Chapter - 3

THE LOCAL BODIES UNDER THE CONSTITUTION OF INDIA [WITH SPECIAL EMPHASIS ON (74TH AMENDMENT) ACT, 1992]

Our Urban Local Governments, it is rightly alleged, have failed to achieve their twin objectives of working as primacy units of democratic government and field agencies for the development and maintenance of civic services. They have also failed to meet the aspirations of the people, their general level of administrative efficiency has been deplorably low, the standards of civic amenities have been disgusting, factionalism and groupism have been vicious, corruption and graft have been endemic, a healthy civic sense has not evolved, right type of civic leadership has not developed and morale has been, by and large at a very low ebb.

The constitution of India, when it came into force on 26 January 1950, directed the state, in Article 40, to organize village panchayats, but no such direction was given to the state regarding urban local bodies. The only reference to urban local bodies is to be found in the form of its mention in the state and concurrent lists. Entry 5 of the state list reads, “Local Government, that is to say, the constitution and powers of municipal corporations, Improvement Trusts, District Boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.” Entry 20 of the concurrent list mentions “Economic and Social Planning”
which obviously includes urban planning as well. Thus the constitution basically places urban local government within the competence of states and the role of the central government is, more or less, supposed to be advisory and catalytic.¹

The structure and composition of our urban local bodies has been faulty, their powers are limited and circumscribed, their elections are not held on time and regularly, their supersession on partisan basis have been galore, the superseded bodies are not restored for indefinite periods, the state supervision and control of government over them is excessive, their finances are scarce, incommensurate with the functions assigned to them and above all, they are not granted the autonomy which the local democratic institutions should enjoy by their active participation in the formation and execution of the plans for the development of the local areas.²

The Government of India and state governments have been appointing commissions and committees from time to time to go into the problems of urban local governments and to make recommendations for their effective functioning. The various governments have not been giving due consideration to their findings, much less accepting and implementing their recommendations. The local Finance Inquiry Committee (1949-51) chiefly suggested the

widening of the sphere of taxation of urban bodies, the Taxation
Enquiry Commission (1953-54) recommended the segregation of
certain taxes for exclusive utilization by or for local government, the
committee on the training of Municipal Employees (1963) emphasized
on training of municipal personnel, the Rural-Urban Relationship
Committee (1963-66) touched personnel, planning and taxation
aspects of municipal administration and interdependence between the
town and its surrounding villages, the committee of Ministers on
Augmentation of Financial Resources of Urban Local Bodies (1963)
touched laying of taxes by urban bodies and setting up of urban
development Boards, the committee on service conditions of Municipal
Employees (1965-68) recommended the creation of a state cadre of
municipal employees and the National Commission on Urbanization
(1988) concerned itself with urban management, spatial planning,
resource allocation, urban housing, conservation, urban poverty, legal
frame work and information system regarding urbanization process
and integrated urban development. All this left the urban local
government to the care of states where it developed as per need and
demands of each state.

The first urban local government in India was set up as early as
in 1688- barely eight years after the establishment of the East India
compamy the place of honors being Madras but it cannot be said that
urban local government has been a great success in India despite its
history of over three hundred years. This is all the more surprising when we remember that distinguished nationalist leaders like Dadabhay Nauroji, Ferozeshah Mehta, Balgangadhar Tilak, Gopal Krishna Gokhale, C.R. Das, Subhash Chandra Bose, Jawaharlal Nehru etc., had at one time or the other served in municipal government and second, this level of government along with the rural part was transferred by the colonial rulers into the hands of Indians under diarchy introduced under the Government of India Act, 1919.³

The reasons for this primarily lay in the weakened status accorded to the urban local government in India. The Municipal bodies did not have adequate financial resources at their disposal to carry out their tasks. They did not have any assured existence as they could be superseded at will for indefinite periods. This meant that election to urban local bodies could not be held within a specified time limit in case of super session. There was no regularity in the holding of elections. Nor was the relationship between the controlling state government and municipal bodies put on firm footing. This was particularly the case in respect of functions and taxation powers of the urban bodies. These weaknesses were very well known and from time to time a suggestion was made to remedy them by enshrining urban local government in the constitution itself through an amendment. This, indeed, has been a long standing demand in the field of

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municipal reform. But the central government began to show interest in this direction only since 1989. The rejuvenation of grassroots government became the concern of the Rajiv Gandhi Government since, 1989. The Rajiv Gandhi Government set the ball rolling by holding wide ranging consultations with the elected members of the municipalities. Three regional Sammelans (conferences) were held at Bangalore and Delhi during June 1989. Earlier, there was a seminar of municipal officers, separate discussions were held with chief secretaries, ministers of local self-government and chief ministers. The theme of an appropriate constitutional amendment to provide a constitutional base to municipal government was discussed in the consultative committee of parliament relating to the ministry of urban development.

The Rajiv Gandhi Government introduced the constitution (sixty fifth amendment) Bill in parliament in August 1989. The Bill was passed by the Lok Sabha but not by the upper house and thus it fell. The succeeding National Front Government under V.P. Singh introduced a revised Bill, namely the constitution (seventy fourth Amendment) Bill, 1990 incorporating the provisions relating to panchayats (rural local government) as well as municipalities. This was done in September 1990. The Bill, however, lapsed on account of the dissolution of the then Lok Sabha. The P.V. Narasimha Rao Government, coming into power in 1991, drafted the constitution
(seventy third Amendment) Bill, 1991, pertaining to municipalities and introduced it in Lok Sabha in September 1991. It was passed by the Lok Sabha on December 1992 and by the upper house the same month. Following its rectification by more than half the state assemblies it received the assent of the president on 20 April 1993 and is known as the constitution (seventy fourth amendment) Act, 1992. This amendment, operative since April 1993, introduces a new part, namely part IX-A in the constitution, which deals with relating to urban local government.

SALIENT FEATURES OF THE BILL

The Bill, among other things provided for:-

1) Three categories of Nagarpalikas, Nagar Panchayats for transitional area, that is areas in transition from rural to urban with population between 10,000 to 20,000, municipal councils for urban areas with a population between 20,000 and municipal corporations with a population exceeding three lacs.

2) Wards committees in Nagarpalikas with a population of 1,00,000 and Zonal Committees in territorial areas of municipal corporations as intermediate level between the ward committees and the municipal corporations.

3) Direct elections of Nagarpalikas and ward committees, and constitution of zonal committees by the chairpersons of the wards committees comprised within the territorial areas of the
zonal committees, representation of chairpersons for ward committees in municipal councils and of chairperson of zonal committees in municipal corporations.

4) Reservations in Nagarpalikas and ward committees for the scheduled castes and the scheduled tribes in proportion of their population and 30 percent reservation for women.

