Chapter I

Introduction

1.1. Definition of Local Government
1.2. Characteristics of Local Government
1.3. Nature and Scope of Urban Local Government
1.4. Significance of Local Government
1.5. The Seventy Fourth Constitutional Amendment
1.6. Municipal Corporation
1.7. References
Introduction

This chapter aims to throw light on the salient features of the Local Government. The Local Government is an integral part of the three-layered structure of government in India. The other two layers are the Central Government and the State Government. The Local Government is at the bottom of the structure of governmental institutions with national government at the top and the State Government occupying the middle rung. The Local Government is classified into Urban Local Government and Rural Local Government. The former reveals itself in urban local institutions comprising Nagar Panchayat, Municipal Councils and Municipal Corporation. The latter manifests itself in rural local institutions such as Gram Sabhas, Gram Panchayats, Panchayat Samities and Zilla Parishads.

1.1 Definitions of Local Government:

There have been myriad definitions of Local Government. Encyclopaedia Britannica defines it as "an authority to determine and execute measures within a restricted area inside and smaller than the whole state. The variant local self government is important for its emphasis on the freedom to decide and act". ¹

According to John J. Clarke, "Local Government appears to be that part of the government of a nation or state which deals mainly with such matters as concern the inhabitants of particular district or place." ² In the words of B. K. Gokhale, "Local self government is the government of a specified locality by the local people through the representatives elected by them." ³ Professor W. A. Robson is of the opinion that Local Government may be said to involve the conception of a territorial, non-sovereign community, possessing the legal right and the necessary organisation to regulate its own affairs. This in turn presumes the involvement of the local

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community in the running of its own affairs as well as the existence of local authority with power to act independently of external control. A more correct meaning of Local Government has been given by K. Venkatarangaiya. According to him, "Local Government is the administration of a locality, a village, a city or any other area smaller than the state by a body representing the local inhabitants, possessing a fairly large amount of autonomy, raising at least a part of the revenue through local taxation and spending its income on services which are regarded as local and, therefore, distinct from state and central services."

According to V. Vankata Rao, "Local Government is that part of the government which deals mainly with local affairs, administered by authorities subordinate to the State Government but elected independently of the state authority by the qualified residents." P. Stones points out that "Local Government is that part of the government of a country which deals with those matters which concern the people in a particular locality". He further states that it works as communities housewife in that it improves our surrounding to make them fit to live in, cleans the streets, provides education to our children, constructs our houses and does all those related jobs which go towards leading a civic life.

The study of a variety of definitions given above reveals that Local Government is an amalgam of several attributes and there is no unique definition which includes all of them. These attributes are: a local body, local residents controlling that body through elected representatives, autonomous nature of that body in the sense of being free from reins of higher authorities within at least a limited domain, a differentiation between local and non-local services and local taxation. Above analysis makes it clear that a Local Government institution has many aspects. Apart from possessing a mixed jurisdiction and population, it has a government like institutional set-up which caters to the needs and aspirations of the people. However, it does not enjoy sovereign status and is subordinated to higher forms of government. It enjoys limited power and jurisdiction and has to

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perform its functions within the parameters laid down in the law of the State Government. It has complete autonomy within such jurisdiction. G. M. Harris has defined Local Self Government as "a government by local bodies, freely elected, while subject to the supremacy of the national government; is endowed in some respect power, discretion and responsibility, which it can exercise without control over its decisions by higher authority. The extent of power, discretion and responsibility which the local bodies possess is a matter of degree, which varies considerably in the various countries."

The above mentioned definitions of Local Government reveal two aspects: a) The relationship of local bodies to higher forms of government. b) Their responsibility to the local community to be determined by the following principles: i) It is necessary to work towards the smallest possible unit that can perform a specific task efficiently so that the Local Government can reach the door of the people. ii) The representative character of the unit will be lost if it is large and its members cannot regularly attend its meetings. iii) Wherever possible, natural local loyalties should be the basis of the unit, though this principle will be subordinated to efficiency.

1.2 Characteristics of Local Government:

The above analysis pertaining the meaning and concept of Local Government makes it plain that Local Government is based on the following important characteristics.

i) Local Jurisdiction:

The area of a Local Government unit, as far as its jurisdiction is concerned, is fixed by the State Government. The terms that can be used for this area are a city, a town or a village. Subject to changes from time to time through legislation, the territorial limits of a local body unit are fixed by the State Government.

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ii) Local Administration:

An authority or body of persons elected from among the people in an area, run the administration of that particular area. Such an authority containing elected representatives of the people are responsible for management of local affairs in that area.

iii) Civil amenities for local residents:

The primary duty of the Local Government is to provide civic amenities to the citizens near their door-steps. Healthy living is made possible by the provision of these civic amenities. These services are for those people who are living within that limited territory for which the Local Government unit has been established. It has been correctly emphasised that the local residents should benefit from the amenities provided by the Local Government.

iv) Local Revenue:

It is imperative that every Local Government unit is financed adequately in order to perform its functions effectively. The finances raised locally are largely used to provide services to local inhabitants. The local inhabitants have to pay taxes levied by the concerned local authority. The financial aid is also provided by the central and State Governments through grants-in-aid. They are also permitted to raise loans to enable them to perform the duties assigned to them.

V. Autonomy in Decision Making:

The local autonomy implies that the Local Government is free to make decisions and perform the activities and functions assigned to them by the statutes under which they have been established. It also means the inhabitants of a local area have a right to choose their representatives to govern the locality concerned, in accordance with the laws made by the local body, and to adopt the budget.

