CHAPTER V

THE ADMINISTRATIVE SET-UP
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The administrative arrangements prescribed by the Maharashtra Municipal Council Act, 1965 (as amended upto 31st May, 1997) have to be considered to analyse the process of decision-making and execution of the same before considering the financial implications.

The democratic set-up has been accepted in Municipal Councils like that in State Government and Central Government. The deliberative policy-making function is left to the elected representatives, while the actual execution of such policy decisions is left to the administrative machinery.

5.1 Municipal Authorities

The hierarchical structure as laid down by the Maharashtra Municipal Act, 1965 is mentioned in Section 7 thereof, according to which, the Municipal Authorities are:

a) The Council,
b) The President,
c) The Standing Committee,
d) The Subjects Committees, if any,
e) The Words Committees where constituted, and
f) The chief Officer.

This arrangement has been more clearly brought out in the Chart. The financial powers and limitations of these authorities have been discussed later in this chapter.
As regards the Primary Education, the Council is deemed to be the authorised Municipality under the provisions of the Bombay Primary Education act, 1947, with the power to control all approved primary schools within the city and shall have power to appoint an Administrative Officer.

Pursuant to the Section 9 of the Maharashtra Municipal Council Act 1965, the number of Councillors of the Jalgaon Municipal Council has been fixed as 55.

5.2 Powers to be exercised Collectively

The intention behind the legislation is not to concentrate power in the hands of an individual. All powers have to be exercised collectively as a body and not by individual office-bearer. Therefore, the President, Vice-President and the Chairman of the Standing Committee or other committees as individual office-bearers have not been vested with any specific powers as such.

There has been a clear-cut division of responsibilities between the deliberative wing as a policy-making body and executive/administrative wing to implement the policy-decisions, provided these decisions are within the framework of the law. Whereas President is the first citizen of the city, and enjoys all the status and privileges associated with the position, the Chief Executive is the Municipal Chief Officer.
The President, Vice-President and the other office-bearers are elected from amongst the elected representatives normally for five years, while the chief officer is an officer appointed by the State Government for a given term, which is normally three years.

The term of the Councillors is for five years, but as a committee member, the term of each individual office bearer varies from committee to committee. The President, the Vice-President, the Chairman of the Standing Committee and other Committees have a term of one year, while the term of office of the Chairman of the School Board is for five years.

The officer mainly assisting the Council and the various committees is the Municipal Secretary and he is responsible directly to them.

The entire administrative structure is so diplomatically designed that the working of the Municipality can run smoothly only if the political and administrative wings co-operate with each other in unison.

Most of the important proposals put forth by the Chief Officer require the approval of the relevant committees who can very well turn them down. Similarly, there are many proposals, which, though not recommended by the Chief Officer are still passed by the Committees or Council and passed on to him for execution, and he, in turn, can very well postpone,
delay or even refuse their implementation. In short, both the wings of the Municipal Body have substantial negative powers and any positive and concrete action is possible only if both of them concur.

5.3 Electoral Arrangements

In Jalgaon a major revision of electoral organisation took place in 1991, 1994 and in 1996. Until 1996, the city was divided into 55 wards on the basis of population. Five members were nominated in addition to the elected 55 members. Due reservations were provided for women and the reserved categories. The post of the President has been subject to reservation for women, SC/ST, OBC and open categories every year and the same has been decided by the method of drawing by lot for the period of 10 years from 1991 to 2000, by the District Collector. Due to reservation policy, the weaker sections do get necessary representation in the Council, but as regards women Councillors, the experience is very disgusting and they are assisted by their husbands in discharging their duties, at each and every stage.

5.4 The Committee form of working

The decision-making process has been facilitated by the committee form of working. Each committee has a small number of Concillors working on the same and has a limited number of subjects to deal with and hence, they can devote more time and thought to the matters under their consideration.
Among the committees, Standing Committee is the most important committee which processes the recommendations for action from other Committees and scrutinises the budget before it is sent to the General Body of the Council for its final approval.

Other important Committees include -
1. Public Works Committee,
2. Education Committee,
3. Sanitation, Medical and Public Health Committee,
4. Water Supply and Drainage Committee,
5. Planning and Development Committee, and

Section 62 of the Act provides for Transport Committee if the Council has acquired or established a Transport Undertaking.

5.5 Standing Committees

Being the most important Committee, the membership of this Committee is considered to be a matter of privilege. Section 64 of the Act has provided the constitution of the Standing Committee as under:

i. Chairman - President of the Council.

ii. Members -
   a) Chairmen of all Subjects Committees.
   b) Three members from amongst the Councillors duly elected.
Provided that no Councillor who is already elected as a member of more than one Subjects Committee, shall be eligible to be a member of the Standing Committee.

The term of office of the Chairman and members is co-terminus with their respective term as President or Chairman of the Subject Committees.

"The Standing Committee comes into contact with the executive wing in many fields and also checks the Commissioner from acting arbitrarily. It fixes the term, rate and prices for the disposal of property by the Commissioner and has power to modify the budget estimates. Without its approval, the Commissioner cannot enter into contract exceeding a certain amount. Most of the expenditures incurred by the Municipal Commissioner are to be reported to the Standing Committee. There are, as a matter of fact, two procedures by which it puts a limit to the powers of the Commissioner. First, for all expenditures, exceeding a certain amount, the Commissioner reports to the Standing Committee. Second, for certain other amounts, he cannot incur expenditure without the sanction of the Standing Committee."^1

5.6 Chief Officer

The appointment of the Chief Officer is regulated under the provisions of Section 75 of the Act which empowers the State Government to appoint a Chief Officer.
The powers and duties of the Chief Officer has been provided for vide Section 77 of the Act as follows:

"77 (1) The Chief Officer shall -

a) subject to the control direction and supervision of the President supervise the financial and executive administration of the Council and perform such duties and functions as may be conferred or imposed upon him or allotted to him by or under this Act;

b) take steps to give effect to all the decisions or resolutions of the Council;

c) cause to be maintained and supervise the accounts and registers of the Council.

d) subject to the orders of the competent authority, take prompt steps to remove a irregularity pointed out by the Municipal Auditors;

e) prepare budget estimates and submit them to the Standing Committee;

f) report to the President and the Committee concerned all cases of fraud; embezzlement, theft or loss of municipal money or property.

g) exercise supervision and control over the acts and proceedings of all the officers and servants of the council;

h) subject to the rules, bye-laws and general or special orders made under this Act, dispose of all
the questions such as the pay and allowances, leave
and other privileges in respect of the officers and
servants of the Council."

In his day-to-day administration, the Chief Officer is
assisted by several senior officers. Section 75(2) of the Act
makes it obligatory for the Council to appoint the following
officers -

(i) Municipal Engineer,
(ii) Water Works Engineer,
(iii) Municipal Health Officer,
(iv) Municipal Auditor,
(v) Municipal Fire Officer,
(vi) Assessor and Collector of Taxes.

Under the Maharashtra Municipal Council Act, 1965 the
scheme provides that the Engineer - Water Works, Health
Officer, Education Officer, fire Officer and Assessor and
Collector of Taxes work directly under the Chief Officer the
Municipal Auditor and Secretary Works independently of him.
The Municipal auditor takes directions from the Council and
the Standing Committee in respect of matters concerning the
Municipal Fund. The Municipal Secretary acts as a Secretary
of the Council and also of the Standing Committee. The powers
and duties of the Municipal Auditor have been described in
greater details in AnnexureB.
5.7 The Process of Financial Administration

The process of financial administration comprises four operations: Planning, Determining, Executing and Controlling.

In Council matters, the policy-making function rests with the legislative branch while the function of execution pertains exclusively to the administrative branch. The Council determines the constitutional limitations within which the work shall be undertaken, how the revenues shall be collected, what funds shall be granted for meeting the expenditure entailed by the work authorised, the conditions and limitations that shall govern the expenditure of these funds and the manner in which the expenditure shall be accounted for.

A body having the responsibility for arriving at the decisions regarding expenditure has the obligation of ensuring that the concerned executives perform their duties in a faithful and satisfactory manner. In this manner, the supervision and controlling function is effected.

Moreover, any Councillor may ask any question pertaining to any matter of administration of the Act or Municipal Governance of the city.
5.8 Control of the Government over the Council

The Municipal Council is governed by the Maharashtra Municipal Council Act, 1965 which has defined the powers and functions of the Council and the Municipal Authorities. Those powers are derivate and not inherent in them. This has given an unlimited power of control to the State Government to exercise control over these Municipal Bodies. This control is legislative, judicial as well as executive. The first two forms of control are only occasional whereas the executive control is more of comprehensive nature.

These powers have been used more widely and frequently in the past as well as in the present circumstances.

As regards Jalgaon Municipal Council the General Body was superseded in 1994 on the grounds that some of councillors have been involved in corrupt practices and scandals.

The following enabling provisions have allowed the State Government to exercise control over Council:

1. Appointment of Chief Officer,
2. The Government can ask the Chief Officer for any record, documents, plans or correspondence.
3. The Government has the right to depute any person for inspection of any specific work.
4. It can order for execution of any specific direction or instructions at the expense of the Council.
5. Releasing conditional grant-in-aid.
7. Sanction for public borrowing.

In the matter of Jalgaon Municipal Council there had been a number of disputes apart from supersession as mentioned above. The disputes had arisen on account of sanction of 17-storey building of Municipal Council, Removal of encroachment and the same had given rise to dispute, between the Council and the District Collectorate and District Superintendent of Police which matter is now sub judice and the lower court has granted the decision in favour of the Municipal Council. Withdrawal of grants on political grounds has given an occasion to raise, on its own, resources for the municipal functions.

Except the above occasions, the relations between the council and the Government have been extremely cordial and the Government has sanctioned special Grants in view of the exceptional work done by the Council in the matter of rehabilitation of slums, water supply scheme and slum improvement schemes.
REFERENCES

1. S.R. Nigam, Local Government, p. 200