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**ORGANISATION, POWER AND
FUNCTIONING OF THE DIRECTORATE
OF LOCAL BODIES, U.P.**

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2013**

DEDICATED

TO MY

PARENTS

CERTIFICATE

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PREFACE

From the very beginning we believe in "*Panch Parmeshwar*". i.e., God resides in the Panch. The concept of Local Self – Government is not alien to us, from time immemorial we have '*Panchayats*' in our villages.

Lately, efforts have been made to bring about changes in the system of Urban Local Self- Government. There has generally been an absence of serious thinking on urban development in the context of political evolution that has taken place in our country since independence. The general picture is that Urban Local Bodies have lost their vigor and initiative, partly because of greater interest, as such, in the State and Central levels of political institutions, and partly because of greater interference by the State Government in Local Administration. This latter phenomenon, may, indeed be a by-product of, the coming into existence of popular political institutions at the State and Central levels. Whereas, by and large the intention behind the creation of the Directorate of Local Bodies in U.P., was to boost the strengthening of the Urban Local Bodies and offer friendly assistance and guidance to them, the general trend has been towards the Directorate becoming another agency for intervention. The setting up of the Directorate was mainly with a view for providing an agency, which would act as a mouth –piece of the Urban Local Bodies in their dealing with the State Government. In-fact, the Directorate has begun to function as a superior authority at the bureaucratic level. As such, the Directorate would not only serve the purpose for which it has been established but may even lead to a further deterioration of the existing position and greater emasculation of the Urban Local Bodies. It was hoped that the Directorate would fill this gap and help in strengthening the relationship between the State Government and the numerous Urban Local Bodies within the State. It is also to be noted that Urban Local Bodies are not analogous to departments of Government, which are essentially executive agencies of the Government. Urban Local Bodies

are created by the *Statute* and are representatives of the people in an urban area, in the same manner as it is at the State level. Qualitatively, therefore, Urban Local Bodies constitute an entirely different level of the Government and need to be treated differently and should not be treated as a subordinate local branch of a department of the Government.

The present work has been divided into eight chapters. The first chapter deals with the introduction, in which the main emphasis is on the objectives and establishment of the Directorate. The methodology and research designs used for the study are also discussed.

The second chapter is about the growth of the Local Self - Government during pre-independence and post independence period. In this chapter the *genesis* of Local Self - Government in Uttar Pradesh is also discussed.

The third chapter analyses and explains the constitutional amendments made from time to time regarding the Urban Local Government with special reference and exposure to the *74th Constitutional Amendment Act 1992*.

The fourth chapter is all about the organizational structure of the Directorate as well as the historical background of the Directorates in India.

The fifth chapter discusses the powers that have been allotted to the Directorate by the State Government, and the type of functions it has to perform.

The sixth chapter is all about the working of the Directorate regarding policy implementation, supervision, budget formulation, etc.

The seventh chapter focuses on the type and nature of relationship that the Directorate and its' subsequent Urban Local Units share with each other. Apart from this, the triangular relationship between the State Government, the Local Bodies, and the Directorate is also investigated to find out the specific areas of problem. The problems are, thereafter, analysed for formulating suitable remedies.

The eight chapter is based on the conclusion drawn on the basis of the questionnaire and interviews of the personnel of the Directorate, and a few Local Bodies as well; and also suggestions so as to overcome the present drawbacks of the Directorate. The conclusion is drawn from all the chapters and it is only the gist of all work that has been performed.

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CHAPTER - I

INTRODUCTION

CHAPTER – I

INTRODUCTION

I shall work for an India in which the poorest shall feel that it is their country, in whose making they have an effective voice.

- Mahatma Gandhi

With the adoption of the concepts of Welfare State there has been a vast increase in the activities of the state in post-independent era. This increase has been both extensive in area and intensive in quality. As a result of this State Government found it necessary to have a centralized field organization to exercise control and supervision over the Local Bodies and also to co-ordinate the activities of various State agencies, and undertakes inspections so that their performance could be bettered. This resulted in the creation of the Directorates in various fields such as agriculture, education, animal husbandry, etc. Similar need was felt in the field of Local Self-Government also, with tremendous increase in the work, the Secretariat department in-charge of Local-Self-Government found it extremely difficult to deal with the situation. As a result, in a number of states, the *Directorates of Local Bodies* were created.

Local bodies are concerned with taking care of the basic needs of the citizens and provisions of civic amenities. Their functions are usually divided between compulsory and optional ones. *Compulsory functions* are those, which a Local Body is under obligation to perform. *Optional functions* are those, which a local body may or may not undertake, depending upon the need and availability of resources. For example, taking care of hygiene and sanitation is a compulsory activity. Whereas provision of a library and reading room could be an optional function.

Despite the fact that the Local Bodies perform a large number of functions, it may not be easy to serialize them, because these functions differ from place to place. As *Finer* has said, "*These local authorities supervise, direct and control our lives, awake or at sleep, at work or at play, they provide for all citizens a common minimum health, education, welfare services, roads, place and security of environment. The scope and details of their work are not easily describable; both are immense.*" Similarly, '*W.E. Jackson*' points out: "*The functions exercisable by the local authorities cover a wide range.*"

Local Self-Government occupies a very important place in the *political system*. It not only takes care of the primary needs of the citizen but also enables them to learn the basics of Governance. It is for this reason that it is an inevitable part of the modern democracies. Not only democracies, even non-democratic systems provide for an extensive network of Local Government, sometimes as a façade for serving the people.

Despite its importance, the Local Government is neither appreciated nor understood, nor even taken care of. The focus is on the National or the State Governments. In modern societies, due to increased and developed means of communication the citizens tend to think on national issues rather than local issues and hence the activities of Local Government become secondary.

The enormous and growing discussions on decentralized governance have attracted the attention of scholars and policy makers all over the world. Decentralized governance has been conceived as an instrument of Local Self-Government for promoting healthy development. It is expected to facilitate effective people's participation, enhance degree of transparency and ensure greater accountability. Decentralized governance is assumed to provide more effective and competitive delivery of services at the grassroot level. Being closer to the people, decentralized governance is assumed to meet needs and preferences of the people. ¹

The services provided by decentralized governance are considered to be cost effective besides helping in the mobilization of local resources in the form of labour and material. However, there are some scholars who have expressed reservation about the efficacy of decentralized governance.² *Prud Homme* argues that decentralized governance promotes inefficiency and scope for corruption due to an influence of interest groups and discretion of local officials. The long tenure of officials at the same place makes it easier to establish unethical relationships with the local people. *Vito Tanzi*, also argues that decentralization promotes personalization and reduces professionalism. Personalization breeds corruption as officials pay greater attention to individual citizens' need and disregard public interest, thereby defeating the philosophy of decentralized governance.

Moreover, the whole idea of decentralized governance is based upon some key factors like people's participation, accountability, transparency, and fiscal transfers³ these are interlinked and their effects on development cannot simply be measured. The critique of decentralization is valid in those regions of the world where poverty and a dysfunctional democracy are rampant for various reasons. A large part of literature talks about issues of quality of citizens' participation and broader questions of democratic control. The critical democratic theorists have noted that the predominant mode of social organizations is not a vertical relationship of authority between selfish individuals and the supra state, but a series of horizontal associations embodying groups of individuals who are capable of regulating and expressing themselves as members of a community, rather than as self-promoting individuals. Decentralized governance may be effective in some parts of the world, where people are active, vigilant, and participative. In such societies, civil society groups assume far greater roles in educating people, and ultimately, people themselves seek greater accountability (fairness) from elected members and officials for meeting their immediate

needs. On similar lines, recently the theory of social capital has been receiving increasing attention and it has begun to generate a remarkable consensus regarding the role and importance of communities and local organizations in making decentralized governance effective.⁴ Matching with the global trend, developing countries often initiate decentralized governance to promote development. India is not an exception to this trend. India has been experimenting with the decentralised governance process for quite some time. After India's attaining independence, *Mahatma Gandhi – father of the nation*, was strongly in favour of panchayats playing a larger role as small republics, enjoying complete political autonomy. He was of firm belief that such an institutional arrangement provides greater opportunity for villagers to involve in planning, programme implementation, and thereby play a catalytic role in achieving faster development of village India. *Article 40 (Directive Principles of State Policy)* was added to the Constitution at Gandhiji's insistence. The block, as a center of Community Development (CD) came into existence throughout the country in 1952. However, CD was replaced by the Panchayati Raj Institutions (PRIs) on the basis of *Balwant Rai Mehta Committee Report in 1959*, with a view to ensure people's involvement in development programmes. These institutions could not be stabilized due to irregular elections, inadequate powers, poor finances and lack of political will. The broad framework for decentralised governance has been laid down in India by the *73rd Constitution Amendment Act (see Appendix 'A')*. This has ushered in a greater degree of uniformity in the structure (three-tier), composition (reservation for SC, ST and women), powers and functions (financial and planning) of these institutions with the objective of achieving faster social and economic development. The three-tier structures of the PRI's are *Zila Panchayat* at the district level, *Taluk Panchayat/Panchayat Samiti* at the intermediate levels and *Gram Panchayat* at the village level. The 73rd Amendment Act has given an impetus to panchayats for promoting development in terms of infrastructure, education, and health and poverty alleviation in rural India.

However, the experience of panchayats in different states, reveal that the Act has not yet been implemented successfully in all the states of India.⁵ Even after two decades, it seems as though very little has been delivered. The power devolved to the panchayats regarding planning and implementation of various development programmes, appears not to have been fully utilized. Regarding the *Organization of village panchayats* it is said that the State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. But unfortunately local elites, particularly the landlord-moneylender combine dominate these institutions due to absence of free, fair and regular elections. Further, with the passing of 73rd Amendment Act in 1992, a new system of decentralized governance was brought into being. This institutional arrangement promised an alternative to the hitherto followed bureaucratic mechanism. Instead of strengthening the PRI's in true spirit, the state/union government from time to time initiated various programmes without making the PRI's effective. There are several parallel programmes in implementation which are directly funded by union/state governments and monitored by state government officials. These actions undermined the role of PRIs. An example from the judicial interventions of the Bihar and Andhra Pradesh High Courts is aptly relevant here. The *Patna High Court* castigated the *Bihar Government* for not devolving power to the Gram Panchayats (GP). The government was yet to frame the rules regarding conduct of business of panchayats. Similarly, Chairpersons of the Zila Parishads (ZP) have filed a *writ petition* in the High Court praying for judicial intervention for directing the State Government to implement the provisions of the 73rd Amendment Act in Andhra Pradesh. The Government of Andhra Pradesh seems not to be interested in transferring powers and responsibilities to the elected leaders of panchayats. Andhra Pradesh, like several other states, has been initiating different development programmes and schemes under different parallel structures. For instance, there is a programme called *Janmabhoomi* which was launched as a guardian of

panchayats in Andhra Pradesh.⁶ Both the State and Union Governments have scattered the grant by creating such new programmes. Nominal funds are given to the panchayats by the Union or State Government which constrains their working capacity. Additionally, the Union Government or State Government has provided some funds under the control of local MLAs and MPs. It has apparently shortage of funds which affects the smooth and effective functioning of panchayats. Empirical evidences from various Indian states have shown that the decentralization exercises have succeeded, to some extent, in a few states such as West Bengal, Karnataka, Kerala, Maharashtra and Madhya Pradesh. If one has to understand the dilemma of decentralized governance, he has to understand the nature of political process, logical institutions, local organizations and their temperament towards development.

Defining Local Self-Government

Local Government has been defined in many ways. According to *Alexis de Tocqueville*, "*Local assemblies of citizens constitute the strength of free people. Town meetings are to liberty what primary schools are to science; they bring it within the people's reach. They teach men how to use and enjoy it. A nation may establish a system of free government, but without the spirit of municipal institutions it cannot have the spirit of liberty.*"

G.M. Harris explains it as a "*Government by local bodies, freely elected, while subject to the supremacy of the national government.*"

W.A. Robson is of the opinion that Local Government involves the conception of a territorial non-sovereign community possesses the legal right and the organization to regulate its own affairs.

Finally, according to *J.J. Clarke*, "*Local Government is that part of a government of nation or state which deals mainly with such matters as of concern for the inhabitants of that particular district or place.*"

On the basis of aforesaid definitions it may be concluded that,

- Local Government is government by local body.
- This local body is made of persons elected by the local people.
- It is subordinate to national state government.
- It manages local matters related to citizens.

Local Government is the responsibility of the Department of Local-Self-Government in the state. At the State level a number of departments deal with subjects which are the direct concern of the urban government. In addition to the Departments of Local self government the functional departments in the secretariat administer the various components of urban development. Thus water supply, drainage, and sewerage, road construction, land acquisition and development, housing and slum clearance etc. are dealt with the functional departments. As is to be expected under such a fragmentary arrangement, the urban affairs do not get viewed as one integrated function. Consequently, there is a haphazard and piecemeal development bearing an imprint of lack of co-ordination. It is therefore, not unusual to find the dwelling units in a town fully completed and yet remaining unoccupied for want of electricity or water supply or even both. This is an avoidable waste. As urban population of the country has increased manifold, the need to streamline planning, financing and administration of various urban development schemes cannot be over emphasized. The prevailing administrative arrangement needs to be suitably modified to promote integrated approach and synchronized action on problems of urban development. This can be secured by setting up either a department of urban local development at the secretariat level or, at least, by constituting an interdepartmental standing committee. It has been assumed that the directorate would be of great of help in increasing the efficiency in various sphere of local government.

Review of Concepts, Studies and Researches (Literatures)

Over the past two decades, many scholars have been focusing their attention on decentralized governance and its impact on socio-economic development. The available literatures on decentralization provide a conceptual framework for analyzing the relation between decentralized governance and development. The literatures can be classified under three broad groups viz. *Conceptual, Theoretical and Empirical*. *Conceptual review* helps to understand the concept. *Theoretical review* helps to spell out the theoretical relationship between decentralized governance and development. *Empirical studies* help in understanding the research gap and field realities. The institution of Local Government has a long history in India. Even in ancient India, there were various types of Local Government institutions including Panchayats. But during the Mughal period, the Local Government units greatly deteriorated. Even in the time of East India Company and during the early British suzerainty, the local bodies decayed considerably. But it cannot be gainsaid that these Local Government institutions acquired representative character during the British period and the municipal institution is a legacy of the British Administration. Literatures on municipal administration is scattered in a large number of public documents, researches and other academic documents and descriptive writings of national leaders and administrators associated with the municipal institutions.

M. Venka Tarangaiya and *M. Pattabhiram* have prepared a compilation of extracts from various reports and resolutions both before and after Independence in their book "*Local Government in India - Select Readings*". The authors trace the development of urban Local Government in India from the days of Kautilya to modern times. They point out that in the post-independence period; problems of urban Local Government did not receive much attention from the State and the Union authorities or the Planning Commission as compared to rural local government. Consequently, only a

few changes - several of them minor in character were made in their structure and functioning. Several defects found in them before 1947 still exist - and some of them have even aggravated than before. It was only during the preparation of the Third Five-Year Plan that some heed were paid to them. It was also observed that caste and communal feelings have begun to poison the political atmosphere since 1990. It is some politicians who are to be blamed for this; they use the caste and communal card for achieving their selfish political ambitions at the cost social and political fragmentation.

R.L. Khanna in his book "*Municipal Government and Administration in India*" discusses the growth and structure of Municipal Government and organization of municipal authority. He lists fourteen defects and deficiencies in the municipal services in India and makes twelve recommendations for improving municipal personnel administration in India. In order to stress his point, he quotes the '*Report of the Committee of Municipal Employees Training*' which states, "*The weakness of our municipal administration is due, among other reasons, to the fact that the administrative personnel of municipal bodies in the country have not been always recruited by a system of merit or trained adequately in the techniques of municipal administration. Nor are men of talent attracted to the municipal service because of the low salaries paid to municipal employees in general.*"

In a booklet '*A Study of Local Self-Government in Urban India*', *P.K. Matoo*, makes some interesting observations on local government. For example, he argues that there is no need of having rural panchayats unless "*it is for the purpose of small scale litigations.*" He is not in favour of rural-urban relationship. He criticizes the present day tendency to study the problems of rural and urban Local Self-Government institutions together. Elsewhere in the same publication, he states, "*A static state of existence invariably leads to decay. Local bodies have been static for such a long time*

that they reek of decay. There has been no serious effort by the local bodies to examine their own weaknesses and to boldly speak out the same. Local bodies have been persistently following the same old rut."

R.K. Bhardwaj in his book '*The Municipal Administration in India (A Sociological Analysis of Rural and Urban India)*,' discusses the causes of backwardness of municipal bodies in India. He expresses his dissatisfaction in the following words: "*The way in which the people have dealt with the local bodies in India does not bring credit to the smooth functioning of municipal administration. The social and political groups have not developed emotional attachment with local problems. Their allegiance was towards the caste and religious interests rather than towards the community and local considerations, with the result that there was never meaningful interaction between various groups for solving the civic problems.*" He also discussed problems regarding the relationship between the Union Government and the local bodies and also as he calls "*State government patronage of financial matters*". S.R.Maheshwari in his '*Local Government in India*', along with Rural Local Government delineates lucidly Urban Local Government covering the important aspects such as personnel administration, urban finance, and control and supervision. While discussing political interference, Maheshwari favours a Cabinet form of local government. Quoting his words, "*A cabinet form of government at the local level may be an alternative to the present outfit of frictions and conflicts. Under this form, what are called 'interferences' would get regularized and institutionalized, as those chosen by the elected body would 'interfere' and be held accountable.*" At another place Maheshwari writes, "*The structure of Local Government is, however, not a 'sure cure' or all-important. Even if the structure has certain shortcomings and inadequacies, it is capable of being made to work and lead to realization of goals. And, a perfect structure does not by itself ensure results. Man is obviously more important than the machine. A tool or machine does not impart skill to the workman's hands.*

Surely, an efficient workman feels annoyed when given a tool to work with, but the latter does not completely incapacitate him. In short, the personnel, both elective and permanent, have a key to play in making Local Government work effectively; it is they who are called upon to deliver the goods."

Amreshwar Awasthi, in his book 'Municipal Administration in India,' which is a compilation of various articles by different writers; Part I of the book covers problems of urban government, training in municipal administration in India, government control and assistance to the municipal bodies, and public participation in local government. Part II of the book is entirely devoted to the municipal administration in fifteen Indian States. Part III of the book covers the administration of four municipal corporations, namely, Bombay, Calcutta, Delhi, and Raipur, and Part IV of the book is the concluding chapter entitled 'Urban Government in India - some reflections.' According to his view "..... most municipal acts enunciate fairly precisely the functions of Municipalities and municipal corporations and place them distinctly either in the mandatory or the discretionary category. But these enactments do not define the role of local government." One of the most outstanding reports in this field is *Rural - Urban Relationship Committee Report*. The *first volume* of the Report (1966), discusses at length urban development and planning machinery, the structure of Urban Local Bodies, municipal personnel, finance of Urban Local Bodies, public participation in urban community development, and relation between the state government and local administration. The *second volume* (1968) contains a number of notes on urban Local Government practices in various states in India and also gives a list of municipal acts and state-wise lists of different types of Urban Local Bodies. It also gives some details about local governments in different countries of the world. *Volume III* of the Report (1966) is concerned with the analysis of replies given to the questionnaires issued by the Committee and also contains the evidence given before the Committee

by various persons and organizations throughout the country. These three volumes constitute an important source material for the study of the administration of urban areas. Mohit Bhattacharya, in his books 'State Directorates of Municipal Administration' and 'State Municipal Relations (A Functional Analysis)' discusses at length the role played by the state government in the municipal administration. Bhattacharya has analyzed State - Municipal Relations studying the government of four states i.e. Gujarat, Maharashtra, Tamil Nadu and West Bengal. He has found that general State controls in these four states are almost same. But this survey of four states reveals varying attitudes of the State functional administration. Regarding States-Municipal functional relations, Tamil Nadu and Maharashtra exhibit the common features of an integral administration, although the general frameworks of State-Municipal relations of these two states are not the same. In West Bengal, the general framework is liberal; the formal nature of the State-Municipal functional relationship is integrationist; and the actual nature of the state attitude towards municipal administration verges on a 'laissez - faire' policy. Further, he states, that only the functional relationship between the two governments are in conformity with the general framework of State-Municipal relations in that State. In May, 1970, Indian Institute of Public Administration, New Delhi, had organized a seminar 'State Machinery for Municipal Supervision.' In this seminar, S.N.Jain, criticised the state control over municipal organization, in following words: "If there is too much interference in the working of municipal organization by the State executive then the basic purpose of establishing a statutory body is lost." In the same seminar, Bhattacharya explained the role of the State Directorate of Municipal Administration. He pointed out the lack of clarity on the status and power of the Directorate of municipal administration. He stated that "the Directorate delegated substantial power over municipal administration, so that, they could function as friend, philosopher and guide to the municipal bodies". But, he added, "It must be noted, that, the Directorate is just an agency of the state government and cannot be

expected to exercise important constitutional regulatory and initiative powers, which must remain with the government itself." Because of the lack of clarity on this point, in some states, certain important regulatory powers have been delegated to the Directorates but in some others states, such powers have been retained by the states. *Om Priya Srivastava's, 'Municipal Government and Administration in India'* is based on her research thesis of 1976 entitled *'State Control over Municipal-Corporations.'* She explains the various kinds of state control and suggests remedial measures that need to be taken. She has felt that government should re-orient its attitude with regard to municipal corporations, providing constructive guidance and adequate assistance to them, as an active partner to the common cause of city administration. She has found that the grant-in-aid have always been a prolific source of discontent among municipal corporations. She adds, *"No fruitful purpose will be served by the state control over municipal corporations unless, there are regular inspection of all the activities and branches of the municipal corporations. Therefore, a special wing of inspectorate and co-ordination is desirable."* The most explored field in municipal government apart from municipal finance is, that of municipal leadership and politics, let us review some empirical studies carried out by different scholars in this field also. *Ali Ashraf* in his *'Government and Politics of Big cities — An Indian Case Study'* focuses on three big Corporations, namely, Calcutta, Kanpur and Ahmadabad. The main objective of this study was to understand the nature of Local Government in these three cities and their capacity to manage civic problems. The major focus of the study is on political questions, the scope of government actions, mobilization of resources and the recruitment and training of civil leaders and Municipal employees. The local political systems in these three cities can be seen to represent values and interests that affect the management of civil problems differently in different cities, *Asharaf* concludes, *"Whether it be maintenance of civil services like sanitation and garbage disposal, management of tax assessment or collection, or the morale and service*

conditions of the employees, the performance on each of these items is satisfactory in Ahmadabad unsatisfactory in Calcutta and Kanpur". R.N Goshi (2005) in his paper entitled 'Accountability of Local Governments – CAG's Initiatives and the Challenges Ahead' has addresses the issues related to improving accountability of Local Self-Government in India. The Issues related to improving financial accountability of Panchayati Raj Institutions (PRI's) and Urban Local Bodies (ULBs) with focus on Comptroller & Auditor General of India's (CAG's) initiatives in improving the accounting and auditing arrangements at the grass-root level. The paper is organized in four sections: *Section I* deals with local self governments, their historical & legal framework, *Section II* is concerned with issues in financial accountability and CAG's initiatives in improving the accounting and auditing arrangements, in *Section III* the lessons learnt in the process are discussed and *Section IV* charts the way forward. This paper also focused on some major issues in urban local governance and rural local governance. The paper points out the specific areas for up-gradation of skills in the local fund audit departments likes Accrual Accounting, Use of Information Technology and Social Sampling in audit, Performance Audit etc. Goshi had recommended various measures for improvement in the maintenance of accounts and database of finances of local bodies. A centralized agency for consolidation of database, accounts and finance information with respect to local bodies are essential for their improvement in financial management and assess their working and analyze the possible trends. The local bodies should take recourse to use of *IT* for preparation of accounts and clearance of arrears. Internal audit department's are needed to be established where they are not in existence, and their functioning to be strengthened in a systematic manner so that it can provide the necessary assurance on the existence and effective functioning of internal controls.

A working paper by Rumi Ajiz (2006) entitled 'Challenges for Urban Local

Government in India' has relevance to the on-going work on – governance. This research is, therefore, based on the hypothesis that various local-level problems of governance exists that hinder the quality of life in urban areas and focuses on the functioning of a select number of urban local governments in India, and attempts to address the following two basic research questions: Firstly, which components should be reviewed to understand the form of an urban Local Government and secondly, what are the major issues of governance at the municipal / local-level. In this paper, the form of an urban Local Government is understood on the basis of a limited number of components which are listed below:

- *Constitution and governance.*
- *Duties / functions.*
- *Composition / staff.*
- *Conduct of business, i.e., municipal management and financial practices – State/Local initiatives / reforms.*
- *Problems.*

This study is based on data collected from both secondary and primary sources. Publications of the Government of India, State Governments, and other publications have been reviewed. Important among these are: *The State Municipal Acts*, that contain information on legal provisions for Municipalities; and the *State Finance Commission Reports*, which describes the municipal financial practices and the financial performance of Municipalities at different time periods. Data maintained by the Municipalities on various administrative and financial matters have been collected through field visits. A total of six towns / cities from three northern / north-western States of India, i.e., two from each State, have been selected for this study. The findings of this study show that urban local governments in India are plagued by numerous problems, which affect their performance in the efficient discharge of their duties. These problems are

discussed in *Section V* of this paper and relate to the extent of participation and *Rule of Law* in the municipal decision-making process, transparency in the planning and implementation of infrastructural projects, and levels of efficiency in various municipal management and financial practices.

The Annual Report of *Illinois Municipal Electric Agency (IMEA)* consists two parts namely Management discussion and Analysis and the Financial Statements. These statements are prepared on the accrual basis of accounting in accordance with accounting principles generally accepted in the *United States of America*. The Agency uses the Uniform System of Accounts prescribed by the *Federal Energy Regulatory Commission*. The Statement of Revenues, Expenses and Changes in Net Assets present information showing how *IMEA's* net assets changed during the most recent year due to *IMEA's* business activities. The Statements of Cash Flow reports the cash provided and used by operating activity, as well as other cash sources such as investment income and cash payments for repayment of bonds and capital additions. The Balance Sheets report year end assets, liabilities and net assets balances based on the original cost adjusted for any depreciation, amortization or unrealized gains/ losses as appropriate. Over time, increases or decreases in *IMEA's* net assets are one indicator of whether its financial health is improving or deteriorating. Other factors to consider, includes the Agency's wholesale electric rates and ability to maintain or exceed the debt coverage levels required by its bond resolution. A Study by *Emanuele Padovani et al. (2004)* entitled '*The Use of Financial Indicators to Determine Financial Health of Italian Municipalities*' highlights to what extent each governance model requires specific financial health measures, in order to stress that measuring financial health is a contingent issue, which cannot be assessed regardless the prevailing governance settings being implemented. Under a practical point of view, this study identifies the features of different types of financial health measurement systems in various governance models. The field study approach adopted in this

research has aimed to investigate a contemporary phenomenon within its real-life context exploiting multiple sources of evidence (Yin, 1994; Stake, 1995). Through a multiple case study approach of three *Italian Local Governments* we combine documental analysis of compulsory financial statement indicators and interviews with internal key users aimed to understand the effective use of financial indicators to determine financial health in practice. Under the *Jawaharlal Nehru National Urban Renewal Mission (JNNURM)* the City Development Plan (2006-12) for Pune Municipal Corporation (PMC) in *Volume I* (April-2006) the draft is made for the purpose of creating economically productive, efficient, equitable and responsive cities. The mission encourages an approach that integrates the two pressing needs – the need for massive investments to bridge infrastructural gaps and the exigency of reforms to sustain these investments. In preparation of this City Development Plan for Pune, secondary data has been sourced from PMC and other agencies. Various study reports and Detailed Project Report documents prepared by PMC have been extensively used for analysis, correlation of primary data and discussions. For the purpose of financial assessment, financial data pertaining to the last five years (2000- 01 to 2004-05) have been analysed. The first step in analysing the financial position of PMC is to differentiate and categorise the account heads into General Account, Water Account and Capital Account through a budget recasting exercise. The Corporation accounts can be classified under two major heads general fund and water & sewerage fund. The revenue sources of the Corporation may be broadly classified as internal or operating income and external receipts. Internal income includes receipts from the operations of the Corporation in the form of taxes, octroi, water and sewer charges and fees and charges on other services such as advertisement, and food and license. External fund sources include revenue grants from the State and Central Governments, loans, and contributions for projects. Expenditure incurred towards establishment costs, operation and maintenance expenditure for provision of services and

repayment of loans are treated as revenue expenditure and expenditure on asset creation, purchase of equipment and investments in new projects etc., are treated as capital expenditure. The following issues emerge from the above analyses of the municipal finances of PMC. Revenue expenditure is growing at a higher rate than revenue income; this is an area of concern, especially if the trend continues in future- octroi and property tax account for 42% and 19% of revenue income, respectively, indicating dependence on a single source of revenue stream. Current collection efficiency of property tax stands at about 72%. There is scope for improving collection efficiency and also for bringing a large number of properties under the tax net. Long outstanding loans, taken at high interest rates, need to be exchanged with or restructured with currently available low interest and low cost funds. The bulk of capital expenditure is financed through internal generation rather than any external funding; this causes pressure on available surpluses (as reflected in the slip from overall surplus situation to increasing deficit situation). It is to be noted that at an average rate of Rs. 3.00 per KL against a gross supply of 800 MLD of water in Pune, the billable amount should be about Rs. 93 crores as against a collection of about Rs. 62 crores. This indicates a loss of about 34 percent. In terms of user charges alone, PMC recovers only 93 percent of the operation and maintenance charges of the water supply operations; the collection performance is just about 16 percent. Also at present, PMC doesn't charge the users for sewerage service.

The Report on '*Municipal Finance Facility Ownership Structures: A SWOT Analysis - Provided under the Access to Credit Initiative – USAID/Ukraine*' by John E. Peterson (2006) provides a rapid assessment of the **strengths, weaknesses, opportunities, and threats (SWOT)** of several possible ownership structures for the bond bank. This analysis of ownership structures is performed taking into consideration several preliminary boundaries regarding the establishment of a bond bank in Ukraine.

It considers four possible ownership structures:

1. Majority ownership by private Non-governmental entities
2. Majority state (central) government ownership
3. Majority communal (city) ownership
4. Multiple owners (no single controlling owner)

The report concludes with findings and a recommendation for the preferred ownership structure. This report will not consider the legal format of the bond bank, except to note that, the bank could either be formed under existing laws or by new legislation. The SWOT analysis has provided a detailed discussion of the various factors that enter into decisions regarding the ownership structure of a bond bank.

Vitalina Zaychykova , in his Ph.D. Thesis entitled '*Comparative Analysis of Local Self-Government Finance in Ukraine and European Countries*' has analysed the Finance of Local Self-Government of Ukraine and European Countries. The author has used secondary data in his research. He analysed that experience of post-socialist countries, which have already achieved European standards in public administration and Local Government, raises the necessity of a more deep analysis of the forms and methods of improving the financing of Local Self-Government. Taking into account the European integration ambitions of Ukraine, the thorough study of the positive experience of European countries are needed, especially concerning the implementation of principles of the European Charter of Local Self-Government. Expanding the functions and authorities for the Local Government bodies in Ukraine during the last few years was not accompanied by the adequate increase of financial resources necessary to support their activities. Share of local budget revenues in Gross Domestic Product dropped from 18% in 1993 to 13% in 2003. In addition, the reduction of share of the local budget revenues in the Consolidated Budget

of Ukraine, and share of Local Government budgets in the tax revenues of the Consolidated Budget of Ukraine took place. With the Approval of the Budgetary Code the situation slightly improved as far as local finances were concerned. As a result, the share of revenues in the local budgets grew to 0.4% in 2001 compared to 2000; share of expenditures of the local budgets in the gross domestic product has been up to 1.1%. There is urgent need to set up a new and a more efficient system of financing, for the local governments that will enable to balance the functions and authorities of Local Government bodies with their resources. Application of this paper's achievements are: scientific and practical conclusions and suggestions in relation to the development of the Ukrainian fiscal equalization system, improvement in the order of forming local budgets, dividing fiscal powers between state and local budgets, computation of coefficient of relative expenditures of regions which are used by the *Financial Research Institute, of the Ministry of Finance, Ukraine*.

Dr. Ravikant Joshi in his research paper entitled '*Financial Management in Municipalities*' has covered the major issue of municipal financial management and financial functions. This research clearly indicates the defective function of three decisions, viz., investment decision, financial decision and dividend decision. Allocation of resources (investment decision) to various purposes, activities, works etc., in municipal bodies are, most of the time, done in an ad-hoc manner. This defect is defeating one of the basic purpose of municipal bodies which is bringing social transformation and equal distribution of wealth. In fact, allocation of resources (investment decision) holds a much larger and unique significance with reference to municipal bodies as compared to corporate companies. Municipal bodies are not only expected to attain the objective of maximizing the return but also the objectives of equity and social transformation. The overall picture in our country clearly depicts the failure of the municipal bodies to optimize whatever tax resources they have. They have also failed

to raise/develop non-tax resources. Thus, financial decision is one of the important areas where municipal bodies need to improve, on priority basis, through the introduction of *scientific financial management*. This research study has various limitations. It is purely of preliminary nature and addresses only one point, which is the present status of financial management in Municipalities. The scope of this research is very vast but due to various constraints such as, time, resources, data etc., an attempt has been made to review financial management systems prevalent in the Municipalities. For the purpose of this research, the researcher has made exhaustive use of detailed review/research regarding the financial management of 19 municipal corporations, carried out by the researcher himself under the *Human Settlement Management Institute of the Housing and Urban Development Corporation (HSMI-HUDCO) research fellowship*. The base on which all the conclusions have been drawn is very small, and therefore should be interpreted cautiously. Further urban development in India is managed by various urban development authorities and special purpose bodies. This study has focused on financial management system of Municipalities and not that of other bodies. But it is utmost necessary that financial management systems of such bodies and other special purpose bodies should be reviewed. This research is also limited in terms of text coverage of financial management. The study has covered only three broad areas: (i) Tools of financial analysis and forecasting, (ii) short-term financial management, and (iii) long-term financial management. This study has dealt with some micro aspects of municipal finance and it has not covered macro aspects or new challenges and opportunities of liberalized market oriented society. In this respect too, this study is limited. In the Audit report of *Municipal Corporation Hyderabad (MCH) 2005*, chapter III – Performance Reviews (Municipal Administration and Urban Development Department) concluded that MCH decided, as a matter of policy, to develop *Integrated Online Information Processing System* as a part of *e-governance* to enhance civic services to its citizen. Although MCH has been spending around

Rs 2 crores per year for the maintenance of infrastructure relating to *Information Technology*, but it failed to implement the computerization of all the functions of MCH and integrate them. Critical issues like logical access control measures, back up and business continuity procedures, etc., were not addressed. While the environmental and application controls were weak, no documentation policy or security policy existed with the MCH. The computerized system suffered from inadequate input controls and poor validations, resulting in generation of incomplete and inaccurate data. Data relating to property tax, birth and deaths, and advertisement fee were incomplete and incorrect in many cases causing generation of faulty MIS reports rendering decision making risky. It could not also use effectively the computing facilities of the hardware/software available with it. These shortcomings resulted in short assessment/collection of taxes. The recommendations given in this reports are as follows:

- There is an urgent need for developing, testing and implementation of proper Business Continuity Plan and Disaster Recovery Plan.
- Suitable personnel need to be identified and be associated with the development of applications so as to create useful applications.
- Access logs should be created and maintained. Review of audit trails should be conducted periodically to take corrective action.
- Proper password policy should be framed, documented, circulated, and maintained.
- Proper maintenance and tuning of the database should be done periodically to maintain the health of the database.
- Efforts should be made to assess the demand through the application system itself, instead of manual calculation.
- There is a need to redesign the forms with proper validations; modifications of the data from the back-end should be stopped.

- Data should be captured for all the field items, ensuring correctness, consistency, completeness and integrity. Efforts should be made to purify the data.