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However, it should be made clear that Local Government institutions are not self-formed entities nor enjoy a sovereign status and are dependent on higher levels of government for their establishment, rank, powers and functions.

vi) Local Involvement:

The active participation of the people determines the success or otherwise of the developmental plans of the Local Government. The participation of the local people in administration depends on the Local Government. People's participation is a must if developmental goals are to be met.

vii) Leadership From Locality:

The people whom the Local Government is meant to serve, especially the ones living in remote and rural areas are generally illiterate and not well-versed with the functioning of the local bodies. As a result, these people need a strong leadership. Such a leadership is provided by representatives elected from among people from the local area in regard to plans, programmes and policies.

viii) Accountability to Local People:

The Local Government is accountable to the people for the provision of the civic amenities to the people. People generally keep a watch on the functioning of the Local Government authorities. If the Local Government fails to meet the expectations of the people, it faces severe criticism of the people.

ix) Local Development:

The Local Government is concerned with the overall development of the people living in a particular area. The Local Government therefore, aims at development in every activity.

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1.3 Nature and Scope of Urban Local Government:

The municipal government is no longer what it was envisaged in earlier times. The functions have increased manifold with the rapid increase in urbanisation and consequent emergence of urban problems.

During the First Five Year Plan, the Planning Commission was of the view that the policy direction should favour self-government institutions and assist them in taking on an ever-widening portion of developmental, administrative and social responsibilities. Hence, the Local Governments are expected not only to perform their regular functions like water supply, health & sanitation etc., but also to implement programmes of development. Consequently their responsibility for providing proper standard of living, urban poverty alleviation and infrastructure building have increased manifold. The sphere of activities has widened considerably and include innumerable areas. The subject matter of the study of Urban Local Government can be outlined by the following areas.

i) Urbanisation and associated problems:

The process of urbanisation is proceeding due to industrialisation, movement of population to urban areas and rapid increase in population growth. The urban population has jumped to the level of 350 million at the end of the last century from 50 million at the time of the independence. Such rapid growth of urbanisation has meant emergence of problems such as unsustainable burden on the ULB's for provision of civic amenities, unplanned and erratic growth of towns and cities, growth of slum areas, paucity of houses, spread of urban poverty, increase in pollution and unemployment etc.

ii) Form of Urban Governments:

The administration of urban areas is run by the local bodies of different forms such as Nagar Panchayats, Municipal Councils, Municipal Corporations and "Finances of Nagpur Municipal Corporation"
Cantonment Boards. The form of Local Government is decided by criteria such as the population of a city/town, territorial dimensions, financial resources as provided in the Constitutional (74th Amendment) Act 1992.

iii) Municipal Laws:

The Local Government is a state subject and is created by the legislature of the concerned State Government by enacting proper laws defining its status and providing for the constitution of elected councils, member co-option and nomination, mode of election, tenure of council, election and dismissal of office-bearers, their powers and responsibilities, finances, state supervision etc. The various Acts are subject to amendments from time to time in the light of changing requirements of Urban Governments.

iv) Management of Municipal Staff:

Given the greatly expanded responsibilities and complex financial, logistical and administrative problems, the urban local bodies require efficient and well-trained personnel to occupy various positions. They can be enticed to the municipal services only when they are selected on the basis of good qualifications, given emoluments, opportunities for promotion and other service conditions comparable to those offered to their counterparts in other government services. It would be preferable if the state cadres of municipal services are integrated in the corresponding state cadres. Apart from raising the morale of the local bodies personnel, it would create homogeneity between State Government and Local Government source and lift the level of performance.

v) Administration of Municipal Finance:

In order to function properly, the Municipal governments need to raise finances according to the responsibilities and obligations entrusted to them.

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However, they suffer from an acute shortage of funds. The ULB's have not shown much ability for effective management and control. The Urban Governments suffer from wastage, revenue losses, untapped income sources and inability to impose new taxes and increase the existing ones. Moreover, the reluctance on the part of Central and State Governments to share revenues with Urban Governments, restrictions on raising loans and insufficient grants from central and state govenments also contribute to poor finances of the Urban Governments. In order to ensure their financial viability, budgetary processes need to be demarcated by training officers and putting in place a proper system of internal and external audit. Another step towards ensuring financial soundness is the provision of State Finance Commissions in the Constitution (74th Amendment) Act 1992.

vi) State Control and Supervision:

The State Governments exercise control & supervision over the Urban Governments to maintain the minimum standard of services and effective performance of their functions. The performance of the Urban Government is also subject to judicial control for their acts of omission and commission. But instead of giving direction, counsel and encouragement to Urban Governments in the performance of their functions in desired and efficient manner, the governments authority over them is negative, regulatory and limiting in nature, the worst form of which is dissolution which hands out punishment not only to elected representatives of the council, but the citizens in a locality by denying them of the democratic form of Local Government. The urban centres play an important role in increasing national prosperity. The central and State Governments should, therefore, act as their supporters and patrons and not as their powerful competitors or aloof on lookers.

vii) Development and Planning for Urban Areas:

Rapid urbanisation has led to disorderly, random and ugly, growth in settlements. Proper planning is therefore required to tackle the problems associated

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with urbanisation. A crucial task of planning in exclusively physical terms is the proper use of land- a rare commodity in most urban settlements and its sensible and opportune reservation for future use. Existing roads have to be broadened and new ones constructed, locations are needed for schools, dispensaries, public parks, residential buildings, industrial units, shops, community facilities and many other uses. The Land planning is therefore an important requirement.

Planning has to be legislated upon by the State Government and also ensure its implementation by the Urban Governments. Accordingly, the State Governments have set up departments of Town and Country Planning for fulfilling this goal.

