CHAPTER-III

PROBLEMS OF ORGANIZATION OF SHIMLA AND DELHI MUNICIPAL CORPORATIONS

3.1. Origin of Shimla Municipal Corporation

The Municipal Government was first introduced in Shimla in 1851, under the provisions of Acts XXVI of 1850. The Shimla Municipality was the oldest in erstwhile Punjab. It was with a view to managing local needs that the municipal committee was converted into the municipal corporation. The pattern of municipal corporations in regard to structure and organisation is basically uniform in all states in India. With respect to Shimla Municipal Corporation the need was felt for concrete steps to improve the management of municipal affairs in 1969. Thus to this end, the capital of Himachal Pradesh Development and Regulation Act was passed, which became effective on 27th June, 1969. Under this legislation the corporation was created with one administrator and ten other members. All of them were appointed by the state government through a notification. Eight were government officials, one, a woman and a schedule caste member were the non-officials.

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The Shimla Municipality is the oldest in India and the corporation of Shimla is the only corporation in the entire state of Himachal Pradesh.

3.2. Origin of Delhi Municipal Corporation

The origin of the Civic Administration in Delhi can be traced to 1862 when Delhi Municipal commission came into being. Subsequently, it was changed to the Delhi Municipal Committee, functioning as the only civic body for about half a century and having jurisdiction over the entire urban area. This committee was classified as a class I committee in 1881. Delhi's deputy Commissioner was the ex-officio President of the committee. The constitution of the committee was further amended in 1912 at the time of creation of Delhi province. Afterwards, in the wake of establishment of the temporary capital of the Government of India in
Delhi— the Civil Station, Notified Area Committee came into existence on 16th January, 1913. In the year 1926-27, the Imperial Delhi Municipal Committee was renamed as the New Delhi Municipal Committee. With the expansion of the city in subsequent years, more local bodies like West Delhi Municipal Committee and South Delhi Municipal Committee came into being to provide civic administration to the new colonies. After Independence, the committee was reconstituted in November 1951, on the basis of adult franchise. Chronologically, the various civic bodies in Delhi were created in the following order:

Table 3.2

Civic Bodies in Delhi (1883-1955)

<table>
<thead>
<tr>
<th>Committees</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Board for Rural Area (300 villages)</td>
<td>1883</td>
</tr>
<tr>
<td>Notified Area Committee, Najafgarh</td>
<td>1910</td>
</tr>
<tr>
<td>Notified Area Committee, Mehrauli</td>
<td>1910</td>
</tr>
<tr>
<td>Notified Area Committee, Civil lines</td>
<td>1913</td>
</tr>
<tr>
<td>Notified Area Committee, Narela</td>
<td>1919</td>
</tr>
<tr>
<td>Municipal Committee, Shahdara</td>
<td>1916</td>
</tr>
<tr>
<td>Notified Area Committee, Red Fort Area</td>
<td>1924</td>
</tr>
<tr>
<td>New Delhi Municipal Committee</td>
<td>1925</td>
</tr>
<tr>
<td>South Delhi Municipal Committee</td>
<td>1954</td>
</tr>
<tr>
<td>West Delhi Municipal Committee</td>
<td>1955</td>
</tr>
</tbody>
</table>

To provide basic amenities like water, electricity and transport, three statutory bodies—The Delhi Joint Water and Sewage Board, Delhi State Electricity Board and the Delhi Transport Authority were established under the control of the Government of India in 1926, 1951 and 1952 respectively.

The Delhi Municipal Corporation Act, LXVI of 1957 was enacted by Parliament on 28th December, 1957. Pending the establishment of the corporation under a notification of 15th February, 1958, issued by the Ministry of Home Affairs, the Government of India appointed, as an interim measure, a commissioner of local authorities to take over the management of all the local bodies to be merged in it. As a result of amalgamation of nine of the eleven local bodies and the Delhi District Board which looked after the civic needs of the rural areas at that time, the Municipal Corporation was formed on 7th April 1958. Only the Delhi Cantonment Board and the New Delhi Municipal Committee continued to exist as independent entities. All three statutory bodies providing water, electricity and transport were converted into municipal undertakings and placed under the overall control of the corporation. Later, in the year 1972, a separate corporation of the central government was formed for transport by a central ordinance. The municipal corporation has been constituted on a sound democratic basis. Unlike in the previous system the official and nominated elements
3.3. Deliberative and Executive wings

The Constitutional pattern of executive system of Indian Municipal Corporations is basically uniform the standing feature being the separation of executive and deliberative functions. The corporation lays down broad policies; frames bye-laws, sanctions budget and keeps a general watch over executive administration. But the entire executive authority is vested in the Commissioner who is appointed by the state government. The necessity of a separate executive organ was first advocated by sir Ferozshah Mehta in 1971, who pleaded for "appointment of single responsible officer under the control of municipal assembly to discharge the executive functions".

The royal commission on decentralization (1907) had also recommended that an elected chairman of council should be its presiding officer and the task of administrator should be entrusted to a full time appointed official subject to the control of the council and its standing committee. Government of India's Resolutions of 1915 and 1918 had lent further support

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to the philosophy of keeping deliberative and executive functions in separate hands in larger interests of efficient municipal administration.

The structure of corporation government is thus designed on a dubious assumption that in governmental operations policy and administration are two distinct and divisible functions which can be entrusted to two separate authorities. Corporation government originated in the presidency town where the ruling class had a vital stake in their administration and they could hardly afford to entrust executive authority even to a partially elected council the since practice followed even after two decades of Independence. It was Rural-Urban Relationship Committee (1966) which recommended that commissioner should be retained in old form, the Mayor should be kept informed of all goings-on in the Corporation and an appellate Committee should be set-up to review decisions when appeal would be received.