The Research Study Conducted by *Om Prakash Mathur and Sanjukta Ray (2003)* entitled '*Financing Municipal Services: Reaching Out to Capital Markets*' had measured financial performance of Municipalities through various indicators. This study is a part of the *National Institute of Public Finance and Policy New Delhi's (NIPFP)* continuing research programme on Local Government finance. The endeavor was to trace the alternatives that exist for the spurring investment into urban infrastructure services. Taking note of the emergence of a capital (debt) market in the country and its sensitivity to meet the infrastructural needs of Municipalities as is demonstrated by the examples of *Ahmedabad, Bangalore, Hyderabad, Indore, Ludhiana, Madurai, Nagpur, Nashik*, and more recently, *Thane*, and simultaneously examining as to what makes some Municipalities to gain access to the capital market and other Municipalities to continue to rely on state government grants and loans, this study entitled '*Financing Municipal Services: Reaching Out to Capital Markets*' provides a framework for Municipalities to assess their creditworthiness for tapping the nascent but expanding capital market for financing urban infrastructural services. A summary of indicators used for evaluating the creditworthiness of municipal entities are given in *Table No.1.4*. These indicators reflect the operational efficiency of Municipalities as well as the conduciveness of the legal framework under which they operate. Ranking of the ratios into (a) favorable, (b) good, (c) moderate, and (d) poor, helps to determine the performance of a Municipality. The study under taken by *Sandeep Thakur (2006)* entitled '*Evaluating the Financial Health of Indian Cities: A Diagnostic Report*' examined the fiscal performance of the Municipalities from different states and seeks explanation for differential performance and

also examined the fiscal performance of Municipalities from the same state and ranked these cities on the basis of their fiscal performance. The major conclusion of this study is as follows:

- Municipalities cannot be compared merely on the basis of per capita income and expenditure.
- Municipalities differ because of their Fiscal and Functional Domain.
- Across States and within States bigger Municipalities have larger functional domain and larger control over their tax and non-tax administration.
- State Municipal Acts also differ in allotting tax powers and functions between Municipal Corporations and Municipalities.
- Reforms initiated in developed states have started giving positive results.
- Tax reforms, Cost cutting exercises, Involvement of Private sector in technological innovations are some of the major reforms.
- Self sufficiency is indicated by the lower state dependency and higher coverage of expenditure from own resources.
- To improve the financial health of a city: Increasing the Revenue base, provision of Competitive Revenue structure, Time based Rate revisions etc. are required.
- Introduction of user charges.
- Using all its statutory powers to impose taxes, charges, fees and fines etc.
- Bridging the gap between service costs and service pricing.
- Reduce establishment costs which lead to improved operation and maintenance and developmental activities.
- Community participation should be encouraged in staff oriented services.
- Debt servicing ratio should be low.

- Involve private sector participation to instill competition and to bring about technological innovations.

A Working Paper entitled '*A Comparative Study of Municipal Finances in Maharashtra: Patterns, Problems and Prospects*' by *Abhay Pethe* and *Mala Lalvani* to examine the patterns of finances in Urban Local Bodies (ULBs) in Maharashtra and present a comparative picture thereof. They also point out some problems especially related to data and suggest ways for remedying the situation. This is contextualized within the parameters set by the devolution pattern for the local bodies that have been envisaged by *Central and State Finance Commissions* on one hand and the *74th Constitution Amendment Act* on the other, begins with a prologue that provides a backdrop with information about the Urban Local Bodies in Maharashtra along with some regulatory and conceptual features. The major section or the core of this paper is divided into various subsections that deal with data analysis and comments about the expenditure and revenue patterns of Municipal Corporations, and Municipal Councils. The last section (Epilogue) contains observations about the data gaps and finally they provide concluding reflections on what needs to be done. The most important thing that needs urgent and serious attention is the data gaps especially with reference to the quality of service delivery as well as the unavailability of disaggregate data on many items. These need to be collected uniformly for all Urban Local Bodies as a matter of standard practice to facilitate analysis, prognosis, diagnosis and hence policy recommendations. For this well funded, techno-savvy and autonomous urban observatories must be set up. In *Chapter no. 11 (Urban Finance) of City Development Plan of Panaji (JNNURM, 2007)* examined about the municipal finance of the Municipal Corporation and the receipts and expenditures over the last five years. This would form base for the preparation of financial and operating plans. The existing situation assessment is also made according to income expenditure wise that was

provided with an overview of the financial framework of Panaji Municipal Corporation (PMC). The PMC was charged and recovered most of the taxes, permitted under the provisions of Panaji Corporation Act, 2002. A Comparative analysis of income and expenditure over a year summarized that the share of taxes received from general account had decreased from 84.5% in 2001-02 to 71.1% in 2005-06, share of capital account increased from 6.6% in 2001-02 to 10.1% in 2005-06, share of suspense account had increased from 8.8% in 2001-02 to 18.8% in 2005-06 and there were a need to innovate and apply certain new programmes that would not only serve the community but can also generate funds for the Municipalities.

The *City Development Plan (JNNURM, 2007)* of Kochi analyses the income and expenditure of the local bodies to ascertain the trends of the major sources and uses of funds. In addition to this key financial indicators dealing with property tax, entertainment tax etc... is also being assessed. The financial position of the city indicates the need for improvement. The revenue income needs to be enhanced and the expenditure needs to be reduced to have at least 30% Cash Balance (CB). This 30% savings can be added to the capital account spent for city development. The analysis of the income and expenditure of the local bodies for the past 3 years under Revenue, (Taxes, rents, fees, fines etc. and grants) and expenditure (Salaries, wages, electricity charges, fuel charges, street lighting etc.) reveal that the expenditure is increasing considerably. Plan grants are utilized mainly for asset creating projects formulated by local bodies and approved by the State Planning Board / District Planning Committee. The non-plan grants are utilized for the maintenance of services of transferred Govt. Departments and for the payment of social pensions. In order to meet the long term financial strategy the revenue income of the Corporation needs to be substantially improved in comparison with the expenditure to have a cash balance of at least 30%. The measures to bring about this transformation includes, The *Annual Activity Report (2007-08)* of UNNATI (an

NGO/Organisation for Development Education) entitled '*Promoting Civic Leadership and Governance*' has addressed the role of civil leadership and governance. This programme aims to strengthen the voice of civil society for effectively participating and promoting transparency and accountability in rural and urban governance process. A Study Report Conducted by *Centre for Good Governance, Hyderabad (2007)* entitled '*Development of BSUP Fund - Internal Earmarking of 25% Funds within Local Body Budgets for Basic Services to the Urban Poor*' examined the Services which are provided by Urban Local Body to poor peoples of urban area. The study primarily dwelt on the secondary sources of information and on consultations with the Urban Local Bodies on the concerned subject. The study would ultimately lead to laying down an approach to the development of *Basic Services for Urban Poor (BSUP)* Fund in Urban Local Bodies in order to ensure the allocation of funds to the urban poor and to ensure the utilization of these funds towards urban poverty reduction. The constitution of fund and the approaches to poverty sub-plan and pro-poor budget procedures should render the Urban Local Bodies develop the same with the issuance of appropriate guidelines from the State and Central governments. The earmarking principles would render Municipalities to manage the funds without deliberating much on balancing the budgets to achieve the objective.

Gopal Bhargava in his book entitled '*Urban Problems and Policy Perspectives*' published by *Abhinav Publication*. The Author says that the absence of consolidated and up-to-date literature dealing with the various aspects of current urban problems and their implications for policy decision making has been acting as a lacuna for a long time. For the urgent removal of these lacunae, a comprehensive fund of knowledge and an understanding of inter-disciplinary approach toward urban problems was desired to be developed. The present volume is the consequence of a collective attempt to unfold before the discerning reader, a thought provoking idea derived from empirical studies, often breaking new grounds in respect of planning

directives and policy guidelines. The content of the book deals with a broad spectrum of subjects besides attempting in-depth analysis of manifold facets of emerging urban problems to focus attention on the need to adopt a comprehensive policy framework with regard to urban land, housing, transportation and balanced urban and regional development with a perspective of tomorrow. This book would provide fresh approach to enable planners and others to effectively diagnose problems, assess their impact and prescribe appropriate solutions.

Evolution of the concept of Decentralized Governance

Strategies of the First Generation – The Genesis

Decentralization emerged as a concept of devolution of power to the people when there was no adult franchise in the western world. The British system of Local Government found in South Asia, Africa, Australia and North America which conceptualized as a devolved Local Self-Government with characteristics of a representative elected council and citizens' participation. Whereas, In Europe, North and West Africa and South America, decentralization has been distinguished by deconcentration, executive dominance and rigid hierarchy. Decentralization is conceptualized as a deconcentrated administrative organ for relieving administrative congregation, since over-centralized governance did not have a way to find out what needs to be done for different places, and which needs and desires of the people are to be met. From this close association with the people of a particular area a detailed understanding of their needs, and also of the long-term potentialities of that area came to the fore. The planning of this potential development can be carried out in a far greater detail and with a great deal of understanding by the people of the area who are particularly and primarily concerned with its welfare.

Strategies of the Second Generation - The Middle Era

In 1962, a UN study phrased the problem: '*Decentralization of government relieves members of the legislature and of the national executive from involvement in many purely local issues, free key officials from onerous and detailed tasks and increases the speed and effectiveness of the administration at all levels; decentralization is especially important in a developing countries where rapid expansion of public services greatly increases the number of government transactions and consequently the hindrances and wasted efforts resulting from over-centralization of controls*'. Nevertheless, with time and population growth, the state increasingly faced varied problems like widespread unemployment, poverty, and disease, leaving the administration crippled and ineffective because of its inherent maladies from this backdrop, the scholars of classical public administration looked for answers to questions, how administration can offer effectiveness, cost efficiency and equity in the delivery of services. They began to find out the ways and means of re-orienting traditional public administration to be relevant to its time. This new thinking was called New Public Administration as it sought '*to enhance change and change for increasing social equity*' which would augment its objectives relevance, topicality, good management, efficiency, economy, cultivation of virtues, and promotion of social equity. The New Public Administration in its search for a changeable structure tends, therefore, to modify centralized administration or bureaucratic organizational form with decentralization, devolution, projects, contracts, sensitivity training, re-organization, confrontation, and client involvement. Contemporarily, the literature on New Development Administration talks about ensuring and institutionalizing people's participation through the process of decentralization. *Decentralization*, thus, results in political elasticity by means of *devolution*: legal establishment of locally elected political authorities and *deconcentration*: transfer of a locative and implement able

decisions to local authorities. This new incarnation of Development Administration was based on the experiences of such welfare-oriented governments whose development strategies failed miserably. These experiences were, *first*, due to the governments' limited capabilities, and therefore, people and civil society should be brought in as alternative and complementary institutions/mechanisms for augmenting development processes. *Secondly*, ecological considerations are vital, when formulating development strategies. *Finally*, popular participation must be politically sanctioned to ensure a locative and implementable decision-making. Therefore, New Development Administration as a decentralization mechanism implies giving every citizen an opportunity to actively participate in constructive public work, besides the franchise in a democracy. It also refers to participation in specific action by which the citizen registers her/his involvement in public affairs to achieve a particular objective. In its initial stage, the reinvented concept of decentralization was most significant for activating a variety of development functions, ranging from people's involvement to better management of grass-root development. The trends, which dominated the thinking and the application aspects, were very crucial at this stage, as these act were the guiding post for the concerted development of the idea of '*Decentralised Governance*'. The trends were *first*, '*top down*' to '*bottom up*' approach in development. *Second*, for encouraging and ensuring stakeholder's participation in the development process. *Finally*, institutionalizing '*self-reliance*' in development strategies.

Strategies of the Third Generation - The Modern Way

In this modern era of the '*Administrative State*', many writers have voiced their concern over the problem of responsiveness of the administrative state to the norms of democratic procedures. To safeguard individual liberties against bureaucratic or arbitrary abuse, an increase in people's vigilance and participation in politics is necessary. Modern States consider assigning each

person's needs with equal weight in policy deliberations in an effort to make it as broad as feasible for people to participate in the decisions that affect them. Political scientists unanimously agree on the fact that the main utility of extensive public participation in politics is to ensure that the stakes of the privileged do not prevail over the interests of the majority. To guard against such possibilities, adequate measures of public accountability and ventilation of public grievances should exist besides avenues of citizen's participation in governance. By decentralising, the State apparatus opens new channels for popular participation inside the political system. The idea of decentralization is closely identified with the creation of democratic units as well as effective and efficient administrative structures at the grass-roots levels.⁷ Moreover; the contemporary '*communitarian*' concerns are also similar. There is an increasing demand to bring in people and local communities for more participatory and direct action-oriented democracy. Communitarians believe that under the New World order of market individualism, social and political power is concentrated even more in those in command of material wealth. What lies at the heart of the communitarian objection to market individualism is the latter's alleged cancerous effect on community life. Human beings who are in control of more economic resources than others are able to set the agenda for everyone from a privileged bargaining position. They can make substantial private 'donations' to those in the government; they can distort public opinion by buying control of the media; they can subdue all those who are dependent on their employment, investment or purchases they offer, by threatening to withdraw them. Selfishness becomes a moral creed. Individuals are encouraged at every turn to put their own interests first, and to demand freedom to make their own choices regardless of the implications for the civic order.

In order to provide an alternative to individualism and authoritarianism, communitarians sets out the way in which social and political practices are to be reformed in relation to their contributions to the development of

sustainable forms of community life. Such life is fundamentally based upon reformed power relations at every level of society so that all those affected by them can participate as equal citizens in determining how the power in question is to be exercised. This means that questions about the collective action to be taken for the common good are considered through informed community discussions and are not to be left to the political elite, who are rarely answerable to their fellow citizens.⁸ Recently, a new rhetoric has also found ground and that is '*Good Governance*'. Different scholars look at good governance differently but in general, good governance means governance that ensures people's participation, enhances accountability and transparency for effectiveness, efficiency, equity, and capacity building. Decentralization has become a mechanism through which public goods and services can be distributed effectively and efficiently. In its heyday, many schools observed that decentralization could reduce the disparities in income and wealth between urban and rural areas and increase productivity and income. Decentralization is thus a process, which allows people's involvement in administration and development programmes. Decentralization is an instrument to reduce costs, improve outputs, and more effectively utilize human resources to improve efficiency with which demands are locally met. It remains significant for the realization of people-centered development and therefore decentralization as a strategy for enjoying equal rights with the majority population and an ability to build the capacity for economic development.

Apart from the above-discussed aspects, decentralization is also seen as a way of reducing the power and size of swollen State bureaucracies and of improving accountability for development planning and spending at a more local level. It will require a responsible, responsive, sensitive and caring public bureaucracy, which is accountable to the community it serves. Decentralization is more relevant to the issue of accountability because it has

contact which is more direct with the people and is thus more suitable for maintaining accountability to the people.⁹

Theories of Decentralization

There are four major theories which advocate decentralization for better and responsive governance. They are:

- (a) *Fiscal federal*
- (b) *Public choice*
- (c) *Public Administration and Public Finance and*
- (d) *Political Economy.*

Fiscal federal approach spells out that local level planning system provides cost effective public services, because it considers local preferences more carefully than the Central Government.¹⁰ It analyses the system of sharing tax revenues and public expenditure commitments between Central and Sub-National Governments. Under decentralized fiscal system, the local government's jurisdiction is to collect all taxes from various local sources and according to these collections it undertakes developmental programmes for the people.¹¹ It also shares tax revenues and public expenditure between richer areas and poorer areas. Although there has been drawback that it makes macroeconomic policies more difficult. The analysis of fiscal federalism is used only to understand the system of sharing tax revenues and the commitment of public expenditure between Central and Sub-National Governments. '*Public Choice theory*' is useful in analyzing the benefits and costs of decentralizing the provision of delivery services. Public choice theory assumes that the voter is a customer and the politician is a businessman. Public choice school holds the view that the people are aware of their needs, and therefore people's involvement in planning and implementing will be more effective and efficient.¹² Hence, the theory

proposes to allow them to make choices about services, taxes and other policies. Again, the problem is that the Public Choice theorists are not much concerned with improving the capacity of government institutions for facilitating effective services which may not be achieved by the market mechanism. Public choice approach can be useful in understanding the nature of goods and services. It analyses the cost and benefits of decentralization. The main limitation of public choice approach is that it is too much rationalistic and suggests narrow prescriptions. Further, rational voters do not vote, and that when rational candidates compete for the votes of rational voters, there is no equilibrium outcome. This is because the behavior of people is different from one another. The prediction of rational behavior always may not be authentic. The significance of public administration and public finance lies in the fact that it provides better services to local people according to their needs.¹³ In the realm of public administration there is a renewed interest in decentralization. It is called *New Development Administration*. It aims at ensuring and institutionalizing people's participation through the process of decentralization. Traditionally, the erstwhile Development Administration was understood as the management of development and administrative development. It connotes the planned institutional capacity to accomplish the specific goals of development through the formulation of appropriate policies, programmes and projects and their successful implementation. But, here popular participation is merely of asymmetric partnership with development agencies. Moreover, popular participation in Development Administration was not linked with local area politics, thus preventing allocative decision-making. The public finance focused heavily on identifying the sources of Local Government revenue, assessing the equity and strength of these revenue sources, dependence of Local Government on Central Government transfers, revenue generation and financial management, and examining mechanisms to stimulate greater local resource mobilization. The public Finance theorists have not dealt with the issues like improving

resource utilization, performance of voluntary organizations or private firms etc. The Public Finances and Public Administration approach is concerned mainly with macroeconomic issues. It analyses organizational arrangements and financial instruments. Political economy perspective is a greater model theory, which has, experienced that institutional and financial arrangements have an impact on the cost efficiency of delivery of services. It includes significant factors like political, administrative, financial, social, organizational, local resources, technical assistance and so on. In decision making process political conditions (creative and systematic thinking of leaders and political stability) are considered very significant which affect the implementation of decentralized governance. Political economy implies that useful relationships among the interest groups are necessary for policy making and implementation. Even In non-democratic countries decisions are made not only by rational calculations but also by political bargaining and negotiations. The most common political rationale for decentralised governance is that it is assumed as good governance which is very much closer to the people.¹⁴ It accommodates pressure of regional autonomy, and sustains heterogeneous society. The economic rationale for decentralised governance is to improve the 'competitiveness' of Governments by satisfying the wishes of citizens and cost efficiency in delivery services. Nevertheless, it is not very clear whether political economy can identify local needs and satisfy people in a society where society is based on a certain hierarchy. Again, there is debate as to whether politics and economics will go together or economy will go simply alone.

All the above theories are based on macro level study. These theories have not only explained the phenomenon but also have not identified the causal mechanisms and processes of grassroot level institutions or decentralized governance. Perhaps, they have identified the perspective of decentralization in a macro level. Decentralised governance is a process of development which performs better in a certain culture. It has been also argued that any

single element of democracy is not sufficient to ensure local government's responsiveness to people's needs and wants.¹⁵ Keeping this at the backdrop, recently, the theory of social capital has been receiving increasing academic attention from all the disciplines of Social Science, and it has begun to generate a remarkable consensus, readily the role and importance of social organization in effective decentralized governance and development establishes social capital as a critical contribution to the development field by drawing on a broader evaluation of institutional performance across Italy's 20 regions. It shows that what really matters for effective government are the long standing informal norms of reciprocity among the citizens, and networks of civic engagement throughout the society. 'Putnam' and his collaborators after spending two decades reveal that the northern region that enjoyed effective governments in the 1990s inherited a legacy of civic engagement that could be traced back to the early Middle Ages. Northern regions of Italy were characterized by a dense network of local associations, by active engagement in community affairs, by egalitarian patterns of politics, by trust and law-abidingness. In the southern region of Italy there was ineffective government where feudal bonds of personal dependence were strengthened, and citizens were made only subjects. Legitimate authority in the south was monopolized by the king, who was responsible only to God. The church was a powerful and wealthy proprietor in the feudal order. The social, political, and religious alignments were vertical, not horizontal. Collaboration, mutual assistance, civic obligation and even trust were lacking in the south while people of the community felt powerless and exploited. He views social capital as a set of '*horizontal association*' among people who have an effect on the productivity of the community. Here, norms and networks are empirically associated and they have important economic consequences. So, the main argument of social capital is that it facilitates cooperation and coordination for the mutual benefit of the members of association. He refers to how the rotating credit association is more a simple economic institution, and is a mechanism strengthening the

overall solidarity of the Java village in Japan. These associations are groups of friends and neighbors who typically meet monthly, each person contributing to a central fund which is then given to one of the members until each of the members received the amount. These associations become important aid institutions for economic development. A member of this association, after receiving the amount, may become indifferent which may lead to loss to others. Trust and network are playing here a crucial role to overcome the dilemma of collective action. *Putnam* emphasizes, therefore, that trust and network (horizontal association or self-help groups) could produce effective government in northern Italy and hence suggests that government efforts should be directed at facilitating the development of self-help groups in the poor regions. However, some scholars have expressed their doubts about the effect of social capital. It has been argued that it is not always a successful universalistic outcome; it may produce negative effects for different purposes.¹⁶ *Harihar Bhattacharya*,¹⁷ from his empirical study argues that social capital ensures effective governance performance. He also argues that political mobilization and various organizational associational movements create and sustain social capital in Bengal on the lines of *Putnam's* medieval and nineteenth century Italy.

Further, the 'synergy' of the state and the class mobilization in Kerala has produced two forms of social capital: *Redistribution* and *Class Coordination* which resulted in turning Kerala's successful development.¹⁸ Again he argues that these successful social developments can be traced back to the social structure of nineteenth century Travancore and Cochin in Kerala. He states, 'Competition between the minority Christian community and the majority Hindu community, as well as between various caste groups, produced a flurry of organizing and a proliferation of community associations. These associations, drawing on the reserves of social capital that inhere in tightly knit communities, promoted educational, health and cultural activities, which in turn became the basis for successful political

movements demanding more jobs and more political representation from what was a Brahmanical State. The fact that these associations continue to play an active role in Kerala only reinforces the impression of direct link between this tradition of civic engagement and Kerala's social development'. This statement gives an incompatible picture whether civic engagement is responsible for Kerala's development or political redistribution. If redistribution and class base politics have become an important factor in Kerala's case, as it has been referred to in Harris's book, then it may ignore the truth of the civic tradition of nineteenth century in Kerala which played a crucial role for socio-economic changes in Kerala. It is, therefore, the institutional value that should come forth in development at grassroots level. Civic engagement or collective well-being is possible in a society where there is abundant stock of cognitive (civic bonds) social capital. However, social organisations or local institutions can create structural (network) social capital that would solve the problems of discontinuity, dependency and disadvantages of grassroot people. Further, it may help to build cognitive social capital. *Putnam's* argument on social capital mostly refers to people's connection with the civic life of their communities, though, not strictly their politics. He believes that a grassroot level movement is a social capital, which can be, regarded as an intensive form of political participation. Contrary to it, a contribution to a political party is a political act that does not create social capital. In brief, social capital can be a useful theory to analyze processes of effective decentralised governance. It is practicable because social capital not only brings back many of the theoretical insights from the classics like *Marx, Weber, Durkheim, and Simmel* but also make sense to link the micro with the macro level in social and political analysis. It may help policy makers to explain a social phenomenon in coherent and systematic form, which is more important before finalizing any policy for grassroots level. Social capital may also promote development at grassroot levels very fast. It is not merely a demand

for institution building but also a reality to building '*pro-poor institution*' to reach the poor more effectively.

Conditions Required for Decentralized Governance

There has been a resurgence of the debate of decentralization that it may promote development when some necessary conditions are met before the process of decentralization.¹⁹ One must look into considerations the following condition while thinking the ability of decentralised governance: People's Participation, Accountability, and Transparency are often mentioned with a strong consensus to make decentralised governance effective. Local Government does not attempt to do everything by itself.²⁰ Successful implementation is always associated with the involvement of someone outside the local administration like the community, an NGO, the private sector or a neighboring village, or another local government. Participation by the community, individual or collectively, through formal and informal channels for voicing demands, making choices and being involved in projects proved to be as much important to sustain capacity as the leadership was in launching it. The presence of an active community increased demands for effective local governments. The individual participation celebrated by *Jefferson* and *Tocqueville* is justified by the fundamental tenet of the Republican Government that all authority resides in the people; the people should rule. At the same time, studies also recognize that decentralization encourages greater political participation and increases responsiveness on the part of government institutions and in the part of development. It has been emphasized that people's active participation in the process of development brings faster socio-economic progress and change. Decentralised governance as a mechanism provides training ensures people's participation in planning and implementation, and therefore, State becomes more participatory, more accountable, more effective and more efficient. Unless people's involvement in plan formulation and implementation is

ensured, it is difficult to say that development achievement will be a progress. Popular movements have been able to increase their own room to maneuver, arguing that their democratic potential may be best realized not by withdrawing from the institutional space altogether, but by taking advantage of existing possibilities to participate, while maximizing their influence and minimizing the risk of co-optation by striking alliances with a variety of other actors.²¹ Further, information is essential for effective decentralised governance. The flow of information in public affairs and services management has become an element of good governance. To access information in decentralised process ensures effective planning and implementation. It helps invoking knowledge, promoting ideas, strengthening society and societies' lives. It controls misuse and leakages of funds and brings efficiency in the development process. Transparency can be classified in two ways: External and Internal. External transparency helps in knowing locality, local needs, profile of the poor, and the prospective beneficiaries. Internal transparency provides information about the schemes and budget to the people. When both the types of information are available, then there is less chance for corruption, wastages and leakages. Accountability is another crucial caveat for development, without strengthening accountability the outcomes of decentralised governance will not be achieved. It is a system of checks and balances of functioning on the part of leaders and administrators to the people. It can be defined as an explanation of one's actions or responsibility. Accountability can be inter-organizational, as between sub-branches of the government; intra-organizational, as between the supervisor and subordinates; and extra-organizational, as when an organization and its functionaries answer directly to customers or stakeholders. Recently, various surveys of research have revealed that social capital can improve the efficiency of decentralised governance by facilitating co-ordinated actions. One lesson gleaned from Putnam's research is that effective and responsive institutions depend on the language of civic humanism, on republican virtues and practices. It has been

argued that political stability, for government's effectiveness, and for economic progress social capital may even be more important than physical or human capital. Social capital is an effective means for achieving the development vision like improved high performance of services, increased broader participation in both the exchange of information needed for effective plan formulation and the legitimate (effective Introduction) implementation encourages further participation), and enhanced governance responsibility by promoting accountability (functioning according to rule of law) and transparency. It is argued that social capital enhances well being by making government institutions more democratic and efficient to deliver public goods and services.

Empirical Study

The empirical study on Organization, power and functioning of the Directorate of Local Bodies in India, in general, and in U.P. in particular can be subsumed under four core issues as follows:

- a. People's participation is a pillar of decentralised governance and development.
- b. Accountability and transparency are the driving force for effective development of decentralized governance.
- c. Social Capital is an instrument for effective decentralized governance.
- d. Effectiveness equity and sustainability are aspects to measure the performance of decentralized governance.

To sum up, there is no comprehensive study available which deals with decentralized governance and its ability to promote development with reference to effectiveness, equity and sustainability in the delivery of services at the grassroot level. Moreover, there is a big contradiction

between the existing literature over the decentralized governance and development in U.P. on the one hand, a number of scholars like to highly praise the performance of decentralised Governance in the country side of U.P. Again, the conditions of decentralised governance like people's participation, accountability of elected leaders to their electorate and of officials to the elected representatives, and transparency in the development process, and the role of social capital were greatly ignored. Further, there is very less literature existing on panchayats of U.P. after the 73rd Amendment Act which may be considered an important issue. This is important because, this Act devolves power to the panchayats by considering the global trends towards decentralized governance to make panchayats a pro-poor institution. At this juncture, it is essential to know whether the panchayats had made any significant contribution to the up-liftment of the poor people at the grassroots level. As the decentralised governance is an important trend to development, it is essential to know whether decentralized governance has promoted development with reference to effectiveness, equity and sustainability in the delivery of services. It is not only necessary to know the contribution of decentralised governance to promote development but it is also worthwhile to examine the correlation between different pillars of decentralised governance such as people's participation, accountability and transparency as well as social capital. Therefore, there is an imperative need for an in-depth study focusing on these areas.

The Issues that arised from the Review of Literatures

The issues that have arised during the review and that needs to be amicably addressed are:

Firstly, what are the mechanisms available for ensuring people's participation, accountability and transparency at the grassroot level? To what extent are these mechanisms truly effective to ensure people's participation, accountability and transparency and if they are not effective

then what are the constraints for people's participation, accountability and transparency? And if there are any constraints how can it be eliminated? *Secondly*, what are the tangible indicators available to understand social capital at grassroot level? What are the factors responsible for the formation and sustenance of social capital? To what extent can social capital help decentralised governance to promote development? And *lastly*, to what extent does decentralised governance deliver services effectively, equitably and sustainably, if it is unable to achieve its goal, then what are the constraints? What other factors can contribute to deliver effective, equitable and sustainable services? It is with these assumptions that a study has been proposed here to examine the relationship between decentralised governance and development in the context of Uttar Pradesh.

Importance and Objectives of Research Design

Objectives of the Study

Considering the above said problem, the central objective of this study is to examine how decentralised governance would promote development with reference to effectiveness, equity and sustainability in delivery of services with a view to suggest policy prescription. How decentralized governance ensures certain internal conditions within its process like people's participation, accountability and transparency which are mainly responsible for development, and how an external condition like social capital incidentally responsible for effective people's participation, accountability and transparency as well as development at the grassroot level. The basis for this objective is higher the participation, accountability and transparency as well as social capital, better the performance of decentralised governance in delivery of services. In order to gain insights into the central objective, the

study has the following specific objectives:

1. To explore the relationship between the Directorate and the Urban Local Bodies.
2. To examine the capacity of decentralised governance for ensuring people's participation in planning and implementation to promote development and powers and functions of the Directorate.
3. To investigate into the ability of decentralised governance for ensuring transparency and accountability in the process of development and the constitutional amendments made by the government of India, in the context of U.P.
4. To examine the role of the Directorate of Local Bodies with special reference to the finances of the Municipal Bodies.
5. To evaluate the working relationship between the Directorate of Local Bodies and the corresponding Municipal Bodies.
6. To examine the role of the Directorate of Local Bodies regarding service conditions of the personnel (Centralized & Non-Centralised Services) of the Municipal Bodies.
7. To examine the efficacy of the existing organisational structure for collection of taxes, fees, and other revenues.
8. To assess the contribution of various sources of revenues, viz. taxes, non-taxes, and grant-in-aids.

9. To access the Revenue – Expenditure imbalance.
10. To access the extent up to which a decentralised government can deliver services effectively, equitably and sustainably; and in case it fails to achieve its goal, then identify the constraints, and thereafter, suggest other factors that can contribute to the delivery of effective, equitable and sustainable services.
11. To find out, the mechanisms available for ensuring people's participation, accountability, and transparency at the grassroot level (i.e., Municipal Bodies), and the extent to which these mechanisms are truly effective; and thereafter, to examine the constraints in this regard and suggest remedies for their elimination.

Underlying assumption is that the Directorate will be of great help in increasing efficiency in various spheres of local government. The case for a Directorate has usually been made out on the ground that a separate agency equipped with necessary field staff is needed to exercise control and supervision over the Urban Local Bodies to help and guide them to co-ordinate the activities of the state agencies, and undertake inspection in order that their performance could be bettered.²² Various committees set up by the Government of India considered this question. In 1963, the *Committee of Ministers* set up by the *Central Council of Local-Self-Government* recommended the setting up of *Directorates*. The Central Council itself in its meeting held in 1965, urged the State Governments to establish the Directorates to keep a watch on the implementation of the resolution of the central council and conference of Municipal Corporations and to ensure the execution of the Local Government schemes. The *Rural - Urban Relationship Committee* made the last recommendation in 1966.

The committee felt that a well organized Directorate at the State level with effective regional inspecting staff should go a long way towards imposing

the system of direction, supervision and control of local authorities in the solution of their current and future problems and advocate their cause with the relevant department.²³

A research, that is, “*a critical and exhaustive investigation or experimentation having as its aim the revision of accepted conclusions in the light of newly discovered facts*”²⁴ can be conducted through several methods depending upon the research purpose. The research purposes may be grouped under four broad categories viz.

1. Exploration
2. Description
3. Diagnosis
4. Experimentation

It has, however, been accepted now that the scientific method of study is a sine-qua-non of a study irrespective of its purpose.

To quote *Karl Pearson*, “*There is no short cut to the truth..... no way to gain knowledge of the universe except through the gateway of scientific method.*”²⁵ Historical method is used for investigating, recording, analyzing and, interpreting the events of the past for the purpose of discovering generalizations that are useful in understanding the past, and the present, and to a limited extent, in anticipating the future.

1. Descriptive method involves the description, recording, analysis and interpretation of conditions that now exist. It involves some type of comparison or contrast and may attempt to discover relationships that exist between existing non-manipulating variables. This method is used mainly to study the chapter, Organizational set up and Functions of the Directorate.

2. To collect some up-to-date and relevant information survey is made. The distinguished features of Survey Methods are: ²⁶ Scientific Survey implies that the results obtained must be respectable and standardised.
 - a. Scientific Survey report facts from interpretation.
 - b. To ensure standardization, the investigation specifies in advance the exact questions, which are to be asked from respondents and also pretests them.
 - c. Centralization of the result in similar cases.
 - d. The data obtained are treated quantitatively.
 - e. It employs a rigid procedure to have a valid base for generalization.
 - f. Interview method is employed to get data.

In every scientific study great variety of research tools are used to aid in the acquisition of data. These tools are of many kinds and employ distinctive ways of describing and qualifying the data. In the present study the various tools used for scientific study are personal interviews, discussions, literature, questionnaire forms etc.

Sources of Data

There are two types of sources from where the information be obtained.

- a. Primary sources.
- b. Secondary sources.

Primary sources of information are more important because they are first hand information on the topic and hence more reliable. The Primary Sources of information used in present study are:

- i. Observation.
- ii. Information through personal interview.

- iii. Information through discussions.
- iv. Information through questionnaire.
- v. Information through statistical data.

Secondary sources of information are those which are originally compiled by others but have been used by the investigator. In the present study these sources are:

- i Books.
- ii Journals and Booklets of the department concerned.
- iii News papers.
- iv Reports of different committees from time to time.
- v Government Orders/Circulars,
- vi Government Gazettes / Publications,
- vii Census Reports (GOI).
- viii Academic Publications

The various informations collected through questionnaires, personal interviews and discussions were analyzed scientifically by defining the field of inquiring grouping the information and by classification of data into concise, logical and intelligence form and to make study and to display underlying unity of the items.

Research Design

In-depth case study was carried out. The case study method is followed here because this method not only captures the qualitative aspects of local governance but also brings out the organic relationship within the Local Bodies and the Directorate. Besides, the case study method helps in testing the existing concepts and developing new concepts as well as ideas.

Tools for Data Collection

Data were collected from the Elected Members and the Officials of the Local Bodies (all the three tiers), and Officials of the Directorate separately. Two distinct *Questionnaires – Part I & Part II* (see *Annexure 'D'*) was prepared to collect data from the respondents. The respondents were identified and interviewed on their perception, awareness, participation and opinion as to how to strengthen and sustain the Local Bodies. A master schedule was prepared for collecting general information from the office of the Directorate. These data were related to the Structure, budgeting, planning, schemes, implementation, reservation, resources, projects etc., of the Local Bodies.

Methodology

This study mainly relies on *primary data*. The data were collected, through specially designed *questionnaire, (Annexure 'D')* from three different groups of respondents:

- Officials of the Directorate of Local Bodies, U.P.,
- Officials of the Municipal Bodies, and
- Elected Members of the Municipal Bodies.

As far as the selection of respondents was concerned, it was proposed to randomly select them. The respondents were interviewed as well as made to fill the questionnaire with the objective to collect informations regarding their awareness, perception & participation, and the functioning of the Directorate *vis-à-vis* the Municipal Bodies, and their views regarding suitable reforms in the existing system of affairs. The number of respondents selected for this study is shown in *Table No. 1.1*.

Table No. 1.1

<i>Respondents</i>	<i>Directorate of Local Bodies, U.P.</i>	<i>Nagar Nigam</i>	<i>Nagar Palika Parishad</i>	<i>Nagar Panchayat</i>	<i>Total</i>
<i>Officials</i>	15	10	8	4	37
<i>Elected Members</i>	–	10	6	4	20
Total	15	20	14	08	57

Apart from the above mentioned respondents, the Principal Secretary, Urban Development Department, Govt. of U.P. Director, Deputy Director, Joint Director, Directorate of Local Bodies, U.P., Mayor, Lucknow Nagar Nigam (LNN), Mukhya Nagar Adhikari, LNN, and some other persons (from the academia and politics) were met and information regarding relevant issues was collected

Universe of the Study

The present study relates to the powers and functions of the Directorate of Local Bodies, U.P., and its relationship with the Municipal bodies.

The selection of the proposed study was based on *Multistage Stratified Random Sampling Technique* at the levels of the Directorate, Municipal Bodies (three tier), and the respondents.

All the three levels of Municipal Bodies, their officials and elected members, and the Directorate of Local Bodies, U.P., were selected as the universe of the study.

The current numbers of Municipal Bodies and their corresponding areas and population is illustrated in *Table No. 1.2*.

Table No. 1.2

<i>Category of Municipal Bodies</i>	<i>Number of Municipal Bodies</i>	<i>According to 2001 Census</i>	
		<i>Area in Sq. Kms.</i>	<i>Population</i>
1	2	3	4
Nagar Nigams	13	1654.18	13866560
Nagar Palika Parishad	194	2369.78	13278028
Nagar Pachayats	423	1814.07	6076550
Total	630	5838.03	33221138

Source: Directorate of Local Bodies, U.P.

The total Revenue Recovery by the *630 Municipal Bodies* (comprising of

Nagar Nigams, Nagar Palika Parishads, and Nagar Panchayats) is highlighted in *Table 1.3.* in subsequent three years, *i.e.*, from 2007 to 2010.

