Chapter - 7

OVERALL REVIEW OF URBAN LOCAL GOVERNMENT
(CONCLUSION, ANALYSIS OF QUESTIONNAIRE
AND SUGGESTIONS)

It has rightly been said that a robust local government and independent judiciary will surely confer democracy on a society regardless of its form or type of government.

Local government in India has been among the earliest creations of the British, the first to be thrown open to Indians and finally, among the earliest attractions of the Indian academics. The British Government created local government primarily with a view to easing pressure on imperial finances and later to letting Indian practise a measure of self-government. Also local government was the first segment of the governmental system which allowed itself to be explored and studied with varying degrees of absorption, by the Indian academics, especially by political scientists. The academic attraction to local government, which by all accounts is unusual, owed itself to the creed of western liberalism in which an average Indian intellectual was deeply steeped but also to the ease with which data for study could be gathered in this field. Nearly everything in the provincial and central government records was labelled 'secret' barring access to citizens.
In 1961, one out of every five Indian lived in urban areas. Ten years earlier i.e. in 1951, one Indian out of every seven was a town dweller. By 1981 one fourth of India's population was living in towns. Now by 2001 it has increased to one third. Thus, the urban population has been increasing at an accelerated rate. This is an evitable consequence of industrialization to which we are firmly committed. The role and significance of urban government is consequently bound to increase entailing a realignment and reorganisation of rural urban dimensions of the society. "The first thing to note is that today's underdeveloped countries are urbanizing not only more rapidly than the industrial nations are now but also more rapidly than the industrial nations did in the heyday of their urban growth."

Local government has remained sick and depressed in India so much so that its inefficiency has become proverbial. People at large have come to regard local government as of little consequence. They look upon it with indifference and apathy. Ironically enough, this is dramatically highlighted by the fact that New Delhi, where parliament meets and deliberates, did not have representative local government for managing its affairs. The New Delhi Municipal committee was a bureaucratic structure. Frederick William Wilson, the one time editor of the pioneer who, to quote Jawaharlal Nehru, wrote "in a spirit which disarms and which provokes one to think' observed in 1929, "It
is impossible today to survey the condition and state of elected municipalities, corporations and district boards in India can be satisfied with the result. There is no getting away from the fact that many ugly and unpleasant features flourish, and that the sense of civics among the people at large and among the limited electorate in particular is in a very perilous condition. Somehow or other public life as represented by these bodies has failed to attract the energies of a praiseworthy collection of men. There are, of course, exceptions, but on the whole they only go to prove the rule that municipal life as for as it has manifested itself at present in India is not something over which the Indian patriot can lavish legitimate pride. I have discussed this question with many of my friends who have been compelled reluctantly to agree to the truth of this generalization and to admit that the same high degree of patriotism, which has been undoubtedly manifested by India's national leaders, has not been reproduced in the more restricted sphere. There is an absence of knowledge, there is an absence of application, there is an absence of thoroughness, which has tended to make the more permanent side of the present dyarchical arrangement far too predominant. Again and again I have noticed how members of councils have seized on some excellent points for criticism for reform, and have been compelled to abandon their case, almost as soon as they had stated it, because they did not possess the requisite knowledge and had not taken the trouble to
apply themselves properly to the point in hand. It is beyond the capacity of any honest man to find satisfaction in the present state of these bodies. Inefficiency in almost every department of public administration is the chief characteristics where corruption and communalism are absent. There have been cases where public spirited men have entered local self-government and have attempted to raise the standard and to produce something of which the locality might be proud. Pandit Jawaharlal Nehru made a strenuous effort in Allahabad but gave it up in disgust and one has only to have personal knowledge of the general supineness of an average municipal board to deduce that nothing short of a complete revolution in the civic sense of the population is going to effect any radical change.

I would urge upon the patriots of India the tremendous importance of developing these two co-ordinated features of a healthy and vigorous democratic state - they must develop the civic sense of the people and they must secure a higher, more noble and more self-sacrificing spirit in the members of the administrative services, especially in the realms of local government.”

