

Decentralisation Community

Legal Provisions related to Women Sarpanches - Experiences

The Decentralisation Community of Solution Exchange, an initiative of the United Nations in India, provides a platform for increasing our understanding of local governance-both rural and urban- through knowledge sharing and collaboration. We bring to you the summary of one of the discussions held in the previous month on the Decentralisation Community.

- What are the *Remuneration/Honorarium* amount and *insurance/gratuity* benefit provisions for women sarpanches and Panchayat members ?
- What is the timeframe and process of *No Confidence Motion provision* on sarpanch, particularly membership criteria/numbers required to pass this motion?
- What are your views and experiences on the status of removal of *Two Child Norm* as a disqualification for women?

Summary of Responses

The issues of remuneration/honorarium, no confidence motion and two child norm for elected representatives are critical to the way women sarpanches and members work and are empowered. The query received responses from various states on the status of these issues.

No confidence motion provisions

The legal provisions for no confidence motions vary from State to State in accordance with state specific Panchayati Raj Acts. For instance, in Himachal Pradesh the Panchayati Raj Act states that, "On a motion of no confidence being passed by the Gram Sabha by a resolution passed by a majority of not less than two-thirds of the members present and voting at its general or special meeting and the quorum of which is not less than one-half of the total number of members of the Gram Sabha, Pradhan [and Up-Pradhan] against whom such resolution is passed shall cease to hold office forthwith." Such a meeting will not be presided over by the Pradhan against whom the motion is being passed. According to the Himachal Pradesh Panchayati Raj Rules 1997, a notice signed by at least one-fifth of the members of the Gram Sabha for bringing the resolution for removal of Pradhan or Up-Pradhan, giving reasons for the same, must be delivered in person by at least five members of the Gram Sabha signing the notice to the Block Development Officer. However, this procedure has made the passage of no confidence motions very difficult. The procedure has been rendered a boon for women elected representatives.

In Bihar, the no confidence motion may be brought only after completion of two years tenure. Once rejected, another motion can be brought on only after a gap of one year. On the other hand, in Sikkim, there is no time frame mentioned in the State Panchayati Raj Act. In Kerala, the no confidence motion can be passed based on simple majority and the next attempt can be made only after a gap of six months. Uttar Pradesh has the legal provision for bringing in a no confidence motion only after completion of two years tenure of the elected representative.

Status of two child norm

The subject of two-child norm has been controversial and oft debated. Most members strongly felt that the norm had more of a negative impact than any perceivable benefit. Among the negatives, members cited instances of disowning of the third child, informal divorces, abandoning of wives who give birth to a third child, by husbands who are elected

representatives etc. (see Himachal Pradesh experience). In general, they opposed the notion of the two child norm. The norm, felt members, led to disempowerment of women, sex selective abortions and child abuse. Discussants noted that in Bihar, the two child norm is not applicable.

On the constitutional validity of the two-child norm, members shared some judgments passed by the Supreme Court upholding validity of this provision. Among the very few arguments in support of the norm, a member mentioned the goal of meeting the national demographic goals as embodied in the National Population Policy 2000 and the positive impact on women's health. Another member suggested keeping the provision in abeyance for about ten years. This period could be utilized to launch a publicity and educational campaign on the merits of population planning so as to sensitize the communities about this norm.

Remuneration/Honorarium and other benefits

Discussants cited the rates of honorarium and other benefits from states such as Himachal Pradesh, Uttar Pradesh and Kerala. Some analysis of the rules for payment of honorarium and sitting fee has shown that in some states such as Himachal Pradesh, elected representative and members are able to misuse the provisions. For instance in Himachal, the sitting fee is given on signing attendance in the Panchayat Office. It is possible in this case to claim the fee without actually participating in a meeting. Another lacuna is that there is no allowance for special meetings, so members tend not to call for such meetings. In Bihar all elected functionaries get a fixed monthly allowance, daily allowance and travelling allowance. A special honorarium of Rs. 100/- is given to representatives from Scheduled Castes, Scheduled Tribes, Extremely Backward Castes and women elected representatives, irrespective of caste.

The rates of honorarium appeared to be the same for both men and women elected representatives. They varied between Rs. 3,500 to 4,000/- per month for Chairpersons of Zilla Panchayats with the highest of Rs. 5,400/- for a District Panchayat President in Kerala. Kerala recorded the highest rate of honorarium for other categories of elected representatives as well. For instance, a Gram Panchayat President gets honorarium of Rs. 4,200/- per month in Kerala as against Rs. 2,400/- in Sikkim, Rs. 1,200/- in Himachal Pradesh, Rs. 600/- in Bihar and Rs. 750/- in Uttar Pradesh. Discussants shared the legal provisions on the issues of remuneration, no confidence motion and two-child norm from various states. While citing the rules, they concluded that without adequate remuneration, elected representatives would not be able to undertake their duties seriously.

For complete responses including related resources and documentation, to join the discussion or to become a member of Decentralization Community, please write to Joy Elamon (joy.elamon@un.org.in) or Tina Mathur (tina.mathur@un.org.in) or visit our website www.solutionexchange-un.net.in