

ISSN: 0974-2735

BIHAR JOURNAL OF PUBLIC ADMINISTRATION

(A Bi-Annual Refereed Research Journal of IIPA Bihar Regional Branch, Patna)
(S.No. 41 In UGC-CARE Reference List of Quality Journals, S.Sc.)

New Series
Vol. XVIII, No. 1

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No. 1

Jan.-June, 2021



Editor
R.K. Verma

Indian Institute of Public Administration
Bihar Regional Branch, Patna

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Bihar Regional Branch

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Contents

From the Desk of Chief Editor	iii
Editorial	iv

ENGLISH SECTION

1. Internet Broadband for an Inclusive Digital Society: A Study of India's Bharat Net Project	1-14
<i>T. Sadashivam</i>	
2. Gender Equality Illusion in Bihar	15-29
<i>Anil Kumar Singh Jha</i>	
3. Analysis of Chinese Corporate Performance, Managerial ties and Social Responsibilities	30-38
<i>Manoj Kumar Mishra and Waqgari Negari</i>	
4. Rights based Approach to Development & Right to Food in India in Digital Age: A Critical Analysis	39-52
<i>Smriti Saurabh Singh</i>	
5. Kingship in Ancient India: Reflections on Functional Peripheries in Sanskrit Texts	53-65
<i>Sanjeev Kumar Sharma and Ansuiya Nain</i>	
6. Wage Increase and the Nigerian Civil Service: An Unending 21st Century Demand	66-74
<i>Vikrant Kumar Sharma, Nasiru Modibbo and Umar Adamu</i>	
7. Proactive Disclosure of Information Under RTI Act 2005 in Village Panchayats of Goa	75-88
<i>Ravaji Gaunkar</i>	
8. Women's Impression with Regards to SHE Teams: An Empirical Study Towards Women Safety and Security in Hyderabad	89-103
<i>A. Kumara Swamy</i>	
9. Local Government in Ancient India: Some Facets with Reference to Modern Times	104-111
<i>Renuka Nath</i>	



PROACTIVE DISCLOSURE OF INFORMATION UNDER RTI ACT 2005 IN VILLAGE PANCHAYATS OF GOA

Ravaji Gaunkar*

Abstract

Right to information plays a vital role in a democratic country like India. It is widely accepted that information is oxygen to democracy. Its survival and progress depend upon the free flow of information. Proactive disclosures of information under new RTI regimes play an essential role in the rural population's participation and development. Unfortunately, various issues reveal that many public authorities have neglected the Act's proactive disclosure requirements in Goa's Village Panchayats. Goa is a small state in India that has 191 Village Panchayat institutions, considered the vehicles of development of rural areas. Public authorities need to understand the spirit of section 4 of the RTI Act to strengthen the democratic space at the grassroots level institutions (Village Panchayat). This paper analyzes the importance of information for strengthening democracy in rural areas. An attempt has been made to discuss the lists of proactive disclosure of information at Village Panchayats in Goa.

Keywords: Democracy, Right to information, Proactive, Rural, Village Panchayats, Goa

INTRODUCTION

All human beings are free to live a good life. For this, they need resources; the law of the land decides the criteria to distribute these resources among the masses. In a democracy, the citizens elect their representatives, often called peoples' representatives, who make laws on behalf of the people to regulate the state's affairs. The citizens have a claim to decide by whom and by what rule they shall

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be governed. Panchayat institution is one of the oldest grassroots institutions in India. It was functioning and known in a different name in various parts of the country. According to Hobbes, human beings are selfish; they cheat and fight to acquire more wealth and resources. Under this situation, the nature of the state was in the complete dark. To escape from such evil situations, they enter into a contract. After entering into a contract, the law became a reality. In modern mature democracies, “law is a controller of human behavior, but no law can effectively work unless there is an element of recognition by the populace and the society. No law works out smoothly unless the interaction is voluntary” (Borowalia, 2007: 5). The New Panchayat Raj Law and the Right to Information Law in India result from interactions held among legislators and the people at different levels. Both these enactments are essential sources of participatory democracy, especially in rural India. Goa is a small state in India, comprises 191 Village Panchayats. Together, both these laws strengthen the democratic space for developing the rural regions under the jurisdiction of Village Panchayats in Goa. It help to address important livelihood and developmental issues of villagers in Goa. This paper analyses the importance of information in a democracy. It also highlights the categories of proactive disclosure of informations in the Village Panchayats of Goa.