The Deliberative wing comprises of the Mayor, the Council and the Committees. The commissioner is considered to be the head of the executive of municipal administration.

set-up and considerable responsibility is placed on him for carrying on municipal administration through the officers subordinate to him.

3.4. Organization of Shimla Municipal Corporation

1. The Deliberative Wing

It comprises of elected members responsible to electorate for safeguarding their interests and bettering their welfare. It consists council and the committees. The Mayor is the head of the Deliberative wing.

(i) The Council Although the council is but one constituent unit of the municipal corporation, yet the term corporation has itself become a substitute for council. "The council comprises members called councillors". Municipal council consists of 21 members including Mayor and Deputy Mayor. Three members are nominated by the Government having experience in municipal administration. One MLA is member of the council by virtue of his office. They have no right to vote but can participate in the discussions and proceedings of the corporation. Commissioner is the secretary of the council. Like the nominated members commissioner has no right to vote but can participate in discussions. Only elected members have right to vote. The term of office of councillors is five years.
(ii) **Committees** Shimla Municipal Corporation has three standing committees, namely.

1. General Functions Committee,
2. Finance, Contract and Planning Committee and
3. Social Justice Committee

Each standing committee consist of not less than three and not more than five councillors including Mayor or Deputy Mayor. Members are elected from amongst the elected councillors. General functions committee performs functions relating to establishment matters, communications, construction of buildings and roads, urban housing, relief against natural calamities, water supply and sewerage disposal, health and sanitation etc. The Finance, contract and planning committee performs functions related to finances of corporation, preparation of budget, scrutinizing proposals for increase of revenue including taxes, examination of receipts and expenditure statement recovery of loans, examination of schedule of rates, consideration of all proposal effecting the finances of the corporation, general supervision of revenue and expenditure, development of municipal area etc.

The Social Justice Committee performs the following functions:-

a. Promotion of education, economic, social, cultural

and other interests of schedule caste, schedule tribe, backward classes and weaker sections of society.
b. Protection from social injustice and all other forms of exploitation.
c. Amelioration of SC, ST and backward classes.
d. Securing social justice to SC, ST, women and other weaker sections of society.

The Mayor is the ex-officio member and also the chairman of General Functions Committee and Finance, Contracts and Planning Committee. Deputy Mayor is the member and chairman of Social Justice Committee. The Commissioner is the ex-officio member and secretary of the Standing Committee. The corporation may appoint adhoc committees from time to time as needed.

2. Executive Wing (SMC) The Municipal Commissioner head the executive wing of the corporation. He is class I officer. His tenure being three years. He exercises supervision and control over the work and conduct of all corporation officers and other employees. He is assisted in discharge of his functions by assistant commissioner and the departmental heads of various departments such as corporation health officer (health department), engineers (roads and building department),

municipal engineers (water and sewerage department), assistant secretary - an officer of accounts department (tax department), Tree Officer (forest department). The office of the commissioner is based on keeping the policy making functions separate from administration.

Organisation hierarchy of Executive wing is as follows:

Chart 3a

Executive Wing of Shimla Municipal Corporation

\[ \text{Commissioner} \]

\[ \text{Assistant Commissioner} \]

\[ \text{Secretary at State Level} \]

\[ \text{Corporation Engineer Municipal Engineer Assistant Officer Tree} \]
\[ \text{Health (ERB Deptt.) Health (Water & Sewerage Deptt.) Secretary (Accounts Deptt.) Offi} \]
\[ \text{Health Deptt.)} \]

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3.5. Organization of Delhi Municipal Corporation

1. The Deliberative Wing:

The DMC Act clearly bifurcates the Executive and Legislative Functions. The mayor is the head of the deliberative wing who is assisted by deputy mayor and chairman of various committees, statutory, special and adhoc. The mayor presides over the ordinary and special meetings of the general house of the corporation which decides the policy and sanctions budgets of the general wing and two undertakings, namely; the Delhi Electric Supply Undertaking (DESU) and the Delhi Water Supply and Sewerage Disposal Undertaking (DWS and SDU). Besides general meetings, the legislative functions are discharged by the committees.

The corporation comprises one hundred councillors, elected from one hundred different municipal wards. It has six aldermen. The aldermen are elected at the meeting of councillors from amongst the persons qualified to be the councillors. The general term for the office of councillors is four years and the Government of India may extend the same by one year.

(i) Committees MCD has a number of committees like statutory committees, special and adhoc committees. Statutory committees comprise standing

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committee, Delhi water supply and sewerage disposal committee, education committee and rural areas committee.

Special committees comprises of the assurance, appointments, disciplinary and allied matters, works, medical relief and public health, conservancy and sanitation gardens, law and general purposes and special zonal committees for each zone of DMC.

Adhoc committees comprise remunerative projects, improvement and development of slum colonies, katras and harijan basties, hindi, survey and rehabilitation of patri and khomchawalas, community services, welfare of schedule caste and implementation of schedule caste candidates quota, sports promotion and allied matters, anti-malaria measures, anti-food measures, naming and renaming of streets, grants-in-aid.

(a) Standing committee

Standing Committee is the major policy making and most powerful committee because of its overriding budgetary powers. It consist of members, seven of whom retire every year in rotation. It controls departments like engineering, health, education, horticulture, town planning and taxes etc.

