



URBAN LOCAL BODIES WITH REFERENCE TO 74th CONSTITUTIONAL AMENDMENT ACT OF 1992

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The term **Urban Local Government** in India signifies the governance of an urban area by the people through their elected representatives. The jurisdiction of an urban local government is limited to a specific urban area which is demarcated for this purpose by the state government.

Municipal Governments in India have been in existence for many years. In the present form and structure, the municipal bodies owe their existence to British. It took a century to make the Municipalities representative bodies. The 74th Constitutional Amendment Act gave a federal recognition to local government in India. The Government of Andhra Pradesh introduced new municipalities to give effect to the Constitutional Amendment Act and showed full commitment and high compliance of the provisions of the 74th Amendment Act. Before this Constitutional Amendment Act the local bodies are worked as **wings** and **fancies** of the state government. *So the aim of this article is to present how far the 74th Constitutional Amendment Act revitalizing and strengthening the urban Governments to that they function effectively as units of Local Government.*

Constitution 74th Amendment Act, 1992 provides constitutional status to Municipalities and Municipal Corporations. The constitution provides for three types of Municipalities.

- A Nagar Panchayat for a transitional area, that is to say, one area in transition from rural area to an urban area.
- A Municipal Council for a smaller urban area.
- A Municipal corporation for a larger urban area.

THE ORIGIN OF 74TH CONSTITUTIONAL AMENDMENT ACT:

Historical perspective:

The institutions of urban local government oriented and developed in modern India during the period of British rule. The major events in the context are given below are:

- In 1687, the first municipal corporation in India was setup at Madras.
- In 1726, the municipal corporations were setup in Bombay and Calcutta
- Lord Mayo's resolutions of 1870 on financial decentralization visualized the development of local self-government institutions.



- Lord Rippon's resolution of 1882 has been hailed as the "Magna Carta" of local self-government. He is called as the father of local self-government in India.
- The Royal Commission on decentralization was appointed in 1907 and it submitted its report in 1909. Its chairman of Hob house.
- Under the dyarchical scheme introduced in Provinces by the Government of India Act of 1919, local self government became a transferred subject under the charge of a responsible minister.
- In 1924, the Cantonments Acts was passed by the central legislature.
- Under the provincial autonomy scheme introduced by the Government of India Act of 1935, local self-government was declared a provincial subject.

Constitutionalization:

In August 1989, Rajiv Gandhi's government introduced 65th Constitutional Amendment Bill (i.e. Nararpalika Bill) in the Lok Sabha. The Bill aimed at strengthening and revamping the municipal bodies by conferring a constitutional status on them. Although the bill was passed in the Lok Sabha, it was defeated in the Rajya Sabha in October 1989, and hence, lapsed. The National front Government under V.P. Singh introduced the revised Nagarpalika Bill in the Lok Sabha in September 1990 again. However, the bill was not passed and finally lapsed due to the dissolution of the Lok Sabha. P.V. Narasimha Rao's government also introduced the modified Municipalities Bill in the Lok Sabha in September 1991. It was passed in both, Lok Sabha Rajya Sabha in December 1992. After that, the bill was approved by the required number of state legislatures. It was assented by the President of India in April 1993. It emerges 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 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 Twelfth Schedule to the Constitution. It contains **18** functional items of municipalities and deals with Article 243-W. The Act gave Constitutional Status to the Municipalities. It has brought them under the purview of justiciable part of the Constitution. In other words, state governments are under constitutional obligation to adopt the new system of municipalities in accordance with the provisions of the Act.

Composition: Article No. 243R

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.



- Persons having special knowledge or experience in municipal administration without the right to vote in the meetings of municipality.
- The members of the Lok Sabha and the state Legislative Assembly representing constituencies which comprise wholly or partly the municipal area.
- The members of the Rajya Sabha and the State Legislative Council registered as electors within the municipal area.
- The chairpersons of committees (other than wards committees).

Wards Committees: Article No.243S

There shall be constituted a wards committee, consisting of one or more wards, within the territorial area of a municipality having population of three lakhs 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: Article No. 243T

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

Duration of municipalities: Article No. 243U

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

Disqualifications: Article No. 243V

A person shall be disqualified for being chosen as or for being a member of a municipality if he is so disqualified (i) under any law for the time being in force for the purposes of elections to the Legislature of the state concerned; or (ii) 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.

Finances: Article No. 243X

The state legislature may (i) authorize a municipality to levy, collect and appropriate taxes, duties, tolls and fees; (ii) assign to a municipality taxes, duties, tolls and fees levied and collected by state government; (iii) provide for making grants-in-aid to the municipalities from the Consolidated Fund of the state; and (iv) provide for constitution of funds for crediting all moneys of the municipalities.