Table No. 1.3.

**Revenue Recovery of the Municipal Bodies in three years
(2007-10)**

(in crores rupees)

<i>Category of Municipal Bodies</i>	<i>Number of Municipal Bodies</i>	2007-08	2008- 09	2009- 10
1	2	3	4	5
<i>Nagar Nigams</i>	13	414.74	574.13	541.82
<i>Nagar Palika Parishad</i>	193	185.90	212.92	214.40
<i>Nagar Pachayats</i>	424	49.50	50.78	55.11
Total	630	650.14	837.83	811.33

Source: Directorate of Local Bodies, U.P.

Table 1.4.**Ratio Ranking on the Basis of Indicators**

<i>Indicators</i>	<i>Favorable</i>	<i>Good</i>	<i>Moderate</i>	<i>Poor</i>
Operating revenue surplus / revenue receipts	>50%	>35%	>15%	<15%
Revenue surplus / revenue receipts	>40%	>25%	>10%	<10%
Debt service credit ratio	>4 x	2-4 x	1-2 x	<1 x
Interest coverage	>6 x	3-6 x	1.5-3 x	<1.5 x
Capital expenditure / total expenditure (inclusive of debt servicing)	>40%	>20%	>10%	<10%
Operating revenue surplus / debt	>50%	25%	>10%	<10%
Revenue receipts / debt	>2.5	>1.5	>1.0	>1.0
Capital grants + revenue surplus / capital expenditure	>0.75	>0.5	>0.25	<0.25
Own tax / revenue receipts	>70%	>50%	>25%	<25%
Revenue grants / revenue receipts	<10%	<25%	<50%	>50%
Establishment expenditure / revenue expenditure	<40%	<60%	<75%	>75%
Cost recovery: water	>75%	>50%	>25%	<25%
Collection efficiency: property tax	>75%	>50%	>30%	<30%

Source: Sujata Srikumar, 2000. *Rating of Municipal Bonds*.

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CHAPTER - II

***GROWTH OF LOCAL SELF
GOVERNMENT***

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GROWTH OF LOCAL SELF GOVERNMENT

In our day-to-day life we require some basic facilities as water supply, drainage, garbage disposal, public health and sanitation. We may often watch activities as installation or repairing of street lights, construction or repairing of roads or say renovation of a village tank. Who does all this? It is not the Central or the State government which immediately comes to our mind. It is the local government with which we can immediately relate to ourselves.

In our towns and cities, we have local government institutions that are called Municipalities and Municipal Corporations. An urban area is usually a compact and densely populated area. Municipal administration is necessary to provide basic civic facilities like water supply, drainage, garbage disposal, public health, primary education, construction and maintenance of roads etc.

The recommendations and suggestions of several commissions and committees appointed by the Central Government, from time to time, to improve the urban bodies resulted in this enactment of the Constitution (Seventy-fourth Amendment) Act, 1992. Earlier, State Governments were free to manage their local bodies as they wished. The Amendment made statutory provisions for the establishment, empowerment and functioning of urban local self-governing institutions. The main provisions of this Act can be grouped under two categories – *Compulsory and Voluntary*. Some of the *Compulsory* provisions which are binding on all States are:

- Constitution of Nagar Panchayats, Municipal Councils and Municipal Corporations in Small, Big and Very Big Urban Areas respectively;

- Reservation of seats in Urban Local Bodies for Scheduled Castes / Scheduled Tribes roughly in proportion to their population;
- Reservation of seats for women up to one-third of the total capacity of the house;
- The State Election Commission, constituted in order to conduct elections in the Panchayati Raj Bodies (see 73rd Amendment Act) will also conduct elections to the Urban Local Self- Governing Bodies;
- The *State Finance Commission*, constituted to deal with financial affairs of the Panchayati Raj Bodies also looks into the financial affairs of the Urban Local Self-Governing Bodies;
- Tenure of Urban Local Self-Governing Bodies is fixed at five years and in case of earlier dissolution fresh elections to be held within six months.

Some of the voluntary provisions which are not binding, but are expected to be observed by the States are:

- Giving voting rights to members of the Union and State Legislatures in these bodies;
- Providing reservation for backward classes;
- Giving financial powers in relation to taxes, duties, tolls and fees, etc;
- Making the Municipal Bodies autonomous and devolution of powers to these bodies to perform some or all of the functions enumerated in

the Twelfth Schedule added to the Constitution through this Act and / or to prepare plans for economic development.

In accordance with the 74th Amendment, Municipal Corporations and Municipalities (Municipal Boards or Municipal Committees) are now regulated in a fairly uniform manner in all the States. However it must be remembered that Local Self-Government continues to be a subject in the State List. As a local level democratic government, the municipal institutions that are an elected body of the local people raise taxes and collect fees and fines from the public. They regulate the city life by laying down regulations regarding buildings, road network and garbage disposal etc. There are many developmental activities undertaken by them like women and child development, slums improvement etc. Municipal government has made possible participative urban development and local management of civic facilities.

Thus, each State has its own Election Commission which conducts elections to all local bodies after regular intervals of five years. Each State has its Finance Commission to regulate finances of the local bodies. Seats are reserved in the corporations and Municipalities for Scheduled Castes and Tribes. One-third seats are reserved for women in all local bodies – urban and rural. The Municipal Bodies are constituted of persons chosen by direct election from the territorial constituencies in the municipal area. However, the Legislature of a State may, by law, provide for the representation in a Municipal Body of persons having special knowledge or experience of municipal administration, the members of Rajya Sabha, Lok Sabha and the members of Legislative Council and Legislative Assembly of the State, representing constituencies, which comprise wholly or partly the Municipal area and the Chairpersons of Wards Committees. Empowerment of weaker sections of society and women by reserving seats for such groups is one of the important constitutional provisions of this Constitutional Amendment.

The offices of chairperson can also be reserved for SC/ST and women. Thus at least one year, out of five year tenure of Municipal Corporation of Delhi, the office of Mayor is reserved for women, and for another one year is reserved for a Councilor of Scheduled Caste. It provides a term of five years to the Municipalities and if any of them is to be dissolved, it must be given an opportunity of being heard. To be able to understand the composition of Urban Local Bodies, we give below a very brief account of Municipal Corporation of Delhi. This Corporation covers entire area of Delhi, except small portion of New Delhi where seat of Union Government is situated. The Corporation has 134 elected members (Councilors). They are directly elected from single-member wards on the basis of universal adult franchise. Several seats are reserved for women and for Scheduled Castes. They are elected for a term of 5 years. Besides, there are 15 persons nominated by the Delhi Legislative Assembly. The Corporation functions through various Committees – the standing committee being the most important. The political head of the Corporation is the Mayor, elected by the Councilor for one year. A civil servant, called the Municipal Commissioner is its administrative head. Most other Corporations are generally based on this pattern. It is a common practice to divide the organization of a corporation or a Municipality into two parts: (a) the *Deliberative*, and (b) the *Executive* part. The corporation, council or municipal board or council consisting of the elected representatives of the people constitutes the deliberative part. It acts like a legislature. It discusses and debates on general municipal policies and performance, passes the budget of the urban local body, frames broad policies relating to taxation, rising of resources, pricing of services and other aspects of municipal administration. It keeps an eye on municipal administration and holds the executive accountable for what is done or not done. For instance, if water supply is not being properly managed, or there is an outbreak of epidemic, the deliberative wing criticizes the role of the administration and suggests measures for improvement. The executive part of municipal administration is looked after by the municipal officers and

other permanent employees. In the corporations, the Municipal Commissioner is the executive head, and all other departmental officers like engineers, finance officers, health officers etc. function under his/her control and supervision. In a large corporation such as Delhi or Mumbai Municipal Corporation the Commissioner is usually a senior *IAS Officer*. In the Municipalities, the executive officer holds a similar position and looks after the overall administration of a Municipality.

Municipal functions are generally classified into *obligatory* and *discretionary* types. The obligatory (compulsory) functions are those that the Municipal Body must perform. In this category fall such functions as water supply; construction and maintenance of roads, streets, bridges, subways and other public works, street lighting; drainage and sewerage; garbage collection and disposal; prevention and control of epidemics. Some other obligatory functions are public vaccination and inoculation; maintenance of hospitals and dispensaries including maternity and child welfare centers; checking food adulteration; removal of slums; maintenance of cremation and burial grounds; and town planning. In some States some of these functions may be taken over by State Government. The discretionary functions are those that a Municipal Body may take up if funds permit. These functions are given less priority. Some of the discretionary functions are construction and maintenance of rescue homes and orphanages, housing for low income groups, organizing public receptions, provision of treatment facilities, etc. Municipal Corporations take up more functions than Municipalities. There are corporations like Delhi, Mumbai, Vadodara, Pune, and Ahmedabad which are known for their various city development activities in such areas as public transport, public parks and open spaces including municipal zoo, and even milk and electricity supply.

Municipal Corporations and Municipalities raise their own resources from a variety of sources, as provided for in the respective municipal laws. Their

own revenue sources are income from (i) taxes, (ii) fees and fines, and (iii) earning from municipal enterprises like land, tanks, markets, shops, etc. Besides these bodies receive grants from the State. Property tax on land and buildings is the most important source of income of most Urban Local Bodies. Other taxes levied by them are advertisement tax, professional tax etc. which still remains an important source of income of Municipalities in Western India. They also charge fines for breach of municipal rules and regulations. From municipal shops and markets and rest houses, Municipalities often earn considerable sum of revenue. It is a general practices for States to give grants to their Municipal Bodies to improve their revenue position. State *grants-in-aid* may be on ad hoc basis; or, it can be on the basis of certain principles like size of population, slums concentration, location of town, etc.

Some of the taxes and rates collected by urban bodies are: Property Tax; Water tax for water supplied; Sewage Tax, Fire Tax; Taxes on animals and vehicles; Theatre Tax; Duty on transfer of Property; Octroi Duty on certain items brought into the city; Education Cess (Tax); and Professional Tax. Some other sources of income are fines and fees such as Fees on Teh-bazari on '*takhats*' and captures; license fees from cycle rickshaws, bicycles etc.; rent from municipal shops; and fines imposed for violation of Municipal by-laws.

The concept of Panchayati Raj is not only based on the ancient Indian belief that "*God lives in the Panch*", or *panch parmashwar*, but was very enthusiastically propounded by *Mahatma Gandhi*. He believed in empowering all sections of people, and in grassroot democracy. That is possible only through village panchayats.

Right up to the British period, panchayats played a very important role in the social life of the village and also resolved minor disputes among villagers.

Under the British rule, panchayats lost the respect and power which they had earlier enjoyed because of the new system of courts, laws and revenue collection. Though in independent India one of the Directive Principles of State Policy in the Constitution directed the Union and State Governments to try to take steps to organize village panchayats and give them such powers and authority as may be necessary to enable them to act as units of self-government Panchayati Raj was not taken up seriously by the States. However, they are now given Constitutional status.

Panchayati Raj (Rule of Village Committee) Panchayati Raj system is a three-tier system in the state with elected bodies at the Village, Taluk (Block) and District levels. It ensures greater participation of people and more effective implementation of rural development programmes. There will be a Gram Panchayat for a village or group of villages, a Taluk/Block level Panchayat Samiti and the Zilla Panchayat at the district level. India has a chequered history of Panchayati Raj starting from a self-sufficient and self-governing village communities that survived the rise and fall of empires in the past to the modern legalized institutions of governance at the third tier provided with Constitutional support.

Early History

During the time of the *Rig-Veda* (1700 BC), evidences suggest that self-governing village bodies called 'sabhas' existed. With the passage of time, these bodies became panchayats (council of five persons). Panchayats were functional institutions of grassroot governance in almost every village (See Table No.2.1.). The Village Panchayat or elected council had huge powers, both *executive* and *judicial*. Land was distributed by this panchayat which also collected taxes out of the produce and paid the government's share on behalf of the village. Above a number of these village councils there was a larger panchayat or council to supervise and interfere if

necessary.¹ Casteism and feudalistic system of governance under Mughal rule in the medieval period slowly eroded this self-government body in villages. A new class of feudal chiefs and revenue collectors (Zamindars) emerged between the ruler and the people. And, so began the stagnation and decline of self-government in villages.

During the British rule, the autonomy of panchayats gradually declined with the establishment of local civil and criminal courts, revenue and police organizations, the increase in communications, the growth of individualism and the operation of the individual 'Ryotwari' (landholder-wise) system as against the 'Mahalwari' or Village Tenure System.

Growth of Local Self-Govt. in Pre-Independence Period

The panchayat had never been the priority of the British rulers.² The rulers were interested in the creation of 'controlled' local bodies, which could help them in their trading interests by collecting taxes for them. When the colonial administration came under severe financial pressure after the 1857 uprising, the remedy sought was decentralization in terms of transferring responsibility for road and public works to local bodies. However, the thrust of this '*compelled decentralization*' was with respect to municipal administration. The panchayat was destroyed by the East India Company when it was granted the office of Diwan in 1765 by the Mughal Emperor as part of reparation after his defeat at Buxar. As Diwan the Company took two decisions. The first was that it abolished the village land record office and created a company official called '*Patwari*.' The *Patwari* became the official record keeper for a number of villages. The second was the creation of the office of '*Magistrate*' and the abolition of village police. The *Magistrate* carried out policing functions through the '*Darogha*' who had always been a state functionary under the '*Faujdar*'. The primary purpose of these measures was the collection of land revenue by fiat. The depredations of the

Patwari and the *Darogha* are part of our folklore and it led to the worst famine in Bengal. The effects of the famine lingered right to the end of the 18th century. These two measures completely disempowered the village community and destroyed the panchayat. After 1857 the British tried to restore the panchayat by giving it powers to try minor offences and to resolve village disputes. But these measures never restored the lost powers of the village community.

From 1870 the *Viceroy Lord Mayo's Resolution* (for decentralization of power to bring about administrative efficiency in meeting people's demand and to add to the finances of colonial regime) gave the needed impetus to the development of local institutions. It was a landmark in the evolution of colonial policy towards local government. The real benchmarking of the government policy on decentralization, however, is attributed to *Lord Ripon* who, in his famous resolution on Local Self-Government on May 18, 1882, recognized the twin considerations of Local Government: (i) *Administrative Efficiency* and (ii) *Political Education*. The *Ripon Resolution*, which focused on towns, provided for local bodies consisting of a large majority of elected non-official members and presided over by a non-official chairperson. This resolution met with resistance from colonial administrators. The progress of Local Self-Government was tardy with only half-hearted steps taken in setting up Municipal Bodies. Rural decentralisation remained a neglected area of administrative reform.

The Royal Commission on Decentralization (1907) under the chairmanship of 'C.E.H. Hobhouse' recognized the importance of panchayats at the village level. The commission recommended that "it is most desirable, alike in the interests of decentralization and in order to associate the people with the local tasks of administration that an attempt should be made to constitute and develop village panchayats for the administration of local village affairs".³

But, the *Montague-Chemsford Reforms (1919)* brought Local Self-Government as a provincial transferred subject, under the domain of Indian ministers in the provinces. Due to organizational and fiscal constraints, the reform was unable to make panchayat institutions truly democratic and vibrant. However, the most significant development of this period was the '*establishment of village panchayats in a number of provinces, that were no longer mere ad hoc judicial tribunal, but representative institutions symbolizing the corporate character of the village and having a wide jurisdiction in respect to civic matters*'. By 1925, eight provinces had passed panchayat acts and by 1926, six native States had also passed panchayat laws.

The provincial autonomy under the *Government of India Act, 1935*, marked the evolution of panchayats in India. Popularly elected governments in provinces enacted legislations to further democratize institutions of Local Self-Government. But the system of responsible government at the grassroot level was least responsible. *D.P. Mishra*, the then *Minister for Local Self-Government* under the *Government of India Act of 1935* in *Central Provinces* was of the view that "*the working of our local bodies... in our province and perhaps in the whole country presents a tragic picture... 'Inefficiency' and 'local body' have become synonymous terms....*"⁴

In spite of various committees such as the *Royal Commission on Decentralization (1907)*, the report of *Montague and Chemsford* on constitutional reform (1919), the *Government of India Resolution (1918)*, etc., a hierarchical administrative structure based on supervision and control evolved. The administrator became the focal point of rural governance. The British were not concerned with decentralized democracy but were aiming for colonial objectives.⁵

The Indian National Congress from the 1920 to 1947, emphasized the issue

of All-India Swaraj, and organized movements for Independence under the leadership of Mahatma Gandhi. The task of preparing any sort of blueprint for the local level was neglected as a result. There was no consensus among the top leaders regarding the status and role to be assigned to the institution of rural Local Self-Government; rather there were divergent views on the subject. On the one end *Gandhi* favoured Village Swaraj and strengthening the village panchayat to the fullest extent and on the other end, Dr. B.R. Ambedkar opposed this idea. He believed that the village represented regressive India, a source of oppression. The model State hence had to build safeguards against such social oppression and the only way it could be done was through the adoption of the parliamentary model of politics.⁶ During the drafting of the Constitution of India, Panchayati Raj Institutions were placed in the non-justifiable part of the Constitution, the Directive Principles of State Policy, as *Article 40*. The *Article* read "*the State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.*" However, no worthwhile legislation was enacted either at the national or state level to implement it.

In four decades since the adoption of the Constitution, Panchayati Raj Institutions have traveled from the non-justifiable part of the Constitution to one where, through a separate amendment, a whole new status has been added to their history.⁷

Growth of Local Self-Govt. in Post-Independence Period

Panchayat raj had to go through various stages. The First five Year Plan failed to bring about active participation and involvement of the people in the Plan processes, which included Plan formulation implementation and monitoring. The Second Five Year Plan attempted to cover the entire countryside with *National Extensive Service Blocks* through the institutions

of *Block Development Officers, Assistant Development Officers, Village Level Workers*, in addition to nominated representatives of village panchayats of that area and some other popular organizations like co-operative societies. But the plan failed to satisfactorily accomplish decentralization. Hence, committees were constituted by various authorities to advise the Centre on different aspects of decentralization.

Balwant Rai Mehta Committee (1957)

In 1957, *Balwant Rai Mehta Committee* studied the *Community Development Projects (CDP)* and the *National Extension Service (NES)* and assessed the extent to which the movement had succeeded in utilising local initiatives and in creating institutions to ensure continuity in the process of improving economic and social conditions in rural areas. The Committee held that community development would only be deep and enduring when the community was involved in the planning, decision-making and implementation process.⁸ The suggestions were for as follows: ⁹

- An early establishment of elected local bodies and devolution to them of necessary resources, power and authority to them.
- That the basic unit of democratic decentralization was at the block/samiti level since the area of jurisdiction of the local body should neither be too large nor too small. The block was large enough for efficiency and economy of administration, and small enough for sustaining a sense of involvement in the citizens.
- Such body must not be constrained by too much control by the government or government agencies.

- The body must be constituted for five years by indirect elections from the village panchayats.
- Its functions should cover the development of agriculture in all its aspects, the promotion of local industries and others services such as drinking water, road building, etc.
- The higher level body, Zila Parishad, would play an advisory role.

The PRI structure did not develop the requisite democratic momentum and failed to cater to the needs of rural development. There are various reasons for such an outcome which include political and bureaucratic resistance at the state level to share power and resources with local level institutions, domination of local elites over the major share of the benefits of welfare schemes, lack of capability at the local level and lack of political will.

S. K. Dev: The first Minister for Panchayati Raj in India

Late *Mr. S. K. Dey*¹⁰ (1905–1989) piloted and steered the course of community development and Panchayati Raj in the challenging, formative period of India's independence as Cabinet Minister of Co-operation and Panchayati Raj under the Prime Ministership of *Jawaharlal Nehru*. After Nehru's death he took leave from Ministerial responsibilities to dedicate himself fully for the cause of Panchayati Raj as long as he lived.¹¹

K. Santhanam Committee (1963)

One of the prime areas of concern in this long debate on Panchayati Raj Institutions was fiscal decentralization. The *K. Santhanam Committee* was appointed to look solely at the issue of PRI finance, in 1963. The fiscal capacity of PRIs tends to be limited, as rich resources of revenue are pre-

empted by higher levels of government, and issue is still debated today. The Committee was asked to determine issues related to sanctioning of grants to PRIs by the state government, evolving mutual financial relations between the three tiers of PRIs, gifts and donation, handing over revenue in full or part to PRIs. The Committee recommended the following: ¹²

- Panchayats should have special powers to levy special tax on land and house, etc.

- People should not be burdened with too many demands (taxes).

- All grants and subventions at the state level should be mobilized and sent in a consolidated form to various PRIs.

- A Panchayat Raj Finance Corporation should be set up to look into the financial resource of PRIs at all levels, provide loans and financial assistance to these grassroot level governments and also provide non-financial requirements of villages.

These issues have been debated over the last three decades and have been taken up by the State Finance Commissions which are required to select taxes for assignment and sharing, identifying the principles for such sharing and assignment, determine the level of grants and recommend the final distribution of state's transfers to local authorities.

Ashok Mehta Committee (1978)

With the coming of the *Janta Party* into power at the Centre in 1977, a serious view was taken of the weaknesses in the functioning of Panchayati Raj.¹³ It was decided to appoint a high-level committee under the chairmanship of *Ashok Mehta* to examine and suggest measures to strengthen the PRIs. The Committee had to evolve an effective decentralized

system of development for PRIs. They made the following recommendations:¹⁴

- The district is a viable administrative unit for which planning, co-ordination and resource allocation is feasible and technical expertise available.
- PRIs as a two-tier system, with Mandal Panchayat at the base and Zila Parishad at the top.
- The PRIs are capable of planning for themselves with the resources available to them.
- District planning should take care of the urban-rural continuum.
- Representation of SCs and STs in the election to PRIs on the basis of their population.
- Four-year term of PRIs.
- Participation of political parties in elections.
- Any financial devolution should be committed to accept that much of the developmental functions at the district level would be played by the panchayats.

The states of Karnataka, Andhra Pradesh and West Bengal passed new legislation based on this report. However, the flux in politics at the state level did not allow these institutions to develop their own political dynamics.

G.V.K. Rao Committee (1985)

The G.V.K. Rao Committee was appointed to once again look at various aspects of PRIs. The Committee was of the opinion that a total view of rural development must be taken in which PRIs must play a central role in handling people's problems. It recommended the following: ¹⁵

- PRIs have to be activated and provided with all the required support to become an effective organization.
- PRIs at district level and below should be assigned the work of planning, implementation and monitoring of rural development programmes.
- The block development office should be the spine of the rural development process.

L.M. Singhvi Committee (1986)

L.M. Singhvi Committee studied Panchayati Raj. The Gram Sabha was considered as the base of a decentralized democracy, and PRIs viewed as institutions of self-governance which would actually facilitate the participation of the people in the process of planning and development.

It recommended: ¹⁶

- Local Self-Government should be constitutionally recognized, protected and preserved by the inclusion of a new chapter in the Constitution, and
- Non-involvement of political parties in Panchayat elections.

The suggestion of giving panchayats constitutional status was opposed by the *Sarkaria Commission*, but the idea, however, gained momentum in the late 1980s especially because of the endorsement by the late Prime Minister Rajiv Gandhi, who introduced the *64th Constitutional Amendment Bill* in 1989. The *64th Amendment Bill* was prepared and introduced in the lower house of Parliament. But it got defeated in the Rajya Sabha as non-convincing. He lost the general elections too. In 1989, the National Front introduced the *74th Constitutional Amendment Bill*, which could not become an Act because of the dissolution of the Ninth Lok Sabha. All these various suggestions and recommendations and means of strengthening PRIs were considered while formulating the new Constitutional Amendment Act.

The 73rd Constitution Amendment Act

The *Seventy Fourth Amendment Act, 1992* was not a response to the pressure from the grassroot, but to an increasing recognition that the institutional initiatives of the preceding decade had not delivered, that the extent of rural poverty was still too much large and thus the existing structure of government needed to be reformed. It is interesting to note that this idea evolved from the Centre as well as the State Governments. It was a political drive to see PRIs as a solution to the governmental crises that India was experiencing. The *Constitutional 73rd Amendment Act*, passed in 1992 by the *Narasimha Rao* Government, came into force on *April 24, 1993*. It was meant to provide constitutional sanction to establish "*democracy at the grassroot level as it is at the state level or national level.*" Its main features are as follows: ¹⁷

- The Gram Sabha or village assembly as a deliberative body of decentralized governance has been envisaged as the foundation of the Panchayati Raj System.

- A uniform three-tier structure of panchayats at village (Gram Panchayat - GP), intermediate or block (Panchayat Samiti - PS) and district (Zila Parishad - ZP) levels.
- All the seats in a panchayat at every level are to be filled by elections from respective territorial constituencies.
- Not less than one-third of the total seats for membership as well as office of chairpersons of each tier has to be reserved for women.
- Reservation for weaker castes and tribes (SCs and STs) has to be provided at all levels in proportion to their population in the panchayats.
- To supervise, direct and control the regular and smooth elections to panchayats, a State Election Commission has to be constituted in every State and UT.
- The Act has ensured constitution of a State Finance Commission in every State/UT, for every five years, to suggest measures to strengthen finances of PRIs.
- To promote bottom-up-planning, the District Planning Committee (DPC) in every district has been accorded constitutional status.

An indicative list of 29 items has been given in Eleventh Schedule of the Constitution. Panchayats are expected to play an effective role in planning and implementation of works related to these 29 items.

74th Constitution Amendment Act 1992

In order to provide the common framework for Urban Local Bodies and help to strengthen the functioning of the local bodies as effective democratic units of self-government, Parliament amended the Constitution (74th Amendment Act 1992) and provided constitutional status to 'Municipalities' which are of 3 types:

- *Nagar Panchayat* - for transitional area (an area which is being transformed from rural to urban area),
- *Municipal Council / Nagar Palika Parishad* for a smaller urban area,
- *Municipal Corporation / Nagar Nigam* for a larger urban area.¹⁸

Through this amendment *Part IX A* has been added to the constitution along with a Schedule (*12th Schedule*). This means that now constitution of India sets out clear guidelines on the following:

- Composition of Municipalities.
- Composition and constitution of Ward Committees, District planning committees and Metropolitan Planning committee.
- Reservation of seats for SCs/STs and Women.
- Power, authority, duration, dissolution and elections of the Municipalities.
- Constitution of State Finance Commission.

The 12th Schedule lists down 18 subjects on which the Urban Local Bodies can formulate its policies and execute it. However, as mentioned earlier Local Government is a 'State Subject', therefore; based on these constitutional guidelines, States Governments were required to make a law for the functioning of the Municipalities in their respective States. All the States (except the *Four North East States* where the act does not apply i.e. *Arunachal Pradesh, Meghalaya, Mizoram and Nagaland*) have constituted Municipalities in their States and they conduct regular elections.

But the question that arises is that Municipalities were in existence in several cities of India before 1992 as well, so what exactly has changed after this Act? The difference between the previous and present scenario is as follows:

- The Municipalities in Pre-1992 era did not have a Constitutional status and the State governments were free to extend or control the functional sphere through executive decisions which they cannot do now.¹⁹
- The State government could exercise control over the Municipalities by controlling their funds. However, now the State governments are mandated to transfer the funds in accordance with the recommendations of the State Finance Commission.²⁰
- Now the subject of jurisdiction is clearly defined with Municipalities having exclusive control over 18 listed subjects.²¹
- Representation of SCs/STs and women is laid down in the Act itself making the Municipalities a more representative body.

Local Government in U.P.

Local self government was introduced in U.P. by *Act 26 of 1850*. By this All-India Act, the municipal Boards of *Dehradun*, *Mussorie* and *Nainital* were established. Under this very Act the Municipal Boards of *Allahabad* (1862-63), *Agra* (1862-63), *Meerut* (1860), *Varanasi* (1867) were also established. The act provided that the Municipal Boards could be established only at the initiative of the Collector of a district, but the Collectors did not take any interest which was evident from the small number of Boards established till 1867, which was only seven.

In 1868, *Act 26 of 1850* was substituted by *North West Provinces (NWP) Municipal Improvement Act*. Under this act the government could establish Municipal Committee. The government could also order for the election of Municipal Committees. The Municipal Boards were to meet every month and record the resolution passed in a minute book. The number of ex-officio members was not to exceed 1/3 of the total number of members in the Board.

Government issued a directive to all Divisional Commissioners to establish Municipal Boards in all the districts and also in selected other important cities. The District Magistrate was to be the President of the Municipal Board, which were put under the charge of a Sub-divisional Magistrate. The Divisional Commissioner exercised a vast control over the Board.

While imposing 'octroi' tax the Boards had to be careful that the business and trade did not suffer on account of it. No tax was to be imposed which would lead to serious criticism or opposition. The wish of the people was to play an important part in the imposition of new taxes.

Under *Act.26 of 1850* a Municipal Board was also set up in *Lucknow* in *1864*. In *1864* a separate Act was passed for other cities. Under this Act the Municipal Committee was to have 25 members of which six (*i.e.* Commissioner, Dy. Commissioner, Executive Engineer, Civil Surgeon, Inspector General of Police and the City Magistrate) were to be *ex-officio* members. The remaining 19 members were to be elected. The Commissioner was given vast power. He could determine the Municipal limits, prescribe electorate and regulate the election of members. He could suspend the Municipal Committee although with the permission of the Government of India. The principal source of income was the charges and fines. The entire income was credited to the Government, which sanctioned a part of it to the Municipal Committee. But in few cases this allotment could be less than $1/3$ of the total receipt. The rest of the amount was given to the Commissioner of the Police to meet the Police expenditure.

During the period, *1862-70*, the *Punjab Act XV of 1867* was applied to *Oudh*. It suspended the *Lucknow Act 1864*; and 13 more Municipal Committees in addition to Lucknow and Faizabad were established. Under this Act Lieutenant Governor had the power to apply this Act to new cities, and define the municipal limits. The Municipal Committee might be elected or nominated with an elected chairman or nominated with president at the discretion of the Lieutenant Governor. His sanction was necessary for the introduction of new taxes. After meeting the police charges the balance could be spent on items of city improvement. The Governor could suspend a Municipal Committee.

Under the Act of *1873* the Municipalities were given power to make their by-laws to regulate the plying of carriages and fixing the rate of these carriages.

In response to *Ripon Resolution of 1882*, the *North West Provinces and Oudh Municipal Act of India 1887* was passed. Under this Act it was specified that number of the appointed members was not to exceed $\frac{1}{3}$ rd of the total member, the remaining were to be elected. The rules of representation and election were to be determined by the District Magistrate in consultation with the outgoing members and locally influential people. But it was binding upon the Municipal Boards to take the approval of the provincial government.

The term of the Municipalities was fixed at three years. The members could elect the Chairman and Deputy Chairman. But the government retained the right to nominate a Chairman, if he/she so desired.

The municipal employees were to be borrowed from the provincial government; the government retained the right to prescribe the qualification of the personnel's.

The Municipalities were given the power to regulate the construction of buildings and check dangerous offensive trades. By 1890 the number of Municipalities in India increased to 104.

The *North-West Provinces and Oudh Municipal Act of 1900* was passed, under it a provision for a *Notified Area* was made. With the *Acts of 1901, 1907 and 1916* some minor amendments were made. The *Act of 1910* continues to be the basis of the Municipal government in the States even now with slight amendments here and there.

Urban Government in U.P. included Municipal Corporation, Municipalities, Town Area Committees, Notified Area Committees and Cantonment Boards.

A Municipal Corporation is set up under special statute, which is passed by the State Legislature. Such legislature may be enacted especially for a particular corporation or for all corporations. In 1947 there were only, *three Municipal Corporations* in the country, namely, in *Madras, Calcutta and Bombay (i.e. Chennai, Kolkata and Mumbai, presently)*. Municipal Corporations were initially established in 'KAVAL' towns of *Uttar Pradesh* i.e. *Kanpur, Agra, Varanasi, Allahabad and Lucknow* and later on *Bareilly, Gorakhpur* and *Meerut* towns were also added in the list of Municipal Corporations. The total number of Municipal corporations in U.P. was *eight* before the *74th Amendment Act of 1992*.

Under the *U.P. Municipalities Act 1916*, the Municipalities are divided into *IV grades*. *Grade I Municipalities* are those, whose income exceeds *Rs. 5 lakhs*. *Grade II Municipalities* are those, whose income is in between *Rs. 2.5 lakhs to Rs. 5 lakhs*. Municipalities with the income *Rs. 1 lakh to Rs. 2.5 lakhs* are graded as *III Grade Municipalities* and the last in the *IV Grade Municipalities*, the income of these Municipalities is from *Rs. 40,000/- to Rs. 1 lakh*. Prior to the *74th Amendment* there were *229 Municipalities* in *Uttar Pradesh*.

Notified Area Committees existed as the Municipal Government of newly developing towns or areas, which do not fulfill the statutory conditions for the constitution of a Municipality or in which new industries have been or are being established. This committee is entirely nominated body and such provisions of the State Municipal Act apply to it as are specified by the state through a '*notification*'. In U.P. there were *33 Notified Area* before the implementation of the *74th Amendment Act of 1992* of the Indian Constitution. There were *419 Town Area Committees* in U.P. and these were meant for smaller towns, these committees were governed under special state enactments with membership, (a) either wholly elected, (b) wholly nominated (c) with a combination of both of these elements, or severely

restricted powers. Overall, the numbers of Urban Local Bodies in Uttar Pradesh were 687 and a total of 3255 in whole of India, before the implementation of the 74th Amendment Act of 1992. (See Table No. 2.2.)

After the implementation of the 73rd and 74th Amendment Act of 1992 of the Indian Constitution, the structures of local bodies were changed. The 74th Amendment Act recognized a three-tier pattern of local government. The Urban Local Bodies namely the *Nagar Panchayats*, the *Municipal Councils*, or *Municipal Corporations* or combinations of these were categorized under the Metropolitan Area.

Before the creation of the 27th State of India, i.e. *UTTARAKHAND* out of U.P., there were 686 Urban Local Bodies in total; out of which 12 were *Nagar Nigams*, 225 *Nagar Palika Parishads* and, 449 *Nagar Panchayats*. Out of these local bodies has been transferred to *UTTARAKHAND*. The total break-up is one *Nagar Nigam* (i.e. Dehradun), 31 *Nagar Palika Parishads* and, 33 *Nagar Panchayats*.

The Metropolitan Areas of U.P. at present are THIRTEEN, in total, namely:

- KANPUR.
- ALLAHABAD.
- VARANASI.
- AGRA.
- LUCKNOW.
- GORAKHPUR.
- BAREILY.
- MEERUT.
- MORADABAD.
- ALIGARH.
- GHAZIABAD.

- JHANSI.
- SAHARANPUR.

Nature of Local Self - Government

The institution of Local Government in India is rooted in the past. It has come down to us from the ancient times. In ancient India various types of institutions of Local Government flourished. Both the Urban Municipal Governments as well as the rural level Panchayats are ancient institutions. At that time these local units functioned in the nature of small republics. The powers exercised by them were very extensive in nature and included industrial, commercial, administrative, social and even religious activities.

The basic structure of local government in India, after independence, has been more or less, the same throughout the country. Thus all states provide for a separate structure of local government at the rural and urban level. At the Rural level, we have *Panchayati Raj System* at the village, intermediate and district levels. At the Urban level, there are *Corporations* for the large cities followed by the *Municipalities*, *Notified Areas* and *Town Areas*. Then there are *Cantonment Boards* to cater to the needs of areas inhabited by troops. Although the basic structure has been the same throughout the country, there have been wide varieties of variations; these variations have largely been on the following lines; *First*, States have differed regarding the units of local government adopted by them. Thus while many States adopted a *three-tier* structure of *Panchayati Raj* others preferred a *two-tier* or *single tier* structure. Similarly, while *Municipal Corporations* and *Municipalities* were carved out in all States the same is not true of other urban local units, namely, notified and town areas. These were created in only selected States. *Second*, the mode by which the Governing Councils of the local units have been constituted has also differed from State to State. Thus the variation has been from directly to indirectly elected to nominated bodies. In between

there has been a mixture of elected (directly or indirectly) plus nominated/co-opted Governing Councils. *Third*, the tenure of the local councils has also shown a variation. While most States have constituted local bodies for a term of five-years, others have shown preference for a four or even two-year tenure. *Finally*, the local bodies varied from State to State with regard to the powers enjoyed by them, the extent of their financial resources and the degree of State Control. All these variation has been because, until the 73rd and 74th Constitutional Amendments there were hardly any law at the National level, which could be a binding on the States. Hence, each State adopted the form that suited it the best taking into account its own conditions and past history.