(b) Delhi Water Supply and Sewerage Disposal Committee

The Delhi Water Supply and Sewerage Disposal Committee consists of seven members, four elected from amongst the councillors and three nominated by Home Ministry
from officials. Chairman and his deputy are chosen
from amongst the members of corporation. It lays down
policies, approves budget proposals, decides tariffs
for water supply, sanctions various schemes for water
supply and sewerage. The executive authority directly
vests in commissioner who is assisted by additional
commissioner/deputy commissioner and heads of various
departments.

(c) Delhi Electric Supply Committee

The Delhi Electric Supply Committee is
similar to water supply committee in composition,
powers and sphere of activities. General Manager is
the chief executive of the undertaking who is assisted
by additional general manager, deputy general manager
and number of engineers.

2. Executive Wing At the apex of executive wing is
the municipal commissioner appointed by the government.
He is assisted by a number of additional commissioners,
deputy commissioners, assistant commissioner and heads
of various departments. Besides the commissioner, the
central government also appoints the chief auditor, who
works independently and reports directly to standing
committee. The chief accountant also acts as a
financial advisor to the commissioner, in addition
to his duties as finance officer of the general wing

and the two undertakings.

To carry out the day-to-day administration and to settle local problems, the entire corporations area has been divided into 12 zones each headed by an additional deputy commissioner along with an assistant commissioner. The latter is assisted by representatives of major departments, like health, sanitation, education, engineering, water, horticulture, taxes etc. Local problems are sorted out in the zones while policy decisions are taken at the head-quarters by the commissioner, assistant commissioners, and heads of various departments.

3.6. Comparison of Executive and Deliberative Wings of Shimla and Delhi Municipal Corporations

The deliberative and executive wings of both the corporations differ in their composition, in having different number and types of committees with different functions. In case of deliberative wing of SMC, the Municipal council consists of 21 members but in case of Delhi it is 100 councillors and six alderman who are nominated by the councillors. In SMC government nominates 3 members having experience in municipal administration and 1 MLA is also the member of council by virtue of his office. As regarding committees, SMC has three standing committees whereas DMC has a number of committees like statutory committees, special and adhoc committees. Statutory committees consists of standing
committee, Delhi water supply and sewerage disposal committee. In case of SMC, each standing committee consists of not less than three or not more than five members whereas in DMC, standing Committee consists of 14 members. It is the most powerful committee because of its overriding budgetary powers. Besides the standing committee, DMC has DWS and SDU and DESU which are not in existence in SMC rather the function of water supply and sewerage disposal is performed by general functions committee.

3.7. The Municipal Commissioner

The institution of commissioner as such was absent on the municipal scene till 1855 when a bill, styled the "Conservancy and Improvement of Towns of Calcutta, Madras and Bombay, and the several stations of the settlement of Prince of Wales Island, Singapore and Malaca" was introduced in the Governor General's Council. The bill contemplated the appointment of 'Commissioner' for the administration and control of municipal funds and appointment of the members of Board of Conservancy. The bill became Bombay Municipal Act II of 1865 and the first commissioner was appointed under the Act of 1865.

The municipal commissioner is the chief executive officer of the corporation. In India, as per statute, he is appointed by the state government for a fixed term of three to five years. Generally, he is a high-ranking civil servant. During his tenure in the corporation, his emoluments are borne by the corporation budget. Over and above his normal functions, he can take any action he deems fit at the time of an emergency. The appointment of the commissioner is based on the philosophy of separating policy-making functions from their implementation. As chief executive officer of the corporation, he reserves the right to speak at the meeting of the council and its committees but has no voting rights. He supervises and controls all employees of the corporation.

The commissioner, being the executive head of the corporation, is responsible for the entire functioning of the executive. He acts through delegation of authority to numerous subordinate officers, keeping the powers of direction and supervision in his own hands. He can directly influence the implementation at the appropriate stages. In the case of the corporation the commissioner is one end of the balance, representing the executive wing and the

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councillors on other representing the deliberative wing. Unless the two act in unison and with mutual understanding, the progress of work is retarded and the health of the civic body suffers.

The commissioner is the pivot of the corporation's activity, even in the existing incongruous system. Not only does he carry out the many resolutions passed by the corporation and its statutory committees, but he also helps the deliberative wing in chalking out policies and formulating new plans.

3.8. The Shimla Municipal Commissioner

The municipal commissioner in Shimla is appointed by the state government by notification in its official gazette. He is Class-I officer. According to the municipal corporation act, the commissioner so appointed holds office for a term of three years in the first instance, provided that his appointment may be renewed for a term not exceeding three years. The commissioner is paid out of the corporation fund such monthly salary and such monthly allowances, if any, as may from time to time be fixed by the government. Leave is granted to the commissioner by the government. In the event of such leave the government is required to appoint someone who officiates in the commissioner's absence. In the event of a vacancy caused by death, resignation or removal of the commissioner by the government, the post is temporarily filled for a period
not exceeding two months, pending the appointments of commissioner under section 46 of HPMC Act.

3.9. Functions of Shimla Municipal Commissioner

Under the supervision and control of the cooperation and its Mayor the executive power for the purpose for the carrying out provisions of HPMC Act vest in the commissioner who exercises all powers and performs all duties imposed on him by the Act. He prescribes the duties of all corporations officers other employees. He also exercises supervision and control over the Acts and the proceedings of the above said officers. On occurrence of any sudden accident or any unforeseen event likely to involve extensive damage to any property of the cooperation of human life Commissioner takes immediate action in consultation with Mayor and makes a report of action taken to the corporation. If any act or resolution of the corporation violates any government instructions, it is the duty of the Commissioner to bring such violation to the notice of government.

