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A Comparative Study of Village Councils in Mizoram and Panchayati Raj Institutions: A Critical Appraisal

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Abstract

The Village Councils have been functioning in Mizoram as the lowest administrative units at the village level, replacing the traditional Chieftainship since 1954. Its credibility. However, as an institution of a vibrant local self-government is questioned in terms of its limited financial resources for the realization of development. Due to this, the conversion of the existing Village Council into Panchayati Raj Institutions along national model has been mooted intensely not only at the local level, but at the official level as well. This paper is an attempt to study both the Village Councils and Panchayati Raj Institutions in the context of Mizoram. The first part deals with the origin, powers and functions of the Village Councils which have been qualitatively transformed with the passages of time from 1954 to 2017. In the second part, the evolution and powers along with the current position of Panchayati Raj System are discussed. The third part entirely focuses on the study of similarities and differences of both the Village Council and Panchayati Raj Institutions. The last part attempts to present suggestions and recommendations for the Village Council in light of the recommendations submitted by the Fourteenth Finance Commission for a period during 2015-2020.

Keywords: *Village Councils, chieftainship, Gram Sabha, Panchayati Raj Institutions, Fourteenth Finance Commission*

Mizoram is one of the few states in the country where Village Council as a form of democratic decentralization has been an accepted policy for a long time. This Village Council has been in existence in the state for more than 60 years since 1954. The Lushai

Hills District (Village Council) Act, 1953 (as amended from time to time) has been in use in the whole state of Mizoram until the passage of the Mizoram Municipalities Act, 2007, which now constitutes Aizawl Municipal Corporation since 1st July, 2008

for Aizawl city; all the district headquarters are still functioning under Village Councils. In addition, Mizoram also has the unique institution of the three Autonomous District Councils (Lai, Mara & Chakma), vested with powers intended to ensure a large degree of self-government to tribals under Sixth Schedule to the Indian Constitution.

I. Historical Development of Village Council

Before the introduction of Village Council in Mizoram, all administration in the villages was carried out by the Chief with the help of his Council of Elders. Chieftainship was hereditary and autocratic; one Chief could rule over two or more villages including hamlet depending upon the local economy coupled with the Chief's ability to administer the villages. The Chief, with the assistance of his Council, administered all aspects of the village life in accordance with the customary laws of the Mizos. Their administrative system, planning of the villages and implementation of local development, and administration of justices were not inferior to the systems adopted by even most civilized society of the world.

But, with the passage of time, the dawn of democratic political consciousness and the formation of the first political party, called the Mizo Union on 9th April, 1946, and the subsequent establishment of District Council in the then Lushai Hills led to the passage of the Assam Lushai Hills District (Acquisition of Chiefs' Rights) Act, 1954 by the Lushai Hills District Council, which came into force on 1st April, 1954 onwards.

By this Act, two hundred and fifty nine (259) Mizo (Lusei) Chiefs and fifty (50) Pawi-Lakher Chiefs were dethroned from their Chieftainship since 14th April, 1956 (Poonte, 1965, p.20).

Before the Assam Lushai Hills District (Acquisition of Chiefs' Rights) Act 1954 was passed which led to the abolition of Chieftainship, the Lushai Hills District (Village Council) Act was passed in 1953 for the establishment of Village Councils, which will replace the traditional political institution. This Village Council Act is in conjunction with paragraph 3, Sub.-para (1), Clauses (e) & (f) of the Sixth Schedule to the Constitution of India, and the Governor of the then Assam gave his assent on 29th November, 1953; it was published in the Assam Gazette on 9th December, 1953. The elections to the newly constituted Village Councils were not conducted simultaneously in the villages; instead, polling parties visited villages after villages to conduct elections and 16th August, 1954 has been accepted as the official date of the establishment of Village Councils in Mizoramⁱ.

