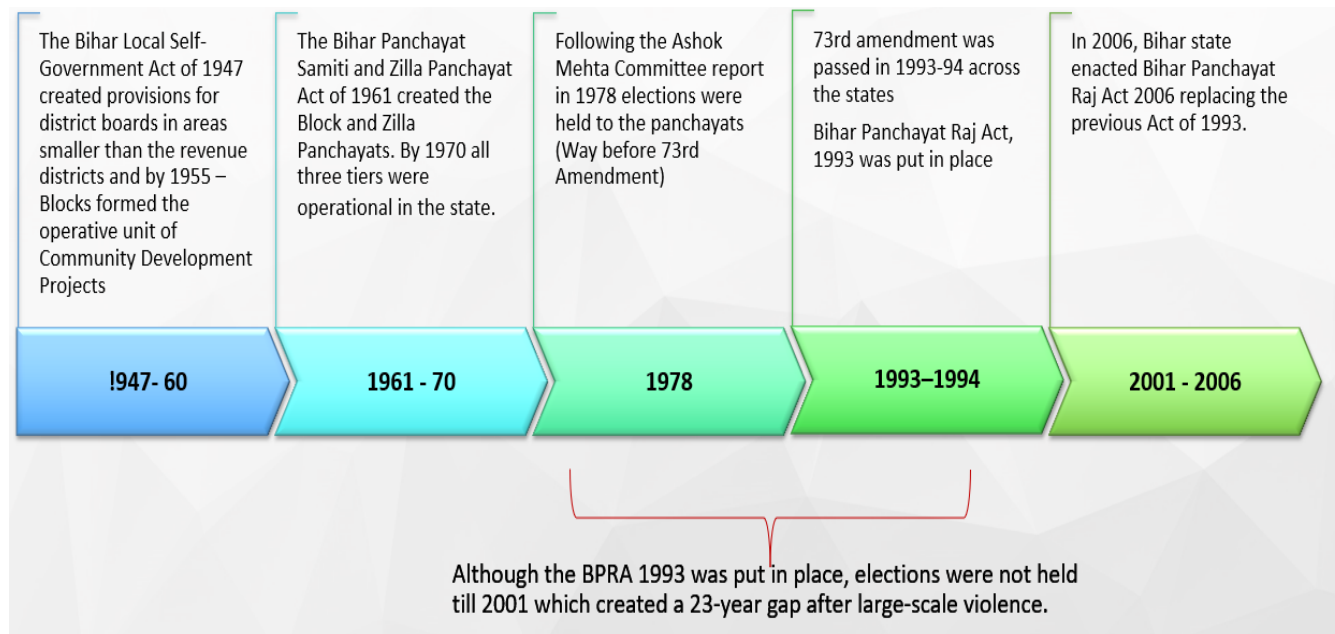
Source: 2011 Census

### 2.1.5. Evolution of Panchayat Raj System in Bihar

After India gained independence in 1947, the province of Bihar, with the same geographical boundary, became the State of Bihar, a part of the Republic of India and the Bihar Panchayat Raj Act of 1947 was enacted. By 1957, a total of 7670 Panchayats were in place in the state. The Bihar Panchayat Samiti and Zilla Panchayat Act of 1961 created the Block and Zilla Panchayats. By 1970 all three tiers were operational in the state. Following the Ashok Mehta Committee report in 1978, elections were held to the panchayats. However, this election was marred by violence and nearly 10 percent of the Mukhiyas (GP Presidents) were elected unopposed due to threats to rival candidates. From here onwards Panchayati Raj (PR) in Bihar took a downturn as elections were not held till 2001, a 23-year gap marred by violence. Although 73<sup>rd</sup> amendment was passed in 1992 and Panchayat Raj Acts were enacted across states, and Bihar Panchayat Raj Act, 1993 was established, elections were not held in Bihar state until 2000. The first Panchayat level elections since the 73<sup>rd</sup> constitutional amendment<sup>13</sup> were held in Bihar in 2000, after an interim order was given by the Supreme court directing the state government to hold elections. In 2006, Bihar state enacted Bihar Panchayat Raj Act 2006 replacing the previous Act of 1993. The 2006 Panchayat elections in 2006 included the election of local judicial institutions i.e., Gram Kachahari under the new provisions of the Act.

<sup>13</sup> Ibid

**Image 6: Timeline of Bihar Panchayati Raj Legal Provisions**



Some of the key highlights of Bihar Panchayati Raj Act, 2006 are as follows:

- Bihar was the first state to have provisions for judicial institutions like Gram Kachahari, and to conduct elections for a judicial body at the Panchayat level.
- Bihar was also the first state to provide 50% reserved seats for women in the Panchayat election.
- Bihar has made amendments in the act and made new provisions under section 170(B) and 170(C) of the Bihar Panchayat Raj Act 2006. This enables further decentralisation at the ward level by through Ward Implementation and Management Committees in the context of two specific schemes *a) Mukhyamantri Gali-Nali Pakkikaran Nischay Yojana* and *b) Mukhyamantri Gramin Peyjal Nischay Yojana*. This provision gives ward members both administrative and financial powers thus, creating opportunities for ward members to actively participate and have a say in the decision-making process unlike many other states where, powers are largely in the hand of the Mukhiya/ President of the Panchayat.

Although the 73rd CAA recognizes local governments as units of democratic sovereignty, and despite subsequent pressure on states by the Ministry of Panchayati Raj (MoPR) to devolve funds, functions and functionaries (3Fs) to the Panchayats, decentralisation to PRIs remains largely on paper. As per the 11th schedule of the Constitution, state governments are required to devolve power and responsibility of 29 functions to local government units. While the extent and nature of these devolved functions vary across different states, a key challenge across the country remains in the capacities of

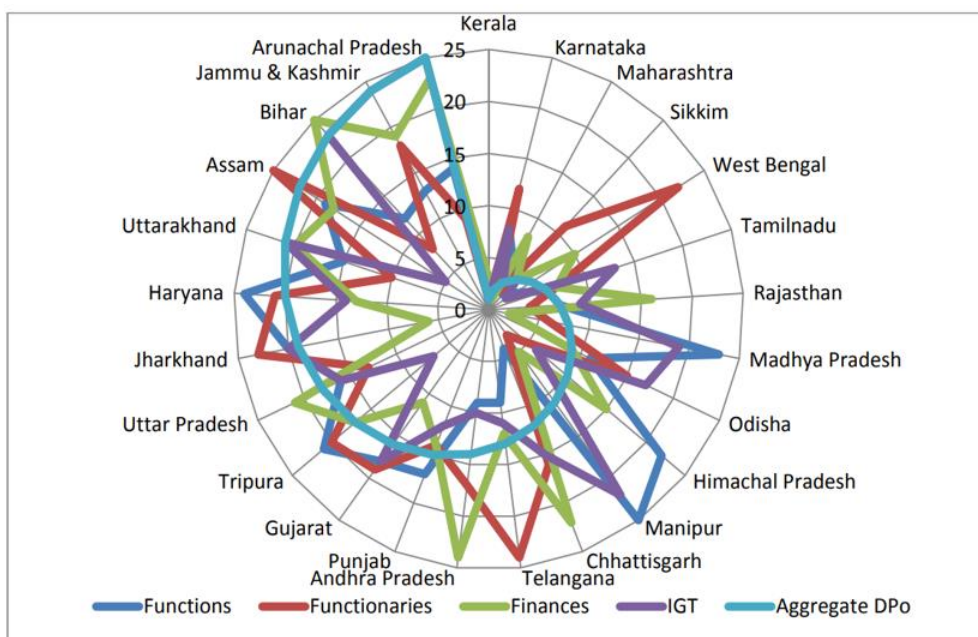
the institutions and people<sup>14</sup>. Bihar is not different and ranks among the bottom states in the devolution of funds, functions and functionaries.

As per the devolution report 2015-16, conducted by Tata Institute of Social Sciences

(TISS), Mumbai, Bihar ranks among the bottom states (23 of the 25 states) in the Devolution Index. Images 7 and 8 depict the ranking of the states in the aggregate indices of devolution in policy and devolution in practice respectively.

As shows in image 7, states like Kerala, Karnataka, Maharashtra, Sikkim and West Bengal are the best performing, whereas Bihar, Arunachal Pradesh, Assam and Uttarakhand are the lower performing states in the devolution of their functions, functionaries, finances, infrastructure and telecommunication and aggregate indices of devolution in Policy (Aggregate DPo).

**Image 7: Devolution Index of States (2015) – Devolution in Policy**

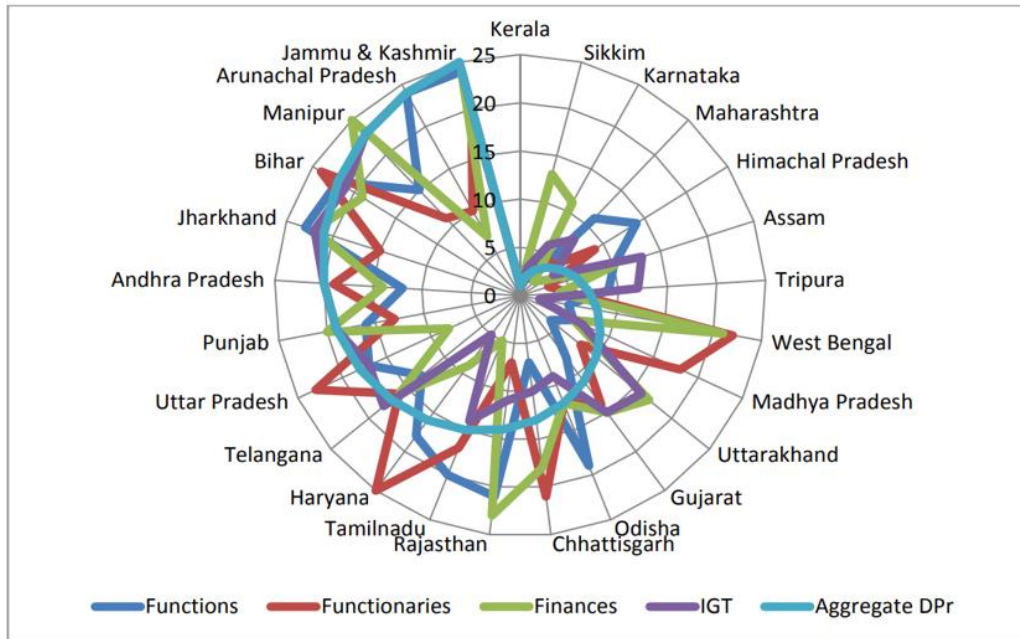


**Source: TISS, 2015**

Further, as show in Image 8, states like Kerala, Sikkim, Karnataka, Maharashtra, and Himachal top the list and states like Bihar, Jharkhand, Jammu & Kashmir, Arunachal Pradesh and Manipur are low performing states, being in the bottom of the list, even when it comes to devolution in practice (Aggregate DPR).

<sup>14</sup> Anode Governance Lab and PRADAN (2020), Gram Panchayat Development Framework – A Process documentation

**Image 8: Devolution Index of States (2015) – Devolution in Practice**



**Source: TISS, 2015**

Despite the long-standing existence of Panchayati Raj Institutions, these bodies have not achieved the stature and credibility as effective and accountable representatives of the people, owing to various factors. In Bihar, a Gram Panchayat has an annual budget of up to 1.75Cr and hence has immense opportunity to bring change in their villages.

The next chapter provides an overview of the state organizations and frameworks that support the overall functioning of the Panchayati Raj institutions and their mechanisms. These structures are crucial as per their constitutional mandate, and they are important institutions at the state level for providing support to the functioning of panchayats at the local level.

## Chapter 3: State Institutions and Structures

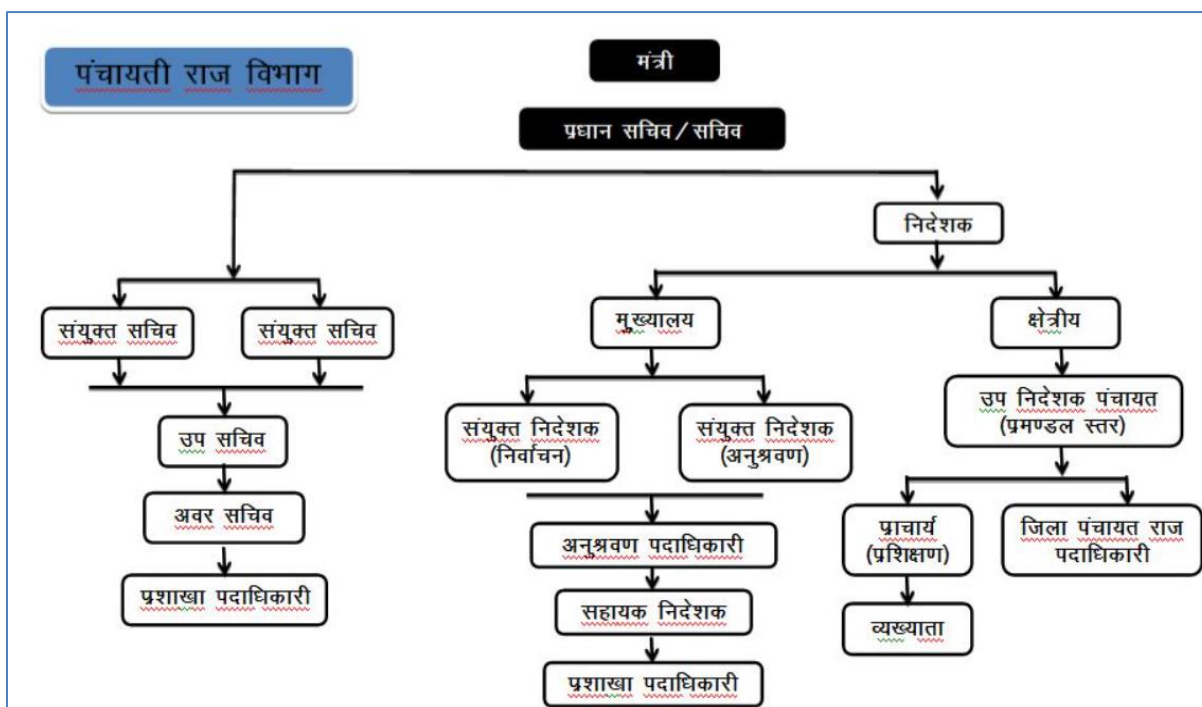
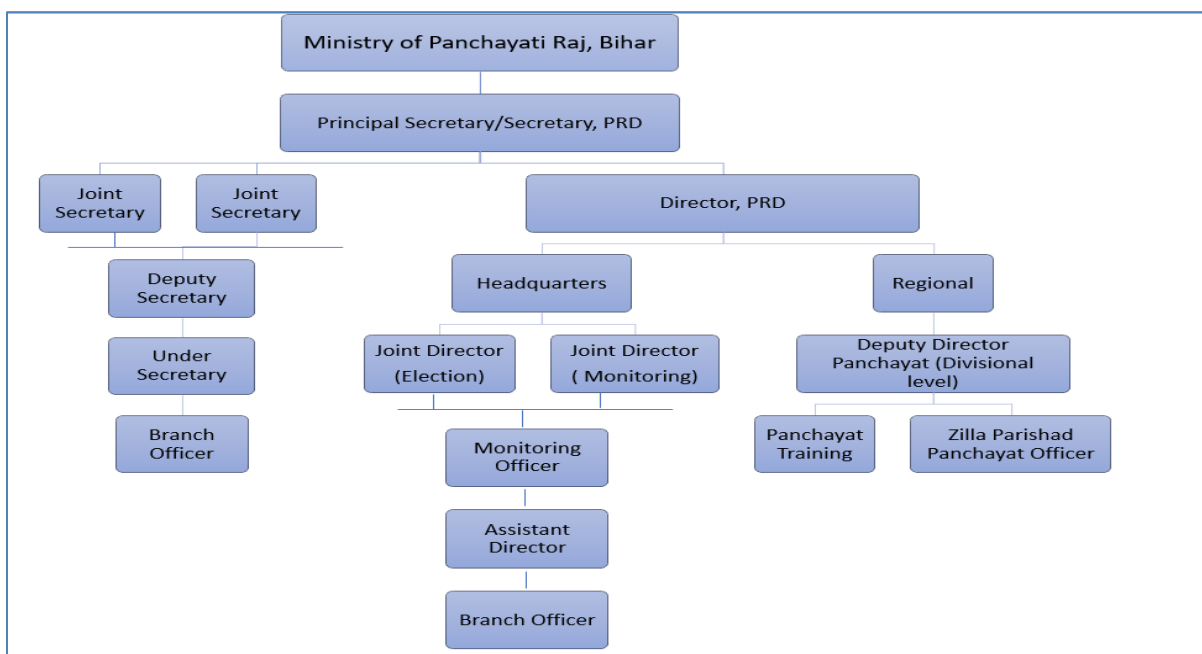
This chapter focuses on the key institutions at the state level who support the functioning of panchayats at the grassroots level. During the last few years, the Union Ministry of Panchayat Raj through its initiatives such as the Devolution Index, Gram Panchayat Development Plan (GPDP) and the Rashtriya Gram Swaraj Abhiyan (RGSA) has played a pivotal role in building the agency of panchayats. Similarly, the 14th and 15th Central Finance Commissions have increased grants to PRIs, which were hitherto starved of resources to be able to work on their mandates. Panchayat being a state subject, the role of state institutions is critical to create momentum for self-governance at the local level. We will elaborate further on the four key institutions in the state: the Panchayat Raj Department (PRD), State Institute of Rural Development (SIRD), comprising the Bihar Institute of Public Administration and Rural Development (BIPARD) and State Panchayat Resource Centre (SPRC), the State Election Commission (SEC) and State Finance Commission (SFC) and structures (administrative and political) at different levels of Panchayats.

### 3.1. Panchayat Raj Department

First and foremost, the Panchayat Raj Department (PRD) is a state-level institution in Patna, Bihar. It was established in 2007, after the enactment of the Bihar Panchayati Raj Act in 2006. The PRD mainly interacts with two central government ministries: the Ministry of Rural Development (MoRD) and the Ministry of Panchayati Raj (MoPR).

In Bihar, the PRD and the Rural Development Departments are headed by two different Principal Secretaries. This is unlike in some other states, where the PRD is part of Rural Development. The PRD is considered an important department because of the quantum of funds it handles and its direct bearing on rural development and poverty alleviation.

**Image 9: Structure of Panchayat Raj, Bihar**



**Source:** Bihar Panchayat Raj Department website

### 3.2. State Institute of Rural Development / Bihar Institute of Public Administration and Rural Development

The state has one SIRD (referred to as BIPARD: Bihar Institute of Public Administration and Rural Development) to cater to the learning needs of the elected representatives and functionaries of three-



tier Panchayats. The Government of Bihar took the initiative to enhance the capabilities of its officers and staff in public administration and good governance. This led to the establishment of the Administrative Training Institute (ATI) at Water and Land Management Institute (WALMI), Phulwarisharif, Patna, through notification no. 68 dated 28th March 2002. Furthermore, the State Institute of Rural Development (SIRD) was created by the Govt. of Bihar through notification no. 7036 dated 15/09/2005 and shared the same Director General as the ATI. Over time, these two institutions were merged and rebranded as BIPARD, which was officially registered under the Societies Act, 1860, with effect from 1st April 2006.

BIPARD is responsible for providing training to various probationers, including Indian Administrative Services (IAS), Bihar Administrative Services, and other allied services. The institute covers a wide range of essential subjects during the training process, such as Departmental proceedings, Pensions, Drawing & Disbursing Officers' responsibilities, and the Right to Information. Apart from the induction courses, BIPARD also conducts short courses that focus on important functions and areas like communication skills, teamwork, and personal development. This comprehensive approach is to ensure the officers and staff are well-equipped to handle their roles and responsibilities effectively. BIPARD had undertaken the responsibility of training elected representatives through training of 1600 master trainers who will subsequently provide training at the Block level to Panchayat representatives.

In addition to the training conducted by master trainers at the Bihar Institute of Panchayati Raj and Development (BIPARD), the Bihar government has a State Panchayat Resource Centre (SPRC) for conducting training and building strong institutional capacities. As per the CAG 2020 report, the SPRC was established with an approved budget of ₹1 crore, of which ₹10 lakh was released in 2013-14. The remaining ₹90 lakh was approved for 2014-15. However, the Panchayati Raj Department (PRD) did not utilize the first instalment of ₹10 lakh until August 2021, and the entire amount remained unspent in the department's bank account<sup>15</sup>.

### 3.2.1. Funds for Capacity building and training

MoPR, Gol provides fund for two streams of capacity building and training of the elected representatives of the Panchayats under RGSA, a centrally sponsored scheme named as Rashtriya Gram Swaraj Abhiyan, for: a) institutional functioning of Panchayats and b) for interventions related to Gram Panchayat Development Plans (GPDP). The fund sharing between central and state governments is in the ratio of 75:25. In each state, the responsibility lies with the SIRD to utilise the funds provided by RGSA effectively for the capacity building of the Panchayats.

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<sup>15</sup> Chapter I, Annual Technical Inspection Report (Local Bodies) for the year ended 31st March 2020

Under RGSA, a total of INR 109.8Cr funds were sanctioned to Bihar for the capacity building and development of Panchayats for the period of 2022-23. However, only INR 64.37 Cr were spent as on 4<sup>th</sup> Feb 2023 and remaining INR 45.42Cr being unspent as show in the table below<sup>16</sup>.

**Table 2:** Details on the unspent balance as on 04.02.2023 (Rs. In crore)

SNo	Component	Fund released	Expenditure	Unspent Balance
1	Technical Support	19,53,12,474.00	19,53,12,474.00	0.00
2	Construction of GP Bhawan	71,20,00,000.00	33,83,37,167.44	37,36,62,832.56
3	Capacity Building and Training	16,43,12,280.00	10,91,47,640.00	5,51,64,640.00
4	Capacity Building and Training (other activities)	5,00,000.00	4,99,979.00	21.00
5	IEC Activities	2,59,37,900	4,70,095.00	2,54,67,805.00
	<b>Total</b>	<b>109,80,62,654.00</b>	<b>64,37,67,355.44</b>	<b>45,42,95,298.56</b>

**Source:** Letter No -6844 Date 20-06-2023, Panchayat Raj Department, Bihar

As per the Annual Technical Inspection Report (Local bodies) for the year ended 31<sup>st</sup> March 2020, CAG, funds were provided for the construction of the District Panchayat Resource Centres (DPRCs) for strengthening institutions for capacity building of PRIs at various levels as well as enabling them with adequate quality infrastructure, facilities, human resources and outcome-based training.