3.10. The Delhi Municipal Commissioner

The municipal commissioner of Delhi is appointed by the central government through a notification in its official gazette. The commissioner
holds office for a term of five years in the first instance, provided that his appointment may be renewed from time to time for a term not exceeding one year at a time. He can be removed from office by the central government at a special meeting of the corporation for the same purpose by passing a resolution by a majority of atleast 3/5 of the total number of members and only on the basis of misconduct or proven neglect in the discharge of his duties. He cannot undertake any work unconnected with his office without the central government and the corporation's sanction. The municipal commissioner is paid out of the municipal fund, the salary and monthly allowances being fixed by the central government from time to time.

3.11 Functions of The Municipal Commissioner

The entire executive power for the purpose of carrying out the provisions of the Act, other than those pertaining to the Delhi Electric Supply Undertaking and the Delhi Water Supply and Sewerage Disposal Undertaking (DWS and SDU), vest in the commissioner, who exercise all powers and performs all functions specifically conferred upon him by the Act. He prescribes duties of, and exercises supervision and control over the Acts and Proceedings of all municipal officers and municipal employees other than the municipal secretary, municipal chief auditor and municipal officers and employees immediately subordinate
to them. On occurrence of any sudden accident or natural calamity in which damage to municipal property or danger to human life is involved, the commissioner can take immediate action as necessary and then make a report to the standing committee and the corporation detailing the action taken. In case of the absence of the general manager of Delhi Electric Supply Undertaking, he is requested to perform all duties and responsibilities otherwise conferred on the general manager electricity by this Act.

Despite the fact that the commissioner has vast executive powers, he is greatly hampered in their exercise for a variety of reasons as he has to deal with the standing committee, general managers of electricity, water supply and sewerage disposal undertaking, the chief auditor, and the councillors. In the absence of a clearcut division of powers his position becomes very embarrassing. This is further complicated by a jurisdiction overlapping at many points. Finally, if the council has a majority of a party different from that in parliament, his position becomes precarious as it is not easy to satisfy both masters. Consequently a tug of war is ongoing between the commissioner and the corporation. In such circumstances administrative efficiency is bound to suffer and diminish.

Delhi is one of the four metropolises of India and Delhi Municipal Corporation is a major urban body with a large area of jurisdiction. Thus the functions of the Delhi Municipal Commissioner are much greater in scope than those discharged by the Shimla Municipal Commissioner. The Delhi Municipal Commissioner is appointed by the central government. The Shimla Municipal Commissioner is appointed by the state government through a notification in the official gazette. Delhi Municipal Commissioner is assisted by a number of additional or deputy commissioners, assistant commissioners, additional commissioners (water), additional commissioner (engineering), additional commissioner (health), additional commissioner (co-ordination), deputy commissioner (labour administration) and deputy commissioner (taxes) and the deputy accountant. In contrast the Shimla Municipal Commissioner is assisted by a sole assistant commissioner. This is due to the fact that the Delhi has to manage a much larger corporation, necessitating delegation of authority to numerous subordinates. Overall, this strengthens his position. Though his disciplinary powers over the personnel of municipal corporation are limited, yet general supervisory powers are vested in him.
The Delhi Municipal Commissioner is appointed for a term of five years, Shimla Municipal Commissioner is deputed by the state government for a term of three years but in most cases the incumbent actually serves only a year and a half, his tenure being cut short by a transfer.

In exercise of his executive powers Shimla municipal commissioner is subject to supervision and control of corporation and its mayor. Where as case of Delhi commissioner is not subject to supervision and control of corporation and mayor in exercise of his duties and responsibilities In Delhi, the Municipal Commissioner exercises supervision and control of the acts and proceedings of all municipal officers and employees except for municipal secretary, municipal chief auditor and municipal officers and other employees immediately subordinate to them but in Shimla, the municipal commissioner exercises supervision and control over municipal secretary and auditor along with all the municipal officers and other employees.

In case of accident or natural calamity, the Shimla municipal commissioner can take immediate action but in consultation with mayor and has to make a report of his action to the corporation along with reasons but in Delhi the municipal commissioner can take such action as he considers necessary and reports to the standing committee and corporation of the action taken.
The Delhi scheme of municipal commissioner often creates situation of crises which emerges between commissioner and the statutory committee (standing committee). While the executive authority of municipal corporation Delhi is vested in commissioner, his authority in regard to appointments, transfers and promotions etc. of the staff, subordinate to him, is exercised by the committee which seriously impinges the executive authority of the commissioner. Such a role creating perennial conditions of conflict between two executive authorities is serious drawback of Delhi Municipal Corporation Act of 1958. Commenting upon the separation of executive from deliberative policy making functions, R.N. Chopra writes that, "It was a queer idea, indeed when viewed the light of the fact that deliberative body virtually controls the power of appointment, promotion of the officers of the corporation. How the commissioner can deliver the goods, if the vital portion of his administrative machinery is not with in the direct grip or his needs of departments do not look upto him but somewhere else? This dichotomy between the place of responsibility and the place of authority makes the job of commissioner very difficult, if not possible".

It is contended on behalf of the Municipal Commissioner that the executive agency has lost both initiative and capacity to take independent decision as result of interference in day to-day administration by members of the corporation. Unrestrained criticism and meddling with matters of establishment on the part of the deliberative wing have undermined the authority and prestige of the executive. The deliberative agency is not as powerless as generally made out. The powers of the commissioner are limited to control over staff, enforcement of municipal laws, rules and bye-laws, and sanction of works, the value of which varies in different corporations from less than Rs. 10,000 to Rs. 50,000, subject to budget provisions. The statutory committees and the corporations have, apart from general powers of control and supervision, the overall authority to determine the policies, programmes, and priorities of work and embody the same in the budget estimates. Even when the budget provisions are made, all schemes, plans, estimates, tenders of work, etc. of greater cost than that within the sanctioning power of the commissioner require the sanction of the standing committee or the corporation itself.