I.i Power and Functions

The original Act was almost silent on the powers and functions of the Village Councils, except on the allotment of land for jhum cultivationⁱⁱ and voluntary community works (Sec.8)ⁱⁱⁱ. The principal Act mainly dealt with the establishment of Village Councils, formation of executive council, conduct of business, powers and duties of the President, Vice President and Secretary, duty of Village Crier, issues relating to

establishment of hamlet and dissolution of Village Councils. In addition, the Village Council has been entrusted with such powers and functions as enumerated in the following Acts and Rules: (i) The Lushai Hills Autonomous District (Administration of Justice) Rules, 1953, (ii) The Lushai Hills District (House Site) Act, 1953, (iii) The Lushai Hills District (Jhumming) Regulations, 1954, (iv) The Mizo District (Forest) Act, 1955, (vi) The Mizoram Animal (Control & Taxation) Act, 2014.

The powers and functions of the Village Councils, however, can be divided mainly into two heads –General and Judicial Administrations under the Village Council Act as amended in 2014. Under General Administration, the Village Council has the following powers and functions: allotment of land for jhum cultivation, construction of approach road to jhum field and demarcation of boundary lines between one or more jhum fields, repairing/clearing of roads between village and villages, management of public water points/tanks and public burial grounds/cemetery, organizing voluntary community works, registration of births and deaths, organizing search party for lost persons and overall development of the village. In the field of judiciary, the Village Council Court has the power to administer justice in both Civil and Criminal cases, in which both parties belong to a Scheduled Tribes resident within its jurisdiction^{iv}. Civil cases include cases of civil and miscellaneous nature falling within the purview of village or tribal laws and customs. Criminal cases relate to cases falling within the purview of tribal laws and customs and offences of petty nature, such

as petty theft and pilfering, mischief and trespass of petty nature, simple assault and hurt, affront and affray of whatever kind, drunken or disorderly brawling, public nuisance and simple cases of wrongful restraint. It also has the power to fine Rs.500 (Rupees five hundred) to the loser of the case, whereas it has no power to try offences in respect of which the punishment of imprisonment is obligatory under the Indian Penal Code.

Besides, the Village Council has the power to collect annual animal tax under the guidance of Local Administration Department, Government of Mizoram. The revenues generated from this annual animal tax is normally shared on 50:50 (fifty: fifty) basis with the state government^v. Apart from this, the Village Council has also the power to collect Rs. 50 (Rupees fifty) and Rs.25 (rupees twenty five) from non-participants of voluntary community works in the form of ‘Run’^{vi} and ‘Pha’^{vii} respectively. These are also the principal sources of revenue, called own source revenue of the Village Council.

In the amendment of the Act in 2014, the Village Council has been freshly endowed with the following powers and duties: to formulate village development schemes; to supervise development works received from the State government through various agencies; to help various government agencies in carrying out development works in the village; to take up development works on its own initiative or on request by the government; to convene regular social audit for successful implementation of development works in the

village; to collect property tax as prescribed by the State government; to realize registration fees for each litigation within its jurisdiction; to raise fund for public utility within its jurisdiction by passing a resolution subject to the approval of the State government; to administer relief and rehabilitation to the people during calamities; to assist the State government in public distribution system; to initiate or assist the Government in all preventive measures on the outbreak of an epidemic or infectious disease; to co-operate with Government officials in charge of any of the above functions within its jurisdiction (**Section 8A**).

Another interesting addition in this amendment is incorporation of Village Assembly (Gram Sabha) provision in the main Act, with the power to approve the annual plans, programmes and projects for social and economic development in respect of the village concerned before such plans, programmes and projects are taken up for implementation and identification or selection of persons as beneficiaries under the poverty alleviation and other programmes. Besides, the duration of Village Council term has been upgraded from three years to five, and provision for seat reservation for women has also been made.

It may be noted here that Mizoram^{viii} has been exempted from the implementation of 73rd Constitutional Amendment Act of 1992; but this amendment in 2014 has, however, been in effect in consonance partly with 73rd Constitution Amendment Act of 1992.

II. Panchayati Raj

The 73rd Constitutional Amendment was passed in 1992 to impart certainty and continuity to strengthen the Panchayati Raj Institutions (PRIs) by giving them constitutional space in the country. This landmark Constitutional amendment to rejuvenate an institution of democratic local self-government in India was assented by the President of India on 20th April, 1993 and it came into operation on 23rd April, 1993 onwards. It empowers the States to establish Panchayats as the true units of local self-governments. The states, which are exempted under Article 243M are also free to opt this type of rural local self-government if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting.

