

CHAPTER 19

MUNICIPALITIES AND PLANNING COMMITTEES

PART IXA which has come into force on 1-6-1993 gives a constitutional foundation to the local self-government units in urban areas. In fact such institutions are in existence all over the country.

Some of the provisions are similar to those contained in Part IX, *e.g.* Reservation of Seats, Finance Commission, Election Commission etc.

This part gives birth to two types of bodies:

- (i) Institutions of self-government [Art. 243Q], and
- (ii) Institutions for planning [Arts. 243ZX and 243 ZE].

Institutions of self-government, called by a general name "municipalities" are of three types:

(a) Nagar Panchayat, for a transitional area, *i.e.* an area which is being transformed from a rural area to an urban area.

(b) Municipal Council for a smaller urban area.

(c) Municipal Corporation for a larger urban area.

Article 243Q makes it obligatory for every State to constitute such units. But if there is an urban area or part of it where municipal services are being provided or proposed to be provided by an industrial establishment in that area then considering also the size of the area and other factors the Governor may specify it to be an industrial township. For such an area it is not mandatory to constitute a Municipality.

The members of a municipality would generally be elected by direct election. The Legislature of a State may by law provide for representation in a municipality of (i) persons having special knowledge or experience in municipal administration, (ii) Members of Lok Sabha, State Assembly, Rajya Sabha and Legislative Council, and (iii) the Chairpersons of Committees constituted under Cl. (5) of Art. 243S. The Chairperson shall be elected in the manner provided by the Legislature.

For one or more wards comprised within the territorial area of a municipality having a population of three lacs or more it would be obligatory to constitute Ward Committees. The State Legislature shall make provision with respect to its composition, territorial area and the manner in which the seats in a ward committee shall be filled.

Other Committees. It is open for the State Legislature to constitute Committees in addition to the wards committees.

Reservations of seats for Scheduled Castes and Scheduled Tribes. As in Part IX reservations of seats are to be made in favour of the Scheduled Castes and Scheduled Tribes in every Municipality.

Reservation for women. Out of the total number of seats to be filled by direct elections at least 1/3rd would be reserved for women. This includes the quota for women belonging to Scheduled Castes and Tribes.

Reservation of offices of Chairpersons. It has been left to the State legislature to prescribe by law the manner of reservation of the offices of the Chairpersons of Municipalities.

All reservations in favour of Scheduled Castes and Tribes shall come to an end with the expiry of the period specified in Art. 334.

It is permissible for a State Legislature to make provisions for reservation of seats or offices of Chairpersons in favour of backward classes.

Duration of Municipalities. Every Municipality shall continue for five years from the date of its first meeting. But it may be dissolved earlier according to law. Article 243Q further prescribes that before dissolution a reasonable opportunity of being heard must be given to the municipality. Elections to constitute a Municipality shall be completed before the expiry of the period of five years. If the Municipality has been superseded before the expiry of its term, the elections must be completed within six months of its dissolution. A Municipality constituted after its dissolution shall continue only for the remainder of the term. But if the remainder of the period is less than six months it shall not be necessary to hold elections.

It has been provided that no amendment of the law in force shall cause dissolution of a Municipality before the expiry of the five years term.

Qualification for membership. Article 243V lays down that all persons who are qualified to be chosen to the State legislature shall be qualified for being a member of a Municipality. There is an important difference. Persons who have attained the age of 21 years will be eligible to be a member. While the constitutional requirement is that for election to the State legislature of a State a person must have attained the age of 25 years [Art. 173].

Powers, authority and responsibilities of Municipalities. Legislatures of States have been conferred the power [Art. 243W] to confer on the Municipalities all such powers and authority as may be necessary to enable them to function as institutions of self-government. It has specifically been mentioned that they may be given the responsibility of (a) preparation of plans for economic development and social justice, (b) implementation of schemes as may be entrusted to them, and (c) in regard to matters listed in the 12th schedule. This schedule contains 18 items, e.g. Urban Planning, Regulation of Land Use, Roads and

Bridges, Water Supply, Public Health, Fire Services, Urban Forestry, Slums, etc.

A State Legislature may by law authorise a Municipality to levy, collect and appropriate taxes, duties, tolls etc. The law may lay down the limits and prescribe the procedure to be followed. It can also assign to a Municipality various taxes, duties etc. collected by the State Government. Grants-in-aid may be given to the Municipalities, from the Consolidated Fund of the State.

Power to impose taxes and financial resources.

The Finance Commission appointed under Art. 243-I (see Chap. 18 under Panchayat Finance Commission) shall also review the financial position of the Municipalities and make recommendations as to—

(a) the distribution between the State and the Municipalities of the net proceeds of taxes, duties, tolls and fees leviable by the State which may be divided between them and allocation of shares amongst different levels of Municipalities.

(b) the taxes, duties, tolls and fees that may be assigned to the Municipalities.

(c) grants-in-aid to the Municipalities.

(d) the measures needed to improve the financial position of the Municipalities.

(e) any other matter that may be referred to it by the Governor.

The State Election Commission appointed under Art. 243K shall have the power of superintendence, direction and control of (i) the preparation of electoral rolls for, and (ii) the conduct of all elections to the Municipalities. State Legislatures have been vested with necessary power to regulate by law all matters relating to elections to Municipalities.

The courts shall have no jurisdiction to examine the validity of a law, relating to delimitation of constituencies or the allotment of seats made under Art. 243ZA. An election to a Municipality can be called in question only by an election petition which should be presented to such authority and in such manner as may be prescribed by or under any law made by the State Legislature.

Bar to interference by courts in electoral matters.

Apart from giving constitutional recognition to Municipalities the 74th Amendment¹ lays down that in every State two committees shall be constituted.

Committees for (a) District Planning and (b) Metropolitan Planning.

(1) At the district level a District Planning Committee [Art. 243ZD].

(2) In every metropolitan area a Metropolitan Planning Committee [Art. 243ZB].

The composition of the committees and the manner in which the seats are to be filled are to be provided by a law to be made by the State legislature. But it has been laid down that,—

(a) in case of the District Planning Committee at least 4/5th of the members shall be elected by the elected members of the district level Panchayat and of the Municipalities in the district from amongst themselves. Their proportion would be in accordance with the ratio of urban and rural population of the district.

(b) in case of Metropolitan Planning Committee at least 2/3rd of the members of the committee shall be elected by the Members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area from amongst themselves. The proportion of seats to be shared by them would be based on the ratio of the population of the Municipalities and of the Panchayats in the area.

The State legislature would by law make provision with respect to (i) the functions relating to district planning that may be assigned to the district committees, and (ii) the manner in which the Chairperson of a district committee may be chosen.

The Committee shall prepare and forward the development plan to the State Government. In regard to the Metropolitan Planning Committee which is to prepare a development plan for the whole Metropolitan area the State Legislature may by law make provision for

(1) the representation of the Central and State Governments and of such organisations and institutions as may be deemed necessary,

(2) the functions relating to planning and co-ordination for the Metropolitan area,

(3) the manner in which the Chairpersons of such committees shall be chosen.

The development plan shall be forwarded to the State Government.

This part adds one more function to the duties cast on the Finance Commission appointed by the President under Art. 280. The Commission will make recommendations in regard to the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the State

Finance Commission.

REFERENCES

1. For the text of the 74th Amendment Act relating to Municipalities [Arts. 243P-243ZG], see Author's *Constitution Amendment Acts*, 7th Ed., pp. 177-84; *Shorter Constitution of India*, 14th Ed., 2008.