5) A fixed tenure of five years for Nagarpalikas including the Nagar Panchayats and ward committees and in the event of their dissolution holding of elections within six months.

6) A committee at the district level for harmonizing and consolidating the plans of panchayats and Nagarpalikas in the district and preparing a draft development plan for the district as a whole and its elections from among the members of the Panchayats and Nagarpalikas in the district in proportion to the ratio of population covered by them.

7) Sound finances by securing authorization from state legislatures for grant-in-aids from the consolidated fund of the state as also assignment to or appropriation by nagarpalikas of the revenue of designated taxes, duties, tolls and fees.

8) A finance commission to review the finances of the Nagarpalikas and recommend principles on the basis of which their soundness could be secured.
9) Superintendence, direction and control of elections to the Nagarpalikas including Nagar Panchayats and other elected committees by the Election Commission.

10) Comptroller and Auditor General of India to cause the accounts of the Nagarpalikas, ward committees and zonal committees to be audited in such manner as he may deem fit.

11) (a) Factors, which would disqualify a person from membership.

(b) Governor’s decision on the question of disqualification which he would take after obtaining the opinion of the election commission to be treated as final.

(c) barring the jurisdiction of the courts in the matters relating to elections.4

The bill had been hailed as historic, revolutionary and momentous. The Government has assured that it would try to remove all the difficulties that it might encounter in its implementation. The Bill was passed by the lok sabha but it failed to get the support of two thirds majority in Rajya Sabha, short of a narrow margin of three votes only and could not therefore be placed on the statute book.

The Congress (I) Government was replaced by the National Front Government as a sequence of General Elections held in November, 1989. The new government under the stewardship of Shri V.P. Singh

4 Dr. Pardeep Sachedeva, “Urban Local Government and Administration in India” Allahabad, 2000, p. 94-95.
was committed to strengthen the local governments both urban and rural and to bring a new legislation in the near future to recast, restructure, revamp and revitalize them in a much improved form in- cooperating the provisions of the defeated legislation with a view to remove the deficiencies inherent in the structure, organisation and functioning of urban local governments and to ensure their rehabilitation as instruments of genuine democracy at grassroots level and agencies for provision of basic civic amenities, development and welfare of the people living in the towns and cities. But the National Front Government could not honour its commitment to the people by introducing the promised legislation for the revamping of urban local governments due to its pre-occupation with the complex problems facing the country demanding its immediate and urgent attention and eclipse of its rule within a short span of eleven months only. The Janta Dal Government under the Prime Ministership of Shri Chander Shekhar could survive for four months only.

HISTORICAL ASPECT OF CONSTITUTION (73RD AMENDMENT) BILL, 1991

The Congress (I) again in power, though forming a minority government with Shri P.V. Narasimha Rao as Prime Minister introduced two constitution amendment bills in the lok sabha on 16th September, 1991 with the purpose of giving more teeth to Panchayati Raj institutions and urban local bodies. Shri G. Venkatswami minister
of state for Rural development introduced the Constitution (72nd Amendment) Bill relating to Panchayati Raj institutions and Mrs. Sheila Kaul, Minister for Urban Development introduced the constitution (73rd Amendment) Bill pertaining to urban local bodies.\(^5\)

This was the second time that the bills on Panchayati Raj institutions and urban local bodies had been introduced in parliament. The earlier bills had evoked sharp reaction from the combined opposition which took the plea that these Bills would take away the powers of the state governments, the BJP still held the same view. The BJP members said that the Bills affected the basic federal structure of the constitution as these violated the state legislature power to legislate on local bodies and maintained that after the Keshavanand Bharti judgment, the government could not change the basic structure of the constitution. The BJP had staged a walk out as a protest against the introduction of the Bills. But the Congress (I) members had claimed that by introducing the Bills, the government was trying to implement one of the directive principles of state policy and federalism was not affected because powers of the state governments had been kept intact. The Constitution (73rd amendment) Bill proposed to put on a “firmer footing” the relationship between the state government and urban local bodies. It also sought to add a new part in the constitution relating to municipalities to provide for

\(^5\) Ibid., pp, 96-97.
Nagar Panchayats, Municipal Councils and Municipal Corporations. It also provided for reservation for SCs and STs and women and a Finance Commission and a state Election Commission as did the earlier Nagarpalika bill.

A CRITIQUE OF THE BILL: ITS STRENGTH AND WEAKNESSES

There can be no divergence of opinion on the dismal performance of our municipal governments due to their outdated 19th century structure and outmoded administrative organisation, mounting pressure on their slender resources to provide basic civic amenities to tremendously increasing number of urbanities in the wake of industrialization and influx of migrants from rural areas, diminishing of their powers and erosion of their functions by the creation of multitude of specific purpose agencies, excessive state control reflected especially in the spate of super sessions and their continuation for indefinite periods resulting in the denial of fundamental right of the electorate to effect their local representative to manage the affairs of their cities/towns, apathy from citizens, absence of sound leadership, under interferences by politicians and above all the denial of constitutional status to local bodies.

ISSUES CONFRONTING URBAN LOCAL GOVERNMENTS

The Issues therefore requiring in-depth study, discussions, deliberation and decisions were the need for clear statutory
delineation of the powers, functions and resources of urban local bodies:

(i) What should be the criteria for the constitution of different types of local authorities – population, non-rural character of population, density of population, income or combination of all these and whether there should be a reclassification of municipal bodies,

(ii) Nature of the relationship between the urban area and its hinterland, the rural area and at what stage of rural area become urban area,

(iii) What kind of machinery can be set up at the local level to harmonise the process of growth and development of urban and rural areas?

(iv) For change to the democratic and transformation to be cognizant of ground realities as Panchayati Raj is as much an urban need as a rural requirement. In the Panchayati Raj system, the basic unit of the local self government was the village panchayat. Could a mohalla panchayat be the equivalent of a village panchayat in an urban environment, in other words, the lowest tier of self-government should be a small elected unit for each locality (Mohalla or colony or basti) the question was whether this measure would facilitate democratic
decentralisation, more effective participation and a more responsive administration,

(v) What measures are necessary to ensure that municipal bodies are not frequently superseded? What are the special circumstances under which suppressions can be done and for how much period,

(vi) Who should conduct the elections to municipal bodies – the Election Commission or the State Government and who should bear the expenses?

(vii) Should there be a reservation of seats in municipal or corporation council for scheduled castes and tribes and women and if yes, in what proportion?

(viii) What should be the functions of municipal bodies?

(ix) What can be done to strengthen their financial base and,

(x) What should be the relationship between municipal bodies and Panchayati Raj Institutions?