PANCHAYAT INSTITUTION AND INFORMATION

New systems of Panchayat Raj Institutions with the inclusion of new information law at the grassroots level have been considered tools of socio-economic transformations in rural India. Both the 73rd amendment act and the Right to information act are recognized as the institutional expressions of democratic decentralization in India. Devolution of authority, power, and responsibility is perceived as a way of empowering the people and involving them in the decision making process. Grassroots people’s Government being closer to the public can be more responsive to local wants and make fair use of resources as per the land’s law.

Kurt Eisner quoted, “Truth is the greatest of all national possessions. A state, a public, a system which suppresses the truth or fears to publish it, deserves to end and collapse” (Iyer, 1990: 20). No progress can be registered in politics and social change if the citizenry is left unlettered and the source of light sealed. In a democratic political setup diffusion of information is the base of the system. To inform the citizens is the duty of the Government. It is also equally responsibility of the people to be aware and alert and educate every constituent of it, so that the social level is kept up (Borowalia, 2006: 5). India being a democratic welfare state, takes responsibility to protect and boost welfare of people on democratic way as reflected in the Constitution of the India.

India is predominantly rural; the age-old Panchayat institutions at the grass root is seen as a vehicle for managing the local affairs, lacked to achieve the development of rural masses. Under the new Panchayat Raj system, Panchayats are considered as vehicle of development as these institutions are implementing various government schemes and programmes and are the implementing agency for RTI act, which is needed for transparent and accountable governance at the grass-root level. These grassroots level institutions in all States and Union Territories into the Union of India have an essential role in shaping the rural people's lives.

OVERVIEW OF GOA

Goa is the 25th State in India that held a unique history regarding villages and their governance (Axelrod, Fuerch, 2006). After Liberation, Goa was integrated under the Union of India as Union Territory on 19th December 1961 and became the full-fledge smallest state in India on 30th May 1987. The geography of the terrain region comprises 3702 sq. km. divided into three parts, hill land, midland, and coastal land located between the two big neighboring states, namely Maharashtra and Karnataka, and sounded by the Arabian Sea.

Politico-Administratively, Goa is divided into two districts, South Goa District and North Goa district, also called two parliamentary constituencies. Further, Goa comprises 40 constituencies to Goa legislative assembly. For grass-root democracy, as per the 73rd amendment act, Goa comprises 191 village Panchayats. The development of the countryside region depends on the Gram Panchayat. To achieve this, Goa State passed the new legislation for Panchayats' governance called Goa Panchayat Raj Act 1994. The amended Goa Panchayat Raj Act in the light of the 73rd amendment ensures the people's meaningful participation at the grassroots level. The provisions of the Act have the potential of establishing the procedural part of good governance. Section 113, Chapter IV of Goa Panchayat Raj 1994 mentions the vital role of the Panchayat Secretary, an officer of the Government and also the authority to provide information often called (PIO) under new access to information law (RTI Act) 2005, who maintain all records of the Panchayat. Through this initiative, vast responsibility and power are given at the hands of public and the executive. Still, rural development is lacking because executives do not always use their energy for the public good and public interest and rural people are hardly aware about the tool (RTI) to change the system (Civil Society magazine, 2017). There are instances of corruption in Village Panchayats, misuse of funds, promotion of illegal activities within the jurisdiction of Village Panchayat etc. The nexus between the Secretary and the Sarpanch often hamper the development of a Panchayat (Salgaokar, 2012; The Navhind Times, 2017). Record management is a severe issue in Village Panchayats. Village Panchayats are not functioning properly as the Secretary who was supposed to keep all the records and

information about the Village Panchayat, and his cooperation is important for the smooth functioning of the Village Panchayat lacked to perform their official duties related to RTI act (Civil Society Magazine, 2017). Sometimes, secretaries use their power more in their common interest with the Sarpanch rather than the people's interest. Some Secretaries are not using RTI sincerely, and they are found guilty for delaying and bending the information (O herald, Aug. 2020; The Times of India, Sep. 2018 & Aug. 2020). In the Village Panchayats RTI, proper implementations still suffer, especially in most of the Panchayats proactive disclosure are not in place (Civil society magazine, 2017; O herald, 2020). Such actions of the officers hamper the promises made by free India into its Constitution.

After India's Independence, the Government of free India declared itself committed to the objectives of the all-round development of the Indian populace on democratic lines as incorporated in our Constitution. The Constitution of free India came into force on 26th January 1950; from this day onwards, a democratic government came into existence in free India. The Constitution provides a framework for a democratic and all sets of representatives form of Government. The Constitution of India pronounces India to be a Sovereign, Socialist, Secular, and Democratic Republic. The opening statement of our (Indian) great document (Constitution) begins with 'WE' the people of India, resolved to give all citizens justice, liberty, equality, and fraternity. People are the source and strength of the country. The constitutions also include a list of fundamentals Rights as basic enforceable rights of the people and the Directive Principle of State Policy as a set of directives to the Government to introduce reforms and make those rights effective. These two are the essential components of our Constitution that play a vital role in bringing changes in the country's governance. To get changes, rights are given to the people, and subsequently, powers are also vested in the legislature's hands to enact the necessary laws. An information law has been accepted as a crucial aspect of democracy. It is an outcome of people's struggle and legislature's initiatives to bring change in the democracy.

The commencement of 21st Century manifests with the development made in the field of technology and information. The main task of information is to prepare people to make knowledgeable choices and exercise their democratic rights. As a citizen of a democratic country, an individual has the Right to know about policies, laws, and other information that directly or indirectly affects them. In most countries globally, including India, freedom of information is identified as a key to livelihood and developmental issues. In a welfare state, information is currency and requires every citizen to participate in the state's governance. It is also an essential source of livelihood for ordinary people living in rural areas of the different parts of a country.

Like other states of India, most of Goa's population resides in Villages. Village communities and their institutions (Gaonkary/Communidade) have been in existence in Goa for over centuries. It is one of the unique grassroots democratic institutions that exist in Goa (Fernandes, 2008). After independence, Mahatma Gandhi supported Panchayat's democracy, but his dream could not turn into reality. However, the maker of the Indian Constitution has given due importance to Gandhiji's ideals of Panchayat democracy under Part IV of Directive Principles of State Policy. Article 40 of our constitutions read that state shall take steps to organize village Panchayat. Accordingly, Panchayat institutions were set up, but people's participation at the grassroots level was not given adequate importance. Independence witnessed the multi dimensional approach of governments at the center and in the states for the planned development of vast rural India. (Sisodia, 2010: 184). Despite many schemes and massive investments in rural sectors, rural areas remain underdeveloped and face the challenges of infrastructure of basic amenities like road, water, electricity, schools, hospitals, and employment opportunities etc. There were hardly any hopes for access to information to the people.

Visionary efforts in the form of 73rd constitutional amendments act and Right to information act, and subsequent state-wise acts have strengthened the grass-root democratic process and decentralization in India. The objective of decentralization is to introduce participatory forms of governance by giving citizens and their representatives more voice in the formulation and implementation of plans and policies through local self-governance institutions. Accordingly the state of Goa passed its own laws to give effects to the central laws. The enactment of Goa Panchayat Raj Act and Right to information Act intended to seek more extensive involvement of the citizens for effective execution of rural development programs in Goa. These legislations attempted to bring institutions and rural people more closely to each other in various ways.

INFORMATION AND PEOPLE (INFORMED CITIZENRY)

Information is oxygen to democracy. A state cannot function without information. Every action of the Government depends upon the information. Historically the state, through various legislation, kept necessary information hidden and secrete. But in the 21st century, the influence of technology and revolutionary ideas force the state to open essential information accessible to its people. Vast freedom and responsibility are given to the citizens in the form of fundamental rights under Chapter III of the Constitution. Right to information is an implicit component of the Right to freedom under Article 19 of the Indian Consitution. Indian Judiciary, in its various judgments since 1973, announced citizen's Right to access information is

an integral part of the fundamental Right to life and liberty and freedom of speech and expression guaranteed by the Constitution.

The new Right to information means citizens' privilege to ask for information, which are controlled by public authorities. It also implies the concerned public authorities' responsibility to store all the information for the public interest. The fundamental rationale of RTI is that, in a democracy where governments draw their authority, power, and finance from the public. It's a legitimate duty of the Government to inform the public about the programme and policies and are answerable for every conduct they perform.

