CHAPTER 3: THE TWELFTH SCHEDULE OF THE CONSTITUTION AND BROAD FEATURES OF THE GAUHATI MUNICIPAL CORPORATION ACT.
CHAPTER – III
THE TWELFTH SCHEDULE OF THE CONSTITUTION AND BROAD FEATURES OF THE GUWAHATI MUNICIPAL CORPORATION ACT

3.1: The Twelfth Schedule of the Constitution of India:

Evaluating the functioning of the urban local bodies U.B Singh comments, “Over the past five decades, the role of urban local bodies has been progressively undermined. Many functions performed hitherto by local governments are now performed by other functional and specialized agencies created for the purpose” (2002, 18). In this milieu, the ratification of the 74th Constitution Amendment Act, 1992 is mulled over to have reinforced the importance of urban local governments. The acceptance of this enactment has been considered as a milestone in the development of municipal governments in India. The 74th Constitution Amendment Act, 1992 provided the urban local governments with constitutional eminence that they had formerly lacked and has toughened their status by directing regular elections to urban local governments. The fundamental characteristics of the 74th Constitution Amendment Act, 1992 has already been considered in Chapter II. The tasks of the urban local governments have been illustrated in the 12th Schedule (Article 243-W) of the Constitution of India.

Apparently, the items put in the 12th Schedule of the Constitution of India are totally brand new. Bulk of those functions that are set up in the 12th Schedule has already been in the list of actions of different enactments
of urban local governments in the various States of the Union of India. Some of these responsibilities were compulsory while others are discretionary. Obligatory/compulsory functions are the most important ones and if after carrying out the obligatory functions the municipality could put aside a certain amount of fund, then it could utilize the same to other non-obligatory/discretionary functions. These mandatory/compulsory functions in a sense were discretionary as in the case of Maharashtra. The Maharashtra Municipality Act 1965 divides the municipal functions into obligatory and discretionary categories. Sanitation, conservancy, public health, medical service, water supply etc. are in the list of obligatory functions while public utilities like transport and electricity supply, civic amenities like civic halls, gymnasium, public works like residential constructions are classified as discretionary ones. Some of the functions like eradication or elimination or improvement of urban slums, eradication of urban poverty etc. have been listed as the discretionary functions (Inamdar, 1972: 239). Similar is the case with the mahapalika authorities of Uttar Pradesh under Uttar Pradesh Nagar Mahapalika Adhiniyam 1959. This Act listed as many as 25 items as obligatory functions while mainly 15 items were referred to as the discretionary functions. However, in actuality there was not even the least correlation between what the laws instruct the municipalities to do and what they do in reality. This was primarily owing to scarcity of funds and want of comprehensive classification between obligatory/compulsory and optional/discretionary functions.

The 12th Schedule of the Constitution of India incorporated as many as 18 functions and responsibilities for the Municipal organisations. But again these are realms under the consideration of the States:
### Table – 3.1  
**Functions of Municipal Organisation under 12th Schedule**

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Functions</th>
<th>Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Urban Planning including town planning.</td>
<td>Economic Development</td>
</tr>
<tr>
<td>2</td>
<td>Regulation of land use and construction of buildings</td>
<td>Infrastructure Construction</td>
</tr>
<tr>
<td>3</td>
<td>Planning for economic and social development</td>
<td>Economic Development</td>
</tr>
<tr>
<td>4</td>
<td>Roads and bridges</td>
<td>Public safety</td>
</tr>
<tr>
<td>5</td>
<td>Water supply for Domestic, Industrial and Commercial purposes</td>
<td>Public health</td>
</tr>
<tr>
<td>6</td>
<td>Public health, sanitization, conservancy and Solid waste management</td>
<td>Public Health</td>
</tr>
<tr>
<td>7</td>
<td>Fire Services</td>
<td>Public safety</td>
</tr>
<tr>
<td>8</td>
<td>Urban forestry, protection of environment and promotion of ecological aspects.</td>
<td>Ecology &amp; Environment</td>
</tr>
<tr>
<td>9</td>
<td>Safeguarding the interests of weaker sections of the society, including the disabled, retarded</td>
<td>Social Welfare</td>
</tr>
<tr>
<td>10</td>
<td>Slum improvement and upgrading</td>
<td>Social Welfare</td>
</tr>
<tr>
<td>11</td>
<td>Urban poverty alleviation</td>
<td>Economic development</td>
</tr>
<tr>
<td>12</td>
<td>Provision of urban amenities and facilities such as parks, gardens, playgrounds</td>
<td>Public convenience</td>
</tr>
<tr>
<td>13</td>
<td>Promotion of cultural, educational and aesthetic aspects</td>
<td>Public education</td>
</tr>
<tr>
<td>14</td>
<td>Burials and burial grounds, cremations, cremation grounds and electric crematoriums</td>
<td>Social Welfare</td>
</tr>
<tr>
<td>15</td>
<td>Cattle ponds; prevention of cruelty to animals</td>
<td>Social Welfare</td>
</tr>
<tr>
<td>16</td>
<td>Vital statistics including registration of births and deaths</td>
<td>Social Welfare</td>
</tr>
<tr>
<td>17</td>
<td>Public amenities including street lighting, parking lots, bus stops and public</td>
<td>Public safety</td>
</tr>
<tr>
<td>18</td>
<td>Regulation of slaughterhouses and tanneries</td>
<td></td>
</tr>
</tbody>
</table>