PROCEDURE ADOPTED FOR DISCUSSIONS

In order to generate a full and frank discussion on the problems of Nagarpalikas, a conference of officials of municipal bodies was held at New Delhi from June 5 to 8, 1988, followed by a conference named “Nagarpalika Sammelan” of elected representatives of municipal bodies from the southern region at Bangalore from June 12 to 14, from eastern region at Bhubaneshwar from June 18 to 20 and of
northern and western regions at New Delhi from June 24 to 26. The Local self-government ministers from the states had deliberated on the subject on June 30 and the chief secretaries conference on June 27 in New Delhi. A Chief ministers meeting was held on July 7. Earlier the parliamentary committee attached to the ministry of urban development had made their own suggestions on the subject on June 29. The suggestions emerging from the deliberations of the above mentioned forums formed the basis of Nagarpalika Bill. The Government had appointed the Charles correa commission (National Commission on urbanization) to go into urban problems. The Commission had submitted its report in August, 1988. The Government had incorporated many of its suggestions as well in the Nagarpalika Bill. Thus the Bill was brought forward after deep thought.

The Bill aimed at rectifying the defects, deficiencies and inadequacies in the structure and organisation of urban local governments and to revitalize and strengthen them. The Government had introduced the Nagarpalika Bill as constitution (65th Amendment) Bill in the Parliament which was highly commended on account of its strong points which comprised (i) setting up of three types of Nagarpalikas – the Nagar Panchayats for transitional areas, municipal councils and municipal corporations for urban areas, (ii) setting up ward committees and zonal committees to enable the local bodies to
prove to be training ground for democratic institutions in the country
(iii) Apart from giving power to the people, placing responsibility on
them at various levels so that a new leadership emerges, (iv) In order
to see that election to local bodies to be held periodically are free and
fair, empowering state Election Commission to hold the elections, (v)
Reserving thirty percent of the seats for women and for the scheduled
castes and tribes in proportion to their population in the areas
concerned (vi) Appointing State Finance Commission to look into the
needs of local bodies and empowering the comptroller and Auditor
General to audit the accounts to provide a safety value to the people
against the misuse of funds, (vii) Banning the jurisdiction of the
courts in matters relating to the elections to urban local bodies (viii)
Above all, granting the urban local bodies constitutional status by
amending the constitution. These provisions would strengthen
democracy right from the grass root level and enable the people to
shape their own destinies.
CRITICISM OF THE BILL

The provisions of the Bill were by and large unexceptionable as
they fulfill the long standing needs of the urban local bodies for
revamping them to enable them serve as efficient instruments for the
exercise of the inherent democratic right of the people to govern
themselves and for the provisions of civic amenities to them. But the
Bill had been criticized for its following weak points: -
(i) Political Parties and People Not Consulted: - A government that wants to take power to the people must go, about its task in a democratic way by consulting political parties and the people first and bureaucrats next. But Rajiv Gandhi had done just the opposite, he consulted the municipal bureaucrats first. In his defence he had said, "We are determined to give power to the people. But in determining the mode and modalities of doing so, we wish to bring with the municipal officers who by virtue of their experience and expertise are best suited to set the ball rolling". He had further observed, that in its interaction with the district bureaucracy, the government found the civic services having a pewading conviction that responsive district administration is not possible without representative district administration, the IAS and provincial services officers were unanimous in the view that bureaucrat ice administration, however, well intentioned, was no substitute for democratic administration. It is with their whole hearted backing that we have introduced the Panchayati Raj bill, the government believed that the municipal bureaucracy hold a similar view about the municipal administration. But it is alleged by the critics that it is sheer arrogance to believe that the party in power at the centre alone knows what is good for country and the prime Minister alone knows that what is good for party.
They suggested that the inter-state council to be set up by the president under Article 263 of the constitution could be the best mechanism to discuss with the states such vital problems as Panchayati Raj and Nagarpalika and are thus federal spirit come to broadly agreed conclusions. But that council did not exist at that time. Therefore, the question of consulting it did not arise. (The Inter-state council was, however, set up in 1990 by Chander Shekhar Government).

(ii) Boycotting of Chief Ministers Conference by the Chief Ministers of Non-Congress Governments: - The Chief Ministers of non-congress (I) state had boycotted the Chief Ministers conference called by the centre to have a discussion on the proposed constitutional amendment for providing more powers to urban local bodies. It was alleged that the chief ministers concerned could not be faulted for their decision because the Prime Minister had already made up his mind to amend the constitution (on the strength of his majority in the lok sabha). Under the circumstances, the Chief Ministers conference could be nothing but mere eyewash to give his ideas the trappings of national consensus. They felt that it was a potentially dangerous idea aimed at undermining the federal structure of the constitution by breaking it into districts and Nagarpalika owing direct allegiance to the centre.
(iii) Timing of the Introduction of Bill Suspects Sponsors Motives: - The critics further averred that Nagarpalikas Bill suffered not so much in its context as in its timing and in its sponsor’s motives. The sincerity of any government waxing eloquent or the need to take power to the people at the fag end of its five years term was open to question. Even if it is granted that in the game of political one-upmanship parties always reserve their best programmes to the last, there does remain the question about the time. The massive funds promised for the urban people under Nehru Rozgar Yojna and the pledge to devolve funds to urban local bodies direct from the centre point to a grand political design. The proposed massive transfer of funds from the government to the people was being termed and trumpeted about as the ruling party’s infinite generosity bestowed on the people. For the voters at large, the pre-election bonanza is welcome but it cannot escape the stigma of “populist gimmicks.”

(iv) States Not Consulted in Passing on their Jurisdiction To Nagarpalikas: - Self-government is a state subject under the constitution but the states had not been consulted about the Bill. It is not for the centre to legislate on it or even to suggest a uniform pattern. The jurisdiction of the state is being passed on to the Nagarpalikas without the states being taken into
confidence. It was alleged that the meeting of hundred officials could not be a substitute for constitutional consultation with the states.

(v) Involvement of Centre-State Relations in the Bill and therefore Challengeable in Courts of Law: - Notwithstanding the claim of the government that the Bill did not involve centre-state relation, these are being definitely involved. In the twelfth schedule, attached to the Bill Public Health’s item 6 of the state list and so are sanitation, sewage and sewage disposal, also hospitals and public health clinics. Veterinary services is item 15 of the state list, burials and burial grounds items 16. In fact out of 37 items mentioned in the Twelfth Schedule the majority came from the state list, only a few from the concurrent list. These items in the state or concurrent lists were sought to be disturbed in the new scheme of things, unilaterally whether this also affected the basic structure of the constitution was a highly complex constitutional question and would no doubt be challenged in the courts, if they do become a part of the constitution.

(vi) No Clear-Cut Relationship between the Tiers of Governments: The Bill created a third tier of administration but did not very clearly establish the correlation between the centre, the states and the nagarpalikas. As far as the centre-state
relations are concerned experts were of the opinion that the constitution is tilted in favour of the centre. Where does the third tier of administration get in? Can or ought there be a direct relationship between the centre and the Nagarpalikas? Moreover, the attempt to put the tiny local bodies in the large constitutional framework is fraught with major difficulties. After all much of the development schemes and non-plan urban activities in the areas under local self-government will have to be done by the state administration.

(vii) Place of MLA’s/MP’s and Bureaucrats Not Defined: - It is essential for the success of the Bill that the role and place of members of the state legislatures and parliament as also that of bureaucrats should be clearly delineated in the administrative process of nagarpalikas. There was hardly any mention in the bill of the manner in which MLAs and MPs were to be accommodated in view of the influence they command in the cities/towns and also in regard to the position of the bureaucrats who do not know who their bosses would be in the new scheme of things.

(viii) Election Commission Not Adequately Equipped To Conduct Elections: - It is common knowledge that the Election Commission, which enjoys the ultimate authority of fixing the duties for conducting all elections, has no means of supervising
polls on its own. It has to depend on the convenience of both the centre and the state governments. The Bill did not mention about safeguards that the Government proposes to ensure that the imposition of grassroots democracy would be followed up with faithfully implementation, though the government assures that the Election Commission shall be strengthened to cope with the additional responsibility of conducting elections to urban local bodies.

(ix) Discretionary Powers to the Governor: - The Bill gave wide powers to the Governor. For instance he had the power to specify by public notification area with a population of about 10,000 or more but less than 20,000 to be a transitional area. He was also being given the power to declare the existing town committees and notified areas committees with a population of less than 10,000 as nagar Panchayats.

(x) Different Treatment for Scheduled Areas: - The scheduled areas were treated in the Bill differently. The Bill provided ‘Notwithstanding anything in the constitution, the Governor of a state, may in his discretion and subject to such exceptions and modifications as he may specify by public notification.6

The criticism offered by the critics of the Bill when analyzed objectively and dispassionately confirmed, that there was no dispute

6 Ibid., pp. 99-103.
whatsoever about the contents of the Bill which had been applauded and appreciated by one and all and the criticism centers round the mode of eliciting opinion of public, political parties and the states in an undemocratic manner about such a vital piece of legislation. The crux of the whole issue that the states had been bypassed and their jurisdiction had been invaded by the centre and the basic structure of the constitution had been changed, could be decided by the supreme court. The government planned to get constitutional sanction for ensuring democracy in urban local bodies and to endow them with the responsibilities and finances required to ensure that “Urban India flourishes and leads the country forward to progress and prosperity.”

The Constitution (73rd Amendment) Bill, 1991 pertaining to urban local bodies introduced in the lok sabha on 16th September, 1991 was passed as the constitution (74th Amendment) Act, 1992 in the winter session of 1992 and it received the assent of the President on 29th April, 1993. The Act seeks to provide a common framework for the structure and mandate of urban local bodies to enable them to function as effective democratic units of local self-government.

Government of India had notified 1st June 1993 as the date from which the 74th Amendment Act came into force. The Act provided a period of one year from the date of its commencement, within which the municipal laws which were in force at that time in the states which territories, were required to be changed/amended/modified in
order to bring them in conformity with the provisions of the

The Act had been in force for a period of 17 years. It will take
some time to realize the objectives enshrined in the various provisions
of the Act, but what has been actually observed so far, seems to fall
short of the expectations raised by the Act, as it is taking unnecessary
long time to convince the people about the seriousness on the part of
the politicians to let the urban local governments evolve as
institutions of self government. Lack of political will and the
obstructive attitude of bureaucracy are considered to be the greatest
hurdles in the devolution of powers to the local bodies which need to
be overcome to strengthen the democratic institutions at the
grassroots level.

Prior to the 74th Constitutional Amendment the urban local
bodies included Municipal Corporations, Municipalities, Notified Area
Committees, Cantonment Boards and Townships. A brief description
about each of these is as follows:

(i) Municipal Corporations

These were meant for big cities having a large population. These
were created by statutes passed by the respective state legislatures.
Such a statute could be enacted for the creation of a particular
municipal corporation or it could be a general law enabling the state
government to establish a municipal corporation anywhere in the
state. Thus municipal corporation of Bombay, Madras and Calcutta owed their existence to exclusive laws passed by respective state legislature. In contrast, the Municipal Corporations in UP and MP were based on general laws passed by respective state legislatures, i.e. the U.P. Nagar Mahapalika Adhiniyam, 1959 and the M.P. Municipal Corporation Act, 1956. In all, these were 73 Corporation prior to the 74th Amendment.

The Municipal Corporations consisted of a council, headed by a Mayor, its standing committee and a Municipal Commissioner. The council comprised members, called councilors, elected on the basis of adult franchise by people inhabiting the Municipal Corporation area and for this purpose the city was divided into wards. Besides, the council also included as ex-officio members, the members of Lok Sabha and State Vidhan Sabha whose constituencies included the whole or part of the city and members of Rajya Sabha and state Vidhan Parishad who had their residence in the particular city. The councils term varied from state to state and ranged between three and five years.

(ii) Municipality

There were nearly 1800 municipalities throughout the country. Each state had its own criteria for establishing a municipality, but generally it depended upon the population, size, source of income, industrial/commercial future and prospects of city. The municipality
consisted of a council, a chairman or president and an executive officer.

(iii) Notified Area Committee

Notified Area Committees, numbering 202 in all, existed in the states of Bihar, Gujrat, Haryana, Madhya Pradesh, Karnataka, Punjab, Jammu & Kashmir, Uttar Pradesh and Himachal Pradesh. A notified Area committee was created in an area which was otherwise important but could not yet fulfill conditions laid down as necessary for the constitution of a municipality. Generally, it was created in an area which used to be fast developing and where new industries were being set up. It was not created by a law but by a notification of the government in the state gazette and that is why it was called the Notified Area Committee.

(iv) Town Area Committee

Over 385 in number, the Town Area Committees were meant for small towns. Although the Town Area Committees were there in Assam, Kerala, Madhya Pradesh, West Bengal, Jammu and Kashmir and Himachal Pradesh, it was Uttar Pradesh which had the highest number 279. The Town area committees were based on laws passed by respective state legislatures. The committees were either wholly elected or wholly nominated as partly elected or partly nominated. The Committee had limited functions like lighting, drainage, roads, conservancy etc.
Cantonment Boards

Cantonments, like cricket, were given to India by the British. One unique feature of the institution of cantonments is that it came to India without taking root in the country of colonial rulers. Thus there are no cantonment in Great Britain. Not only that, even outside the British Empire, cantonments did not exist. In the United States, for instance there is no reference to cantonments as such in the Lingua Franca of that country. Instead, it has “Military bases” which are a lot different from cantonments. Thus except India (Pakistan and Bangladesh, which were earlier part of the Indian Territory) cantonments have no parallel in the world.

The dictionary meaning of cantonment is ‘place where soldiers live’ or ‘permanent military station’. Cantonments are inhabited not only by the army personnel but a size able civilian population also resides there. There are nearly 70 cantonments throughout the country. While other types of local bodies are under respective state governments, cantonment Boards are the only bodies that are centrally administered by the Ministry of Defence, Government of India. Apart from this, Cantonment Boards are like any other local bodies. The existing Cantonments in India have been divided into three categories:

1. Class I Cantonments where civilian population exceeds 10,000.
2. Class II Cantonments where civilian population is between 2,500 and 10,000.
3. Class III Cantonments where civilian population is less than 2,500.

The Cantonment Board performs two types of functions: Obligatory and discretionary. Among its obligatory functions are provision of lighting, streets, drainage, cleaning of streets, markets, planting of trees, supply of water, registering births and deaths, protection against fire, establishment of schools and hospitals, Public Vaccination etc. Some of the discretionary functions are construction of public works and wells, provision of public transport, census etc.

(vi) Townships

Townships are post-independence development in India. The preamble of the India constitution sets the goal for the establishment of a socialistic pattern of society. Accordingly, several large sized public enterprises have been set up in the country. To quote a few, the steel plants at Rourkela, Bhilai and Jamshedpur, Heavy Electricals Limited near Bhopal and Hindustan Aeronautics near Bangalore. These townships have been established either in rural areas or in areas adjacent to existing towns.

Townships being source of employment attract people from both urban and rural areas who start living there leading to a lot of house building and other attendant activities. These townships are administered by the Municipal Corporation or Municipal Council within whose boundary they fall. For administering them, however,
the corporation or council appoints town administrator who is assisted by a few engineers and technicians. This results in the townships being well-planned with facilities like water, electricity, roads, drainage, markets, parks etc. Which are usually of high standard. The expenditure on these services is shared by the enterprises located in that township. The 74th Amendment protect these townships.

THE PRESENT STRUCTURE OF THE MUNICIPAL GOVERNMENT IS DISCUSSED AS FOLLOW:-

There are various forms of urban local bodies existing at present in the country. There are municipal corporations, municipalities, town area committees, notified area committees (cantonments are under the Central Ministry of Defence). These have now been restricted to three types: Nagar Panchayats, Municipal Councils, Municipal Corporations. The elected representatives presently from nearly 3600 Municipal Corporations, Municipalities and Nagar Panchayat number 70,000.

A Nagar Panchayat is constituted for a transitional area. Such an area is basically rural in characters, which over a period of time would develop urban characteristics. Such an Urban local body would have to perform both rural and urban functions. Nagar Panchayats even now exist in some states and have been found to function satisfactorily.
Municipal councils are constituted in smaller urban areas while for larger urban areas municipal corporations are constituted. Demographic and other conditions which are determining factors for constituting a particular type of municipality differ a great deal from one state to another. It has, therefore, been left to the state governments to decide which specific type of municipality will be constituted for each urban area. The areas for different types of urban bodies would be specified by the Governor taking into account.

- Population of the area
- Density of population
- Revenue generated by the local body
- Percentage of employment in non-agricultural activities
- The economically important and other factors.

At present, there are certain townships in which municipal services are being provided by large industrial establishments. The governor of the concerned state may take not account the size of such an area and the municipal services that are being (or proposed to be) provided by the industrial township. There would then be no need for constituting a municipality in such an urban area.

THE CONSTITUTION (74TH AMENDMENT) ACT, 1992

Part ix-a has been added to the constitution by the constitution (seventy fourth amendment) Act, 1992. It has inserted 18 new Articles and Twelfth Schedule relating to urban local bodies. The
Amendment provides for constitutional sanction to the urban self-governing institutions ensuring regular elections to constitute these institutions, so as to enable them to pay a greater role in the development of urban areas. It provides for the setting up of three types of urban local governments.\(^7\)

**Definitions**

Constitutional (Amendment)\(^8\) Act 1974 provides that unless the context otherwise requires: -

(a) “Committee” means, A Committee Constituted under Article 243-45.

(b) “District” means a district of a state.

(c) “Metropolitan Area” means an area having a population of ten lakhs or more comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of Part IX-A.

(d) “Municipality” means an institution of self-government constituted under Article 243-Q.

(e) “Municipal area” means the territorial area of a Municipality as is notified by the Governor.

(f) “Panchayat” mean Panchayat constituted under Article 243-B.

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\(^7\) These are Nagar Panchayats, Municipal Council and Municipal Corporations.

\(^8\) Clauses (a) to (g) of Article 243-P.
(g) “Population” the population as ascertained at the last preceding

census of which the relevant figures have been published.

Constitution of Municipalities

Constitution provides⁹ for the establishment of the following

tree types of Municipalities in every state: -

(a) A Nagar Panchayat for a transitional area, that is to say, an area

in transition from a rural area to an urban area, it may be called

by any name.

(b) A Municipal Council for a smaller urban area.

(c) A Municipal Corporation for a larger urban area.

A Municipality, however under clause (1), may not be

constituted in such urban area or part there of as the Governor may,

having regard to the size of the area and the municipal services being

provided or proposed to be provided by an industrial establishment in

that area and such other factors, as he may deem fit, by public

notification, specify to be an industrial township.¹⁰ In an Industrial

township, all the facilities may be provided by an industrial

establishment and therefore a Municipality may not be constituted in

such an area.

According to Article 243-Q “a transitional area” or “a smaller

urban area” or “a larger urban area” means such area as the Governor

may having regard to the population of the area, the density of the

⁹ See Article 243-Q of Constitution of India.
¹⁰ Proviso to Clause (1) of Article 243-Q.
population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purpose of this part.

A corporation or a municipal council or Nagar Panchayat is constituted on the strength of population and the area or place where it is constituted, namely, rural or urban. All the three have been deemed to be municipality.\textsuperscript{11}

Composition of Municipalities

Article 243-R says that save as provided in clause (2) of this Article, all the seats in Municipalities shall be filled by persons chosen by direct election from the territorial constituencies in the municipal area and for their purpose each municipal area shall be divided into territorial constituencies to be known as wards.

Clause (2) of Article 243R empowers the legislature of a state to provide, by law (a), for the representation in a municipality of the following: -

(i) Persons having special knowledge or experience in municipal administration,

(ii) The members of the Lok Sabha and of the Legislative Assembly of the states representing the constituencies which comprise wholly or partly the municipal area,

\textsuperscript{11} Cantonment Board, Secunderabad V.G. Venketram Reddy, AIR 1995, SC 1210.
(iii) The members of the Rajya Sabha and of the Legislative council of the state registered as electors within the municipal area.

(iv) The chairpersons of the committees constituted under clause (5) of Article 243S.

However, the persons referred in paragraph (i) above shall not have the right to vote in the meetings of the municipality.

(b) the state legislature may also provide, by law, the manner of election of the chairperson of a municipality.\(^\text{12}\)

Composition of Wards Committees

Article 243-S of the Constitution of India provides as such:

1) There shall be constituted wards committees, consisting of one or more wards, within the territorial area of a municipality having a population of three lakhs or more.

2) The Legislature of a state may be law, make provision with respect to:

   a. the composition and the territorial area of a wards committee.

   b. the manner in which the seats in a wards committee shall be filled.

3) A member of a Municipality representing a ward within the territorial area of the wards committee shall be a member of that committee.

\(^{12}\) Clause (b) of Article 243-R.
4) Where a wards committee consists of:
   a. One ward, the member representing that ward in the municipality or,
   b. two or more wards, one of the members representing such wards in the municipality elected by the members of the wards committee, shall be the chairperson of that committee.

5) Nothing in this Article shall be deemed to prevent the legislature of a state from making any provision for the constitution of committee in addition to the wards committees.

Reservation of Seats

Article 243-T provides as such:-

1) Seats shall be reserved for the scheduled castes and the scheduled tribes in every municipality and the number of seats so reserved shall bear as nearly as may be the same proportion to the total number of seats to be filled by direct election in that municipality as the population of the scheduled castes in the municipal area or of the scheduled tribes in the municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a municipality.

2) Not less than one third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the scheduled castes or as the case may be the scheduled tribes.
3) Not less than one-third (including the number of seats reserved for women belonging to the scheduled castes and the scheduled tribes) of the total number of seats to be filled by direct election in every municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a municipality.

4) The office of chairpersons in the Municipalities shall be reserved for the scheduled castes, the scheduled tribes and women in such manner as the legislature of a state may, by law provide.

5) The reservation of seats under clause (1) and (2) and the reservation of office of chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in Article – 334.

6) Nothing in this part shall prevent the legislature a state from making any provision for reservation of seats in any municipality or office of chairperson in the municipalities in favor of backward class of citizens.

In Kasambhai F. Ghachi v. Chandubhai D. Rajput the Supreme Court held that a councilors of municipality who belonged to a backward class but had been elected to the municipality from an unreserved seat, could stand for election for the Post of President of

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13 Article 334 (Extension period – 10 years to 50 years by the Constitution 62nd Amendment Act, 1989 w.e.f. 20.12.1989.
14 AIR 1998 SC 815, see also Saraswati Devi v/s. Shanti Devi (AIR 1997 SC 347).
the municipality which was reserved for a backward class candidate under the Gujarat municipalities (Reservation of scheduled castes, scheduled tribes, Backward class and women for office of president) Rules, 1994.

Duration of Municipalities –

Article 243-U provide as such:

1. Every Municipality, unless sooner dissolved under any law for the time being in force shall continue for five years from the date appointed for its first meeting and no longer, Provided that a municipality shall be given a reasonable opportunity of being heard before its dissolution.

2. No amendment of any law for the time being in force shall have the effect of causing dissolution of a municipality at any level which is functioning immediately before such amendment, till the expiration of its duration specified in clause (I).

3. An election to constitute a municipality shall be completed –
   (a) before the expiry of its duration specified in clause (1)
   (b) before the expiration of a period of six months from the date of its dissolution

Provided that where the remainder of the period for which the dissolved municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the municipality for such period.
4. A municipality constituted upon the dissolution of municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved municipality would have continued under clause (1) had it not been so dissolved.

Disqualification for Memberships: -

Article 243-V provides as follow: -

1. A person shall be disqualified for being chosen as and for being, a member of a municipality -
   
   (a) If he is so disqualified by or under any law for the time being in force for the purposes of elections to the legislature of the state concerned.

   Provided that no person shall be disqualified on ground that he is less then twenty five years ago if he has attained the age of twenty one years.

   (b) If he is so disqualified by or under any law made by the legislature of the state.

   (c) If any question arises as to whether a member of a municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the legislature of a state may, by law, provide.
Powers, Authority and Responsibilities of Municipalities Etc.

Article 243 – W says that Subject to the provisions of this constitution, the legislature of state may, by law, endow -

(a) the municipalities with such powers and authority as may be necessary to enable them to function as institution of self government and such law may contain provision for the devolution of powers and responsibilities upon municipalities, subject to such condition as may be specified there in, with respect to –

(i) the preparation of plans for economic development and social justice,

(ii) the performance of function and the implementation of schemes as may be entrusted to them including those in relation to the matter listed in the twelfth schedule.

(b) the committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the twelfth schedule.

The Supreme Court in Municipal Board v/s Jassa Singh\textsuperscript{15} upheld the levy of fee for the use of Bus Stand under the U.P. Municipalities Act, 1916. Referring to Article 243 w (a) (i) with entry 17 of the 12\textsuperscript{th} schedule, the court observed that the constitution enjoined

\textsuperscript{15} AIR 1997, SC (2689)
the appropriate legislature to provide for preparation of plans for economic development including power to provide public amenities including parking lots, bus stops and public convenience.

**TWELFTH SCHEDULE**

(ARTICLE 243-W)

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 sections of society including the handicapped and mentally retarded.
10. Slum improvement and up gradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, play grounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds, cremation, cremation grounds and electric crematoriums.
15. Cattle pounds, 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.

Power to Impose Taxes By, and Funds of the Municipalities

Article 243-X Provides that the legislature of a state may, by law:
(a) authorize a municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits.
(b) assign to a municipality such taxes, duties, tolls and fees levied and collected by the state government for such purposes and subject to such conditions and limits.
(c) provide for making such grant in-aid to the municipalities from the consolidated fund of the state and
(d) provide for constitution of such funds for crediting all moneys received, respectively by or on behalf of the municipalities and also for the withdrawal of such money there from as may be specified in the law.

Finance Commission

Article 243-Y, Provides as such: -
1. The finance commission constituted under Article 243-I shall also review the financial position of the municipalities and make recommendation to the governor as to –
(a) the principles which should govern -

(i) the distribution between the state and the municipalities of the net proceeds of the taxes, duties, tolls and fees livable by the state, which may be divided between them under this part and the allocation between the municipalities at all levels of the respective sharer of such proceeds,

(ii) the determination of taxes, duties, tolls and fees which may be assigned to or appropriated by, the municipalities.

(iii) the grant-in-aid to the municipalities from the consolidated fund of the state,

(b) the measures needed to improve the financial position of the municipalities,

(c) any other matter referred to the finance commission by the governor in the interests of sound finance of the municipalities,

2. The governor shall cause every recommendation made by the commission under this Article together with an explanatory memorandum as to the action taken there on to be laid before the legislature of the state.

Audit of Accounts of Municipalities –

The legislature of state may, by law, make provisions with respect to the maintenance of accounts by the municipalities and the audit of such accounts.\(^\text{16}\)

\(^{16}\) Article 243-Z of Constitution of India.
Elections to the Municipalities

Article 243-ZA, says as such: -

1. The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the municipalities shall be vested in the state election commission referred to in Article 243- K.

2. Subject to the provisions of this constitution, the legislature of a state may, by law, make provision with respect to all matters relating to or in connection with, elections to the municipalities.

Application to Union Territories

Article 243-ZB says that: -

The provisions of this part shall apply to the union territories and shall, in their application to a union territory, have effect as if the references to the governor of a state were references to the Administrator of the union territory appointed under Article 239 and references to the legislature or the legislative Assembly of a state were references in relation to a union territory having a legislative Assembly, to that legislative Assembly.

Provided that the president may, by public notification, direct that the provision of this part shall apply to any union territory or part there of subject to such exceptions and modifications as he may specify in the notification.
Part Not to Apply to Certain Areas

Article 243-ZC provided that:

1. Nothing in this part shall apply to the scheduled area referred to in clause (1) and the tribal areas referred to in clause (2) of Article 244,

2. Nothing in this part shall be construed to affect the function and powers of the Darjeeling Gorkha Hill council constituted under any law for the time being in force for the Hill areas of the district of Darjeeling in the state of West Bengal.

3. Not withstanding anything in this constitution, parliament may, by law, extend the provision of this part to the scheduled areas and the tribal areas referred to in clause (1) subject to such exception and modification as may be specified in such law, and no such law shall be deemed to be an amendment of this constitution for the purposes of Article 368.

Committee for District Planning

Article 243-ZD provides as such:

1. There shall be constituted in every state at the district level a district planning committee to consolidate the plans prepared by the Panchayats and the municipalities in the district and to prepare a draft development plan for the district as a whole.
2. The legislature of a state may, by law, make provision with respect to -

(a) the composition of the District Planning committees,

(b) the manner in which the seats in such committees shall be filled.

Provided that not less than four fifths of the total number of members of such committee shall be elected by and from amongst, the elected member of the Panchayat at the district level and of the municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district,

(c) the functions relating to district planning which may be assigned to such committees,

(d) the manner in which the chairpersons of such committees shall be chosen,

3. Every district planning committee shall in preparing the draft development plan –

(a) have regard to –

(i) Matters of common interest between the Panchayats and the municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation.
(ii) the extent and type of available resources whether financial or otherwise,

(b) Consult such institutions and organizations as the Governor may, by order, specify,

4. The chairperson of every District planning committee shall forward the development plan as recommended by such committee, to the government of the state.

Committee for Metropolitan Planning

Article 243-ZE says as follow:

1. There shall be constituted in every metropolitan area a metropolitan planning committee to prepare a draft development plan for the metropolitan area as a whole.

2. The legislature of a state may, by law, make provision with respect to -

   (a) the composition of the metropolitan planning committees.
   (b) the manner in which the seats in such committees shall be filled.

Provided that not less than two thirds of the members of such committee shall be elected by and from amongst, the elected members of the municipalities and chairpersons of the Panchayats in the metropolitan area in proportion to the ratio between the population of the municipalities and of the Panchayats in that area,

   (c) the representation in such committees of the government of India and the government of the state and of such
organizations and institutions as may be deemed necessary for carrying out of function assigned to such committees.

(d) the functions relating to planning and coordination for the metropolitan area which may be assigned to such committees.

(e) the manner in which the chairperson of such committees shall be chosen.

3. Every metropolitan planning committee shall, in preparing the draft development plan –

(a) have regard to –

(i) the plans prepared by the municipalities and the Panchayats, in the metropolitan area,

(ii) matters of common interest between the municipalities and the Panchayats, including coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation.

(iii) the overall objectives and priorities set by the government of India and the government of the state.

(iv) the extent and nature of investments likely to be made in metropolitan area by agencies of the Govt. of India and the Govt of the state and other available resources whether financial or otherwise.
(b) consult such institutions and organizations as the governor may, by order, specify.

4. The chairperson of every metropolitan planning committee shall forward the development plan, as recommended by such committee, to the government of the state.

Continuance of Existing Laws and Municipalities

According to Article 243-ZF, Notwithstanding anything in this part, any provision of any law relating to municipalities in force in a state immediately before the commencement of the constitution (seventy - fourth Amendment) Act, 1992 which is in consistent with the provisions of this part, shall continue to be in force until amended or repealed by a competent legislature or other competent authority or until the expiration of one year from such commencement, which ever is earlier. Provided that all the municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the legislative Assembly of that state or in the case of a state having a legislative council by each house of the legislature of that state.

Bar To Interference by Courts in Electoral Matters

According to Article 243-Z-G notwithstanding anything in this constitution –

(a) the validity of any law relating to the delimitation of constituencies, or the allotment of seats to such
constituencies made or purporting to be made under Article 243-ZA shall not be called in question in any court.

(b) no election to any municipalities shall be called in question except by an electron petition presented to such authority and in such manner as is provided for by or under any law made by legislature of a state.

THE PUNJAB MUNICIPAL FUNDS ACT, 2006

It is pertinent to mention that ‘The Punjab Municipal Fund Act, 2006 has been passed by State legislature to assign to the Municipalities an amount of tax, levied and collected under the Punjab Value Added Tax Act, 2005, and to provide for the constitution of the Punjab Municipal Fund with a view to compensate the Municipalities for the loss of revenue, suffered due to the abolition of octroi in the State of Punjab and for the matters connected therewith or incidental thereto.

This Act shall be deemed to have come into force on and with effect from the first day of September, 2006.17

In This Act, defines some terms as follow18:

(i) “Director” means the Director, Local Government, Punjab;

(ii) “Fund” means the Punjab Municipal Fund, constituted under section 3 of this Act;

18 Sec. 2, Ibid.
(iii) “Municipality” means an institution of self-government constituted under Article 243Q of the Constitution of India;

(iv) “prescribed” means prescribed by rules made under this Act;

(v) “State Government” means the Government of the State of Punjab in the Department of Local Government; and

(vi) “tax” means a tax levied and collected under the Punjab Value Added Tax Act, 2005 (Punjab Act No. 8 of 2005).

Constitution of the Fund:

(i) There shall be constituted a Fund, to be called the Punjab Municipal Fund, which shall vest in the State Government.

(ii) Ten per cent of the amount of tax collected, shall be credited direct to the fund.

Provided that the amount, so credited to the Fund, shall not less than 550 crores (Rupees five hundred fifty crores only) per annum or proportion thereof.

Provided further that in the event of the amount credited to the Fund under sub-section (2) falling short of Rs. 550 crores (Rupees five hundred fifty crores only) or a proportion thereof, the State Government shall make it up by giving the amount so falling short as grant-in-aid.

Object and administration of the Fund:

(i) The Fund shall be utilized to compensate the Municipalities for the loss of revenue, suffered by them due to the abolition of
octroi, levied and collected under the Punjab Municipal Act, 1911 and the Punjab Municipal Corporation Act, 1976.

(ii) The Fund shall be administered by the Director under the superintendence and control of the State Government.

Collection and deposit of tax:\textsuperscript{21}

(i) Ten per cent of the amount of tax referred to in sub-section (2) of section 3, shall be collected by the Department of Excise and Taxation in the manner, prescribed by that department for collection of the tax.

(ii) The proceeds of the tax collected under sub-section (1), shall be caused to be deposited by the Department of Excise and Taxation direct to the Fund in such manner and within such period, as may be prescribed.

Distribution of amount of tax:\textsuperscript{22}

The amount of tax credited to the Fund, shall be distributed amongst the Municipalities in proportion to their ratios of annual collection of octroi from the goods, on which octroi was being levied before coming into force of the Punjab Municipal Fund Act, 2006, to the total collection of octroi made from such goods during the financial year of 2005-06 in the State of Punjab.

\textsuperscript{21} Sec. 5, \textit{Ibid.}\textsuperscript{22} Sec. 6, \textit{Ibid.}
Maintenance of accounts\textsuperscript{23}:

The Director shall maintain accounts of the amount credited to the Fund and the expenditure made out of the Fund, and shall quarterly reconcile such amount and expenditure with the District Treasury Officer, Punjab, Chandigarh and submit quarterly report in this regard to the State Government.

Audit\textsuperscript{24}:

The amount of Fund shall be audited by the Comptroller and Auditor-General of India in accordance with the provisions of the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1971 (Central Act 56 of 1971).

Submission of annual report\textsuperscript{25}:

The annual report in respect of the receipts into the Fund and distribution made out of the Fund to the Municipalities, shall be prepared by the State Government and be submitted to the State Legislature.

Grant\textsuperscript{26}:

The Government in the Department of Finance, immediately after the commencement of the Punjab Municipal Fund Act, 2006, shall give in amount of rupees one hundred crores as a one time grant to the Department of Local Government, which shall be deposited in

\textsuperscript{23} Sec. 7, Ibid.
\textsuperscript{24} Sec. 8, Ibid.
\textsuperscript{25} Sec. 9, Ibid.
\textsuperscript{26} Sec. 10, Ibid.
the Fund to meet the expenditure, to be incurred by the Municipalities
during the interregnum period i.e. the period commencing from the
date of abolition of octroi to the date of actual receipts in the Fund.

Power to make rules:

(i) The State Government may, by notification in the Official
Gazette, make rules for carrying out the purposes of this Act.

(ii) In particular and without prejudice to the generality of the
foregoing power, such rules may provide for all or any of the
following matters, namely –

(a) the manner for transferring and depositing the proceeds
of tax under sub-section (2) of section 5 of the Act, and

(b) the period within which, tax is to be deposited under sub-
section (2) of section 5 of the Act.

(iii) Every rule made under this Act, shall be laid, as soon as may
be, after it is made, before the House of the State Legislature
while it is in session for a total period of ten days, which may be
comprised in one session or in two or more successive sessions
and if before the expiry of the session in which it is so laid or
the successive sessions as aforesaid, the House agrees in
making any modification in the rule or the House agrees that
the rule should not be made, the rule shall thereafter have effect
only in such modified form or be of no effect, as the case may be

27 Sec. 11, Ibid.
so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Protection of actions taken in good faith\(^\text{28}\):  
No suit, prosecution or other legal proceedings shall lie against the State Government or any officer or employee of the State Government or any other person or authority, authorized by the State Government for anything, which is done or intended to be done good faith under this Act or the rules made there under.

Power to remove difficulties\(^\text{29}\):  
(i) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by an order published in the Official Gazette, make such provision, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty.  
(ii) Every order made under this section, shall be laid, as soon as may be, after it is made before the Punjab State Legislature.  

It is submitted that to augment the financial resources of urban local bodies the state legislature has passed this act. Under this act fund has been constituted known as the municipal fund. This fund shall be utilized to compensate the urban local bodies for the loss of revenue, suffered by them due to abolition of OCTROI.

\(^{28}\) Sec. 12, \textit{Ibid.}  
\(^{29}\) Sec. 13, \textit{Ibid.}
CONCLUSION

To conclude, the 74th Amendment, for the first time, gives constitutional recognition to urban local government in India. It also makes them uniform throughout the country. The democratic content has been strengthened by providing for direct election of members of municipal bodies with the elections to be conducted by an independent state election commission. The urban local bodies have been protected against frequent dissolutions by providing for re-election within six months from the date of dissolution. Moreover, no urban local body can be dissolved unless it has been heard. Such a provision does not exist in the 73rd Amendment.

Like the rural local government, the 74th Amendment gives massive reservation to weaker sections of the society, the scheduled castes, the scheduled tribes, Backward classes and women in the urban local bodies. The powers of the urban local bodies have specifically been laid down and their fiscal sources spelled out the principles of which are to be laid down by the state Finance commission.

The 74th Amendment, however, suffers from some of the same weaknesses as the 73rd Amendment. Thus it makes the structure developed by it binding on every state whether it needs or not or whether it was having like bodies in the past. Then the power to dissolve still remains lodged with the state government which it can
use if it is not concerned about problems and costs of the attendant elections.

The 74th Amendment does not give many functions to the urban local bodies. The number of functions given to them are 18 in number where as their counterparts in the rural areas have been allotted 29 functions by the 73rd amendment. It also remains to be seen as to the extent to which fiscal resources described in the 74th Amendment can match the functions given to urban local bodies.