The Act, commonly known as RTI 2005 (Government of India, 2007), is a law passed by India's parliament, an attempt to set a particle regime to recognize the necessary fundamental privilege of the Right to access information to the people held by public authorities. "The constitution of India says; India is a democratic state and democracy requires alert and well-informed populace; openness and flow of information are important to its survival and functioning" (RTI 2005). Therefore, the RTI act aims to fulfill maximum transparency, openness, and accountability in governments' functioning at all levels (Central, State, and Local Govt.).

MEANING OF "INFORMATION"

Information is a broad term that can be used in different ways. In the context of RTI act, as per section 2 (f) of the law, refers to the material in any form, either hard copy or soft copy including any kinds of official records, documents, opinion, advices, memos, e-mails, press releases, orders, circulars, logbooks, contracts, reports, papers, models, samples, data materials held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force (RTI act 2005).

MEANING OF "RIGHT TO INFORMATION"

Provision 2 (j) of the Act explains the concept, Right to information. It refers to the privilege of the citizen to access any public information possessed by any public authority.

It is the Right of the people to inspect or check any public work, records, and documents;

It also means the privilege of the people to take notes, extracts, or certified copies of records and documents;

It is the Right of the people to ask for certified samples of any materials;

Citizens can avail information in the form of both hard copy and soft copy. Such data can be available through printout or photocopy of the documents, information on hard drives such as floppies, diskettes, videos cassettes, tapes, or any other electronic mode.

Under the RTI act 2005, the Government seized informations are disclosed to the people in two ways: i.e., Proactive disclosure and information upon request.

PROACTIVE DISCLOSURE

Proactive disclosure of the information is made available under section 4 of the Act. This type of information is made public at public authority initiatives without filing any request by the people. This provision is one of the crucial aspects of the Act. It is added to place a large amount of information in a public domain on a proactive basis to make the public functionaries more transparent and customer-oriented. Under the RTI Act 2005, the PIO/public authorities must voluntarily publish important basic categories of information to the public at regular intervals through various communications. It means that authorities should use such a mode, in which informations are easily accessible and available to common man in rural areas. Since both Panchayat legislation and RTI law directly contribute to direct democracy. Under the new Panchayat laws, the provision for Gram Sabha fulfills the criteria of direct democracy.

GRAM SABHA

The new Act opens the space for larger participation of the rural populace and successful execution of rural programs. The provision under section 4 of the Panchayati Raj Act mentions the role of Gram Sabha. Panchayat should hold Gram Sabha meetings (section 5) to discuss and approve the subject mentioned in provision 6 of the Goa Panchayat law. To achieve the development of the Panchayats, Gram Sabha shall constitute supervisory committees and ward committees. Simultaneously, to ensure the proper utilization of the funds for developmental work, provisions were made to appoint a vigilance committee within Gram Panchayat's jurisdiction.

GRAM PANCHAYAT

The Village Panchayats is the lowest institution in a rural area; the Gram Sabha people directly elect members of this institution. Village Panchayat Council consists of elected members of the Panchayat, responsible for the overall functioning of the Gram Panchayats. It comprises the head of the Village Panchayat (Sarpanch), Deputy Sarpanch, and other elected representatives (panchas) of the Panchayat, elected for five years term. The strength of the number of members and its

classification of Village Panchayats are fixed based on the population (Section 7, (1)) of the Goa Panchayat Act. At the local level, Panchayat institutions hold all the information.

DISCLOSURE OF INFORMATION AT GRAM PANCHAYAT LEVEL

Ways of Proactive Disclosure

As per the Act, public authorities must publish information at regular intervals. Public authorities can disseminate proactive information through various communication modes such as digital, print, and display of information on the internet website. It can also publish in newspapers, distribute pamphlets, display charts/banners/posters, circular, notice on notice boards, announcements through mike, publish reports and magazines, etc. The information can be made available when necessary by the village authorities to the public. Such types of information should be easily accessible, available, and free of cost.

Categories / Types of proactive disclosure of Information at Gram Panchayat Level

The Act lists categories of information that public authorities must disclose suo moto within the stipulated timeframe of RTI enactment.

Proactive disclosure of General Information of Village Panchayat

As per the Act, every Gram Panchayat shall maintain and display the primary and general Information of Village Panchayat such as population, wards, area, voters, literacy, agriculture, schools, etc. Public authority should maintain and display the names and contact numbers of all the elected representatives. It is compulsory to publish and display Public Information Officer's name, a designation under the RTI Act.