The Local Government in India has been under the respective State Governments. These are basically the creation of State legislation. Hence their structure, composition, powers, resources etc are decided by the state in which these units are located, either by the law of the State or rules made by the State. From time to time the Central Government has concerned itself with the organization and working of Local Self-Government. This has been done by appointing various committees or study groups for examining the status of local government and suggesting measures for further improvement. If, at any time, the Central Government considered the recommendations of these committees\study groups valuable, it passed them on to State Governments for implementation. Such recommendations have, however, not been binding upon the States. Thus the *Balwant Rai Mehta Committee Report* in 1957 was sent by the Central Government to the States for implementation, but each State used its own discretion regarding the extent to which it would implement the report. Realizing the futility of asking States to implement the recommendations contained in various reports. The Central Government in 1992 passed two comprehensive Constitutional Amendments, 73rd and 74th *Amendment* which gave guidelines regarding the structure of Local Government, both at the Rural

and Urban levels. These amendments are binding upon States, which cannot use their own discretion in their implementation.

The Local Government in India is now constitutionally recognized. The 73rd amendment to the Indian Constitution not only recognizes the *Panchayati Raj* system but also describes its structure, mode of election, powers and ways of augmenting, mode of resources. It may be pointed out that even earlier to this amendment Panchayati Raj system at the village level did not find a mention in the constitution. This is in *Article 40* which calls upon the State to direct its policy "to organize village panchayats and endow them with such powered authority as may be necessary to enable them to function as the units of self – government". This provision is not of much value since it is in the Directive Principles of State Policy, which by their nature are not legally enforceable. Hence most of States paid only lip service to this provision. In contrast, the 73rd Amendment to the Constitution is binding upon States and accordingly all States have acted upon it. Similarly, the 74th Amendment to the Indian Constitution lays down the structure of Urban Local Government, the manner of its composition, its powers and sources of revenue. This has also been enforced by States, by enacting relevant laws for the purpose.

The Local Government institutions in India have been under strict State-control. Prior to 73rd and 74th Amendments the State-control was far wide in nature. The State Government could create or abolish local units according to its whims and fancy. The powers of local units were also laid down by the State Government. They had to depend upon State Government for their financial resources. The State Government conducted elections for the Local Bodies as and when it desired. After the 73rd and 74th Amendments, the basic structure of Local Government has been defined, their powers carved out and their resources spelled out, but an obstinate State Government could still

dissolve Local Bodies at their will, the restriction being that fresh election must be held within *six months* from the date of dissolution.

Evaluation of Local Self - Government

The concept of grassroot democracy at both rural and urban levels has not flourished in the country. Some of the major reasons behind this failure are politicization of administration, entry of criminal elements in the elected bodies, rampant corruption, caste and group division, priority to self interest over public welfare and electoral malpractices. The 73rd Amendment seeks to radically alter the power relations in the villages by reserving seats for scheduled castes, tribes, backward classes and women. However, in the absence of proper education, training and economic independence, these groups are unable to assert themselves. Illiteracy, poverty and unemployment are the major handicaps. Urgent steps need to be taken to effectively deal with these problems in order to facilitate participatory development. Though the provision for reservation of seats for women has been manipulated by their male counterparts – mostly their husbands – it has certainly empowered them to some extent. They are increasingly becoming aware of their rights and responsibilities and are asserting themselves in certain cases. This is definitely a very positive development. The latest Constitutional Amendments have certainly broadened the financial resources of the local self-governing institutions. However they still remain starved of funds. Taxation powers have been given to them but they are unable to collect enough taxes. So due to scarcity of resources, panchayats are not able to fulfill their role as self-governing institutions or carriers of economic development in the countryside. Panchayats are subject to various controls by the State Governments. The State Governments are authorized to cancel their resolutions and even dissolve them. However the 73rd Constitutional Amendment has made it compulsory for the States to hold election of Panchayati Raj bodies within six months of their dissolution. It is necessary

that the people participate actively in democratically elected panchayats. This can be ensured through Gram Sabhas. Through Gram Sabhas, the people can question and demand explanation from panchayats. Gram Sabha can harmonise needs and priorities of the people and also plan the direction of village development. The Gram Sabhas can successfully play the role of securing democracy at the grassroot level if they are endowed with sufficient authority. The overall socio-economic and cultural development of rural areas depends on strong Panchayats. Panchayats are the foundation of democracy at the grassroot level.

The earliest evidence of *Local Management of Civic Administration* in India can be traced to *Indus Valley Civilization* (around 2300 B.C) which was essentially an *Urban Civilization*. Commenting on the Indus Valley civilization, *Golden Childe* says, "well planned streets and a magnificent system of drains, regularly cleared out; reflect the vigilance of some regular municipal government". The nature of society and governance at local level underwent a significant change over the changing course of Indian history. It is beyond the scope of this paper to trace the process of this evolution and therefore one move straight to the modern civic administration in urban India. The first *Municipal Corporation* in modern India was set up in the former *Presidency town of Madras* in 1688. This was followed by *Municipal Corporations of Calcutta* in 1876 and *Bombay* in 1888. *Lord Ripon (1880-84)*, the *Viceroy of India* introduced an element of elections in the *Municipal Corporation* and is known as '*father of Local Self-Government in India*' for his pioneering work in this direction. The reforms introduced by Lord Ripon continue to have its traces in the existing Local Self - Governments.²²

The Constitution of Independent India did not make the Local Self - Government in urban areas a clear cut constitutional obligation. While the Directive Principal of State policy refers to village Panchayat, there is no specific reference to Municipalities except implicitly in *Entry 5* of the *State*

List which places the subject of Local self governments as responsibility of the States. Therefore, the Indian Parliament passed the *Delhi Municipal Corporation Act 1957* considering the fact that it was the largest union territory and the National Capital was situated within its' territory. The State Governments formed Municipal Corporations by the Act of their respective Legislatures like the *Bombay Provincial Municipal Corporations Act of 1949* and the *Gujarat Municipalities Act of 1964*. India's urban population has grown from 62 million (17.3% of the total population) in 1951 to 285 million (28%) in 2001. With an annual growth rate of about 2.75% (Census 2001), urban population is projected to touch 549 million by 2021 i.e. 41% of the Country's total Population. Also, number of *Cities* has doubled from nearly 2600 in 1971 to 5161 in 2001. Thus, the increasing urbanization offers its own challenge to the town planners and calls for finding different solutions which cannot be overlooked because India of the present decade will be very different from India of last decade.²³

Table 2.1.**Evolution of Municipal Administration in India**

Time Period	Developments
2300-1750 BC (Indus Valley Civilisation)	❖ Evidence of organised urban life – wide streets, market places, public offices, community baths, drainage and sewerage system
Post-Mauryan	❖ Appointment of a chief executive officer to perform various functions related to city administration; responsible for city's sanitation, which included maintenance of drainage system and cleanliness of roads
320-540 AD (Gupta Period)	❖ Towns administered by a council ❖ Provision of having elected administrative officers
1526-1707 AD (Mughal Period)	❖ Municipal administration vested in <i>kotwal</i> , who was the city governor possessing powers and duties of the chief of city police, magistrate and prefect of municipal administration
Between disintegration of Mughal Empire and advent of the British	❖ Anarchy and military feudalism in most parts of the country ❖ Local institutions perverted or weakened
1642	❖ Sir Josia Child obtains a Charter from the British Monarch, James II, to set up a Corporation at Madras
1720	❖ A royal Charter issued for establishing a mayor's court in each of the three presidency towns of Madras, Bombay and Calcutta.
1793	❖ Governor-General in council empowered to appoint justices of peace for the presidency towns from among civilians and the British subjects, who were vested with the authority to impose taxes on houses and lands to provide for the sanitation of towns. ❖ By a Charter Act, the British establish local institutions in Bombay, Calcutta and Madras
1850	❖ Act passed to permit formation of local committees to make better provisions for public health and convenience; Act provided for levy of indirect taxes to which people were accustomed
Till 1863	❖ Local institutions in urban areas did not make much progress and were confined to about 20 towns ❖ People had no opportunity to participate in the functioning of these institutions ❖ Royal Army Sanitation Commission point out the fast deteriorating sanitary condition of towns all over the country

Time Period	Developments
Till 1863 (Cont....)	<ul style="list-style-type: none"> ❖ Government of India pass several municipal Acts for various provinces authorizing governors to order the formation of a Municipality in any urban area.
1870	<ul style="list-style-type: none"> ❖ Lord Mayo's resolution released; provided for decentralisation of administration from the centre to the provinces; emphasised the idea of increased association of Indians in administration; indicated extension of municipal self government; encouraged the general application of the principle of election ❖ Municipal Acts passed to enlarge municipal powers, extend election system and introduce the system of local finance, but the provision was little applied in practice as the district officers in those days were not sympathetic to the idea of extension of the elective principle ❖ Municipalities established in every town of importance. However, these Municipal Bodies were completely under the control of the district magistrate and the town people were associated only for raising funds for the maintenance of police, conservancy and road repairs
1870 to 1880	<ul style="list-style-type: none"> ❖ Social and economic changes experienced by the Indian society ❖ Educated Indians demand more political rights and greater share in administration and public services ❖ Principle of Local Self-Government put into practice only in the cities of Calcutta and Bombay and in a few of the towns of Central Provinces and North Western Provinces. Elsewhere, although a framework of local administration and local taxation existed, control was firmly in the hands of the servants of the government
1882	<ul style="list-style-type: none"> ❖ Lord Ripon's resolution released; advocated for establishment of a network of local self government institutions; reduction of the official element of not more than a third of the total membership; a large measure of financial decentralisation; adoption of election as a means of constituting local bodies. ❖ Municipal Acts passed; However, Lord Ripon's reforms achieved little success, since they were considered too radical.

Time Period	Developments
1888	<ul style="list-style-type: none"> ❖ Functioning of local governments for several years had some positive results. Presidency towns attain a system of responsible government. Under the Bombay City Municipal Corporation Act, 1888, the city council of Bombay was constituted of a majority of elected and nominated members. A 'standing committee' of the council, which had an elected chairman, was also formed to undertake the major portion of the work of the council.
1907	<ul style="list-style-type: none"> ❖ Royal Commission on Decentralisation set up to enquire into the financial and administrative relations of the Government of India and the provincial governments and subordinate authorities ❖ Commission recommendations similar to Lord Ripon's proposals ❖ Municipal Acts of several provinces amended, but no real progress achieved ❖ Local self government continued to be one of the functions of the district officer
1914 to 1919	<ul style="list-style-type: none"> ❖ National movement for independence gains momentum ❖ 1917 Declaration released: associate Indians in every branch of administration; gradual development of self-governing institutions ❖ Montague-Chelmsford reforms introduced to make local self government representative and responsible ❖ Government of India Act, 1919 enacted; responsibility for local government transferred from the hands of the district officers to a department controlled by a popular minister; franchise for election to local bodies substantially widened. In some provinces, the Municipal Bodies were given the power to raise or lower rates of taxes within the statutory limits. The popular ministers of provincial governments proceeded to establish elected councils and gave executive authority to the elected chairman.
Till 1947	<ul style="list-style-type: none"> ❖ Laws governing local bodies enacted during the period 1917 to 1937 fail to prescribe an effective system for day-to-day management of municipal affairs; hardly any attention paid to the question of administrative efficiency and fixation of responsibility for the proper performance of municipal functions ❖ Transfer of power from official hands resulted in inefficiency ❖ Several Municipalities superseded on the charges of corruption and inefficiency ❖ India attains independence in 1947

Time Period	Developments
1950	<ul style="list-style-type: none"> ❖ New constitution prepared; contained provisions for rural settlements only; a reference to urban local government observed only in two entries: (a) Entry 58 List II of the Seventh Schedule (the State List); and (b) Entry 209 of List III (Concurrent List) ❖ Constitution places local government, including urban local government, within the legislative competence of the States ❖ In the absence of constitutional recognition and clear statutory delineation of their powers, functions and resources, urban local governments remain neglected; only few changes made in their structure and functioning
Since 1949	<ul style="list-style-type: none"> ❖ Numerous committees and commissions appointed by the Central and State Governments to study the functioning of urban local governments and to give recommendations for their improvement ❖ Numerous seminars and conferences convened on various topics concerning urban local governments ❖ Central Council of Local Self-Government set up in 1954 to examine the problems of urban local governments ❖ Responsibility of urban local government transferred from one ministry to the other, namely Ministry of Health; Ministry of Works, Housing and Urban Development (1966); Ministry of Health, Family Planning, Works, Housing and Urban Development (1967); Ministry of Works and Housing (1973)
1985	<ul style="list-style-type: none"> ❖ Ministry of Urban Development established; assisted by several departments ❖ National Commission on Urbanisation set up to assess problems caused by urbanisation and to suggest measures to combat this phenomenon
1989	<ul style="list-style-type: none"> ❖ Attempt to introduce the Constitution (63rd Amendment) Bill; also known as <i>Nagarpalika</i> (Municipality) Bill; contained provisions for strengthening of urban local governments
1991	<ul style="list-style-type: none"> ❖ Bill [named Constitution (73rd Amendment) Bill] introduced again by the Government ❖ Bill rejected and described as an encroachment on the rights of State governments
1992	<ul style="list-style-type: none"> ❖ Constitution (74th Amendment) Act finally accepted and enacted; contains provisions for (a) constitution of a uniform typology of Municipalities; (b) composition of Municipalities; (c) constitution and composition of wards committees; (d) elections and reservation of seats; (e) duration of Municipalities;

Time Period	Developments
1992 (Cont..)	(f) Powers, authority and responsibilities of Municipalities; (g) constitution of state finance commissions, committees for district planning and metropolitan planning.

Source: Constitutional Provisions Relating to Village Panchayats and Municipalities in India (1999).

.Table No. 2.2.**Urban Local Bodies in India, 1991***

State/UTs	Municipal Corporation	Municipal Council	Municipal Committee/City Committee	Municipal Board	Municipality	Town Committee/Township/Town Area Committee	Town/Nagar Panchayat	Notified Area Committee	Total
Andhra Pradesh	3	-	-	-	109	-	141	2	255
Assam	1	-	-	24	-	49	-	-	74
Bihar	6	-	-	-	70	-	-	92	168
Goa	-	13	-	-	-	-	-	-	13
Gujarat	6	-	-	-	62	-	100	10	178
Haryana	-	-	81	-	-	-	-	-	81
Himachal Pradesh	1	-	19	-	-	-	-	30	50
Karnataka	6	-	20	-	-	136	-	14	176
Kerala	3	-	-	-	61	2	-	-	66
Madhya Pradesh	-	-	17	-	357	-	-	7	381
Maharashtra	11	-	-	-	227	-	-	-	238
Orissa	-	-	-	-	30	-	-	72	102
Punjab	3	-	95	-	-	-	-	11	109
Rajasthan	-	19	-	-	168	-	-	5	192
Tamil Nadu	3	-	-	-	98	8	212	-	321
Uttar Pradesh	8	-	-	228	-	418	-	33	687
West Bengal	3	-	-	-	95	-	-	10	108
Delhi	1	-	1	-	-	-	-	-	2
Andaman & Nicobar Island	-	-	-	1	-	-	-	-	1
Chandigarh	-	-	-	-	-	-	-	1	1
Pondicherry	-	-	-	-	4	-	-	-	4
Manipur	-	-	-	-	7	-	-	21	28
Meghalaya	-	-	-	-	1	-	-	-	1
Sikkim	-	-	-	-	-	7	-	-	7
Tripura	-	-	-	-	1	-	-	11	12
Total	55	32	233	253	1290	620	453	319	3235

* Excluding Cantonment Boards (57) under the Ministry of Defence, Established by a separate Act of Parliament.

Source: NIUA, Strategy for Capacity Building of Urban Government Institution in India, National Institute of Urban Affairs, New Delhi, Research Study Series No.62, 1998.

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CHAPTER - III

***CONSTITUTIONAL
AMENDMENTS & LOCAL
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CONSTITUTIONAL AMENDMENTS AND LOCAL BODIES

A brief account of the evolution of Local Self-Government in the country becomes necessary be highlighted and the changes that the system has undergone through time, and the extent to which the present system represents a departure from the past.

The Historical Background

Local Self-Government, to borrow a phrase from *Sydney Webb*, is “as old as the hills”. This can be true to India than any other country in the world. There is sufficient evidence to establish the fact that the institution of local self-government is almost pre-historic, and the conception of Local Self-Government is indigenous to the Indian soil. Municipal governments have flourished in India since times immemorial. While empires rose and fell, village panchayats which formed an integral part of the national life, helped to preserve democratic traditions in social, cultural, economic and political life, survived the onslaughts of centuries of political upheavals and saved the Indian society from disintegration. The existence of local bodies in ancient India is a positive proof of the inherent genius of our people to manage local affairs efficiently and on a decentralised basis. The decentralization of power in the kingdoms of the Mauryas and the Guptas were unique. Such devolution of power was unknown to the western world until modern times. The local governments at different levels, performing many functions, though not very democratic, were sufficiently autonomous.

Position of Local Self - Government During the Mughal Period

With the coming of the Muslim rule in India, local institutions received a set-back, as they did not enjoy the same autonomy and prestige, as under the Hindu kings. *"Mughal government was a highly centralized autocracy. The crown was the main power of the entire administrative machinery. Where the government was absolute, the supreme authority rested in one man's hand, the territory larger, the means of communications between the districts slow and difficult, the transfer of local officers frequent, no political life or local initiative was left to the people."*¹

The Muslim rulers recognized *Local Chiefs and Zamindars* as the repositories of local authority, to the exclusion of the people. *"The villages and towns of the Mughal Empire enjoyed parochial self-government rather than local autonomy. A people who do not possess political freedom and powers of self taxation for national purposes, cannot be said to enjoy local autonomy"*.² The office of *Kotwal* was developed as the key-stone of the municipal administration and *"his functions in connection with the town in his charge were, at least in theory, the most comprehensive conceivable being in certain respects even wider than those of the municipal bodies of the present day"*.³ While the Mughals did not initiate any positive measures of encouragement to local institutions, wherever such institutions existed, they worked in co-operation with the official machinery of the rulers and in certain respects became a part of it. Between the breakdown of the Mughal Empire and the coming of the British, there was complete anarchy and military despotism in most parts of the country. During this period, *"the ties of social framework were loosened, and in many places, local institutions had been perverted or sapped, before the British officials had an opportunity to assess their value."*⁴

Position of Local Self-Government during the British Period

When India was colonized, there occurred a sharp break from the tradition. The state system, after the advent of the British emerged as a highly centralised set - up. Local institutions during the British period were more a creation of the Government from whom they derived their autonomy rather than a process of spontaneous growth. No attempts were made to build up the system on indigenous foundations, although a good deal of indigenous taxation was retained in local finance. *"The chungli of the Muslim rulers, the Sikh dharat, the muhtarafa of Maratha towns have a descendant in today's octroi. But from the structure and procedure of earlier local institutions, almost nothing has been incorporated into modern local government."*⁵ The form of structure adopted during the British Rule was an admixture of the British and Continental patterns. The history of local self-government in India under the British rule can be conveniently divided into four phases. *"Local finance being a counterpart of local administration and its mainstay, has of course, been an expression of the purpose implicit in different phases of local government."*⁶ The first phase may be assumed to have ended in 1882, when Lord Ripon issued his well-known resolution on Local Self-Government. The second phase covers developments from 1882 to 1919, when more powers were transferred from the centre to the provinces, and the recommendations of the *Decentralization Commission of 1907*, besides discussing other matters, suggested some changes in the Local Self-Government. The third phase extended up to 1935, during which the *Indian Taxation Enquiry Committee (1925)* considered the problems of local taxation, along with central and provincial finances. The *Simon Commission of 1930* reversed the process of decentralization, by recommending strict control of the State over Local Bodies. The fourth

phase covers developments up to 1947. During this phase, the struggle for independence was intensified and with the introduction of *Provincial Autonomy in 1937*, and the coming into power of Congress Ministries in many Provinces, Local Bodies, particularly village panchayats, received a great stimulus and there was democratization of Local Bodies. But, "*Local Self-Government became mere annexes to the national political stadium, where the struggle for independence was moving towards its climax.*"⁷ A rapid survey of Local Self-Government and finances in India under the British rule reveals certain '*well marked characteristics.*'⁸

- Lamentable half hearted concessions to a demand for wider systems of Local Self-Government. For a long time, local government remained a democratic facade to an autocratic structure.
- Local Finances did not have the free and natural growth they had in most of the European countries.
- Local self-government inherited but little from indigenous local institutions and their development was artificial from outside.
- Arbitrary and haphazard nature of local taxation that emerged from the British period.
- Non-hierarchical character of the Local Government.
- No distinction between deliberative and executive functions.
- Local Self-Government acquired a political character.

- The control exercised by the Government and its agencies was excessive.

Independence opened a new chapter in socio-economic reforms, as embodied in the Directive Principles of State Policy, enunciated in the Constitution which established a federal system of public administration, provided universal adult franchise and the objective of welfare State. *Article 40* of the Constitution lays down that the State would take steps to establish autonomous bodies in the form of village panchayats. We would like to take up the discussion of the developments in the field of rural and Urban Local Bodies in the post-independence period separately because of the distinct nature of changes introduced in the two fields.

Transition of Local Self Government: Vedic to Post - Independent Period

The concept of Local Self - Government is not new to our country and there is mention of community assemblies in the Vedic texts. Around 600 B.C., the territory north of the river Ganga comprising modern day north Bihar and Eastern U.P. was under the suzerainty of small *republics* called *Janapadas* among which *Lichhavis* were the most powerful. In these *Janapadas*, the affairs of the State were conducted by an assembly consisting of local chieftains. In the *Post Mauryan* times as well, there existed republics of *Malavas* and the *Kshudrakas* where decisions were taken by '*sabhas*'. The *Greek Ambassador, Megasthenes*, who visited the court of *Chandragupta Maurya* in 303 B.C. mentioned about the *City Council* which governed *Pataliputra* – comprising six committees with 30 members. Similar participatory structures also existed in South India. In the *Chola Kingdoms*, the village council, together with its sub-committees and wards,

played an important part in administration, arbitrated disputes and managed social affairs. They were also responsible for revenue collection, assessing individual contribution and negotiating the collective assessment with the King's representative. They had virtual ownership of village waste land, with right to sale them, and they were active in irrigation, road building and other related works. Their transactions, recorded on the walls of village temples, show a vigorous community life and are a permanent memorial to the best practices in early Indian polity. The present structure of Local Self Government institutions took shape in 1688 when the British established a Municipal Corporation at Madras which was followed by creation of similar bodies at Bombay and Calcutta (1726), comprising a Mayor and a majority of British-born Councilors, these Corporations were basically units of administration enjoying considerable judicial powers. During the next 150 years, Municipal Bodies were created in several *mufasil* towns although their functions remained confined to conservancy, road repairs, lighting and a few other sundry items.

In 1872, *Lord Mayo* introduced elected representatives for these Municipalities and this was further developed by his successor, *Lord Ripon*, in 1882. By the 1880s, these Urban Municipal Bodies had a pre-dominance of elected representatives in a number of cities and towns, including *Calcutta* and *Bombay*. A corresponding effective structure for rural areas came up with the enactment of the *Bengal Local Self Government Act, 1885* which led to the establishment of district local boards across the entire territory of the then Bengal province. These boards comprised nominated as well as elected members with the District Magistrate as Chairman who was responsible for maintenance of rural roads, rest houses, roadside lands and properties, maintenance and superintendence of public schools, charitable dispensaries and veterinary hospitals. Within a span of five years, a large

number of district boards came into existence in other parts of the country, notably Bihar, Orissa, Assam and North West Province.

The debates in the Constituent Assembly indicate that the leaders at that time were hesitant to introduce a wholesale change in the then prevailing administrative system and as a compromise, it was agreed that *Panchayati Raj Institutions (PRIs)* would find place in the Directive Principles of State Policy (*Part IV, Article 40*) which, inter alia, provides that the State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. But there was a general view that local government institutions would be creatures of the State Legislature and hence there was no whittling down of the powers of the State Government.

In compliance with the provisions of the Directive Principles of State Policy pertaining to establishment of village panchayats as units of self government, an ambitious rural sector initiative, the *Community Development Programme*, was launched in 1952. Its main thrust was on securing socio-economic transformation of village life through people's own democratic and cooperative organizations with the government providing technical services, supply and credit.

In 1956, when the *Second Five Year Plan* was launched, it recommended that the Village Panchayats should be organically linked with popular organizations at higher levels and in stages the democratic body should take over the entire general administration and development of the district or the sub division excluding functions such as law and order, administration of justice and selected functions pertaining to revenue administration. To operationalise this initiative, the Government appointed a committee under the chairmanship of *Shri Balwant Rai Mehta* in 1957. The *Balwant Rai Mehta Committee* offered two broad directional thrusts; *first* that there should be administrative decentralization for effective implementation of the

development programmes and the decentralized administrative system should be placed under the control of local bodies. *Second*, it recommended that the CD/NES blocks throughout the country should be designed as administrative democratic units with an elected Panchayat Samiti at this level to operate as a fulcrum of developmental activity in the area. This Samiti would need guidance of technical personnel in many matters; hence it should have line department officers of suitable competence under its control. The Panchayat Samiti was also to be equipped with sources of income. Certain powers of control were retained by the government; like supersession of Panchayat Samiti in public interest, suspension of a resolution of a Panchayat Samiti by the Collector on grounds of breach of peace, being contrary to the law of the land or being *ultra vires* to the Constitution. The recommendations also suggested reservation for SC/ST and women through co-option. In order to ensure coordination, the Committee recommended formation of a Zila Parishad at the district level consisting of all the Presidents of the Panchayat Samitis, Members of Legislative Assemblies and Members of Parliament with district level officers of the public health, agriculture, veterinary and education departments as members and the Collector as the chairman. But the Committee made it clear that the district tier was being conceived just as an advisory body; a support structure for Panchayat Samitis.

The *Ashok Mehta Committee* which submitted its report in 1978 was also of the view that despite the rhetoric, Panchayat empowerment was not of much use unless it received Constitutional standing. Hence, there was need for introducing a Constitutional amendment on this subject. With some variations, these recommendations form the basis of the PRI format in existence in the country today. Although a number of committees were formed between 1978 and 1986 to look into various aspects of strengthening the local self government institutions such as the committees under *Shri C.H. Hanumantha Rao, Shri G.V.K. Rao and Shri L.M. Singhvi*, only minor

suggestions were made for any change in the ideas/structures proposed by the Asoka Mehta Committee. The next landmark in decentralized governance occurred with the 64th and 65th *Constitutional Amendment Bills* introduced in *July 1989* by the Government of *Shri Rajiv Gandhi*. The basic provisions of the Bill were:

- It should be mandatory for all States to set up PRIs/Urban Local Bodies
- The elections to these bodies to be conducted by the Election Commission,
- Tenure of Panchayats/Urban Local Bodies to be five years and, if dissolved before completing their term, fresh elections should be held within six months,
- All seats (except those meant for the representatives of other institutions) to be filled through direct elections,
- Reservation of seats to be made for SC/ST/Women,
- Local Bodies to be entrusted with more functions e.g. minor irrigation, soil conservation, bio-gas, health, benefits to SC/ST etc.
- Planning and budgeting systems be introduced at the panchayat level,
- The State Legislature to authorize Panchayats/Urban Local Bodies to levy taxes/tolls and fees,
- A separate commission to review of the finances of the Local Bodies, and
- PRI/Urban Local Bodies accounts to be audited by the CAG.

The Bill could however not be passed in the Rajya Sabha and hence was dropped for the time being.

In 1990, a combined Constitution Amendment Bill, covering both PRIs & Urban Local Bodies was tabled in Parliament. It was a skeleton legislation which left the details to be crafted by the State Governments in their State enactments; even matters concerning to elections were left completely to the discretion of the State Government, but with the dissolution of the Government, this Bill also lapsed.

Finally in 1992, after synthesizing important features of the earlier exercises on this subject, Government drafted and introduced the 73th and 74th Amendments Bill in Parliament which was passed in 1993. These new acts were introduced Parts IX and IXA of the Indian Constitution containing Articles 243 to 243ZG.

The 73th and 74th Amendments of the Constitution constituted a new chapter in the process of democratic decentralization in the country. In terms of these Amendments, the responsibility of taking decisions regarding activities at the grassroot level which would affect people's lives directly would rest upon the elected members, and therefore the people themselves. By making regular elections to Panchayati Raj/Municipal Bodies mandatory, these institutions have been given permanency as entities of self government with a specific role in planning for economic development and social justice for the local area. In totality, the intention of these Amendments is to assign a position of command to them in the democratic framework of the country. But there seems to be an area of weakness in the constitutional scheme. Local government being a State subject under *Schedule VII*, the implementability of these provisions is, to a large extent, dependent on the intention and strength of the State Government. The challenge is to ensure architecture for the State law which is in total harmony with the spirit of the 73th and 74th Amendment Act.

Article 243 B of the Constitution envisages that all the States/UTs, except those with populations not exceeding 20 lakhs, will have to constitute a

three-tier system of Panchayats i.e. at the village, intermediate and district levels. While the district has been defined as a normal district in a State, the jurisdiction of village and intermediate levels have not been specifically defined in the Act. A village as per the provisions of the Constitution is to be specified by the Governor by a public notification for the purpose of this part and includes a group of villages so specified. That means the territorial area of a Village Panchayat can be specified by a public notification by the Governor of the State, and may consist of more than one village. Similarly, the intermediate level which can be a Taluk, Block or a Mandal, is also to be specified by the Governor through a public notification in this regard. This provides a certain amount of flexibility to the States in constituting Panchayats at the lower and middle levels.

Panchayati Raj Institutions (PRIs) in India have, over the years, developed certain critical strengths, although they are characterized by several systemic weaknesses and constraints as well. Post the 73th Constitutional Amendment, Panchayats have been established at three levels, the district, block and cluster of villages (Village Panchayat). The number of *Village Panchayats in the country as on 1st December, 2006 was 2,32,913; of the Intermediate Panchayats or Pachayat Samitis 6,094 and of the District Panchayats or Zila Panchayats 537. The total number of representatives elected to these bodies was 28,28,779, out of which 10,38,989 (36.7%) are women.*

Consequent to the 73th Constitutional Amendment as well as the Supreme Court's rulings which effectively mandate that local authorities are also to be treated as 'Government of State;' the PRIs have acquired substantial legitimacy, are recognized as an instrument of the Government, and have created participatory structures of grassroot democracy for the rural people. Creation of Constitutional bodies like the *State Election Commissions* and the *State Finance Commissions* have also given permanency and stability to these institutions. However, most Panchayats continue to be treated as agencies of the State for implementation of prescribed schemes, even though

essential services such as provision of drinking water, rural sanitation, preventive health and primary education are accepted as their legitimate core functions. Moreover, the PRIs have a varied menu of potential taxes such as on professions, entertainment, tolls, users' charges etc., but remain crippled by lack of elastic revenue sources. Internal Revenue mobilization remained at only 4.17% of the total revenue of panchayats at all levels in 23 States during 1990-91 to 1997-98. In a few States like Bihar, Rajasthan, Manipur and Sikkim, it was 'nil' during this period. Although the 11th and 12th Finance Commissions have provided untied grants to these institutions, their financial capacity remains suspect. As a result, PRIs exist as over-structured but under-empowered organizations, boasting of Constitutional status but suffering from lack of effective devolution of powers and functions from the State Governments.

At the same time, the structure of district administration under the control of the Collector/District Magistrate, characterized by a command structure and lack of horizontal coordination at the grass roots level, has become somewhat anachronistic in the modern democratic framework of our polity. In order to make local administration more responsive, transparent and accountable to citizens, there is need to have a representative government not only in the Union and States but also at the district and village levels with an equitable division of functions among them. However, any such reform agenda is constrained by the lack of cooperation between the legislature and the representatives of local bodies as well as the lack of capacity of the Panchayati Raj Institutions to take on enhanced responsibilities because of absence of trained personnel as well as their financial incapacity. The fact that most States have, during the 1970s and 80s, created state-wide autonomous organizations and parastatals to carry out even local level functions such as water supply also means that the issue of division of functions between such organizations and the local authorities comes in the way of greater decentralization, as regards Urban Local Self-

Government, although Municipalities played a key role in Local Self-Government during British Rule, the actual task of managing civic functions by the Urban Local Bodies themselves tended to remain constrained by their poor finances. After Independence, the focus tended to be on rural India and the concept of Gram Swaraj and Urban Local Bodies were not given much attention. Thus, the Directive Principles of the Constitution refer to Village Panchayat and the only reference to Urban Local Bodies is in the 'State List' of the Constitution.

There were no major changes in the structure and functioning of the Urban Local Bodies till the 74th Constitutional Amendment despite rapid urbanization and consequential increase in the complexities of problems. The powers and functions of these bodies varied from State to State as the subject '*Local government, that is to say, the constitution and powers of municipal corporations*' was included in the State List, empowering the States to define the role of the Urban Local Bodies through statutes. Infrequent elections, rigid governmental control, inadequate autonomy and lack of capacity have been some of the problems faced by ULBs. The 74th Constitutional Amendment brought in some basic changes in ULBs. Mandatory holding of periodic elections, introduction of the Twelfth Schedule, reservation of seats for women and restrictions on the powers of State Governments to interfere in the functioning of Urban Local Bodies are some of the important features of the 74th Constitutional Amendment Act. Although the States have amended their laws relating to the Urban Local Bodies the devolution of functions and finances has been slow and hesitant.

The State Governments have created a large number of functional bodies in the form of development authorities, housing boards, slum development agencies and water and sanitation boards. The growth of these specialized agencies has weakened the authority of municipal bodies and contributed to their atrophy. This has also led to a fragmented approach, with a large number of bodies working in isolation. Consequently, Urban Local Bodies

remain ill-equipped in terms of technical manpower and organizational ability and are unable to deal with the spread of urbanization to the rural areas. In addition, our mega cities are characterized by specific problems of mounting infrastructural constraints, large scale in-migration and governance structures that remain unprofessional, unresponsive and lacking in transparency.

Improving the quality of life of citizens by providing them civic amenities has been the basic function of local governments ever since their inception and it continues to be so even today. Local governments are ideally suited to provide services like water supply, solid waste management, sanitation etc, as they are closer to the people and in a better position to appreciate their concerns and even economic principles state that such services are best provided at the level of government closest to the people. However, the performance of a large number of local bodies on this front has generally been unsatisfactory.

Providing safe drinking water and sanitation have been important elements in our development efforts, ever since the First Five Year Plan. Though there have been improvements on this front, both in urban and rural areas, the situation cannot be termed satisfactory. As per the *Census (2001)*, only 36.4 per cent of total population has latrines within/attached to their houses, whereas in rural areas, only 21.9 per cent of population has latrines within/attached to their houses. Out of this, only 7.1 per cent households have latrines with water closets. In urban areas, though water availability, measured as litres per capita per day is quite high for almost all Indian cities but delivery, computed as water supply in hours per day in the cities is rather poor.⁹

The *Millennium Development Goals* highlight the importance of safe drinking water supply and sanitation. The '*Bharat Nirman Programme*' includes drinking water as one of its six thrust areas. The '*Total Sanitation*

Campaign seeks to provide 'Sanitation for all' by 2012. However, in all these initiatives the role of the local bodies is going to be crucial. There are financial, technological and institutional issues which need to be addressed. On institutional issues, *Prime Minister Dr. Manmohan Singh* stated;¹⁰

"One problem we have with the management of the Drinking Water Sector is that this is one activity within the portfolio of rural development programmes which is still handled at the State level, at the level of State capital and not at the district level. Other programmes with which it seeks integration have moved to being managed at the district level. I sincerely believe the time has come to do the same thing with regard to other supply schemes as well. I therefore request State Governments to consider empowering district level institutional structures to handle the issue of water supply. This is also a constitutional obligation as water supply is one of the basic functions to be carried out by Rural and Urban Local Bodies as per the 11th Schedule of our Constitution."

The *Second Administrative Reform Commission* feels that substantive reform of Local Self-Government institutions is not possible without creating an autonomous space for them, built upon the premises of the local government institutions, being governmental at their own level, are an integral part of the country's governance system and therefore, must replace the existing administrative structure in respect of the functions or activities devolved to them. While there may be rationale for retention of some establishments by the State Government including that of the district administration at the local level, their functions and responsibilities should be confined to areas which are outside the jurisdiction of the local bodies. In respect of devolved functions, local government institutions should have autonomy and must be free of the State Government's bureaucratic control.

The 74th Amendment or Part IX A of the Indian Constitution, which has come into force on the 1st of June 1993, gives a constitutional foundation to the Local Self-Government units in urban areas. In fact such institutions are in existence all over the country. Some of the provisions are similar to those contained in Part IX e.g. Reservation of seats, Finance Commission, Election Commission etc. this part gives birth to two types of bodies:

- a. *Institution of local-self government [Art. 243Q], and*
- b. *Institution of Planning [Art. 243ZX and 243ZE]*

Institutions of Urban Local Self-Government, called by the general name 'Municipalities', are of three types:

- i. *Nagar Panchayat, for a Transitional Area; i.e. an area that is being transformed from a rural area to urban area.*
- ii. *Municipal Council for a smaller urban area.*
- iii. *Municipal Corporation for a larger urban area.*

Article 243Q makes it obligatory for every state to continue such units. But if there is an urban area or part of it where Municipal services are being provided or proposed to be provided by an industrial establishment in that area then considering also the size of the area and other factors, the government may specify it as an *Industrial Area/ township*. For such an area it is not mandatory to constitute a Municipality.

