

असाधारण
EXTRAORDINARY

Daman 6th August, 2015, 15 Sravana 1937 (Saka)

सं. : 31
No.

सरकारी राजपत्र
OFFICIAL GAZETTE



सत्यमेव जयते
भारत सरकार
Government of India

संघ प्रदेश दमण एवं दीव प्रशासन

U.T. ADMINISTRATION OF DAMAN & DIU

प्राधिकरण द्वारा प्रकाशित
PUBLISHED BY AUTHORITY

UT Administration of Daman & Diu
Department of Panchayati Raj Institution,
Secretariat, Moti Daman – 396 220.

No.5/49/PRI/(DELI-DIST.PAN)/2014-15/115 Dated the 6th August, 2015.

NOTIFICATION

Whereas, the recommendations of the Election Commission of UTs, on the matter of delimitation of wards of District Panchayat, Daman have been received vide letter no. 7-5/EC/DD/2015/188 dated 04.08.2015. In the recommendations, the Election Commission has proposed the following composition of District Panchayat for Daman –

SI. No.	Name of the Panchayat	No. & Name of the ward	Extend of the ward	Population of the ward (as per 2011 Census)
1.	District Panchayat, Daman	1/12- Marwad	Comprises all wards of Gram Panchayat, Marwad	9016
2.	District Panchayat, Daman	2/12-Kadaiya	Comprises all wards of Gram Panchayat, Kadaiya	14605
3.	District Panchayat, Daman	3/12-Bhimpore	Comprises all wards of Gram Panchayat, Bhimpore	12999

4.	District Panchayat, Daman	4/12-Varkund	Comprises all wards of Gram Panchayat, Varkund and ward No. 8 & 9 of Dunetha Gram Panchayat	8249
5.	District Panchayat, Daman	5/12-Dunetha	Comprises all wards of Gram Panchayat, Dunetha (except ward No.8 & 9)	9576
6.	District Panchayat, Daman	6/12-Dabhel-A	Comprises ward No.1, 2 & 8 of Gram Panchayat, Dabhel	13131
7.	District Panchayat, Daman	7/12-Dabhel-B	Comprises ward No.3, 4 & 5 of Gram Panchayat, Dabhel	11600
8.	District Panchayat, Daman	8/12-Dabhel-C	Comprises ward No. 6, 7, 9 & 11 of Gram Panchayat, Dabhel	16600
9.	District Panchayat, Daman	9/12-Dabhel-D	Comprises ward No. 10, 12, 13 & 14 of Gram Panchayat, Dabhel	16200
10.	District Panchayat, Daman	10/12-Kachigam	Comprises all wards of Gram Panchayat, Kachigam	18434
11.	District Panchayat, Daman	11/12-Patlara-Magarwada	Comprises all wards of Gram Panchayat, Patlara and Gram Panchayat, Magarwada	8989
12.	District Panchayat, Daman	12/12-Damanwada-Pariyari	Comprises all wards of Gram Panchayat, Damanwada and Gram Panchayat, Pariyari	7492

The legal framework of delimitation is laid down in section 55(2) of the Daman & Diu Panchayat Regulation, 2012 which reads as under :

(2) Subject to the provisions of sub-section (3), the territorial boundary for each ward shall be notified by the Administrator on the recommendations of the Election Commission.

Further, Rule 3(2)(d)(ii) of the Daman & Diu Panchayats (Election Procedure) (Amendment) Rules, 2015 reads as –

The Commission shall thereafter, convey its recommendations regarding delimitation of District Panchayat ward to Administrator for final decision and to be published in the Official Gazette.

The Regulations have created a different dispensation for delimitation of Gram Panchayat wards, which is spelt out in Section 12(4) of the Regulations, which reads as under –

Each Gram Panchayat area shall be divided by the Election Commission into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Gram Panchayat area.

The number of seats in the District Panchayat were fixed at 12 for Daman District in 2005, which was not altered in 2015 as well because –

- a. There has not been a significant increase of electors.
- b. In a geographical area of 72 Sq. Km., the future contours of planning would warrant an increased urbanization and reduction in Panchayat area.