The reformed Local Government must not be based on rural-urban dichotomy, one form for rural areas and another one for cities. This division was never relevant but its irrelevance was becoming clearer after independence. Today, more and more people live in rural

---

1 Wilson, Frederick William, "Some Indian Problems" Allahabad, Ram Mohal Lal, 1929, pp. 46-55.
areas but work in cities and towns. Modern transport and communication facilities have made two sets of local government, one rural and another urban, existing side by side extremely artificial. The growing inter-dependence of urban and rural areas must be reflected in the structure and functioning of local government. The deliberative organization of local government, be it the panchayat samiti or the municipal corporation should according to this thinking, lay down policy, leaving its execution to the executive wing headed by the block development officer or the municipal commissioner. In urban local government, there is a division of power and functions between the deliberative organization and the executive one. The head of the executive organization the municipal commissioner or the block development officer or the district development officer spend time and energy in resisting the pressure of the elected wing.

The dominant principle that clearly underlines the 74th Amendment Act, 1992 is to enable the legislature to make laws towards strengthening the urban local bodies to become effective instruments of self government. By the 74th Amendments an attempt has been made to take the democracy to the grass root level and to enable local bodies to function as units of self-government. The provisions provide for direct election to determine the representatives of the urban local bodies in virtually the same manner as the state and union legislatures. Reservation of seats for women, SC and ST, an
election commission to conduct elections and a finance commission at state level to ensure financial viability are some of the salient features of 74th amendment made to the constitution of India.

Infact, a new legal chapter in the history of Independent India has started with coming into force of the 74th constitutional Amendment Act, 1992. With this, a constitutional status has been bestowed upon the local government institutions to ensure the participation of the general masses at every level of the political administration system. With this, the states have started the process of handing over the power directly to the people. All the states have set up state election commission and state finance commission. All the states have amended their legislation to fulfill the requirements envisaged under the 74th amendments. Reservation for women and backward classes has been made besides SC and STs in almost all the state legislations concerning the local government.

The implementation of fresh legislation provide a long delayed inspection to the process of decentralization. The political step is historic as it would make major structural changes in order to restore right place of urban local bodies as democratic units in the present system of governance. This would also give decision making powers to the people at the grass root level. The urban local bodies would be endowed with such powers as might be necessary to enable them to work as institutions of self-government and also devolve power and
responsibilities upon them by state legislatures for preparation of plans and implementation of development schemes. To add more, regular elections should help the urban local bodies take a more independent view of the requirement of their constituents. An improvement in the financial position of these bodies should enable them to directly meet local requirements.

A very positive observation regarding municipalities was made by the Punjab and Haryana High Court in the case reported as "Mathura Dass Setia vs. State of Punjab"2 which is reproduced:

"The 74th Amendment to the constitution was made to ensure that the municipalities were established as institution of self-government. The state was required to constitute municipality for small and large urban areas. This were to largely consist of persons chosen by direct elections from the territorial constituencies in the area. The state had to provide for persons having special knowledge or experience in municipal administration. The ward committees were also required to be constituted. Provision for reservation of seats had to be made. The members were to have secured tenure of 5 years. The disqualification for members were provided in Article 243V. Provision for conferring power and responsibilities were also required to be made. Under Article 243W, the legislature

---

2 2002 (3) RCR (Civil) 571.
was required to make law so as to 'endow' the municipalities with the power and authority so as to enable them to function as institutions of local self-government, with respect to preparation of plans for economic development, social justice and implementation of schemes in regard to the other matters contained in the twelfth schedule. Provisions to ensure a sound financial position by levy of taxes and allocation or distribution of funds from the consolidated fund of the state was also made. The state is required to make measures" to improve the financial position" of the municipalities. Thus one of the basic object was to remedy the lack of financial resources. The municipalities were to be strengthened as instruments of local self-government".