Provisions of the Seventy-Fourth Amendment Act, 1992.

So far as Urban Government is concerned, the Constitution's 74th Amendment Act 1992 touches the structure, composition, election, powers and financing of the Local Bodies.

Structure of Urban Local Bodies

The 74th *Constitution Amendment Act* envisages the following types of urban areas:

1. Metropolitan Area:

According to the Act, it means an area of the State having a population of ten lakhs or more, comprising of one or more districts and consisting of two or more Municipalities (Urban Local Bodies at any level, namely, village, intermediate or district levels) or other continuous areas, specified by the *Governor*, by *public notification*, to be a *Metropolitan Area* (Cl.(c) of Art.243P). Although not specified in the Act, its governing body is designated as the *Municipal Corporation* throughout the country.

2. Larger Urban Area:

It is an area notified by the *Governor* to be *Larger Urban Area* taking into account the following:

- The population of area;
- The density of the population therein;
- The percentage of employment in non-agricultural activities;
- The economic importance of the area; or
- Such other factors as the *Governor* may deem fit [Cl.(2) of Art 243Q].
- The governing body of the Larger Urban Area has been designated by the Amendment Act as the *Municipal Corporation* (Sub. Cl.(c) of Cl.(1) of Art.243Q).

3. Smaller Urban Area:

A Smaller Urban Area is again to be notified by the *Governor* taking into account the conditions given above in the case of Larger Urban Area. The governing of the *Smaller Urban Area* has been named as the *Municipal Council* (Sub. Cl.(b) of Art.243Q).

4. Transitional Area:

This has also been left to the *Governor's* notification taking into account the same consideration as in the case of Larger and Smaller Urban Area but has been described as "an area in transition from a rural to an urban area" (Sub. Cl. (a) of Cl.(1) of Art.243Q). The governing body of *Transitional Area* is to be known as the *Nagar Panchayat* (Sub. Cl.(a) of Cl.(1) of Art.243Q).

Reference has already been made to townships existing prior to the 74th *Constitutional Amendment*. The amendment designates them as 'Industrial Townships'. Such townships can be created, like other urban areas, by the *Governor* through a *public notification* taking into account –

- a. The size of the area;
- b. The municipal services being provided or proposed to be provided by an industry established in that area, and
- c. Such other factors as he may deem fit (provision to Cl. (1) of Article 243Q).

Such township need not have a Municipality, which means these are not to be governed by an Urban Local Body (Cl.1 of Article 243Q). In other words, Municipal Services of an Industrial Town are to be taken by the industry established therein.

Implementation of the Seventy-Fourth Amendment Act, 1992

At the time of the enactment of the 74th Amendment, the & Urban Local Government structure in U.P. was based upon the following laws:

- *The U.P. Nagar Mahapalika Adhiniyam, 1959. (see Appendix B)*
- *The U.P. Nagarpalika Adhiniyam, 1916.*
- *The U.P. Town Area Adhiniyam, 1914.*

Following the 74th Amendment, the U.P. legislature enacted the *U.P. Nagar Swayata Shashan Vidhi (Sanshodhan) Adhiniyam, 1994*. Here we shall confine ourselves to the impact, it has made on the urban Local Government scenario in U.P. The new Act makes necessary amendments in the *1959 Nagar Mahapalika* and *1916 Nagarpalika Acts* as per requirements of the 74th Amendment. It, however repeats the *1914 Town Area Adhiniyam* because the 74th Amendment has no provisions for these bodies.

The New Structure

Prior to the enactment of the *1994 U.P. Nagar Swayata Shashan Vidhi (Sanshodhan) Adhiniyam*, the Urban Local Government areas in U.P. were as follows: the *Nagar Mahapalika or Municipal Corporation Areas*, *Nagarpalika or Municipality Areas*, *Town Area* and *Notified Areas*. Following the 74th Amendment, U.P. now has the following four areas: the *Metropolitan Area*, *Larger Urban Area*, *Smaller Urban Areas* and *Transitional Areas* are also to be notified by the Governor, by public notification, taking into account the following:

- The population of the area. Accordingly, the population criteria in U.P. is as under:
 - i. *Larger Urban Area* - 5 lakhs or more but less than 10 lakhs.

- ii. *Smaller Urban Area* - 1 lakh or more but less than 5 lakhs.
- iii. *Transitional Area* - More than 30 thousands but less than 1 lakhs.

- Population density within an area.
- Revenue generated for local administration.
- Percentage of people employed in non-agricultural activities.
- Such other factors which the Governor may deem desirable to consider.

In effect, the reorganization of Urban Local Bodies in U.P., following the 74th Amendment, has been done as under:

Nagar Mahapalika (Municipal Corporation) Areas of Lucknow and Kanpur have been renamed as Metropolitan Areas.

Other *Nagar Mahapalika* Areas have been re-designated as Larger Urban Areas.

Nagar Palika (Municipal) Areas have been renamed Smaller Urban Areas.

Town Areas and Notified Areas have been re-christened as *Transitional Areas*.

Governing Councils

The following is the change in the nomenclature of *Governing Councils of Urban Bodies* in U.P. (Table No.3.1)

Table No.3.1

Sl.No.	Local Body Area	Name of the Governing Body
1.	<i>Metropolitan Area</i>	<i>Nagar Nigam</i>
2.	<i>Larger Urban Area</i>	<i>Nagar Nigam</i>
3.	<i>Smaller Urban Area.</i>	<i>Nagar Palika Parishad</i>
4.	<i>Transitional Area</i>	<i>Nagar Panchayat</i>

Nagar Nigam was earlier known as *Nagar Mahapalika*, *Nagar Palika Parishad* was called *Nagar Palika* and *Nagar Panchayat* was addressed as *Town Area Committee/Notified Area Committee* depending upon whether it was the governing body of Town Area or a Notified Area.

Composition of Governing Councils

Under the 1994 Act, the Urban Local Bodies governing councils shall have three types of members elected, nominated and ex-officio.

- **Elected**: The elected component shall consist of members elected by the people of the area of an urban local body. For this purpose each Urban Local Body area shall be divided into electoral wards. The minimum and maximum strength prescribed for governing councils of local bodies as below: (*Table No.3.2*)

Table No.3.2

Sl. No.	Governing Council	Designation of Members	Strength	
			Maximum	Minimum
1.	<i>Nagar Nigam</i>	<i>Councilors</i>	60	55
2.	<i>Nagar Palika Parishad</i>	<i>Members</i>	110	10
3.	<i>Nagar Panchayat</i>	<i>Members</i>	25	24

- **Nominated:** Following the 74th Amendment, the 1994 U.P. Nagar Nigam Act empowers the State Government to nominate as members from among persons having specialized knowledge or experience of municipal administration. The maximum and the minimum number of members that can be nominated in this manner is given below in Table No.3.3.

Table No.3.3

Sl. No.	Governing Body	Number of Nominated Member	
		Minimum	Maximum
1.	<i>Nagar Nigam</i>	5	10
2.	<i>Nagar Palika Parishad</i>	3	5
3.	<i>Nagar Panchayat</i>	2	1

These members shall not have the right to vote.

- **Ex-Officio:** They shall be from the Parliament and U.P. State Legislature in the following manner:
- i. Members of Lok Sabha and Vidhan Sabha in the Urban Local Body whose entire territorial area or part of it falls within their constituency.
 - ii. Members of Rajya Sabha and Vidhan Parishad in the Urban Local Body in whose territorial area they are registered as voters.

Besides the above, the *governing councils* shall also include *Chairperson of Ward Committees* or any other committees that may be constituted in that Local Body, if they are not otherwise already members of the *governing council*.

Presiding Officers

Each *Nagar Nigam* has a *Mayor* who is elected by the registered voters of the local area for the same terms as the *Nagar Nigam*. The *Deputy Mayor*, however, is elected for a period of *one year* only and that too by the *Members* of the *Nagar Nigam*. In the same manner the *President* of the *Nagar Palika Parishad* or *Nagar Panchayat* as the case may be, is elected by the people at large for the same terms as the *Parishad* or *Panchayat* (*i.e.5yrs*), whereas the *Vice-President* is elected for *one year* only by the *Members* of the *Parishad* or *Panchayat*.

Ward Committees

The 1994 *U.P. Nagar Nigam Act* provides for the constitution of *Wards Committees* in *Metropolitan Areas*, *Larger Urban Areas* and in those *Smaller Urban Areas* population is three lakhs or above. It shall include *10* or more *electoral wards* in a *Metropolitan Area* and *5* or more *Electoral wards* in *other areas*. The members of the Local Body representing these wards shall be members of that *Ward Committee*. These members shall elect a *Chairperson* from amongst themselves.

Powers and Functions

While discussing the 74th *Amendment* reference has been made to the fact that it inserts into the Constitution a new *Schedule* – the *Twelfth Schedule*, in

which 18 subjects have been mentioned which now constitutionally belong to the Urban Local Bodies. The incorporation of these subjects in 1994 U.P. Nagar Nigam Act has led to the addition of following powers, over and above those already vested, in the U.P. 'Urban Local Bodies', prior to the 74th Amendment. (also see Table No.3.4.)

Nagar Nigam

1. Establishment and maintenance of parking places, bus stops and public conveniences.
2. Promoting population control and family welfare and the norms for small family.
3. Establishment and maintenance of tanneries.
4. Extension of urban forestry and ecological aspects and environmental protection.
5. Extension of cultural, educational and aesthetic aspect.
6. Establishment and maintenance of cattle ponds and prevention of cruelty to animals.
7. Improvement and development of slum areas.
8. Provisions of sport field.

Nagar Palika Parishad / Nagar Panchayat

1. Water supply for domestic, industrial and commercial consumption.
2. Promoting population control and family welfare and the norms of small family.
3. Regulation of tanneries.
4. Establishment/maintenance of parking places, bus stops and public conveniences.

5. Extension of urban forestry and ecological aspects and environmental protection.
6. Protection of interests of weaker sections of the society including physically handicapped and mentally retarded.
7. Extension of cultural, educational and aesthetic aspects.
8. Establishment / maintenance of cattle ponds and prevention of cruelty to animals.
9. Improvement and development of slum areas.
10. Reduction of urban poverty.

Financial Resources

The financial resources of Urban Local Bodies (*See Table No. 3.5*) are dependent upon the recommendations of the *State Finance Commission*, which would also recommend the physical resources of the Panchayat Raj bodies in U.P., thus *State Finance Commission* shall lay down principles regarding;

1. The distribution of the net proceeds of the taxes, duties, toll and fees levied by the State between the State and the Urban Local Bodies.
2. The determination of the taxes, duties, tolls and fees, which may be assigned to, or appropriated by the Urban Local Bodies.
3. The grants-in-aid to the Urban Local Bodies from the Consolidated Fund of the State.
4. Measures necessary to improve the fiscal condition of the Urban Local Bodies; and
5. Any other matter in the interest of sound fiscal system of Urban Local Bodies, as may be specified by the Governor.

Item nos. 1, 2 & 3 above has been taken from 74th Amendment Act. 4 & 5 have been inserted additionally by the 1994 U.P. Nagar Nigam Act.

Decentralised Planning

Following the 74th Amendment Act 1992, which emphasized on proper planning at every level of governance (See Figure No. 3.6.), in 1994 U.P. Nagar Nigam & Nagar Palika Act provides for the constitution of Metropolitan and District level Planning Committees, the details of which are as under:

Metropolitan Planning Committee

Every Metropolitan Area shall have *Metropolitan Planning Committee*. It shall have 21 to 30 members. Of these two third shall be elected by the members of Urban Local Bodies and Chairpersons of rural local bodies in the Metropolitan Area amongst themselves in proportion to the population of urban and rural local body areas in the Metropolitan Area. The remaining one-third shall be nominated by the State Government in the following manner:

- An officer, not below the rank of Deputy Secretary, of the Ministry of Urban Development, Government of India.
- An officer, not below the rank of Joint Secretary, of the Urban Development Department, Government of U.P.
- An officer, not below the rank of Joint Secretary of the Forest Department, Government of U.P.
- Chief Town and Country Planner, U.P
- Director, Environment, U.P.
- Managing Director, Jal Nigam (Now Jal Sansthan)

- General Manager Jal Sansthan.
- One Superintending Engineer of Public Works Department.
- One Superintending Engineer of U.P. State Electricity Board and
- Vice-Chairman of Metropolitan Area's Development Authority.

The Metropolitan Planning Area's *Development Committee* shall prepare the development plan of the entire Metropolitan Area. In doing so it shall take into account:

- i. The plans prepared by the Urban and Rural Local Bodies located in its area;
- ii. Matters of common interest between the Rural and Urban Local Bodies including coordinated spatial planning of the area, sharing of water and other physical and natural resource, the integrated development of infrastructure and environmental conservation;
- iii. The overall objectives set by the Government of India and the Government of U.P. and other available resources whether financial or otherwise; and
- iv. Consult such institutions and organizations as the Governor of U.P. may, by order, specify.

The matter regarding the *President of Metropolitan Area Committee*, in U.P. has been left to be decided by the rules to be framed under the *U.P. Nagar Nigam & Nagar Palika Act*. The President so elected shall preside over the meetings of the *Metropolitan Area Committee* and forward the development plan framed by it to the consideration of the State Government.

District Planning Committee

There shall be District Planning Committee (DPC) in every district of U.P. The *U.P. District Planning Committee Act* was enacted and notified on *July, 29, 1999*. Thereafter, DPCs has been constituted for seventy districts. However, it says that, of the total members in the District Planning Committee at least four-fifths shall be elected by the members of Zila Panchayat and Urban Local Bodies in the district from amongst themselves taking into account the proportion of population in rural and urban areas of the district. The other members shall be nominated by the State Government. The tasks assigned to the *District Planning Committee* are to:

- Consolidate the plans prepared by the Rural and Urban Local Bodies in the district; and
- Prepare a draft development plan for the district as a whole.

While preparing the *District Development Plan* the *District Planning Committee* shall have regard to:

- Matters of common interest between the rural and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
- The extent and type of available resources whether financial or otherwise; and
- The consultation with such other institutions and organization as the *Governor of U.P.* may, by order, specify.

The manner of the election of the *President* of the *District Planning*

Committee is to be decided by the rules framed under the *1994 U.P. Nagar Nigam & Nagar Palika Act*. The *President's* job is to preside over meetings of the *District Planning Committee* and forward the *Development Plan* prepared by the *District Planning Committee* to the State Government for consideration.

Table No. 3.4.**Suggested Assignment of Functions to be Performed by the Urban Local Bodies**

Essentially Municipal Functions	Municipal Corporation	Municipal Council	Nagar Panchayat
Urban planning including town planning (subject to broad outline' or 'structural' plan prepared by the District and Metropolitan Planning Committee/State Government)	Yes	Yes	Yes
Regulation of land-use and construction of buildings (subject to broad 'outline' or structural' plan prepared by the District and Metropolitan Planning Committees/State Government)	Yes	Yes	Yes
Planning for economic and social development (Preparation and implementation of socio-economic development plan)	Yes	Yes	Yes
Roads and bridges	Yes	Yes	Yes
Water supply domestic, Industrial and commercial purposes	Yes	Yes	Yes
Public health, sanitation, conservancy and solid waste management	Yes	Yes	Yes
Fire services	Yes	Yes	No
Urban forestry	Yes	Yes	Yes
Preventive Health Care	Yes	Yes	Yes
Provision of urban amenities and facilities such as parks, gardens, playgrounds	Yes	Yes	Yes
Burials and burial grounds, cremations, cremation ghats/grounds and electric crematoria	Yes	Yes	Yes
Cattle pounds, prevention of cruelty to animals	Yes	Yes	Yes
Vital statistics including registration of births and deaths	Yes	Yes	Yes
Street lighting	Yes	Yes	Yes
Parking lots, bus stops and public conveniences	Yes	Yes	Yes
Regulation of slaughter houses and tanneries	Yes	Yes	Yes
Slum improvement and up gradation	Yes	Yes	Yes
Agency Functions			
Protection of the environment and promotion of ecological aspects	Yes	Yes	Yes
Safeguarding the interests of weaker sections of society, including the handicapped and the mentally retarded	Yes	Yes	Yes
Urban poverty alleviation	Yes	Yes	Yes
Promotion of cultural, education and aesthetic aspects	Yes	Yes	Yes
Primary Education	Yes	Yes	No
Primary Health Care	Yes	Yes	No

Source: Mohanty (1995), Reforming Municipal Finances : Some suggestions in the Context of India's Decentralization Initiative, Urban India, A Journal of National Institute of Urban Affairs, New Delhi, Vol.XV (No.1), January-June, 1995.

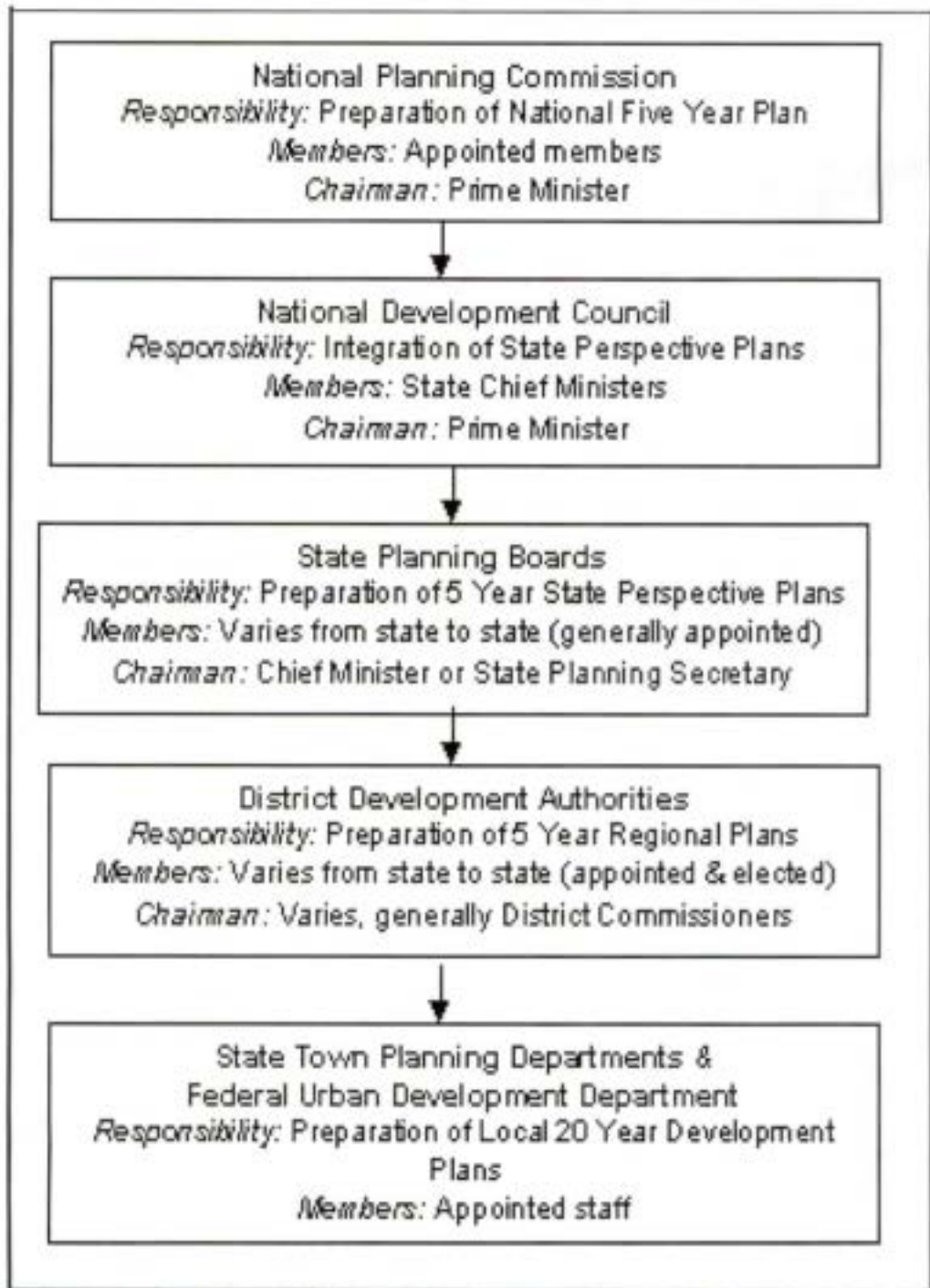
Table No. 3.5.

Major Sources of Income for Municipal Bodies in India

<i>Sources</i>	<i>Major Components</i>
<i><u>Internal/own Sources</u></i>	
Tax Revenue	Property taxes; tax on vehicles, animals, trade and callings and professions; theater tax/show tax; tax on advertisements, boats, etc.
Non-Tax Revenue	Rents from municipal assets; income from municipal undertakings; user charges; fee and fines; income from municipal investments; etc.
<i><u>External Sources</u></i>	
Grants- in-aid	General purpose; specific purpose; grants in lieu of taxes
Shared Taxes	Entertainment tax; motor vehicle tax; land revenue; stamp duties; profession tax; etc.

Figure No.3.6 .

National, State and Local Planning



References

1. Sir Jadunath Sirkar - Mughal Administration; Pg. 10.
2. Ibid.; Pg.13.
3. Dr. P. Sharma – The Provincial Government of the Mughals; Pg. 232.
4. H. Tinker –The Foundation of Local Self-Government in India, Pakistan and Burma; Pg. 15.
5. Ibid.; Pg. 15.
6. Gyan Chand -Local Finance in India; Pg. 25.
7. H. Tinker -The Foundation of Local Self-Government in India, Pakistan and Burma; Pg. 161.
8. M.P. Sharma - Recent experiments in Local Self-Government in India; Pg. 104.
9. 'Urban Water Sector in South Asia: Benchmarking Performance', Water and Sanitation Program, May, 2006.
10. PM's address at the Annual Conference of Ministers in charge of Drinking Water and Sanitation July 4, 2007, New Delhi.

CHAPTER - IV

***ORGANISATIONAL
STRUCTURE OF THE
DIRECTORATE OF LOCAL
BODIES U.P.***

CHAPTER - IV

ORGANIZATIONAL STRUCTURE OF THE DIRECTORATE

A Pan India Overview: Status of the Urban Local Bodies

India has a three-level system of Government: the *Union*, the *States* and *Local Government* (See Figure No. 4.1). Earlier, the Constitution of India prescribed the legislative, administrative, and financial powers of the Union and the States only. It did not specify anything as far as Local Government was concerned. Local Government was exclusively a State subject,¹ and the structure and powers of Urban Local Bodies were defined by the Municipal Laws enacted by the concerned State. The Local Government thus did not enjoy any constitutional status of its own but had statutory status under the State laws. The Constitution 74th Amendment Act, 1992 (see Appendix 'C'), grants constitutional status to local bodies (urban) and provides provisions for their structure, powers and functions. The urban areas comprise different types of Municipal Bodies constituted with reference to character, size, and importance of different towns and cities.² The structure and operation of municipal institutions are also largely influenced by the modes of community living and philosophical formulations. Besides the interactions between the political and socio-economic systems *Municipal Corporations*, *Municipal Committees*, *Notified Area Committees*, *Town Area Committees*, and *Cantonment Boards* were the usual types of Municipal Bodies, and while the first four types were created under *State Municipal Laws*, the Cantonment Boards owed their origin to the *Central Act* called the *Cantonments Act, 1924*. In most of the States all these types of Urban Local Bodies existed except in the town area committees, which had since been abolished and converted into Class-III Municipal Committees, Town Area Committees were Semi-Municipal Committees are constituted for small towns by a separate Act of the State legislature. Their members were selected or nominated by the State Government and were assigned a limited number of functions such as street-lighting, drainage, and conservancy. The State Government may by notification propose any area except a *Military Cantonment Area* to be a *Municipality*, as well as define its territorial limits

and make alterations to them. A Municipality is a body politic and corporate constituted by the incorporation of the inhabitants of a city or town. Its chief attribute is independent succession and continuity identity, notwithstanding increase or decrease in its membership. The criteria for the setting up of a Municipality in a town or city differed from State to State and even within the same State. The Factors weighing with the State Governments in this regard were generally the size; the occupation, composition, income and density of its population; political considerations, and commercial and economic potentialities. Bihar and Gujarat, for example, stipulated a population of 5,000, $\frac{3}{4}$ th of the adult male population pursuing professions other than agriculture, and a density of 1,000 persons per square mile; Uttar Pradesh prescribed a population of 8,000 to 10,000 and annual income of Rs. 25,000. However, the *Balwant Rai Mehta Committee* had observed that all Municipalities having a population of less than 10,000 may be included in the rural areas. The Municipal Acts of various Governments themselves hid down the criterion for setting up a Municipality in terms of its population and income. But the finances or the ability and willingness of the residents of the town or city concerned to provide for civic amenities must be a guiding factor for determining the grant of Municipal status to a town or a city.

In almost all the States, Municipalities are classified on the basis of their population, income and other relevant factors as it is detrimental to the interest of different Municipalities if they are all to be governed by the same provisions of the Municipal Act. Powers that might be granted to large towns cannot be extended to Municipalities that are a mere collection of villages.³ It is but natural that a high-income generating town would expect a higher powers, status and level of civic services than a low-income generating one. The *Rural Urban Relationship Committee* had also pointed out that categorization of Municipal Bodies into suitable grades is inescapable, if any homogeneity in administrative services, civic facilities, tax resources, grants, and the like with each grade is to be introduced.⁴ Accordingly, the various Municipalities are classified into *First, Second, and Third Classes*.

The size of a Municipal Council is determined by the State Government. It

should neither be too large nor too small. It is true that the larger the council, the greater the scope for participation and for adequate representation of the public, but there is also the danger of ineffectiveness. The smaller the council, the greater the scope for the Councilor to participate effectively, but it cannot provide wide representation and it carries the risk of the Councilor to be involved in personal relationship.⁵ In France, a Municipal Council consists of 10 to 56 members in such a way that the proportion of Councilors to the population is higher in the smaller communes than in larger ones.⁶ In this way, the smallest communes have enough members to ensure full discussion and participation of almost all interests and the largest communes are not over-crowded with Councilors. This is a very sound proportion and could be adopted with distinct advantage and balancing a Council with 10 to 30 members would represent a golden mean though the number may be slightly larger in higher cities subject to a ceiling of 50. In short, the size should neither be too unwieldy nor too small; it should be representative as well as responsive to the needs of the city.

The committee had further recommended that a city with a population of more than five lakhs should be converted into a corporation. Generally, the minimum number of Councilors is fixed at five and it increases progressively with the corresponding increase in population of the concerned town or city. With the increase of population by 5,000, the number of Councilors is increased by one. This process of addition of one member continues up to one lakh of population. Thereafter with every increase of 10,000 populations, one member is added, and when the population exceeds two lakh then after every 20,000 increase in population, one member is added, similarly, if the population exceeds three lakhs. One member is added after 25,000 increases in population.⁷

The *Municipal Council, President, and the Executive Officer* constitute the main components of municipal Government structure and organization.

The Constitution 74th Amendment, Act, 1992, provides that each State or Union Territory will have to constitute a State election commission,⁸ for the superintendence, direction, and control of the preparation of the electoral rolls for and the conduct of all elections to the Panchayats and

Municipalities in the State and to provide for all matters relating to or ancillary or in connection with the election to the Panchayats and Municipalities in terms of the provisions of *Parts IX and IX-A* of the Constitution of India. The said Commission will be headed by a *State Election Commissioner* appointed by the *Governor* of the State concerned. A person to be appointed as *State Election Commissioner* should be an officer of the State Government not below the age of 55 years and of the rank of *Financial Commissioner* or the *Principal Secretary* to the State Government, having service as such for a minimum period of two years, or should be a *Serving or Retired Judge of the High Court*. But an officer who has attained age of superannuation shall not be appointed as *Election Commissioner* and, on ceasing to hold the office of *Election Commissioner*, shall be eligible for any other appointment under the State Government.

The *Governor* of the State may determine the rules governing the conditions of service and tenure of office of the *State Election Commissioner*. The *State Election Commissioner* cannot be removed from office except in a manner similar to and on grounds similar to those by which a judge of the High Court can be removed from his office. The conditions of service of the *State Election Commissioner* cannot be varied to his disadvantage after his appointment. The *Governor* of a State would make available to the *State Election Commissioner* such staff as may be requested by him and which he may consider necessary for the discharge of the functions conferred on the *State Election Commission*.

The State Government may appoint one or more *Deputy Election Commissioners* and a *Secretary* to the Election Commissioner. There shall be for each district a *District Election Officer* who shall be such officer of the Government as the Election Commissioner may on consultation with the State Government designate or nominate. He shall supervise the preparation, revision, and correction of the electoral rolls in the district, and perform such other functions as may be entrusted to him by the Election Commissioner.

The Election Commissioner shall also in consultation with the State Government designate or nominate a *Returning Officer* for every

constituency. It shall be his duty to do all such acts and things as may be necessary for effectively conducting of an election.

The District Election Officer shall with the previous approval of the Election Commissioner provide a sufficient number of polling stations for every constituency within his jurisdiction, and appoint presiding officer for each polling station and such polling officers as he thinks necessary.

As soon as the notification calling upon the constituency to election member or members is issued, the Election Commission shall appoint the last date for making termination, the date for scrutiny of nominations, the last date for the withdrawal of candidates, and the date or dates on which a poll, if necessary, shall be held.

A contesting candidate may appoint his election agent and he or his election agent may appoint his polling agent at each polling station and a counting agent at the time of the counting of votes.

The votes shall be counted by or under the supervision and guidance of the *Returning Officer* and when the counting of the votes has been completed, he shall declare the result of the election and shall report it to the Election Commissioner.

The State Governments, in consultation with the election commission, appoint an election tribunal for each district, or part thereof at the district or sub-divisional headquarters, to try election petition which may be presented by any candidate or by an elector. At the conclusion of the trial of an election petition, the election tribunal may dismiss it and declare the Election of all or any other returned candidates to be void, and the petitioner or any other candidate to have been duly elected. The Election Tribunal shall intimate the decision to the election commission as soon as possible; He shall cause the order to be published in the *Official Gazette*. An appeal against the order of the Election Tribunal can be preferred in the *High Court* which shall decide it and intimate the decision to the Election Commissioner.

It may be mentioned that the civil court shall have no jurisdiction to question the legality of any action taken or by any decision given by the Returning Officer or by any other person appointed in connection with the election.

The Constitution 74th Amendment Act, 1992 aimed at reconstruction, revamping and revitalizing Urban Local Government. The Government of India had notified 1 June 1993 from which the Act came into force. The Act provided for a period of one year from the date of its commencement within which the Municipal Laws, which were in force at that time in the States and the Union Territories, were required to be changed, amended, or modified in order to bring them in conformity with the provisions of the Constitution 74th Amendment Act, 1992. Various States and Union Territories have accordingly enacted legislation for the governance of the Urban Local Bodies in their respective jurisdictions. The Punjab Government for example has enacted the *Punjab Municipal Bill, 1998* to replace the Punjab Municipal Act, 1911; the Punjab Municipal (Executive Officers) Act, 1931; and the Punjab Municipal (Corporation Act, 1976; by a comprehensive new act to comply with the provisions of the 74th Amendment Act, 1992. The objectives other new Punjab Municipal Act, 1998, as also those other acts passed by several other States and Union Territories, are:

1. To adhere to the basic framework laid down in the Constitution 74th Amendment Act, 1992, which would ensure that the Municipalities in the State, that is to say, the municipal corporations for the larger Urban Areas, the Municipal Councils for smaller urban areas, and the Nagar Panchayats for transitional areas are in a position to function effectively as vibrant units of self-Government.
2. To provide for greater participation of the people in the administration of Urban Local Bodies with a view to ensure democratic decentralization and to ensure financial self sufficiency of the three levels of Municipalities in the State and to improve financial management thereof.

3. To provide for an adequate devolution of powers and functions to the Municipalities.

In our country, various forms of Urban Local Bodies have been existing before the commencement of the Constitution *74th Amendment Act, 1992*. These were Municipal Corporations, Municipal Committees, Town Area Committees, and Notified Area Committees. But now these have been restricted to three types only namely Nagar Panchayats, Municipal Councils, and Municipal Corporations.⁹

A Nagar Panchayat is constituted for a transitional area, that is to say, an area in transition from a rural area to an urban area. The population of such an area is five thousands or more but is less than fifteen thousands and the revenue generated from tax and other sources exceeds such amount per capita per annum as may be specified by the Government from time to time. Every Nagar Panchayat is a body corporate body and has a perpetual succession and a common seal with power to acquire, hold, or dispose of properties and may sue and be sued.

A Nagar Panchayat shall consist of such number of elected members, which will not be less than nine and not more than fifteen, as the Government, may determine by rules, the members of the Legislative Assembly representing in constituencies comprising the transitional area or any part thereof, and two members nominated by the Government from amongst the persons having special knowledge or experience in Municipal Administration. The nominated members shall not have the right to vote in the meeting of the Nagar Panchayats. The Government may in consultation with the Nagar Panchayat, include within a transitional area any area adjacent thereto, exclude from a transitional area any area comprised therein, and specify a transitional area to be a smaller urban area in which case members of the Nagar Panchayat shall be deemed to be the members of the Municipal Council, where the Municipal Council shall be of Class-C status.

The Government shall divide a traditional area into a number of territorial constituencies to be known as wards and each ward shall elect only one member. The term of a Nagar Panchayat shall be of five years unless sooner

dissolved on the charges of being incompetent to perform, showing gross negligence in the performance of its duties, persistently making default in the performance of its duties, exceeding or abusing its power or its financial position, and thus its credit being seriously threatened in the opinion of the Government. When a Nagar Panchayat has been dissolved, its members shall vacate their office forthwith and the elections to the new Nagar Panchayat shall be held within six months. An administrator to be appointed by the Government shall administer the affairs of the Nagar Panchayat during the period it remains dissolved.

Out of the total number of seats in the Nagar Panchayat to be filled by direct election, seats for *Scheduled Castes* and *Scheduled Tribes* shall be reserved in the same proportion of the total number of seats to be filled by direct election in the Nagar Panchayat, as the population of Scheduled Castes, Scheduled Tribes bears to the total population of that area, and such seats shall be allotted by rotation to different wards in the area; $\frac{1}{3}$ rd of total number of reserved seats for Scheduled Castes and Scheduled Tribes shall be reserved for women belonging to the Scheduled Castes. Further, $\frac{1}{3}$ rd of the total seats to be filled by direct election shall be reserved for women (including the number of seats reserved for women belonging to the Scheduled castes and the Scheduled Tribes). It is optional for the Government to reserve seats for the backward classes also.

A Nagar Panchayat shall elect from among its members, one President and one Vice-President in a meeting to be convened and presided over by the Deputy Commissioner or an officer not below the rank of an Assistant Commissioner, authorized by the Deputy Commissioner. The President may be removed by the Nagar Panchayat by adopting a motion expressing lack of confidence on him. But no such motion shall be moved within two years from the date of assumption of office by him. The Government may also remove the President any time on the ground of abuse of power or persistent failure to perform his duties.

It shall be the duty of Nagar Panchayat to consider all periodical Statements of the receipts and disbursements and all progress reports and pass such resolution thereon as it may think fit. It may, at any time, require the

Executive Officer to produce any records, correspondence, plan or other documents, and to furnish any return, plan, estimate, accounts, or statistics relating to the administration of Nagar Panchayat.

Every Nagar Panchayat shall perform obligatory functions of water supply, drainage scavenging of streets, street lighting, prevention of diseases, etc. and discretionary functions of providing primary education, Organization and management of fairs, bathing places, and planning for social and economic development subject to financial resources at its disposal.

Each *Nagar Panchayat* shall have one *Executive Officer* appointed by the State Government who shall be a member of the State/Provincial Services. He may be asked to act as an Executive Officer of another Nagar Panchayat also. His allowances and salary and such facilities as residential accommodation and conveyance shall be paid out by Other Municipal Fund of the Nagar Panchayat which shall also make contribution towards his pension and provident fund.

The powers and functions of the Executive Officer are:

1. Carrying on the day to day administration of the Nagar Panchayat,
2. Exercising the powers and perform the functions conferred or imposed upon him by law, and
3. Assign the duties, and supervise and control the acts and proceedings of the officers and employees of the Nagar Panchayat. All officers and employees of the Nagar Panchayat shall be subordinate to him.

A Municipal Council is constituted for a small urban area, the population of which is fifteen thousands or more but is less than three lakhs, and the revenue generated from tax and other sources exceeds such amount per capita per annum as may be specified by the Government from time to time. The Government shall also classify the Municipal Councils as *Class A* (population of one lakh or more), *Class B* (population fifty thousands or more but less than one lakh), and *Class C* (population fifteen thousands but

less than fifty thousands). A Municipal Council, however, may not be constituted for an area or part thereof, as the Government may, having regard to the size of the area and the municipal services being provided by an industrial establishment in that area and other factors, as the Government may think it.