### 3.3. State Finance Commission

Article 243-I of the Indian Constitution lays down the provision for the establishment of a State Finance Commission (SFC) in each state. In Bihar, the State Finance Commissions are regularly formed in accordance with the guidelines stated in section 168 of the BPR, 2006, as well as the constitutional mandate.

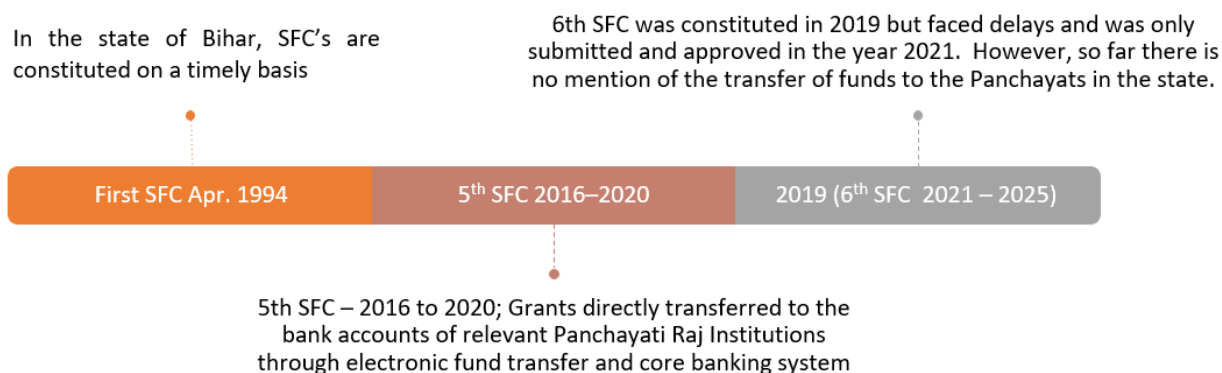
The first State Finance Commission (SFC) was constituted in April 1994, and subsequent commissions have been formed every five years thereafter. The purpose behind setting up these commissions by the government is to assess the financial status of local governing bodies and determine the principles that ensure adequate financial resources for them.

The fifth SFC was operational from 2016 to 2020. During this period, grants were directly transferred to the bank accounts of the relevant Panchayati Raj Institutions (PRIs) through electronic fund transfer and the core banking system. According to a letter from the Department of Panchayati Raj, Bihar, dated 20th

<sup>16</sup> Letter No -6844 Date 20-06-2023, Panchayat Raj Department, Bihar

June 2023, the sixth SFC was constituted in 2019 but faced delays and was only submitted and approved in the year 2021, with a delay of 12+ months. However, so far, there is no mention of transfer of funds to Panchayats in the state<sup>17</sup>.

**Image 10: State Finance Commission, Bihar**



### 3.4. State Election Commission (SEC)

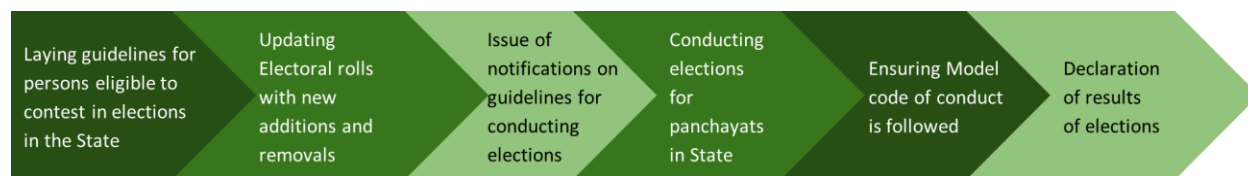
The 73rd Constitutional amendment of 1992 aims to provide a three-tier system of Panchayati Raj for all states having a population of over two million, to hold Panchayat elections regularly every five years, to provide seats reserved for scheduled castes, scheduled tribes and women, to appoint a State Finance Commission to make recommendations regarding the financial powers of the Panchayats, and to constitute a District Planning Committee. Article 243-K (read with Article 243-ZA) provides for the powers and responsibilities of the State Election Commission. It is an autonomous and statutory body constituted for ensuring that elections are conducted at various levels of Panchayats in a free, fair and unbiased way.

The Bihar State Election Commission was formed after amendment of Constitution with 73rd and 74th declaration. The Commission is responsible for setting reservations and conducting elections for Urban Local Bodies, Panchayats and any other specified by Election Commission of India. The State election commissioner is appointed by the Governor and all members are independent persons not holding positions in any Central or State Government organisations. The State election commissioner holds office for a term of six years, or up to the age of 65 years, whichever is earlier from the date he/she assumes office<sup>18</sup>.

<sup>17</sup> Ibid

<sup>18</sup> Section 124, BPR Act 2006, State Election Commissioner (Appointment and Conditions of Service) (Amendment) Rules, 2018

**Image 11: State Election Commission Process**



### 3.5. District Structures

At the state level, the Panchayat Raj Department (PRD) coordinates and monitors the functioning of 3 tiers of the Panchayat Raj. Zilla Parishad (ZP) which is the 1<sup>st</sup> tier is headed by the Adhyaksha, while the Panchayat Samiti (PS) and the Gram Panchayat (GP) are headed by Pramukh and Mukhiya respectively who are elected representatives of the respective PRI's. Mukhiya is responsible for the financial and executive administration of GP.

The administrative setup comprises of a Chief Executive Officer (at the rank of District Magistrate or Additional District Magistrate) and the Block Development Officer- cum- Executive Officers and BPROs, who are the executive heads of the ZP and the PS respectively. Similarly, the Panchayat Secretary oversees the office of the GP and is also responsible for the maintenance of books of accounts and records at the GP level. Following diagram depicts the organisational structure of the PRIs in Bihar.

**Table 3: Political and administrative structure of Panchayati Raj**

Structure of Political Body of PRIs			Administrative structure		
<b>Elected Bodies</b>			<b>Administrative set-up</b>		
The Minister, Panchayati Raj Department			Director, PRD		
<b>Zila Parishad</b>	<b>Panchayat Samiti</b>	<b>Gram Panchayat</b>	<b>Zila Parishad</b>	<b>Panchayat Samiti</b>	<b>Gram Panchayat</b>
Adhyaksha	Pramukh	Mukhiya	DDC cum Chief Executive Officer	BDO-cum-Executive Officer	Panchayat Secretary
Up-Adhyaksha	Up- Pramukh	Up- Mukhiya	DPRO	BPRO	Panchayat Sachiv Sahyak
District Engineer	Junior Engineer	Accountant Cum IT Operator	Assistant Engineer	Assistant Engineer	Panchayat Rojgar Sevak
Zilla Parishad Members	Samiti Members	GP Members	Junior Engineer		Line dept. functionaries
		WIMC			

		Standing Committees
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### 3.5.1. District Planning Committee

Article 243ZD of the constitution mandates the formation of a District Planning Committee to consolidate plans prepared by the Panchayats and Municipalities in the district and to prepare a draft development plan for the district as a whole. The matters of common interest between the Panchayats and the Municipalities include spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation. As per the provisions of the 73<sup>rd</sup> Constitutional Amendment, Section 146 of the Bihar Panchayat Raj Act, 2006, and Formation and Functions of DPC Rules, 2006, the District Planning Committee (DPC) has been formed in all the districts. However, the actual status of functioning of DPCs is not clear as per the 5<sup>th</sup> SFC report of Bihar.

In chapters 1 to 3, we have established the context and objectives of the study, providing an overview of the 73<sup>rd</sup> Constitutional Amendment and the Panchayat Raj System in Bihar, along with insights into the state’s key institutions. In the subsequent chapters (Chapter 4 through Chapter 8), a comprehensive analysis is presented, focusing on the legal provisions outlined in the Bihar Panchayat Raj Act of 2006. These provisions encompass various aspects, such as the functioning of Gram Panchayats, Panchayat Samitis, Zilla Parishads, Gram Sabhas, and Gram Kachahari. Furthermore, the chapters also delve into crucial processes like GPDP, which involves planning, budgeting, and implementation. Additionally, the study examines the convergence of Panchayati Raj Institutions (PRI) with Community-Based Organizations (CBO).

## Chapter 4: Legal provisions I: Panchayat Institutions

This chapter is subdivided into three main sections. Section 4.1 offers an extensive analysis of the devolution status related to Panchayat Raj in Bihar, focusing on the 3 Fs (Functions, Funds, and Functionaries). Moving on, section 4.2 compiles the key provisions of the Bihar Panchayat Raj Act, 2006, along with an understanding of elections and reservation provisions in the state. Sections 4.3, 4.4 and 4.5 provide a detailed analysis of the legal and practical aspects of each tier; Gram Panchayat, Panchayat Samiti, and Zilla Parishad. Finally, section 4.6 provides the coordination mechanism among the three tiers of Panchayats. Additionally, where applicable, recommendations are also included.

As mentioned in Chapter 2, the starting point for the secondary analysis and the understanding of the legal framework is the Bihar Panchayat Raj Act of 2006. In this chapter, we examine the constitutional provisions pertaining to Panchayati Raj in Bihar, with a particular focus on the implications brought about by the 73rd Amendment to the Constitution within the state. In pursuance of the provisions made in the 73rd Constitution (Amendment) Act, 1992, the Government of Bihar (GoB) enacted the Bihar Panchayat Raj Act (BPRA), 1993 (subsequently replaced by the BPRA, 2006) and established a three-tier system of PRIs viz., Gram Panchayat (GP) at village level, Panchayat Samiti (PS) at block level and Zila Parishad (ZP) at the district level to enable them to function as institutions of self-government. The BPR Act, 2006 was further amended several times. Detailed list of amendments and rules is available in ANNEXURE I - Acts, Rules mapped.

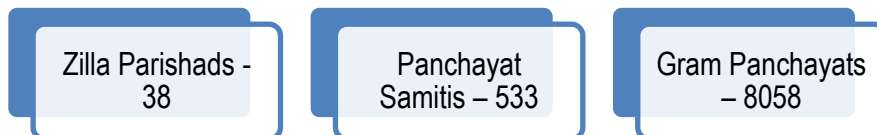
These amendments have been studied and analysed as a part of this chapter. Apart from studying the BPR Act, 2006, amendments and rules, we also accessed published papers as a part of secondary research. Lastly, field studies were undertaken where the team visited and conducted interviews at different tiers of Panchayat Raj system and administrative units, findings of which have been enunciated in this chapter.

At present, 8058 Gram Panchayats, 533 Panchayat Samitis and 38 Zilla Parishads are functional in the state. The Gram Panchayats are further divided into wards, which are approximately 1.15 lakhs in number<sup>19</sup>. Bihar Panchayat Raj Act, 2006 has also established *Nyaya Panchayats*, known as Gram Kachahari's in addition to the three-tier system of Panchayats, which is established at the Gram Panchayat level to provide accessible and affordable justice to citizens. A detailed understanding of the legal mandate and functioning of Gram Kachahari is provided in Chapter 8.

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<sup>19</sup> Panchayati Raj Department (bihar.gov.in)

**Image 12:** Total number of Panchayats in Bihar at each level 3-tier [Source: Website, Government of Bihar]



This chapter offers an in-depth exploration of the de facto and de jure status of the 3-tier system of Panchayats, with particular emphasis on Gram Panchayats. It aims to provide a comprehensive understanding of the functioning and legal framework surrounding these local governance units.

#### 4.1. Devolution of 3 F's (Functions, Funds and Functionaries)

This section covers the 3 Fs vis-à-vis Functions, Funds and Functionaries devolved to PRIs, to understand the status of devolution. Further, it provides analysis around the different functions devolved, status of funds and functionaries in relation to the provisions of BPR Act, 2006, and its amendments.

##### 4.1.1. Devolution of Functions

The Panchayats in India have been assigned important functions and duties with respect to various subjects described in the Eleventh Schedule of the Constitution, through its 73rd Amendment Act, 1992 outlining 29<sup>20</sup> subjects that fall within the purview of Panchayats. These subjects empower panchayats to address the developmental needs and concerns of rural areas and promote local self-governance. Section 22 of the Bihar Panchayat Raj Act, 2006, contains an exhaustive list of what the GPs are supposed to do in respect of items listed in the 11th schedule of the Constitution of India. In addition to listing the overall provisions of the BPR Act, 2006, we analyse the functional devolution by departments in the state. The primary objective is to identify specific areas where Gram Panchayats (GPs) could play substantial roles and where deeper interventions could be implemented to yield concrete outcomes.

Twenty departments of the GoB transferred their respective functions to the PRIs in September 2001. Accordingly, 79 functions to the GP, 60 functions to the Panchayat Samiti (PS) and 61 functions to the Zilla Parishad (ZP)<sup>21</sup> are transferred. Although tier-wise activity mapping of functions / sub-functions was

<sup>20</sup> Agriculture, including agricultural extension, Land improvement, implementation of land reforms, and land consolidation, Minor irrigation, water management, and watershed development, Animal husbandry, dairying, and poultry, Fisheries, Social forestry and farm forestry, Small-scale industries, including food processing industries, Khadi, village, and cottage industries, Rural housing, Drinking water, Fuel and fodder, Roads, culverts, bridges, ferries, waterways, and other means of communication, Rural electrification, including distribution of electricity. Non-conventional energy sources, Poverty alleviation programs, Education, including primary and secondary schools, technical training and vocational education, Adult and non-formal education, Libraries, Cultural activities. Markets and fairs, Health and sanitation, including hospitals, primary health centres, and dispensaries, Family welfare, Women and child development, social welfare, including welfare of the handicapped and mentally retarded, Welfare of the weaker sections, including Scheduled Castes and Scheduled Tribes, Public distribution system, Maintenance of community assets, any other matter referred to the Panchayats by the state legislature

<sup>21</sup> Government of Bihar (2016-20), Report of the 5<sup>th</sup> State Finance Commission, Volume 1

conducted and documented, provisions regarding devolution of functions and responsibilities to be performed by the three tiers of Panchayats were not made clear and therefore, devolution of functions could not be implemented directly<sup>22</sup>. The following table provides information on devolution of functions by 20 departments to the 3 tiers of PRIs.

**Table 4: Devolution of functions by 20 departments to the 3 tiers of PRIs**

SNo	Activity	No. of functions transferred to PRIs		
		GP	PS	ZP
1	Agriculture	4	6	6
2	Revenue and Land Development	10	1	-
3	Water Resources (Minor Irrigation)	8	3	2
4	Animal Husbandry and Fishery	10	3	8
5	Forest and Environment	5	5	5
6	Industry	6	6	6
7	Public Health Engineering	3	3	4
8	Rural development	3	2	1
9	Rural Engineering (Road, Bridge, Culvert, etc.)	1	1	2
10	Energy	3	3	3
11	Primary Education	9	8	7
12	Adult Education	1	1	1
13	Literacy	1	1	1
14	Cultural Activities	3	2	3
15	Medical	1	1	-
16	Family Welfare	1	1	-
17	Social Welfare	5	5	5
18	Welfare of Handicapped	2	4	4
19	Public Distribution System	2	3	3
20	Relief and Rehabilitation	1	1	-
<b>Total</b>		<b>79</b>	<b>60</b>	<b>61</b>

<sup>22</sup> Annual technical inspection report (local bodies) for the year ended 31<sup>st</sup> March 2019



Although the numbers may seem impressive, the 15th Finance Commission report reveals that **only 17 out of the 29 subjects outlined in the Eleventh Schedule have been formally devolved to PRIs in Bihar**. Both the reports of the 5th State Finance Commission and the Comptroller and Auditor General (CAG) emphasise that “these transfers are more of a **delegation rather than true devolution**”, as the institutions have not been granted substantial responsibility or sufficient resources. The departments that have delegated functions include Agriculture, Revenue and Land Development, Water Resources (Minor irrigation, Animal Husbandry and Fishery, Forest and Environment, Industry, Public Health Engineering, Rural Development, Rural Engineering, Energy, Primary Education, Adult Education, Literacy, Cultural Activities, Medical, Family Welfare, Social Welfare, Welfare of the Handicapped, Public Distribution System, and Relief and Rehabilitation. **Among these, only six functions (drinking water, rural roads, non-conventional energy sources, poverty alleviation schemes, education, and maintenance of community assets) are carried out by Gram panchayats, as revealed in the 2020 CAG Audit Report.** A detailed devolution of activities for all the departments is provided in the ANNEXURE II – Devolution of Functions. As per the 5<sup>th</sup> SFC report, 20-line departments have issued Government Orders (GOs), based on MoPR 2012 information. However, the progress of the activity mapping, department wise and subject wise is unsatisfactory. To function effectively, Panchayats at different tiers need to have clarity on their role and responsibilities, making it crucial for activity mapping to be conducted and shared with these institutions.

**Image 13: Excerpt from Audit conducted in 2020**

*The Chief Secretary, Bihar, in July 2104, directed departments to frame clear Operational guidelines for effective devolution of powers to PRIs. However, no progress was observed in this respect. The 5th SFC and 6th SFC had also observed that, though the activity mapping orders were issued by the departments, they were not acted upon and, therefore, activity mapping was not effective. It was also observed that the functional departments concerned had continued to receive budgetary allocations in respect of the transferred functions and the functions devolved to PRIs overlapped with those of the departments.*

*On this being pointed out by Audit, the Joint Secretary, PRD, replied (January 2020) that all 29 functions, mentioned in the Eleventh Schedule of the Constitution, had been devolved to the three tiers of PRIs, by the respective Departments of the GoB, but, due to lack of interest of the departments, devolution of functions could not be implemented effectively.*

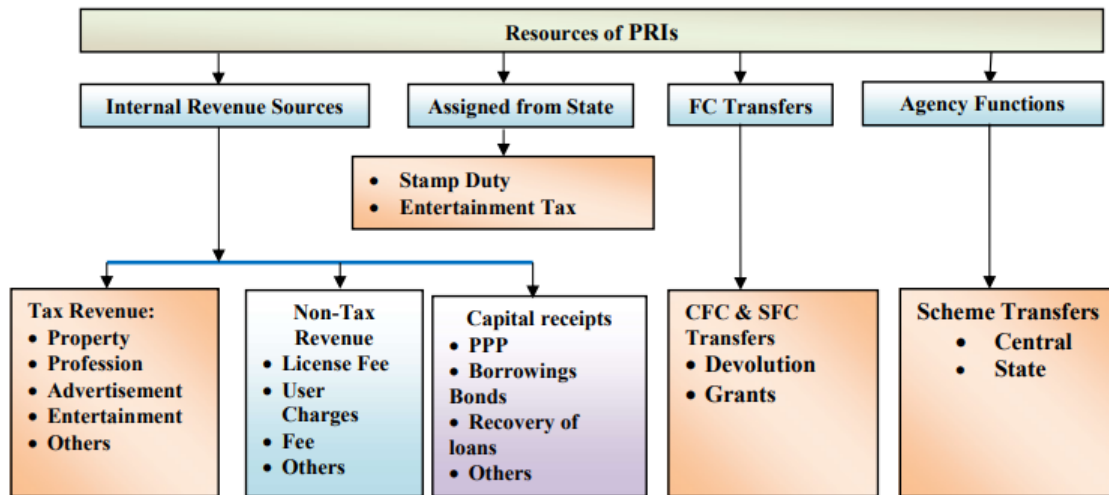
Source: Annual Technical Inspection Report (Local Bodies) for the year ended 31 March 2020

#### 4.1.2. Funds

The 73rd CAA aimed to strengthen local governance by giving more power and resources to local bodies, so that they can function effectively as self-governing units. PRIs receive financial resources primarily in three different ways: 1) Central Finance/ State Finance Commission transfers, 2) Scheme transfers for agency functions and 3) Own sources of funds. Most PRIs receive and utilise funds coming from Central Finance Commission, agency functions (specific to schemes) and State Finance

Commission wherever constituted. However, like in many states, PRIs in Bihar receive funds primarily through Finance Commissions (CFC and SFC) or through scheme transfers (state/ central) funds. Funds released under the Fifth SFC, and 15<sup>th</sup> CFC, are directly credited into the bank account of the GPs. Separate Bank Accounts are maintained for each stream of funds. The following diagram depicts the exhaustive list of sources of revenue which can be received by PRIs.

**Image 14:** List of sources of revenue which can be received by PRIs



**Source:** Provisions in the BPR, 2006 and the 5<sup>th</sup> State Finance Commission

GPs in Bihar do not have any own source of revenue (income) and rely on funds received from the Finance Commissions (CFC and SFC). However, despite CFC guidelines on funds to be used on panchayat's discretion, most of the amount received under those two grants are earmarked for implementation of the Mukhyamantri Saat Nischay Yojana by Ward Committees in the GPs<sup>23</sup>.

15<sup>th</sup> Central Finance Commission grants are released in two instalments: June and October every year, which must be transferred to the GPs within 15 days of receipt from the Central Government. The amount of grants is to be transferred directly into the account of GPs. However, the Comptroller and Auditor General (CAG) audit report found that the instalments for the financial years 2018-19 to 2019-20 were released with a delay of 4 to 515 days. This delay in the release of grants to the concerned GPs resulted in a liability of Rs 33.30 crore for the state.

<sup>23</sup> Funds from other schemes (Mukhiya Mantri Gramin Peyjal Nishchay Yojna & Mukhya Mantri Gramin Gali-Nali Pakkikaran Nishay Yojna) part of seven Nishay schemes – 40% of 14<sup>th</sup> FC grants and 45% of 5<sup>th</sup> SFC and remaining from sate plan for each scheme – CAG 2020 report.

The 6th State Finance Commission (SFC) was constituted in February 2019 for the period 2020-25. It was originally supposed to submit its report by March 2020, but it submitted its report in two parts. The interim report for the period 2020-21 was submitted in January 2020, and the final report for the period 2021-25 was submitted in April 2021 and accepted by the Government of Bihar (GoB) in August 2021.

As per the recommendations of the 6th SFC, a total of INR 19,419.40 Crore was to be devolved to PRIs during 2021-25. The details of the devolution are given in Table 5 below. However, actual status of devolution of funds is not known.

**Table 5:** Grants and devolution (projected) for release to LBs (Rs in crore)

Particulars	Projected
<b>2021-25</b>	
<b>Devolution</b>	7,613.40
<b>Grant</b>	11,805.95
<b>Total SFC Transfer</b>	19,419.40

*Source: Report of 6<sup>th</sup> SFC*

## Own Sources of Revenue

Sections 27, 55 and 82 of the Bihar Panchayat Raj Act, 2006 provides the Gram Panchayats, Panchayat Samitis and Zilla Parishads with the power to generate their own sources of revenue through taxation.