The recommendations of the Election Commission have been examined in light of these legal provisions. The sole premise and underlying rationale in determining the ward boundaries used by the Election Commission has been the last census population. A perusal of Rules 3(1)(a) of the Daman & Diu Panchayats (Election Procedure) (Amendment) Rules, 2015 reads as –

3. Declaration of Panchayat area and constitution of Gram Sabha: (1)

Subject to the provisions of section 12 & 55 of the Regulation, the Election Commission shall distribute the seats assigned to each Gram Panchayat, and District Panchayat to single member territorial wards and delimit them on the basis of the latest census figures, having regards to the following provisions, namely:-

(a) All wards shall, as far as practicable, be geographically compact areas, and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience.

1. In terms of the geography of Daman District Panchayat area, there are two distinct parts to the territory i.e. Moti Daman and Nani Daman, which are separated by the Damanganga river. Since 1995, Moti Daman part of the territory has four District Panchayat wards, while Nani Daman had six District Panchayat wards from 1995 to 2005 and now has eight District Panchayat wards since 2005. As per the recommendations of Election Commission, Moti Daman would be left with two District Panchayat wards only and ten wards would be apportioned to Nani Daman.

2. Dabhel Gram Panchayat area has a predominantly industrial character with an overwhelming proportion of migrant workers. In fact, the number of electors in Dabhel Gram Panchayat area is 11401, represented by two District Panchayat wards against a total population of 57531. Thus, the number of electors is less than 20% of the total population. The number of electors in a ward is a crucial fact, which cannot be ignored because the sole purpose of delimitation is the conduct of election and therefore, the number of electors in a particular territory is germane to the whole exercise of delimitation.

It is clear from the above that there is a skewed elector/population ratio in case of Dabhel which mirrors its industrial character and migrant population.

3. It is abundantly clear that the intent of the Constitution 73rd Amendment is to create a three tier structure of local self government in which Village Panchayat is envisaged in Article 40 of the Constitution to be at the base of democratic institution of a pyramid of governing units. Panchayat is the building block of a pyramidal structure in a three tiered set up. This view has been upheld in the Hon'ble Supreme Court's judgment in the case of **State of UP & Ors. Vs. Pradhan Sangh Kshettra Samiti & Ors.** Clearly, each Gram Panchayat area should not ideally have more than one District Panchayat ward. Even so, as on today Dabhel Gram Panchayat area has two District Panchayat wards which is a bit of an anomaly. Allocating 4 district Panchayat wards to the geographical area of a single gram Panchayat militates against the basic character of 3 tiered structure of local bodies.

4. In as far as Pariyari Gram Panchayat is concerned, more than 60% of the population are Scheduled Tribes. As per the recommendations of the Election Commission, Pariyari gram panchayat area is getting merged with Damanwada which makes the ST population 45%. There is considerable public anguish on this proposed merger, as reflected in the representations received during the course of hearing.

While considering the primacy of the census population criteria in determining the delimitation of District Panchayat wards, it would be useful to draw reference to the Hon'ble Supreme Court's judgment in the case of **J&K National Panthers Party Vs. the Union of India & Ors on 09 Nov. 2010.** It upholds a judgment of the Division Bench of the High Court, in which Chief Justice of the High Court opined that -

"readjustment of the extent and boundaries of such territorial constituency upon completion of each census was neither a mandate of the Constitution, nor the essence of democracy as per the Basic Structure doctrine of the Indian Constitution."

The learned Chief Justice also relied on historical factors in support of his opinion and held :-

"History indicates, however, that many States have deviated, to a greater or lesser degree, from the equal-population principle in the apportionment of seats in at least one house of their legislatures. So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational state policy, some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a bicameral state legislature."

In the R.C. Poudyal And Anr. Etc. Vs Union of India And Ors. Etc. on 10 February, 1993 case, it has been clearly held by the Supreme Court that :

"a perfectly arithmetical equality of value of votes is not a constitutionally mandated imperative of democracy and, secondly, that even if the impugned provisions make a departure from tolerance limits and the constitutionally permissible latitudes, the discriminations arising are justifiable on the basis of the historical considerations peculiar to and characteristic of the evolution of Sikkim's political institutions.