**Source:** Compiled

The 12th Schedule of the Constitution of India highlighted planned urban development – a concern that has been disapproved of from diverse sectors in view of the argument that it only gives the impression of being
unique — but it is of no realistic worth as the urban local governments are not proficient enough to perform this responsibility. These issues of urban development are envisioned to be operationalised at two levels i.e. i) District Level and ii) Metropolitan Area Level (with a population of more than ten lakhs). Two Committees namely District Planning Committee and Metropolitan Planning Committee are created in charge for making the groundwork for the developmental plans. Institution of these Committees is mandatory. The District Planning Committee is to amalgamate the plans prepared by the Panchayati Raj Institutions and the Municipalities and resolve upon a developmental plan for the district as a whole; while the Metropolitan Planning Committee is to formulate the outline of a plan for a metropolitan area in general. To provide a self-governing disposition to these committees, the Constitution of India also provides that in case of District Planning Committee, not less than four-fifths of the total number of members of such committee shall be elected by and from amongst the elected members of Panchayati Raj Institutions at the district level and of the Municipalities in the district. In the same way, in respect of Metropolitan Planning Committee it is 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 Panchayati Raj Institutions in the metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayati Raj Institutions in that region.

Despite the fact that more than a decade has elapsed from the time when the 74th Constitution Amendment Act, 1992 has been enacted; the urban local bodies have hitherto not been encapacitated to carry on their responsibilities to their full competence. In this context few of the
recommendations of the National Commission on Urbanisation is worth noting. The Commission suggested that for a significant execution of the provisions of the 12th Schedule, the urban local governments are to make sure that major issues have been appropriately tackled and explanations and answers to issues and concerns have been recognized. It stressed on:

i) The need for a comprehensive Town Planning Act, which takes care of the urban development functions as, enunciated in the 12th Schedule of the Constitution of India.

ii) The necessity to bring about structural changes in the administrative set up of the municipal organisations so as that the municipalities could discharge their functions effectively.

iii) The need for adequate and necessary urban oriented administrative and technical manpower and expertise.

3.2: Decentralisation and Guwahati Municipal Corporation Act, 1969:

The British annexed Assam by the Treaty of Yandaboo in 1826 and Guwahati was established as one of the administrative hub of the British rulers; as an effect Guwahati was set up as a township about that period (Chakravarty, 1978: 19-22). The Government of Assam thought it appropriate to elevate the township of Guwahati into a city (Mahanagar) by converting the Municipal Board into a full-fledged Corporation. Till date Northeast India has no other Municipal Corporation other than the Guwahati Municipal Corporation. So, to explore the practicability of the intent of up gradation of the township under the Commission of Enquiry Act another Commission was set up on 23rd June, 1963 under the Chairmanship of Debendra Nath Sharma (Notification no. LML. 307/51/30
dated 21st June 1963). The terms of reference of this one-man Commission were as follows:

(i) Whether Guwahati could be acknowledged as a city.

(ii) Whether the existing set-up of municipal administration of Guwahati is insufficient to meet the requirements of Guwahati at the point in time and in the impending future.

(iii) Whether transformation of Guwahati Municipal Board into a Municipal Corporation is essential and achievable and if so, what managerial set-up would be appropriate and what would be the likely earnings and expenses of such an administrative organization.

(iv) Any other issue which to the Commission might seem to be relevant (Sharma, 1984: 1-4).

The said Commission took into consideration these broad parameters and put forward its invaluable counsel. The Commission took stock of the current municipal systems in the India and overseas as well. Before reporting, the Commission undertook extensive travel to numerous cities in India like Patna, Allahabad, Jabalpur, Mumbai, Ahmedabad, Delhi and Kolkata. In the course of action, the Commission considered the administrative arrangements, the sources of income as well as the practical inconveniences faced by the municipalities while carrying out their routine functions and above all the botheration of the city dwellers. The Commission also brought forth constructive observations and suggestions of erudite personalities both from within and outside Assam. A threadbare analysis was made of the existing municipal laws of various municipal corporations of India as well as abroad including some in the United Kingdom and in the United States of America. Following the conclusion of the assignment the Commission put forward its statement to the
Government and strongly suggested the prospects of constituting a Municipal Corporation in Guwahati and switching over into a full-fledged Municipal Corporation. The Commission did remarkable groundwork and a very laudable effort of the responsibility assigned to it. Along with the report, the Commission also presented the outline of a Bill for the constitution of the proposed Guwahati Municipal Corporation. The Government published the report on June 7, 1966. Following the acceptance of the report of the Commission, Guwahati was declared as a city and the establishment of the Guwahati Municipal Corporation was completed with the requisite legislative enactments within the next few years.