A Municipal Council shall have, in the case of Class A, not less than 20 and more than 50 elected members; in the case of Class B, not less than 15 and more than 30; and in case of Class C, not less than 10 and more than 15. The Members of Legislative Assembly (MLA) of the State representing constituencies comprising the smaller urban area or any part thereof are ex-officio members, and not more than three members are nominated by the Government from among the persons having special knowledge or experience in Municipal Administration. The nominated members, however, shall not have the right to vote in the meetings of the Municipal Council.

Members are elected through adult franchise based on secret ballot, the voting age used to be twenty-one years till 1988 when it was reduced to eighteen years under the Constitution (62nd Amendment) Bill, presented in the Parliament by *B. Shankranand, Minister for Law and Justice* on December 13, 1988 and passed unanimously by the Lok Sabha on December 17, 1988, and by Rajya Sabha on December 17, 1988. The reason given in the Statement and objectives other bill was that the youth of today are literate, enlightened and politically conscious, and the lowering of voting age would provide to the unrepresented youth an opportunity to give vent to their feelings and help them become a part in the political process.

Elections are held in accordance with Municipal Election Rules. The whole Municipal Area is divided into as many wards as there may be the number of Councilors to be elected. While demarcating the territorial limits of these wards, care is taken that the number of electors in each ward is almost equal. This is done to keep the elector-Councilor ratio on a rational basis. The delimitation work is undertaken periodically by the Directorate of Local Government.

A candidate seeking election must be a resident of the city concerned and at least 25 years of age. He should possess a sound mind and must not be an

insolvent. He should not be on the pay roles of the Municipality and none of his close relations should be on contract for any Municipal work.

Electoral rolls of the legislative assembly in relation to municipal area are generally taken as the voter's lists, but the State Government may direct the preparation of fresh rolls for each ward.

The candidates contesting the elections are allotted symbols subject to their availability on the approved list, according to their preferences, which cannot exceed three. Symbols of the recognized political parties are allotted only to the candidates sponsored or adopted by them. Thereafter starts election campaigning by the candidates and their supporters. The candidates, who are put up by the political parties, issue their manifestoes, whereas others bring out pamphlets and posters containing their concern for certain issues and problems of the local residents. Public meetings, corner, and road side meetings, etc. are held by the candidates and their supporters. Loudspeakers, fixed on rickshaws, three wheelers, and other automobiles are frequently used to announce the programmes of the concerned candidates. Door to door canvassing is also the usual feature of the campaign. The voters exercise their right to vote on the election-day at the allotted polling stations.

After the time for casting of votes is over, the Presiding Officer collects the ballot boxes duly sealed by the Polling Officer and signed by the Candidates or their Polling Agents. The counting of votes is done at a place decided by the District Election Officer in the presence of candidates or their election agents. The Presiding Officer gives a reasonable opportunity to the candidates or their election agents to check those ballots that are likely to be declared as invalid and settles the objections, if any. Applications for recounting can be entertained and considered by the presiding officer before the declaration of the results. After the completion of the counting of votes, the District Election Officer or the Presiding Officer declares a candidate securing the largest number of valid votes, as elected; and if there is a tie the matter is decided by drawing of lots.

The Deputy Commissioner has to call the meeting of the elected members

within fourteen days of the notification to administer oath of office to them and to hold the election of President and Vice-President.

The *74th Amendment Act, 1992* also provides for reservation of seats for scheduled castes and scheduled tribes in every Municipality.¹⁰ The proportion of seats to be reserved for them shall be the same as the proportion of their population in the Municipal Area to the total population of the area. Not less than $\frac{1}{3}$ rd of the total number of seats reserved for SC and ST shall be reserved for women belonging to the SC and ST. Further, not less than $\frac{1}{3}$ rd including the number of seats reserved for women belonging to SC and ST other total member of seats to be filled by direct election in every Municipality, shall be reserved for women, and such seats may be allotted by rotation to different constituencies/wards in a Municipality.

Secondly, the State Legislatures shall have to make provision by law for the reservation of Chairpersons in Municipalities for SC, ST, and Woman.

There shall be no binding on the State Legislatures in making provision for reservation of seats in any Municipality or Office of the Chairperson in the Municipalities in favor of Backward Classes of the citizens.

The *Constitution 74th Amendment Act, 1992* provides for the constitution of *Ward Committees* consisting of one or more wards within the territorial area of a Municipality, having a population of three lakhs or more.¹¹ The Legislature of a State may, by law, make provisions with respect to the composition and the territorial area of a ward committee, and the manner in which the seats in the ward committee shall be filled. But a member of a Municipality representing a ward within the territorial area other ward committee shall be a member of the ward committee. And a ward committee will consists of one ward, the member representing that ward in the Municipality or two or more wards, one of the members representing such wards in the Municipality elected by the members of the ward committee shall be the Chairman of the Committee. The ward committees shall ensure immediate contacts between the electorate and the elected members, and increase participation of the people in the affairs of the Urban Bodies.

A Municipal Council shall constitute a Standing Committee which shall consist other President, Senior Vice -President and the Vice-President, and four other members in the case of *Class A* Council and two members in the case of *Class B* Councils to be elected by the members of the Municipal Council from amongst elected members for a period of two and a half years. All the matters coming before the Standing Committee shall be determined by a majority of votes of the members present, and in the case of equality of votes, the chairman shall have a right of a second or a casting vote. The Standing Committee has the power to ask the Executive Officer to produce any record, correspondence, plan, and other documents in his possession or under his control, or which is recorded or filed in his office or in the office of any officer of the Municipal Council, and furnish any return, plan, estimate, Statement, accounts, or statistics relating to the administration of the Municipal Council. Every Municipality, unless dissolved earlier, shall continue for a period of five years from the date appointed for its first meeting after its constitution.

If, in the opinion of the Government, a Municipality is not competent to perform or has shown gross negligence in the performance of the duties imposed upon it, or if it persistently makes fault in the performance of such duties or in complying with lawful directions and orders issued by the Government or any authority, empowered under any law, or exceeds or abuses its power, or if the financial position and the credit of the Municipality is seriously threatened, the Government may, by an order published in the Official Gazette with reasons, therefore dissolve the Municipality. But a Municipality shall be given a reasonable opportunity of being heard before its dissolution.¹²

The consequences of the dissolution shall be that all members of the Municipality shall vacate their offices forthwith; all properties vested in the Municipality during the period of dissolution shall rest with the Government. Elections shall be held before the expiry of a period of *six months* from the date of dissolution. Co-option is one of the methods used for giving representation to minority community and special interests groups. It is based on the British system of *Elder Man* who the Councilors

elect for his rich Municipal experience, expertise in Municipal Administration, and spirit of public service. This system is preferable to the system of nominations as the onus of nomination falls not on the Government but on the council itself. But it is regrettable that in our country members are co-opted not on the basis of their merit but on party affiliations. This is not a healthy practice. The members should be co-opted irrespective of party allegiance and on the basis of proportional representation to enable every party to co-opt members in proportion of its strength in the council.

The State Governments also make a provision for associating the MLAs, representing the whole or part of the area covered by the Municipal Committee, With the Municipal Council. An associate member has the right to take part in the deliberations of the Municipal Council but he has no right to vote. There is divergence of opinion on the issue of associating Legislators with the Municipal Council. Its advocates argue that the Legislators can create a healthy impact on the standard of debates and on the functionaries of the Municipal institutions and that their association enhances the prestige of the Local Bodies, and provide for direct ventilation of local problems in the State Legislatures. But the opponents are of the opinion that local problems should be solved exclusively by the local leaders and that the presence of Legislators would bring into play a number of extraneous forces, most disruptive of which would be politics and how the practice of associating the legislators with the council continues to be in vogue.

The methods of removal of members vary from State to State, For instance, in *Bihar*, The Municipal Act provides for the recall of elected members if $\frac{3}{4}$ th of the voters of the concerned ward represent to the State Government on his removal, but no such members can be removed unless he has held office for one year. Provisions of removal of members exist in *Punjab* and *Haryana* also. The Government may by notification, remove any member:

- i. If he refuses to act, or becomes in the opinion of the Government incapable of acting, or has been declared a bankrupt or an insolvent, or has been convicted of any such offence or subjected by a criminal

court to any such order as implies in the opinion of the Government a defect of character which unfits him to be a member;

- ii. If he has been declared to be disqualified for employment in or has been dismissed from public service;
- iii. If he has, without reasonable cause, absented himself for more than three consecutive months from the meetings of the committee;
- iv. If his continuance in office is dangerous to the public peace or order;
- v. If he has flagrantly abused his position as a member of the committee or has through negligence or misconduct been responsible for the loss or misappropriation of any money or property of the committee.

It is usually under this provision of the act that the party in power in the respective States has usually taken action against its rivals and opponents in the municipal Government.

Municipal Council meets for the transaction of business at least once in a month which is usually presided over by the President or, in his absence, by the Vice-President and, in the absence of both, by a member chosen by the Council for this purpose. A meeting can also be called, either *special* or *ordinary*, by the President or in his absence by the Vice-President on his own, or on a requisition specifying the purpose of the meeting, made in writing by at least $\frac{1}{5}$ th of the total membership. The quorum necessary for a special meeting is one half, of the council members actually serving at that time, but not less than three. The quorum for an ordinary meeting can be decided by the Municipality in accordance with its by-laws but, in any case, it cannot be less than three. Normally, all the decisions are taken by a majority of votes of the members present and voting. In case of a tie, the Chairman can exercise a second or casting vote. The minutes of proceeding of each meeting are recorded in the '*proceedings book*' of the Municipality and are signed by the Chairman and a copy of every resolution is forwarded within three days to the Deputy Commissioner. The recorded proceedings are normally open to the citizens for inspection without any charge/fees.

The Municipal Council, over-burdened with increasing load of work and suffering from paucity of time, is not in a position to examine every issue coming before it. It, therefore, elects sub-committees comprising of councilors' from amongst itself to study a problem in depth, and make recommendations for its solution. in the Words of 'R.M. Jackson', "*The Committee system is the most distinctive mark of British Local Government; a committee may examine a matter, thrash it out in detailed discussion and so be able to make to the council a recommendation that is based on a more careful and prolonged examination than could be made in a council meeting; a committee may also carry out a number of the functions of the council, acting under powers delegated to it and thus act as an agent of the council.*"

The sub-committees may be of two types:

- Statutory committees, required to be created by a Municipal Act;
- Non- Statutory committees, created by the Council under its by-laws.

The ward committees, as mentioned in the foregoing, have *Statutory Status*. A ward committee is to manage the affairs of a ward or wards as the case may be on behalf of the Municipality. Municipal Committees constitute standing sub-committee which terminates under its by-laws, such as building, fort, vehicle, conservancy, finance. Each sub-committee consists of five members including its Chairman and is elected annually from amongst the members of the Council on the basis of majority votes whereby the candidates of majority party are sure to be elected.

Municipal Councils also appoint special sub-committees for certain special purposes and follow the same procedure for their election as it adopts for the constitution of standing sub-committees. Some of such special sub committees are constituted, for example, to celebrate Independence and Republic Days, to eradicate corruption in Municipal Committee, to enquire into the report of the Executive Officer regarding disciplinary action against an employee, to extend municipal limits, to merge the adjoining areas in it

and to convert itself into a bigger Municipality as a result of the amalgamation of twin cities, and so on.

It is also observed that the recommendations made by the sub-committees are often rejected, altered, or modified by the Council in a number of cases. Since the recommendations of the sub-committees are not binding on the Council, their role could be termed as insignificant. The *Rural Urban Relationship Committee (1966)* had underlined the need for streamlining the committee system to make their best possible use. But satisfactory progress in this regard has not been achieved mainly due to lack of co-ordination, difficulty in drawing a clear line of demarcation between the powers of the Council and those of the committees, tendency to interfere in the day-to-day working of officials, apathy of members with regard to municipal affairs, and tendency to monopolise membership of committees in few hands. These defects need to be rectified to ensure smooth and useful working of the committee system in Municipal Bodies.

A Municipal Council elects its President from amongst its members within one month of its constitution. He is thus elected indirectly and not directly by the city people themselves. The systems of direct and indirect election of President have their relative merits and demerits. The case against direct election is summed up by the Punjab Local Government (Urban) Enquiry Committee as follows:¹³

1. The President elected by direct vote has no link with the Council and it is not imaginable how he can work without carrying a majority with him.
2. Direct election would not be conducive to smooth and harmonious working of the Municipal Government; it is likely to create deadlocks between the President and the members. On the other hand indirect election secures to the President independence from often irksome dependence on the votes of Councilors and makes him directly responsible to the citizens.

The direct election of the President was tried in *Uttar Pradesh* and *Madhya Pradesh* in 1948, but did not lead to harmonious relationship between the Councilors and the President and was, therefore, replaced by the old system of indirect election.¹⁴

Mere election by the Council does not entitle the President to assume powers and responsibilities of his office; his election has to be approved by the Government and duly notified. There have been a few cases of delaying the notification of the elected President by the State Government for extraneous consideration. The State Government has also the power to appoint a President on a special request made by the Committee, or if it fails to elect one within the stipulated period. Nomination or appointment of the President by the State Government does not seem conducive to the dignity of this office as it can be misconstrued and exploited by the party in power at the State level, for harassing a person elected by a different party having a majority in the Council. Again, approval or confirmation of the election of the President by the State Government is contrary to the basic principle of responsible Municipal democracy and should, therefore, be abandoned.

The President is elected for a period of five years or for the residue of his term as a member, whichever is less. He can be removed by the State Government, even before the expiry of his term, on grounds of abuse of power, habitual failure to perform his duties, or in pursuance of resolution passed by $\frac{2}{3}$ rd of the members of the Council asking for his removal.

The power of the State Government to remove the President is not in consonance with the ideas of *democracy*, and it smacks of *colonial* orientation. The Government, therefore, needs to be divested of this power. Removal of the President on a vote of no-confidence is a democratic right of undoubted value, for it enables the committee to get rid of a President who has forfeited the confidence of the Council. But motions of no-confidence are often moved on false, frivolous, and vexatious ground to grind the factional or partisan axe. The frequency of no-confidence motion has been alarming in Rajasthan and in some other States, and from their study it has been revealed that these have been used as a pressure tactics to harass the President and to derive certain benefits from him; that these have been

sponsored due to intra-group, inter-group, and personal rivalries, and that it is easier for the opposition parties to join hands in a negative venture of moving a no-confidence motion, than to have a united front for the positive task of sharing power.¹⁵ In order to prevent the misuse of power by the Councilors, of moving a vote of no-confidence on frivolous and flimsy grounds, the President should be vested with the power to recommend the dissolution of the Council, as the rigors of contesting election again and the possibility of defeat will deter the members from moving a vote of no-confidence against him on grounds too flimsy to be sustained before the people, whom they will have to face during the elections.¹⁶

The council also elects one or two Vice-Presidents, one senior and the other junior, from amongst its members. A Vice-President can be removed in the same manner as the President, except that his removal is not subject to the Government approval.

The Presidents of Municipalities in various States draw monthly salary in addition to conveyance or traveling allowance. Punjab probably is the first State to pay salary to its Urban Civic Chiefs in recognition of the fact that Municipal Administration is a complex job requiring whole-time attention and occupation which persons working on honorary basis, cannot afford at the cost of their personal and private business or other assignments. Presidents and Vice-Presidents of Municipal Committees often complain that the *sword of Damocles* constantly hangs on their heads. 'Dr M.P. Sharma' has rightly observed:

*"The frequent and often suspicious use of power of no-confidence in the committees has reduced the position of the President to unstable. Since there is no effective organization within the local bodies to provide for the President a constant majority support, he often feels a prey to the wanton attacks of the various groups against him, possessed as he is of a fairly larger power or patronage he has many occasions of creating enemies. His situation, in short, bears a close resemblance to that of French Ministry under the Third Republic."*¹⁷

The President occupies a pivotal position in Municipal Administration and enjoys considerable authority and power in both the deliberative and

executive organs of the Municipality. He convenes and presides over the meetings of the Council and ensures that these are conducted with proper decorum and decency. He decides on point of order and gives his ruling on all controversial matters. He is empowered to take disciplinary action against any offending Councilors and suspend or adjourn any meeting in case of pandemonium.

He not only guides the deliberations of the Council but also executes its decisions and directives as its Chief Executive, and as such supervises the work of the officers of the Municipality. He has access to all Municipal records and may ask for any information relating to Municipal Administration. He is to keep in touch with the day-to-day administration as he is supposed to convey to the Council the working of the administrative machine. No matter of financial commitment is placed before the Council without his approval. He can authorize any expenditure to meet an emergency threatening imminent danger to public life and property, but such an action has to get the approval of the Council in its next meeting. He enjoys special extraordinary powers, under which he can order the immediate execution or suspension of any work. These powers cannot be challenged in any court of law. He is also powered to make appointments to class-IV posts and some other menial jobs.

He is the chief spokesman of the Council and represents it at official functions and the correspondence with the Government is channelized through him. Being the *Civic Chief* and the *First Citizen* of the city, he represents it in all ceremonial occasions and functions.

The powers of the President, as depicted above, confer on him an enviable and exalted position but in practice he cannot make best use of his powers, as in their exercise, he is to depend on majority support of the councilors, of which he cannot be sure due to the vagaries of Municipal Politics. This State of affairs had led the *Punjab Local Government (Urban) Enquiry Committee* to remark:

'Constant endeavor of groups seeking enlistment of support of members in dislodging the people in authority and the dual position of the president who has to supervise the day to day administration and has also to carry the

majority with him, make the municipal administration more susceptible to extraneous influence, and this in turn sows the seeds of discord and constant party bickering.'¹⁸

The remedy lies in separation of the deliberative and executive functions and vesting the former in the Municipal Council and the President and the latter in the Executive Officer. In this scheme of things, the President would be the first citizen of the city, ceremonial head of the Municipality, and the Presiding Officer of the Municipal Council. This position would be consistent with the republican spirit and democratic system of Government.¹⁹

The need for having a separate executive in the interest of the efficiency of Municipal Administration had prompted the State Governments to provide for appointment of Executive Officers. The position of the Executive Officers under this arrangement had not been easy. A supine subservience to the Wishes of the members made their office ineffective while an uncompromising independence led to such friction as would bring the Municipal machinery almost to a standstill. There had been complaints of friction between the Executive Officer and the elected Council with the result that Municipal Administration had suffered. Many times, the decision taken by the Executive Officer had been reversed, altered, or modified by the sub-committees or the Council itself.

The practice of appointment and removal of Executive Officer by the Municipal Council had not proved successful because of the tensions, lack of cordiality, compromise, and distrust inherent in the system. The *Taxation Enquiry Committee (1953)* had, therefore, recommended that the Municipalities should have Executive Officers in whom the executive powers and administrative responsibilities shall vest by statutory provision, and they should be selected and appointed by the Government or by an *Independent Statutory Board*. These recommendations were endorsed by the *Conference of Local Self Government Ministers (1954)*, the *Punjab Local Government (Urban) Enquiry Committee 1957*), and the *Rural-Urban Relationship Committee (1966)*.

Now all the executive powers of the Municipality are with the Executive Officer. He is the *Principal Executive Authority* and, as such, all the Municipal staff is subordinate to him. He is responsible for exercising general control and supervision over the Municipal office. He can request the State Government for the transfer of Municipal Engineer and other officers with the approval of the Council. Other clerical employees can be transferred by him from one branch of the Municipality to another. All communications addressed to the State Government or its Officers are to be signed by him. He is obliged to present before the Council all important correspondence exchanged between the Municipality and the State Government.

Being the principal officer of the Municipality, he is responsible for the preparation of the Municipal Budget and its presentation to the Municipal Council. He can enter into contracts on behalf of the Municipality but, while doing so, he shall be bound by any resolutions of the Council fixing terms, rates, or maximum prices in a particular case or any class of cases. He is charged with the responsibility of collection of taxes, fees, and fines and removal of encroachments of Municipal property. He is to keep an eye on expenditure and take measures for recovering the Municipal dues and arrears, get the accounts audited, and meet the audit objections.

Municipal Council is the Governing Body of Municipality. It is collectively responsible for Municipal Administration and for the exercise of all the Legislative powers authorized by law. As the *Local Legislature* it gives expression and effect to the will of the civic community through its meetings and resolutions. Besides, it makes by-laws for governing the place and time of council meetings, the manner of giving notices, the conduct of meetings, preservation of order and decorum, and the powers which the Chairman may exercise for the purpose of using his rulings. It also frames by-laws governing the constitution, powers, and function; of sub-committees. It has the power to pass a no-confidence motion against the President and send it to the Government for its approval. It passes the budget and formulates resolutions for the effective and efficient implementation of various items included in the budget.

The Council exercises control over the administrative staff and as such supervises and investigates into the functioning of the various departments of the Municipality. It can, with the prior approval of the Government, impose and collect a variety of taxes, license fees, etc. and raise loans, and undertake remunerative enterprises. It has thus an effective voice in laying down the policy, deciding the level of taxation, and budget formulation.

The Council also enjoys some punitive powers as it can take action against those who are guilty of causing public nuisance by selling adulterated and unwholesome food-stuffs and other consumable articles, or are guilty of plying unlicensed vehicles. It can also forbid the use of buildings declared unfit for human habitation.

The Councilors are expected to keep themselves in touch with the citizens and enquire about their grievances against Municipal bureaucracy and bring the same to the notice of the appropriate administrative head and or raise the matter in the Council. Besides, in the performance of their role as local leaders, they have to encourage public participation in Municipal affairs and enlist the cooperation of the people, as enlightened and active co-operation and participation in the affairs by the people would go a long way in generating consciousness and civic pride for building up a sound and responsible Municipal Administration.

The State legislatures may, by law, endow the Municipalities with such powers and authority as may be necessary to enable them to function as institution of Self - Government, and such law may contain provision for the devolution of powers and responsibilities upon Municipalities in respect of preparation of plans for economic development and social justice and for implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule of the Constitution.

A perusal of these functions assigned to the Municipalities shows that the Municipalities shall not only confine themselves to mere provision of civic amenities, but also play a crucial role in the preparation of plans for local development and in the implementation of development projects and

programmes, including those specially designed for urban poverty alleviation.

In order to prepare a *Draft Development Plan* for the district as a whole, the 74th Amendment Act provides for the constitution of a committee for *District Planning* in every State at the district level. The committee shall consolidate the plans prepared by the Panchayats and the Municipalities in the district. The State Legislature may, by law, make provision with respect to the composition of the District Planning Committee and the manner in which the seats in such committees shall be filled. The law shall provide that not less than $\frac{4}{5}$ th of the total number of members of the committee shall be elected by and from amongst the elected members of the Panchayats at the district level and of the Municipalities in the district, in proportion to the ratio between the population of the rural areas and of the urban areas in the district. The law shall also specify the functions relating to the district planning which may be assigned to the committees, and the manner in which the Chairpersons of the committees shall be chosen. Every District Planning Committee shall, in preparing the *Draft Development Plan*, have regard to the matters of common interest between the Panchayats and the Municipalities spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation, the extent and type of available resources whether financial or otherwise, and consult such institutions and organizations as the *Governor* may by order, specify. The Chairperson of every District Planning Committee shall forward the development plan as recommended by such committees to the *Governor* of the State.

In order to raise revenue for discharging its duties and performing its functions, the Legislature of a State shall specify by law

- The taxes, duties, and fees which could be levied and collected by the Municipalities such as tax on lands and buildings, scavenging tax, octroi, tax on advertisements (other than advertisements published in newspapers), fire tax and toll tax on roads and bridges;

- Taxes, duties, and fees which could be levied and collected by the State Government and wholly or partially assigned to the Municipalities, such as excise duty on liquor in lieu of octroi, motor vehicle tax, entertainment tax, stamp duty, electricity duty, etc.;
- Grant-in-aid by the Government and loans.

The Constitution 74th Amendment Act, 1992 has made it obligatory for the State Governments to constitute *State Finance Commission* within one year from the commencement of this Act and thereafter at the expiry of every five years. The commission shall make recommendations to the Government regarding:

- Distribution between the State Government and Municipalities of the net proceeds of taxes, duties, tolls, and fees to be assigned or appropriated by the State;
- Allocation of share of such proceeds between the Municipalities at all levels in the State;
- Determination of taxes, duties, tolls, and Fees to be assigned or appropriated by the Municipalities;
- Grants-in-Aid to Municipalities from the consolidated fund of the State;
- Measures needed to improve the financial position of the Municipalities.

The *Governor* may refer any other matter to the commission as he may deem fit in the interest of sound financial arrangement of the Municipalities.

All our State and Union Territory Governments had constituted the *State Finance Commissions (SFC)* which have since submitted their reports it is mandatory for the *Governor* to lay before the State Legislature every recommendation made by the Commission together with the explanatory

memorandum on the action to be taken on such recommendations. It can be hoped that the finances of the Municipalities shall substantially improve on the acceptance of the recommendations by the State Governments.

Moreover, it has also been made mandatory that the *Central Finance Commission (CFC)* shall, inter alia, make specific recommendations with regard to the measure that are needed to augment the resources of a State with a view to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the *State Finance Commission*. The arrangement will certainly provide adequate financial resources to the Municipalities to discharge their obligations imposed upon them by unprecedented rise in urban populations and their ever increasing demands.

It is regrettable that the performance of Municipal Committees has been disappointing in carrying out their functions. They have not been able to provide basic civic amenities to their population generally and especially in the suburbs which comprise of unauthorized and unplanned colonies accommodating 50 percent of their population. Piped water supply and sewerage facilities have covered only a minority of population, roads are in deplorable conditions, encroachments are galore, unsafe buildings continue to constitute a constant threat to the life of the inhabitants stray cattle menace is on the increase, traffic hazards have not abated, insanitation and unhygienic conditions in the form of heaps of garbage are a nuisance even in posh localities, slums have emerged in almost all parts of the cities. This State of affairs has resulted in earning many a city, once known as the cleanest cities, the ignominy of decaying cities and even the dirtiest and the most polluted cities.

The failure of Municipal Bodies in discharging their functions in a satisfactory manner can be attributed to their incapacity to manage the problems arising out of the alarming increase in their population, the inadequacy of finances which have never been commensurate with their obligations, the prevalence of corruption on a large scale, political interference, apathy of the Government, bottlenecks created by the bureaucracy, and so on.

The cities can be restored their pristine glory and made livable if the State Governments make a judicious selection of functions to be assigned to them and do not impose upon them such functions as transport which have proved a great liability for every city, and make adequate provisions for finance, the lack of which has rendered many Municipal Bodies unable to take up any development work in their respective areas. *It has been rightly observed that devolution of powers and functions necessarily involves devolution of finances also.* The State Governments, therefore, should observe this principle if they want the Urban Bodies to discharge their functions effectively.

Municipal Committees in our country undertake only such functions which have been specifically assigned to them by respective State Legislative enactments. In this respect, we follow the British method of '*specific grant*' which means that no local authority may do anything which it is not entitled to do by virtue of a statute. In other words, their functions are limited by the State Government. This restrictive approach to Municipal functions no longer holds good in the changed political context and needs of the country.

In the *First Five Year Plan*, the *Planning Commission's* thinking that the general direction of policy should be to encourage self-governing bodies and to assist them in assuming responsibility for as large a portion of the administrative and social services as possible.²⁰

But, on the contrary, there has been an increasing tendency on the part of the State Governments to take over more and more local functions either directly or by creating special purpose agencies. The *Local Finance Enquiry Committee* had deplored the tendency to transfer functions from Local Bodies to the State Governments in the fields of elementary education, public health, and communications and expressed the opinion that wholesale transfer of functions from the Local Bodies to the State Governments are a retrograde step and should be avoided. Whatever be the criteria for demarcation of functions between the Governments and Local Bodies, the desperate financial position of the latter should not be made a ground for reducing them to practical impotency. The transfer of functions is not only a retrograde step but also anachronistic. It could have some

justification in the pre-independence era when the Central Government worked to spread its tentacles in every sector of life but not in the post-independence era when we are free from all alien pressures.²¹ The *Rural-Urban Relationship Committee* was also of the view that the remedy for the inefficiency and non-performance of their duties does not lie in depriving the Municipal Bodies of their functions but in improving and strengthening their organizational and administrative set-up, allocating to them adequate resources and giving them expert and technical help in the discharge of their functions.²² The argument of incapability or inefficiency of Municipal Governments has proved to be a handy argument for the State Government in favour of the Municipalisation of the management of certain local services.²³ Thus the rise of competitive bureaucratic urban local institutions and State takeover of Municipal functions have led not only to the erosion of Municipal functions but has also created an atmosphere of distrust in regard to Urban Local Government.²⁴

Structure Of The Directorate Of Local Bodies, U.P.

The structure of any organization has direct bearing on its functioning. The structure should be such so as to facilitate smooth, efficient and efficacious functioning of the organization. It is rightly said that however efficient personnel of an organization may be but if its structure is ill conceived or unplanned or not logically planned, not only hinder it in the smooth functioning but also it would not yield the desired results. It is true that a detached view of the structural aspects may lead to some artificiality. The importance of such view is, however, best described by the 'Urwick', "*It is impossible for humanity to advance its knowledge of organization unless the factor on structure is isolated from other considerations, however artificial such isolation may appear.*"²⁵ Need for the study of structure is, thus, self-evident. Hence this attempts to study the structure of the Directorate of Local Bodies.

The establishment of Directorate as an administrative agency has been

familiar almost at all levels of Government. In the field of Municipal Administration too, the Directorates have come up in various States in different years. *Table 4.2* shows the year in which Directorates have been set up in various States. The table shows that the Directorates were established in six States during the decade 1960-72, and in three States from 1971 to 1973. In *Tamil Nadu* the Directorate was established as early as in 1920 and in *Rajasthan* in 1951.

The organization of Municipal *Directorates* differs from State to State. In most of the states the Directorate is headed by a Director, except in *Tamil Nadu* where the organization has been termed as *Inspectorate* and its head is known as *Inspector of Municipalities*. The *Director* is an officer from the *IAS cadre* in all the State except in *Rajasthan* where officers from *State Administrative Services* are appointed to this post.

It has also been experienced that the rank of persons appointed as Director is being reduced day-by-day. Initially officer's equivalents to the rank of Commissioner were appointed as *Director of Local Bodies*. However, it was later reduced to a rank equivalent to a Special Secretary and then to a Joint Secretary.

It would be appropriate if the persons not lower than the rank of Special Secretary were appointed to the post of Director. Much better if a specialist is appointed to the post. Moreover the Director and the District Magistrate are given concurrent powers to control the Municipalities. At present, they both belong to the same service but hardly walk in harmony. There is an organizational gap. The District Magistrate is sometimes senior to the Director and hence the former may act in his way. He may not look into issue in same way. If the Director is a specialist and senior to the collector, who is a generalist the scope for divergence is much more possible. *The Municipalities Act, 1916* needs to be amended and a convention be

established according to which the District Magistrate may not exercise his powers and will leave everything to the Director. The District Magistrate may do anything only at the instance of the Director. This may engender the right and cordial relations, when the Director is a specialist. The emergency powers of the District Magistrate may be exercised only in times of crises like war, epidemic etc. while the review powers of the Director will be used to confirm the orders of the District Magistrate.

Experts and specialists in Municipal Administration are now available in the country and their services should be utilized to improve, the efficiency, should be drawn from the *State Administration Cadres* itself. The specialists in Municipal Administration may help the organization to stay right in the state of affairs. If need be the institution engaged in research and training in Municipal Administration may be placed at the disposal of the Government, the services of experts and specialists, who can be of help to the Municipal organizations.

Hierarchy of Staffs at the Headquarter.

The *Director* is assisted by a *Joint Director*, *Deputy Directors* and *Assistant Directors* at the headquarters, besides a number of other officers belonging to other cadres and a corps of Administrative Officers and other supporting staff. The layout of the Directorate of Local Bodies in the State is depicted in *Chart No. 4.4* and *Chart No. 4.5*.

So far as the cadre of the Joint Director in U.P. is concerned, he has generally been taken from the PCS (super-time scale) cadre where as in Tamil Nadu, special grade Municipal Commissioners are appointed to the post of the Joint Director. In Madhya Pradesh this post is filled from the PCS cadre. So is the case with the Deputy Directors and Assistant Directors. Presently the two Deputy Directors belongs to the PCS cadre, one is from

the administrative cadre and the other from the Technical cadre. In case of the Assistant Directors, the officers belong to the state administrative services.

The past experience shows that officers belonging to the PCS cadre do not fit in the Municipal set up due to a kind of complex. They do not have a feeling of belongingness to the Municipal administration as they treat themselves strangers to the job and lack a sense of dedication and devotion to the spirit of local government.

As far as the number of officers at the middle level is concerned, it has increased manifold since the setting up of the Directorate. To begin with the Director was helped by one Deputy Director and one Assistant Accounts Officer only in managing the affairs of the urban local bodies in the state. The present state of sanctioned strength; post filled and vacant is shown in *Table 4.3*. The officers belonging to *PCS cadre* as well as Municipal Services have been posted as *Joint Director* time and again. The number of *Deputy Director* working presently is in accordance to the posts duly sanctioned by the Government. It is necessary that the requisite numbers of posts are sanctioned and properly filled up for better supervision and control of Local Government and proper and efficient internal administration at the Directorate level itself.

Field Level Organisation

Field level organization is not common to all the States. Only four States, out of eleven states having *Municipal Directorates*, have field level organization. These states are *Andhra Pradesh, Madhya Pradesh, Tamil Nadu and Punjab*. These States have regional field level organization under the charge of *Deputy Directors*. In *Uttar Pradesh*, however, there is no separate organization at the field level. There is a need for establishing

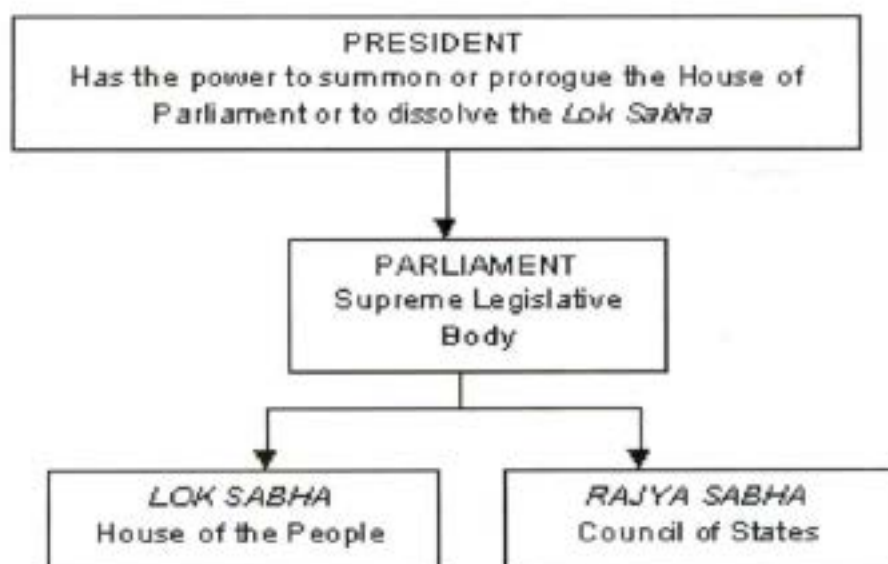
regional offices of the Directorate for effective supervision and control. It would also help in facilitating decentralization of some powers and functions, which will lead to the expenditure disposal of various proposals and politics. Steps should therefore, be taken for setting up of regional offices. It would be better if the experience of *Madhya Pradesh*, which has 5 *regional offices*, is analyzed and positive and necessary actions are taken accordingly. If need be, necessary amendments in the Act can be inserted.

Many State laws have provided for a *Directorate of Municipal Administration* within their respective States. But a Directorate without field staffs would defeat the purpose of its creation. As stated earlier a well-trained and effective inspectorate wing is the characteristic instrument of the British system of control over Local Bodies.

Technical guidance has become essential in town and country planning, housing water supply and wastewater disposal, transport and accounting. The English inspectorate has not degenerated into a State department. It carries with itself a central fund of knowledge and tradition. It is acquainted with the local conditions of work and so adds to the adaptability of the system of control. The coercion is reduced to the minimum. In any local situation as in the real life too, the appropriate action is rarely at either extreme 'Yes' or 'No'. As *Aristotle*, the political sage stated "*The truth lies in the middle*".

Figure 4.1.