"An examination of the constitutional scheme would indicate that the concept of 'one person one vote' is in its very nature considerably tolerant of imbalances and departures from a very strict application and enforcement. The provision in the Constitution indicating proportionality of representation is necessarily a broad, general and logical principle but not intended to be expressed with arithmetical precision. The principle of mathematical proportionality of representation is not a declared basic requirement in each and every part of the territory of India. Accommodations and adjustments, having regard to the political maturity, awareness and degree of political development in different part of India, might supply the justification for even non-elected Assemblies wholly or in part, in certain parts of the country. "

It is abundantly clear that in redrawing ward boundaries, census population is an important criteria, yet the exercise is not to be carried out with mathematical precision but should have due regard to historical, geographical and social factors.

In the case of Daman, the institutions of Local Self Government have had a history which reflects political aspirations of the people of the two parts of this territory. The institution of District Panchayat was first established in 1995 and since then Moti Daman, part of the territory has been represented by 4 District Panchayat members which is reflective of the distinct geographical entity of Moti Daman. A reduction in the number of seats apportioned to Moti Daman would be a denial of rightful political aspirations of the people.

In light of the reasons outlined above, I, in exercise of the powers vested in me under Section 55 (2) of the Daman and Diu Panchayat Regulation, 2012 read with Rule 3 (2) (d) (ii) of the Daman and Diu Panchayats (Election Procedure) (Amendment) Rules, 2015 and Article 239 of the Constitution of India, do hereby determine the delimitation of the wards of the District Panchayat, Daman, as detailed in Annexure-I appended to this notification and publishes the same in the Official Gazette. The same is being published in local newspapers and prominently displayed at public buildings including Panchayat offices, Collectorate etc.

Detailed Map showing the extent of each ward of District Panchayat, Daman is appended as Annexure-II to this Notification.

Given under my hand and seal on this 6th day of August, 2015.

