



Removing Barriers to Women Participation in Local Governance

Key Messages

Education criteria will debar more than 49 per cent of women from contesting Panchayat Elections

Lack of education is not an individual's fault, and it is not a crime, so it should not be a criterion for contesting election. If this criterion has to be followed, then it should be followed at all levels, not only limited to Panchayat election. Literacy and education level might enable her to understand governance, but being illiterate does not mean that she lacks understanding on governance and cannot participate in the processes rather what is important is that having interest, experiences, and skills to handle situations is what helps ultimately in her participation.

Norms and Policies will bring women who are not willing to participate in political process

Due to the education norm, many women who are educated but not prepared or interested are forcefully brought into politics. Their family and specially the male members in the desire to fill the seat, push the women (who fulfil the norm but who may not be interested in politics) to contest elections. These women are not able to do justice to their responsibilities and remain as puppets in hands of male family members.

Pushing to have a functional toilet will not solve the problem of poor sanitation and hygiene

Only constructing toilet will not bring changes in good hygiene practices among people. Moreover in many households decision for making a toilet is not in hands of women but she suffers in absence of toilet. For contesting Panchayat election, many contestants enclose false documents in their candidature forms.

No Encroachment to the Government Land and no Government Dues for Contesting Panchayat election

A candidate for the Panchayat elections must make sure that he/she has never been charged with encroaching on government land in Chhattisgarh. The candidate also has to show no dues certificate for any government loan. By this norm, people who do not have their own land and house cannot contest election.

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Significance of the 73rd Constitutional Amendment

In 2008, the Chhattisgarh State Panchayati Raj Amendment Act increased the reserved seats for women from 33 per cent to 50 per cent. Chhattisgarh comes under "The Provisions of the Panchayat (Extension to the Scheduled Areas) Act, 1996" popularly known as PESA Act, which extends Part IX of the Constitution, with certain modifications and exceptions to the Fifth Schedule Areas. Panchayats and Gram Sabhas, in the Scheduled Areas, have been endowed with special powers and authority as may be necessary to enable them to function as institutions of self-government. PESA Act mainly aims to protect the tribal population from exploitation by making Gram Sabhas and Gram Panchayat centres of self-governance and has laid special thrust on empowering Gram Sabhas, which has not been conferred by any other Act in any state.

Chhattisgarh Panchayati Raj - State Specific Policies and Norms

In Chhattisgarh, in 2008, state legislations were passed in which educational qualification were made mandatory to contest Panchayat elections. Due to this new legislation, more than half of the rural population in Chhattisgarh is now excluded from contesting elections (assuming that all would be interested). The other grounds for disqualification from contesting polls under the Chhattisgarh Panchayati Raj (Amendment) Act, 2008, are failure to repay loans to any primary agriculture co-operative societies or agriculture co-operative banks; failure to pay electricity bill arrears; and not having a functional toilet at home.

**Table 1: State-wise Number of Panchayat Institutions
(As on 1st March 2013)**

Village Panchayats	Intermediate Panchayats	District Panchayats
9717	146	18

Table 2: State-wise proportion of Elected SC, ST and Women Representatives in Panchayats in Percentage (As on 1st March 2013)

SC	ST	General	Women
12.4	40.2	52.6	54.5

Education Norms - Contestant has to have Class 8th pass Certificate to contest Panchayat Election

The Chhattisgarh Panchayati Raj Amendment Bill 2008 says, that an illiterate person aged 30 or below is not eligible to contest Panchayat elections, affecting perhaps a quarter of the incumbents assuming that they would be open to contest. The Chhattisgarh Panchayati Raj (Amendment) Bill 2008 started off by prescribing higher secondary certificates as a prerequisite for contesting polls to district Panchayats, but the provision was diluted after protests by the opposition. A guideline of Chhattisgarh government, which has not come to public domain yet, says that an 8th class pass certificate is compulsory for candidates to contest Panchayat election.

If we look at the rural literacy rate of Chhattisgarh as per Census 2011, it is 65.99 per cent. The literacy rate of rural males is 76.98 per cent and that of rural females is 55.06 per cent. NFHS 4 Data says, in Chhattisgarh, only 20 per cent women have completed more than ten years of schooling. The degree of exclusion is highest for women belonging to the SC/ST categories. Data shows that in Chhattisgarh, 45 per cent of women are illiterate in rural areas, thus the Education Norms have debarred more than 45 per cent women from contesting Panchayat elections.

Functional Toilets - Criteria for Contesting Election

To have a functional toilet is another criteria for contesting Panchayat elections in Chhattisgarh. A Panchayat member has to install a *pucca latrin* in his/her house within six months of assuming office or he/she may forfeit the Panchayat position. In the interior Chhattisgarh, many villages do not have access to toilets.

In Naxal affected districts of Chhattisgarh, Bastar, and Bijapur, over 80 per cent of households have no access to private toilets. While in Bastar 79 per cent (2.44 lakhs) of the 3.06 lakhs households have no private toilets, the percentage climbs to 94 per cent in Bijapur where only 4.92 per cent of the 50,402 households have toilets with their premises.