As per the audit reports by CAG (2020) Except for a few Zilla Parishads, PRIs do not generate significant revenue from their own sources. As of August 2021, PRIs have not imposed or collected any taxes, despite the recommendations of the Fifth State Finance Commission (5th SFC) and the provisions outlined in the BPRA, 2006. This lack of tax collection is primarily as the State Government's has not notified the applicable tax rates even after a lapse of 15 years of enactment of the BPRA, 2006.

Due to this, the Panchayat members and Samiti members themselves lack awareness about their own sources of revenue. Moreover, elected members are sceptical about their ability to tax citizens. During a conversation with the Panchayat Samiti President in Bakhri block, the President expressed concerns, stating, "If we were to impose taxes or levy fees on citizens, they would perceive it as a scam rather than recognizing it as the responsibility or authority of the Panchayats."

## Status of Performance Grant

Despite the 14th CFC's recommendation to provide Grant-in-Aid consisting of Basic Grant and Performance Grant, there have been issues with the disbursement of Performance Grants. Specifically, the Government of Bihar (GoB) was unable to receive a Performance Grant amounting to ₹1408.23 crore for the period of 2016-20. This was due to the fact that the Gram Panchayats (GPs) failed to meet certain mandatory requirements, such as the availability of audited accounts and improvements in their own revenue sources, as highlighted by the Comptroller and Auditor General (CAG) in their report for 2019-20. Consequently, it becomes evident that the GPs were deprived of 10% of the total Finance Commission allocation, mainly because the GPs had not yet implemented measures related to taxation.

### 4.1.3. Functionaries

Despite the provisions outlined in the BPR Act 2006 [*Section 32, Chapter III*] and Bihar Gram Panchayat (Appointment of Secretary, Rights and Duties) Rules 2011 to have a dedicated Panchayat Secretary, a single Panchayat Secretary is often responsible for 3 or 4 GPs. This means that they are overloaded with administrative work and unable to effectively discharge their duties. The PRIs in the state did not have adequate staff to discharge their devolved functions. **As of August 2021, 6055 Panchayat Secretary posts (72% of the sanctioned strength) were vacant in the state.** Additionally, there is a shortage of other staff, such as Accountant-cum-IT Assistants and Technical Assistants, in GPs. In July 2018, one post of Accountant-cum-IT Assistant and one post of Technical Assistant were created for every 4-5 GPs. However, as of August 2021, only 1683 and 1535 of these posts were filled on a contractual basis, respectively, out of a total of 2096 sanctioned posts for each cadre. These positions were intended to manage computerized services, such as birth and death registration, and to facilitate access to various schemes. Similarly, only 308 posts of Block Panchayati Raj Officer (BPRO) were filled of the 534 sanctioned strength and there was no separate staff at the Panchayat Samiti or Zilla Parishad level.

It is clear from the above that PRIs are not being provided with enough staff and therefore, functioning with a lack of manpower. The 6th SFC also observed that while the departments had issued activity mapping orders regarding the devolution of functions, they did not transfer the services of the functionaries handling those activities to the PRIs. Due to this, Anganwadi workers, health workers, and teachers appointed by the PRIs did not report to them<sup>24</sup>.

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<sup>24</sup> Ibid

## 4.2. Constitutional Provisions and Bihar Panchayat Raj Act, 2006

The subsequent sections offer essential elements outlined in the Bihar Panchayat Raj Act 2006, pertaining to the three tiers of the Panchayati Raj System: Gram Panchayat, Panchayat Samiti, and Zilla Parishad. Each of the subsection further examines and provides key highlights around its *de jure* and *de facto* statuses.

### 4.2.1. Overview of Provisions under Bihar Panchayat Raj Act, 2006

The table below outlines the essential provisions of relevant sections in each chapter from the Bihar Panchayat Raj Act of 2006.

**Table 6:** Key provisions under Bihar Panchayat Raj Act, 2006

Key provisions	Relevant Section (s)
Gram Sabha – Chapter II	Section 1-10
Gram Panchayat- Chapter III	
Declaration of Panchayats; Area comprising a village or group of continuous villages or part thereof to be a Gram Panchayat area with a population within its territory as nearly as 7 thousand.	Section 11
Every GP shall also be a body corporate and has the powers to sue and be sued as well as powers to acquire movable or immovable property or to enter into contracts	Section 11 (3)
Composition of Gram Panchayats	Section 12
Reservation of seats	Section 13
Election of Mukhiya and Up-Mukhiya	Section 15
Conduct of the business and the procedure at the meeting of the panchayat	Sections 20 - 21
Functions of Gram Panchayat	Section 22
Assignment of Functions to Gram Panchayats by the state government, may by notifications and subject to conditions as specified	Section 23
General powers of Gram Panchayat	Section 24
Standing committees of Gram Panchayat	Section 25
Property and Funds of Gram Panchayat	Section 26
Taxation by Gram Panchayats	Section 27
Financial assistance to GPs	Section 28
Budget of Gram Panchayat	Section 29
Accounts and Audit	Sections 30 -31
Staff of Gram Panchayat	Section 32
Panchayat secretary	
Organization of Raksha Dal	Section 33

Panchayat Samiti- Chapter IV	Sections 34 - 61
Zilla Parishad - Chapter V	Chapter V Sections 62 - 89
Establishment, Powers, Duties, and procedures of Gram Kachahari and benches thereof - Chapter VI	Chapter VI Sections 90 - 122
Elections - Chapter VII	Chapter VII Sections 123 - 144
Chapter VIII- Miscellaneous	
Revisions of decisions of the Committee: Every Panchayat to have power to revise or modify any decision taken by any of its committee	Section 145
Power to make rules, the state Government may make rules for carrying out the purpose of this Act	Section 146
Powers of Gram Panchayat to make by-laws	Section 147
Inquiry into affairs of Panchayat	Section 152
Inspection of the offices of Panchayats and records and accounts	Section 153
Withdrawal of powers and functions from the Panchayats	Section 158
Power of Zila Parishad to suspend the execution of order(s) etc. of Gram Panchayat and Dissolution of Panchayats	Sections 159 -160
Power of Panchayats over the employees	Section 162
Constitution of district planning committee	Section 167
Finance commission for Panchayats; Constitution of finance commission of every fifth year to review financial positions of ZP, PS, and GPs and make recommendations	Section 168

## 4.2.2. Reservation and elections in Bihar

### Reservations

Article 15(4) [ right against discrimination] and 16(4), [state services, reservation] of Part III, Fundamental Rights of the Constitution of India, provide reservation to the socially and educationally backward section of the society. Articles 243C and 243D of the Constitution cover Panchayats' composition and reservations. It enables the government at State and Central levels to reserve a fixed number of seats for SCs and STs in the government services.

Reservation is a system that provides historically disadvantaged groups representation in education, employment, government schemes, scholarships and politics. Provisions in the Indian Constitution allows the Union Government and the States and Territories of India to set reserved quotas or seats, at particular percentage in Education, Employment, Political Bodies, Promotions, etc, for "socially and

educationally backward citizens”. Part XVI of the Constitution of India specifically deals with the Special Provisions Relating to Certain Classes which Include reservation for Scheduled Castes, Scheduled Tribes, Anglo- Indian Community, and Other Backward Classes.

Provisions relating to reservations are articulated in Section 13, 15 (5) (Chapter III, Gram Panchayat), Sections 38 and 40 (2) (Chapter IV, Panchayat Samiti) and Sections 65 and 67(2) (Chapter V, Zila Parishad) of the Bihar Panchayati Raj Act 2006.

**Table 7: Key Provisions related to reservations in BPR Act 2006**

Key Provision	Relevant Section
Reservations for Gram Panchayat Elected members & Mukhiya	Sections 13 & 15(5) respectively
Panchayat Samiti elected members and Pramukh	Sections 38 & 40 (2) respectively
Zila Parishad elected members and Adhyaksha	Sections 65 & 67 (2) respectively

The following Table 8 iterates reservations for elected members at the Gram Panchayat, Panchayat Samiti and Zilla Parishad as per the Act, as well as for Mukhiyas, Adhyakshas and Pramukhs of the three tiers. The number of seats reserved for Scheduled Castes, Scheduled Tribes, Backwards Classes, Women and General categories are to be decided based on population data. The number of seats for each category are reserved in the same proportion as various categories in the PRIs jurisdiction.

**Table 8: Reservation of seats at three tiers of Panchayati Raj as per BPR Act, 2006**

% of seats reserved <sup>25</sup>	Reserved for	GP <sup>26</sup>	PS <sup>27</sup>	ZP <sup>28</sup>
<b>Reservations for elected members of Gram Panchayat/ Panchayat Samiti/ Zila Parishad</b>				
Proportion of Scheduled Castes/ Tribes of total population of area= Proportion of number of reserved seats for elected members of the PRI tier	Sec 13(1) [How seats are reserved as per population of PRI jurisdiction]			
</= 50% of all seats reserved for (a) Scheduled Castes, (b) Scheduled Tribes, (c) Backward Classes	Sec 13(1)	✓	✓	✓
</= 20% of reserved seats from Sec 13(1) are for Backward Classes	Sec 13(1)	✓	✓	✓
</= 50% of reserved seats under Sect 13(1) are for Women	Sec 13(2)	✓	✓	✓

<sup>25</sup>Allotted by rotation by the District Magistrate under the direction, control and supervision of the State Election Commission to different constituencies at different PRI tiers

<sup>26</sup> GP Elected members [Section 13]; Mukhiya [Section 15 (5)]

<sup>27</sup> Panchayat Samiti elected members [Section 38]; Pramukh [Section 15 (5)]

<sup>28</sup> Zila Parishad elected members [Section 65]; Adhyaksha [Section 67(2)]

belonging to SC, ST BC				
<= 50% of the total seats of the PRI tier NOT reserved for Scheduled Castes, Scheduled Tribes and Backward Classes- reserved for women	Sec 13 (3)	✓	✓	✓
<b>Reservations for Mukhiya/ Pramukh/ Adhyaksha</b>				
Proportion of SC/ ST of total population of PRI jurisdiction= Proportion of number of reserved seats of Mukhiya/ Pramukh/ Adhyaksha within its Panchayat Samiti/ Zila Parishad/ as allotted to ZPs by the State Election Commission	Sec 15(5)(i) [How seats are reserved as per population of PRI jurisdiction]	✓	✓	✓
<= 50% of total seats for Mukhiyas within the PS/ Pramukhs within the ZP/ Adhyakshas as allotted to ZPs by the SEC reserved for (a) Scheduled Castes; (b) Scheduled Tribes; and (c) Backward Classes.	Sec 15(5)(i)	✓	✓	✓
<= 20% of Sec 15(5)(i) seats<= number of seats for Backward Classes	Sec 15(5)(ii)	✓	✓	✓
<= 50% of total seats for Mukhiyas within the Panchayat Samiti reserved for Women belonging to Scheduled Castes, Scheduled Tribes and Backward Classes	Sec 15(5)(iii)	✓	✓	✓

## Elections

Articles 243K (read with Article 243-ZA) and 243C of the Indian Constitution iterate the composition of the State Election Commission and that of Panchayats respectively, to ensure fair and unbiased elections. This enables people to change their government and help in the selection of their representatives. Elections are fundamental and a prerequisite for a democracy. It is through elections that people exercise their power to choose or change their leaders. Elected members are to act on behalf of the people, lead them, and make laws for them. Provisions relating to elections are articulated in Sections 123 to 144 of the BPR Act, 2006. Some key provisions are listed in Table 9.

**Table 9: Provisions under Bihar Panchayat Raj Act, 2006**  
*Chapter VII, Elections (Sections 123- 144) of Bihar Panchayati Raj Act, 2006*

Key provisions	Relevant Section (s)
State Election Commission	Section 123
Elections Process and Officers <ul style="list-style-type: none"> <li>Notification of Panchayat Election by State Election Commission, Governor publishes election dates six months in advance, for constituting the Panchayats and the Gram Kachahari.</li> </ul>	Sections 124- 128



<ul style="list-style-type: none"> <li>• Administrative machinery for the conduct of election</li> <li>• Electors of Panchayat</li> <li>• Determination of Elected Members after Census</li> </ul>	
Electoral Offences	Section 130
Laws for Election campaigning and voting day	Sections 131 to 134
Membership qualification and disqualification	Sections 135, 136
Disputes regarding elections and fresh elections	Sections 137 to 144

The following Table 10 explains the process of election/selection/nomination of members and position holders in different institutions.

**Table 10:** Process of election/selection/nomination of members and position holders in PRI

Elected Body	Position holders/ Committees	Details
Across 3 PRI tiers and Gram Kachahari	Members	<ul style="list-style-type: none"> <li>• The members of Gram Panchayats, Panchs of Gram Kachahari, Members of Panchayat Samitis and Zila Parishads are elected directly by the electorates of the respective territorial constituencies through universal adult franchise.</li> </ul>
Zilla Parishad	Adhyaksha, Up Adhyaksha	<ul style="list-style-type: none"> <li>• Adhyaksha and Up Adhyaksha of the Zila are elected by the elected members of the Zila Parishad from amongst themselves.</li> </ul>
Panchayat Samiti	Pramukh, Up Pramukh	<ul style="list-style-type: none"> <li>• Pramukh and Up-Pramukh of the Panchayat Samiti are elected by the elected members of the Panchayat Samiti from amongst themselves.</li> </ul>
Gram Panchayat	Mukhiya Up Mukhiya,	<ul style="list-style-type: none"> <li>• The Up-Mukhiya/Up-Sarpanch is elected by the elected members of Gram Panchayat/ Panchs of Gram Kachahari from amongst themselves at the first meeting of the Gram Panchayat/Gram Kachahari after a general election.</li> </ul>
Gram Kachahari	Sarpanch, Up Sarpanch	<ul style="list-style-type: none"> <li>• The Mukhiya of a Gram Panchayat/ Sarpanch of Gram Kachahari is directly elected by the voters enrolled in the voter's list of the concerned Gram Panchayat.</li> </ul>

Source: Report on Panchayat Strengthening Index Survey - IIPA: Bihar, BPR Act 2006, 5<sup>th</sup> SFC report Volume

Panchayat Elections are held every five years, and the members of the Panchayats are elected by the people of their respective villages. In Bihar, the last Panchayat elections took place in 2021 and by-elections in May 2023. There are a total of 2,55,022 Panchayat seats in Bihar, consisting of 8072 Mukhiya seats, 113307 Gram Panchayat Member seats, 11104 Panchayat Samiti Member seats, 1160 Zila Parishad Member seats, 8072 of Gram Kachahari Sarpanch and 113307 of Panchs.

## De facto

- The Bihar State Election Commission announced the Panchayat elections in May 2023<sup>29</sup> for 3522 posts including 50 Mukhiyas. They issued notification for the election of 7 Zilla Parishad, 44 Panchayat Samiti and 556 Gram Panchayat member seats as well as, Gram Kachahari, Sarpanch, 2810 Gram Kachahari Panch in Bihar.
- As per few interactions in Begu Sarai and secondary research, women elected members have largely stood for elections for their husbands to take on the role of Mukhiya, due to reservations, or have been encouraged by their husbands and citizens. In some cases, in Bihar, the husbands had been Panchayat representatives earlier and when the seat was reserved for women, the husbands put their efforts and got their wives elected. There are also instances of positive and self-determined women elected representatives, where women's participation in matters of more immediate local concern – like drinking water, health, and schools have improved<sup>30</sup>.
- Caste dynamics play a powerful role in citizens' voting preferences. Citizens are aware of the political and caste related dynamics. While a powerful elected member maintains friendly relations with all communities, it does not mean that a vulnerable community is provided with access to social and economic development. If a SC/ ST candidate is to stand in elections for a reserved seat, he requires strong support from an already powerful, high caste ex- elected member during elections. Once elected, the SC/ ST leader him/herself is usually unable to push agendas without the support of this same ex- elected member through their 5-year term. Some difficulties faced by elected members in Bihar during elections include discouragement, propaganda by opponents and problems in filling up nomination paper<sup>30</sup>. Those standing in elections have faced challenges in campaigning due to lack of funds, booth capturing and discouraging voters.

### *Image 15: Heard during our conversation with Simaria FPO members*

*“A good Panchayat is one that promotes development in all areas, such as education, agriculture, housing, and social welfare. It ensures that schools are open regularly, farmers receive government assistance, so they do not have to leave the village, and people in need have access to housing and other essential services. When 85% of the population is able to live a normal life, it is a sign that a Gram Panchayat is functioning effectively.”*

**- Simaria Farmer Producer Organization (FPO) members, Begusarai**

<sup>29</sup><https://www.prabhatkhabar.com/state/bihar/election-campaign-started-for-3522-posts-of-panchayat-by-election-in-bihar-axs>

<sup>30</sup>[https://www.academia.edu/12051007/NEW\\_PANCHAYATI\\_RAJ\\_PRESENT\\_STATUS\\_AND\\_FUTURE\\_PROSPECTS\\_FOR\\_WOMEN\\_PANCHAYAT\\_REPRESENTATIVES\\_IN\\_BIHAR](https://www.academia.edu/12051007/NEW_PANCHAYATI_RAJ_PRESENT_STATUS_AND_FUTURE_PROSPECTS_FOR_WOMEN_PANCHAYAT_REPRESENTATIVES_IN_BIHAR)

## 4.3. Gram Panchayat – De Jure and De facto

### Constitution and composition

Under Section 12 of the BPR Act, 2006, a Gram Panchayat will be composed of the directly elected Mukhiya, and other members from its territorial electoral constituencies. ***The Gram Panchayat will function as a body corporate and will be responsible for implementation of the decisions taken by Gram Sabha and execution of all the functions prescribed [Section 22, BPR Act, 2006]***

The Gram panchayat may consist of one or more villages (revenue villages) with a population of 7 thousand or less, to be declared by the District Magistrate as per the BPR Act, 2006. The territorial constituency (ward) is formed with a population of about five hundred with one gram panchayat member / ward member is elected from each ward.

In this section, we will compare the key provisions of the Gram Panchayat system with its actual implementation on the ground, based on our interactions with people from the field visits held between April 2023 and June 2023.

#### 4.3.1. Basic Infrastructure in the GPs

It is important for Gram Panchayats (GPs) to have adequate space and infrastructure to function effectively. The Government of Bihar (GoB) had decided to construct a Panchayat Sarkar Bhawan (PSB) in every GP in phases, starting from 2012-13. The state government aims to construct PSBs in all GPs with a seating space for elected representatives and GP functionaries, space for storing records, a hall for GP/standing committee meetings, a reception room for the public, a judiciary room for the Gram Kachahari, a service center for providing computerised services, a store, a pantry, and toilets.

There were 8,386 GPs in the state, and the GoB had sanctioned the construction of 3,183 PSBs to be executed by the Panchayati Raj Department (PRD), the Bihar Gram Swaraj Yojana Society (BGSYS), and the GPs during the financial years 2012-13 to 2018-19.

#### De facto

- According to the 5th SFC, 1,435 PSBs had been sanctioned at a cost of Rs 1,237.17 crore. Of these, 418 PSBs had been completed, 133 were in the final stages of completion, and 868 were at different stages of execution<sup>31</sup>. As of February 4, 2023, only Rs 33.83 crore of the Rs 71 crore released for the construction of PSBs had been spent, and Rs 37.36 crore remained unspent. Additionally, around 6,567 GPs do not have their own buildings.

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<sup>31</sup> 2.4.8 Final Report for 2015-20 of the Fifth Finance Commission Bihar, Volume I

- Gram Panchayat (GP) buildings are not always available, and in some cases, community buildings called Samudhaya bhawans have been converted into GP buildings. During field visits to five GPs in Begusarai, we observed that at least three GPs were operating out of a Samudaya bhavan that had been converted into a GP building. One GP, Maujiharisingh, was mostly operating out of a PDS shop. Although land had been allocated for a Panchayat Bhavan, construction was still underway. As a result, most meetings took place in community spaces or occasionally in the Public Distribution System (PDS) office run by the Mukhiya's husband.

*Image 16: Field visit to Maujiharisingh Gram Panchayat: Meeting held at the PDS office. Interaction with Mukhiya, Panchayat secretary, Junior Engineer and Mukhiya's husband*



### 4.3.2. GP Functioning

Section 20 of the BPR Act, 2006, along with the Bihar Panchayati Raj Institution (Conduct of Business) Rules, 2015, establishes the guidelines for the operations of Gram Panchayats, Panchayat Samitis, and Zilla Parishads regarding meeting procedures. These guidelines cover various aspects such as the conduct of regular and special meetings of Gram Panchayats, the issuance of meeting notice and agenda, documentation of meeting minutes, determining the minimum number of attendees for a meeting (quorum), the designated member to preside over meetings, restrictions on voting, and the management of meeting proceedings, among other related matters.

- **Frequency:** A gram panchayat shall meet for the transaction of its business at least once in two months at the office of the Gram Panchayat and at such date and time as the Mukhiya may determine

- **Presiding member:** Mukhiya and in his absence the Up-Mukhiya shall preside over the meetings of the Gram Panchayat
- **Notice and Agenda:** Seven days advance notice for an ordinary meeting and three days advance notice for a special meeting to be provided to the members of the Gram Panchayat. Notice shall be affixed on the notice board of the GP
- **Quorum and Procedure:** The quorum of GP meetings should be  $\frac{1}{2}$  (half) or 50% of the total members. If the quorum is not met, the presiding officer has to wait for an hour and then adjourn the meeting to the following day or future day as decided.
- **Maintenance of Accounts:** Panchayats are required to maintain accounts as per section 30, 58 and 85 of the BPRA, 2006.

## De facto

- The General body meetings of the GP are not held regularly as mandated, but only conducted as needed. Minutes are often not recorded or not maintained properly.
- The law requires that the agenda and notice for Gram Panchayat (GP) meetings be shared with the members at least 7 days in advance for regular meetings and 3 days in advance for special meetings. However, this is rarely done, and no agenda or notice is often shared with the members.
- Not all the elected members of the Gram Panchayat (GP) attend the GP meetings. This is mainly because of the lack of clarity about their roles and the power dynamics between them and the Mukhiya, who is generally seen as the dominant decision-maker at the Panchayat level and who holds more power. Hence, most of the times decisions are taken without quorum being met.
- Women elected representatives are represented mostly by their male counterparts who are called as *Ward Pati or Mukhiya patis*, and sometimes these men make signatures on behalf of women.
- Record keeping: As per the CAG Annual Technical Inspection report (local bodies) 2020, no separate rules were framed under the existing BPRA and at the best, the provisions of the BPRA, 1947 and Panchayat Samiti and Zilla Parishad (Budget and Accounts) Rules, 1964 were being followed. The revised Budget and Accounts Rules for PRIs were not framed until Jan 2020. The PRIs were maintaining accounts on cash basis in a single-entry system.