Sd/-
(Ashish Kundra)
Administrator
Daman & Diu

ANNEXURE – I

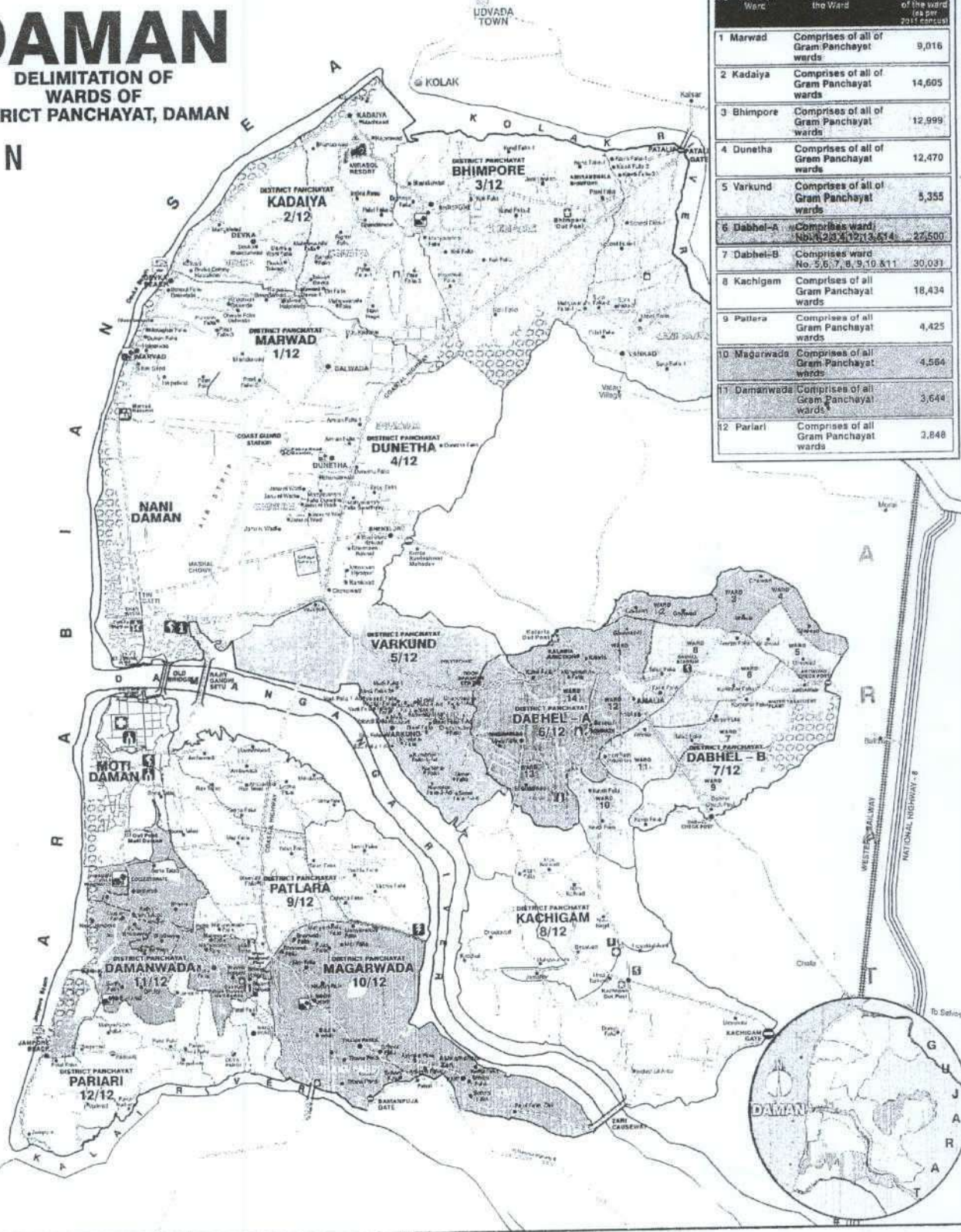
Sl. No.	Name of the Panchayat	No. & Name of the ward	Extend of the ward	Population of the ward (as per 2011 Census)	No. of Electors (2015)
1.	District Panchayat, Daman	1/12- Marwad	Comprises all wards of Gram Panchayat, Marwad	9016	3716
2.	District Panchayat, Daman	2/12-Kadaiya	Comprises all wards of Gram Panchayat, Kadaiya	14605	3196
3.	District Panchayat, Daman	3/12-Bhimpore	Comprises all wards of Gram Panchayat, Bhimpore	12999	4700
4.	District Panchayat, Daman	4/12-Dunetha	Comprises all wards of Gram Panchayat, Dunetha	12470	5642
5.	District Panchayat, Daman	5/12-Varkund	Comprises all wards of Gram Panchayat, Varkund	5355	2784
6.	District Panchayat, Daman	6/12-Dabhel-A	Comprises ward No.1, 2, 3, 4, 12, 13 & 14 of Gram Panchayat, Dabhel	27500	5644
7.	District Panchayat, Daman	7/12-Dabhel-B	Comprises ward No.5, 6, 7, 8, 9, 10 & 11 of Gram Panchayat, Dabhel	30031	5757
8.	District Panchayat, Daman	8/12-Kachigam	Comprises all wards of Gram Panchayat, Kachigam	18434	3018
9.	District Panchayat, Daman	9/12-Patlara	Comprises all wards of Gram Panchayat, Patlara	4425	3613
10.	District Panchayat, Daman	10/12-Magarwada	Comprises all wards of Gram Panchayat, Magarwada	4564	3277
11.	District Panchayat, Daman	11/12-Damanwada	Comprises all wards of Gram Panchayat, Damanwada	3644	2869
12.	District Panchayat, Daman	12/12-Pariyari	Comprises all wards of Gram Panchayat, Pariyari	3848	2969

EXTRAORDINARY No. : 31
 DATED : 6TH AUGUST, 2015.

ANNEXURE – II

DAMAN
 DELIMITATION OF
 WARDS OF
 DISTRICT PANCHAYAT, DAMAN

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No.	Name of Ward	Extent of the Ward	Population of the ward (as per 2011 census)
1	Marwad	Comprises of all of Gram Panchayat wards	9,016
2	Kadaiya	Comprises of all of Gram Panchayat wards	14,605
3	Bhimpore	Comprises of all of Gram Panchayat wards	12,999
4	Dunetha	Comprises of all of Gram Panchayat wards	12,470
5	Varkund	Comprises of all of Gram Panchayat wards	5,355
6	Dabhel-A	Comprises ward No. 6, 7, 8, 9, 10, 11 & 12	27,500
7	Dabhel-B	Comprises ward No. 5, 6, 7, 8, 9, 10 & 11	30,031
8	Kachigam	Comprises of all Gram Panchayat wards	18,434
9	Palaru	Comprises of all Gram Panchayat wards	4,425
10	Magarwada	Comprises of all Gram Panchayat wards	4,564
11	Damarwada	Comprises of all Gram Panchayat wards	3,644
12	Pariari	Comprises of all Gram Panchayat wards	2,848

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