Viii) Agencies for Special Purposes:

The State Governments on the pretext of lack of income sources, absence of technical know-how and inadequacy in the performance of the obligatory functions by Urban Governments, establish certain single-purpose or multi-purpose agencies to carryout functions which rightly belong to the sphere of Urban Governments. The examples of these agencies are Water Supply and Sewerage Boards, Pollution Control Boards, Improvement Trusts etc. An investigation of the functions, constitution, finances and powers of the urban institutions and their relationship with the Urban Governments and their performance forms crucial part of the study of Local Government.

ix) Ministry of Urban Development and its connected and subservient offices:

The Central Ministry of Urban Development established in 1985 and now known as the Ministry of Urban Affairs and Employment is entrusted with the task of preparation and supervision of programmes in the areas of urban development, poverty removal, housing and water-supply. All these areas are state subjects, but the Central Government plays a harmonising and supervisory role and also supports those activities through centrally sponsored schemes, institutional credit and know-how.

"Finances of Nagpur Municipal Corporation"
The offices attached to the offices of the Ministry of Urban Affairs and Employment are National Building Organisation, Central Public Works Department, Directorate of Estates, Directorate of Printing and it's subordinate offices constitute Town and country Planning Organisation, Land and Controller Development Office, Controller of Publication and Controller of Stationary. It’s public sector undertakings are National Buildings construction Corporation Ltd; Housing and Urban Development Corporation, Hindustan Prefab Ltd. and its statutory and autonomous bodies are Delhi Urban Art Commission, National Capital Region Planning Board, National Institute of Urban Affairs and Delhi Development Authority.

The constitution and duties of all these organisations would comprise a part of the study of those interested in Urban or Local Governments.

x) Seminars and Conferences:

The Central Council of Local Self-government has been instrumental in organising various conferences and seminars, prominent among which are Conferences of State Ministers of Local Self Government and Town and Country Planning, of Corporation Members and Mayors. The former Ministry of Urban Development convened conferences of municipal executive officers and Nagarpalika Sammelans on the eve of the preparation of Nagarpalika Bill in 1989. In the same manner State Governments also convene conferences of presidents and councillors of municipal bodies and of their executive authorities. Universities, institutions and colleges hold seminars on various themes of urbanisation and administration of urban areas. A study and analysis of the proceedings of these seminars can be valuable to the students of Urban Government.

xi) Reports of Commission and Committees:

The Government of India has been setting up committees and commissions at regular intervals for investigating various urban issues and to suggest possible ways of their resolution. The most noteworthy among them in the preindependence period have been: Royal Army Sanitation Commission (1863), Lord Ripon's

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Resolution on Local self Government (1882), Royal Commission on Decentralisation (1909), Government of India Resolution (1918), Taxation Enquiry Commission on Local Taxation and Local Government (1925), Indian Statutory Commission on Local Self Government (1929). The important committees and commissions in the post independence period were: Local Finance Enquiry Committee (1950), Taxation Enquiry Committee (1953), Committee on Augmentation of Financial Resources of Urban Local Bodies (1963), Rural-Urban Relationship Committee (1963), Administrative Reorganisation Committee (1966-70) and National Commission on Urbanisation (1988). In the same manner, State Governments have been constituting committees to look into their urban affairs. The detailed study of these reports would comprise an integral part of the scope of Urban Local Governments.

xii) Role of Municipal Bureaucracy:

The state bureaucracy is vested with enormous power in the administration of urban local bodies. The Deputy Commissioners play a vastly important role in the management of the urban affairs inspite of the creation of the Directorate of Local Bodies and Office of Regional Deputy Directors. Both the deliberative and executive authority are entrusted to the administrator appointed to administer a superseded local body. The Mayor who represents the elected body of the city often enjoys less authority than the municipal bureaucracy, especially the Municipal Commissioner in the administration. A vital part of the study of the Urban Local Government is the study of the relationship between the deliberative and executive wings of the city governments.

xix) Reforms in Municipal Administration:

The Central and State Governments in an effort to improve Urban Governments have been mulling the recommendations made by a number of committees and commissions and taking the necessary action by enacting proper legislation with a view to include the required changes for the better functioning of

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urban local bodies. Among many such attempts made as a consequence of the
the reports of commissions and committees referred above, the most recent one is
the introduction of the Nagarpalika Bill (1989) in the Parliament which included
clauses of enormous importance for restructuring and renovating Urban Local
Government. The Bill was, however, rejected by Rajya Sabha. It was again
presented in 1991 and was passed as the Constitution (74th Amendment) Act 1992.
It will introduce an era of substantial reforms in Urban Local Government.

xv) Organisations and Unions of Municipal Staff:
The employees of the Municipal bodies organise themselves into Unions
at the local, state and national levels for the protection of their interests and hold
protest marches and demonstrations to put forward their demands in an effective
way and to make them accepted by the concerned government. Many times they
also resort to strikes, causing considerable strain to the public. The agitations have
been successful in meeting the demands of the municipal employees like starting
pension scheme and gratuity.

On similar lines, Presidents of the Municipal Committees and Mayors of
Municipal Corporations also form their associations for the promotion of their
interests.

xvi) Research and Evaluation of Urban Plans and Policies:
Research and evaluation of urban plans, policies and strategies is of
immense significance in the study of urban local bodies. Allocations are made by
Central and State Governments towards this purpose. Various organisations and
institutions undertake studies on different problems of urbanisation and
management of urban areas. Their research findings can be utilised in shaping of
urban policies regarding housing etc. Evaluation of various programmes aimed at
improving the civic amenities can help the concerned governments to make

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necessary changes in them to make them more effective.

xvii) Comparative Urban Local Government:

Comparative study enables the researchers to examine the extent to which the programmes and policies implemented abroad can be adopted at home. The study of Local Government system of U.K., U.S.A. and France is of vital significance to the study of Urban Local Government in our country.

1.4 Significance of the Local Government

Vibrant local self-governing institutions are instrumental in sustaining a democratic form of government. The Local Government institutions make it possible for the people to take part in the government with freedom and vigour. They are necessary to inculcate and support the spirit of enterprise and initiative on the part of the people.

The significance of the Local Government may be enumerated as follows.

i) School of Democracy:

The success of democracy in a country is incumbent on the success with which the democracy is implemented at the grass-root level. The idea that the self-governing local bodies are the islands and training grounds of democracy, has been underlined by an advisory committee of the Commission on Inter-governmental Relations:

"Local Governments are to total government what basic issues are to human body. Without them, government would have no vitality. The countries, cities, towns, villages and boroughs serve as training schools for the leaders of government and in the affairs of Local Government are tried those who aspire to state and national offices."\textsuperscript{10}

Pandit Jawaharlal Nehru signifying the importance of local self-government in independent democratic India had remarked, "Local Self Government is and

"Finances of Nagpur Municipal Corporation"
must be the basis of any true system of democracy."^{11}

**ii) Effective Solutions of Local Problems:**

Not all the problems are expected to be resolved by the Central and State Governments. Some of the problems having a bearing on governance can crop up at the local level and need to be negotiated locally, taking into consideration the local requirements, atmosphere, environment and wishes of the people. In order to be familiar with all these things, the government has to go to the grass-root level so that local problems find an effective solution.

**iii) Agency for political and popular education:**

Prof. Laski, while praising the role of the Local Government as an educational institution, says, "the institution of Local Government is educative in perhaps a higher degree at least contingently, than any other part of government. And it must be remembered that there is no other way of bringing the mass of citizens into intimate contact with persons responsible for decisions."^{12} Lord Ripons' Resolution of 1882 underlined the requirement of political and popular education through Local Government." It is not primarily with a view to improvement in administration that this measure is put forward and supported. It is chiefly designed as an instrument of political and popular education."^{13} Local government guarantees effective involvement of people in administration and makes them realise their duties towards the society.

**iv) Training for emerging leaders:**

The Local Government is also an important institution for training emerging politicians, who rise to the state and central level politics after the experience gained in the art of politics and government at the local level. Many eminent leaders like Lala Lajpat Rai, Ferozshah Mehta and Motilal Nehru had risen from the local level.

"Finances of Nagpur Municipal Corporation"
politics and brought a measure of authority and dignity to these Local Government institutions that they deserved.

v) Provision of civic amenities:

The local bodies perform a diversified set of activities to provide various civic amenities to the people. A healthy and comfortable civic life requires functions to be performed by these institutions such as garbage collection and disposal, maintenance of streets, drainage, watersupply, health service etc. though they come across as small, routine and insignificant chores, except in the event of a collapse which results in crippling of social and economic life which brings forth their significance.

vi) Sharing the Responsibility of Central Government:

Local Governments perform a large number of functions which otherwise would have been performed by the Central / State Governments. The Central and State Governments become incompetent apathetic and inefficient if they are burdened with too many responsibilities. By entrusting the running of the government to the local masses, the State and Central Governments can concentrate on functions for which they are better suited. Local Governments are testing laboratories for new methods of government organisation and socio-economic policies.14

vii) Efficient Management of local services:

The availability of finances determines the performance of government at any level be it local, state or central. Local Governments finance their functions mostly by levying taxes locally. The Local Government sensitises the people about financial management. The people become aware that it is their own money which is spent on local services. Hence, it becomes imperative for the local people to be more watchful and aware to make services more economical and to avoid wastage.

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viii) Medium of Dialogue between State Government and the Community:

The process of communication between the State Government and the community is made possible by the Local Government. The demands made by the local community are articulated by the Local Government to the State Government and on the other hand the people living in distant areas become aware about the Central and State Government policies and programmes through the Local Government. Thus, the Local Government is instrumental in ensuring close contact between the local community and higher levels of governments by acting as a channel of communication.

ix) Control over Bureaucracy:

In the absence of a strong Local Government, the stranglehold of bureaucracy over community increases. The community is controlled by the bureaucracy in a centralised system of administration within a democracy. The faith and the ability of the people to show initiative is affected by the stubborn behaviour of bureaucrats. The bureaucracy has been reined in by the transfer of power to the democratically elected government from the bureaucrats.

1.5 The Seventy-fourth Constitutional Amendment:

Though the first Urban Government in India was set-up as early as 1688, it cannot be claimed that it has been a great success. The reason for this principally lay in the low priority accorded to the Urban Government in India. The municipal bodies did not have the adequate financial resources to perform their functions effectively. They did not have the continuity of existence as they could be superseded at will for indefinite periods. This meant that it was not legally binding to hold elections within a specified time limit in case of supersession. The relationship between the concerned State Government and municipal bodies was not on a firm footing. This was particularly so in respect of the functions and taxation

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powers of the urban bodies. These weaknesses were a public knowledge and suggestions were made time and again to correct these weaknesses by giving a constitutional status to the Urban Government.

The P. V. Narsimha Rao government after coming into power in 1991 introduced the Constitution (Seventythird Amendment) Bill, 1991. It was passed by the Loksabha and the Rajya sabha in December 1992. After it was ratified by more than half of the state assemblies, it received the assent of the President on 20 April 1993 and came to be known as the Constitution (Seventy Fourth Amendment) Act 1992. This amendment, coming into effect from April 1993 adds a new part, namely, Part IX in the Constitution, which deals with matters pertaining to Urban Government.

The structure and composition of municipal government as laid down in Constitution (74th Amendment) Act 1992 is as follows:

There were a variety of urban bodies existing at that time in the country. These were Municipal Corporations, Municipalities, Town Area Committees, Notified Area Committees. These have now been whittled down to three types: Nagar Panchayats Municipal Councils, Municipal Corporations.

A Nagar Panchayat is supposed to serve a transitional area. Such an area is primarily rural in nature, which over a period of time acquires urban characteristics. Such an ULB would be expected to perform both rural and urban functions. Even today, Nagar Panchayats are found in some states and have been functioning satisfactorily.

The Municipal Councils are set-up for smaller urban areas, while for larger urban areas Municipal Corporations are established. The criteria such as demographic conditions which are applied for constituting a particular type of Municipality differ greatly from state to state. The matter to decide which specific type of Municipality will be constituted for each urban area has been left to individual State Governments. The urban bodies to be constituted for different areas would
be specified by the governor taking into account.

- Population of the area
- Population density
- Revenue generation by the local body
- Proportion of people in non-agricultural activities
- Financially important and other factors.

**Composition of Municipalities:**

All the seats in a Municipality are supposed to be filled by direct elections except as provided below. The territorial constituencies in a Municipality for an election are divided into wards. Apart from seats filled by election, some seats may be filled by persons having exceptional knowledge and experience of municipal administration. The concerned state may make a law by which the conditions and procedure for nomination of persons may be specified. But such nominated members of a municipality will not have voting rights in the meetings of the Municipality.

Lok Sabha MP’s and MLAs of the state, elected from constituencies which comprise wholly or partially the concerned municipal area, will be voting members in the Municipality. Rajya Sabha MPs and MLAs of the state, who are registered voters in a Municipal area will get a right to be voting members of that Municipality. The chairpersons of the committees will be the voting members of the Municipality.

**Election of Chairperson:**

The procedure of election of the chairpersons of municipalities is left to be decided by the concerned state legislature, in order to provide more elasticity and flexibility at the local level. There may be direct election or a chairperson may be elected from among the members of the municipality concerned.

**Wards Committee:**

Each Municipality is composed of various wards. The number of people on the average per ward varies from 1500 to 6000 in the smaller and medium-sized
Municipalities. However, in the large cities the average population per ward may range from 30,000 to 2 Lakhs. This leads to the common citizen losing access to the elected representative. Hence, proposal has been made for the formation of the wards committees in Municipalities with a population of 3 Lakhs or more.

The Permission has been given for constituting wards committee by combining two or more wards. The composition, the territorial jurisdiction and the manner in which seats in the ward committees shall be filled has been left to be determined by the state legislature. An elected member of a Municipality from a ward within the territorial area of the wards committee will have the right to be a member of the wards committee. In other words, such a member will be an ex-officio member of the wards committee.

If the wards committee is for a single ward, the councillor elected from that ward will be the chairperson of that wards committee. If the wards committee consists of two or more wards, councillors from one of the wards will be elected as chairperson of the wards committee by the members of the wards committee.

Others committees:

The law of the state may stipulate the formation of committee other than the wards committee like Zonal Committees, Standing Committees. The chairperson of such committees will find representation and have voting rights in the concerned Municipality.

Reservation of seats:

The Provision of reservation has been made in Municipal bodies for scheduled castes and scheduled tribes and women in order to ensure adequate representation for them. The total number of seats to be reserved in the council shall be the same as the proportion of the population of SC/ST to the total population in that area. These reservations concern only with the seats filled by direct elections. Within the seats reserved for SC/ST, not less than one third are to be reserved for

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women. This is a binding provision.

In regard to women, not less than one third of total number of seats shall be reserved, inclusive of the seats to be reserved for women belonging to SC/ST. These reservation will apply only to the seats filled by direct elections. Seats reserved for women can be allotted by rotation to different constituencies in a Municipality. However, this is an optional provision and the State Government is free to decide upon the mode of allotment of reserved seats.

The state legislatures are required to make provision for the reservation of the office of the chairperson in Municipalities for SC/ST & women. The extent and manner of reservation will be determined by state representation of SC/ST and women in relation to the office of chairpersons of Municipalities to uphold the spirit of the Constitution.

**Municipal Elections:**

The term of the Municipality will be five years from the date it is appointed. The election to the Municipality is required to be held before the expiry of its term. Hence the State Government is required to take advance action for conducting elections to the Municipalities before the tenure of five years is over.

The state law cannot provide for the supersession of a Municipality. Furthermore, the state legislatures will not have the power to amend any law which can lead to the dissolution of the new Municipality before the expiry of normal term of five years. This provision has been made to remove the possibility of arbitrary suspension of Municipalities by State Government.

**Dissolution:**

The State Government may take a decision to dissolve a municipal body before expiry of its normal term of five years. However, it is incumbent on the State Government to give the opportunity of being heard to the Municipality.

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New elections to the Municipality are required to be held before the six months from the date of dissolution of the old one. This means that the Municipality can remain dissolved for a period not exceeding six months.

The new Municipality so constituted after the dissolution of the old one will continue for the remainder of the term of the old Municipality after the dissolution. These provisions ensure that State Governments will be dissuaded from arbitrarily dissolving municipalities in the State.

Disqualification for Membership:

Disqualifications prescribed for being a member of a Municipality are similar to those of being an MLA. The minimum age for being elected as a member of a Municipality is 21 years.

State Election Commission:

Each State / Union Territory will have to constitute a State Election Commission. The preparation of electoral rolls for and holding of elections to the Panchayats and Municipalities shall be vested in this State Election Commission. The Government of the State will appoint the State Election Commissioner who will head the said Commission.

The rules pertaining to conditions of service and the term of office of the State Election Commissioner may be determined by the Governor. The State Election Commissioner can be removed only on grounds similar to and a manner similar to those by which a judge of the High Court can be removed from his office. The service conditions of the SEC cannot be tampered with after his appointment. The Governor has to make available to the SEC such staff as may be requested by him for the discharge of functions conferred on the State Election Commission.

Municipal Powers and Functions:

The Municipalities are empowered with such powers and responsibilities as would enable them to perform their functions effectively. The State Governments
by law will lay down powers and functions which would be given to the Municipalities in respect of the preparation of economic development and social justice plans and for effective implementation of schemes. The state legislature may also specify by law powers and authority to be given to Wards Committees and other committees in order for them to carry out the responsibilities entrusted to them.

The civic functions to be performed by the Municipalities are well-known. However, the Constitutional Amendment envisages the scope for the Municipal functions to go beyond the mere provision of civic amenities. The civic bodies are now expected to perform an important role of preparation of development plans and their implementation, especially those designed for urban poverty alleviation.

The Twelfth schedule of the Constitution has outlined an illustrative list of functions that may be entrusted to Municipalities. The state legislatures would be free to alter this list while outlining the functions to be performed by Municipalities.

The illustrative list of functions as given in the Twelfth schedule are as follows.

- Urban Planning including town planning.
- Regulation of land-use and construction of buildings.
- Planning for economic and social development
- Roads and bridges
- Water supply for domestic, industrial and commercial purposes
- Public health, sanitation, conservancy and solid waste management.
- Fire services
- Urban forestry, protection of the environment and promotion of ecological aspects
- Urban poverty alleviation
- Protecting the interests of the weaker sections of the society
- Provision of urban amenities and facilities such as parks, gardens,
play-grounds.

- Slum improvement and upgradation
- Promotions of cultural, and educational aspects
- Cattle pounds; prevention of cruelty to animals
- Burials and burial grounds; cremations, cremation grounds and electric crematoria.
- Vital statistics including registration of births and deaths
- Regulation of slaughter houses and tanneries
- Public amenities including street lighting, parking lots, bus stops and public conveniences.

**Taxes and Finances of Municipalities:**

It has been left to the state legislature to specify by law matters relating to imposition of taxes. Such law may specify:

- Taxes, duties, fees etc. which can be imposed and collected by the Municipalities as per the procedure prescribed in the state law.
- Taxes, duties, fees etc. which can be levied and collected by the State Government and a share of which is passed on to the Municipalities.
- Grants-in-aid that would be given to Municipalities from the State.
- Constitution of funds for crediting and withdrawal of money by the Municipality.

**Finance Commission:**

In order to review the financial position of the Municipalities periodically, State Finance commission shall be constituted by the Governor within one year from the coming into effect of Constitution (74th Amendment) Act and thereafter, at the expiration of every five years. The Finance Commission will make recommendation to the Governor.

The Finance Commission will make recommendations on the following areas.

"Finances of Nagpur Municipal Corporation"
Distribution of proceeds of taxes, duties, fees etc. between the State Government and Municipalities.

Allocation of share of such proceeds between the Municipalities at all levels in a State.

Determination of taxes, duties, tolls and fees to be assigned or appropriated by the Municipalities.

Grants-in-aid to the Municipalities from the consolidated fund of the State.

suggest measures to improve the financial position of the state.

District Planning Committee:

The Zilla Parishad normally performs the function of planning and allocation of resources to the panchayati raj institutions. In respect of the urban areas, municipal bodies perform these functions within their respective jurisdictions. However, it is necessary to take an overall view of the development of the district and decide on the share of investments to be divided between the rural and urban institutions. Hence, a provision is made in the Constitution Amendment Act for the constitution of a planning committee to consolidate the plans prepared by the Panchayats and the Municipalities and formulate a development plan for the district as a whole. This is a binding provision and it is mandatory for the State Government to set up a planning committee for every district.

In order to give democratic character to this committee, it is laid down that atleast four-fifths of the total members of this committee should be elected from amongst the members of the Panchayats and of the Municipalities in the district in proportion to the ratio between the rural and urban population in the district.

The District Planning Committee will have regard to the following matters in preparing the Development Plan.

Spatial Planning and matter of common interest between Panchayats and Municipalities.

"Finances of Nagpur Municipal Corporation"
Sharing of Physical and natural resources including water.

Integrated infrastructure development and environment conservation.

Extent and type of financial and other sources.

**Metropolitan Planning Committee:**

The Metropolitan area comprises not only the main city corporation, but also a number of rural and urban local bodies adjoining the main city corporation. It is necessary that an orderly development of the fringe areas should take place. Hence, a proper plan of development needs should be drawn up along with the plan of the main city. Similarly, the needs and requirements of urban areas should be coordinated with various central and state-sponsored schemes and programmes.

The Act provides for the creation of a Metropolitan Planning Committee which would prepare a draft development plan for the Metropolitan area as a whole. This is a binding provision.

With a view to preserve the democratic character to the above committees, it is provided that at least two thirds of the members of these committees should be elected by and from amongst the elected members of the Municipalities and chairpersons of the Panchayats in the Metropolitan area, in the ratio of percentage of population of Municipalities and the Panchayats in that area.

**1.6 Municipal Corporation:**

The Municipal Corporation is the highest form of Urban Local Government. It is the top-most, not in the sense that it enjoys authority on lower forms of Urban Government. The Urban Local Government is not hierarchical, unlike rural government. The Municipal Corporation has higher status and enjoys a greater degree of autonomy than lower forms of Local Government.

A municipal corporation is set up under a special law passed by the state legislature.

"Finances of Nagpur Municipal Corporation"
Difference Between Council and Corporation:

The Municipal Corporation is required to be set up by enacting a special statute by the state legislature. Such a legislation may cover a single corporation or all corporations in a state. In terms of functions performed, a municipal corporation is a little different from other Local Governments. The functions of a municipal corporation are divided into obligatory and optional categories. The lone significant difference between the municipal corporation and municipalitites is perceived to be that the former deal directly with the State Government while the latter have to be at the mercy of the district collector and the divisional commissioner.

The corporation type of Urban Government is supposed to serve bigger towns where civic problems are of complex nature. As the corporation is established under a statute passed by the state legislature, different states invariably apply different standards for establishing corporations. As anticipated, corporations differ both in respect of population and resources. Corporations like Bombay, Madras, Calcutta are at one end of the spectrum; at another end are those cities with population even less than 2 Lacs. The Rural Urban Relationship Committee (1966) had recommended a corporation type of government only for cities which have a population of at least 5 Lacs and an annual revenue of a minimum of one Crore rupees. However, these criteria, based on population and revenue are too rigid and cannot be applied for conversion of a municipality into a corporation. Broadly, the following criteria may be deemed adequate for the establishment of a municipal corporation for a city.

1. Existence of a densely populated area.
2. Current development of the municipality and prospects for its future development.
3. The present and prospective financial position of the municipality.
4. Capacity and tolerance of the people to bear increased burden of taxation.
5. Favourability of public opinion for a corporation.

These criteria are by no means exact. In fact all the above criteria can be

"Finances of Nagpur Municipal Corporation"
applicable for constituting any kind of Urban Government in an area. The fact is that the state has the sole discretion to decide which town should be converted into a corporation city. Usually the continued feelings of the public in favour of a corporation status and the largeness of a town prompt the State Government to confer on it the status of a municipal corporation.

There are certain common characteristics of the corporation even though they vary both in population and revenue.

1. A corporation can come into existence only on the basis of a statute passed by the state legislative assembly.

2. The Urban Government in a corporation form is based on the division of deliberative and executive functions.

3. The corporation is headed by a mayor for a renewable term of one year.

4. The power of control and supervision is retained by the State Government. It also has the right to dissolve the council and take over the administration.

Functions of Municipal Corporation:

Broadly, there are two practices in vogue when it comes to the list of functions to be performed by the corporations. For eg., statutes of Calcutta and Madras prescribe the functions in general terms, while those of Bombay, Delhi, KAVAL towns in U. P. and GJR towns in Madhya Pradesh engage in a detailed enumeration. Secondly, there is a propensity to overload corporation with a list of all possible functions which they have to address. Thirdly, the statutes contain two broad lists of functions- obligatory and discretionary. The discretionary list ends with an omnibus function: "any other matter likely to promote public safety, health, convenience or general welfare."

"Finances of Nagpur Municipal Corporation"
List of obligatory and discretionary functions is as follows.

**Obligatory Functions:**
1. Supply of clean water and construction and up-keep of waterworks.
2. Electricity Supply.
3. Services of Road Transport.
4. Scavenging, removal and disposal of garbage.
5. Construction, upkeep, naming and numbering of public streets.
7. Demolition of dangerous buildings and places.
8. Building and maintaining hospitals, maternity and child welfare centres.
9. Construction, maintenance and cleansing of drains and drainage works and of public latrines and urinals.
10. Removal of obstructions and protrusions upon streets and other public places.
11. Measures for control and prevention of dangerous diseases.
12. Birth and Death Registration.
13. Inoculation and Vaccination.
14. Provision of the places for the disposal of the dead and their regulation.
15. Provision of primary education.
16. Fire brigade maintainance.
17. Control and regulation of eataries and restaurants.
18. Publishing annual reports and returns on administration.

**Discretionary Function:**
1. Construction of public Parks, theatres, play grounds, museums and libraries.
2. Provision of housing.
3. Maintainance and planting of trees on the roadsides.
4. Caring for destitute and disabled persons.

"Finances of Nagpur Municipal Corporation"
5. Capture and destruction of dogs, pigs and other stray animals.
7. Public receptions for V. I. P.'s
8. Marriage registration.
9. Land and building survey.
10. Arranging and managing fairs and exhibitions.

Sources of Income:

Sources of income of municipal corporations are divided into (i) tax revenue (ii) non-tax revenue. The non-tax revenue includes fees, fines as well as grants and donations from government. Grants for capital works, receipts on capital account, Loans etc. are extraordinary sources of revenue. However, a major share of the income of corporations comes from taxes.

A Corporation has the power to levy the following taxes.

1. Property tax
2. Tax on entry of vehicles and animals
3. Entertainment tax
4. Theatre tax
5. Tax on professions and occupations.
6. Tax on sale and use of electricity
7. Education tax
8. Tax on advertisements (Excluding newspapers)
9. Betterment tax on appreciation in urban land values caused by the implementation of developmental work.

Council:

Though the council is but a constituent unit of the corporation, the term corporation has come to be used interchangeably with the Council. This indicates the importance the council has come to acquire. The council is in fact an assembly

"Finances of Nagpur Municipal Corporation"
of local legislature who enact laws governing the city.

The council is constituted of members called as councillors or corporators, who are elected representatives with terms varying between three to five years. The city is divided into wards which equal the number of seats in the council.

**Mayor:**

The mayor is the first citizen of the town, representing as he does its dignity and personality. He has to preside over the deliberation in the council. The mayor is elected from amongst the councillors for a term of one year. The mayor enjoys administrative control over secretariat of the council. Some statutes have empowered the mayor to order execution or cessation of work in times of emergency. He also has the right to call special meetings of the council when he deems necessary.