Functions:

Twelfth schedule 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. Roads 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 section 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, 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
18. Regulation of slaughter houses and tanneries



The 74th Constitutional Amendment Act and the various follow up actions including the reforms towards effective implementation of provisions of the 74th Constitutional Amendment, have given wide ranging responsibilities and functions to the Urban Local Bodies (ULB) and their elected representatives. The representatives in Urban Local Bodies have been elected from all sections of the communities to make the urban governance broad based and more representatives required proper understanding of different provisions of acts, rules, regulations and procedures to discharge their duties and responsibilities with cooperation and coordination of concerned executives for efficient urban governance. The constitution provides for reservation of seats in order to give due representation to the weaker section and special groups.

Rationale for the reform:

The Constitution (74th Amendment) Act, 1992 provisions, provides a basis for the State Legislatures to guide the State Government in the assignment of various responsibilities to municipalities and to strengthen municipal governance. Accordingly, several State Governments have amended their Municipal Acts/Laws/Legislations so as to bring these in conformity with the Constitutional provisions. While state governments ratified the 74th Constitutional Amendment Act they have found it difficult to implement its provisions in totality. The functional devolution to Urban Local Bodies hasn't been supported by adequate transfer of revenue sources. Further, the financial autonomy of Urban Local Bodies has been undermined as they have to seek state government approval for any revisions in tax rates and user charges and have limited powers to institute new taxes. The existing legal framework as defined by the state municipal acts was not conducive for implementing the provisions of the 74th Constitutional Amendment Act in its true spirit. *Implementation of 74th Constitutional Amendment Act is required for following reasons:*

- Urban Decentralization needs to empower Urban Local Bodies with many more power and functions to operate as independent levels of government.
- Such increased autonomy also needs to be complemented by appropriate accountability. This accountability needs to be directly to the citizens themselves, rather than to another level of government. Hence, formal mechanisms for such citizen-centric accountability need to be created, along with reforms in urban decentralization.
- From the citizens' perspective, there need to be more opportunities to participate in local governance at many levels: in budgeting, planning, land use and zoning issues, and so on. Creating this opportunity to participate also complements the accountability issue mentioned above.
- A consistent mechanism for participation, planning and decentralization across urban local governments will enables easier coordination at the regional planning level, through the District Planning Committees and



Metropolitan Planning Committees that have been envisaged in the Constitution.

- Strong accountability mechanisms are also required on financial and operational management of the Urban Local Bodies: budgeting, audits, presentation of financial statements to the public, performance measurement indicators and so on. Here again, the primary focus of these instruments needs to be citizens and users of public services, rather than other levels of government: i.e., accountability outward to citizens, rather than inward within government.

Conclusion:

The Government of India introduced new municipal legislation to give effect to the Constitutional Amendment Act. This proves partly the hypothesis that Administration of Municipalities in India has become a part of the federal structure with 74th Amendment to the Constitution of India. However, Ward committees are not constituted in all Municipalities except in big cities. The bye laws or resolutions of the Municipality need the approval of the State Government Officials. Still there is the power of suppression over the Municipalities. As such, the autonomy of Municipalities seems to be a myth even after constitutional guarantee to the Municipalities. Though Municipalities form a part of federal structure in India, *they are still the creatures of the State Governments*. This partly disproves the hypothesis that Administration of Municipalities in India has become a part of the federal structure with the 74th Amendment to the Constitution of India. Ward committees are to be constituted in all grades of municipalities, irrespective of population criteria. This would help to make the political representatives accountable to people. People through meaningful participation in Municipalities would learn how to control the abuses of the Municipal authorities. In conclusion we can say that the 74th Constitutional Amendment Act has given some power for revitalizing and strengthening to the Urban Local Bodies.

References:

- 1) Tata McGraw Hill's Series, Public Administration by M. Laxmikanth, in 2007 Published by the Tata McGraw-Hill Publishing Company Limited.
- 2) Abhijit Datta, Municipal and urban India, Indian Institution of Public Administration, New Delhi, 1980.
- 3) M.A.Muttalib and Mohd. Akber Ali Khan, Reforms in Municipal government, regional centre for urban and environment studies 1982
- 4) Basu, Durgadas, Introduction to the Constitution of India (19th edition, reprint 2004) Wadhwa and Company, New Delhi, 2004
- 5) Lent. D. Upson, Practice of Municipal Administration, the century Co. New York, 1926
- 6) Earnest W.Steal, Municipal affairs, international text book company Scranton, Pennsylvania, 1950



- 7) Urban Local Bodies by Sri A.K Goyal Prl Secretary M.A & U.D department
- 8) www.google.com. 74th Constitutional Amendment Act
- 9) Synopsis of Administration of Municipalities in Andhra Pradesh by Jagatha Hari Hara Rao.