### 4.3.3. Standing Committees of GP

The BPR Act, 2006 mandates that PRIs form various committees by electing members from among themselves to effectively discharge their functions. Section 25, 50 and 77 of the Bihar Panchayat Raj Act 2006 makes provisions for 6 standing committees at Gram Panchayat level and 7 standing committees at PS and ZP level respectively to regulate the affairs of the PRIs.

Each Gram Panchayat to constitute following 6 standing committees through election from among its members for effective discharge of its functions.

**1. Planning, Coordinating and Finance Committee**

- I. Perform general functions relating to GP
- II. Coordination of work of other committees and all residuary functions not under charge of other committees

**2. Production Committee**

- I. Performing functions relating to agriculture, animal husbandry, dairy, poultry and fisheries, forestry - related areas, khadi, village and cottage industries, and poverty alleviation programs

**3. Social Justice Committee**

- I. Promotion of educational, economic, social, cultural and other interests of Scheduled Castes, Scheduled Tribes and other weaker sections
- II. Protection of such castes and classes from social injustice and all forms of exploitation
- III. Welfare of women and children

**4. Education Committee:** for performing functions relating to education, including primary, secondary and mass education, libraries and cultural activities.

**5. Committee on Public Health:** or performing functions relating to public health, family welfare and rural sanitation

**6. Public Works Committee:** or performing functions relating to all kinds of constructions and maintenance including rural housing, sources of water supply, roads and other means of communication, rural electrification and related works. *The WIMC at the ward level holds this Standing Committee accountable, monitors relevant works and can access funds.*

As per the **[Section 25 (2), chapter III of the BPR Act, 2006]**, each standing committee shall consist of not less than three and not more than five members including the Chairman. It also has provisions for each committee to co-opt for up to two members from among experts for effective discharge of responsibilities.

As per the section 25(3) and 25(5), Mukhiya shall be the ex-officio member and chairman of the Planning, Co-ordination and Finance Committee and shall nominate a chairman of each committee from among its elected members. Mukhiya shall not hold charge of more than three standing committees including Planning, Coordination and Finance Committee. There should be at least one women member

in each committee. Panchayat Secretary shall be the secretary of the Planning, Coordination and Finance Standing Committee of the GP.

**Table 11: Standing Committees of PRIs (BPRA, 2006)**

Standing Committee	GP Section 25	PS Section 50	ZP Section 77
General Standing Committee	×	✓	✓
Planning, Audit, Coordination and Finance Committee	✓	✓	✓
Production Committee	✓	✓	✓
Social Justice Committee	✓	✓	✓
Education Committee	✓	✓	✓
Committee on Public Health, Family Welfare and Rural Sanitation	✓	✓	✓
Public Works Committee	✓	✓	✓

## De facto

In most Gram Panchayats (GPs), the activation of standing committees exists only on paper, and in some GPs, members are unaware of their committee assignments. Standing committees in most Gram Panchayats (GPs) are not aligned with what is documented on paper. Moreover, meetings for these standing committees are not being conducted. If standing committees are not being activated and members are unaware of their committee assignments, and meetings are not being held, it signifies a lack of implementation and adherence to the established procedures. ***The Department had no information on how many PRIs had constituted the above-mentioned committees or how many of these committees were functional on the ground. However, the Chief Secretary of the Government of Bihar and the Panchayati Raj Department issued letters to all district magistrates from May 2019 to December 2019, asking them to ensure that the standing committees' function effectively in all tiers of PRIs, as per the provisions of the Bihar Panchayati Raj Act, 2006<sup>32</sup>***

Sections 51 and 52 related to provisions of Panchayat Samiti and Sections 78 and 79 related to provisions of Zilla Parishad of the BPR Act, 2006 provide for standing committees, their respective functions, and procedures of these committees. However, the same provisions are missing for the Gram Panchayat standing committees. ***At present there is no rule or guideline on how the GP standing***

<sup>32</sup> Chapter I, Annual Technical Inspection Report (Local Bodies) for the year ended 31st March 2020

***committees would be constituted. As a result, except for Mukhiya, other elected members of GP or department officials are not involved in the functioning of the GP. There are no instructions on the frequency of the meetings of the Standing Committees and the specific tasks to be carried out by the different standing committees except for the broad list mentioned under section 25 of the BPR Act,2006<sup>33</sup>.***

## Recommendations

- To ensure the activation of standing committees, it is crucial to make their functioning mandatory and establish clear guidelines for their roles, responsibilities, and operational procedures. Financial authorities to standing committees may also be considered.
- The order should also include provisions to ensure the regular participation of relevant line departments in the respective committee meetings.
- To make the standing committees effective and functional, members of the Panchayat and the concerned line departments should receive orientation sessions that provide a comprehensive understanding of their roles and responsibilities.

### 4.3.4. Staff of GP

Section 32 of the BPR Act, 2006 and Bihar Gram Panchayat (Appointment of Secretary, Rights and Duties) Rules 2011, provides for a Panchayat Secretary for each Gram Panchayat to be appointed by the State Government for proper execution of the works devolved to the Gram Panchayats. However, GP secretaries have to remain in charge of more than one GP. Many of the GP secretaries do not have the desired qualification and training and they severely lack capacity as was found in our field visit<sup>34</sup>.

### 4.3.5. Taxation Powers of Panchayats to generate own sources of revenue

Articles 243G and 243H of the Constitution of India stipulate that the Legislature of a state may, by law, endow the PRIs with the powers, authority and responsibilities of preparing plans and implementation of schemes for economic development and social justice including those referred in the Eleventh Schedule of the Constitution. Additionally, the Constitution also provides for PRIs, powers to impose, levy and collect taxes, duties, tolls, fee and constitute funds for crediting all money of the Panchayats, providing such grants-in aid to the Panchayats from the Consolidated fund of the state. Besides this, Sections 22, 47 and 73 of the BPRA, 2006 describe the nature of power and duties to be performed by the GPs, PSs and ZPs respectively.

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<sup>33</sup> Sigma Foundation and UNICEF (2019), Developing Gram Panchayats in Backward district: A scoping study on Gaya, Bihar

<sup>34</sup> A Panchayat Secretary is responsible for at least 2 to 3 GPs – based on the observations and conversations during field visit, June 2023



**Sections 27, 55 and 82: Taxation provides for PRIs with powers to impose taxes on holdings, professions and levy tolls, fees and rates subject to the maximum rates notified by the State Government**

The BPRA, 2006 entrusts the government of Bihar with the following powers to enable it to monitor the proper functioning of the Gram Panchayats

**Table 12: Powers of Gram Panchayat -Taxation, Property and funds and powers to make by-laws.**

Function	Description
<b>Taxation by GP</b> <b>Chapter III</b> <b>Section 27</b>	<ul style="list-style-type: none"> <li>• Tax on occupants of holdings</li> <li>• On professions, trades, callings and employments carried or held within local limits of its jurisdiction on the basis of total income subject to approval of maximum rate of taxation by the state government.</li> <li>• GP may realise fee/rates; fees on the registration of vehicles which are not registered, fee for providing sanitary arrangements at places such as pilgrimage, haats, melas.</li> <li>• Water rate, where GP arranges supply of water for drinking, irrigation etc.</li> <li>• Lighting fee - lighting of public streets done by GP</li> <li>• Conservancy rate; cleaning private latrines/urinals by GP</li> </ul>
<b>Property and Funds of GP</b> <b>Chapter III</b> <b>Section 26</b>	<ul style="list-style-type: none"> <li>• Section 26(1); Acquire, hold and dispose of property and to enter contract.</li> <li>• Section 26(5) - Gram Panchayat Fund bearing the name of GP.</li> <li>• Contribution of grants (state/central/ZP/PS/Local authority)</li> <li>• Loans (granted by State/Central)</li> <li>• Receipts of taxes, rates/fees levied.</li> <li>• Receipt of school, hospitals, institution or works vested in, constructed etc.</li> <li>• Gift or contribution. income from any trust, or endowment made in name of GP.</li> <li>• Fines/penalties imposed and realised.</li> <li>• Section 26(6) - GP shall set apart and apply annually funds (from section 26(5)) as may be required to meet its needs such as cost of its own administration, salary, allowances, PF, gratuity to officers and employees</li> </ul>

The current situation shows that there are no rules for setting tax rates. At the Panchayat and Panchayat Samiti levels, there is very little revenue generation from OSR, except for some cases where revenue is generated from activities such as using common ponds for fishing and selling the fish. None of the 5 Gram Panchayats visited during our field visits collect taxes, fees, duties, cess, tolls, or rents and most of its members are unaware of such a provision.

Gram Panchayats that rely on the state or central governments for financial resources makes it difficult for them to become self-sufficient. The state must understand this and implement the Bihar Panchayat (Gram Panchayat Accounts, Audit, and Taxation) Rules as soon as possible so that Panchayats can

raise revenue from tax and non-tax sources. This would significantly reduce their reliance on external revenue sources. Additionally, these measures would create an environment of financial freedom and enable these institutions to deliver on the aspirations of the local people.

#### 4.3.6. Powers of GP, PS and ZP to make bye- laws.

Panchayat Institutions have been provided with the powers to make by laws under Sections 147, 148, 149 and 150 of the BPR Act, 2006 and Procedure of making By-laws and Regulations Rules, 2012. A Gram Panchayat holds the power to make or amend its byelaws with previous sanction of the concerned district board.

**Table 13:** Provision for GPs to make bye- laws.

<b>Power of GPs to make bye-laws</b> <i>Chapter VIII Section 147</i>	Section 147(1) A Gram Panchayat may, subject to the provisions of this Act and the rules made there under and with the previous sanction of the Zila Parishad, make bye-laws
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During the field visits, most Gram Panchayat members had little understanding of the bye-laws and related provisions. However, the Panchayat Samiti members were aware of their authority to create bye-laws.

**Image 17:** Interactions from the field visit

#### Gram Panchayat Ajani

The Gram Panchayat of Ajani is headed by a first-time Mukhiya, who was previously a teacher. The Up Mukhiya is a former member, and there are a few other ward members and a Sachiv (secretary). One of the ward members was actively involved in discussion with us.

The GP members attended a three-day training provided by the Panchayati Raj Department (PRD) immediately after taking office. The Mukhiyas had separate chairs and offices, and the agendas for the meetings were clear. The ward members were also able to put their agendas forward, and things ran smoothly.

The GP of Ajani tries to meet monthly, but not all the ward members attend. There is also no clarity on who is part of which committee. One of the ward members commented that "people here should be more interested." When asked about their plans for the year, the GP members said that they would implement the schemes that are provided by the block. This time, they plan to focus on the Nal Jal Yojana (water supply scheme), Nali construction (drainage), pensions, and the Aawas Yojna (housing scheme). This is being mostly pushed from the block /district or state.

The Gram Sabha is held at the GP level. When the Mukhiya was first elected, there was a very good turnout, with about 500 people attending. However, the quorum has not been met since then, and the GP members now just send the register. Fewer people have been coming to the Gram Sabhas now.

This case study highlights some of the challenges that Gram Panchayats face in Bihar. Despite the training and exposure visits, the GP of Ajani is still struggling to function effectively. There is a lack of participation from the ward members, and there is no clarity on who is responsible for what. The GP members also face challenges in getting the cooperation of the block administration. However, GP members of Ajani are committed to making a difference in their community. They are determined to implement the schemes that will benefit people, and they are working to improve the functioning of the GP.

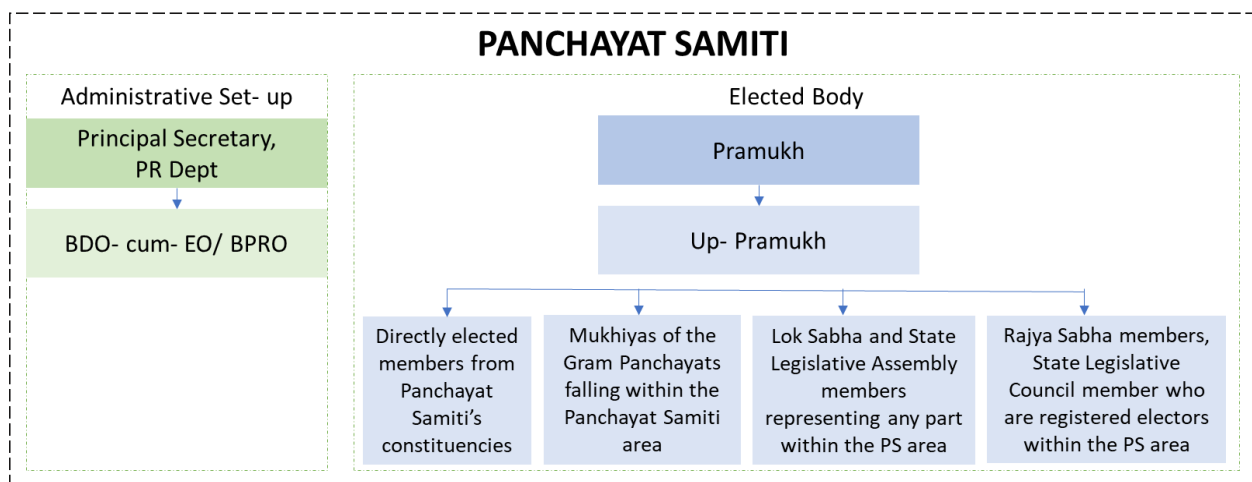
#### 4.4. Panchayat Samiti – De facto and De jure

In this section, the Panchayat Samiti’s functions, powers and current status are covered, with a view to understanding their roles in coordinating, planning and carrying out works in a Block.

Panchayat Samiti is the governing body for a Block, between Gram Panchayats and the District at the intermediate tehsil level. The role of a Panchayat Samiti is to collect all prospective plans prepared by Gram Panchayats, evaluate them for funding and constraints within the available resources. These plans are later consolidated and integrated at the Zilla Parishad. In Bihar, 533 Panchayat Samitis are functional presently. Its elected body has a term of five years.

**Image 18:** Administrative and Elected body structure of Panchayat Samiti<sup>35</sup>

Chapter IV, Panchayat Samiti (Sections 34- 61)



#### Provisions in Bihar Panchayati Raj Act, 2006

Panchayat Samiti’s functions include (i) Preparation of annual plans as per available schemes for integration with the district plan; (ii) Consolidation of annual plans of all Gram Panchayats and its submission to the ZP; (iii) Preparation of annual budget and its submission to the ZP; (iv) Performing functions and executing works entrusted to it by the State Government or the Zilla Parishad; (v) Providing relief to victims of natural calamities. **[Chapter IV, Section 47]**

<sup>35</sup>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.

Source: [https://cag.gov.in/webroot/uploads/download\\_audit\\_report/2011/PRI.%2010-11..pdf](https://cag.gov.in/webroot/uploads/download_audit_report/2011/PRI.%2010-11..pdf)

**Table 14: Provisions under Bihar Panchayat Raj Act, 2006**  
Chapter IV, Panchayat Samiti (Sections 34- 61)

Key provisions	Relevant Section
<u>Declaration of Blocks</u> : As notified by State Government in official Gazette	Section 35
<u>Establishment of Panchayat Samiti</u> : Every Panchayat Samiti shall be a body corporate and has the power to sue and be sued, acquire, acquire movable and immovable property as well as to enter contracts	Section 34 (2)
<u>Composition of Panchayat Samiti</u>	Section 36
Reservation of seats	Section 38, Section 40 (2)
Elected members	Section 37
Election of Pramukh and Up-Pramukh	Section 40
Powers, Functions and Duties of the Pramukh and Up- Pramukh	Sections 42, 43
Meetings of Panchayat Samiti	Section 46
Functions and power of Panchayat Samiti	Sections 47- 49
Standing Committees of Panchayat Samiti	Section 50- 52
Property and Funds of Panchayat Samiti	Section 53- 54 & 56- 57
Taxation by Panchayat Samiti	Section 55
Accounts and Audit	Sections 58- 59
Staff and officers of Panchayat Samiti	Section 60- 61
Finance commission for Panchayats; Constitution of finance commission of every fifth year to review financial positions of ZP, PS, and GPs and make recommendations	Section 168

## Highlights

- Powers, Functions and Duties of the Pramukh: The Pramukh is directly elected by the elected PS members and has the power to (i) convene, preside and conduct the meetings of PS; (ii) Supervise and exercise control over the Executive Officer; (iii) control over the financial and executive administration of the PS (iv) Can sanction up to Rs. 25,000 in a year for providing immediate relief to those affected by any natural calamity. **[Chapter IV, Section 42]**
- Taxation: As per rules and rates prescribed by the Government, the PS may levy tax on ferries, registration of vehicles, sanitary arrangements at places of pilgrimage, haats and melas, supply of water for drinking, irrigation or any other purpose, lighting of public streets and places made by the PS. **[Chapter IV, Section 55]**
- Panchayat Samiti can make contributions and provide grants to Gram Panchayats under its jurisdiction. **[Chapter III, Section 26(5)(b)]**

- Panchayat Samiti fund: can receive the following: (i) contributions and grants by the Central/ State Government; (ii) including part of the land revenue collected in the State; (iii) contributions and grants by Zila Parishad or any other local authority; (iv) loans, if any, granted by the Central or the State Government or raised by the Panchayat Samiti on security of its assets; (v) tolls, rates and fees levied; (vi) receipts from schools, hospitals, dispensaries, buildings, institutions or works under the control and management of the Panchayat Samiti; (vii) gifts/ contributions/ income from any trust or endowment in favour of the PS; (viii) fines or penalties under the Act or bye-laws; (ix) all other sums received by or on behalf of the Panchayat Samiti.
  - PS to use this fund to meet the cost of its own administration including payment of salaries, allowances, provident fund and gratuity to officers and employees.
  - All orders and cheques for payments from the Panchayat Samiti Fund to be signed by the Executive Officer. **[Chapter IV Section 54]**
- Power to make model regulations: A Panchayat Samiti may, by resolution, adopt model byelaws or regulations within their jurisdiction. **[Chapter V Section 150]**
- Basic records, registers and accounts are to be maintained at Panchayat Samiti and Zila Parishad for transparency and accountability **[Rule 40, Bihar Panchayat Samitis and Zila Parishads (Budget and Account) Rules, 1964]**
- After the close of the financial year, the total of the receipts and expenditure of the year are to be posted in the prescribed formats of Annual Accounts. **[Rule 94, Bihar Panchayat Samitis and Zila Parishads (Budget and Account) Rules, 1964]**

## De facto

- Panchayat Samitis<sup>36</sup> face issues of understaffing. Existing roles in the PS require different skill sets but capacities do not exist presently, to fulfil these roles.
- Taxation is not clear due to lack of notifications on taxation rates.
- **Maintenance of records**: Further, out of 8931 PSs and GPs in the State, 1064 test checked PSs and GPs did not maintain the key records (CAG Audit report, 2020).
- Citizens and Panchayat Mukhiyas approach the Pramukh and Up- Pramukh of Bakhri Block, to resolve their issues. PS elected members also visit the villages when specific issues emerge. (Refer Image 19)

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<sup>36</sup> Extract from the FINAL REPORT (2015-20) of the 5th State Finance Commission Bihar

**Image 19: Interaction with Pramukh and Up- Pramukh of Bakhri Block**

The Pramukh of Bakhri Block here has been in the political system for about 20 years. He was first a ward member of a Gram Panchayat, then Sarpanch of the Gram Kachahari. After this, he became an elected member of the Panchayat Samiti and is now the Pramukh. Both the Pramukh and Up- Pramukh were encouraged to stand for elections by citizens and no one in their families had been in the political system before them. Both are eager to activate Gram Panchayats so that development of the entire Block progresses.



#### 4.5. Zilla Parishad – De facto and De jure

In this section, the Zila Parishad's functions, powers and current status are covered to understand their roles in coordinating, planning and carrying out works in a District.

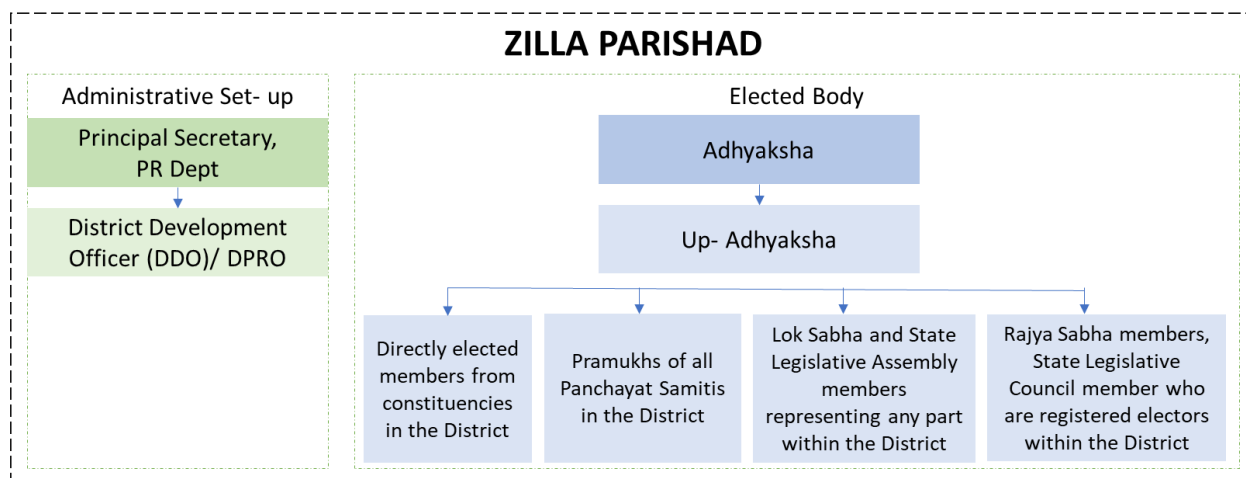
Zila Parishad is the third tier of the Panchayati Raj system and functions at the district level. The role of a Zila Parishad is to collect and evaluate all plans consolidated from its Panchayat Samitis for approval. At present, 38 Zila Parishads are functional in the State with a term of five years.

#### Provisions in Bihar Panchayati Raj Act

ZP's elected body consists of directly elected members from constituencies in the District, the Pramukhs of all Panchayat Samitis in the District, Lok Sabha and the State Legislative Assembly members representing any part which falls within the district, Rajya Sabha members and State Legislative Council members who are registered as electors within the district. **[Section 63, BPR Act 2006]**

**Image 20: Administrative and Elected body structure of Zilla Parishad**

Chapter V, Zilla Parishad (Sections 62- 89)



The general powers of the Zila Parishad in Bihar allow this body to (i) spend on education or medical relief outside its Jurisdiction; (ii) take up activities to promote health, safety, education, etc.; (iii) contribute to activities for promotion of Local Self Government within the district, and (iv) render financial or other assistance to those working on any activity in the district related to functions of the State.