Proactive disclosure about Power, Functions, and Duties of Panchayats

To fulfill the promise assured in the 73rd amendment, the enacted Goa Panchayat Raj Act in Chapter III and IV laid down the power, functions, and duties of Village Panchayats. Under the RTI Act, public authorities have to make awareness among people regarding the powers and responsibilities of the elected representatives of Village panchayats, which should be highlighted in simple and easy language.

Proactive disclosure about Gram Panchayats Meetings

Panchayat meetings are mainly attended by elected representatives (Panchas). In reality, most of the time, information's on subjects discussed in the council meetings is primarily controlled and shared with elected members of the Panchayat. The new law provides that Village Panchayat should regularly meet, at least once in fifteen days. The meeting's notice must be given to each member on time, informing the date, time, place of the meeting, and display on the Village Panchayat's notice board. The Panchayat secretary must record the minutes of every meeting in a book maintained by the Panchayat. As per the Act, it's binding on the authority to keep the procedure followed in the decision-making process and norms set by it to discharge its functions (section 4 (b) iii of RTI Act).

Proactive disclosure about types of documents maintain by Gram Panchayat

Village Panchayat shall maintain all necessary relevant documents and files and shall be always kept available for public. Panchayats should maintain the rules, regulations, manuals, documents, and the record received from various government agencies and departments from time to time used to discharge its functions. All records of inward and outward correspondence must be properly maintained and accessible to people. Other documents of Village Panchayats about Gram Sabhas, details records related to developmental projects, services available, Salary details of staffs, budget and audit reports, details of constitutions of various committees, Panchayat acts & rules, all the guidelines received from Government, records about a council of members meetings, all correspondence with people and government agencies must be appropriately cataloged and kept open to the public.

Proactive disclosure about Funds of Gram Panchayat

Every Gram Panchayats receives and collects funds from various sources. They must maintain records of all financial transactions in the form of income and expenditures. The details of income such as Grant in aid from the Government, taxes, fees, the amount collected by way of loans, contributions and donations or gifts, etc. must be adequately maintained and accessible to public. Goa Panchayat Act 1994 empowers the Village Panchayat to propose to impose taxes, rates or fees. The village Panchayat must put a copy of the resolution on the notice board and give the people a minimum time to file their objection on the proposed matter. At the same time, Panchayat must justify such initiatives. Also, they should put such proposals before Gram Sabha for discussion and approval.

Proactive disclosure of various services available at the Panchayats

Panchayat should display the list and procedure, and time frame of services made available to the public. It includes licenses, permissions, and certificates issued by the Village Panchayats.

Proactive disclosure about Gram Sabha

All the Gram Panchayat's registered voters have the right to take part in the Gram Sabha meetings. Gram sabhas are visualised as the soul within the framework of panchayats (Nambiar, 2001). Therefore Citizens should be proactively informed about the Date, Time, Venue, and agenda for the meetings by putting notice, advertisement, public announcement, etc. They can then discuss, understand, and get a review of various developmental work undertaken by Village Panchayat and the fund and schemes available for people's benefit. New Panchayat Act provides a procedure to record the proceedings of the meetings and its confirmation in the Gram Sabha by people. Panchayat law empowers the Gram Sabha to recommend, suggest, and approve the following matters.

- i) Annual financial report
- ii) Annual administrative report
- iii) Report on Budget estimates
- iv) Information about programs and developments of a fiscal year.
- v) An accounts on the last audit and replies.
- vi) Details of Proposal for new taxations and enhanced taxations.
- vii) Gram Sabha should also approve the beneficiaries identified under various governmental programs.
- viii) Details of priorities of developmental work undertaken by Village Panchayats.
- ix) Gram Sabha should check and approve the utilization certificate pertaining to the Village Panchayat's works out of the Panchayat funds or from the funds provided by the Government (Grants-in-aid).
- x) Details of various programs proposals to organize community services

The records attendance of Gram Sabha, resolutions, minutes of the meeting must be adequately cataloged for future reference.

