

CHAPTER 16

ADMINISTRATION OF UNION TERRITORIES AND ACQUIRED TERRITORIES

AS stated earlier, in the original Constitution of 1949, States were divided into three categories and included in Parts A, B and C of the First Schedule of the Constitution.

Genesis of Union Territories.

Part C States were 10 in number, namely,—Ajmer, Bhopal, Bilaspur, Coorg, Delhi, Himachal Pradesh, Kutch, Manipur, Tripura and Vindhya Pradesh. Of these, Himachal Pradesh, Bhopal, Bilaspur, Kutch, Manipur, Tripura and Vindhya Pradesh had been formed by the integration of some of the smaller Indian States. The remaining States of Ajmer, Coorg and Delhi were Chief Commissioner's Provinces under the Government of India Acts, 1919 and 1935, and were thus administered by the Centre even before the Constitution.

The special feature of these Part C States was that they were administered by the President through a Chief Commissioner or a Lieutenant-Governor, acting as his agent. Parliament had legislative power relating to any subject as regards the Part C States, but the Constitution empowered Parliament to create a Legislature as well as a Council of Advisers or Ministers for a Part C State. In exercise of this power, Parliament enacted the Government of Part C States Act, 1951, by which a Council of Advisers or Ministers was set up in each Part C State, to advise the Chief Commissioner, under the overall control of the President, and also a Legislative Assembly to function as the Legislature of the State, without derogation to the plenary powers of Parliament.

In place of these Part C States, the Constitution (7th Amendment) Act, 1956 substituted the category of 'Union Territories' which are also similarly administered by the Union. As a result of the reorganisation of the States by the States Reorganisation Act, 1956, the Part C States of Ajmer, Bhopal, Coorg, Kutch, and Vindhya Pradesh were merged into other adjoining States.

The list of Union Territories, accordingly, included the remaining Part C States of Delhi; Himachal Pradesh¹ (which included Bilaspur); Manipur; and Tripura.¹ To these were added the Andaman and Nicobar Islands; and the Laccadive and Amindivi Islands. Under the original Constitution, the Andaman and Nicobar Islands were included in Part D of the First Schedule. The Laccadive, Minicoy and

Amindivi Islands (renamed 'Lakshadweep' in 1973), on the other hand, were included in the territory of the State of Madras. The States Reorganisation Act and the Constitution (7th Amendment) Act, 1956 abolished Part D of the 1st Schedule and constituted it a separate Union Territory.

By the Constitution (Tenth, Twelfth, Fourteenth and Twenty-seventh) Amendment Acts, some others were added to the list of Union Territories.

Since some of the erstwhile Union Territories (Himachal Pradesh, Manipur, Tripura, Mizoram, Arunachal Pradesh¹ and Goa) have been lifted up into the category of 'States', the number of Union Territories is, at the end of 2000, seven¹ [see Table III, *post*].

Though all these Union Territories belong to one category, there are some differences in the actual system of administration as between the several Union Territories owing to the provisions of the Constitution as well as of Acts of Parliament which have been made in pursuance of the Constitutional provisions.

Article 239(1) provides that save as otherwise provided by Parliament by law, every Union Territory shall be administered by the President acting, to such extent as he thinks fit, through an Administrator to be appointed by him with such designation as he may specify.² Instead of appointing an Administrator from outside, the President may appoint the Governor of a State as the Administrator of an adjoining Union Territory; and where a Governor is so appointed, he shall exercise his functions as such Administrator independently of his Council of Ministers [Art. 239(2)].

All the Union Territories are thus administered by an Administrator as the agent of the President and not by a Governor acting as the head of a State.

In 1962, however, Art. 239A (amended by the 37th Amendment, 1974) was introduced in the Constitution, to empower Parliament to create a Legislature or Council of Ministers or both for some of the Union Territories. By virtue of this power, Parliament enacted the Government of Union Territories Act, 1963, providing for a Legislative Assembly as well as a Council of Ministers to advise the Administrator, in these Union Territories. Pondicherry alone is now left in this category, all other Union Territories have become States.

On 1-2-1992, Arts. 239AA and 239AB (inserted by Constitution 69th Amendment) came into force. To supplement these provisions the Government of National Capital Territory of Delhi Act, 1991 was enacted. Delhi has from 1993 a Legislative Assembly and a Council of Ministers. The Government of Delhi has all the legislative powers in the State List excepting entries 1 (Public Order), 2 (Police) and 18 (Land).

Parliament has exclusive legislative power over a Union Territory, including matters which are enumerated in the State List [Art. 246(4)]. But so far as the two groups of Island Territories; Dadra and Nagar Haveli; Daman and Diu; Pondicherry; are

concerned, the President has got a legislative power, namely, to make regulations for the peace, progress and good government of these Territories. This power of the President overrides the legislative power of Parliament inasmuch as a regulation made by the President as regards these Territories may repeal or amend any Act of Parliament which is for the time being applicable to the Union Territory [Art. 240(2)]. But the President's power to make regulations shall remain suspended while the Legislature is functioning in any of these States,—to be revived as soon as such Legislature is dissolved or suspended.

President's Power to make Regulations as regards the Andaman & Nicobar Islands; Lakshadweep and other Islands.

Parliament may by law constitute a High Court for a Union Territory or declare any court in any such Territory to be a High Court for all or any of the purposes of this Constitution [Art. 241]. Until such legislation is made

High Courts for Union Territories.

the existing High Courts relating to such territories shall continue to exercise their jurisdiction. In the result, the Punjab and Haryana High Court acts as the High Court of Chandigarh; the *Lakshadweep* is under the jurisdiction of the Kerala High Court; the Calcutta High Court has got jurisdiction over the Andaman and Nicobar Islands [vide Table XVI], the Madras High Court has jurisdiction over Pondicherry; the Bombay High Court over Dadra and Nagar Haveli; and the Gauhati High Court (Assam) over Mizoram and Arunachal Pradesh. The Territory of Goa, Daman and Diu had a Judicial Commissioner but recently the jurisdiction of the Bombay High Court has been extended to this Territory. Delhi has a separate High Court of its own since 1966.

There are no separate provisions in the Constitution relating to the administration of Acquired Territories but the provisions relating to Union Territories will extend by virtue of their definition of

Acquired Territories.

'Union Territory' [Art. 366(30)], as including "any other territory comprised within the territory of India but not specified in that Schedule". Thus, the Territory of Pondicherry, Karaikal, Yanam and Mahe, was being administered by the President of India through a Chief Commissioner until it was made a Union Territory, in 1962. Parliament has plenary power of legislation regarding such territory as in the case of the Union Territories [Art. 246(4)].

REFERENCES

1. Himachal Pradesh has since been transferred to the category of States, by the State of Himachal Pradesh Act, 1970, and Manipur and Tripura, by the N.E. Areas (Reorganisation) Act, 1971. Similarly, by the State of Mizoram Act, 1986, the State of Arunachal Pradesh Act, 1986 and the Goa, Daman and Diu Reorganisation Act, 1987, the Union Territories of Mizoram, Arunachal Pradesh and Goa have been elevated to Statehood.
2. Heterogeneous designations have been specified by the President in the case of the different Union Territories:
 - (a) Administrator—Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Lakshadweep.
 - (b) Lieutenant Governor—Delhi; Pondicherry; Andaman and Nicobar Islands.