II.i Structure & Powers

The 73rd Constitutional Amendment has accepted three-tier structures for the Panchayati Raj System: (i) Zilla Parishad at the District level, (ii) Block Samiti/ Vidhan Sabha at the Block level, (iii) Gram Panchayat at the village level. A state having less than twenty lakhs population is, however, exempted from having block level Panchayats. Nevertheless, National Commission to Review the Working of the Constitution (2000-2002) has interestingly recommended two tier structures, both at the village and district levels for the state of Mizoram.

The term of the Panchayats is five years, normally from its first meeting after the election, and elections to constitute new bodies shall be completed before the expiry of its term; in the event of dissolution, election will be compulsorily held within six months. Seats are also reserved for both Schedule Caste (SC) and Schedule tribes (ST) in proportion to their population; not less than one-third of the seats are reserved for women as well. Offices of the chairperson of the Panchayat at all levels shall be reserved in favour of SC and ST women. One-third of the offices of chairperson of Panchayats at all levels shall also be reserved for women. Legislature of the state shall be at liberty to provide reservation of seats and office of chairperson in Panchayat in favour of backward class citizens. The establishments of both State Election Commission and State Finance Commission are now a constitutional obligation for the states.

The most remarkable entity of the 73rd Constitutional Amendment is the constitutional recognition of the powers and functions of the Panchayats, which are clearly laid down in Eleventh Schedule of the Indian Constitution^{ix}. These twenty nine items (Core functions – five items, welfare functions – thirteen items, agriculture & allied – nine items, industries – two items) mentioned in the Eleventh Schedule are not, however, distributed for a specific level of Panchayats at the three tier structures; in other word, the states are given the freedom to allocate any item under Eleventh Schedule to a particular level of Panchayats.

Under Article 243G, the Panchayats have also been endowed 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 the appropriate level with respect to the preparation of plans for economic development and social justice, and 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.

The sources of financial revenues for the Panchayats have also been protected by the Constitution under Article 243H. According to this article, the State government is obligated to provide for the Panchayats the power to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits; assign such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits; provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys there from, as may be specified in the law.

Article 243O of the Constitution of India also imposes bar to interference by courts in electoral matters of Panchayats on the following matters:

firstly, the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court; secondly, no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

III. Village Council & Panchayati Raj System

There have been persistent demands from some quarters to introduce Panchayati Raj System in Mizoram since the late 1990s. Apart from publishing in vernacular newspapers, the apex body of Young Mizo Association (YMA), Central YMA in its Annual Conference also discussed this issue thoroughly. At the Annual General Conference of Young Mizo Association in 2001 at Kawnpui and in 2004 at Serchhip, the issues of PRI were put up as one of agenda items, but it was not passed. If passed, the Central YMA would be obligated to submit representation to the State government for the adoption of the 73rd Constitutional Amendment in Mizoram.

Resistances, however, have also been present on the ground that Panchayati Raj Institutions are not designed for tribal population in Mizoram, and that the name itself suggests a non-Mizo entity. But, supporters and opponents of Panchayats are agreed on the need to introduce a vibrant democratic local self-government at the local level for realization of developments.

In the meanwhile, various development schemes under the Central government need a vibrant and lively democratic political institution at the local level for the successful implementation^x. Therefore, major amendment to the Village Council Act, 1953 was made in 2014 to meet the growing requirements of the various schemes under the Central government. The desire to convince the Central government officials on the commitment of the State government to opt for Panchayati Raj System is also another chronic reason for this amendment. Interestingly, the amendment has adopted some essential features of Panchayats, such as provisions for Village Assembly (Gram Sabha), five years term and reservation of one-third seats for women; the powers and functions of Village Council have also been enlarged.