New information law mentions that proactive disclosure of different types of information scheduled above must be done cost-effectively in the local language and must use the most effective communication mode. Further, it states that the information under the Act can be provided to the public through newspapers, notice boards, media broadcasts, public announcements, through the website or any other means. The Village Panchayat should make all efforts for a free inspection

of records. The New Panchayat Raj act in Goa has information access provisions. The people can use the information to enjoy their democratic rights and welfare.

Need for the proper implementation of the Proactive disclosure under RTI Act in the Village Panchayats

In a democratic country like India, there are devolutions of powers and responsibilities among the departments, divisions, and organizations. Each officer is holding a different responsible task, and discretionary powers are given to them to carry out their duties effectively. There is a possibility that officials can misuse their discretionary power to fulfill various political and personal vested interests. Village Panchayats Secretary also carries the burden of work and also exercises discretionary powers. Therefore, section 4 of RTI law is an essential tool to reduce the burden of disseminating information and check the misuse of discretionary powers.

Goa being a geographically small state witnessed the people's movement and agitation over the dichotomy of development. Most of these movements had their genesis in rural areas. For the past decade, peoples have raised their voices on the destruction of land due to rampant illegal mining, special economic Zones, Regional plans, mega projects, land conversion and sale of land, etc.(Sampat, 2015). Civil society voiced their frustrations by coming out on the streets and holding morchas and rallies in many parts of rural areas and urban areas to show the Government's failure on the participatory approach of development. Since these development projects directly linked to rural people's livelihoods, their concerns were that such proposal should be put for public consultation and its information should be in the public domain. But in reality, most of such projects never been or were hardly skeptically discussed in gram Sabah. Its valid information's in the form of documents and plans are not available in the public domain. Unfortunately, public authorities have neglected the Acts proactive disclosure requirement in Village Panchayats.

Village Panchayats being closer and grass-root institution required powers to carry out their work. But in reality, there are always dilemmas over power-sharing between the state government and Village Panchayats (Times of India, Feb. 2020). Village Panchayat is a local self-governance that requires powers to shape the subjects devolved to the Panchayat by part IX under the Eleventh Schedule of the constitution. As per these subjects, village panchayats prepare plans and implements numerous governments' schemes for economic development and social justice. These schemes are for the progress of the poorest people in rural areas. But there are criticisms on poor implementation of the schemes. It was often revealed by the sources that Panchayat Funds were usually misused on a large scale. In most cases,

the rural populace does not know about the reality of the schemes. Records of the schemes were hardly maintained or made available to the public.

The Goa state information commission has addressed the cases of negligence of dissemination of information under section 4 (b) of the RTI act. In many cases, Goa State Commission has penalized the Village Panchayat Public Information officers for not disseminating information and not obeying proactive norms. In various cases, Commissions have directed the PIO at village Panchayat to catalog the information to meet the objectives of section (4) b of the Act (Govekar Vs. PIO. V.P Anjuna, 2020; Times of India, July 2020).

If proactive disclosure of information mechanisms are taken seriously by public authorities, it will increase people's participation for better access to services. Thus, it will lead to the rule of law and people's trust for the functioning of democracy at all levels, which starts from the bottom (village level). When people regularly use information, it will improve the information management system at a grassroots level.

To meet the objectives of RTI, public authorities must carry out the inventory of their records within specific periods i.e., quarterly, half-yearly or annually, and preserve the records in a systematic and much more manageable way. To perform such a task, the government may think of appointing record officers to maintain and keep the official records.

Challenges to implementing proactive disclosure of Information

1. Lack of understanding among authorities about proactive mechanism under RTI law
2. Burden of work on PIO and lack of staff in the Village Panchayats office.
3. Constraint of poor record management i.e., Maintenance, preservation, and compilation
4. Self-centric interest of politics among village elected representatives and officials
5. Lack of commitment to provide relevant information to the public

CONCLUSION

Panchayat institutions are essential for acknowledging the participation and contribution of rural people in a democracy. The initiative needs to be enhanced as per changes in society. In the contemporary globalization era, information plays a crucial role in the development of people. At the grass-root level, there is an urgent need for an awareness drive to sensitize the rural population about the availability and proper use of proactive information and public authorities about appropriate

implementation of proactive mechanisms. Together, people and institutions can work for Unnat Bharat, Swachh Bharat, and Atmanirbhar Bharat to strengthen democracy at all levels, especially at the grassroots level. Thus Empowerment through participation, participation, and development through information dissemination.

Note: Gram Panchayat also means Village Panchayat

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