Thus is view of Mathura Dass Setia's (case)\(^3\) and Pritam Singh's v. state of Punjab\(^4\) decision, the judicial trend is clear as far as implementation of the ideals enshrined in the 73\(^{rd}\) and 74\(^{th}\) Amendments is there. The courts have time and again reminded the state legislature of its constitutional duties with respect to Panchayats and municipalities.

Though the constitution, now envisages municipalities as bodies of urban government but these ideals enshrined in the constitution of India and in subsequent state legislations have been remarked as

\(^{3}\) Ibid.
\(^{4}\) 1996 (3) RCR (Civil) 480.
'toothless' by certain sections. Decentralization without restructuring power may mean empowering the local elite rather than the local people. Unless the balance of forces of the local area are changed the recent features in urban local government would be minimized by the local rich. Decentralization has to be accompanied by a major reform of the power structure. Further, the state legislations and central Acts has not clearly defined the role of political parties. Similarly, it is completely silent over the relationship between the urban local government institutions and local level bureaucracy.

The system of local government as devised suffers from a built in contradiction in the form of division of functions between the deliberative and the executive organs, the latter being headed, not by an elected representative (as is true with the presidential system of government) but by a career civil servant appointed by the state government. This contradiction must be removed in the interest of democracy.

A cabinet form of government at the local level may be an alternative to the present outfit of frictions and conflicts. Under this form, what are called "interferences" would get regularized and institution zed, as those chosen by the elected body would 'interfere' on be held accountable. A demand for introducing a cabinet form of government at the local level derives its main inspiration from the practice at the state and the union levels, we have adopted a cabinet
form of government at these two levels, and its extension to local government is a natural sequence and perfectly logical. The introduction of the cabinet form of government at local government level would unfold new avenues of service to the people and impart a sense of purpose and direction to the elected members who, today, feel ineffective and consequently, frustrated. This will add to the attractions of local government and induce more capable and public-spirited people to offer their services to it. This would be a welcome arrangement even to the executive officer would, then, be spared the trouble of dealing with the elected body and with a number of committees, explaining proposals, defining local administration, seeking sanctions, all these tasks being of a political nature. Freed from this he would confine himself to administrative functions only.

The proposal for a cabinet form of government is an expression of genuine democracy and should be adopted at least in bigger corporations and municipalities, Zila Parishads and Panchayat Samitis. This form is ideally suited when there is a two party system, the political parties being not too far apart from one another, and all endowed with the virtue of moderation both in utterance and in action. It is of interest to note that a form of government like this under the name of management board has been recently recommended for adoption in Britain by the committee on the management of urban local government.
In India, West Bengal had taken a lead by introducing the Mayor-in-council form of municipal corporation. Mayor-in-council system of municipal corporation vested the power of execution of official business with the mayor assisted by deputy mayors. They functioned in a manner similar to the cabinet ministers assisting the chief minister. The mayor-in-council system of municipal corporation was recommended for Delhi by the Virendra Prakash committee set up by the Delhi municipal corporation. Delhi for many years adopted mayor-in-council form of municipal corporation. Now, Delhi has become a state.

The structure of local government is, however, not a “sure cure” or all important. Even if the structure has certain short comings and inadequacies, it is capable of being made to work and lead to realization of goals. And, a perfect structure does not by itself ensure results. Man is obviously more important than the machine. A tool or machine does not impart skill to the workman's hands. Surely an efficient workman feels annoyed when given a bad tool to work with, but the latter does not completely incapacitate him. In short, the personnel, both elective and permanent, have a key role to play in making local government work effective, it is they who are called upon to deliver the goods.