III.i Similarities and Differences

- (i) Like Panchayats, the new Village Council has a term of five years from the date appointed for its first meeting after it is constituted. Like the Panchayats, elections to the Village Council shall be conducted before the expiry of its full term. The term of the Village Council can be extended or shorten for a period not exceeding eighteen (18) months in the aggregate. There is no such extension provision in the Panchayats.
- (ii) The number of members of Panchayats at all levels is fixed in proportion to the number of

- voters in the Panchayats, whereas the number of members in a Village Council is determined by the number of households in the village. As per 2014 amendment, a village having up to two hundred (200) household has three (3) members of Village Council, village having 201-500 households has 5 members, village having 501-1000 households has 7 members and village having above 1000 households has 9 members of Village Council.
- (iii) Like Panchayats, provision for Village Assembly (Gram Sabha) has also been given to the Village Council. While the regularity of convening Gram Sabha in a year is not provided in the 73rd Constitutional Amendment, the Village Council is required to convene Village Assembly (Gram Sabha) meeting at least three (3) times in a year. (**Sec 11A-6**); quorum of such meeting is 10% of the registered voters of latest electoral roll of the Village Council (**Sec. 11A-3**).
- (iv) The Village Council has also incorporated a system of seats reservation for women, yet it does not meet national requirement in some cases.
- (v) Unlike Panchayats at the village level, the Village Council area is not divided into wards/territorial constituencies for election purposes. Seat reservation for women in the Panchayats is carried out on rotation basis in accordance with wards/territorial constituencies in every election.
- (vi) Seats are also reserved in Panchayats for Schedule Caste (SC) and Schedule Tribes (ST) in proportion to their population. Such system has no provision in the Village Council.
- (vii) There are no specific judicial powers for the Panchayats, whereas the Village Council has been provided this judicial power by The Lushai Hills Autonomous District (Administration of Justice) Rules, 1953.
- (viii) Panchayats has no power to allot land for jhum cultivation, though agriculture is an important item (Item No.1) under Eleventh Schedule. The Village Council has the power to distribute land for jhum within its territorial jurisdiction as per The Lushai Hills District (Jhumming) Regulation, 1954.
- (ix) Eligibility for voters in Panchayats elections is based on the qualification imposed under The Representation of People Act, 1950 (Act 43 of 1950); therefore, all the voters whose names are included in the electoral roll of State Legislative Assembly elections are qualified

Table 1: Position of seat reservation for women in Mizoram

No. of Households	No. of VC Members	Seat Reservation for women (in number)	Seat Reservation (in percentage)
Up to 200	3	1	33.33
201 -500	5	1	20
501-1000	7	2	28.57
1000 above	9	3	33.33

Table 2: Financial grants for VC in Mizoram under various Finance Commissions

12 th Finance Commission (2005 – 2010)	13 th Finance Commission (2010 – 2015)	14 th Finance Commission (2015 – 2020)
20 Crores	Basic Grant - 131.82 Crores	Basic Grant - NIL
	Performance Grant - 61.40 Crores	Performance Grant NIL

voters in the Panchayat elections. But, in the case of Village Council elections, only permanent residents of Mizoram, such as Mizo and Gorkhas have enjoyed voting rights. According to Rule 18 of The Mizoram (Election to Village Council) Rules, 2014, such non-tribals whose cases are not triable by the Village Council Courts under The Lushai Hills Autonomous District (Administration of Justice) Rules, 1953 are ‘disqualified voters’.

IV. 14th Finance Commission and Village Council

The Fourteenth Finance Commission was constituted by the President of India under Article 280 of the Constitution on 2nd Jan., 2013; Dr. Y. V. Reddy, former Chairman of RBI was appointed to chair the Commission. Among its Terms of Reference (ToR), ‘the measures needed to augment the consolidated fund of states to supplement

the resources of the local governments in the states on the basis of the recommendations made by the State Finance Commissions’ basically relates to local self-government in India.