Political Structure at the National Level



Political Structure at the State Level

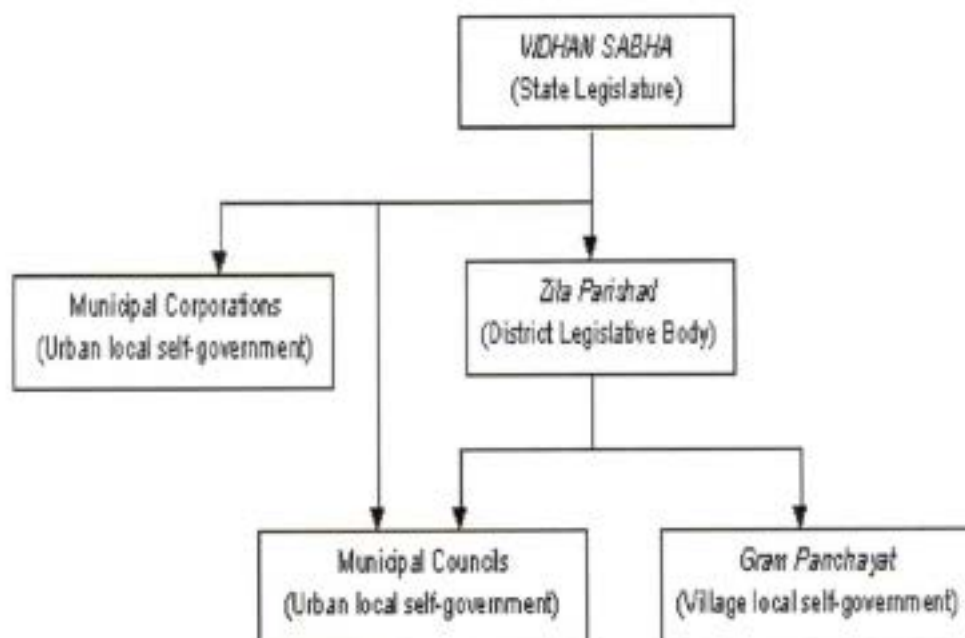


Table 4.2

ESTABLISHMENT OF DIRECTORATES IN DIFFERENT STATES

Sl. No.	Name of the State	Year of Establishment
1.	<i>Andhra Pradesh</i>	<i>1961</i>
2.	<i>Bihar</i>	<i>1971</i>
3.	<i>Gujarat</i>	<i>1965</i>
4.	<i>Kerala</i>	<i>1962</i>
5.	<i>Madhya Pradesh</i>	<i>1973</i>
6.	<i>Maharashtra</i>	<i>1965</i>
7.	<i>Orissa</i>	<i>1968</i>
8.	<i>Punjab</i>	<i>1966</i>
9.	<i>Rajasthan</i>	<i>1951</i>
10.	<i>Tamil Nadu</i>	<i>1920</i>
11.	<i>Uttar Pradesh</i>	<i>1972</i>

Table 4.3**Description of positions created in the Directorate of Local Bodies**

*Anudan sankhya-37 Mukhya lekha sirshak 2052 Sachivalaya samanya
sevayen-092 Sthaniya Nikaye Nideshalaya Uttar Pradesh*

Designation	Sanctioned Posts as on 1-4-2007		Total Posts	Sanction -ed Posts	Total Posts Filled	Pay Scale
	Permanent Posts	Temporary Posts				
Director, (I.A.S.)	1	-	1	1	1	37400-67000
Joint Director	1	-	1	1	1	37400-67000
Deputy Director, (P.C.S.)	1	-	1	1	1	15600-39100
Assistant Director	4	-	4	4	1	15600-39100
Assistant Director , (Accounts)	1	-	1	1	1	15600-39100
Accounts Officer	1	-	1	1	1	15600-39100
Statistical Officer	1	-	1	1	0	15600-39100
Asst. Accounts Officer	1	-	1	1	1	9300-34800
Personal Assistant to Director	1	-	1	1	0	9300-34800
Total	12	-	12	12	06	
Asst. Engineer	-	2	2	2	1	15600-39100
Sr. Administrative Officer	-	1	1	1	0	9300-34800
Superintendent / Administrative Officer	3	-	3	3	2	9300-34800

Cont.....

Cont.....

Personal Assistant, Gr.II	-	1	1	1	1	9300-34800
Statistical Asst.	2	-	2	2	1	9300-34800
Inspector	3	-	3	3	0	9300-34800
Asst. Inspector	3	-	3	3	0	5200-20200
Computer Operator	-	2	2	2	2	5200-20200
Senior Stenographer	1	1	1	1	0	9300-34800
Stenographer Gr. I	3	-	3	3	3	5200-20200
Stenographer Gr. II	2	-	2	2	2	5200-20200
Sr. Assistant	21	-	21	21	15	5200-20200
Accountant	1	-	1	1	1	9300-34800
Asst. Accountant	1	-	1	1	0	9300-34800
Senior Clerk	10	-	10	10	9	5200-20200
Junior Clerk	10	-	10	10	9	5200-20200
Motor Driver	2	0	2	2	2	5200-20200
Daftary	1	-	1	1	0	4400-7440
Orderly / Peon	13	-	13	13	10	4400-7440
Post Runner	1	-	1	1	1	4400-7440
Chowkidar/ Farrash	1	-	1	1	1	4400-7440
Sweper	-	1	1	1	1	4400-7440
Total	84	08	84	84	64	
Gazetted officer	12	-	12	12	06	
Non-Gazetted officer	84	08	84	84	64	
Gand Total	96	08	96	96	70	
Total Sanctioned Posts	96					

Source: Directorate of Local Bodies, U.P.

Chart 4.4

ORGANIZATIONAL SET-UP OF THE DIRECTORATE OF
LOCAL BODIES, U.P.

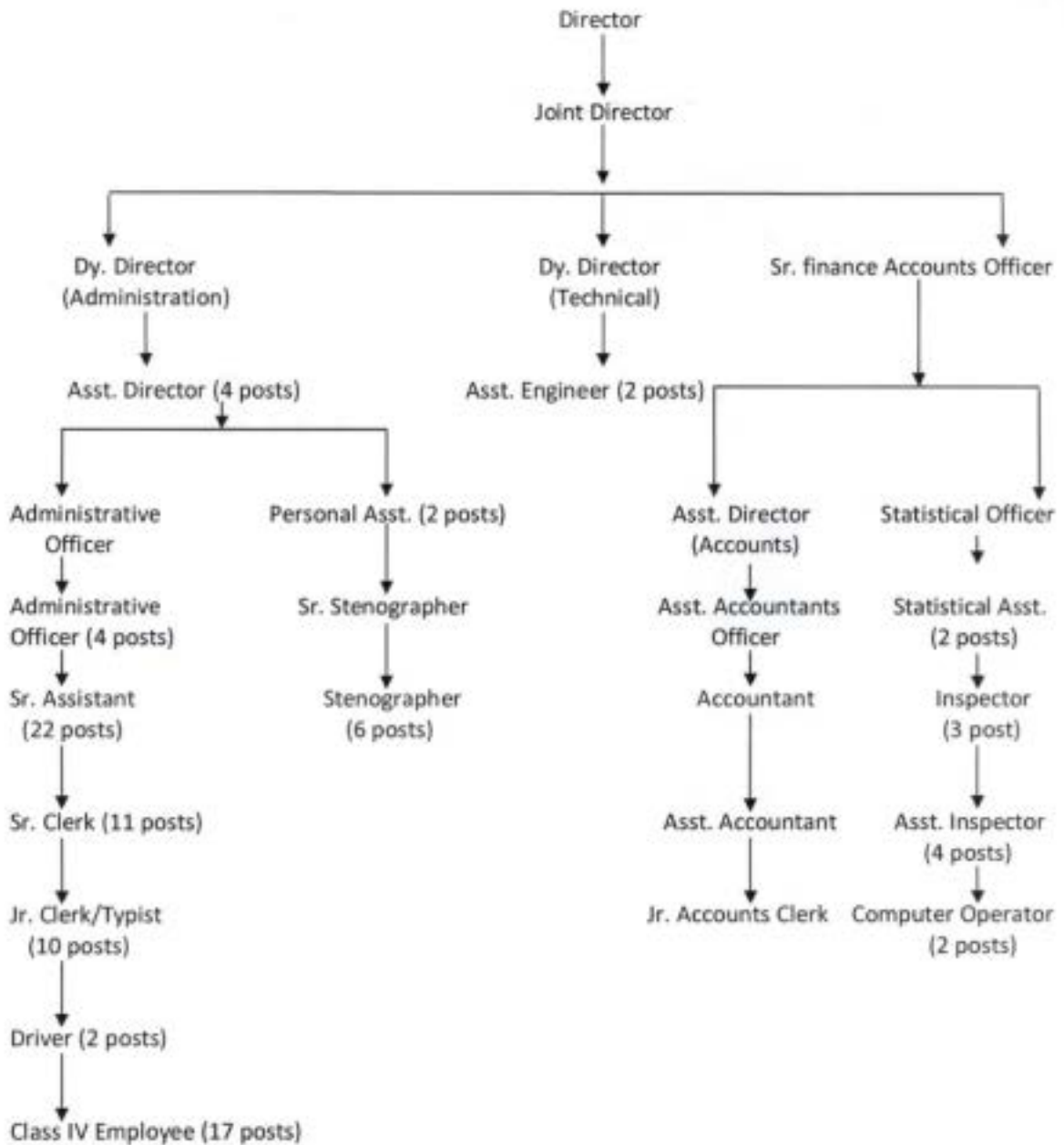
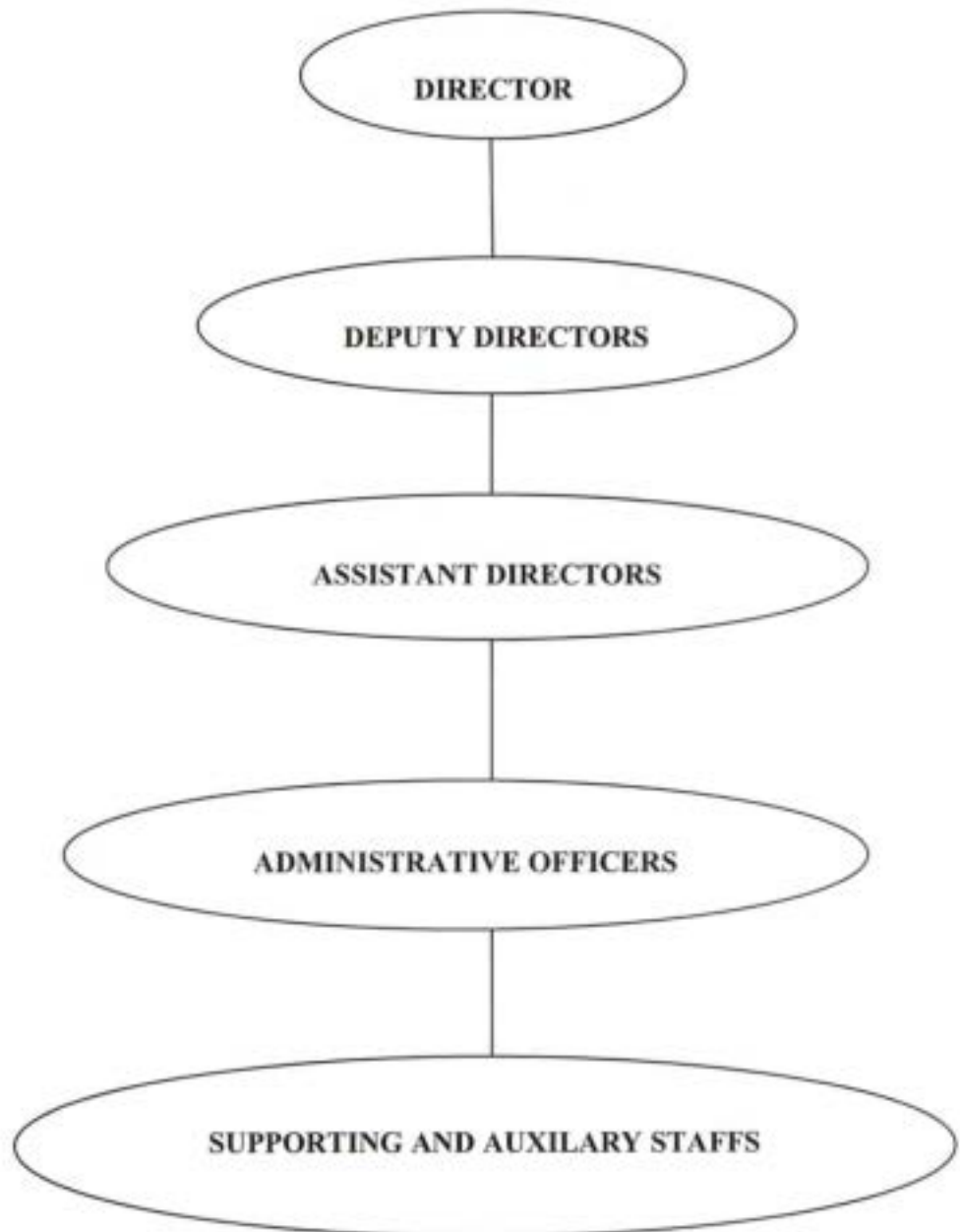


Chart 4.5

**ORGANISATIONAL SET-UP OF THE DIRECTORATE OF
LOCAL BODIES, UTTAR PRADESH**



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CHAPTER - V

***POWERS & FUNCTIONS OF
THE DIRECTORATE***

CHAPTER – V

POWERS AND FUNCTIONS OF THE DIRECTORATE

Municipal Corporations constitute the highest or the top-most form of Urban Local Government. They are created of big cities by the enactments of the State Legislatures or of the Parliament in case of Union Territories. They are described in the *'Encyclopedia of Social Science'* as purely political institutions created by the legislative power without the necessary consent of the people. As organs or agencies of the State, they are endowed with Governmental powers, but their rights, privileges and powers are conferred upon them as trustees of the public welfare and are subject to the legislative powers of the State within the limits of the Constitution, within the sphere assured to them by their charters. However, they are independent Corporation entities. The scope of their functions is often broader than that of the State Government and affects the life of the citizens far more directly than that of the Federal Governments.¹ In the words of *'W.B. Munro'*, *'A Municipal Corporation is a subordinate political body established by the authority of law, its existence evidenced, by general or special character, with a corporate name, with defined limits and population and with delegated powers of local Government. It is created by law and depends for its existence as well as its powers upon the State or nation'*. According to the *'American Encyclopedia'*, *'A Municipal Corporation is a legal institution formed by the sovereign power creating a popular community of prescribed area into a body politic and corporate with a corporate name and continuous succession and for the purpose and with authority of subordinate self-Government for the improvement and administration of the affairs of the area'*. In more concrete terms, a Municipal Corporation is a body politic, created by the incorporation of the people of a prescribed locality and invested with subordinate powers of legislation, for the purpose

of assisting in the civil Government of the State and regulating and administering its local and internal affairs.²

Municipal Corporation: Salient Features

An analysis of the definitions of Municipal Corporations given above brings out the following main features of Municipal Corporation: Municipal Corporations are set up in big cities. The largeness of a city is to be determined by the State Government concerned in terms of its population, area, or revenues. That is why there is no fixed criterion to be followed in the establishment of a Municipal Corporation.

A Municipal Corporation possesses a statutory status. It is created by an Act passed by the State Legislature concerned, and by the Parliament in case of Union Territory. Some States create a Corporation under a specific act passed exclusively for that city as was done in the case of the *Bombay Municipal Corporation Act, 1888; the Madras City Corporation Act, 1951; The Delhi Municipal, Corporation Act, 1957; and Calcutta Municipal Corporation Act, 1951, since replaced by Act, 1981*. In other States, a general or omnibus Act is passed for the creation of Municipal Corporations. For example, the Municipal Corporations in *Kanpur, Agra, Varanasi, Allahabad, and Lucknow (KAVAL)* cities in U.P. have been set up under the *U.P. Mahanagar Palika Adhiniyam, 1959*; 'Municipal Corporations in Gwalior, Indore, Rajpur and Jabalpur (GIR)' under the *Madhya Pradesh Municipal Corporation Act, 1956*; and Municipal Corporation in Jalandhar, Amritsar and Ludhiana (JAL) and Patiala in Punjab under the *Punjab Municipal Corporation Act, 1976*.

A Municipal Corporation enjoys a *Non-Sovereign* status; since it is created by the State Government, it has no inherent powers of its own and enjoys only such powers as are allocated to it. In other words, its powers are

derivative and not original. As such; it is subject to the control of the State Government, which exercises the powers of determining its area, the size of its Council, its term of office, powers and responsibilities and financial resources, and can also dissolve it in case of consistent default in the performance of its duties.

A Municipal Corporation is based on the democratic principle of management of local affairs by the representatives of the people of the city concerned, who are to be elected periodically on the basis of *universal adult franchise* with reservation of seats for scheduled castes and scheduled tribes in proportion to their population (and lately for Women also) and in some cases with provision for representation of special interests groups like industry, commerce, etc., and through the device of co-option by the Councils of elders from amongst persons having experience and expertise in the management of urban affairs.

A Municipal Corporation is marked by statutorily separation of Deliberative and Executive Wings. *The Corporation (Council)* and the *Standing Committee* constitute the *deliberative wing* and the *Municipal Commissioner* and comprise the *executive wing*. The Council, consisting of elected representatives and a few nominated members is responsible for the exercise of legislative powers and its Presiding Officer, the Mayor, is simply a ceremonial head and does not possess any executive or administrative authority. The Standing Committee functions as an auxiliary of the Corporation; all the matters to be passed by the Council pass through it after it has considered the proposals and recommendations made by the Municipal Commissioner. The Municipal Commissioner is the chief executive authority responsible for the execution and implementation of the decisions taken by the Council.

This model constitutes a cardinal feature of the *Bombay Municipal*

Corporation Act.1888, and has since then been followed by all the Municipal Corporations with the exception of the *Calcutta Municipal Corporation*, which opted for the *Mayor-in-Council* model in 1980. This century-old model is credited with the advantages of freedom from political interferences, objectivity, and expeditious implementation of decisions. But it is criticised for lack of a political executive, for appointment of a salaried Chief Executive by the State Government as an encroachment upon democratic principles, a source of conflict between the deliberative and executive wings and negligible control of the representative bodies on the bureaucracy. The Calcutta model of Municipal Corporation provides for *three authorities; the Corporation, the Mayor in-Council, and the Mayor*. The executive power of the Corporation is exercised by the *Mayor in-Council*; and the *Municipal Commissioner* functions under the supervision and control of the *Mayor*. The *Municipal Corporation* is a small body consisting of the *Mayor* and *six to ten* members collectively responsible to the Corporation. Under the new dispensation, in addition to his role as the first citizen of Calcutta, it is the *Mayor* and not the *Municipal Commissioner* who also fills the executive leadership role.

Similarities & Differences Between A Municipal Corporation & A Municipal Committee

A Municipal Corporation differs from a Municipal Committee in the sense that a Corporation is the highest form of Municipal Government. The basic unit of urban administration is the Municipality. Broadly speaking, towns have Municipalities headed by a President and cities have Municipal Corporations headed by a Mayor. For this purpose, however, there is no distinct definition of a town and a city, and the norms applied to determine the way they differ from State to State. A Council is assisted in its work by a permanent executive, headed in the case of a Municipality by a Chief Executive Officer and a Commissioner in the case of Municipal

Corporations. While a CEO is the subordinate of the Municipality he serves as Commissioner and is one of the three constituents of the Corporation to which he is seconded. The other two wings being the Mayor and Council, and the Standing Committee. In Calcutta this position is somewhat different because it has a Mayor in-Council and a Commissioner, though a legal entity, under which the Municipal Services work, is still subordinate to the Corporation, somewhat on the model of CEO.³ A Municipal Corporation is set up under a special statute passed by the State Legislature. It enjoys more powers in financial and administrative matters as compared to those enjoyed by a Municipal Committee. It is set up in a large city having some minimum population and income. But the significant difference between a Municipal Corporation and a Municipal Committee is that the former enjoys powers of dealing directly with the State Government whereas the latter has been tied to the apron-strings of the District Collector and Divisional Commissioner.⁴ In other words, a Corporation is more autonomous than a Municipal Committee. More over in a Corporation there is complete separation of the deliberative organ from the executive wing, which ensures better administrative efficiency and, therefore, better talent is attracted to both the wings. In short, the idea of a Corporation can tie with it a certain amount of prestige and civic pride and raises the hopes and aspirations of the citizens which the Councilors and the administrators endeavor to fulfill.⁵

Requirements For The Establishment Of A Municipal Corporation

A perusal of the various Municipal Corporation Acts of different States in India reveals that no scientific basis, guidelines or criteria have been laid down or followed for determining the eligibility of a city for the grant of *Corporation Status*. Consequently decisions for upgrading any Municipality to Corporation are taken arbitrarily by the State Government concerned, often under the pressures and pulls exerted by political and vested interests groups. Therefore, it should not be surprising to observe that small cities like

Chandarnagar, Rajpur and Ujjain with populations of 75,238, 174,518, and 203,278 respectively has Corporation's whereas bigger cities like *Jaipur* and *Srinagar* with a population of 617,208 and 403,414 respectively were being governed by Municipal Committees.

The *Rural Urban-Relationship Committee (1966)* had recommended the setting up of Municipal Corporation in cities having a minimum population of five lakh and a minimum annual income of rupees one crore.⁶ The Constitution 74th Amendment Act, 1992 lays down the criterion of three lakh or more population for the creation of a Municipal Corporation.⁷ The following requirements are desired to be met by Municipal Committee for its elevation to the status of a Corporation:

A city should have a sufficiently large population to be governed by the Corporation when its multi-dimensional problems caused by increasing population cannot be solved by a Municipal Committee.

A city must also possess quite a large territorial jurisdiction in order to be eligible for a Corporation status because, in smaller areas, the highest form of Government may be under-used. In India 69 per cent of Corporations have areas exceeding 70 sq. km., which may be taken as an average for a Corporation to be set up.

- A city must have a certain optimum level of income to be able to maintain an appropriate level of civic services befitting a Corporation and to employ suitable and properly qualified personnel.
- Due weightage needs to be given to the industrial and commercial importance of a city before it is promoted to a Corporation.

- A large majority of people should be literate, politically conscious and aspiring for Municipal Corporation status for their city.

Before independence there were only three Municipal Corporations in the country—in the Presidency towns of *Calcutta, Bombay, and Madras*—but their number had increased to 66 by 1983⁸ and to 73 in 1990 and more than 150 in 2010. The number of Corporations is going to increase substantially with the provision of a population of three lakh for the constitution of a Corporation in the Constitution 74th Amendment Act, 1992. It is up to the State Government concerned to decide for setting up of a Corporation in a city that, in its view, deserves this status by virtue of its population, area, revenue, and economic importance. But as a matter of fact, the decision to establish a Corporation in a city is taken more or less on political considerations and the endeavors of the enlightened sections of the population of the city concerned. The State Governments confer Corporation status on a city not by passing a special legislation but in exercise of the powers enjoyed by them under the general or omnibus law already existing on the subject. There is a tendency on the part of some State Governments to create Corporations for more and more of their cities, unmindful of the fact whether such cities are economically able to perform the Functions which are entrusted to them on acquiring the status of a Corporation. That is why we find that some Corporations have woefully failed in the performance of their duties with respect to the development of the cities or provision of even the essential services for their inhabitants. Some States have not set up Corporations in their capitals, not to talk of other big cities. perhaps on realizing, and rightly so, that they do not have the adequate infrastructure or the resources to meet the requirements of services expected to be undertaken by a Corporation; Haryana had only one Corporation in *Faridabad* till the 90's, though the *Janata Dal Government* had announced in 1990 that it would set up Corporations in the twin cities of *Jagadhari & Yamuna Nagar, Ambala, Kamal, Bhiwani, and Hissar*. It is desirable that at least the biggest

city or the capital of a State should have a Corporation in view of the pride that it affords to its citizens and better services that it is designed to provide to them. However, Chandigarh, which is capital of Punjab and Haryana and is also a union territory, has a Municipal Corporation.

Municipal Corporations in India are generally structured on the pattern of Bombay Municipal Corporation, which was provided in *Bombay Municipal Corporation Act, 1888*. Its chief feature is the *separation of deliberative and executive functions*, wherein the *deliberative wing* comprises the *Corporation and the Standing Committee*, and the *executive wing* consists of the *Municipal Commissioner*. Accordingly, almost every Municipal Corporation provides for *three coordinate authorities the Corporation, the standing committee, and the Municipal Commissioner*. The 'Corporation' or the *Corporation Council*, comprising *directly elected representative* of the people, is one of the Municipal authorities, but '*Municipal Corporation*' refers to the *entire body corporate* inclusive of all the *three authorities, viz., the Corporation the Standing Committee and the Commissioner*. All the three authorities and their constitution, powers and functions, status, and position are discussed in the following section.

The Councilors are elected on the basis of adult Franchise through secret ballot. The city is divided into as many wards as may be the number of Councilors to be elected. The Franchise age used to be *21 years* but it has been reduced to *18 years* as a result of the Constitution (*62nd Amendment*) made in *1988*. A person is qualified to be chosen as a Councilor if his name has been included in the electoral roll list for the concerning ward. The Government can remove a Councilor if he has become physically or mentally incapacitated, intentionally abuses his position, or is responsible for the loss or misappropriation of any money or property of the Corporation, or absents himself from the meetings of the Council for three successive times without the permission of the Corporation, or is unable to

attend the meetings during two successive months due to any cause whatsoever whether approved by the Corporation or not. This may be done without communicating him the reasons for his proposed removal or an opportunity for tendering an explanation.

These provisions reflect arbitrariness and authoritarianism on the part of the Government and are likely to be misused by any ambitious minister for political ends. The power of removal should, therefore, rest with the Council as has been provided in Bombay Municipal Corporation Act.

There shall also be reservation of seats for the *Scheduled Castes* and the *Scheduled Tribes*, and the number of seats reserved shall bear the same proportion as the total number of seats to be filled by direct elections, because the population of the *Scheduled Castes* and *Scheduled Tribes* in the *Municipal Area* bears to the total population of the area, and such seats may be allotted by rotation to different constituencies in the Corporation.⁹ Not less than $\frac{1}{3}^{rd}$ of the total number of reserved seats shall be further reserved for *women* belonging to *SC/ST*.¹⁰ Further, not less than $\frac{1}{3}^{rd}$ (including the number of seats reserved for *women* belonging to *SC/ST*.) of the total number of seats, to be filled by direct election, shall be reserved for *women* and may be allotted by rotation to different constituencies in the Corporation.¹¹ The State legislature may also reserve seats in favour of backward classes.¹²

In addition to the elected members, the State legislature may, by law, provide that persons having special knowledge or experience in Municipal Administration,¹³ Members of the House of People and the Members of the Legislative Assembly of the State representing constituency which comprise wholly or partly the Municipal Areas, and the members of the Council of States and the members of the Legislative Council of the State registered as

voters Within the Municipal Area, shall also be the members of the Council but they shall not have the right to vote.¹⁴

The term of a Corporation unless sooner dissolved, shall continue for five years. Election to the Corporation shall be completed before the expiry of its term and before the expiry of six months from the date of dissolution and if the remainder of the period from where the dissolved Municipal Corporation would have continued is less than six months, it shall not be necessary to hold the election, and a reconstituted Corporation after dissolution shall continue for the remainder of the period for which the dissolved Corporation would have continued.¹⁵

Creation & Functions of Ward Committees

The Constitution 74th Amendment Act 1992, provides for 'Wards Committees' which shall be constituted for one or more wards within the territorial area of a Corporation. Where a *ward committee* consists of one ward, the member shall be the Chairman of the committee and where a wards committee consists of two or more wards, one of the Councilors representing such wards in the Corporation shall be elected by the members of the wards committee as the Chairperson. The Chairperson shall be elected for *one year* and shall be eligible for re-election. The duration of the *wards committee* shall be coterminous with the duration of the Corporation. The Corporation shall nominate one of its *officers* as the *secretary* of the *wards committee*.

A ward committee, subject to the general direction of the standing committee, supervises within the territorial limit of the wards the functions of the Corporation relating to the provision of water supply, pipes and sewerage, drainage connections to premises, removal of accumulated water on streets or public places due to rain or otherwise, collection and removal

of solid waste, provision for health immunization, civic services in slum and services for lighting, repair of roads, maintenance of parks and drains, and such other functions as may be prescribed.¹⁶

A Municipal Corporation shall have a Standing Committee constituted by it, consisting of the Mayor, the senior Deputy Mayor, and other Councilors elected by the Councilors of the Corporation from amongst themselves. The Mayor shall be the Chairperson of the standing committee. The *Municipal Commissioner* shall be its *ex-officio member* and shall have the *right to vote*. The Executive Officer of the Corporation shall be its secretary. The term of the Standing Committee shall be $3\frac{1}{2}$ years and the election of a new Standing Committee shall be held before the expiry of the term of the existing standing committee. The Standing Committee may require the commissioner to produce any record, correspondence, plan or other documents which is in his possession or under his control or which is recorded or filed in his office or in the office of any officer of the Corporation and to furnish any return, estimate, Statement of accounts, or statistics relating to the administration of the Corporation.

A Municipal Corporation may also constitute *Subject Committee* to deal with:

- Water supply, sewerage and drainage, and solid waste management;
- Other civil services, including streets and street lighting; and
- Slum improvement, town planning and land use, and control and improvement of environment.

Each subject committee shall consist of not less than three and more than five members. The Mayor, the Senior Deputy Mayor, Deputy Mayor, and the members of the Standing Committee shall not be the member of any

subject committee. Its term shall be of one year. Its recommendations shall be submitted to the Standing Committee for its consideration.

The 1992 Amendment Act provides that a State legislature may, by law:

- Authorize a Municipal Corporation to levy, collect, and appropriate such taxes, duties, tolls, and fees in accordance with such procedure and such limits;
- Assign to a Municipal Corporation such taxes, duties, tolls, and fees levied and collected by the State Government for such purposes, and subject to such conditions and limits;
- Provide for making such grants-in-aid to the Municipal Corporations from the consolidated fund of the State; and
- For constitution of such funds for crediting all moneys realized separately by or on behalf of the Municipal Corporation band also for the withdrawal of such moneys there from, as may be specified in the law.

The Act of 1992 also enjoins upon the State Governments to constitute a State finance commission to review the financial position of the Municipal bodies, and to recommend to the *Governor*, as to the distribution between the State and the Municipal Bodies the net proceeds of the taxes, duties, fees, and tolls levied by the State which may be divided between the Municipalities at all levels of their respective shares of such proceeds; the determination of the taxes, duties, tolls, and fees which may be assigned to and appropriated by the Municipalities; the grants-in-aid to the Municipalities from the consolidated fund of the State; and the measures needed to improve the financial position of the Municipalities.

A list of *eighteen* functions to be performed by *Municipal Corporation* has

been given in the 12th Schedule of the Constitution. (also see Table No. 5.1)

These are:

- 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 environment and promotion of ecological aspects
- Safeguarding the interests of weaker sections of society, including the disabled and mentally retarded
- Slum improvement and upgrading
- Urban poverty alleviation
- Provision of urban amenities and facilities such as parks, gardens playgrounds
- Promotion of cultural, educational and aesthetic aspects
- Burials and burial grounds, cremations, cremation grounds and electric crematoriums
- Cattle pounds; prevention of cruelty to animals
- Vital statistics including registration of births and deaths
- Public amenities including street lighting, parking lots, bus stops and public conveniences
- Regulation of slaughter houses and tanneries

In the past, Municipal Bodies could be superseded by the State Governments and they were not reconstituted for an indefinite period. This was anti-democratic and denied the local people the administration of their affairs. The Constitution 74th Amendment Act, 1992, provides for dissolution of a

Municipal Corporation, if in the opinion of the Government, it is not competent to perform or has shown great neglect to the performance of the duties imposed upon it; persistently makes defaults in the performance of such duties or complying with the lawful directions and orders issued by the Government or any authority empowered by, It and exceeds or abuses its power or the financial position and the credit of the Corporation is seriously threatened. The Corporation shall, however, be given a reasonable opportunity of being heard before dissolution. Upon the dissolution of the Corporation, all its members shall vacate their offices forthwith. Election to the dissolved Municipal Corporation shall be completed before the expiry of a period of six months from the date of its dissolution. But if the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any election for constituting the Corporation for such period; and a Corporation constituted upon the dissolution before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Corporation would have continued. *The State Government may appoint an Administrator if on account of any order of court, elections to the Municipality cannot be completed before the expiry of six months from the date of its dissolution.*

The Councilors have some obligations and privileges. They have to take an oath of allegiance to the Constitution of India and for the faithful discharge of their duties. They have the privilege to access all records of the Corporation unless the executive authority in public interest withholds such access. They can ask the Mayor to conduct special meetings for valid purpose. They can ask questions, move and second resolutions, proposals and amendments, speak on all questions of policy and on all subjects placed before the Council and bring to the attention of the executive authority any wastage, leakage of revenue, any act of negligence or failure in the discharge of duties by a Municipal employee, and suggest improvements to secure betterment in the working of the city Government. Metropolitan areas

comprise the area of the Municipality, Corporation, and the areas of a number of other Local Bodies - both rural and urban - surrounding the main city Corporation. These metropolitan agglomerations need planning for the orderly development of urbanizing fringe areas in association with the plan of the main city, hence the need for a committee for Metropolitan Planning. The 74th Amendment Act accordingly provides for such a committee for preparing a draft development plan for the metropolitan areas as a whole.

The Legislature of a State, may, by law, make provision for the composition of the *Metropolitan Planning Committee* and the manner in which the seats to such committees shall be filled. The law stipulates that not less than two-thirds of the members of such committee shall be elected by and from the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan Area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area. The representation in such committees of the Government of India and the Government of the State and institutions which may be deemed necessary for carrying out the functions assigned to such committees, the functions relating to planning and coordination for the metropolitan area which may be assigned to such committees, and the manner in which the Chairpersons of such committees shall be chosen.¹⁷

Metropolitan Planning Committee: It's Functions

Every *Metropolitan Planning Committee* shall, in preparing the draft development plan, have regard to the plans prepared by the Municipal Committees and the panchayats in the Metropolitan Areas. Matters of common interest between the Municipalities and the panchayats are: coordinating spatial planning of the areas, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation, the overall objectives and priorities set by

the Government of India and the Government of the State, the State and nature of investment likely to be made in the metropolitan area by agencies of the Government of India and the State, and other available resources whether financial or otherwise, to consult such institutions and organizations as the *Governor* may, by order, specify. The Chairperson of every metropolitan planning committee shall forward the development plan as recommended by the committee to the Government of the State.

All Municipal Corporation Acts of various States provide for the office of Mayor and deputy Mayor.

Mayors in India do not exercise powers or perform functions of a uniform pattern. They derive these from the respective Corporation Acts under which the Corporations have been established. Their powers and functions, therefore, differ from State to State. But broadly these can be mentioned as follows:

The most important statutory function of the Mayor is to preside over the meetings of the Council and guide its deliberations, to maintain decorum, and exclude any objectionable portion from the record of the proceedings of the Council. He is also empowered to expel and even suspend members for gross misconduct or disorderly misbehavior. In case of a tie, he exercises his casting vote. He may call special meetings of the Council when considered necessary and shall have to call a meeting when asked by a specified number of Councilors.

Because of separation of deliberative and executive functions, the Municipal Commissioner is the executive authority of the Corporation and the Mayor exercises general supervision over the administration of the Corporation. He has access to all records of the Corporation. He can issue directions to the commissioner asking him to report on any matter, as is the case in Delhi

Corporation. He can supervise and inspect the work of the Corporation. In some Corporations all the correspondence between the Corporation and the State Government has to pass through him. Some statutes specifically empower him to direct execution or stop any work or any act in emergent situations and authorize any expenditure in this regard. His orders, however, have to be placed before the Council for approval at the next meeting.

In some Corporations, the Mayor is authorized to constitute committees. He is *ex-officio* member of every Standing Committee in the Chennai and Bangalore Municipal Corporations. He is, thus, in a position of knowing all that is going within the Corporation and to co-ordinate its work.

He has certain specified executive powers, especially of making appointments in consultation with State Public Service Commission, as in U.P. for certain posts. In Calcutta Corporation, he can hear appeals in all establishment cases where an employee has been punished for certain specific offences.

In certain Corporations he exercises financial powers also. In U.P., his concurrence is necessary when the Municipal Commissioner has to incur expenditure between Rs 10,000 to 20,000 at a time. There, he also has the power to refer any matter including the budget estimates or taxation proposals, even if these have been approved by the Council, to the *Directorate of Local Bodies* for its final decision.

He, being the first citizen of the city, has to perform a large number of social duties and most of his official time is, therefore, consumed by functions of social and public nature, such as receiving distinguished visitors, visiting institutions as the chief guest, laying foundation stones, performing opening ceremonies, attending public meetings, and participating in national celebrations.

A perusal of the above mentioned powers and functions of the Mayor confirms that he is the ceremonial or figure head of the city Government and, bereft as he is of executive powers, his position is very weak in the administrative structure of the Corporation.