Urban local government is subject to an extraordinary detailed and severe control by the state government. While a local body cannot
be completely freed from a measure of state control, the present system of elaborately designed controls and checks obstructs and delay action, saps local initiative and makes local autonomy meaningless. Again, although a urban local government nowhere has an inalienable right of existence and everywhere the state government retain with itself the right to dissolve it, this right has been invoked by the state in India so frequently that at a particular moment of time it is not surprising to have more dissolved local governments than those in existence. What is more, individual local bodies have remained dissolved for such long periods that a generation, blissfully ignorant of what municipal rule is, may be coming up. The axe has fallen with particular severity on urban local government, the Panchayati Raj institutions, although not statutorily immune from such an action, have so far had an uninterrupted existence. A reckless use of the right of dissolution by the states which is quite often motivated by purely partisan considerations mars the image of local government in the eyes of the people, besides benumbing democracy. This may give to the state some temporary gains but it is dangerous process highly deleterious to local democracy in the long run. Besides, the act of dissolution of local bodies is morally wrong. To put out of existence, by a mere executive fiat, a popularly elected local government is reminiscent of the days of autocracy. Democracy at the lower level, may be taken to task by democracy at the higher level, the only proper
body to dissolve the local government is the state legislature, and this must be recognized. The state government must need remind itself that popular participation is necessary on both moral and utilitarian grounds. Popular participation deepens the roots of democracy and strengthens the democratic way of life. It is therefore, in the interest of democracy itself that local governments function as an effective and healthy unit of government. Democracy at the union and state levels cannot be a sure success until it is vigorously practiced and sustained at the level of the local government. This challenge should not be under-estimated. This is the moral reason for invoking citizen participation in local affairs. The state government is not in a position to wholly finance any scheme of local improvement. Part of the finances must necessarily flow from the local people themselves. And local people would be more willing and enthusiastic to contribute if they had a feeling participation in decision-making. Also, the locality is expected to take up and continue on its own, such schemes and programmes after a lapse of a certain period and this transfer of responsibility is smoothened—indeed, looks natural, if local participation is sought from the inception of the programmes.