The Gauhati Municipal Corporation Act, 1969, received the assent of the President of India on the 1st January 1973. The Act was in print in the Assam Gazette; Extraordinary dated the 18th January 1973. The Gauhati Municipal Corporation Act 1969 has been arranged into IX Parts or Sections consisting of 30 Chapters in all (ibid).

Part I of the Act consists of the Chapter I, which gives preliminary information concerning this very significant enactment. The Act has been designated as the Gauhati Municipal Corporation Act, 1971. Which extends to the city of Guwahati; the target area. It is provided that the Government of Assam by notification in the official Gazette will implement it. Chapter I of the Act has provided for the revocation of the Assam Municipal Act, 1959 and the Assam Town and Country Planning Act, 1959 from the date of the establishment of the Guwahati Municipal Corporation. But any legislative, executive and financial decisions taken prior to the creation of the Corporation shall remain in force and deemed to
have been made under the provisions of the said Act. For the purpose of this Act a number of terms have been defined in the Part I of the Act.

In Assam under the local Acts, the Government of Assam is empowered to settle on the administrative area of all the local authorities. Therefore the Gauhati Municipal Corporation Act, 1969 has empowered the Government of Assam to declare Guwahati as a municipal corporation and determine its area through notification duly published in the official gazette. It has empowered the Government of Assam to include or exclude from the jurisdiction of the Guwahati Municipal Corporation any neighbouring area through a subsequent notification under section 42(2) of the Guwahati Municipal Act 1969.

Normally, municipal corporations are constituted in those cities where the population is over a lakh and they are body corporate having perpetual succession with a common seal and may sue and be sued, the position of the Guwahati Municipal Corporation is similar. The Guwahati Municipal Corporation Act, 1969 provides for one councillor for every population of 7,500. This limit has now been raised to 15,000 subject to a maximum of 60 (Singh, 1999), who shall be elected through universal adult franchise for a five-year term. There is no reference to the minimum strength of the Guwahati Municipal Corporation. Of course, the Government of Assam is empowered to determine the actual strength of the Guwahati Municipal Corporation from time to time keeping in line with the rise of population. For electing the Councillors, the entire city of Guwahati is split into areas known as Wards. There should be as many wards as there are Councillors to be elected to the Guwahati Municipal Corporation. There are at present 60 wards of the Guwahati Municipal
Corporation (Ref -Map-3). Provisions are made for the representation of the Scheduled Castes and Scheduled Tribes. If such categories of people are not properly represented and if no Councillor has been elected to the Corporation from among them, then the Guwahati Municipal Corporation shall nominate one Councillor from each such community. This exclusive provision will continue so long as the system of representation of seats for these classes of people persists in the Constitution of India. The Government of Assam may nominate individuals having special knowledge or know-how in Municipal Administration. Member of the Union Parliament/Lok Sabha and Members of the State Legislative Assembly representing the constituencies, which embrace fully or partly the Guwahati Municipal Corporation; and the Members of the Council of States/Rajya Sabha registered as electors within the Corporation area are Ex-Officio members. The nominated members have the right to attend the meetings of the Guwahati Municipal Corporation but they have no voting rights.

3.2.1: The Councillors:

Any citizen whose name has been enlisted as an elector in the electoral roll of any ward of the city of Guwahati is qualified to put up his candidature for the Councillorship of the Guwahati Municipal Corporation. A person will be disqualified for Councillorship if he is:

(a) A person of unsound mind.

(b) An undischarged solvent.

(c) Guilty of corrupt practices in an election.
(d) Directly interested in any contract under the Guwahati Municipal Corporation.

(e) An employee of the Guwahati Municipal Corporation or of any municipality or

(f) In any default of any arrear to the Guwahati Municipal Corporation for which notice has been served upon him.

A Councillor may quit his Councillorship by a written notice under his hand and a resignation letter addressed to the Mayor of the Guwahati Municipal Corporation. A Councillor is not entitled to accept any salary or other fee from the Guwahati Municipal Corporation but they are however permitted to receive travelling allowance, conveyance allowance and daily allowance as fixed by the Government of Assam from time to time.

If the office of a Councillor falls unoccupied, another Councillor is elected in his/her place for the outstanding period. Every Councillor before taking his/her seat must take a pledge of allegiance to the Constitution of India and to faithfully perform his duties and functions.

After the constitution of the Guwahati Municipal Corporation, the Councillors at the opening meeting convened by the Commissioner of the Lower Assam Division or the Deputy Commissioner as might be the case. In this first meeting, which is held every year generally in the month of January, the Councillors select by ballot among themselves a Mayor and a Deputy Mayor. The Government of Assam may appoint a senior government bureaucrat as Commissioner of the Guwahati Municipal Corporation.

