

Chapter - 20

URBAN LOCAL GOVERNMENTS

The term 'Urban Local Government' in India signifies the governance of an urban area by the people through their elected representatives.

There are eight types of urban local governments in India – municipal corporation, municipality, notified area committee, town area committee, cantonment board, township, port trust and special purpose agency.

In 1687-88, the first municipal corporation in India was set up at Madras. In 1726, municipal corporations were set up in Bombay and Calcutta. In 1882, Lord Ripon issued a resolution that has been hailed as the Magna Carta of local self-government. It continued to influence the development of local self-government in India till 1947. He is called the father of local self-government in India.

P.V. Narasimha Rao's Government also introduced the modified Municipalities Bill in the Lok Sabha in September 1991. It finally emerged as the 74th Constitutional Amendment Act of 1992 and came into force on 1st June, 1993.

74TH AMENDMENT ACT OF 1992

This act has added a new Part IX-A to the Constitution of India. It is entitled as 'The Municipalities' and consists of provisions from Articles 243-P to 243-ZG. In addition, the act has also added a new Twelfth Schedule to the Constitution. It contains eighteen functional items of municipalities.

SALIENT FEATURES

THREE TYPES OF MUNICIPALITIES

The act provides for the constitution of the following three types of municipalities in every state.

1. A *nagar panchayat* (by whatever name called) for a transitional area, that is, an area in transition from a rural area to an urban area.
2. A *municipal council* for a smaller urban area.
3. A *municipal corporation* for a larger urban area.

COMPOSITION :

All the members of a municipality shall be elected directly by the people of the municipal area. For this purpose, each municipal area shall be divided into territorial constituencies to be known as wards. The state legislature may provide the manner of election of the chairperson of a municipality. It may also provide for the representation of the following persons in a municipality.

1. Persons having special knowledge or experience in municipal administration without the right to vote in the meetings of municipality.
2. The members of the Lok Sabha and the state legislative assembly representing constituencies that comprise wholly or partly the municipal area.
3. The members of the Rajya Sabha and the state legislative council registered as electors within the municipal area.
4. The chairpersons of committees (other than wards committees).

WARDS COMMITTEES :

There shall be constituted a wards committee, consisting of one or more wards, within the territorial area of a municipality having population of three lakh or more. The state legislature may make provision with respect to the composition and the territorial area of a wards committee and the manner in which the seats in a wards committee shall be filled. It may also make any provision for the constitution of committees in addition to the wards committees.

RESERVATION OF SEATS :

The act provides for the reservation of seats for the scheduled castes and the scheduled tribes in every municipality in proportion of their population to the total population in the municipal area. Further, it provides for the reservation of not less than one-third of the total number of seats for women (including the number of seats reserved for woman belonging to the SCs and The STs).

The state legislature may provide for the manner of reservation of offices of chairpersons in the municipalities for SCs, STs and women. It may also make any provision for the reservation of seats in any municipality of offices of chairpersons in municipalities in favour of backward classes.

DURATION OF MUNICIPALITIES :

The act provides for a five-years term of office for every municipality. However, it can be dissolved before the completion of its term. Further, the fresh elections to constitute a municipality shall be completed (a) before the expiry of its duration of five years; or (b) in case of dissolution, before the expiry of a period of six months from the date of its dissolution.

DISQUALIFICATIONS :

A person shall be disqualified for being chosen as or for being a member of a municipality if he is so disqualified (a) under any law for the time being in force for the purposes of elections to the legislature of the state concerned; or (b) under any law made by the state legislature. However, no person shall be disqualified on the ground that he is less than 25 years of age if he has attained the age of 21 years. Further, all questions of disqualifications shall be referred to such authority as the state legislature determines.

STATE ELECTION COMMISSION :

The superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to the municipalities shall be vested in the state election commission.

The state legislature may make provision with respect to all matters relating to elections to the municipalities.

POWERS AND FUNCTIONS :

The state legislature may endow the municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government. Such a scheme may contain provisions for the devolution of powers and responsibilities upon municipalities at the appropriate level with respect to (a) the preparation of plans for economic development and social police. (b) the implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the eighteen matters listed in the twelfth schedule.

FINANCES :

The state legislature may (a) authorize a municipality to levy, collect and appropriate taxes, duties, tolls and fees; (b) assign to a municipality taxes, duties, tolls and fees levied and collected by state government; (c) provide for making grants-in-aid to the municipalities from the consolidated fund of the state; and (d) provide for constitution of funds for crediting all moneys of the municipalities.

FINANCE COMMISSION :

The finance commission (which is constituted for the panchayats) shall also, for every five years, review the financial position of municipalities and make recommendation to the governor as to :

1. The principles that should govern:
 - (a) The distribution between the state and the municipalities, the net proceeds of the taxes, duties, tolls and fees levied by the state.
 - (b) The determination of the taxes, duties, tolls and fees that may be assigned to the municipalities
 - (c) The Grants in-aid to the municipalities from the consolidated fund of the state.
2. The measures needed to improve the financial position of the municipalities.
3. Any other matter referred to it by the governor in the interests of sound finance of municipalities.

The governor shall place the recommendations of the commission along with the action taken report before the state legislature.

The central finance commission shall also suggest 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 finance commission of the state).

AUDIT OF ACCOUNTS:

The state legislature may make provisions with respect to the maintenance of accounts by municipalities and the auditing of such accounts.

APPLICATION TO UNION TERRITORIES:

The president of India may direct that the provisions of this act shall apply to any union territory subject to such exceptions and modifications as he may specify.

EXEMPTED AREAS:

The act does not apply to the scheduled areas and tribal areas in the states. It shall also not affect the functions and powers of the Darjeeling Gorkha Hill Council of the West Bengal.

DISTRICT PLANNING COMMITTEE:

Every state shall constitute at the district level, a district planning committee to consolidate the plans prepared by panchayats and municipalities in the district, and to prepared a draft development plan for the district as a whole. The state legislature may make provisions with respect to the following :

1. The composition of such committees;
2. The manner of election of members of such committees;
3. The functions of such committees in relation to district planning; and
4. The manner of the election of the chairpersons of such committees.

The act lays down that four-fifths of the members of a district planning committee should be elected by the elected members of the district panchayat and municipalities in the district from amongst themselves. The representation of these members in the committee should be in proportion to the ration between the rural and urban populations in the district.

The chairperson of such committee shall forward the development plan to the state government.

METROPOLITAN PLANNING COMMITTEE:

Every metropolitan area shall have a metro-politan planning committee to prepare a draft development plan. The state legislature may make provisions with respect to the following :

1. The composition of such committees;
2. The manner of election of members of such committees;
3. The representation in such committees of the Central government, state government and other organizations;
4. The functions of such committess in relation to planning and coordination for the metropolitan area; and
5. The manner of election of chairpersons of such committees.

The act lays down that two-thirds of the members of a metropolitan planning committee should be elected by the elected members of the municipalities and chairpersons of the panchayats in the metropolitan area from amongst themselves. The representation of these members in the committee should be in proportion to the ratio between the population of the municipalities and the panchayats in that metropolitan area.

The chairpersons of such committees shall forward the development plan to the state government.

BAR TO INTERFERENCE BY COURTS:

The act bars the interference by courts in the electoral matters of municipalities. It declares that the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in any court.

TWELFTH SCHEDULE:

It contains the following 18 functional items placed within the purview of municipalities :

1. Urban planning including town planning ;
2. Regulation of land use and construction of buildings;
3. Planning for economic and social development ;

4. Road and bridges;
5. Water supply for domestic, industrial and commercial purposes;
6. Public health, sanitation, conservancy and solid waste management;
7. Fire services;
8. Urban forestry, protection of the environment and promotion of ecological aspects;
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded;
10. Slum improvement and upgradation;
11. Urban poverty alleviation;
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds;
13. Promotion of cultural, educational and aesthetic aspects;
14. Burials and burial grounds, cremations and cremation grounds and electric crematoriums;
15. Cattle ponds, prevention of cruelty to animals;
16. Vital statistics including registration of births and deaths;
17. Public amenities including street lighting parking lots, bus stops and public conveniences; and
18. Regulation of slaughter houses and tanneries.

TYPE OF URBAN GOVERNMENTS :

MUNICIPAL CORPORATION

Municipal Corporations are created for the administration of big cities like Delhi, Mumbai, Kolkata, Hyderabad, Bangalore and others. They are established in the states by the acts of the concerned state legislatures, and in the union territories by the acts of the Parliament of India. There may be one common act for all the municipal corporations in a state or a separate act for each municipal corporation.

A municipal corporation has three authorities, namely, the council, the standing committees and the commissioner.

MUNICIPALITY

The municipalities are established for the administration of towns and smaller cities. Like the corporations, they are also set up in the states by the acts of the concerned state legislatures and in the union territory by the acts of the Parliament of India. They are also known by various other names like municipal council, municipal committee, municipal board, borough municipality, city municipality and others.

NOTIFIED AREA COMMITTEE

A notified area committee is created for the administration of two types of areas – a fast developing town due to industrialization, and a town which does not yet fulfil all the conditions necessary for the constitution of a municipality. It is established by a notification in the government gazette.

TOWN AREA COMMITTEE

A town area committee is set up for the administration of a small town. It is a semi-municipal authority and is entrusted with a limited number of civic functions like drainage, roads, street lighting, and conservancy.

CANTONMENT BOARD

A cantonment board is established for municipal administration for civilian population in the cantonment area. It is set up under the provisions of the Cantonments Act of 2006 – a legislation enacted by the Central government. It works under the administrative control of the defence ministry of the Central government.

At present, there are 62 cantonment boards in the country.

TOWNSHIP

This type of urban government is established by the large public enterprises to provide civic amenities to its staff and workers who live in the housing colonies built near the plant.

PORT TRUST

The port trusts are established in the port area like Mumbai, Kolkata, Chennai and so on for two purposes : (a) to manage and protect the ports; and (b) to provide civic amenities. A port trust is created by an Act of Parliament.

SPECIAL PURPOSE AGENCY

In addition to these seven area-based urban bodies (or multipurpose agencies), the state has set up certain agencies to undertake designated activities or specific functions that 'legitimately' belong to the domain of municipal corporations or municipalities or other local urban governments.