At present, local government and district administration headed by the district collector are two separate, even parallel institutions, engaged in meeting the needs and requirements of the local people. Historically, local government was virtually a part of district
administration and subsequently with the emergence of the
democratic aspirations of the people, was gradually made a separate
entity but was ever looked upon as only an off-shoot and satellite of
the district administration. Local government has thus a formidable
competitor and rival in the form of district administration. The
existence of district administration in such close proximity to local
government dwarfs the latter and obstructs its fuller flowering. The
logical development of local government should lead to either
disappearance of district administration or the latter's sub-ordination
to the former. Administration of law and order which is presently the
responsibility of the district collector may not be handed over to local
government in the foreseeable future. Also, administration of
emergencies such as floods, famines etc. which are not uncommon
occurrences vests in the distinct collector and its transference to local
government may not be feasible. These two tasks and possibly a few
others may not be passed on the local bodies. Both of them may be
made the responsibility of the divisional commissioner consequent on
the conversion of the district administration into local government.
The proposal of involving the divisional commissioner into issues like
law and order and emergency has an additional validity because these
issues generally afflict and engulf a region and are not confined to a
mere district and also because these are grave events which demand
the direct attention and intervention of a proven administrator like the
divisional commissioner.
Urban local government, as it exists today, is not an entity altogether distinct and separate from the state and union governments. It is indeed, a circle within a large circle, bounded, on all sides and in every respect, by the latter. It cannot ordinarily be more efficient than the state or union government. If for instance, the personnel practices at the state level are inefficient and wasteful, it would be unrealistic and futile to expect a rational personnel management at the level of local government. The norms and patterns of thought and behavior are set at the state and union levels and the urban local government normally strives to comply with them-it seldom surpasses those standards. If politics at the higher levels is characterized by greed, grain, grab and graft, how can politics at the local level be kept insulated from them. The quality and caliber of local government is thus indissolubly linked up with the state and union governments. The reforms directed at local government only are thus apt to be of limited effectiveness. This, however, does not imply that there is very little which could be done by way of reforming urban local government in the country. A measure of reform is entirely feasible for the simple reason that there is admittedly a considerable gap between the efficiency of the local and state governments. Besides, urban local government has a potential capacity to approximate the state government in its efficiency. What is emphasized here is that local government can seldom be more efficient than the state government which controls it.
The seed may, however, never reach the ripening stage if the functioning of government is not analysed objectively and commented upon without fear or favour. This is a challenge to the intellectuals of the country. A dialogue between the town and the gown is conspicuously absent, which is a cause for anxiety and concern. The intellectuals must rise and face the challenge. "Who, if not they", asks Herman Fines "will tell the absolute, immaculate, independent truth, in a partisan and belligerent society? Who outside a handful of men and women, even understand what is meant by truth and objectives analysis? No large scale society which attempts to live by millions of reciprocations, extensive, complex, changing, and remote in time and place, can live and control its life, without the aid of its historians, its analysts of contemporary processes its statistical observes and its philosophical prognosticators. The temptations to betray the professional function are unfortunately as insidious as they are numerous and powerful. The urgencies of private millennial plans, the desire to tell people only pleasant things, and to be agreeable, political and national friendship, the intoxication of public applause, the eclat of a smart aphorism, the lust of political management and the joy of being "boss" with hands on every body's fate, fear of annoying the dispensers of place and prestige, mental laziness or supine character-
these are but a few of truth's rivals. Pope's essay on criticism describes a good many more. There is everything to promote untruth, to inspire exaggerations and suppressions, to obscure the light of the intellect. The way of intellectual chastity is hard, but if... the guardians of the sacred flame of objectivity commit treason, then the world is indeed lost. Who else will then stand and speak serenely above brutal and dividing passions and teach that causes inevitably produce effects, and that to will certain ends is consciously or unconsciously to support the instrumental means. Political distortion engenders not only harmful practice, but creates schools of apposed distortions and a presumption in favour of the propriety of exaggeration. Where teacher seek not truth, but power, they put out our eyes. The criterion among independent scholars, especially in the higher levels, whether in society or in the universities, should surely be perfect fulfillment in the life speculative, that and that alone".  

5 This is to sure, is no ordinary challenge. Traditionally, an Indian intellectual has been either a fakir or a darbari, today, the tribe of the former is fast vanishing. But truth in truth and the longer it is withheld the greater the harm we shall do to society historically.

In the view of the future challenge, which are presently invisible but even then some indications are that some states are not willing to hand over the power to the urban local government institutions in the true spirit of the constitutional amendment Act thus, there is need for a constant vigil. We must see from time to time that the aims and objectives of the constitutional amendment and the aspirations generated by it have been met. During the last couple of years all over the country, conferences, discussions and seminars have been held with a view to finding ways and means for implementing the constitutional provisions. Infact, event after constitutional recognition and new legislations brought about by the state legislature in the country, the success of urban local government institutions will largely depend upon the political will of the state government. State leaders and bureaucracy must understand the reality that with this new enactment, the urban local government institutions are not only part of constitution but a third level of government. Thus, these institutions need due respect and support.

Thus, the emerging issues which are for most to see that these tiny pockets of democracy become viable and effective in years to come. At present, it is too early to comment on post constitutional implications but one thing is clear that large number of states are
sincerely thinking in realistic terms and have started the process of devolution of powers to the local bodies with necessary power and functions to enable them to function as institutions of self government with the responsibility of preparing plans for economic development, social justice and implementing them. Thus transfer of resources would have to be affected to give a real meaning to the ideal envisaged under the 74th Amendment Act. In addition to the grants out of consolidated fund of state's, the allocation by central government for implementing centrally sponsored schemes, states will have to give revenue raising powers to the local bodies so that the process of establishing "self government". Institutions visualized under the 74th constitutional Amendment Act, 1952 taken place smoothly, which can eventually translate the dream of grass root democracy into reality.

The questionnaire regarding thesis is attached herewith: