

Maharaja Hari Singh: Pioneer of State Legislature

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The modern State of Jammu and Kashmir came into being through the treaty of Amritsar on 16 March 1846.¹ It was the largest princely state of India and its rulers were enjoying near despotic powers like rulers of other princely states. The early Dogra rulers inherited a crude and primitive system of administration. The machinery of the government remained unorganized, arbitrary and medieval until internal and external factors compelled its democratization.

Therefore, Gulab Singh (1846-57) neither reorganized the administration of the state nor did he consult the popular element in the administration of the state. However, his son and successor Maharaja Ranbir Singh (1857-1885) reorganized the administration of the state in sound footings. He introduced a sort of state constitution by codifying laws, set up a new department of judiciary known as Nizamat. The existing departments were overhauled, he also enlarged his council of advisors. However, like his father, he too did not think of associating the popular will in the administration. It was however, during the time of Maharaja Pratap Singh (1885-1925) the British Resident Officer along with the Maharaja improved the other departments.

Maharaja Pratap Singh was succeeded by his nephew Hari Singh. Maharaja Hari Singh was influenced by western education, philosophy and thought. The coronation ceremony of the new Maharaja took place at Jammu in February 1926 in the presence of a large gathering of distinguished guests, including a large number of the ruling princes in the country. On this occasion Maharaja Hari Singh proclaimed that his religion was justice². The many independent decisions which the new Maharaja started taking immediately after his coronation, particularly those relating to the Gilgit, were very unpalatable to the British and they were naturally annoyed with him.

However, it was in 1929 that a few unknown Kashmiri Muslims of the state demanded legislature and right of representation in it. By this time, the Maharaja had sensed the pulse of the Muslims of Kashmir. Therefore, under these circumstances, he issued a proclamation to all his subjects on July 9, 1931³. The Maharaja proclaimed that he had no desire to suppress the legitimate requests and the voice of the people, whether expressed in writing or in speech. He requested the leaders of the various communities to take immediate steps to put a stop to all political activities that were a barrier in the reestablishment of friendly relations amongst various communities residing in the state. The Maharaja was prepared to receive and consider any representation submitted by any community if the particular community responded to his desire⁴. Following the proclamation, various committees submitted their demands. Among the demands

made by various communities there was a common demand to the Maharaja regarding formation of Responsible Government in the state⁵.

The memorial containing the demand of the Muslims envisaged the future political system of the Jammu and Kashmir based on the principle of representative form of government providing, "The increasing association of the State Subjects in the administration of the State on the lines of progressive representative form of government."⁶

In the meanwhile communal tension prevailed in the state due to an incident of *Tauhin-i-Quran*⁷ which was followed by the incident of July 13, 1931 event⁸. Therefore on July 14, 1931, the Maharaja constituted the Srinagar Riot Enquiry Committee. It consisted of Chief Justice, Mr. Barjor Dalal, a Parsi as a Chairman, two judges of the state high court, Mr. B. R. Sawhney and Mr. Abdul Qaiyum; a Hindu and a Muslim as official members and two non-official members, one a Muslim and other a Hindu.⁹

However on July 27, 1931, Maharaja Hari Singh ordered that the official and non official Enquiry Commission appointed on July 14, 1931 be dissolved and that the Chief Justice and the two other judges of the state high court would hold an official enquiry instead¹⁰. This official Enquiry Commission then started working that very day, and it continued recording evidence up to September 11, 1931.

The development in Jammu and Kashmir alarmed the Maharaja and on October 5, 1931¹¹ an announcement was made by the Government that the Maharaja would consider the complaints and the grievances of his subjects and would be pleased to receive any memorandum or representation that any class or community of his subjects would prefer to make.¹² The Maharaja also appointed the Glancy Commission to look into the grievances of the Muslims of the state in course of his Proclamation.¹³

Therefore on November 12, 1931, Maharaja Hari Singh announced the appointment of a commission of Enquiry into the Grievances of the Muslims in the state. Bertrand J. Glancy a British Officer of the Indian Civil Service, who had earlier served in the State Government in different capacities, was appointed as the President of the Commission. On the same day, Maharaja Hari Singh, announced the appointment of a Constitutional Reforms Conference to examine the feasibility of political reforms in the state. Bertrand J. Glancy was appointed the Chairman of the Conference.¹⁴

The Conference started its business on March 14, 1932; had fourteen sittings and completed its work on April 7, 1932.¹⁵ Among the most important issues that the Kashmir Constitutional Conference had pondered over were the issue of setting up a State Legislative Assembly and if so what should be the functions of the legislature, what should be the basis of the franchise of the commercial classes and the workers and the labourers.

However, in May 1932, Mr. B. J. Glancy presented to the Maharaja the recommendations of the Kashmir Constitutional Reforms Conference. In pursuance of the recommendations, Mr. Glancy recommended a Franchise Committee, which was appointed by the Maharaja to report on the quantum and content of the elected membership in the proposed assembly, for franchise and the delimitation of the separate electorate. Sir Barjor Dalal, the Chief Justice of the State High Court was appointed as Chairman of this Committee. Thus, the Franchise Committee was constituted of L. A. Jardine, a civil service official of the

Government of India, Thakur Kartar Singh and Sheikh Abdul Qayum. Mr. Jardine was appointed Vice President of the Committee and Franchise Officer.¹⁶

The Franchise Committee recommended the institution of a Legislative Assembly composed of seventy-five members of which thirty-three elected and forty-two were to be nominated. The Committee recommended that among the nominated, the Maharaja reserved the right to appoint twelve official members to the Assembly among them six would be the ministers. According to the recommendations of the Committee, the other six non-officials were to be appointed on the basis of their expert knowledge in the various spheres of legislation. The Franchise Committee did not accept the recommendations made by Bertrand J. Glancy about the composition of the Assembly and turned down the suggestion that the elected members and the non-official should constitute the majority in the Assembly.¹⁷

With regard to the weightage given to the different communities, the Committee recommended that twenty-one Muslims should be the elected members in the assembly; the Hindus by ten elected members and the Sikhs by two elected members. The nominated members were to be appointed by the Maharaja. The Committee laid down certain broad lines and these were to be kept in consideration while the nominations were made.¹⁸

Concerning the right to Franchise, the Committee followed in broad line, the principles laid down by Bertrand Glancy in his report. The Committee, however, did not agree with Mr. Glancy that ten percent of the State needed to be enfranchised.¹⁹ The Committee further recommended that such State Subjects who had attained twenty-one years of age and belonged to any of the classes of persons should be enfranchised. The Committee recommended that women in general be excluded from franchise except in case where any of them had secured the middle examination certificate.²⁰

The Jammu-Kashmir Regulation No. 1 of 1931 **Samvat**, corresponding to the Constitution Act of 1934, came into force on April 20, 1934.²¹ The Constitution Act was passed on the recommendation made by the Constitutional Reforms Conference and the Franchise Committee. The Act provided for the reconstitution of the Government of the State and the institution of a Legislative Assembly. The provisions were envisaged by the Act for the constitution of a Council of Ministers appointed by the Maharaja and responsible to him. The Maharaja reserved certain powers of the Government for himself and exclusively for his control. The powers left in the residuum were vested with the Council of Ministers to be exercised by it.²² The Act laid down provisions for organization of the Legislative Assembly and procedure of its business. The Act also defined the relationship between the Council of Ministers and Legislative Assembly and the extent of the overall control the Maharaja would exercise over both these institutions.²³

The Constitution Act envisaged the institution of a legislative body, which comprised:

1. The Council of Ministers;²⁴ and
2. The Legislative Assembly (the Praja Sabha)

No legislative measure was deemed to have been passed unless the council had passed it or the Praja Sabha had received the assent of the Maharaja.²⁵ The Council was given the power to provide by regulation for any matter concerning the public debt or the public revenue of the state including the imposition of any charge thereon or the maintenance, alteration or imposition of any tax or duty.²⁶

The Praja Sabha was to consist of seventy-five members, out of which thirty-three members were to be elected through separate communal electorates that included Twenty-one Muslims, Ten Hindu and Two Sikhs. However, the Maharaja could nominate forty two members to the Assembly on different grounds. Among these nominated fourteen were to be nominated for the communities or areas specified²⁷, to the Regulation. Sixteen members designated as the State Councilors were to be summoned by the Maharaja for a term of four and half years. The ministers of the state were to be the ex-officio members. The total number of official members including the ministers was not to exceed twelve. The remaining if any, were to be filled by non-official nominated by His Highness.²⁸

The Council was given the powers to make the rules regarding the term of office and conditions of nomination of nominated members qualifications for members of the Praja Sabha and for electors; final decisions on doubts and disputes as to the validity of an election and ruler for regulating the course of business in the Praja Sabha.²⁹ Every Praja Sabha was to continue for three years unless dissolved earlier by His Highness. Its life could be extended by His Highness beyond a period of three years. After dissolution the Maharaja was to fix a date not more than six months after such dissolution for the next session of the Praja Sabha. There were two sessions to be held every year one each at Jammu and Srinagar.³⁰

The President of the Assembly was to exercise his casting vote in case of a tie.³¹ In the event of a temporary absence, his place was to be taken by such other persons on his behalf who would be appointed by the Maharaja.³² The nominated members to retain their seats for the period of their nomination not with standing the expiry of the term of the Praja Sabha or its earlier dissolution, unless they resign their seats or become otherwise disqualified for membership.

The Praja Sabha was forbidden to consider or exact a measure imposing any disability on any community as such.³³ No bill affecting the religious rights, usage, endowments, or personal law of a community was to be proceeded except with the sanctions of His Highness and the consent of not less than two thirds of the members of that community in the Praja Sabha.³⁴ Standing orders could be made and altered by the Praja Sabha and any such orders were to be void to the extent it was repugnant to the provisions of this Regulation or any rule made there under by the Council.³⁵

The Maharaja could by declaring that any bill or part thereof or a resolution, or a question was prejudicial to the safety or tranquility of the state or any part thereof, prevent such bill or a part thereof, or a resolution or a question from being introduced in the Praja Sabha or direct that no further proceedings be taken with respect to it in case it had all ready been moved.³⁶

The Maharaja could return to Praja Sabha for re-consideration a bill passed by the Praja Sabha and presented for his assent.³⁷ In case the Praja Sabha refused leave to introduce or failed to pass in a form recommended by the Council, any regulation, His Highness, could declare that the regulation was essential for the good government, safety and tranquility of a State, and such measure, on the signification of His Highness assert became a regulation as if it had been passed by the Praja Sabha.³⁸

With regard to the financial powers of the Assembly, the provisions of the Constitution Act was based on the recommendations of the Constitutional Reforms Conference.³⁹ The Council of Ministers were required to put a copy of the detailed statement of the estimated annual revenue and expenditure of the state and of

the areas exercising criminal and civil jurisdiction on the table of the Assembly on the first day of the autumn session.⁴⁰The President of the Legislative Assembly was required to hold a meeting of the Assembly for the consideration of this statement within seven days of the commencement of the session. During the meeting, members could ask questions and more resolution regarding appropriations of revenue and money connected with non-reserved subject.⁴¹ not open to discussion and no resolution could be moved or question asked in connection with these items.

- a) Expenditure on matters under the reserved category (section 7)
- b) Expenditure which was obligatory under law;
- c) Pensions and gratuities granted by the Maharaja; or under the rules sanctioned by the Maharaja;
- d) Interest on loans and sinking fund charges; and
- e) The expenditure the Maharaja or the Council of Ministers term as political.

Before the imposition of any fresh tax on excise duty or alteration in those by any ordinance, the Council of Ministers was required to supply a copy of such resolution to each member of the Praja Sabha.⁴²In such a resolution was supported by a majority of votes, the President of the Assembly could declare what action of the Council of Minister would take on the resolution before the budget was passed.⁴³

In case of a dispute whether a proposed appropriation of revenue or money related to any matter not liable to be voted upon by the Assembly, the President's decision was to be final.⁴⁴No proposal could be made or resolution for appropriation of any revenue on money could be passed unless it was recommended by the Council of Ministers.⁴⁵Every member had to receive the prior sanction of the Council of Ministers in connection with any measure affecting the public revenues of the state or imposing any charge on such revenue.⁴⁶When the said statement was under discussion,⁴⁷the following matters were The President of the Praja Sabha was required to fix a day for the consideration of such proposals in the Sabha.⁴⁸The members of the assembly were to free to move resolutions on the proposals and ask questions,⁴⁹and the Council of Ministers could take into consideration any resolution that could be passed by a majority of votes in the Praja Sabha.⁵⁰In case of a dispute regarding the interpretation of the provisions of this regulation or the rules made there under, the decision of the Council of Ministers was to be final.⁵¹