3.13. The Mayor

The evolution of the institution of the mayor can briefly be surveyed in two periods spanning two centuries. The early history of the institution of mayor is little known to the common man. In the early days of British rule, mayors were even judges. Mayors of principal cities in the country in the early part of the 18th century had autocratic powers, particularly judicial. There was hardly any judicial system in India governed by English Law at this time. The mayor's courts comprised a mayor, and nine alderman. The mayor's courts meted out barbarious punishments and were always partisan. When mayoral courts proved incompetent to try civil suits the government was compelled to abolish them. The enactment of the Municipal Act of 1872, hailed as the Magna Carta of local-self government, brought into existence the municipal corporation of Bombay with 64 members. The presiding authority of this corporation was its chairman. Captain George F. Henery was its first elected chairman in 1873. In 1875, the first Indian chairman, Shri Possabhai Framji was elected. With the enactment of the Municipal Act, 1888 the designation of "Chairman" was changed to "President of the Municipal Corporation of Bombay". In 1932 this designation was further changed to "His worship the Mayor", Shri J.B. Bowman-Behram was the last President
and the first "Mayor" of the municipal corporation, Bombay. After Independence the title of "His Worship'
was dropped.

All municipal corporation Acts of various states provide for the office of mayor and deputy mayor. Mayor is generally elected for one year renewable term like in Delhi municipal corporation but in case of Shimla municipal corporation mayor is elected for two and half year term. Mayors in India do not exercise powers or perform functions of a uniform pattern, they drive these powers from the respective corporation Acts. Their powers and functions differ from state to state. The most important statutory functions of mayor is to preside over the meetings of council and guide its deliberations to maintain decorum. He is also empowered to expel or even suspend members for gross misconduct or disorderly misbehaviour. He may call special meetings of council when considered necessary. He has access to all records of corporation. He can issue directions to commissioner asking him to recall on any matter as in Delhi municipal corporation. In some corporations he is authorised to constitute committees and exercise financial powers also. Because of separation of deliberative and execu-

tive functions municipal commissioner is executive authority of corporation and the mayor exercises general supervision over the administration of the corporation. He is the ceremonial head of the city government and bereft as he is of executive powers, his position is very weak in administration of corporation.  

3.14. Mayor of Shimla Municipal Corporation

1. Election of Mayor

The Himachal Pradesh Municipal Corporation Act provides that the corporation shall, in prescribed manner, elect one of its elected members to be the mayor and another elected member to be the mayor its deputy mayor. A meeting for the election of mayor shall be convened by the divisional commissioner, who shall also nominate a councillor who is not a candidate for such election to preside over the meeting. Every candidate for election as mayor shall sign a nomination paper supported by the signatures of two other councillors as proposer and seconder. When two or more validly nominated candidates offer themselves for the election, it shall be held by secret ballot as prescribed in the Procedure and Conduct of Business Regulations, 1983. If a councillor votes for more than one candidate, then his ballot paper shall be considered invalid. As soon as the period fixed for casting votes is over, the votes are counted by the presiding

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authority assisted by the municipal commissioner or any officer or employee designated for the said task by the presiding authority. The candidates with the highest number of votes is declared elected as the mayor. The election shall be held twice: firstly, at the meeting of the corporation; secondly, within a period of one month of expiry of a period of two and a half years of the date on which the election of councillors is notified under subsection (1) of section 16 of HPMC Act.

2. Term of Office:

The mayor is appointed for a term of two years 6 months from the appointment date.

3. Removal of the Mayor:

The mayor may be removed from office by a majority resolution of the corporation's total membership, this majority being not less than two-third of the members present and voting in a meeting for this purpose.

4. Salary and other Allowances:

The mayor shall be entitled to such honorarium and facilities as prescribed in the Act of the corporation.

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5. Resignation

   The mayor may, in writing, resign from office. He is required to submit his resignation to the municipal commissioner this becoming effective on the date of delivery.

6. Functions and Powers:

   As soon as the mayor is elected, he shall preside over the meeting for the transaction of the rest of the business thereof. In fact, one of the mayor’s main function is fixing the time of the corporation meetings and presiding over them.

7. Powers Regarding Questions:

   A councillor may ask a supplementary question for the purpose of elucidation of any matter on fact. However, if such a question infringes provisions with respect to the same, the mayor has the power to disallow it.

8. Discussions on Matters of Public Importance:

   In the corporation meeting the mayor may allot a maximum of half an hour each day for discussions on matters of sufficient public importance. He has

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authority to decide if the matter is of sufficient public importance or not. His decision on the same shall be final.

9. Postponement of Questions:

Should the commissioner declare that the answer to any question is not ready, the question shall be deferred to any other meeting to be fixed by the mayor.

10. Powers Regarding Resolutions:

The mayor may admit a resolution subject to the following conditions:
1. It must relate to a matter of general public interest;
2. It must be clearly and precisely expressed;
3. It must raise at least one substantial and definite issue; and
4. It must not contain arguments, inference, ironical expressions, imputations and defamatory statements.