Any Councillor may call to the notice of the appropriate authority of the Guwahati Municipal Corporation to any neglect in the implementation
of the municipal works, to any squander of municipal assets or to the
requirements of any locality/ward and may put forward proposals for the
enhancement of the situation. Every Councillor is justified to interview the
Mayor on issues associated with the administration of the Guwahati
Municipal Corporation.

3.2.2: The Mayor:

The political executive of the Guwahati Municipal Corporation is
the Mayor, who is also the chief authority of the Corporation and is
accountable to it. The he/she is voted for a one-year term. He/she can,
evertheless resign his/her office by giving notification in writing to the
Guwahati Municipal Corporation. As the first citizen of Guwahati, the
Mayor represents the entire population of the city. He presides over all the
meetings of the Guwahati Municipal Corporation and is exclusively held
responsible for the keeping discipline, propriety and orderliness of the
meetings of the Corporation. His/her judgments and rulings in managing
the procedures of the meetings of the Guwahati Municipal Corporation are
considered to be ultimate. The Mayor has full admission to all the files and
paper works of the Guwahati Municipal Corporation and he/she receives
reports from the Municipal Commissioner about matters correlated to the
administration of the Guwahati Municipal Corporation. The Commissioner
can dispatch no communication to the Government of Assam without the
knowledge of the Mayor who may communicate his/her point of view, if
any, to the Government of Assam.

At the time when the office of the Mayor is unoccupied, his/her
responsibilities are transferred to the Deputy Mayor until the election of a
new Mayor. When the Mayor is absent from his/her duty owing to illness
or on any other grounds, the powers, duties and functions of the Mayor are implemented and acted upon by the Deputy Mayor. The Mayor may assign any of his/her responsibility to the Deputy Mayor. The Deputy Mayor may put in the papers of his/her office by giving notice in writing to the Mayor and his/her resignation takes effect from the date on which the Mayor receives it.

3.2.3: Challenging Election of a Councillor:

Doubts can be cast on the results of an election only by presenting an appeal to the prescribed authority within a period of forty-five days from the date on which the result of the election is declared in the official notification. The petition should include a succinct account of the inner facts and adequate minutiae and the argument on which the election is considered to be sceptic. It has to be accompanied by a sum of Rs.250/- only (Rupees Two hundred and fifty only) as collateral. The petition is put on trial and disposed off by the District Judge. The District Judge after pronouncing the verdict sends a copy thereof to the Guwahati Municipal Corporation and the Government of Assam.

An appeal can be positioned from every order passed by the District Judge. Such an appeal can be opted for within a span of forty-five days from the date of the judgement of the District Judge. The decision of the High Court on appeal is ultimate and irrefutable.

3.2.4: The Committee System in GMC:

The Committee System is a critical and an idiosyncratic trait of local self-governing systems around the globe. For effective functioning of the Guwahati Municipal Corporation, the Gauhati Municipal Corporation Act,
1969 has provided for five Standing Committees. They may be listed as follows:

(i) Taxation and Finance, and Planning and Development Committee (or Standing Finance Committee).

(ii) Public Works Committee.

(iii) Public Health, Conservancy and Water Supply Committee.

(iv) Assessment, Market and Trades Committee and

(v) Appeals Committee.

Each one of the Standing Committees comprises of five members elected from among the Councillors other than the Mayor. No Councillor shall be a member of more than one Standing Committee at the same time. Where a vacancy come about in Standing Committees, the Guwahati Municipal Corporation has to fill up the vacancy at the earliest, by opting for another Councillor. Members of the Standing Committees are voted for a year’s term, and of course, entitled for re-election any number of times during their term. Every Standing Committee should in its opening meeting elect its Chairperson and Deputy Chairperson from among its members. The Chairperson and the Deputy Chairperson continues in office from the time of her/his election until the election of the next office bearers. The departing Chairperson and the Deputy Chairperson is qualified for re-election. The Chairperson or the Deputy Chairperson or any other member of the Standing Committees may resign by writing under his hand addressed to the Mayor. The Guwahati Municipal Corporation, by rule fix and settle on the powers, authority, functions and responsibility of the Standing Committees. Two or more Standing Committees of the Guwahati Municipal Corporation may hold a
consultation or a Joint Committee conference to converse matters of shared advantages.

A Joint Committee may incorporate individuals who are not members of the local self-governing authorities concerned but who may have distinctive credentials for serving on such Standing Committees. However, the number of such individuals could not exceed one-third of the total number of members of the specific Standing Committee.

The Guwahati Municipal Corporation may also set up extraordinary Committees by an explicit ruling. The rationale of such a Committee may be to find out and report upon any such issue to be specified in the decree, which may crop up in correlation with any of the powers, authority and functions of the Guwahati Municipal Corporation and which is not at the time under the purview and deliberation by any of the Standing Committee.