**[Chapter V, Section 74]**

**Table 15: Provisions under Bihar Panchayat Raj Act, 2006**

Chapter V, Zilla Parishad (Sections 62- 89)

Key provisions	Relevant Section
<u>Establishment of Zila Parishad:</u> Every Panchayat Samiti shall be a body corporate and has the power to sue and be sued, acquire, acquire movable and immovable property as well as to enter contracts	Section 62 (2)
Composition of Zila Parishad	Section 63
Elected members	Section 64
Reservation of seats	Section 65, Section 67 (2)
Election of Adhyaksha and Up- Adhyaksha	Section 67
Powers, Functions and duties of the Adhyaksha and Up- Adhyaksha	Section 69
Meetings of Zila Parishad	Section 72
Functions and power of Zila Parishad	Sections 73-74
Standing Committees of Zila Parishad	Sections 77- 79
Property and Funds of Zila Parishad	Sections 80- 81
Taxation by Zila Parishad	Sections 82-83
Accounts and Audit	Sections 84- 86

Staff and officers of Zila Parishad	Sections 87- 88
Finance commission for Panchayats; Constitution of finance commission of every fifth year to review financial positions of ZP, PS, and GPs and make recommendations	Section 168

## Highlights

- Powers, functions and duties of the Adhyaksha: The Pramukh is directly elected by the elected ZP members and can (a) Convene, preside and conduct meetings of ZP; (b) Supervise and control the Chief Executive Officer and all employees of the ZP; (c) Perform other duties as per ZP resolution or prescribed by the Government; (d) Supervise financial and executive administration of the Zila Parishad; (e) sanction up to Rs. 1 Lakh a total sum of rupees one Lakh in a year for providing immediate relief to those affected by any natural calamity. **[Chapter V, Section 69]**
- Zila Parishad can make contributions and provide grants to Gram Panchayats under its jurisdiction **[Chapter III, Section 26(5)(b)]**
- Property and funds: A Zila Parishad has the power to acquire, hold and dispose of property and to enter into contracts after obtaining approval of the Government which include: (i) roads, buildings or other constructions by a ZP, (ii) any public property allocated to a ZP. **[Chapter V, Section 80]**
- Taxation: The ZP may levy tax on ferries, registration of vehicles, sanitary arrangements at places of pilgrimage, haats and melas, supply of water for drinking, irrigation or any other purpose, lighting of public streets and places made by the PS. **[Chapter V, Section 82]**
- Zila Parishad fund: can receive the following: (i) contributions and grants by the Central/ State Government; (ii) including part of the land revenue collected in the State; (iii) contributions and grants by PS or any other local authority; (iv) loans, if any, granted by the Central or the State Government or raised by the ZP; (v) share of road cess levied in district, (vi) all receipts of rates and fees levied by the ZP; (vii) receipts from schools, hospitals, dispensaries, buildings, institutions or works under the control and management of the ZP; (viii) gifts/ contributions/ income from any trust or endowment in favour of the PS; (viii) fines or penalties under the Act or bye-laws. ZP is to use this fund to meet the cost of its own administration including payment of salaries, allowances, provident fund and gratuity to officers and employees. **[Chapter V, Section 81]**
- Power to make model regulations: A Zila Parishad may, by resolution, adopt model byelaws or regulations within their jurisdiction. **[Chapter V Section 150]**
- Bihar District Planning Committee: This committee is to consolidate the plans prepared by the District Board, Panchayat Committees, Gram Panchayats, Municipal Panchayats, Municipal Councils and Municipal Corporations of the district based on the local needs and resources available. This committee, based on the district's population, resources and database of



organisations, is to recommend policies, programmes and priorities for the development of the district. **[Notification No. 4458, dated 29.8.2008; The Constitution of Bihar District Planning Committee and Conduct of Business Rules, 2006]**

- ZP's annual budget estimates are to be prepared based on the average of its last three years' income and expenditure. The ZP budget is to be approved by the Parishad not later than 20 February. The budget so prepared and approved by the Parishad is to be sent to the State Government before 1 March. Further, Rule 16 prohibits the ZP from incurring expenditure without budget provisions. **[Rule 14, Bihar Panchayat Samitis and Zila Parishads (Budget and Account) Rules, 1964]**<sup>38</sup>
- Basic records, registers and accounts are to be maintained at Panchayat Samiti and Zila Parishad for transparency and accountability **[Rule 40, Bihar Panchayat Samitis and Zila Parishads (Budget and Account) Rules, 1964]**
- After the close of the financial year, the total of the receipts and expenditure of the year are to be posted in the prescribed formats of Annual Accounts. **[Rule 94, Bihar Panchayat Samitis and Zila Parishads (Budget and Account) Rules, 1964]**

## De facto

- As per the Extract from the FINAL REPORT (2015-20) of the 5th State Finance Commission Bihar, most positions in the ZPs are vacant and available staff is not skilled for the work. ZP CEOs are only part time and not able to devote the required time to the ZP.
  - While Anode team was unable to meet any ZP officials, PRADAN met the Chief Secretary of the Panchayati Raj Department in July 2023, to introduce their work and request access to rules and notifications on functions devolved to the 3 tiers of PRI. It was suggested that a letter from the State is required for them to provide access to any information. PRADAN met the Chief Secretary, PRD, in July 2023, to introduce their work and possible initiatives in Bihar. The Secretary responded positively to signing an MoU between PRD and PRADAN to work with PRIs. This would support building relationships at ZP level.
  - **Annual Budgets:** A study by CAG (2020) revealed that many ZPs have not prepared budgets for the coming year or have passed budgets with a delay of 3- 5 months. Many ZPs in Bihar face issues such as shortage of staff as well as delay in receiving formats and guidelines for budget preparation from the State
  - **Maintenance of records:** Scrutiny of records (CAG,2020) revealed that out of 38 ZPs in the State, six test checked ZPs did not maintain key records such as Grant Register, Asset Register, Daily Collection Register, and Cashier's Cash Book etc.

## 4.6. Coordination between 3 tiers

### 4.6.1. Meetings

***Image 21: Quarterly meetings in Begusarai's Bakhri Panchayat Samiti***

In Bakhri Panchayat Samiti of Begu Sarai District, meetings are conducted every 3 months with the Pramukh, Up Pramukh, Mukhiyas of all GPs, department officers as well as some ZP elected members. As per the experience of the Pramukh and Up- Pramukh, these meetings run through the course of a day. Mukhiyas share their GPs' requirements and department officials present new available schemes in these meetings. Bye- laws and regulations are also planned during these meetings when the need emerges. In earlier election terms, women Mukhiyas wouldn't attend these meetings but their proxy would. As Pramukhs and Up- Pramukhs insisted the elected representatives themselves attend these meetings, the elected women members as well as their proxy attend these meetings.

### 4.6.2. Administrative and Technical sanction among three tiers

For the approval and sanctioning of works, administrative and technical sanctions are sought at the Gram Panchayat and the higher tiers respectively. Works not requiring a detailed project report, within the State specified budget and approved by Gram Sabhas may be given administrative sanctions by the Gram Panchayat. Large infrastructure projects such as irrigation systems require technical sanctions, given at the Panchayat Samiti, Zila Parishad or the State, depending on the budget. The mandates and status of these kinds of sanctions is presently unknown in Bihar.

The Bihar Panchayat Raj Act of 2006 with its comprehensive and detailed provisions that align with the Constitutional legal mandate, BPR, 2006 provides all the three tiers of Panchayats with the power to enact byelaws, powers of taxation, property regulations. It also makes necessary amendments to empower ward members to provide with more decentralised authority. Moreover, the BPR Act 2006, takes a progressive step by establishing a judicial system called Gram Kachahari/ Nyaya Panchayats, aiming to improve the accessibility and affordability of justice for citizens within the Panchayat's jurisdiction.

Despite these commendable features, Bihar faces challenges in effectively implementing these provisions on the ground, resulting in a significant gap between the policy's intent and its actual execution. The major reasons contributing to the failure in implementation include- absence of rules framed to generate their own source of revenue, knowledge gap among the members of panchayats

due to lack of training, and no proper guidelines to make the standing committees functional. Deep rooted and systematic corruption was also cited and discussed repeatedly by citizens and members.

Another crucial element of a decentralised system is the existence of a functional Gram Sabha at the Gram Panchayat level. The following chapter delves into the essential provisions, key highlights, and an analysis of the de facto status of Gram Sabhas and Ward Sabhas in the state of Bihar.

## Chapter 5: Legal provisions II: Gram Sabha & Ward Sabha

Article 243(b) of the Indian Constitution defines the term Gram Sabha as the body responsible for strengthening people's collaboration, democratic participation, and decentralisation. Panchayati Raj and village development are centred on the Gram Sabha. It is the legislative body that functions at the village level and considers the Gram Panchayat's yearly budget and audit reports. The Gram Sabha is significant as a platform where citizens can present their requirements, ensure fair distribution of schemes and monitor works of the GP.

### Provisions in Bihar Panchayati Raj Act

Gram Sabha is a body consisting of all persons above 18 years of age, living in the village and whose names are included in the electoral rolls for the Panchayat. **[Chapter I, Section 2 (m)]**. All other institutions of the Panchayati Raj like the Gram Panchayat, Panchayat Samiti and Zila Parishad are constituted by elected representatives. As per Bihar Panchayat Raj Act, 2006 Gram Sabhas are to meet not more than every three months, to be convened and presided by the Mukhiya and one-twentieth of the total population of that village are required to meet quorum. **[Chapter II, Sections 3- 6]**

Ward Sabha is the smallest administrative unit of the Panchayati Raj system in Bihar. All voters living in the Ward level electoral constituency are members of the Ward Sabha. Ward Sabhas are to meet not more than once every three months. **[Section 170, inserted vide (Amendment) Act, 2015; Bihar Ward Sabha & WIMC Conduct of Business Rules, 2017]**

**Table 16:** Provisions under Bihar Panchayat Raj Act, 2006  
Chapter II, Gram Sabha (Sections 3- 10)

Key provisions	Relevant Section
<u>Period of Meetings</u> : not more than three months shall intervene in between any two meetings.	Section 3
<u>Convening of Meetings</u> : <ul style="list-style-type: none"><li>• Notice pasted in the GP office, beat of drum, etc.</li><li>• Mukhiya to convene</li><li>• In case he fails to, Executive Officer of Panchayat Samiti/ Government servant on his behalf may convene</li></ul>	Section 4
<u>Quorum</u> : one-twentieth of the total members of the Gram Sabha	Section 5
<u>Presiding Officer</u> : presided over by Mukhiya and in his absence by Up-Mukhiya	Section 6
<u>Matters for Consideration</u> : <ul style="list-style-type: none"><li>• Annual statement of accounts of the GP, report of administration of preceding financial year, last audit note and replies</li></ul>	Section 7

<ul style="list-style-type: none"> <li>• Budget of the GP for the next financial year</li> <li>• Report on development programmes of the GP relating to the preceding year and development programmes proposed for the current year</li> <li>• Reports of the Vigilance Committee.</li> </ul>	
<p><u>Resolution:</u> To be passed by majority of the members present and voting in the Gram Sabha meeting</p>	Section 8
<p><u>Functions:</u></p> <ul style="list-style-type: none"> <li>• Assist in the implementation of developmental schemes pertaining to the village,</li> <li>• Identify beneficiaries for schemes</li> <li>• Procure voluntary labour and contributions for community welfare programmes,</li> <li>• Assist in programmes of mass education and family welfare within the village,</li> <li>• Promote unity and harmony among all sections of society,</li> <li>• Seek clarifications from all members of the Gram Panchayat about any activity, scheme, income and expenditure; and</li> <li>• Recommend appropriate action on reports of the Vigilance Committee.</li> </ul>	Section 9
<p>Bihar Gram Sabha (Coordination of meeting and Procedure for conduct) The Bihar Gram Sabha (Coordination of meeting and Procedure for conduct) Rules, 2012 defines procedures for Gram Sabha meetings (which includes compliance of proposals considered/passed in the last meeting, Roles of Gram Sabha members, GP elected members and staff as well as different government officials, Monitoring of these meetings, Vigilance Committee members and procedures)</p>	Bihar Gram Sabha (Coordination of meeting and Procedure for conduct) Rules, 2012

## Highlights

- Matters for Consideration: Gram Sabha is to consider the following matters in its meetings: (a) annual statement of accounts of the GP, reports and audits of previous financial year, (b) GP's budget for the next financial year, (c) report of GP's development programmes from the preceding year and those proposed for the current year; (d) Vigilance Committee reports. **[Chapter II, Section 7]**
- Vigilance Committee: Gram Sabhas may form one or more vigilance committee(s) of persons who are not members of the GP, to supervise the GP works, schemes and other activities relating to that village and can put up its reports in its meeting. **[Chapter II, Section 7]**
- Ward Sabha: Ward Sabhas are responsible for: (a) Generating proposals, prioritising development programmes and forwarding them to the Gram Sabha for inclusion in GPDP, (b) Identifying beneficiaries based on criteria and verifying their eligibility, Obtaining information from GPs on rationale of every decision concerning the Ward Sabha area, (c) Providing, mobilising and supervising voluntary labour and contributions in cash and kind for development work, (d) Efforts to

ensure Ward Sabha member pay taxes and fees (if any) to the GPs, (e) Suggesting location of public amenities within the Ward Sabha area, (f) Imparting awareness on matters of public interest such as cleanliness, preservation of the environment and prevention of pollution, (g) Assisting GP employees in sanitation arrangements and render voluntary service in removal of garbage, (h) Promoting programme of adult education, (i) Assist in activities relating to public health and quickly report any epidemics and natural calamities, (j) Arranging cultural festivals and sports meets. **[Section 170, inserted vide (Amendment) Act, 2015; Bihar Ward Sabha & WIMC Conduct of Business Rules, 2017; Bihar Ward Sabha & WIMC Conduct of Business Rules, 2019]**

- **Ward Implementation and Management Committee (WIMC)**: The WIMC consists of seven members for the discharge and implementation of general and financial functions, with a tenure of 2 years. While it has been suggested they meet every week, they are mandated to meet twice every month.

This includes:

1. Ward Member (ex officio and chairman)
2. Panch of Gram Kachahari elected from that Ward
3. Ward Sabha Secretary (ex-officio and Member Secretary)
4. Remaining members may be:
  - a. at least one member from a Scheduled Castes of Scheduled Tribes family of that ward
  - b. one representative of an SHG working in that ward
  - c. at least three women members
  - d. Not more than one member from a family can be a member of the Committee.

Accounts of Ward Sabha are to be jointly operated by the Chairman (Ward Member) and Member Secretary. The records and accounts related to the Committee are to be kept in the custody of the chairman (Ward Member). This committee's functions are as follows: (a) generate and prioritise proposals and schemes for consideration of Ward Sabha. (b) assist Ward Sabha in generating awareness on issues like literacy, public sanitation, health, environment, pollution control etc. (c) Select appropriate locations on behalf of Ward Sabha for public amenity schemes. (d) work under general control of Ward Sabha/ Gram Panchayat for prevention of epidemics and natural calamities. (e) Execution of schemes/programmes/responsibilities given from time to time by Ward Sabha/Gram Panchayat/Government. (f) Present updated progress report on functions of the committee to the Ward Sabha. In execution of Public Works Schemes, the Committee shall function under the general guidance of the Public Works Committee constituted under Section 25(1) of the Act. **[Section 170B of the Act; Bihar Ward Sabha & WIMC Conduct of Business Rules, 2017; Bihar Ward Sabha & WIMC Conduct of Business Rules, 2019]**

## De facto functioning of Gram Sabhas and Ward Sabhas

- Some GPs shared “Aam Sabhas took place last year, but quorum is usually not met. They take place anyway and registers are circulated”. While the sabhas stipulated in BPR 2006 and consequent notifications are to take place at revenue village or ward levels, some GPs of Begu Sarai District have had Panchayat level sabhas (Aam Sabha). Agenda for this meeting was to select beneficiaries for housing and other schemes as per interactions in Ajani GP.
- As per our interactions on the field and secondary research, there is also a perception that the Gram Sabha’s role is to only approve beneficiary lists. There is a lack of trust between Gram Panchayat and Gram Sabha members.
- While Panchayati Raj Department has issued rules in 2017 and 2019 for the conduct of business by ward sabhas and Ward Implementation and Management Committee, as per secondary research and our field visits, neither are functional in Begu Sarai District.
- In Bihar, Gram Sabha meetings are not held regularly<sup>37</sup>. When Gram Sabha meetings do take place quorum is not met, particularly of women and marginalised groups and therefore their common issues are not discussed.

The Bihar Panchayat Raj Act of 2006 and GS, WS rules from 2017 and 2019 provide provisions that align with the constitutional mandate and allow for democratic processes at a ward level. The WIMC is also a platform where the Gram Kachahari can interact with GP ward members. These are progressive mechanisms that can enable transparency, accountability, accessibility and fair decision making.

While BPR Act 2006 enables decentralisation till the ward level in Bihar, our field interactions and secondary research have revealed that these mechanisms are largely inactive. Gram Sabhas are largely taking place on paper and quorum is usually not satisfied. Lack of knowledge, caste dynamics, low participation of women and elected members in governance, are some factors contributing to the current status of Gram Sabhas.

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<sup>37</sup> Extract from the Final Report (2015-20) of the 5th State Finance Commission

## Chapter 6: GP Planning & Implementation Processes

The institutions described from Chapter 4 to 5, the Gram Panchayat, Gram Sabha, Panchayat Samiti and Zila Parishad all work towards formulating and consolidating the Gram Panchayat Development Plan (GPDP), from 2nd October onwards every year. In this chapter, the steps and resources relating to this annual planning process and its implementation are described.

The 73rd Constitutional Amendment states in Article 243 (G) *“The power and responsibilities of the Panchayat: Create an annual development plan for the economic development and social justice of their region. Implementation of all such schemes relating to economic development and social justice as may be entrusted to them by the State Government / Legislature or may include 29 subjects included in the Eleventh Schedule of the Constitution.”*

In the year 2014, funds were made available to the Panchayats by the Central Government through the 14th Central Finance Commission for the formulation of Gram Panchayat Development Plan and it was expected that the Panchayats will plan for their areas with the participation of the community and will monitor implementation of their plans. In 2015, the Fourteenth Finance Commission Grants were transferred to Gram Panchayats, to plan for their development. The GPDP process intends to bring citizens and their elected representatives together in a decentralised planning process. Since 2018, the Ministry of Panchayati Raj and the Ministry of Rural Development have made it mandatory for Self Help Groups and their federations to participate in the GPDP formulation process under the National Rural Livelihood Mission (NRLM) and integrate the Village Poverty Reduction Plan<sup>38</sup>.

The objectives of the GPDP Process are to allow for judicious planning with involvement of all stakeholders, to consolidate all available resources at the GP level, prioritise development works collectively and to involve community and marginalised sections in the development of their village.

### 6.1. GP Planning process

Gram Panchayat Development Plan (GPDP) is the plan to be made by Gram Panchayats all over India, in which Panchayats formulate an action plan for Social Justice and Economic Development of their area. These plans are to be made with the participation of Gram Panchayats, Gram Sabhas and other stakeholders. GPDPs are expected to consider development issues, needs and community priorities, including disadvantaged sections. The GPDP building process is performed every year from 2nd

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<sup>38</sup> VPRP: comprehensive demand plan prepared by Self Help Groups (SHG) and their federations for projecting their demands and local area development which needs to be integrated with the Gram Panchayat Development Plan (GPDP)



October to 31st December under the People's Plan Campaign (PPC) across the country. The VPRP is presented in the Gram Sabha meetings from October to December every year) to integrate into GPDPs.

### 6.1.1. Sustainable Development Goals in Bihar

As a member of the United Nations, India has committed to achieving 17 goals of sustainable development. The Ministry of Panchayat Raj has evolved a strategy for holistic development of Panchayats by localising the Sustainable Development Goals by 2030.<sup>39</sup> The Ministry of Panchayati Raj Government of India has identified 9 thematic areas covering 17 goals for localization of Sustainable Development Goals in Panchayats. The Bihar government is focusing on the following SDGs through its planning processes: Goal 1: No poverty, Goal 2: Zero hunger, Goal 4: Quality Education, Goal 5: Gender equality, Goal 6: Clean water and sanitation, Goal 7: Affordable and Clean energy, Goal 8: Decent work and economic growth.

In Bihar, the Mukhyamantri Saat Nischay Yojana 2 was initiated by Chief Minister Nitish Kumar soon after he was elected in 2015. The Bihar Government is working towards these 7 SDGs<sup>40</sup> through the following schemes:

1. आरक्षित रोजगार महिलाओं का अधिकार: 35% reserved employment for women in all government jobs in the State
2. घर तक पक्की गली, नालिया: Roads and drains
3. हर घर बिजली: Electrification
4. आर्थिक हल, युवाओं को बल: Education and skill development for Youth
5. हर घर नल का जल: Drinking water
6. शौचालय निर्माण: Toilet construction
7. अवसर बढ़ें, आगे पढ़ें/ Bihar Student Loan Scheme

Three new schemes linked under Nischay Seven scheme for 2023- 24 are Gramin Tola Sampark Nischay Yojana, Chief Minister Rural Street-Drain Determination Scheme, Chief Minister Urban Drain Street Determination Scheme.

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<sup>39</sup> Gram Panchayat Development Plan Preparation Process Sabki Yojana Sabka Vikas Karyakram – An Opportunity Joint Guidelines at Government of India

<sup>40</sup> <https://state.bihar.gov.in/biharprd/DashBoard.html>

In addition, it has been made mandatory to integrate the Village Poverty Reduction Plan (Detailed in Chapter 7) prepared by the federations of women groups at the village level under the Gram Panchayat Development Plan. Officers and ground staff of all departments from the centre to the state and from the state to the Gram Panchayats are to be nominated and appointed, so that all the departments will have to give their strategic response on the activities emerging in the Gram Sabha with full preparation.

### 6.1.2. Process/ Steps taken to plan

As per GPDP guidelines, Gram Sabhas and Gram Panchayats are to work closely to formulate their plans. Gram Panchayats and Gram Sabhas are to be assisted by institutions, departmental officers and working teams at various levels for planning, consolidation, technical assistance, budgeting and its implementation and monitoring. To integrate these plans, Committees and task forces are to be set up at various levels.