The Fourteenth Finance Commission excluded Mizoram, Meghalaya, Nagaland and other Sixth Schedules Areas in parts of Assam, Tripura and Hill Districts of Manipur in its recommendation on Basic Grant and Performance Grant of rural local body for the year 2015-2020. The Fourteenth Finance Commission has stated that financial grants cannot be recommended for *areas where Part IX and Part IX A do not apply, and also where the States have not enacted laws for establishing duly-elected panchayats and municipalities*. It further stated that *areas under Schedule VI in Meghalaya, Mizoram, Tripura and Assam, the areas in the hill districts of Manipur, rural areas of Nagaland and Mizoram will remain outside the ambit of the measures we have recommended for*

panchayats and municipalities. However, we note the weight of the argument put before us by the concerned States that these areas are in pressing need of assistance. We note that the Constitution mandates the Union Government to play a direct role in supporting the development of these areas. However, going by the quantum of the assistance given over the years to these regions by the Ministries in Union Government, we note that the intervention of the Union Government under the proviso to Article 275(1) has been very limited.... We urge the Union Government to consider a larger, sustained and more effective direct intervention for the upgradation of administration as well as development of there as covered under the proviso to Article 275(1) and excluded from the consideration of Finance Commissions in the ToR, in order to bring such areas on par with other areas (Fourteenth Finance Commission, Paras 9.108 – 9.110).

The Commission, however, has earmarked 180262.98 Crores for Basic Grant and 20029.22 Crores for Performance Grant during this period for all other States. Due to this, the principal financial source of Village Councils in Mizoram has become exhausted, while Municipality would be entitled to receive 96.17 Crores as Basic Grant and 24.04 Crores as Performance Grant for the period 2015-2020.

IV.i Concluding Observations

It has been stated earlier that the Village Council does not have a reliable source of revenue on its own. The power of the Village Council Court, in which the losers of the cases can be penalized Rs.500,

is not a dependable financial source; even most of villagers prefer to approach the law Court rather than their Village Council Court for redressal of disputes. The sharing of annual animal tax with the State government on 50:50 basis does not turn out to be a good source of financial revenue. The power to collect property tax by the Village Council within its jurisdiction has not yet been implemented at the village level. The Village Council is, therefore, unable to meet even the monthly salary of its members from its own sources.

The first Mizoram State Finance Commission submitted its report to the Governor on 15th February, 2015, and its recommendation covers the period from 1st April, 2015 – 31st March, 2020. Mention may be made here that the State government has only accepted Rs.680 lakhs as annual financial grants to the Village Councils during this period, which will not be a good amount for around 812 Village Councils in the whole State.

As a result of the Fourteenth Finance Commission's refusal to recommend financial grants for Village Councils in Mizoram, the Government of Mizoram constituted a Study Team on 16th January, 2017 to look into the feasibility and practicability of converting the existing Village Councils into Panchayati Raj Institutions. The Study Team is chaired by K. Lalrinthanga, Parliamentary Secretary (LAD) with R.S. Lalzamlia, Director (LAD) as Member-Secretary. Vice-Chairman is K. Lalmuana, Secretary (LAD); Lallianchhunga (MZU), Dr. L.H.Chhuanawma (PUC) and Eric R.

Zomuanpuia (Chhimbial Chhantu) are members. Apart from visiting Tripura and Sikkim to study the working of Panchayats, the Study Team organized 'Extended Consultation Meeting on Conversion of Village Council into Panchayati Raj Institution' on 28th June, 2017 with participations from representatives of political parties, NGOs, teachers and prominent citizens. The recommendations of the Study Team resulted in the drafting of the Mizoram Rural Local Government (Panchayat) Bill, 2018 to meet the requirements of the 73rd Constitutional Amendment, 1992.

In the meantime, the Union Government has recently constituted Fifteenth Finance Commission on 27th November, 2017 with Shri N. K. Singh, former member of Planning Commission as its chairman, which will make recommendations for the five years commencing on 1st April, 2020 till 31st March, 2025. It is not yet clear whether this new Finance Commission will follow the precedence set by the previous Finance Commission or not; therefore, the state government of Mizoram is at a crossroad either to adopt Panchayati Raj Institutions or retain the existing Village Council.