An October 23, 2017 letter, written by the Joint Secretary, Panchayat and Rural Development Department of the Chhattisgarh government, S L Nayak, addressed to the Managing Director SBA (Chhattisgarh) and marked to Secretary, Drinking Water and Sanitation, Param Iyer, reads,

“Under the Swachh Bharat Mission (Rural), the Chhattisgarh government has decided that the state must be made ODF by October 2, 2018. As per information from Left Wing Extremism-affected districts, five districts in 12 blocks, 246 gram panchayats and 917 villages cannot be made ODF, as toilets can’t be built because of security reasons”.

The above government letter says the current situation of Chhattisgarh and debarring a person from contesting an election on the basis of not having a functional toilet, in areas where people do not even have their own shelter, is a clear case of excluding the poor from the management of Panchayats. It is a duty of the government to take care of health and sanitation. The law is completely ignoring the fact that a ‘functional’ toilet requires, as it is understood from the government official documents, a flush system and lots of water. There is no data produced by the State of Chhattisgarh that a pipeline is available to all the people in their State. Thus, the question arises: without pipelines, can functional toilet facilities be run?

‘No Confidence Motion’ - Creating Hurdles for Women to Participate Actively in Local Governance

The ‘no confidence motion’ is a power given to Panchayat members to move any motion in Panchayats, with notable variations across states. In Chhattisgarh, this requires a majority three - fourths vote to unseat a sarpanch and up-sarpanch from their positions. ‘no confidence motions’ cannot be raised against sarpanches or up-sarpanches until after one year from the date on which the sarpanch or up sarpanch enters their respective office. Secondary and primary sources of data show that influential Panchayat representatives and lobbies misuse the constitutional provision of ‘no confidence motion’ to unseat sarpanches who are not amenable to fulfilling their illegal and unjustified demands. Many states amended their Panchayati Raj acts in accordance with 73rd Constitutional Amendment, have continued with the old sections on removal of sarpanch and up-sarpanch under ‘no confidence motion’.

No Encroachment to the Government Land and no Government Dues for Contesting Panchayat Election

Any candidate for the Panchayat elections must make sure that they have never been charged with encroaching on government land in Chhattisgarh. The candidate also has to show a no dues certificate for any government loan. Failure to repay a loan as a criteria for debarring a person from contesting Panchayat elections is against democracy. These kinds of certificates are not mandatory for MLAs and MPs.

Impact of State Specific Norms in Chhattisgarh

The 73rd Constitutional Amendment Acts heralded a new era in decentralised governance in India by making way for women and other marginalised communities to attain positions of decision-making and power. Reports say that many posts in Panchayats in Chhattisgarh are vacant due to the education criteria. Many of these vacant posts are against the seats which are reserved for SC women. Due to lack of candidates who fulfil the education criteria these seats don't get filled. Behind these vacant seats, there is a story of exclusion, especially of the most marginalised demographics, such as women who fall at bottom of the caste and class ladder. Due to an abysmal female literacy rate, in some villages, there is not a single woman who has passed 8th class to be qualified to contest a Panchayat election. In Chhattisgarh, Education and Toilet Norms have simply exacerbated gender inequalities.

Implications and Recommendations

The next Panchayat election in Chhattisgarh is due in 2020. These norms would debar many people, especially women from remote villages to contest Panchayat elections. The Indian Constitution has given democratic rights for everyone to contest elections, but some of the State specific norms are against democratic rights. Question which then arises is, why these norms are only applicable to the tier three governance system and not applicable for Lok Sabha and Vidhan Sabha Elections. The constitution does not set any kind of eligibility criterion like educational qualification, Toilet Norms, Loan Repayments, etc. for MPs and MLAs, so why is this rule applicable to Panchayat elections. Lack of education is not an individual's fault, and it is not a crime, so it should not be a criterion for eligibility to contest an election. Experience, skill, and capacity building are the factors which can influence

women's performance in PRIs, then why literacy and education level, having more than two children, functional toilets type parameters are made to become eligibility criterion?.

We propose amendments in state Panchayat laws and rules to give effect to the following:

- The State like Chhattisgarh is affected by Naxalite movement and many villages are remote and far flung. Setting toilet and education norms to contest Panchayat election will debar many women and men of this tribal district from contesting Panchayat elections.
- There are chances that because of the education norm, the seat of sarpanch will be vacant in many Panchayats (which are reserved for ST/SC women). This speaks of need to look at this issue carefully and strengthen the capacities of women to handle village level issues.
- Strengthen capacities of marginalised groups for understanding legal provisions and account handling to safeguard them from procedural mistakes, in how to deal with the CEOs of PRIs on an equal basis, and empower them to reject undue demands.
- Create a positive environment for women leaders and Panchayat members to deal with socio-political problems. One of the major problems women leaders face is not being accepted by male Panchayat members.
- Strengthen the information dissemination mechanism for better participation.
- Most importantly, men and women both should be involved in gender sensitisation exercises, which will help create a better understanding among the community on how both the genders can contribute towards a better future for their village.



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