**Table 17:** Recommended working groups, committees and their status in Bihar

SNo	Committees to be set up for planning (As per GPDP guidelines)	Status in Bihar
1	District Level Coordination Committee	Notification from 2006 and 2017 on Constitution and Conduct of Business for District Planning Committee but its formation/ presence is not confirmed as we have not interacted with the ZP.
2	Block Level Coordination Committee	Available schemes are shared with GP Mukhiyas during quarterly meetings at Block level. No details/ notifications on formation of any Block level Committee for evaluation and consolidation of plans.
3	Gram Panchayat Level Coordination Committee + Gram Panchayat Level Planning Support Team	No details/ notifications of formation of this Committee at GP level
4	Gram Sabha	No Gram Sabhas held for 2023- 24 GPDP

**Source:** Interactions with GPs, PSs, PRADAN team, State PR dept. officials, secondary research<sup>41</sup>

While GPDP guidelines recommend steps to be followed during the planning phase, States are to notify the GP, PS and ZPs to operationalise these steps. As per our current understanding the status of the GPDP process in Bihar is as follows:

<sup>41</sup>Riddhi Foundation (2017), Gram Panchayats Development Plans in Bihar A Situation Analysis; 5<sup>th</sup> SFC report

**Table 18: Recommended GPDG Planning steps and their status in Bihar**

SNo	Recommended steps of Planning Process (As per GPDG guidelines)	Status in Bihar <sup>42</sup>
1	Formation and orientation of Gram Panchayat Planning Team at Gram Panchayat/ Village level in each GP	No GP Planning team formed across Bihar; Plans are only formulated at Block level in Begu Sarai
2	Environment Building, Public Awareness, Announcement etc.	Some Mukhiyas and ward members we met in Begu Sarai are aware of SDGs because of training they've undergone but no awareness campaigns have taken place in Begu Sarai district.
3	Resolution on 9 Local Sustainable Development Goals by GP and its approval the Gram Sabha	No Gram Sabhas conducted to for this resolution; Only Mukhiya and Sachiv were aware of the SDGs in the GPs we interacted with.
4	Organizing Mahila and Bal Sabhas and identifying local issues by the planning team.	Few Mahila and Bal Sabhas conducted in Begu Sarai District.
5	Rural Participatory Assessment (PRA), compilation of primary and secondary data, identification of local development issues through Mission Antyodaya Survekshan-baseline	No knowledge on the field nor govt regarding this activity
7	Inclusion of Village Poverty Reduction Plan (VPRP) by Women Groups Convening and approving Gram Sabha	Only planned in Jeevika's VPRP intervention GPs in Nalanda, Muzaffarpur, Patna Districts
8	Preparation and discussion and prioritisation of Draft Action Plan from Gram Panchayat Development Plan and Village Poverty Alleviation Plan prepared by women groups	Only prepared in Jeevika's VPRP intervention GPs in Nalanda, Muzaffarpur, Patna Districts
9	Convening Model Gram Sabha, Submission of subject-wise plans by sub-groups, Presentation of Village Poverty Alleviation plan by Women Groups, Information about planning and budget by departmental officers, Prioritise and finalise the plan	Only conducted in Jeevika's VPRP intervention GPs in Nalanda, Muzaffarpur, Patna Districts

<sup>42</sup> Source: Interactions with State PR Dept. officials, BPROs on status across Bihar. This status is confirmed for Begu Sarai district based on field interactions.

10	Approval of Action Plan from Gram Sabha	As per field interactions in Begu Sarai, this Gram Sabha for approval has taken place only on paper. Wherever this GS has been conducted in Begu Sarai District, quorum has not been met and signatures have been collected in a register.
11	Uploading prepared Gram Panchayat Development Plan on e-Gram Swaraj Portal and its approval at PS, ZP and State	8056/8181 GPs have approved GPDPs for 2023-24 (Source: E- Gram Swaraj as on 5 <sup>th</sup> September 2023)

**Source:** Interactions with GPs, PSs, PRADAN team, State PR dept. officials, secondary research<sup>43</sup>

### 6.1.3. Resource envelope

A GP's Resource envelope includes all the financial resources received by them. It is to include the funds spent by the Panchayat Samiti and Zila Parishad in the Panchayat. States are to decide the mechanisms to transfer and account for these resources. After finalising the elements of the resource envelope, the State is to communicate to each GP in the form of a government order/ notification, the resources available before initiating the planning process.

**Image 22:** Budget allocations in three- tiers of Panchayati Raj for GPDP

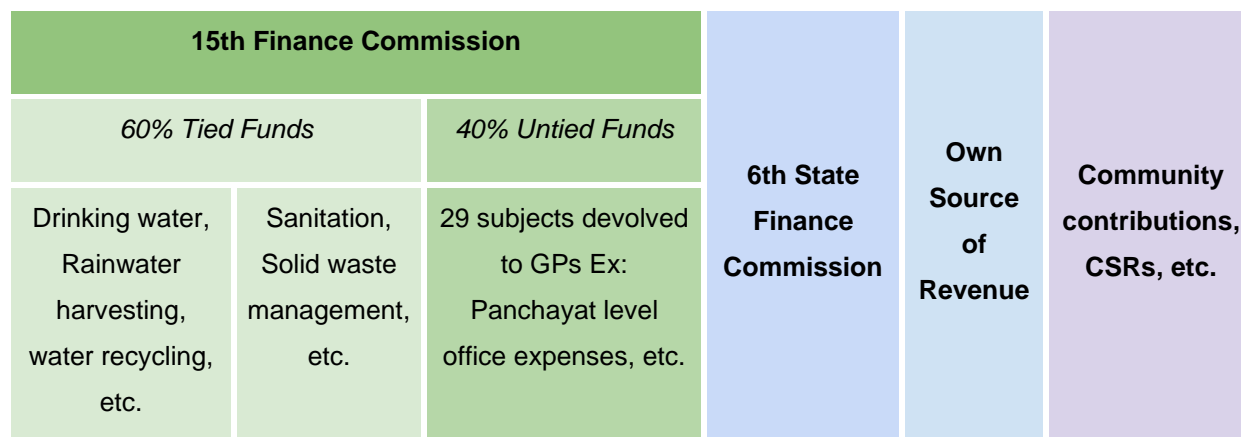
Gram Panchayat	District/ Block Panchayat	District Panchayat
70- 85%	10- 25%	5- 15%

The 15th Finance Commission has allocated budgets for three-tier panchayats, which includes 5th and 6th Schedule traditional bodies<sup>44</sup> also. This budget has been divided into two parts, tied and untied funds. This fund has been divided in the ratio of 60-40, for the Gram Panchayats, as well as Block and Zila Panchayats respectively. Out of this amount, with the 40% untied fund amount, the works related to the 29 subjects may be undertaken (Ex: Panchayat level office expenses, etc.). Tied funds which are 60%, have also been divided in the ratio of 50%: 50%. 50% can be spent on drinking water, rainwater harvesting, water recycling etc. and the remaining 50% can be spent on sanitation, ODF status maintenance etc. [Refer Table 20].

<sup>43</sup>Riddhi Foundation (2017), Gram Panchayats Development Plans in Bihar A Situation Analysis

<sup>44</sup> [https://fincomindia.nic.in/writereaddata/html\\_en\\_files/fincom15/Reports/XVFC%20VOL%20I%20Main%20Report.pdf](https://fincomindia.nic.in/writereaddata/html_en_files/fincom15/Reports/XVFC%20VOL%20I%20Main%20Report.pdf) (7.15, Page 174)

**Image 23: Resource Envelope**



Under Bihar’s Chief Minister 7 Nischay Scheme Overview- 2022- 23, funds are allocated as iterated in Table 19.

**Table 19: Funds Allocation under Chief Minister 7 Nischay Scheme Overview- 2022- 23<sup>45</sup>**

Under Chief Minister 7 Nischay Scheme 2022- 23	Amount (Rs.)
<b>Total 7 Nischay Scheme</b>	<b>&gt; 2.75 lakh crore</b>
1. आरक्षित रोजगार महिलाओं का अधिकार: 35% Reserved employment for women in all government jobs in the State	NA
2. घर तक पक्की गली, नालिया: Roads and drains	78,000 crores
3. हर घर बिजली: Electrification	55,600 crores
4. आर्थिक हल, युवाओं को बल: Education and skill development for Youth	49,800 Crores
5. हर घर नल का जल: Drinking water	47,700 Crores
6. शौचालय निर्माण: Toilet construction	28,700 Crores
7. अक्सर बढ़ें, आगे पढ़ें/ Bihar Student Loan Scheme	10, 300 Crores

Among these 7 themes, the focus has been on only 2 themes: Drinking water and Roads & Drains. Housing was also frequently mentioned in conversations on the field. GP’s ground priorities may not be included in these plans and takes away their power to plan as per their context.

## 6.2. Implementation

*The 73rd Constitutional Amendment states in Article 243 (G) “... Implementation of all such schemes relating to economic development and social justice as may be entrusted to them by the State Government / Legislature or may include 29 subjects included in the Eleventh Schedule of the Constitution.”*

<sup>45</sup> <https://rojgarmantra.in/mukhyamantri-saat-nischay-yojana/>

Implementation is the delivery of a programme or service in a community, or of policies involving the government and its agencies to achieve the goals and objectives as planned. Effective implementation and monitoring of schemes in local contexts, leads to improved outcomes for people. To have good quality data, and an effective policy or intervention is only part of the overall picture of achieving positive change.

As per GPDP guidelines of the state (?), Panchayats are to ensure Implementation of entitlement-based livelihood and social security schemes under village poverty alleviation scheme prepared by women groups operating in the village. The guidelines also recommend that when planning, activities and the steps to achieve them should be analysed and answered in the GPDP.

For implementation and monitoring of GPDP, a State Resource Team (SRT) is to be constituted, which is to train the District Resource Teams (DRT). SRT consists of Program Officers, MGNREGS, Jeevika Representatives and CSO members. Further, the Block Planning Teams (BPT) consisting of Program officers, MGNREGS and other officials are to monitor and coordinate different GPDP activities<sup>46</sup>.

There are no processes articulated in Bihar that provide clarity on tracking progress of implementation for GPDPs. As per E- Gram Swaraj data, 1126 out of 8181 GPs currently have reported physical progress. While completed works are tracked (Table 22), neither plan vs implementation status nor ongoing activities are tracked on E- Gram Swaraj.

**Table 20:** Example of completed works' physical progress report for Banduar Gram Panchayat, Begu Sarai Block, Begu Sarai District<sup>47</sup>

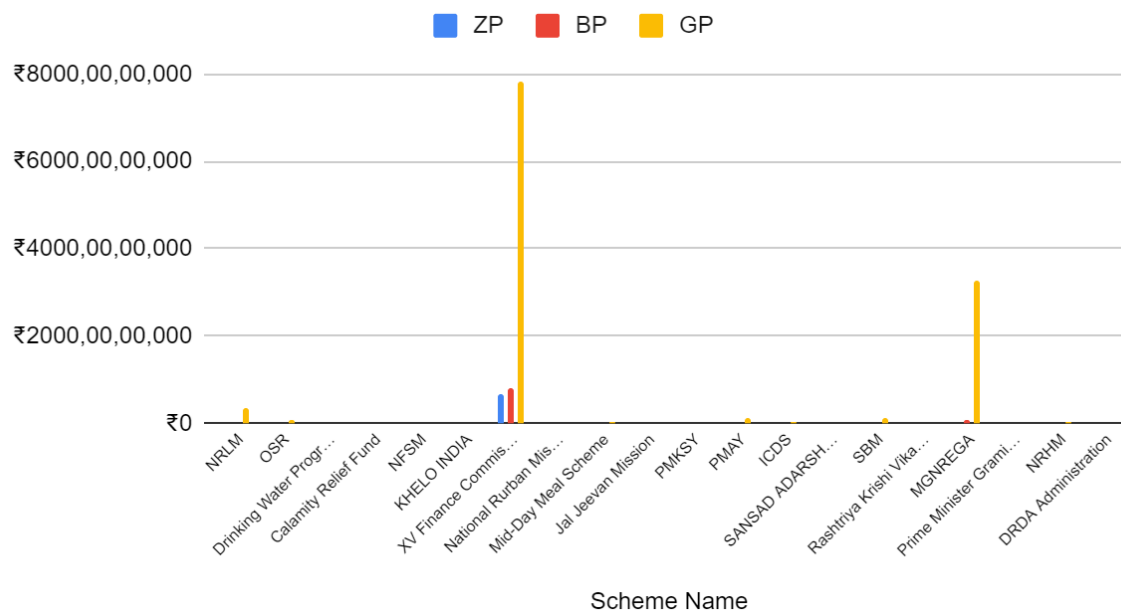
No	Activity Code	Activity Name	Focus Area	Admin Approved Cost	Scheme Name	Component Name	Date of Completion
1	69513805	Creation of plastic waste storage unit	Sanitation	848900	XV Finance Commission	Tied Grant	14/06/2023 00:00
2	69586198	Construction of roads	Roads	185500	XV Finance Commission	Basic Grant (untied)	14/06/2023 00:00

Source: <https://egramswaraj.gov.in/schemeWiseActivityReport.do> (2022- 23)

<sup>46</sup> <https://gdpd.nic.in/downloadNew.html%20Book%20for%20theme%20based%20GPDP%20Preparation%20Process%20Document%20-%20English>

<sup>47</sup> <https://egramswaraj.gov.in/ongoingActivityReport.do>

**Image 24: Allocation of funds for 2022-23 across three tiers**



Source: Generated based on E- Gram Swaraj data

**Defacto** (Conclusions on Bihar are as per interactions with State dept. officials and secondary research)

- While GPDP aims to be inclusive, responsive to bottom-up needs and to encourage participative planning in Gram Panchayats, in Begu Sarai the ownership seems to lie with the tiers at the Block level and above. Few GP members we met, view the GPDP as a list of available schemes provided by the Block for GPs to select, rather than a plan that is owned and prepared as per the GP and Gram Sabha's priorities.
- There are no known notifications nor letters to operationalise and articulate the roles of GPs in GPDP. This needs further verification from the State PRD.
- Few ward members in Begu Sarai District have been trained on GPDP and were aware of the 9 SDGs, but no resolution nor Gram Sabhas have taken place for awareness nor approval of these SDGs. To the best of our knowledge, baseline exercises have not been conducted to assess current status before beginning planning.
- In many other States, a minimum of two Gram Sabhas is mandated under GPDP to present demands and to approve the final plan respectively. In Bihar, there is no data tracking these Gram Sabhas nor any idea among PRD officials. E- Gram Swaraj has approved 8056 out of 8181 plans across the State. Interactions in Begu Sarai suggest that GSs in most GPs have only taken place on paper as quorum has not been met.
- Most of the plans focus on rural electrification, roads, drains and construction of toilets, community and government buildings.

- VPRP demands and activities have been included in these uploaded plans but budget for the same have not been allocated. This may be caused by technical errors in uploading on the E- Gram Swaraj portal. For a GP to upload their GPDP, specific fields are to be mandatorily filled, whether planned for or not. Therefore, GPDPs display a long exhaustive list of works but many of these works may not be planned for.
- Some suggest that the current GPDPs being uploaded is dummy data to meet deadlines of the State and these plans are subject to change. However, this is hearsay and may project an extreme situation, which is not confirmed.
- Large amount of data is available on the E- Gram Swaraj portal to track planning and approval status of each planned activity. An activity status report is available on details of completed works with details of location as well as amount and source of funds but there is no clear data on activities in progress and their status.
- For 2022- 23 GPDP, 118.4 Crore rupees was allocated to GPs. Planned vs allocated data is not available.
- While the formation of Resource teams at State, District and Block levels are articulated, the framework for monitoring implementation is not clear and is largely limited to data collection<sup>48</sup>.

While BPR Act 2006, empowers GPs to collect requirements from Wards, prepare effective GPDPs and monitor its implementation through committees, this does not seem to be taking place in reality. GPDP can be a key instrument in enabling democratic processes, accessibility to schemes for various sections of society and also enable coordination between the three tiers. To improve accessibility to schemes, SHGs provide inputs to GPDP by preparing a demand plan (VPRP). This demand plan is described in the following chapter.

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<sup>48</sup> Riddhi Foundation (2017), Gram Panchayats Development Plans in Bihar A Situation Analysis



## Chapter 7: PRI - CBO Collaboration

As per the Constitution of India, Article 19(1)(c) on the right to form associations and Article 43 which highlights that State's endeavour to promote organisations in rural areas. Alongside Panchayati Raj institutions, the SHG network has emerged as social capital for the Gram Panchayat to work with for addressing poverty and ensuring social justice. For good governance, democratisation and inclusiveness of the poor are essential components. In this chapter, the role of Community Based Organisations (CBOs) and existing mechanisms for them to collaborate with PRIs are covered.

### 7.1. Mechanisms for PRI- CBOs to collaborate

CBOs include self-help groups, federations, youth groups, farmer groups, etc. and its members may be women, men, youth, or children based on its purpose. State Institutions and other development agencies have been involving CBOs in conceiving, planning and implementation of rural development programmes. CBOs being citizen driven and well connected in the rural ecosystem, can facilitate access to entitlements as well as enhance the public's participation in local governance.

#### 7.1.1. Integrating VPRP into GPDP

Since 2018, the GPDP guidelines and the joint advisory issued by the Ministry of Panchayati Raj and Ministry of Rural Development, has mandated Self Help Groups and their federations under National Rural Livelihoods Mission (NRLM) to participate in the annual GPDP planning process and prepare the Village Poverty Reduction Plan (VPRP).

VPRP is a comprehensive demand plan prepared by the Self-Help Group (SHG) network and their federations for projecting their demands and local area development which needs to be integrated with the Gram Panchayat Development Plan (GPDP). The VPRP is presented in the Gram Sabha meetings between Oct. to Dec. every year where the wish list for GPDP is prepared.

Objectives of VPRP are to: (a) Strengthen CBOs and their leadership for active participation in poverty reduction activities (b) Prepare a comprehensive and an inclusive demand plan of the community for local development (c) Facilitate an interface between the SHG federation and Panchayati Raj institutions for development of demand plan. Demands under VPRP are categorised into five major components: (i) Social inclusion - plan for inclusion of vulnerable people/household into SHGs under NRLM (ii) Entitlement - demand for various schemes such as MGNREGS, SBM, NSAP, PMAY, Ujjwala, Ration card etc. (iii) Livelihoods - specific demand for enhancing livelihood through developing agriculture, animal husbandry, production and service enterprises and skilled training for placement etc. (iv) Public Goods and Services - demand for necessary basic infrastructure, for renovation of the existing

infrastructure and for better service delivery (v) Resource Development - demand for protection and development of natural resources like land, water, forest and other locally available resources, (vi) Social Development - plans prepared for addressing specific social development issues of a village under the low cost no cost component of GPDP.

In Bihar, VPRP preparation was initiated in 2022. Since then, Jeevika- an autonomous body under Rural Development has been collaborating with Kudumbashree (NRO) on pilot initiatives to prepare VPRPs and integrate into GPDP.

## Jeevika/ Bihar Rural Livelihoods Project

The Government of Bihar (GoB), through the Bihar Rural Livelihoods Promotion Society (BRLPS), an autonomous body under the Department of Rural Development, is spearheading the World Bank aided Bihar Rural Livelihoods Project (BRLP), locally known as Jeevika with the objective of social and economic empowerment of the rural poor. The Ministry of Rural Development (MoRD), Government of India (GoI) has restructured the Central Scheme Swarna Jayanti Gram Swarozgar Yojana (SGSY) into National Rural Livelihoods Mission (NRLM). As a first step in the implementation of NRLM in the state, GoB has designated BRLPS as the State Rural Livelihoods Mission (SRLM) for implementation of NRLM in the state. Jeevika has been working in the state since 2008, mobilising women into self-help groups. Jeevika has reached around 10.45 lakh women self-help groups, mobilised 1.3 Cr households, 72180 Village Organisations (VO's) and 1535 cluster level federations (CLFs)<sup>49</sup>. Jeevika has 4 verticals, Institution Building & Capacity Building, Social development, financial inclusion and livelihoods.

## Jeevika- Kudumbashree Collaboration

Kudumbashree as a National Resource Organisation (NRO) with experience of PRI- CBO convergence project in multiple States, has been working in collaboration with Jeevika since 2019- 20 and initiated a PRI-CBO convergence pilot in 3 districts of Bihar. For this pilot, Cluster level federations and SHGs, were trained and guided by Kudumbashree to prepare VPRP plans in 3 districts of Bihar- Patna, Nalanda and Muzaffarpur. For their project with Kudumbashree, Jeevika has placed Cluster Level Federation (CLFs) Managers and District Resource Persons (DRP). Convergence Facilitators (CF) to ensure block level on PRI-CBO Convergence and Local Resource Persons (LRP) as dedicated cadre at Gram Panchayat level are also part of their structure for this project.

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<sup>49</sup><https://www.kudumbashree.org/pages/380#:~:text=The%20PRI%2DCBO%20Convergence%20approach,and%20social%20security%20of%20the>

In the next 18 months, the plan is to expand capacity building efforts to 112 Cluster Level Federations across 34 Blocks in 3 Districts. As a part of this project, planned activities include training to Village Organisations (VO) on civic literacy relating to Gram Panchayats, training of women elected members by LRPs, and also training at the Block level by DRPs.

### 7.1.2. Increased participation in Ward Sabhas & Gram Sabhas

The Gram Sabha and Ward Sabha are starting points for local democracy (Section 5). Increasing participation of CBOs in these platforms would allow for priorities of marginalised families and diverse communities to be articulated, for the GP to integrate.

Gram Sabhas taking place specifically for GPDP preparation can be leveraged to include bottom up needs in a Panchayat's plans. The preparation of VPRP by SHGs begins with plans prepared by the SHGs, consolidated by the VOs and finally a comprehensive plan prepared at the level of the Gram Panchayat. This final VPRP would be submitted in the Gram Sabhas held for GPDP.

### 7.1.3. Representation in Ward Implementation and Management Committee WIMCs

The Ward implementation and Management Committee (Section 5, Highlights) is constituted at the ward level and consists of 7 members. It may include a representative of any village organisation or self-help group of Jeevika' working in the Ward. This Committee has power to propose, implement, monitor and hold the GP Public Works Standing Committee accountable for works. Membership of CBO representatives in this committee, can play a key role in integrating ward level needs into VPRP and eventually into the GPDP as well monitor its implementation.

### 7.1.4. Social Audit

Social Audit aims to ensure public accountability in the implementation of projects, laws and policies. The Social Audit Society (SAS), an independent society was established under the Rural Development Department, Government of Bihar in 2017 to conduct social audit of various public welfare programmes and schemes executed by the Government of Bihar. No known notifications are published on social audits yet. A Social Audit Committee has also been constituted for audit of works under MGNREGA. The status of this committee needs further exploration.

## Defacto

- Structures of CBO exist at the village and Cluster levels. As not formal structure exists at the GP level, it leads to lack of coordination with the GP bodies, towards integration of VPRP into GPDP.
- PRI members do not appear to be not involved in the VPRP process.
- VPRP activities are listed in the GPDPs but no funds seem to be allocated to them. Stories from the field suggest that no VPRP is happening at the GP level, nor there is integration at higher tiers of the PRIs.
- SHGs are likely to face GPs with dominant and political personalities, which may also be intimidating and be a challenge for them to negotiate.

**Image 25:** Observations from Workshop for State operational framework for PRI- CBO Collaboration

A two- day State level meeting was organised by Jeevika, facilitated by Kudumbashree with participants from NRLM, PRD, SHG representatives, and PRADAN to frame a state level plan for PRI -CBO convergence.

When asked about the expectations from PRI members, Kudumbashree and Jeevika facilitators responded **“There is an important role for women in Gram Panchayats. Some who are SHG members as well as elected representatives. The expectation is that they will be trained to drive the project.”**

Our observations:

- Jeevika’s SHG representatives in their pilot geographies, are well trained on VPRP and have made exhaustive lists of demands. In case of one GP in Muzaffarpur, 1800 demands were listed for VPRP but not all the GP’s Mukhiya and members aren’t sure of how to integrate these demands. Trainings and notifications on how to integrate these demands into GPDP, could bridge this gap. Currently, SHG members who have entered Panchayats as elected members have been trained as a part of this pilot and is a step towards PRI- CBO collaboration.
- While the process of collecting demands and planning for VPRP are clear, the process of integration into GPDP is unclear. Mechanisms for implementation and monitoring are also unclear.
- Increasing the involvement of PRD and PRI members in pilot process would contribute to better integration of VPRP demand. While BPROs in some of the pilot geographies are aware of VPRP, they are also not clear on how to integrate.
- VPRP processes and the involvement of SHG women have been closely handheld by Jeevika at the district level in the pilot areas, the level of involvement at the Panchayat level is to be understood better.



In Bihar there are opportunities for different kinds of CBOs who represent diverse needs to leverage instruments such as VPRP, WIMCs, Ward Sabhas, Gram Sabhas and women elected representatives from CBOs. These platforms can become mechanisms for CBOs to enrol in governance processes, mobilise citizenry, plan for marginalised communities and collaborate with their Gram Panchayat. Aiming to build the PRI- CBO relationship could lead to more informed, effective and transparent demand and supply of services in Bihar.

## Chapter 8: Legal Provisions III: Gram Kachahari

Chapters 4 to 6 offered an in-depth examination of the provisions of BPR Act 2006 concerning the three tiers of the Panchayati Raj, Gram Sabha, and processes such as planning, budgeting, and implementation. In chapter 7, we describe the mechanisms for PRIs and CBOs to collaborate and work together.

This chapter provides an overview of Gram Kachahari, an elected judiciary at the Gram Panchayat level, a distinctive and special provision under the Bihar Panchayat Raj Act 2006, which is to be established in every Gram Panchayat of Bihar.

Gram Kachahari is a village court system established in Bihar under the Bihar Panchayat Raj Act, 2006. The aim of Gram Kachahari is to provide a decentralised mechanism for dispute resolution in rural areas, which is accessible, affordable, and time bound. The court is constituted at the Gram Panchayat level and comprises a Sarpanch, Up-Sarpanch, Panchs, a secretary and a Nyaya Mitra. There are 8463 Gram Kachaharis in Bihar at every Gram Panchayat level as per the provision of the BPR Act 2006<sup>50</sup>

The Gram Kachahari has jurisdiction to hear and decide on civil disputes related to property, land, and money, among other matters. It is empowered to summon witnesses, examine evidence, and award damages or compensation in cases of breach of contract, non-payment of debts, and disputes over property rights. The decisions of the Gram Kachahari are binding on the parties and can be enforced by the local administration.

### 8.1. Structure of Gram Kachahari

Gram Kachahari at the GP level represents a quasi-judicial forum for resolution of disputes locally. It operates within the jurisdiction of a Gram Panchayat and has the powers of a civil court under code of civil procedure, 1908 as well as have powers of certain suits and cases related to criminal law (section 106, BPR Act 2006).

Chief/ Additional / Sub-divisional Judicial magistrate, the Munsif or the court competent jurisdiction, as the case may be, have the powers to transfer certain cases to Gram Kachahari if it appears that case or suit is one triable by a bench of the Gram Kachahari or withdraw the case in certain circumstances, if there is a miscarriage of justice. District Judge has the power to inspect proceedings and records of the Gram Kachahari or benches thereof (section 122, BPR Act 2006)

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<sup>50</sup> Sigma Foundation (2022), Study of the institution of Gram Kachahari in Bihar, Azim Premji University.

## 8.2. Provisions of Gram Kachahari

**Table 21:** Provisions under Bihar Panchayat Raj Act, 2006 Gram Kachahari

Chapter VI, Establishment, Powers, Duties and Procedures of Gram Kachahari (Sections 90- 122)

Key provisions	Relevant Section
<p><u>Constitution of Gram Kachahari and election of Sarpanch and Panches:</u></p> <p>There shall be a Gram Kachahari in every Gram Panchayat area for the purpose of discharging the judicial functions imposed upon it by or under this Act and the Gram Kachahari shall consist of:</p> <p>a) A Sarpanch of the Gram Kachahari elected under the provisions of this Act,</p> <p>b) Such number of directly elected Panches representing as nearly as five hundred population of the Panchayat area. Its territorial constituency will be same as those of the Gram Panchayat</p>	Section 90
Reservation of seats	Section 91
Duration of Gram Kachahari	Section 92
<p>Election of Sarpanch and Up- Sarpanch</p> <p>Term of Office of Sarpanch and Up-Sarpanch</p> <p>Powers and Functions of Sarpanch and Up-Sarpanch</p> <p>Resignation or Removal of Sarpanch or Up-Sarpanch</p>	<p>Section 93</p> <p>Sections 95 - 97</p>
<p>Assistance to Gram Kachahari (Staff)</p> <ul style="list-style-type: none"> <li>Secretary: There shall be a secretary in every Gram Kachahari</li> <li>Nyaya Mitra: There shall be a person called Nyaya Mitra having at least three-year Law Degree from a recognised Institution or University</li> </ul>	Section 94
<p>Resignation of Panch</p> <p>Filling of casual vacancies of Panches</p>	Sections 98-99
Sarpanch, Up-Sarpanch, or Panches not to take part in certain proceeding: in which he or she is personally interested	Section 100
Institution and hearing of suits and cases, Duty of Benches, Proceedings to be followed by a bench, Form of decision	Sections 101 - 105
Criminal Jurisdiction, Criminal Powers of Bench, Criminal Powers of Sarpanch	Sections 106 -109
Exclusive civil jurisdiction of a bench of the Gram Kachahari	Section 110
Transfer of a case or suits to a bench of GK by Magistrate or Munsifs	Section 114
Power of Chief Judicial Magistrate / additional Chief Judicial Magistrate / Sub-divisional Judicial Magistrate over the bench of the Gram Kachahari	Section 118
Power of District Judge to inspect proceedings and records	Section 122

## Election and reservation

Sarpanch is the head of the Gram Kachahari and is directly elected by the voters within the jurisdiction of a Gram Panchayat. Panches are elected from each ward of the Gram Panchayat to serve as members of the Gram Kachahari. They assist the Gram Kachahari by sitting on trial benches for cases registered with the court. Each Panch represents a population of approximately 500 people in the Panchayat area.

Section 93 of the BPR Act, 2006 provides for the reservation of the Sarpanch and Panchs of a Gram Kachahari. As nearly as possible but not exceeding fifty percent of the total seats of Panchs of a Gram Kachahari shall be reserved for Scheduled Castes, Scheduled Tribes and Other Backward Castes. As nearly as possible but not more than 50 percent of posts under each category is to be reserved for the women.

## Highlights

- Constitution of Gram Kachahari: Section 90 of the BPR Act, 2006 has the provision to constitute a Gram Kachahari in every Gram Panchayat area. A Gram Kachahari shall consist of
  - A Sarpanch of the Gram Kachahari elected under the provisions of this Act,
  - Such number of directly elected Panchs representing as nearly as five hundred population of the Panchayat area. Its territorial constituency will be same as those of the Gram Panchayat
- Tenure of a Gram Kachahari: Every Gram Kachahari, shall continue for five years from the date appointed for the first meeting and no longer, unless dissolved.
- Staff of the Gram Kachahari: Section 94 of BPR Act 2006 provides for the appointment of a secretary and a Nyaya Mitra in every Gram Kachahari. A Nyaya Mitra should have at least three years bachelor's degree in law from a recognised institution.
- Remuneration of the members of a Gram Kachahari: The Sarpanch receives a monthly honorarium of Rs 2500, Up-Sarpanch receives an honorarium of Rs 1200 and Rs 500 is the honorarium for the Panches. Nyaya Mitra and the Secretary receive remunerations of Rs 7000 and Rs 6000 per month, respectively.
- Duties of the Gram Kachahari:
  - The major duties of the Gram Kachahari are as following: i) To facilitate an amicable settlement of disputes between two or more parties. (Section 102) ii) To investigate and adjudicate disputes if an amicable settlement is not reached. (Section 103)
- Functions of the Gram Kachahari:

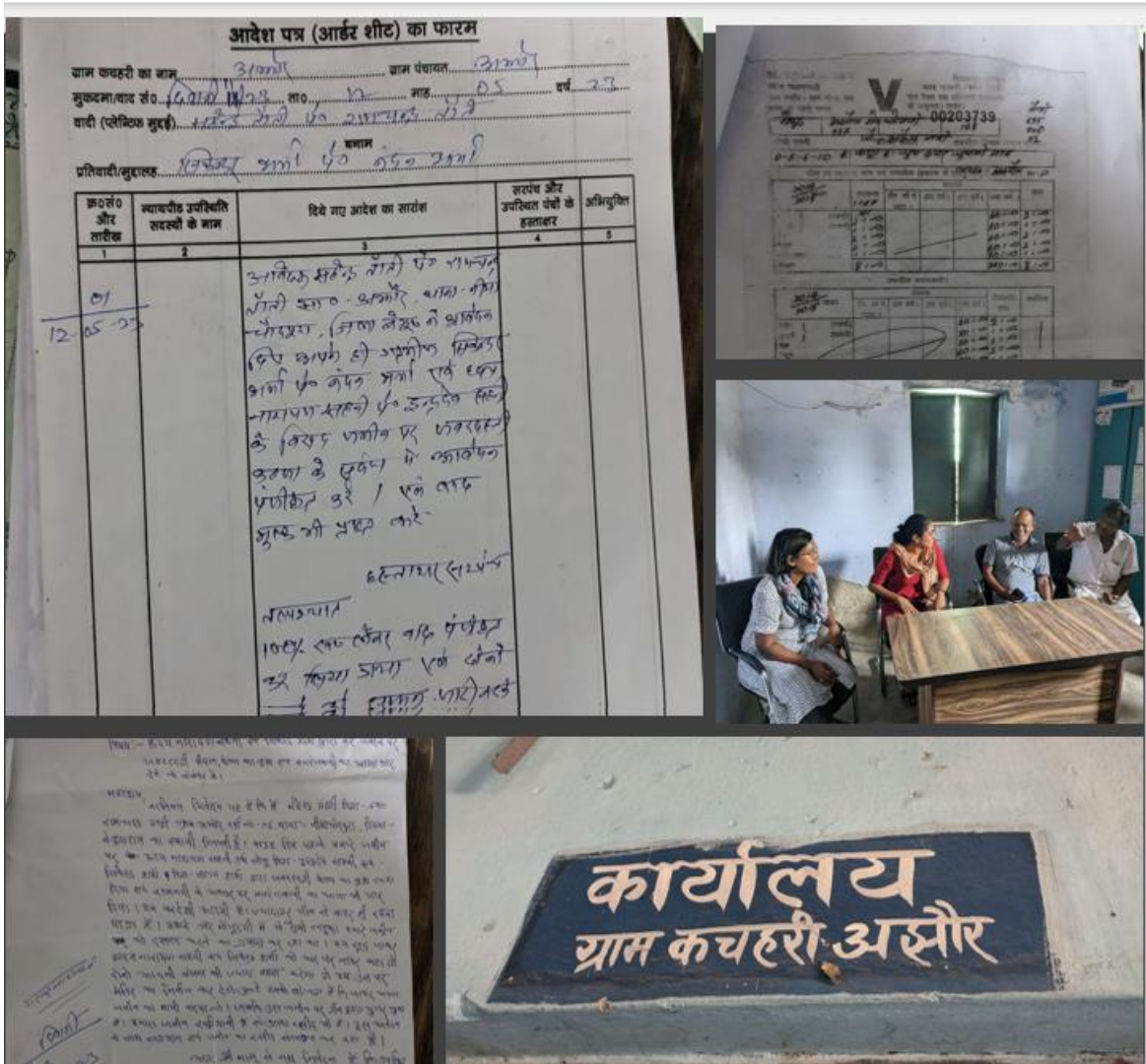


- The major functions of the Kachahari are the following: i) To exercise criminal jurisdiction within the local limits of the Gram Panchayat for certain offences. (Section 106). Section 110 empowers them to try certain suits. ii) The Gram Kachahari also hears cases or suits transfer by Magistrate or Munsifs
- Record Keeping: As per the rule 12, of the Gram Kachahari Conduct Rules 2017, around 12 different forms/ registers are to be maintained in the Gram Kachahari.
- Resolution: A Gram Kachahari to provide the resolution within six weeks as per the rule 14 of Bihar Gram Kachahari Conduct 2007
- Fees: In civil case the Secretary of Gram Kachahari shall realise fees of INR 10 in cash as per value of the suit or at the rate of INR 1/- for a part thereof. In criminal case, the complainant shall have to deposit a sum of INR 100/- only in cash as fee to the Secretary of the Gram Kachahari. [ Bihar Gram Kachahari Conduct Rules, 2007]
- Constitution of the Bench to hear the case: If the Gram Kachahari finds that the suit or the complaint is triable by the Gram Kachahari, a bench of five members is constituted. Two Panchs of the Gram Kachahari are to be nominated by the parties concerned (each party will nominate one Panch of his/her choice) and two other Panchs will be nominated by the Sarpanch for inclusion in the said bench. There must be at least one women member in the Bench.

### 8.3.1 Case story of Begusarai Sadar, Gram Kachahari Ajhour

The team visited the Gram Kachahari of Begusarai Sadar and interacted Sarpanch and Secretary of the Gram Kachahari Ajhour.

**Image 26:** Gram Kachahari Ajhour, Begusarai district. Gram Kachahari operates out of a dilapidated building. Even without the proper infrastructure, this is clear example of how well a Gram Kachahari is functioning with proper recording of cases, and their resolution within stipulated time periods



The Sarpanch of the Gram Kachahari was elected in 2021, on the same day as the Mukhiya, Ward members, Panchayat Samiti (PS), Zila Parishad (ZP). Before becoming the Sarpanch, he actively helped resolve fights, and due to this, during his campaign, he faced no challenges. This was even before the Panchayati Raj Institutions (PRIs) were fully activated. Citizens encouraged him to stand for

the Sarpanch elections, but initially, he was not enthusiastic due to the financial requirements. However, he managed to win the election without spending any money. This Sarpanch is also the head of the Sarpanch Sangh, which oversees 25 Gram Panchayats/ Prakhand.

Every Saturday, the Kachahari conducts meetings attended by the Sachiv, Sarpanch, ten Panchayat members (also known as the cabinet), including the Up-Sarpanch, Nyaya Mitra/Vakeel (legal representative), and other citizens.

Typically, the Kachahari handles cases involving domestic disputes within families, such as conflicts between siblings, parents, and daughters, as well as disputes related to land division and theft. The cases are categorised into two types - Faujdari (physical fights, domestic violence) and Deevani (land, farms, crop stealing, etc.). On a daily basis, about 35 to 40 complaints are registered, and approximately 7 to 8 cases are resolved daily, with matters being addressed every Saturday.

Sachiv/ Secretary is accountable and primarily in charge of maintaining records of the Gram Kachahari. To manage the proceedings, 14 registers are maintained in the Gram Kachahari office. The office is located with a community hall (Sammudhaya bhavan) and there is an open space under an old *Bargad* tree, where the Kachahari takes place. A registration fee of Rs. 100 is charged, and a receipt is provided.

The Kachahari system prevents citizens from going to the police station, as it is a common belief that they may need to pay money to file cases there. The Kachahari helps them to save money and also avoid the intimidating court experience, offering quicker resolutions as well. The Sarpanch ensures that matters are resolved on the same day, as far as possible, to avoid further conflicts in the village

For their roles, the Sarpanch receives an honorarium of Rs. 2500, and the Panchayat members receive Rs. 500. Sometimes, Gram Panchayats too approach them seeking advice on internal conflicts and corruption-related issues.

The Gram Kachahari system has been widely lauded for its effectiveness in resolving disputes at the local level, saving time and money for the parties involved. It has also been instrumental in reducing the burden on the formal court system, which is often slow and inaccessible to rural populations. There have been criticisms of the Gram Kachahari system as well, including concerns over the quality of decisions, bias, and lack of transparency. However, overall, the Gram Kachahari system remains an important component of the Panchayati Raj system in Bihar, providing a decentralised and accessible mechanism for dispute resolution in rural areas.

## Chapter 9: Challenges, Opportunities and Emerging Imperatives

The analysis throws up several challenges, while also pointing to opportunities that exist which can be availed while outlining strategic actions for engagement with the GPs in Bihar. Bihar has been a forerunner in affecting decentralization. However, it is also clear that in the recent past, there are several amendments and notifications that, on one hand, seem to create a confusion in the operationalization of the provisions enlisted in the BPR Act 2006 and, on the other, in parts dilutes the spirit of the 73<sup>rd</sup> CAA, 1992. The devolution of functions, funds and functionaries to PRIs, as envisaged in the 73<sup>rd</sup> CAA, was not satisfactory in Bihar as laid in section 4.1 of chapter 4. Further, Bihar has been among the weaker performing States in the country, with respect to devolution of funds, functions and functionaries and stood second from the bottom (23<sup>rd</sup> rank) in the devolution index across States, as per MoPR's Devolution Index Report, 2015-16. Yet, there are several ongoing efforts and interventions that can be built upon further to strengthen GPs as critical agents and drivers of change. Outlined below are some of the critical challenges and opportunities as well as emerging imperatives derived from the secondary research and the primary engagement in the field.

**Table 22:** Some critical challenges, opportunities and imperatives

Challenge / Issue	Opportunity	Emerging imperative
Capacity building of Elected representatives and functionaries for overall institutional capacities of the Gram Panchayats	Leveraging existing structures such as State Panchayat Resource centre, skills of master trainers at BIPARD and Bihar Gram Swaraj Yojna Society, and utilization of RGSA funds in decentralized training of elected representative	Enhance knowledge and skills of panchayat members and staff, and further create systemic interventions to establish panchayat's identity as constitutionally mandated local self-governments
The BPR Act 2006, while exhaustive, has many amendments and rules, and associated notifications, which have gaps and may create confusion	Intensive engagements with panchayats will throw up a comprehensive critique of the Act and draft rules. Further analysis and recommendations to the Act to enable panchayats to work as local self-governments, constitutes an opportunity	Clarity of roles of Gram Panchayats in different subjects/functions will help in effective delivery of their mandate, particularly in those related to citizen services
The BPR Act 2006 provides for the functioning of the GP through Standing committees (6 No's). The Act also provides for Standing committees (7 No's) at the PS and ZP level. These are envisaged as accountability structures, but not found to be functional	Although, in most GPs these committees have not been operationalised, field visits revealed that the dominant members of the Gram Panchayat are aware of legal provisions related to standing committees	The standing committees need to be operationalised on a priority. However, care should be taken these are operationalised in tandem, with due considerations to not just their inter-operability, dynamics and roles and responsibilities, but also to the numbers and functionalities of these committees. A critical question that assumes significance is whether all

		these committees are really required in their present conceptualisation? Or is a rationalisation of their mandate, participation and numbers that merits attention.
The central schemes are being implemented through parallel structures that have been instituted by the concerned ministries/ departments of the Gol. These parallel structures undermine the roles of Gram Panchayats and need to be dovetailed with the structures mandated through the BPR Act 2006	Many of the services that are being delivered at the village level are through these parallel structures. To ensure delivery, systems and processes involving these structures are already functioning and operational. Streamlining these within the mandated 3Fs is an opportunity, primarily as many of these are working.	Rationalising these parallel structures within the mandated 3Fs is a priority. It is also a key input to developing recommendations for putting process and structures in place.
Currently, the government of Bihar has devolved notifications related to 20 departments. However, a preliminary analysis shows that most of the notifications are piecemeal/ incomplete leaving ambiguity among roles between Gram Panchayats and respective departments.	Several states have notified functions to operationalize devolution through their respective state Panchayati Raj Acts. Examining these notifications and learning from the experience constitutes an opportunity.  Notifications need to be critiqued on basis of practices and challenges faced by panchayats in Bihar	Debating the efficacy of the existing notifications, examining some of the good practices of the other states in this space, taking cues from operational facilitators and challenges, and recasting the notifications such that these will lead to much required systemic interventions
Until 2015, funds available to Gram Panchayats for discretionary spend were limited	The 14 <sup>th</sup> FC, 15 <sup>th</sup> FC and 5 <sup>th</sup> SFC onwards, transfer of funds has been made directly into accounts of the GPs in Bihar.	Leveraging these funds to implement some of the schemes/ projects as prioritised through the decentralized planning process while also ensuring that structures and processes are strengthened, need to be envisaged as part of the OD of GPs.

## Chapter 10: Way forward

In this chapter, the attempt is to build on the findings of the study and to propose steps for creating an intervention framework for strengthening local governance processes in Bihar. With a view to developing mechanisms which will work on the ground, as well as to extrapolate learnings towards developing solutions at scale, it is suggested that real time change management work is undertaken with select panchayats, while simultaneously consolidating and documenting tools for wider consideration. Based on discussions with PRADAN, intensive engagement can be planned with selected GPs in Begusarai district, designed around the Gram Panchayat Organisation Development (GPOD) framework.