The sources of revenues from its own and annual financial grants from the state government are not enough to make the Village Council an instrument of development in the state. In fact, the Village Councils are not competent to initiate proposals for the development of their respective villages (Lalrintluanga, 2011, p. 196). More financial resources are needed to

make Village Councils an institution of vibrant local self-government. Given the state of economic condition of Mizoram with few elastic sources of revenue for the State, financial devolution to the Village Council will always remain a challenge. Village Councils will not find it easy to mobilize resources on its own. The State government itself will always face severe constraints in resource mobilization for its Village Councils. While several Village Councils have made creative efforts to raise additional resources from various rural development programmes/schemes, and have had some success in this regard, this can at best be a modest supplementary source of development finance, which is outside the purview auditing authority. This is where the role of the Central government becomes crucial. Therefore, it is imperative to transform the Village Councils along Panchayati Raj Institutions, while retaining its traditional uniqueness, for receiving financial grants from Central Finance Commission, so as to qualitatively transform the social, economic and political condition of the villages in Mizoram.

Notes

- ¹ <https://lad.mizoram.gov.in/page/village-council-kaihhraina-2012.html> (Accessed on 6th March, 2018)
- ² The Lushai Hills District (Jhumming) Regulation, 1954. As per this Regulation, distribution of jhums shall be done by draw of lots to distribute previously demarcated land and by draw of lots to decide the order of preference by which selection of jhums shall be done.

- ³ The Lushai Hills District (Village Council) Act, 1953 (herein referred as VC Act)
- ⁴ Rule 14 of The Lushai Hills Autonomous District (Administration of Justice) Rules, 1953.
- ⁵ The Mizoram Animal (Control & Taxation) Act, 2014. Section 13 (2)
- ⁶ Section 8 (3) of the VC Acts States, “Any person who does not comply with the order of ‘*Hnatlang*’ shall be liable to ‘*Run*’ either in kind or in cash which may be fixed by the government, or order, from time to time, not exceeding {Rs.50 per *hnatlang* day} unless has been exempted from *hnatlang* under Section (1) or has obtained commutation under Section 9 (3)
- ⁷ Section 9 (3) of the VC Acts States, “Every person shall have the option of commuting his obligation to render service under *hnatlang* on payment of cash compensation in lieu of it at a rate to be fixed by the Village Council not exceeding (Rs.25) per *hnatlang* day.
- ⁸ According to 243M of the Indian Constitution, exempted areas/states are:
- (i) the States of Nagaland, Meghalaya and Mizoram;
- (ii) the hill areas in the State of Manipur for which District Councils exist under any law for the time being in force.
- (iii) the hill areas of the District of Darjeeling in the State of West Bengal

for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;

⁹**Items under 11th Schedule:** 1. Agriculture, including agricultural extension. 2. Land improvement, implementation of land reforms, land consolidation and soil conservation. 3. Minor irrigation, water management and watershed development. 4. Animal husbandry, dairying and poultry. 5. Fisheries. 6. Social forestry and farm forestry. 7. Minor forest produce. 8. Small scale industries, including food processing industries. 9. Khadi, village and cottage industries. 10. Rural housing. 11. Drinking water. 12. Fuel and fodder. 13. Roads, culverts, bridges, ferries, waterways and other means of communication. 14. Rural electrification, including distribution of electricity. 15. Non-conventional energy sources. 16. Poverty alleviation programme. 17. Education, including primary and secondary schools. 18. Technical training and vocational education. 19. Adult and non-formal education. 20. Libraries. 21. Cultural activities. 22. Markets and fairs. 23. Health and sanitation, including hospitals, primary health centres and dispensaries. 24. Family welfare. 25. Women and child development. 26. Social welfare, including welfare of the handicapped and mentally retarded. 27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes. 28. Public distribution system. 29. Maintenance of community assets.

¹⁰ Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), Pradhan Mantri Awas Yojana-Gramin (PMAY-G), Pradhan Mantri Krishi Sinchayee Yojana (PMKSY), Saansad Adarsh Gram Yojana (SAGY), Rurban Mission and *Pradhan Mantri Gram Sadak Yojana* (PMGSY) are Centrally Sponsored Schemes in which participation of the villagers/stakeholders through Gram Sabha have become an indispensable part of it.

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