The working of the Special Committees must agree with the strategy and other directives given to them by the Guwahati Municipal Corporation. The Guwahati Municipal Corporation may at its discretion break up or modify the structure of any Special Committee in terms of its powers, obligations and functions allocated to it. As a normal practice the members of the Standing Committees choose any one among themselves to take the chair in the non-attendance of the Chairperson. The statements of every Special Committee is put down before the Guwahati Municipal Corporation, which may initiate actions or may transfer back the issue to the Special Committee for additional exploration, analysis and then give an account.
3.2.5: Powers and Functions:

The Guwahati Municipal Corporation itself decides on the powers and functions of the Standing Committees. But the Standing Finance Committee by regulation is endowed with certain specific powers. This Committee shall oversee the application of grants and funds to the plans and projects concerned and have entrée to the balance sheet of the Guwahati Municipal Corporation. It may be mandatory for the Municipal Commissioner of the Guwahati Municipal Corporation in this context to furnish any clarification, which the Standing Finance Committee considers to be essential as to the revenue and expenditures against the Guwahati Municipal Corporation fund. The Standing Finance Committee may carry out supplementary monthly evaluations and appraisals and summary of proceeds and expenditures for the previous month as made available by the Municipal Commissioner. The Standing Finance Committee may in addition suggest the Guwahati Municipal Corporation to discount any deficit or any reduction caused to municipal assets, which seem to the Standing Finance Committee to be irreversible.

3.2.6: Meetings and Transactions of Business:

The Gauhati Municipal Corporation Act 1969 provides that the Guwahati Municipal Corporation shall congregate as a minimum, once in a month for the transaction of its dealings. The Mayor or in his absence the Deputy Mayor may and has to convene a meeting of the Guwahati Municipal Corporation, upon an application signed by no less than 15 councillors.
A notice of the meeting along with the schedule or the list of business concluded at the meeting has to be despatched to the registered address of each of the Councillor so that it reaches him/her no less than five days in advance of the date of the anticipated meeting. Excluding the programme of the meeting no other issues can be deliberated upon in the meeting. Nevertheless, any Councillor can inform the Municipal Secretary when any other proposition is sought to be discussed at the planned meeting. Such an announcement should reach the Municipal Secretary no less than three days preceding the date predetermined for the proposed meeting. The Municipal Secretary then takes the necessary steps to disseminate such resolution to every Councillor.

The Mayor or in his non-attendance, the Deputy Mayor is in charge of every meeting of the Guwahati Municipal Corporation. He has a second ballot in all cases of sameness of vote. In the absence of both the Mayor and the Deputy Mayor, the Councillors present at the meeting choose one among themselves to chair the meeting.

**Provision of quorum:**

For all other application the Quorum of the Guwahati Municipal Corporation shall be one-third of the total number of Councillors. If at any meeting, the agreed quorum is not in attendance, the meeting shall remain postponed. At such adjourned meeting the Councillors in attendance form a quorum. The Gauhati Municipal Corporation Act 1969 provides that no dealings of the Guwahati Municipal Corporation will be transacted at any meeting except such a meeting has been convened by the Mayor or the Deputy Mayor or by any person authorised to sign an application or unless
a quorum is created. Quorum of the Guwahati Municipal Corporation is essential to dispose off the following matters:

(i) Scale of establishment and salaries.

(ii) Framing of regulations and byelaws.

(iii) Annual budget estimates.

(iv) Appointment and fixing of the pay of different officials.

(v) Imposition of different taxes.

(vi) Election of Mayor, Deputy Mayor and the members of the different Standing Committees.

(vii) Raising loans.

(viii) The subject of a meeting specially convened for the purpose.

(ix) Any other subject prescribed by regulations and byelaws framed in its behalf.

Voting:

All topics are decided by a majority of the Councillors voting at the meetings. Commonly voting is done by demonstration of hands unless the Guwahati Municipal Corporation comes to a decision that any subject matter should be resolved by ballot. Providing for transparency and intelligibility, every meeting is open to the community except if a majority of the Councillors in attendance at the meeting come to a decision by motion that any enquiry or deliberation pending before the Guwahati Municipal Corporation is held in private (Singh, op cit,) Provisions are made that the Guwahati Municipal Corporation may formulate a set of
laws for regulating the admission and exclusion of any member of the public to and from the meeting.

The Gauhati Municipal Corporation Act 1969 has also provided for the recording of the proceedings of every single meeting of the Guwahati Municipal Corporation and that of the each and every Standing Committee, Special Committee or Joint Committee of the Guwahati Municipal Corporation, along with names of the members in attendance during those meetings, accordingly signed by the Presiding Officer. The copies of the minutes of each meeting shall be distributed amongst the members beforehand.

3.2.7: The Budget

Under section 119 of the Guwahati Municipal Corporation Act 1969, the Commissioner is to prepare the budget approximations of the Guwahati Municipal Corporation in conference with the Mayor. The budget estimates are to be submitted to the Standing Finance Committee on or before the 15th day of December each year. The yearly budgetary account will include an estimate of the future expenditure, an approximation of all surplus which will be on hand for outflow at the beginning of the year, a report of the proposals as to taxation which will be crucial or advantageous to enforce, an estimation of resources from all sources and an estimate of the credit to be raised. The Standing Finance Committee painstakingly deliberates upon these guesstimates and plans and schemes and it proceeds to frame the annual financial statement of the Corporation. The Commissioner of the Guwahati Municipal Corporation causes the budget approximations as conclusively permitted by the Standing Finance Committee to be published and a transcript of each will
be dispatched to the Councillors not later than the 15th day of February. The Guwahati Municipal Corporation then deliberate upon the Budget estimates, which may be returned back to the Standing Finance Committee for added reflection, which has got to be re-submitted within a particular time span. On resubmission under section 120(3) the Guwahati Municipal Corporation on or before 22nd day of the March approve the budget estimates.

Under section 120(4), in the estimates of the annual financial statement the Guwahati Municipal Corporation inter-alia has to make sufficient and appropriate provisions for obligations imposed upon it, to make available for the disbursement of all the instalments of the principal as well as the interest as they fall outstanding and to make provisions to allow for a concluding balance not less than a lakh of rupees.

Under section 121(1) on suggestions of the Standing Finance Committee the Guwahati Municipal Corporation may modify the sum of the budget endowment under any head; the measure may be greater than before or reduced. Besides, the Corporation may also request for a supplementary budget allocation to encounter any exigencies, which may occur throughout the year. The Guwahati Municipal Corporation may also cause the assignment of a sum or a segment of the amount of the budgetary funding under any other head of expenditure.

Under section 123 of the Guwahati Municipal Corporation Act 1969, if the entire or any portion of the budget endowment incorporated in the approximations so readied, remain unexpended at the conclusion of the year, and the said sum has not been taken into account in the initial balance inserted in the estimates of any of the next two subsequent years, the
Standing Finance Committee may authorize the disbursement of such budget funding or the unexpended fraction thereof during the next two ensuing years for the conclusion of the function for which the budget endowment was initially made and not for any other intention.

3.2.8: Mechanism of State Control/Residuary Powers.

The Guwahati Municipal Corporation is a self-directed and self-ruling establishment. But like all other local self-governing organizations the Guwahati Municipal Corporation comes under enormous stranglehold of the Government of Assam. In a way it would not be erroneous to say that the Government of Assam in fact swathe the Guwahati Municipal Corporation, and in the true sense of the term calls the shots in the legislative, decision-making as well in the fiscal fields.

Rules, Regulations and Byelaws.

The Government of Assam can make a multitude of policies, laws and byelaws for the management of the Guwahati Municipal Corporation. Each and every one of such rules, regulations and byelaws are subject to prior publication and are laid before the State Legislature for authorization. No regulation made by the Guwahati Municipal Corporation will come into effect pending its approval by the Government of Assam and put down in print in the official gazette.

The Government of Assam has the authority of control and supervise the Guwahati Municipal Corporation under Section 421 of the Gauhati Municipal Corporation Act 1969. Above and beyond, the Government of Assam may ask for any official paper works from the Guwahati Municipal Corporation and it also has the clout to call for
carrying out of duties and responsibilities in any case of dereliction of duty by any municipal bureaucrat or authority. The Government of Assam may deputize any government employee to check or inspect any municipal office work or affair and make a statement thereon. The Government of Assam may after deliberation of any representation which may be made by the Guwahati Municipal Corporation, by written instructions, cancel or exclude from the records any proceeding of the Corporation which it deems not to be in consistency with the Gauhati Municipal Corporation Act 1969 or any rules or bye-laws. The Gauhati Municipal Corporation Act 1969 bestows the Government of Assam to adjust the administrative confines of the Guwahati Municipal Corporation.

Under Section 425 of the Gauhati Municipal Act of 1969, if the Government of Assam is contented that the Guwahati Municipal Corporation is not capable enough to execute or is a consistent dodger in carrying out its civic responsibilities or misuses powers, it may take over from the Guwahati Municipal Corporation and may appoint one Commissioner or Council of Administrators to manage its functions.

The Gauhati Municipal Corporation Act 1969 provides for the engagement of a Commissioner of the Corporation. He is to be selected from among the adequately higher-ranking and proficient officers of the Government of Assam. As the Chief Executive Officer, all the decision-making powers of the Guwahati Municipal Corporation are vested in him. As a whole-timer of the Guwahati Municipal Corporation the Commissioner is to be present at all the meetings of the Corporation but he has no voting rights and he is the exclusive keeper of the records of the Guwahati Municipal Corporation. The Commissioner has to implement the
various resolutions approved at the meetings of the Guwahati Municipal Corporation. At the end of each year he puts forward an administrative report in detail to the Government of Assam concerning the performance of the Guwahati Municipal Corporation all through the year. He may however, in his own responsibility delegate his ordinary as well as his emergency powers in writing to any municipal officer under section 35 of the Guwahati Municipal Corporation Act, 1969. Such delegation is communicated to the Mayor. Thereby he may authorise the Health Officer, the Engineer, the Revenue Officer or any other officeholder who is the head of a department working under the Commissioner, or any person in provisional charge of duties and responsibilities of any of the officers, implement the emergency powers bestowed upon him.

The Guwahati Municipal Corporation may employ individuals including bureaucrats and professionals on deputation from the Government of Assam to be the Chief Engineer, the Collector, the Chief Accounts and Audit Officer, the Chief Health Officer, the Chief Municipal Secretary and other posts. The Guwahati Municipal Corporation structures the diverse service conditions of these officers. The engagement of every such official is an issue subject to the endorsement of the Government of Assam. If the Government of Assam does not convey its sanction to the appointment of any official within a period of 45 days from the date of acknowledgment of the communiqué from the Guwahati Municipal Corporation, the appointment is considered to have been approved. If consent to the appointment is declined, the Guwahati Municipal Corporation can make fresh selection to the assignment within 45 days from the date of the receipt of the refusal message from the Government of Assam. In case the Guwahati Municipal Corporation fails to make a
fresh choice within the fixed period of time, the Government of Assam may appoint an individual to the post.

In the financial domain, the Government of Assam can brandish significant powers and clout over the Guwahati Municipal Corporation. The Guwahati Municipal Corporation cannot have a loan without a preceding authorization of the Government of Assam. It necessitates taking consent of the Government of Assam for imposing surcharges on assessments.

The detailed accounts of the Guwahati Municipal Corporation are transmitted to the Government of Assam. They are subject to audit by the Government of Assam, which exercises control by advancing financial assistance to the Corporation. The accounts of the Guwahati Municipal Corporation are assessed by or under the instructions of the Examiner of Local Accounts. The information of the accounts so audited is dispatched to the Guwahati Municipal Corporation and a copy to the Government of Assam. The Guwahati Municipal Corporation, the Standing Committees or the Commissioner of the Guwahati Municipal Corporation has to take care of any glitch or malfunction as conveyed by the Examiner of Local Accounts and have to give an account to the Government of Assam on the counteractive measures taken. But if the Guwahati Municipal Corporation take no notice of the anomaly and ignore it and does not find an antidote to the shortcoming or the abnormality as pointed out within a realistic time limit, the issue is referred to the Government of Assam, which is authorised to pass instructions. The orders of the Government of Assam are ultimate and the Guwahati Municipal Corporation has to take act in accordance to that direction. Refusal to comply on the part of the Guwahati
Municipal Corporation instigates Government action and the costs sustained are drained from the Municipal Fund of the Guwahati Municipal Corporation.

3.2.9: Delegation of Powers & Functions:

The Guwahati Municipal Corporation Act 1969 under Section 6(i) provides that subject to the requirements of the said Act, and rules, policies and bye-laws made there under, the municipal administration and management of the city of Guwahati shall reside with the Guwahati Municipal Corporation. But analogous to the other urban local governments, the Guwahati Municipal Corporation has no distinctive powers and authorities. The powers as well as functions of the Guwahati Municipal Corporation are restricted by the local Act i.e. the Guwahati Municipal Corporation Act 1969. The effect is colossal and awe-inspiring.

The Guwahati Municipal Corporation Act 1969 has made the Guwahati Municipal Corporation a body corporate possessing its own lawful existence and uniqueness. As such the Guwahati Municipal Corporation has the power to make a purchase of and possess property, keep up accounts, put forward finance on credit and have a loan in its name and litigate and be sued in turn. The colossal powers and functions of the Guwahati Municipal Corporation can be catalogued as follows:

Powers relating to its composition:

The Guwahati Municipal Corporation is authorized to elect its Mayor and Deputy Mayor and the members of the various Standing Committees. It may recruit all other officers (save the Commissioner) for implementing its responsibilities. The Guwahati Municipal Corporation
shall also put together rules and regulations vis-à-vis their remuneration and other service conditions. Appointment and suspension of Special and Joint Committees of the Corporation and assigning their functions and responsibilities is the entitlement of the Guwahati Municipal Corporation.

**Rule making Powers:**

The Guwahati Municipal Corporation is authorised to formulate policies, set parameters and create byelaws for its own function so as to manage dealings within the structure of the Gauhati Municipal Act 1969. Those policies, parameters and byelaws can be transformed and adapted by the Guwahati Municipal Corporation.

**Executive Powers**

The decision-making and the managerial liability of Guwahati are conferred on the Guwahati Municipal Corporation by the Act of 1969. With this objective in view the executive authorisation of the Guwahati Municipal Corporation are vested in and are put into effect by various municipal officials including the Commissioner of the Guwahati Municipal Corporation. This formidable line-up of bureaucrats carries out a whole array of mandatory and discretionary responsibilities. Some of the executive powers may be listed as follows:

(a) The power to take over land within the confines of the Guwahati Municipal Corporation with the intention of building markets, schools, playgrounds, parks, hospitals or for any other public purpose.

(b) To organize plans for the improvement of any area within the sphere of the Guwahati Municipal Corporation.

(c) To hand out building permissions.
(d) To issue trade licences for setting up of factories and business.

(e) To designate the roads and numbering the houses.

(f) To seal off for community use certain roads or bridges within its jurisdiction either provisionally or lastingly.

(g) Public health, safety and convenience, water supply, lighting and drainage, and sewerage disposal.

(h) Public safety and containment of nuisances.

(i) Prevention and extinction of fire.

(j) Maintenance of vital statistics like information of births and deaths.

(k) Control and monitor markets and slaughterhouses.

(l) Regulation of places for the disposal of the dead.

(m) Measures for preventing and checking the spreading of contagious diseases.

(n) Taking measures against food adulteration.

(o) Fulfilment of other obligations imposed by the Gauhati Municipal Act, 1969.

**Financial Powers:**

Considerable pecuniary powers have been allotted to the Guwahati Municipal Corporation by the Gauhati Municipal Corporation Act 1969. Under the provisions of the Act the Guwahati Municipal Corporation has the authorization to make its own budget, charge and gather taxes. The taxes can be augmented and the Guwahati Municipal Corporation upon certain items may enforce surcharges. It can also float credit with prior say-so of the Government of Assam. It can also form a Sinking Fund so that the loans of the Guwahati Municipal Corporation can be met. It can,
with the endorsement of the Government of Assam impose octroi duties on inward bound items and goods to the territorial jurisdiction of the Guwahati Municipal Corporation and allow respite of taxes to the individuals who are not capable of paying them.

**Judicial Powers: -**

The Gauhati Municipal Corporation Act 1969 empowers the Guwahati Municipal Corporation with measly judicial powers. At best the Guwahati Municipal Corporation can put on trial persons and trade unions for breach of its rules and regulations. Fee can be put on to this effect and the Guwahati Municipal Corporation also has the authority to attach the assets of the individuals' who have evaded taxes due to it.

**Discretionary functions: -**

The discretionary/mandatory functions of the Guwahati Municipal Corporation incorporate enhancement of education and sports and continuance of primary education, institution of libraries, museums and art galleries; organization for civic reception to individuals of excellence; arrangement of fairs and exhibitions; establishment of rest houses, children homes, shelter for underprivileged and disabled persons etc.

**3.3: The Effect of the 74th Constitution Amendment Act on GMC Act:**

Immediately after the enactment of the 74th Constitution Amendment Act, 1992, the Government of Assam enacted the Guwahati Municipal Corporation (Amendment) Act 1994 (Act No XXVI of 1994). The Amending Act modified the Section 3 and supplemented it with two clauses namely clause (88) and (89). Clause (88) describes the “State Finance Commission” and clause (89) defines the “State Election
These two provisions are the outcomes of the 74th Constitution Amendment Act, 1992. Further, making improvements in the Section 5 of the original Act it specified that for every 15,000 population there shall be a Councillor. Following the provision made the Constitution of India, the 74th Constitution Amendment Act, 1992 also specified the reservation of seats for Scheduled Castes, Scheduled Tribes and women candidates. Likewise the 74th Constitution Amendment Act, 1992 also provided that the office of the Mayor shall be reserved for the Scheduled Castes, Scheduled Tribes and women on roster basis. The aid Act also made room for Ward Committees, detailed their powers, functions and tenure by inserting a fresh section namely Section 20A.

In a further amendment in the same year by Act no XXXII of 1994, the Section 5 (1) (a) (i) was amended again plummeting the number of population against which one councillor was specified from 15,000 to 7,500. By another Amending Act namely the Act XIII of 1995, all the reservations made in respect of the Scheduled Castes, Scheduled Tribes and women were brought under the control of the Government of Assam by initiating two new clauses namely clause (vi) and clause (viii) to Section 5(1)(a) which states that seats reserved for Scheduled Castes, Scheduled Tribes and women shall be determined by the State Government by order published in the official gazette. This Amendment also introduced the rotational allotment of reserved seats to different wards.

The Act was amended again vide Act no XXII of 1995 which amended the Section 5(1) (a) and provided that the office of the Mayor shall be reserved for Scheduled castes, the Scheduled Tribe and women on roster basis at six percent, four percent and forty percent of the roster point
respectively. A new Schedule namely the Fifth Schedule was inserted to the Act stating the roster points of reservation. There were also several other amendments such as the Amendment of 2003 (Assam Act No IX of 2003) and Amendment of 2004 (Assam Act No VII of 2004) to the Act which are of course not directly related to the Constitution 74th Amendment Act.