The mayor may, in consultation with the councillor concerned, amend the form of a resolution so as to bring it in conformity with regulations. The mayor may, instead of disallowing a resolution, refer it to the committee concerned with the matter raised.
The mayor of the Shimla Municipal Corporation, has proposed to the government to take the decision for the adoption of mayor-in-council system on the basis of Calcutta model under 74th Constitution Amendment Act, 1992. The salient features of this system are as follows:

1. The municipal authorities to be created for carrying out the purposes of the Act will be (a) The corporation (b) The mayor-in-council (c) The mayor. The standing committee, i.e. the finance and contract committee, has to be abolished and the commissioner has to cease as a statutory authority;

2. The mayor-in-council in whom all executive powers are rested is collectively responsible to the corporation;

3. The deliverative wing has to be separated from the executive wing by appointing a chairman to preside over the meetings of the corporation;

4. The conduct of the business shall be through questions, discussions on urgent public matters, asking for statements from the mayor-in-council on the pattern of rules of business in the state assembly.

It is important to realize that the implications in reforming the organizational structure of the corporation in the form of the mayor-in-council lie in several important areas. In the first place, the functions of the corporation and wherewithals to carry them out along with the regulatory and sanctioning mechanism, would be an area which needs to be regrouped and redefined. Secondly, the decision making mechanism itself will have to be streamlined as the mayor-in-council needs to be a more compact body, thus more able to hopefully take quicker and hopefully better decisions than an array of standing committees. Within the mayor-in-council, however, given both the pattern of party behaviour and political democracy prevailing, the mayor will have considerable freedom to act. Such freedom could be either through inherent sanction of legislation or through delegated powers from the mayor-in-council. Further, if the mayor-in-council is made accountable to the corporation as a corporate body with the usual parliamentary checks and balances, then the collective responsibility to the corporation will ensure a more responsible and developmental attitude in its work that has been possible hitherto by standing committees. In fact to a great extent, all these possibilities have been envisaged and enshrined in the Calcutta Municipal Corporation Act, 1980.
3.15. The Mayor Delhi Municipal Corporation

The Mayor, DMC, is elected from amongst the councillors for a period of one year. He is the head and presiding officer of the corporation.

1. Annual election of mayor: The Delhi municipal corporation Act 1957 provides that corporation shall at its first meeting in each year elect one of its member to be the mayor and another member to be the deputy mayor of the corporation.

2. Term of the office: The mayor or deputy mayor shall hold office from the time of his election, until the election of his successor in office.

3. Salary and other allowances: The Delhi Municipal Corporation Act provides that the mayor may be given such salary and facilities as may be determined by the rules made in this behalf.

4. Resignation: The mayor may by writing in his hand addressed to deputy mayor and delivered to municipal secretary, resign his office. This resignation shall take effect from the date on which it is delivered.

5. Methods of Deciding Questions: As proved in the DMC Act, all matters required to be decided by the corporation shall be decided by the majority of votes of members present and voting. The councillor or alderman may ask the commissioner questions on any matter relating to municipal government of Delhi: the mayor has power to disallow any question which in his opinion
contravenes the provision of sub section (3) of DMC Act., 1957.

In recent times the corporation form of government has been under fire and the corporators have time and again inveighed against the statutory independence of commissioner. The mayor of Delhi expressed the viewpoint of the mayors in a note submitted for consideration by All India Mayors Conference convened by the Union Ministry of Health in 1959 as follows: There is feeling that mayors should not be mere 'figure heads' but should have some important functions of an executive nature, in order that they may be able to play the role of leadership and be symbols of democratic structure of our corporation. As a concrete measure, the metropolitan council of Delhi had passed a bill in 1966 proposing a mayor in council form of government for Delhi in place of present form of municipal corporation. The mayor-in-council scheme was proposed as a part of comprehensive plan to recognize the set-up of Delhi municipal corporation and a bill to amend Delhi Municipal Corporation Acts (1957) to this effect was introduced in parliament in 1966 but it could not be passed due to the dissolution of parliament for holding general elections and it was not reintroduced there after. According to the provisions of bill, the mayor-in-council was to consist of mayor elected by members of corporation and two deputy mayors.
appointed by the Lt. Governor of Delhi on mayor's advice. The scheme provided in bill provides for the executive functions being vested in mayor-in-council. The commissioner will be the principal executive officer of the corporation and will exercise powers and performs the duties conferred on him under the Act subject to supervision and control of mayor-in-council. This form of municipal government and envisaged in the bill comes close to the cabinet system of government". This form of government is certainly not the type of government that can be introduced at municipal level. But it has certain distinct advantages as it establishes a plural executive as distinguished from singular executive in strong mayor form of government. It has therefore, more room for accommodating atleast the important political leaders and giving them a share in exercise in power. It helps in achieving harmonious integration of executive and legislative wing. It has great merit of being understandable as it has been in operation for a fairly long time at the state and central levels.

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22. Ibid.
3.16. Comparison of Mayors of Shimla and Delhi Municipal Corporations

Since that both the Delhi and Shimla mayor's powers and functions have been detailed, a side by side comparison is necessary for proper perspective. As compared to the mayor of the Delhi municipal corporation, the mayor of the Shimla municipal corporation can be said to be stronger because the latter is also the ex-officio chairman of the standing committee. Moreover, the term of the office of the mayor is 2 years 6 months in Shimla compared to one year in the case of the Delhi mayor. According to section 37 (b) of the Himachal Pradesh Municipal Corporation Acts, 1979, the mayor has power to direct the commissioner for the implementation of policies. The Annual Confidential Report of the commissioner is written by the mayor. He has the power to recall a commissioner if he acts contrary to his wishes. Moreover since the commissioner holds office for a very short period and is on deputation from the state government, consequently he is least interested in the affairs of the corporation in the sense that he takes very little interest in its working. Hence the mayor is not just a figurehead but a real ruler in case of Shimla municipal corporation.

Thus it can be said that the mayor of Shimla municipal corporation is more powerful and influential than his counterpart in Delhi municipal corporation.
The political status and power of individual incumbents makes difference more than the constitutional position, therefore it is the political resources of individual mayors and the support that they enjoy from the party of the higher government that determines the degree of influence wielded by them.

3.17. The Standing Committee

The committee is a formal setting sharing certain features with the council. It is a setting in which the powers to be exercised are defined by the council and formal decisions have to be made under delegated powers to the council. In a process of decision-making by the councillors, officers can normally take part in discussion but their intervention can be resented if they trespass the councillors prerogatives. Such interventions are necessary, however, because although the committee is a councillor setting, that setting is constrained by an agenda which to a large extent is an officers agenda.

Britain is correctly regarded as the home of the committee system. "In British local government, the elective council is the repository of all powers. In this system, the several committees, each of which is concerned with the administration of one or more functions, receive their powers by way of delegation by the council. Thus the English Committees do not derive powers directly from statute. They are,
strictly speaking, sub-committees of the council, and they do not have, legally speaking, any power of taking final decisions.  

The committee system, however, has developed differently in India. Our municipal corporation Acts provide for a troika consisting of corporation, the standing committee and the commissioner. Thus the Hyderabad Municipal Corporation Act, 1955, provides for a single standing committee deriving its authority directly from statute. Similarly, in the Delhi Municipal Corporation "the standing committee acts as the steering committee exercising powers and functioning to an extent independently of the council."

The use of committees varies from one from of local government to another. Local executive, both political and professional, offer an alternative model to local government by committees. Today, the concept of committee varies among local governments, depending on their form and character. A committee in literal sense, is a body to which some task has been referred. It acts on behalf of and with responsibility to the body who has created it. Hence it lacks original

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jurisdiction. India and the United Kingdom are the two notable countries with long standing records in the field of government by committees. The British Committees are committees in the literal sense of the term. They are based on the supremacy of the present body while the Indian Committees have developed on different lines, with their statutory basis and independent powers sometimes obscuring the primacy of the council. Sweden is also another prominent example of a country where there is a government by committees. In India standing committee/central committee/executive committee, in Sweden an executive committee and in Britain the policy and resource committee are at the apex of the pyramid of committees in their respective local authorities.

The need for committees arises from the following inadequacies of the council: unwieldy size, increase in work volume, inability to deal with complicated and complex problems, lack of association of experts and specialists, lack of division of work into manageable parts, infrequency of meetings, delay in disposal of work, inability to control administration of work effectively, and excessive publicity of deliberation.

"Generally, committees are creation of local government act or of local council. The more important committees have a statutory basis, for instance, the standing committee of some of the city corporations are the statutory committees, while the special committees or the adhoc committees are the creations of the corporation. The committees- standing or adhoc may be looked at from the stand point of their jurisdiction i.e. they may be functional or zonal. Functional committees exercise jurisdiction over the whole municipal area in their respective function. The chief defect of this type of committee is that it encourages a compartmental approach to civic affairs and produces an acute problem of coordination. Zonal committees operate on a locality basis rather than functional basis. Madras and Calcutta have made statutory provisions in this regard. On the modes of operation - committees may be vertical or horizontal and they may be executive or consultative.

The Rural-Urban Relationship Committee (RURC) has contemplated four different categories of committees in addition to zonal committees. These are the following:(1) coordination and finance committee: (ii) four functional committees- for planning, development, housing and works like health, sanitation, education; (iii) committee for roads and communication, electricity, water works, sewerage,
transport, recreational facilities, etc.; (iv) a contract committee.

3.18. Powers and Functions of the Standing Committee

The status and the powers of committees not only vary from one local authority to another, but also from one committee to another depending upon the importance of functions assigned. In India committees are either advisory bodies (Bihar) or executive agencies exercising supervisory control over departments, formulating schemes and proposals, giving advice to the council and executing contracts made by the councils. Standing committees in the municipal corporation of Delhi occupy the centre in municipal administration. It is one of the standing authorities of the corporation enjoying original jurisdiction under the corporation Act. Generally, the functions and powers of the committees, fall under different categories as: (i) quasi legislative (ii) managerial (iii) financial (iv) quasi-judicial (v) advisory.

The Rural-Urban Relationship committee (RURC), appointed in 1963 by the Ministry of Health and Family Planning, Government of India, had inter-alia addressed itself to the problems of management structure.

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for urban local bodies. For bigger municipalities, the RURC preferred the separation of policy-making from the executive function and recommended the setting up of some sort of a standing committee which would consist of the mayor as chairman, the functional committees plus a few members chosen by the council. This would prepare budget estimates, supervise all financial matters and coordinate the activities of different municipal departments. The RURC also suggested the strengthening of the position of the mayor.

The standing committee is a key statutory committee with definite functions, duties and powers derived directly from the statute as proposed to delegation from the corporation. It is primarily the finance committee and forms a vital link between the corporation and the general house. They are generally set up to exercise continuous control over specific branches of council administration, whereas adhoc committees are those which are formed to exercise, consider and make a report on a definite question of policy of administration.

Until 1950, there was only a standing committee in Bombay which was coordinate statutory


authority along with the elected council and the municipal commissioner, enjoying certain powers independent of the control of council itself. Though the committees have never attained great importance as the executive organ of the government they have been formed in all municipalities, for they give an opportunity to the elected councillors to be entrusted with the city's administration. The committees are of two kinds: (i) The statutory i.e. those which are required to be created under the municipal law. (ii) The non-statutory, which are created by the council under its byelaws.

3.19. The Standing Committee of Shimla Municipal Corporation

Since the standing committees of Shimla municipal corporation have already been covered under the deliberative wing of Shimla municipal corporation so in order to avoid repetition in Shimla municipal corporation, it has been dealt in brief. The corporation consists of three committees entitled different functions. The committee which deals with the functions of basic nature like health, sanitation, sewerage disposal, water supply, calamities, establishment matters...


etc. constitutes the General Functions Committee. The committee which performs functions related to all the financial aspects of the corporation and any other functions related to the development of municipal area constitutes the Finance and Contracts Committee. The Committee which performs the function relating to the functions of education, economic, social, cultural and other interests of schedule caste and schedule tribes and weaker sections of society and servicing social justice to them constitutes the social justice committee. The mayor is chairman of general functions committee and finance, contracts and planning committee. While the chairman of the social justice committee is deputy mayor, each committee consists of 3-5 members including mayor or deputy mayor elected from amongst committees. No councillor can serve more than two standing committees at a time. With the approval of the corporation, standing committee can co-opt one or two persons possessing special qualifications for serving on such committee. Co-opted members can not be from amongst the councillors. These co-opted members have no right to vote but act in an advisory capacity.

The Delhi Municipal Corporation Act 1957 provides for the standing committee which consist of 14 members who are elected by councillors and alderman from amongst themselves at first meeting of corporation after each general election. One half of the members of standing committee retire on expiration one year from the date of its constitution. Any councillor of alderman who ceases to be a member of standing committee is eligible for re-election. The standing committee at the first meeting in each year elect one of its members to be the chairman and another member to be Deputy chairman. Any member of standing committee may resign his office by writing under his hand addressed to the chairman and chairman may resign his office writing under his hand addressed to Mayor of the standing committee is the most powerful committee and a Major policy making body. It is powerful because of its overriding budgetary powers. The standing committee exercises all powers and functions as specifically conferred upon it by the Act.
3.21. The Comparison of the Standing Committees of Shimla and Delhi Municipal Corporation

In comparison to MCD, the SMC has three standing committees, namely, general functions committee; finance contract and planning committee and social justice committee whereas DMC has just one standing committee. Standing committee of DMC consist of 14 members whereas in SMC each standing committee consist of 3 to 5 councillors as its members. The standing committee of DMC is much powerful than its counterpart in SMC as the standing committee in DMC approves the budget after its formulation whereas in SMC, the budget directly goes to the house after its approval by the commissioner. Standing committee of Delhi may give political directions to municipal commissioner in case of appointments, transfers and appropriation of money whereas in SMC, it is not so. In Shimla municipal corporation the standing committee has power to co-opt one or two members other than from amongst the councillors which act in the advisory capacity but in case of DMC no members are co-opted as they are not required. Thus it can be said that despite of three standing committees in Shimla municipal corporation one sole standing committee of MCD has more powers.

In India standing committee system cannot be said to have worked to entire satisfaction. According to report of the Maud Committee on management of local government in Britain, 1967 the committee system has contributed neither to
efficiency in decision-making nor to economy in administration. In Indian municipalities, the triumvirate arrangement has led to splintering of powers and authority.

CONCLUSION

Thus while concluding it can be said that the organizational set up of Delhi Municipal Corporation is much extensive having more than 1 Lakh employee on its roll as compared to that of Shimla Municipal Corporation which has employee strength of about one thousand. Though there can be no comparison between the two corporations yet an effort has been made to compare both the corporation to some extent. As regards the deliberative wing of the two corporations, the deliberative wing of MCD can be said to be more stronger as compared to its counterpart in Shimla. The former has greater powers and function through large number of committees. The executive wing of Delhi Municipal Corporation is more powerful than that of SMC. Few factors that make it more stronger being the tenure of Delhi Municipal Commissioner i.e. 5 years where as that of Shimla Municipal Commissioner is 1 and 1/2 year or 2 years. Further the working of Delhi Municipal Commissioner is enhanced by the assistance of additional and deputy

commissioners whereas in SMC, the commissioner is assisted only by an assistant commissioner in his functioning. The relations between deliberative and executive wings was found out to be quite harmonious though no clear cut or the actual position was revealed by the employees. In the words of A. Awasthi the municipal commissioner system has not worked well in India as everywhere it has resulted in disharmony, friction and even conflict between the deliberative and executive organs of municipal corporation. Such a conflict is perhaps inherent in a system of elected council and government deputed civil servant who has no commitment to municipal body and looks for his career elsewhere. This was the case found in Shimla Municipal Corporation where the municipal commissioner takes a very little interest in the corporations' activities this may be due to his short tenure as his term of office in a municipal body is just a phase in his long public service career. In the eyes of most of the officer of the corporation as well as of the councillors also, the commissioner is a government official, an outsider, a here-today there-tomorrow man, a bird of passage. The mayor is the real ruler in case of Shimla Municipal Corporation. He is an ex-officio chairman of the corporation his tenure being two and a half years as compared to his counterpart in Delhi where it is just one year as has been discussed earlier also. Standing Committee of Delhi seems stronger than that of Shimla as
it give political directions to municipal commissioner in relation to appointments, transfers and appropriation of money. The budget needs approval of standing committee before it goes to house for its final approval but this is not the case in SMC. Thus standing committee occupies a prominent place in the Municipal set-up of Delhi Municipal Corporation.