The short tenure of one year and indirect election of mayor make him/her a mere figurehead than an active functionary. Since he is elected by the councillors and not directly by the people, he cannot claim popular support.

**Committees:**

The factors that compel the Parliament and state legislature to constitute committees comprising its members to discuss and act upon various activities are at work at the local level as well. The large size of the council makes it difficult to supervise and control all the activities. The media attention and the publicity to which the council is necessarily exposed, encourages the councillors to play to the gallery and discourages them from discussing substantive issues. Often the discussion on important issues is followed by voting, making the council a political body. Lack of publicity and the manner of decision making being in the nature of consensus, than through voting, the committee can act as an effective instrument for action on matters of public interest. These committees can be formed to look into various matters separately such as Public works, Public Health, Education, Hospitals, Water Works, Law & Revenue, Public Relations Committee etc.

"Finances of Nagpur Municipal Corporation"
The standing committee is the most important committee from the point of view of the powers enjoyed and the number of functions allotted. The standing committee has executive, supervisory, personnel and financial power and functions independently of the council. It is generally listed as one of municipal authorities in the statute, the other two being the municipal commissioner and the council.

The standing committee comprises members varying between seven and sixteen. The members are elected through a system of proportional representation by councillors from amongst themselves. The chairman of the standing committee is elected from amongst the committee members.

The standing committee actually works as the executive committee of the corporation. It is expected to exercise its power and perform functions in the statute. The committee is expected to oversee the functioning of the municipal commissioner, and indeed of the entire administration of the corporation. The municipal commissioner reports to the standing committee on various matters of public importance.

**Municipal Commissioner**:

The municipal commissioner functions as the Chief Executive Officer of the corporation. He has to perform all those duties enjoined on him by the Act and in emergency has the power to take any action that he deems fit. The municipal council lays down broad policies for the civic governance of the city. The implementation of these policies and the provision of the statute has been made the responsibility of the municipal commissioner. So the principle of separation of policy making from decision-making is ensured.

The Commissioner's powers are classified under two broad categories.

i) Those enumerated in the statute under which the corporation was created.

ii) Those delegated by the council or its standing committee.

The range of functions performed by the commissioner are indeed diverse. His responsibilities vary from administrative, financial and even electoral fields.

"Finances of Nagpur Municipal Corporation"
1.6. (a) Hypotheses:

i) The revenue and capital expenditure have shown an increasing trend over the period of study.

ii) The revenue receipts have grown comparatively slowly than the total expenditure.

1.6. (b) Objectives of the study:

The objectives of present study are as follows:-

i) To study the pattern and trends in revenue and capital receipts of NMC.

ii) To study the pattern and trends in revenue and capital expenditure of NMC.

iii) To analyse the allocation of expenditure on various schemes by NMC.

iv) To study the variations in the composition of revenue and capital receipts.

v) To study the variations in the composition of revenue and capital expenditure.

vi) To make recommendations and suggestions to improve the fiscal position of the NMC.

1.6. (c) Research Methodology:

The study is based on the secondary data. The required data pertaining this has been collected from the annual budgets of the Nagpur Municipal Corporation. The data has also been collected from various sources such as publications of State Government and Local Self Governments in Maharashtra, magazines, journals, periodicals, articles, newspapers etc. Some statistical tools have been used for the purpose of analysis of the study. The secondary data has been collected for the period 1991-92 to 2005-06.

1.6. (d) Chapter Scheme:

i) Chapter I - Introduction

This chapter throws light on the meaning & characteristics of the Local Government. It is followed by the discussion on the subject matter & significance of Urban Local Government. Thereafter the structure, powers & functions of municipal bodies as defined in the 74th constitutional amendment are discussed. The Last section of the chapter discusses the structure and functions of the Municipal Corporation.

ii) Chapter - II

Review of Literature

This chapter reviews literature that will be relevant for the purposes of the "Finances of Nagpur Municipal Corporation"
present study. A review of the reports of various committees, commissions & scholarly articles has been undertaken.

Chapter - III
Study of the Pattern and Trends in Revenue and Capital Receipts
This chapter analyses the pattern and trends in revenue and capital receipts of Nagpur Municipal Corporation. The receipts of the NMC are divided into nine major heads namely,
1) Octroi (ii) Water Tax (iii) Property Tax (iv) Market Recoveries
v) Government Grants (vi) Loans (vii) Advances and Deposits
(viii) Investments and (ix) Others.

Chapter - IV
Study of the pattern and Trends in Revenue and Capital Expenditure
This chapter analyses the pattern and trends in revenue and capital expenditure of Nagpur Municipal Corporation over a period of 1991 to 2005. The expenditure of NMC has been divided into nine major heads namely.

Chapter - V
Study of Allocation of Expenditure on various schemes:
The present chapter tries to analyse the expenditure incurred on various developmental schemes and programmes over the period of the study. The average annual increase in the allocation of funds to various schemes has been computed. The expenditure on various schemes and programmes as a proportion of total expenditure has been calculated.

Chapter - VI
Conclusions and Recommendations:
This chapter brings out the conclusions regarding the trends in major items of receipts & expenditure.
It is followed by various recommendations regarding the finances of the Nagpur Municipal Corporation.

"Finances of Nagpur Municipal Corporation"
1.7 References

11. Jawaharlal Nehru’s address to the conference of Provincial Local Self Government Ministers (1948).
13. Lord Ripon’s Resolution of September 1881.

"Finances of Nagpur Municipal Corporation"