Intervention steps may include continuous interaction and coordination with the other key institutions of decentralisation, i.e., the Gram Sabha, Gram Kachahari, and other tiers of government. Collaboration with civil society organisations will be key for deeper engagements at the panchayat level, as well as for policy advocacy at different levels.

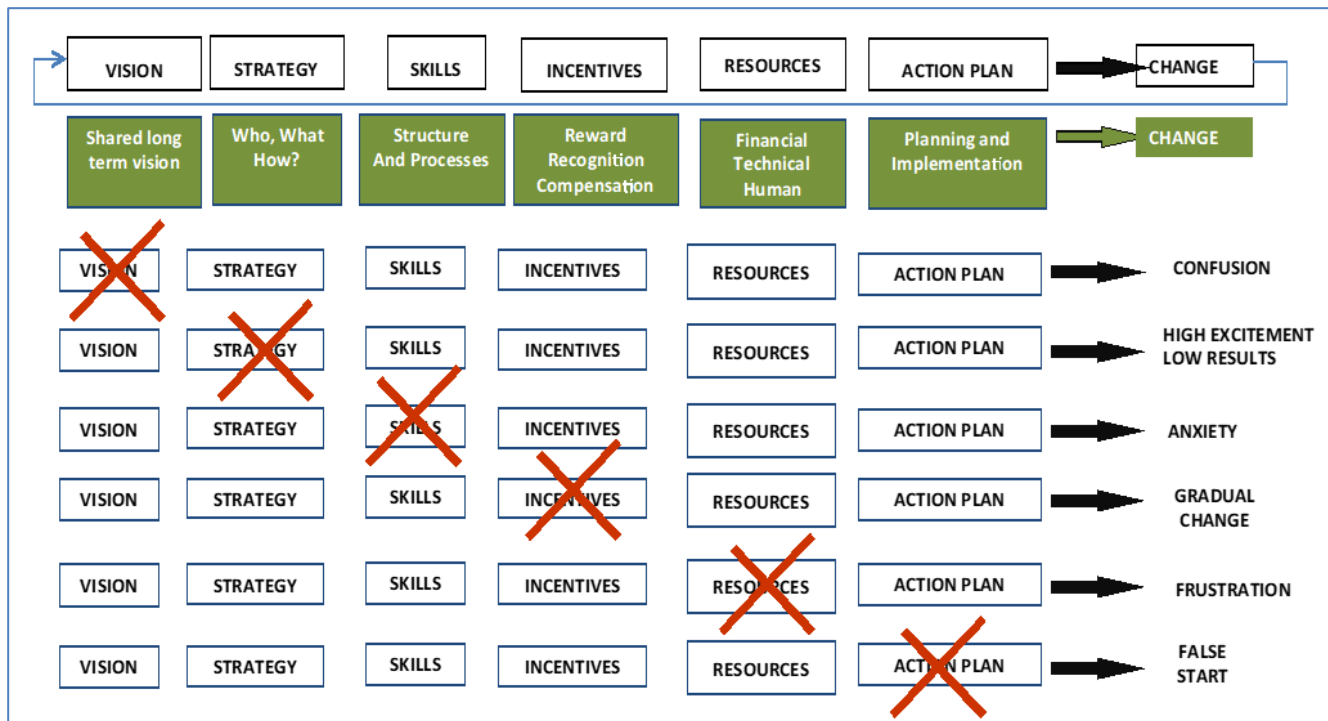
A continuous study of the Bihar Panchayat Raj Act, 2006, amendments, rules and regulations and notifications, and their implementations, will inform interventions at the panchayat level.

### 10.1. Intervention strategy – Gram Panchayat Organization Development (GPOD)

The need for strengthening Gram Panchayats, Gram Sabha and other institutional processes at the grass roots has been substantially demonstrated in the previous chapters. The need is for a focused and systematic intervention, which is targeted at strengthening the organization capacity of the GP in a holistic manner. Organisation Development (OD) involves recognising Gram Panchayats as organisations and underlines the need to simultaneously differentiate and integrate different components of the GP organisation (vision, organisation structure, incentives, resources, and action plans). A systemic approach is taken rather than training on one standalone component. It involves a shift in the perception of Panchayats- from last tier implementation arms to strong local governments.

At the organisation level, Dr Mary Lippitt's model of managing complex change (1987) with its premise that change is successful only when all the organisational components such as vision, skills, incentives, resources, action plan and results are in alignment, reveals the whole systems approach in a lucid manner. Interventions introduced to target one-off components such as decision-making processes, planning or incentives may not result in the desired transformation.

**Image 27: Dr Mary Lippitt's model of Managing Complex Change**



Source: Lippitt, Dr Mary, 1987, *Managing Complex Change*, Pittsburgh, The Enterprise Grp Ltd.

The need is, therefore, to explore and clarify different organisational components and bring alignment, in collaboration with the people involved, enabling their journey towards change.

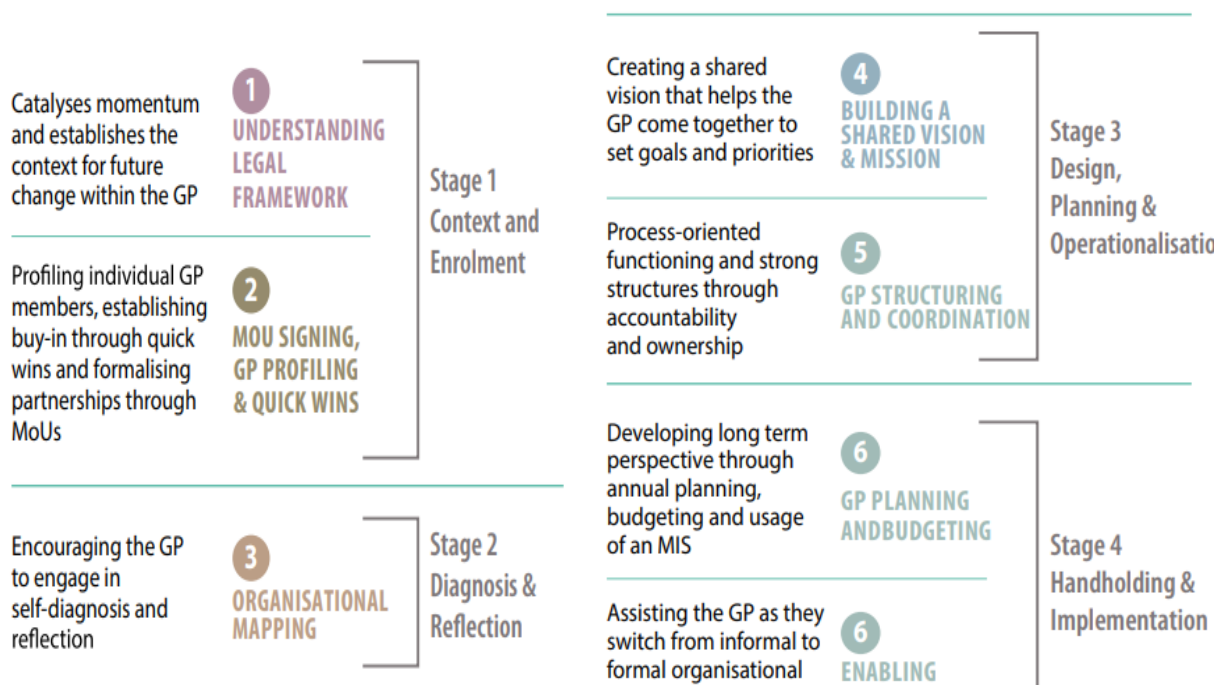
**Image 28: The Change Management model contextualized for GPs**

VISION	STRATEGY	SKILLS	INCENTIVES	RESOURCES	ACTION PLAN
<p><b>What</b> is the vision of the key stake holders for the institution of the future?</p> <p>Problems to be addressed</p> <p>Values to be followed</p> <p>Leadership</p>	<p><b>How</b> can the institution move towards its vision?</p> <p>What should be the priorities?</p> <p>What are the best practices?</p> <p>How to leverage different resources, social capital?</p>	<p>Appropriate organisation structure, reporting relationships, ownership of resources</p> <p>Clearly defined roles</p> <p>Knowledge, skills and attitudes, to perform the roles</p> <p>Profiling skills available</p>	<p>What are:</p> <p>Political incentives</p> <p>Financial incentives</p> <p>Personal incentives</p> <p>Social incentives</p> <p>How to streamline and leverage them?</p>	<p>What are the financial/ technical/ human resources/ etc. required?</p> <p>How should they be managed?</p> <p>How to converge resources at different levels of governments?</p>	<p>Action Plans of the institution need to be drawn once there is clarity on other elements</p> <p>Such action plans will be in a position to take full benefit of existing resources, programs and powers of the institution</p>

Source: Illustrated by Anode Governance Lab

With the significant mandate and promise related to effective GP institutions, the proposal is to keep the GP institution at the centre of the intervention, while engaging with citizens as well as other government tiers. Image 29 outlines intervention stages and steps and plausible roles of organisations. Certain actions are required but are presently not a part of the intervention steps. Each of the key actions is described below.

**Image 29:** Illustration of GPOD steps and stages for intervention



Source: GPOD Framework, a process document, Anode Governance Lab, 2020

Specifically, some areas of intervention may be the following:

### 10.1.1. GP Institution building:

Although the Gram Panchayat (GP) is an institution of local self-government and is expected to function like one, the basic components of its organization and functioning in Bihar are not well-defined or understood, as detailed in Chapter 4. As a constitutionally mandated body, the GP is the custodian of values enshrined in the constitution. We need to clarify its vision and identity, what are its values and how will they be translated to action? What is the strategy for pursuing the vision, what are the processes and accountability mechanisms to deliver its mandate, are there enough resources, are the members



inspired to perform their roles etc. The need is to build the GP organisation components in a way that they are aligned and lead to effective governance and service delivery.

To strengthen the GP institution, the Gram Panchayat Organization Development framework may be leveraged, where we approach organization building from a systemic view, and associate with members of the institution as participants, not recipients of change. Recognizing that change is complex and takes its own course, we need to envisage a stage-by-stage process that considers factors of institutional maturity. Moreover, given that people are the key drivers of change, we need to pace the journey with their priorities and aspirations. The movement from one stage to the next may be slow or it may take an exponential turn.

The PRADAN team may identify 15-30 potential Gram Panchayats (GPs) for this intervention.

### 10.1.2. Policy Advocacy at the state level:

A simultaneous engagement with the State PRD will be critical for understanding and impacting systemic imperatives. Some pointers include:

- Memorandum of understanding (MoU) with the Panchayat Raj Department: This will ensure that PRADAN's engagement with panchayats receives support from the state and district levels.
- Draft rules for imposing taxes on own sources of revenue: Chapter 4 (4.3.5) details the status of panchayats' own sources of revenue. The rules for imposing taxes under the Bihar Panchayat Raj Act, 2006 have not yet been framed. Engagement with the state to ensure these rules are framed and notified, will provide a significant fillip to panchayats' self-sufficiency in Bihar
- Work with the Panchayat Raj Department and other departments to ensure effective devolution of functions to PRIs: The devolution of functions, funds, and functionaries to PRIs (panchayats) in Bihar has not been adequate, as outlined in section 4.1 of chapter 4. Bihar is one of the weakest-performing states in the country in this regard. It is important to work with the Panchayat Raj Department and other departments to ensure that the functions are devolved effectively and that there is clarity on the role of panchayats in relation to the 29 subjects devolved in the 11th Schedule of the Constitution

### 10.1.3. Empowered citizens:

- Engagement may need to be planned with citizens, as they are both recipients of services and by law, the oversight body as the Gram and Ward sabhas. As outlined in chapter 5, the analysis of BPR Act 2006, amendments, rules as well as other programs and schemes reveal significant role of Gram and Ward Sabhas. Activating citizen engagement forums and building contiguity

between the Gram and Ward Sabhas with the Gram Panchayat is critical and will pave way for laying down these processes.

- Additionally, civic literacy, political education, and knowledge of audit tools such as the RTI among citizens will enable citizens to participate in governance processes with knowledge and will lead to higher accountability and transparency in public institutions.

#### 10.1.4. Internal capacities of the team – SWOT analysis

A concerted effort may be required to build on PRADAN’s strong institution building knowledge and skills (based on their involvement with women collectives) to work with panchayats. Specific competencies related to engagement with local governance processes may be mapped and strategies may be developed to develop them further.

#### 10.2. Next steps

A consultative workshop was held on August 4-5, 2023, to discuss the findings of the Legal Framework Study. The workshop was attended by PRADAN staff, partner organizations, sectoral experts, and the team from Anode Governance Lab. The workshop revealed the extensive interest among the team members and partners to engage with and strengthen local governance processes.

Table 23 shows the SWOT analysis conducted by the Bihar State team on their planned engagement with panchayats.

**Table 23:** SWOT Analysis from Consultative workshop on Legal Framework Study of PRIs in Bihar

Strength	Weakness	Opportunities	Threats
<ul style="list-style-type: none"> <li>• Extensive knowledge in the basics of working with PRIs in Jharkhand and MP</li> <li>• Availability of funds</li> <li>• Availability of technical experts like Anode Governance Lab</li> <li>• Presence and existing work of PRADAN in Bihar</li> <li>• Community connects – CBO’s and FPOs</li> <li>• Many human resources in terms of knowledge and skills</li> <li>• Strong relationships with PRIs and other stakeholders</li> <li>• Good reputation and track record</li> <li>• Ability to mobilize resources</li> <li>• Strong understanding of human and technical aspects of development</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of knowledge on some specific aspects of PRI provisions or roles</li> <li>• Lack of experience in Bihar with respect to Gram Panchayats</li> <li>• Lack of vision for PRIs</li> <li>• Lack of expertise in working with CBOs in Bihar</li> <li>• Lack of acknowledgment of PRIs.</li> <li>• Lack of expertise internally to work with PRIs in PRADAN; tend to think of making parallel structures work; haven’t thought of forming standing committees</li> </ul>	<ul style="list-style-type: none"> <li>• PRI members are open to learn</li> <li>• Govt mandate/motivation to work through GPs, provisions.</li> <li>• Funds and finance commissions for resources</li> <li>• Leverage GPDP for the democratic and participatory planning and implementation</li> <li>• Affordable justice through Gram <u>Katchahry</u> provisions</li> <li>• Existing supporting mechanisms for GPs</li> <li>• Convergence INRM, Agriculture and MGNREGA etc</li> <li>• Some mukhiyas are motivated to make changes in their GP/ have this mindset.</li> <li>• Funders in Bihar’s context- they also see PRI members as an opportunity.</li> </ul>	<ul style="list-style-type: none"> <li>• Change in members with elections</li> <li>• Deep rooted and systematic corruption</li> <li>• PRADAN’s existing work/ relationships with local stakeholders may change once we engage with this political body</li> <li>• Caste dynamic</li> <li>• Influence of bureaucrats in decision making process</li> <li>• Elected members being politically aware, may not be ready to engage with PRADAN team members</li> <li>• Rigidity and complexity of the work</li> <li>• Existing perceptions within PRADAN</li> <li>• Lack of resources and agencies in Bihar</li> </ul>

While a focused strategy around the four imperatives described in 10.1 is to be detailed in the coming months, an immediate set of next steps are being conceived to lay the foundation for a deeper engagement. These include:

- a) Build relationships with the GP members and citizens from cross section of the community to build trust and rapport.
- b) Identify and plan for implementation of smaller changes, called "quick wins," at the GP level to build an initial momentum for change. It will also provide opportunity to PRADAN to deliver small changes. By showing GP members and citizens what is possible, the team can further gain their confidence and support
- c) Prepare the soil for enrolling panchayats and seeking commitment for a long-term collaboration with PRADAN towards change in governance and explore usage of the MoU instrument in the GPOD framework.

PRADAN, through its Centre of Excellence (CoE) in Local Governance, seeks to shift narratives around local governance within and outside the organisation. Along with its forward movement in Jharkhand, a deeper engagement in Bihar will add to PRADAN's experience with and understanding of panchayats and the system as a whole. Strategic partnerships with CSOs and government will help in key advocacy efforts.

## Abbreviations

<b>Acronym</b>	<b>Definition</b>
<b>3FS</b>	Funds, Functions and Functionaries
<b>ATI</b>	Administrative Training Institute
<b>BDO</b>	Block Development Officer
<b>BIPARD</b>	Bihar Institute of Public Administration and Rural Development
<b>BPRA</b>	Bihar Panchayat Raj Act, 2006
<b>BPRO</b>	Block Panchayati Raj Officer
<b>BPT</b>	Block Planning Team
<b>BRLPS</b>	Bihar Rural Livelihoods Promotion Society
<b>CAA</b>	Citizen Amendment Act
<b>CAG</b>	The Comptroller and Auditor General
<b>CBO</b>	Community Based Organisation
<b>CEO</b>	Chief Executive Officer
<b>CFC</b>	Central Finance Commission
<b>CFC</b>	Convergence Facilitators
<b>CFR</b>	Community Forest Rights
<b>CLF</b>	Cluster Level Federations
<b>CS</b>	Chief Secretary
<b>CSO</b>	Civil Society Organisation
<b>DPC</b>	District Planning Committee
<b>DRDA</b>	District Rural Development Agency
<b>DRP</b>	District Resource Persons
<b>DRT</b>	District Resource Team
<b>FRA</b>	Forest's Right Act, 2006
<b>GOB</b>	Government Of Bihar
<b>GOI</b>	Government Of India
<b>GP</b>	Gram Panchayats
<b>GPCC</b>	Gram Panchayat Coordination Committee
<b>GPDP</b>	Gram Panchayat Development Plan
<b>GPOD</b>	Gram Panchayat Organisation Development
<b>IAS</b>	Indian Administrative Services
<b>ICDS</b>	Integrated Child Development Services
<b>IFR</b>	Individual Forest Rights

<b>IIPA</b>	Indian Institute Of Public Administration
<b>LRP</b>	Local Resource Persons
<b>LSGS</b>	Local Self Governments
<b>MGNREGS</b>	Mahatma Gandhi National Rural Employment Guarantee Scheme
<b>MLA</b>	Member Of Legislative Assembly
<b>MOPR</b>	Ministry Of Panchayati Raj
<b>MOPR</b>	Ministry Of Panchayati Raj
<b>MORD</b>	Ministry Of Rural Development
<b>NFSM</b>	National Food Security Mission
<b>NGO</b>	Non-Profit Organisation
<b>NMMUS</b>	National Mission Management Unit
<b>NRHM</b>	National Rural Health Mission
<b>NRLM</b>	National Rural Livelihoods Mission
<b>NRO</b>	National Resource Organisation
<b>NSAP</b>	National Social Assistance Programme
<b>OBC/ EBC</b>	Other Backward Classes/ Extremely Backward Classes
<b>OSR</b>	Own Source Of Revenue
<b>PESA</b>	Pesa: Panchayats (Extension To The Scheduled Areas) Act, 1996
<b>PMAY</b>	Pradhan Mantri Awas Yojana
<b>PMKSY</b>	Pradhan Mantri Krishi Sichai Yojana
<b>PR</b>	Panchayati Raj
<b>PRA</b>	Rural Participatory Assessment
<b>PRADAN</b>	Professional Assistance For Development Action
<b>PRD</b>	Panchayat Raj Department
<b>PRIS</b>	Panchayati Raj Institutions
<b>PS</b>	Panchayat Samiti
<b>RGSA</b>	Rashtriya Gram Swaraj Abhiyan
<b>SAS</b>	Social Audit Society
<b>SBM</b>	Swacch Bharat Mission
<b>SC</b>	Scheduled Castes
<b>SDGS</b>	Sustainable Development Goals
<b>SEC</b>	State Election Commission
<b>SFC</b>	State Finance Commission
<b>SFC</b>	State Finance Commission.

<b>SGSY</b>	Swarnajayanti Gram Swarozgar Yojana
<b>SHGS</b>	Self Help Groups
<b>SIRD</b>	State Institute of Rural Development
<b>SMC</b>	School Management Committee
<b>SRC</b>	State Resource Centre
<b>SRLM</b>	State Rural Livelihood Mission
<b>SRT</b>	State Resource Team
<b>ST</b>	Scheduled Tribes
<b>VO</b>	Village Organizations
<b>VPRP</b>	Village Poverty Reduction Plan
<b>WALMI</b>	Water And Land Management Institute
<b>WIMC</b>	Ward Institution Management Committees
<b>ZP</b>	Zila Parishad

## Interviews and meetings with stakeholders

Sr. No	Organization / Institute / Entity	Date	Name of the members & Designation
1	Panchayat Samiti Member	21 <sup>st</sup> Apr 23	Panchayat Samiti Member, Teghra
2	Visit to Paktol Gram Panchayat	22 <sup>nd</sup> Apr 23	Panchayat Sachiv Sahayak, Paktol Gram Panchayat
3	Farmer Producer Organization (FPO) members	6 <sup>th</sup> June 23	FPO members – Ex-Pramukh, Ex-Mukhia, and 4 women members of FPO
4	Ajani Gram Panchayat	6 <sup>th</sup> June 23	Mukhia, Up-Mukhia, Sachiv and few ward members
5	MLA Bhakri Assembly Constituency	7 <sup>th</sup> June 23	Suryakant Paswan, MLA, Bhakri
6	Maujiharisingh GP	7 <sup>th</sup> June 23	Mukhia – Heera Devi Sachiv, Junior Engineer and Mukhiya's Husband – Dilip Kumar
7	Panchayati Samiti Members, Bhakri block	7 <sup>th</sup> June 23	Pramukh – Shivchandra Paswan Up-Pramukh – Suvi Devi Kushvaha
8	Gram Katchahry, Begusarai Sadar	8 <sup>th</sup> June 23	Sarpanch, Secretary of Ajhour Gram Katchahry, and Mukhia
	PRADAN Begusari team	8 <sup>th</sup> June 23	Manindra, Manish, Vimal, Parwez, Saumya
	JEEVIKA, Kudmubshree, PRI PRI-CBO Convergence meeting, Patna	9 <sup>th</sup> June 23	Facilitator organization – members from Kudmubshree and JEEVIKA, SHG members from 3 intervention districts, NRLM members, PRD members – (BIPARD, SRC, PMU Lead, BPRO) and few members from NGO's

### Core team meetings

1. 21<sup>st</sup> April 2023 - Kick of Meeting
2. 18<sup>th</sup> May 2023 - Finalizing structure and sharing initial findings and arriving at key priorities.
3. 30<sup>th</sup> June 2023 - Sharing updates on the field visit and progress of the study.