The Maharaja could communicate to the Legislative Assembly:

- a) In person;
- b) By a message sent through the Prime Minister or other Ministers;
- c) By the President of the Assembly or any person officiating in his place.⁵²

Those elected or nominated to the Praja Sabha and the members of the Council of Ministers had to take an oath of allegiance to the Maharaja.⁵³

Methods of Election and first General Elections:

Every political party was liable to fight election not only this, any independent candidate could also contest the election by depositing rupees one hundred fifty to the Returning Officer of his concerned constituency. Each constituency had its own Returning Officer. There was a fixed date for receiving nomination forms, then after twelve days, scrutiny took place. Those whose nomination papers were found correct were declared eligible to contest the election. A period of three months was provided to candidates to acquaint themselves with the people of their constituencies and to carry on their propaganda.⁵⁴ The contesting parties had to face certain acute problems. The most difficult among them was the problem of conducting the campaign, which aided selfless and devoted workers for seeking, speaking, canvassing and other incidental works. The campaign consisted of canvassing, processions, slogans, meetings, speeches, posters, hand bills, persuasion and door-to-door advocacy. There were no manifestoes at that time and good speakers were invited by political parties to convince the voters.⁵⁵

The main contesting political parties were All Jammu and Kashmir Muslims Conference led by Sheikh Mohammed Abdullah. The Azad Party Muslims Conference of Mohammad Yousuf Shah, the Yuvak Sabha of Kashmiri Pandits, the Hindu Mahasabha of Jammu province, and some independent candidates who deprived on the party tickets.⁵⁶ May 12, 1934 was fixed as the last date for receiving nomination forms; scrutiny took place on May 30, 1934. A period of three months was provided to the candidates for campaigning and in their constituencies; election took place on the Monday, September 3, 1934.⁵⁷

The election was held for the first time on September 3, 1934. Sir Elliot supervised the polling arrangements.⁵⁸ The state including Poonch was divided into thirty-three elected constituencies out of these constituencies were assigned to the rural areas and ten to the cities of Srinagar and Jammu.

The polling was conducted on a special scheme recommended by the Lothian Committee for the British India. The scheme underlined the **Colour Box** or the **Symbol** system under which a voter was not required to mark on the vote both illiterate and literate were required to put their ballot paper in coloured box allotted to a particular person or a party who the voter wished to vote.⁵⁹

There were one seventy six polling booths in all. Out of these thirty-two booths were fixed for the city of Srinagar and six for the Jammu city. The remaining one hundred thirty eight polling stations were assigned to the rural areas.⁶⁰ The results of the election were announced on September 4, 1934. Out of the total thirty-three elected seats, eleven candidates, both Muslims and non Muslims, were returned unopposed from eleven constituencies. In the remaining twenty-two constituencies, the number of rival candidates varied from six to two in each constituency. As far as the Muslim constituencies were concerned, out of twenty-one seats were nominees of the All Jammu and Kashmir Muslim Conference. All the seats for Srinagar city were won by the Conference.⁶¹

The non-Muslims had been allotted twelve elected seats including the two seats for the Sikh community. Besides, the independent candidates, the parties that contested elections were Sanatan Dharm of Young Men's Association (Yuvak Sabha) of Kashmir Province and the Hindu Mahasabha of Jammu Province. Out of twelve seats allotted to the non-Muslims, the Sanatan Dharam bagged all three seats it had contested, the Hindu Maha Sabha won five out of seven it had contested and four candidates were returned unopposed including two Sikhs. Sardar Budh Singh, the Sikh revolutionary was returned for the Sikhs seat of Poonch.⁶²

Thus Praja Sabha was inaugurated by Maharaja Hari Singh on September 17, 1934 at Srinagar,⁶³ to reflect the popular interests and aspirations and to guide the administration of the State in that light. It has thirty-three elected members and forty-two nominated members.⁶⁴ October 13, 1934 the Maharaja appointed the president of the Sabha, the five Ministers,⁶⁵ including the Prime minister Colonel Colvin, and six officials' members to the Assembly.⁶⁶ The first session of the Jammu and Kashmir Legislative Assembly met at Rajgarh place at Srinagar on Wednesday October 17, 1934.⁶⁷

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