Undoubtedly the office of the Mayor is the most dignified and is eagerly sought after. He is the civic head of Municipal Corporation, first citizen of the city representing its dignity and personality. As such, it is a prize post and keenly contested by different *political parties*. The election of a Mayor, therefore, attracts a lot of political manipulation and maneuvering. But, in reality, he is only a figure head and he has the role and the influence in the affairs of the Corporation which may come to him as its member, Presiding Officer and Civic Head. In some Corporations he is the leader of the majority party. He has full rights to participate in the proceedings of the Council. As a Presiding Officer he is non-passive and non-partisan. Beyond this, he may exercise the influence in the Corporation's administration depending not on legal and formal provisions but on his own personality, tact, will, and time. It is rightly observed, "*People approach him with several of their problems and grievances, and it is a sorry plight to see that he cannot do more than nodding his head expressing his sympathies. At the most he would invite the attention of the concerned authorities to the grievances. It is true that sometimes in his anxiety to solve a problem, he resorts to extra legal methods and by virtue of his political weight, he might succeed.*"¹⁸ This reflects the weak position of the Mayor, in some States, which is attributed to his indirect election, short tenure and the scheme of separation of deliberative and executive functions.

In order to ensure that he does not remain merely a dignified cipher, he needs to be endowed with executive authority. But surprisingly the *Rural-Urban Relationship Committee (1966)* while examining this issue had not

avored the grant of executive authority to him and had observed as under, *"if the Mayor is to exercise more executive authority, his term, must of necessity, be longer Possibly coterminous with the life of the Council. As the chief executive authority, the Mayor must necessarily be made removable by a vote of no-confidence, which would be derogatory to the dignity and position of the Mayor. If the Mayor was to handle the executive function, he is likely to be subjected to intense party and political pressures which again would lower his prestige. Moreover, the city administration today is a full-time job requiring expertise and experience."* The committee therefore, did not favor any substantial increase in this power of the Mayor. Even then his position needs to be strengthened and in this respect it has suggested that:

- He should be made the sole channel of communication between the Corporation and the Government;
- He should be made ex-officio chairman of the standing committee: this will involve him more closely and intimately in important legislative and executive matters of the Corporation;
- He should be consulted by the Government for the appointment of Municipal Commissioner;
- He should be empowered to write the confidential report of the commissioner;
- He along with the chairman of the various committees should constitute an appellate tribunal to hear appeals against the decisions of the Municipal Commissioner.¹⁹

The distinctive feature of Corporation Government is what is commonly known as the separation of executive and deliberative powers. The Corporation lays down broad policies, frames by-laws, sanctions budget and keeps a general watch over executive administration. But the entire executive authority is vested in the commissioner, who is appointed by the

State Government. He occupies the status of a coordinate authority and derives powers directly from the law.

The credit for conceiving of the institution of Municipal Commissioner goes to *Sir Firoz Shah Mehta*, who held a definite view '*that the Municipal Council is not to administer and govern for which it is radically unfit and to vest executive authority in it would be a retrograde step, the only safe and efficient way of disposing of the executive authority is to vest it in a single responsible officer.*'²⁰ His scheme is accordingly enshrined in *Bombay Municipal Corporation Act, 1888*. *The Royal Commission on Decentralization (1907)* had also recommended that an elected Chairman of the Council should be its Presiding Officer and spokesman and the task of administration should be entrusted to a full time appointed official, subject to the control of the Council and its Standing Committee. '*Such an arrangement,*' the Commission wrote, '*would meet the argument that the elected chairman of a large city Municipality, who might be a busy professional man, would not have the time or the experience to administer it satisfactorily.*'²¹ *Government of India's Resolutions of 1915 and 1918* had lent further support to the philosophy of keeping the deliberative and executive functions in separate hands in the larger interests of efficient Municipal Administration. This scheme was thought to be the fittest one in the interest of the imperialist powers.

As the *Presidency Towns of Calcutta, Madras and Bombay* were the main centers from where imperial power used to radiate, the retention of bureaucratic control was consistent with the ethos of colonial rule. The executive in the Corporation Governments of these cities was therefore conceived in terms of the politics of imperialism. City Government was firmly in imperial hands through the appointment of a *Commissioner* just as district administration was in direct Government control through the posting of the *Collector*.²² With the achievement of Independence, the bureaucratic

control over Corporation Government should having logically come to an end. But strangely enough, instead of rejecting the colonial structure, the design of city Government in the big cities was more and more fashioned after the old model. It is a pity that *Rural—Urban Relationship Committee (1966)* also failed to appreciate the meaning of the great political change in the country since independence and recommended that the Commissioner should be retained in the old form, the Mayor should be kept informed about everything going-on within the Corporation and an appellate committee should be set up to review decisions when appeal would be received. This is the entire mole hill that the *Rural—Urban Relationship Committee could produce*.²³ The system of separation of deliberative and executive wings has been criticized on the following grounds:

- The Structure of Corporation Government seems to have been designed on the assumption that '*policy*' and '*administration*' are two distinct and divisible functions which can be entrusted to two separate authorities. But in the practical world of governance, especially in the realm of Local Government policy administration is inextricably intertwined.
- The retention of the Government appointed Commissioner as a co-ordinate and independent authority in a democratic polity is hardly justified as it involves an unwarranted trespass into the domain of the representative Local Council. A State appointed functionary to administer a self governing community has been considered to be an assault on the time honored principles of democracy and autonomy. The late *Professor W.A. Robson* had denounced such a system of civic administration in these words, "*The regime in Bombay provides for the executive power to be concentrated in the Municipal Commissioner, an official appointed by the State Government. We cannot regard Bombay as fulfilling the essential conditions to qualify*

as it self-governing city, namely, that not only the deliberations of policy, the passing of ordinances and the control of finance, shall be within the ambit of an elected Council, but also that executive power shall belong either to the Council or to an organ appointed by the Council or to Officers directly elected by the citizen."

- The statutory division of deliberative and executive powers has been a constant source of conflict between the Commissioner and the Corporation. The Commissioner's attempt to run the executive administration without political interference is thwarted by pressures from the Corporation; the Councilors, on the other hand, complain that since they are to share the blame for the deficiencies and failures in civic administration, they should have the statutory responsibility for executive administration.
- This fragmented structure and splitting of authority has resulted in nobody's concern for planning the development of the city, mobilization of resources and enlisting popular support for civic development.
- A commissioner may be a very efficient administrator but he cannot be expected to play the role of a political leader, which should indeed be assigned to the elected Mayor and the Councilors who in the present scheme are not capable of performing it as they are bereft of the executive powers.

The deficiencies and failures of the separation of deliberative and executive function are beautifully summed up in the analysis of the functioning of the scheme in Calcutta City Government as follows:

'The dual Government of Calcutta based on a separation of powers between

the Councilors and the Commissioner is indefensible on many grounds. It is essentially inappropriate as a tool for civic planning and development. The provision of an independent Commissioner has repeatedly been demonstrated to provide at best only a negative check on the parochialism and bias of the Councilors with the result of either a cold war between the Councilors and the Commissioner or the subservience of the latter to the former. Under the present system, there is no institutional device, machinery or agency to absorb or reconcile the differences between the Councilors and the Commissioner to their mutual advantage and the benefit of the city.'

More important still, the lack of co-operation between the Commissioner and the Councilor deprives the city of leadership — the Corporation-in-Council cannot, because of its size, itself satisfy the need for leadership, no Standing Committee can presently fill the void, the Mayor functions as speaker and ceremonial head, and the Commissioner is prevented from giving executive leadership in view of his official background and appointment. If he is lucky, the Commissioner can at best be an effective and routine administrator, he cannot hope to be an effective innovator, pioneering new and radical measures, without the support of the Councilors and the social forces they represent.²⁴

The *Committee on Budgetary Reforms in Municipal Administration (1974)* while discussing the weaknesses of the existing structure of Municipal authorities which were mainly responsible for their malfunctioning, had inter-alia observed, *'The separation of deliberative and executive wings in the Municipal Corporations had resulted in strained relations between these two important wings. Quite often the deliberative wing which is the final authority for passing the estimates tool unilateral decisions to inflate the figures of revenue estimates presented by the executive wing. Ultimately when these expectations were not fulfilled, as was to be expected, the executive wing was blamed for failure to attain the targets. This makes the*

executive wing more conservative. On the other hand, the deliberative wing would complain of not only deliberate pegging down of estimates of income but also of indifference to the policy of deliberative wing on the part of the officials the deliberative wing sometimes considered the Chief Executive as an agent of State Government purposely planted in the local authority resulting in alienation. There appears to be some element of natural distrust in the relationship of the two wings. This is perhaps so because the deliberative wing as well as the Chief Executive is recognized as executive authorities in Municipal Acts.²⁵ The anomalous and archaic executive structure of Corporation Government as a result of the separation of deliberative and executive function has been highlighted by several research studies also.²⁶

The system discussed above results in operational inefficiency which creates more tensions and weakens the system. There is therefore, the need for remodeling the structure and trying other models and testing their efficiency, for instance, a strong Mayor system, Municipal Corporation system etc. In the strong Mayor form, the Mayor is to be the sole executive, guided and controlled in matters of policy and finance by the Council of elected representatives and assisted and supported by the Commissioner in administration. Municipal Corporation form of Corporation Government is favored by the Mayors and Corporators of important Corporations.²⁷

As a concrete measure, the Metropolitan Council of Delhi had passed a Bill in 1966 proposing a Mayor-in-Council form of Municipal Government for Delhi. The Municipal Corporation scheme was proposed as a part of the comprehensive plan to reorganize the set-up of Delhi Municipal Corporation and a Bill to amend the *Delhi Municipal Corporation Act (1957)* to this effect was introduced in the *Parliament* in 1966, but it could not be passed due to the dissolution of the Parliament for holding general elections and it was not re-introduced thereafter. According to the provisions

of the Bill, Municipal Corporation was to consist of a Mayor elected by members of the Corporation and two deputy Mayors appointed by the *Lt. Governor* of Delhi on the Mayor's advice. The Municipal Corporation was inter-alia to exercise certain executive powers now vested in the Corporation Council, to take over powers and functions of the Standing Committee, to appoint with the *Lt. Governor's* approval Municipal Commissioner who was to be the Chief Executive Officer of the Corporation, and to exercise supervision and control over the Corporation work. The Mayor was removable by an absolute majority vote of the total membership of the Corporation. Thus, the scheme sought to introduce a sort of cabinet system and project the Mayor as a sort of Prime/Chief Minister in the city Corporation of Delhi and aimed at abrogating the old duality in Corporation administration.

A seminar held under the auspices of the *Indian Institute of Public Administration* at New Delhi in September 1969 had also discussed the Cabinet system in Municipal Administration in India,²⁸ but it remained only an academic exercise and no State Government came forward to introduce the Cabinet form of Municipal Corporation system. It was the *United Front Government* which came into power headed by *CPI(M)* in West Bengal in 1977, that it went ahead with its programme of effecting reforms in Municipal Government and passed the *Calcutta Municipal Corporation Bill, 1980*, providing, for among other things a *Mayor -in-Council* as the political executive in the new Corporation wherein the Corporation, the Mayor-in-Council and the Mayor would constitute the new *trinity* of the Municipal Authorities for the Municipal Government of Calcutta. The executive power shall be exercised by the Municipal Corporation and the Commissioner shall function under the supervision and control of the Mayor. The Municipal Corporation would be a small body, consisting of the Mayor and *six to ten* members who shall be nominated by the Mayor and allocated responsibility by him and could be removed from office by his

written order. The Municipal Corporation shall be collectively responsible. A resolution carried by a majority of not less than $\frac{2}{3}$ rd of the total number of elected members of the Corporation will be necessary for the removal of the Mayor or the Deputy Mayor or both in the words of *Shri Prasanta Sur, Minister-in-charge, Local Government, West Bengal*, who had introduced and pioneered the bill, the Mayor in addition to his role as the first citizen of Calcutta, and not the Commissioner, shall provide executive leadership too. And so that he can be effective as a leader in a city with perhaps the greatest political awakening and political consciousness anywhere in the country, we have opted for the strong Mayor system whereby only the Mayor would be elected by the elected Councilors, and his colleagues in the Municipal Corporation shall work at his pleasure-though they would be selected from the elected representatives of the people only.²⁹ Thus the existing Commissioner oriented executive designed originally for the Bombay Municipal Corporation towards the end of the 19th century was replaced by the Municipal Corporation form of executive in the two Municipal Corporations of *Calcutta and Howrah in 1981*. The implications of this new experiment with the executive system in the Municipal Corporation in West Bengal are monumental for the Municipal Government in the country and this experiment may be attempted in other States as well in the times to come.

The Municipal Commissioner is the Chief Executive Officer of the Corporation. He is the kingpin of the Municipal Administration and as such is at the apex of the Municipal administrative hierarchy. He is entrusted with the responsibility of keeping the entire administrative machinery under his control, giving it necessary guidance and direction. If the *American City Manager* and the *British Town Clerk* embody great contributions to the art of city Government made by the countries concerned, the Municipal Commissioner is the Indian contribution.³⁰ The Municipal Council is the legislative body laying down policies for the civic governance of the city

and the administration of these policies is the responsibility of the Commissioner. Thus the office of the Commissioner is based on the philosophy of keeping policy making functions separate from its administration. The credit for conceiving the institution of Municipal Commissioner goes to *Sir Firoz Shah Mehta*. He had a definite view '*that the Municipal Council is not to administer and govern for which it is radically unfit and to vest executive authority in it would be a retrogressive step the only safe and efficient way of disposing of the executive authority is to vest it in a single responsible officer.*' His scheme was enshrined in the *Bombay Municipal Corporation Act of 1888*. The separation of policy making from its execution was commended by the *Royal Commission on Decentralization (1907)* which recommended an elected Chairman of the Council to be the Presiding Officer and spokesman of the Council as a whole and the tasks of administration to be entrusted to a full time, State appointed, official subject to the control of the Council and its Standing Committee. Such an arrangement, the Commission wrote, '*would meet the argument that our elected Chairman of a large City Municipality, who might be a busy professional man, would not have the time or the experience to administer it satisfactorily.*' The *Resolutions of 1915 and 1918* of the *Government of India* had lent further support to the philosophy of keeping of these two functions in separate hands in the larger interests of efficient Municipal Administration.

Municipal Corporations all over the country have been assigned by their respective State Governments a long list of functions. As a matter of fact, functions to be performed by the Municipal Committees and the Municipal Corporations are similar in nature. The real difference lies in their powers and resources. Their jurisdiction and area of operation increase when the Municipalities are raised to the status of Municipal Corporations. The functions of Municipal Corporations can be classified into *Obligatory* and *Discretionary* function. The former comprise supply of wholesome water;

construction and maintenance of water works; naming and numbering of public streets; road transport services; lighting and cleansing of public streets and other public places, removal and disposal of fifth and rubbish; construction, maintenance and cleaning of drains, public latrines, urinals, etc.; removal of obstructions and projections in or upon public streets and other common places; securing or removal of dangerous building or places; establishment and maintenance of hospitals, maternity and child welfare centers; preventive measures and checking of dangerous diseases; vaccination and inoculation; registration of births and deaths; regulation of places for the disposal of the dead and provision of places for this purpose; provision of primary education; control and regulation of eating places, and publication of the Corporation's reports.

The discretionary functions include construction and maintenance of public parks, gardens; public housing; plantation and care of trees and flowering bushes on road sides and elsewhere; destruction or detention of stray dogs and other animals causing nuisance: survey of buildings and lands; reception of VIP'S; celebration of national days; registration of marriages; organization and management of fairs and exhibitions; relief of destitute and disabled persons, etc. The obligatory functions as enumerated above can be epitomized into four main types-public health, public safety and convenience, medical relief, and public works which when spelt out comprise sanitation and conservancy. These functions have to be necessarily performed and for which budgetary provision has to be made; and failure to perform these functions can empower the State Government to dissolve it.

Authority Of The Directorate

Investigations are made not only on the structure of the Directorate but also the manner of their functioning. The function that the Directorate has to perform, and the commensurate powers needed in the conduct of Local

Bodies of State are primarily dependent upon their conception. First, the role of the entire system of Government in the life of the nation; second, on the role expected to be played by the Municipal Administration itself. It is the Government that is primarily charged with the duty of securing development, it prepares the blue print, it has to ensure that the plans are translated into the programs; it has to mobilize and implement the programs. The role that is visualized for Municipal Administration, also correspondingly, is a vastly enlarged role. It is, of course, charged with the task of performing certain duties, to provide basic necessities to the public. It is not only a structure and organization designed to perform certain specified limited functions but also a structure which, theoretically is expected, as a part of the total system of Government. Local Government often mentioned as the third tier of Government is a vital part of the whole developmental program and process. Above these two looms the conception that the Municipal structure is the sphere in which democratic control and operational efficiency is jointly built up.

A well-organized Directorate of Municipal Administration at the State level would go a long way toward improving the system of supervision, guidance and control of the State Government over the Local Bodies. The controlling authority ideally should perform the triple role of a *'friend, philosopher and guide'*. Its attitude and approach should be of the 'corrective' type and not of 'punishment' type. Much of the mal-administration is due to the faulty structure of Local Bodies and their faulty implementation processes. Some other inherent defects of local authorities are like inadequate and unqualified personnel, political interference, lack of independent executive authority, sporadic and slack audit etc.

The powers and functions delegated to the State Directorate differ from State to State. For the purpose of discussion here these powers could be

broadly classified under four major heads.³¹

- The Organization.
- Personnel Administration
- Financial Administration.
- General Administration.

On the basis of this categorization it has been noticed that some Directorates enjoy the powers and functions under all categories where as others enjoy powers only under one or more categories.

The Directorate of the Local Bodies in Uttar Pradesh has powers with regards to the financial, personnel and administrative matter. There are 13 *Nagar Nigams*, 194 *Nagar Palika Parishads* and 423 *Nagar Panchayats* areas that comes under the administrative authority of Directorate. (See Table No. 5.2.)

Organizational Powers

Organizational powers are fairly limited in scope and extent. Even so organizational powers generally vested in the Directorate are to *approve the election of Municipal President* as is in the case of *Punjab*. The *Director* of the Directorate has also been appointed as *Electoral Officer* and empowered to divide the Municipal Area into *electoral wards* and fix the seats reserved for Scheduled Castes and women. *Kerala* and *Tamil Nadu* are the States where the *Director* is appointed as *Electoral Officer*. The *Director* has been authorized to notify the number of Councilors for reserved seats in a ward and to determine the wards, which a Councilor shall be deemed to represent,

and the ward in which election shall be held. In *Uttar Pradesh* although the Directorate has been authorized to deal with the organizational and constitutional matters relating to the Local Bodies yet these powers are very limited.

Powers with Respect to Personnel

The Directorate is equipped with a '*Personnel Section*' to manage the State Cadres of Municipal personnel and advise the Local Governments regarding personnel management and training. All the Directorates except *Bihar and Orissa* have substantial powers regarding Municipal Administration. In the other Directorates the powers varies, widely ranging from simple approval or alteration of rule determining the qualifications for the appointment of Municipal personnel to the real power of appointment, transfer, fixation of pay, leave etc. In *Gujarat* the Directorate has been given the power of appointing administrators for exercising powers and performing duties of Municipality during the period of super-session. The Directorate also has the power to order the Municipal Bodies to reduce excessive staff as well as extra allowances. However, it does not have the power of appointment, transfer etc. of the Municipal personnel. In *Tamil Nadu*, the Director has the power to recruit certain higher categories of staff. The Director has the power to fix or alter the number, designation, grades, salaries, fees and allowances payable to the officers and servants of any Municipal Council or any class of such officers and servants except engineers, technical staff employed for Public Health Works, staff employed in Libraries, staff employed in educational institutions and staff employed in medical institutions.

In *Uttar Pradesh* like *Andhra Pradesh*, the Directorate has vast powers with regard to personnel administration *i.e.*, it has the power of appointment, transfer, promotion etc. of staff employed in the Municipal Bodies. It

maintains the character rolls, service records; seniority lists etc., of the employees of *centralized cadres*. In most the States the Directorates have been given adequate powers over Municipal personnel. To what extent these powers have been effectively used or grossly misused is a different question altogether.

Financial Powers

Paucity of funds is one of the chronic problems faced by Municipal Bodies; ipso-facto the need for financial management and regulation becomes even more evident. Funds, however meager, made available to these bodies must therefore be utilized at the optimal level. Besides this, some external agency must ensure that the expenditure conforms to the purpose for which it was sanctioned limits and also reallocation of funds. This is the role envisaged for the *Directorate vis-à-vis Local Bodies*.

Financial Powers of the Directorate are generally concerned with the distribution of grants, to accord sanctions, to incur expenditure on works which are beyond Municipal limits, and to sanction budget estimates of indebted Council.

Municipal Financial Administration has been attracting attention of the State Governments for time to time. In view of the increased activity, the State Governments were finding it difficult to exercise effective supervision and control and provide necessary guidance to the Local Bodies, as most of the time the energies were lost in matters like transfers and postings, considering grant proposals etc. The problem of Municipal administration received scant attention. A few committee and commissions were appointed to go into the question of Municipal finances and suggest measures and, the reports of these committees and commissions also desired that the Directorate might be able to perform the tasks, which could not be attended at the *State*

Secretariat level. Thus, the Directorate has been given powers with regard to Financial Administration.

Regarding Financial Powers of the Directorate '*Rural Urban Relationship Committee*' recommended:

*"A Planning and finance section to guide and assist urban Government in preparing their five year plan on a uniform pattern as part of State plans. It should ensure necessary liaison between functional and technical departments of the Government in planning and execution of their programmes in the urban areas. It will also collect data, analyse information, prepare monographs and circulate them among the Local Bodies."*³²

The powers of Directorate regarding the financial administration of Municipalities differ from State to State. In *Gujarat*, the Directorate has the power to fix, *rates of payment*, in rare cases and to prevent extravagance in establishment expenditure. It has, however, not been given any important authority. But in *Bihar* most of the powers in this field have been retained by the State Government. In *Kerala, Andhra Pradesh, Punjab, Madhya Pradesh* the Directorates have been given considerable authority over Municipal fiscal administration. They include the scrutiny and sanction of the budget estimates.

In *Uttar Pradesh* as in *Kerala, Andhra Pradesh, Punjab, Madhya Pradesh* the Directorate has the powers to scrutinize the budget of the Local Bodies, and to direct the steps to be taken for augmentation of financial resources or control the expenditure. One distinguishing feature of the Directorate in U.P. is that, it channelizes and recommends the taxation proposals and loan requirement of the Local Bodies to the State Government. It should thus, be observed that the Directorate in *Uttar Pradesh* enjoys a wide range of power with regard to Municipal financial administration.

General Administration

There is a section in the Directorate under the direct control of the Director to give general direction and exercise supervision over the working of Local Bodies. It should undertake the work of drafting *by-laws* and *rules*, on changes in the laws relating to urban local authorities. With regard to the power of general supervision and control, it has been found that, this has been the main guiding force behind the establishment of Directorate of Local Bodies; they have been vested with wide powers in this field. The supervision and control over the Municipal Bodies is exercised through a communication and feedback system and through personal inspections by the officers of Directorate. The powers of Directorate regarding supervision, inspection etc., varies from one State to another. But all of them have more or less the same kind of power regarding supervision and control over the Municipalities in their respective States. It is interesting to find that only a few States have empowered the Directorate with emergency and financial powers. The Directorate of Uttar Pradesh has not been given any authority in this respect. A study of the 'Acts' governing the Local Bodies shows that the State Government has still retained with itself enough power to exercise control over the local authorities. Most of the administrative powers are still in the hands of the State Government.

In accordance with the recommendations of the Rural – Urban Relationship Committee, constituted by Government of India; the Government of U.P. decided to establish the Directorate of Local Bodies in 1971, but it actually came into existence in 1973.

Functions of the Directorate

The functions of the Directorate can be broadly divided into two parts:

1. *Administrative Functions –*

- Functions related to establishment – The Directorate expedites all the works related to the service conditions of all *Group 'B' & 'C'* Officers/ Employees belonging to the U.P. Municipal (Centralised) Services,
- Conducts departmental enquires relating to complaints received,
- Allocates budgets, for Group Insurance schemes, and payment of monthly premiums of Life Insurance Corporation and other related works,
- Resolves / Settles issues related to pensions of retired officers / employees of the U.P. Municipal (Centralised) Services, and any other issues related to encashment of retirement benefits,
- Creation of posts belonging to *non-centralised* cadre and thereafter intimate the State Government for necessary action,
- Pass Municipal Budgets under special conditions, in accordance with '*Section 92*' of the *U.P. Municipal Act 1916*,
- Provide information regarding The '*State Finance Commission*', corresponding to the Urban Local Bodies
- Provide information regarding queries sought under the '*Right to Information Act*' 2005,
- Monitor the work of the Local Bodies relating to the Registration of '*Births & Deaths*',
- Supervise the installation of computers and provisions of connectivity to every District's *Nodal Executive Officer* for acquiring and providing information, in a time-bound manner, for the purpose of '*e-governance*' and acquiring expertise in *office management*'
- Publication of information and reports of the *City Development Department* relating to the *13th Finance Commission*.

2. Financial Functions –

- Allocate funds which is kept at the disposal of the Director, to the Local Bodies as per the recommendations of the *State Finance Commission*, and also do adjustments of funds as per the directives of the State Government,
- Allocate funds that is permissible to the Local Bodies, as per the recommendations of the *Finance Commission, G.O.I.*, and also obtain and forward, '*Utilisation Certificate*', through the State Government, to the *Finance Commission, G.O.I.*, and the '*Accountant General*', U.P., Allahabad,
- Monitor the utility of the allocated '*Revolving Fund*'.
- Examine the budgets of the Local Bodies and thereafter compile their actual income and expenditure,
- Monitor the progress of developmental works.
- Review *tax and non-tax recoveries* of the *Nagar Nigams and Nagar Palika Parishads* (with a population of 50,000, or more), on a monthly basis , relative to the target determined by the State Government,
- Guide the Municipal Bodies to increase their financial resources.

Powers of the Directorate

On 31st March 1973, the State Government of U.P. issued an order delegating the powers and determining the function of the *Director of Local Bodies*. The powers of the Directorate were enlarged and now it is actively working to fulfill the main objective for which it was established. The powers that are provided to the Directorate are:³³

1. The Directorate would be the channel of correspondence between the Government and the Local Bodies. According to the laws related to

the correspondence of the State Government with the Municipalities, indicated in *page no. 339 of Municipal Manual, 1952*, and those which are amended by *G.O. No. 2253F/11-A1014-57 dated 23rd October, 1958*; the Municipal Bodies had to correspond with the Government through the *District Magistrate* and in some important matters Municipalities had to contact both the District Magistrate as well as the Commissioner. But now by amending this law it has been provided that except those matters in which it is necessary to contact the Commissioner, on all other matters Municipal Bodies should have correspondence with District Magistrate and Municipal Directorate only.

2. Appointment of persons under Municipal (centralized) service drawing salary less than Rs.300/- per month (*Pre-revised*), to decide the cases of their transfer, efficiency bar etc
3. Maintenance of character rolls, service records, seniority list etc. of the employees of *centralized cadres*.
4. Notification, preparation and implementation of the projects of the Local Bodies, Urban development and Municipal Administration.
5. To supervise the implementation of the resolution of the Central Council of Local Self-Government and the conference of the Municipal Corporations.
6. There is a provision for training of the employee of centralized services in the *Indian Institute of Public Administration, New Delhi* and the *Regional Centre for Research and Training in Municipal Administration* (Now renamed as *Regional Centre for Urban and Environmental Studies*) Lucknow University.
7. To arrange and process the inspection reports of officers of the Directorate and to forward with notes, such reports to the Government, which involve legal or policy matters.
8. To finalize the pension scheme for the employees of the centralized services cadres.

9. To offer other suggestions for amending Municipal Manual (centralized) services of U.P.
10. To offer suggestions that Directorate thinks necessary to make perfect Municipal Administration.
11. To offer suggestion regarding the powers to be given to the Directorate under *Para III* mentioned above.
12. The Director has little power for deciding the cases concerning employees of non-centralized services. He can decide the cases of those employees whose pay scale is below Rs. 200/- per month (*Pre-revised*) except those cases on which the Government has given powers to other officers e.g. the cases concerning the employees punished by the President or the Chairman of the Municipality.

Many changes are made from time to time regarding the powers of the Directorate, recently by the *G.O. No.1960/11-4-87-9SP/87* amendments were made in *law 37 of U.P. Municipal (Centralized) Services 1966*. And the Directorate was equipped with the powers to deal with the transferring, maintenance of character rolls, service records, of the employees of the Municipal Bodies. The permission / grant of leave and the power to give minor punishments are also vested with the Directorate.

Table No. 5.1**Suggested Assignment of Functions to be Performed by the Urban Local Bodies**

Essentially Municipal Functions	Municipal Corporation	Municipal Council	Nagar Panchayat
Urban planning including town planning (subject to broad outline' or 'structural' plan prepared by the District and Metropolitan Planning Committee/State Government)	Yes	Yes	Yes
Regulation of land-use and construction of buildings (subject to broad 'outline' or structural' plan prepared by the District and Metropolitan Planning Committees/State Government)	Yes	Yes	Yes
Planning for economic and social development (Preparation and implementation of socio-economic development plan)	Yes	Yes	Yes
Roads and bridges	Yes	Yes	Yes
Water supply domestic, industrial and commercial purposes	Yes	Yes	Yes
Public health, sanitation, conservancy and solid waste management	Yes	Yes	Yes
Fire services	Yes	Yes	No
Urban forestry	Yes	Yes	Yes
Preventive Health Care	Yes	Yes	Yes
Provision of urban amenities and facilities such as parks, gardens, playgrounds	Yes	Yes	Yes
Burials and burial grounds, cremations, cremation ghats/grounds and electric crematoria	Yes	Yes	Yes
Cattle pounds, prevention of cruelty to animals	Yes	Yes	Yes
Vital statistics including registration of births and deaths	Yes	Yes	Yes
Street lighting	Yes	Yes	Yes
Parking lots, bus stops and public conveniences	Yes	Yes	Yes
Regulation of slaughter houses and tanneries	Yes	Yes	Yes
Slum improvement and up gradation	Yes	Yes	Yes
Agency Functions			
Protection of the environment and promotion of ecological aspects	Yes	Yes	Yes
Safeguarding the interests of weaker sections of society, including the handicapped and the mentally retarded	Yes	Yes	Yes
Urban poverty alleviation	Yes	Yes	Yes
Promotion of cultural, education and aesthetic aspects	Yes	Yes	Yes
Primary Education	Yes	Yes	No
Primary Health Care	Yes	Yes	No

Source: Mohanty (1995), Reforming Municipal Finances : Some suggestions in the Context of India's Decentralization Initiative, Urban India, A Journal of National Institute of Urban Affairs, New Delhi, Vol.XV (No.1), January-June, 1995.

Table No. 5.2.**URBAN LOCAL BODIES OF UTTAR PRADESH AT A GLANCE**

A	General	2001	1991**
1.	No. of Corporations	12	08
2.	No. of Nagar Palika Parishad	194	197
3.	No. of Nagar Panchayat	421	419
Total No. of Urban Local Bodies		627	624
Million Plus City (10,00,000 + Population)		6	2
B	Number of the Urban Local Bodies Class-Wise		
A.	I Class (100,000 & above Population)	50	40
B.	II Class (50,000 - 99,999 Population)	56	44
C.	III Class (20,000 - 49,999 Population)	167	134
D.	IV Class (10,000 - 19,999 Population)	236	230
E.	V Class (5,000 - 9,999 Population)	108	208
F.	VI Class (Less than 5,000 Population)	06	39
Total		623*	688
C	Population (As per Census 2001)		
A.	Population of Uttar Pradesh	166197921	139112640
B.	Population of all Urban Local Bodies	32645840	24778013
C.	Population of all Municipalities	19438960	15121411
D.	Population of all Corporations	13206880	9656602
% of Urban Population to Total Population		20.78%	19.68%
Decennial Growth of Urban Population		32.88 (1991-2001)	38.52 (1981-1991)
Municipality with Highest Density of Population		68368 in Sasni NP (Hathras)	-
Municipality with Lowest Density of Population		182 in Madhogarh NP (Jalaun)	-
Literacy Rate of Uttar Pradesh		56.26%	41.60%
Literacy rate of Urban Areas		69.75%	61.00%
Literacy Rate of Corporations		74.03%	-
Literacy Rate of Municipalities		66.05%	-
Total Households in all Corporations		2169456	-
Total Households in all Municipalities		2874493	-

* 4 Nagar Panchayat - Derapur (Karpur Dehat), Subeha (Barabanki), Babhnan Bazar (Basti) & Hatgam (Fatehpur) data not available in 2001 Census.

(These towns were created after 2001 census)

**Uttarakhand included.

Source:

1. Primary Census Abstract - Uttar Pradesh, Volume - 1, Census of India, 2001
2. Town Directory - Uttar Pradesh, Series - 25, Census of India, 1991
3. Town Directory - Uttar Pradesh, Census of India, 2001
4. Rural - Urban Distribution, Provisional Population Total, Uttar Pradesh, Census of India, 2001.
5. State Election Commission - Uttar Pradesh, Lucknow

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1. Encyclopedia of Social Sciences, 1935, New York, Macmillan Co. Vol. XI, pg. 86.
2. Ibid
3. *Report of the National Commission on Urbanization*, 1988, Vol. II, pg.158.
4. S.R. Maheshwari, 1999, '*Local Government in India*,' Agra: Laxmi Narain Aggarwal, pg.212.
5. G.P.Krishna Rao, 1974, '*Nagarlok 6, No.3*,' New Delhi, IIPA, pg.20.
6. *Report of the Rural-Urban Relationship Committee*, Vol. I, Ministry of Health & Family Planning, June 1996, para 4.11.
7. Constitution of India, 74th Amendment Act, 1992, Article 243-Q.
8. Mayor's Newsletter, *Vol.II*, No.1, January, 1983.
9. The Constitution of India, 74th Amendment Act, 1992, Article 243-T. Cl. (1).
10. Ibid. Article 243-T, Cl. (2).
11. Ibid. Article 243-T, Cl. (3).
12. Ibid. Article 243-T, Cl. (6).
13. Ibid. Article 243-R, Cl. (2)(a)(i).
14. Ibid. Article 243-R, Cl. (2)(a)(ii) & (iii).
15. Ibid. Article 243-U, Cl. (4).
16. Ibid. Article 243-S
17. Ibid. Article 243-ZE
18. G. Ram Reddy, in A. Awasthi (ed.), 1972, *Municipal Administration in India*, Agra: Laxmi Narain Aggarwal.
19. Report of the Rural-Urban Relationship Committee, op-cit.

20. Pardeep Sachdeva, 1991, *Dynamics of Municipal Government and Politics in India*, Allahabad: Kitab Mahal, pg.62.
21. The Royal Commission on Decentralization, 1907.
22. Mohit Bhattacharya, (Oct-Dec, 1981) 'The Mayor-in-Council System', *Nagarlok* 13, No.4. pg.3.
23. Ibid.
24. Ashraf Ali, 1960, 'The City Government of Calcutta: A Study of Inertia,' Bombay: Asia Publishing House, pg.77.
25. Report of the *Committee on Budgetary Reforms in Municipal Administration, Government of India, Ministry of Works and Housing*, New Delhi, June 1979, pg.37.
26. David R. Rosental, 1970, 'The Limited Elite: Politics and Government in two Indian Cities,' University of Chicago Press.
27. Report of the *Rural-Urban Relationship Committee*, Vol. II, 1966.
28. Refer to *Cabinet System in Municipal Government: Proceedings of the Seminar*, 15-16 September, 1969, Centre for Research and Training in Municipal Administration, IIPA, N. Delhi, 1970.
29. Extract from the speech by Shri Prasanta Sur, Minister-in-charge, Local Government and Urban Development, Govt. of West Bengal, before the Legislative Assembly on April 29, 1980, while introducing the Select Committee Report on the Calcutta Municipal Bill, 1980.
30. M.A. Mutalib, 1987, 'Municipal Commissioner,' *Indian Journal of Public Administration*, pg.287.
31. Refer to Prof. M. Bhattacharya's book, "State Directorate of Municipal Administration." in which he classified the powers of the Directorates into four groups.
32. Report of the Rural Urban Relationship Committee, Vol.1, New Delhi, Ministry of Health and Family Planning, 1966, para 11.16.
33. Government of Uttar Pradesh, *G.O. No. 1258/11-1-73-11 CS (General) 71*.

CHAPTER - VI

***WORKING OF THE
DIRECTORATE***

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WORKING OF THE DIRECTORATE

In theory, decentralised governance is expected to promote development when it presents necessary conditions like people's participation, accountability, transparency and social capital. Therefore, it becomes extremely necessary to examine the relationship between decentralised governance and people's participation.

People's participation and its relationship to development has become a favorite concept of discussion and have now moved into Government, donor and private sector agencies. It is a revolution in the thinking of scholars, and particularly, donor organisations that make people's participation the central objective in all parts of life.¹ The donor organisations have become enthusiastic in supporting such Initiatives. It is for the first time that the '*United Nations Economic and Social Council*' (UNESCO) recommended that Government in any country should adopt people's participation as a basic policy measure in *national development strategy* and should encourage the widest possible active participation of all individuals and Non-Governmental Organisations (NGOs), such as trade unions, youth and women organisations etc., in the development process, as setting goals, formulating policies and implementing plans. The other donor agencies like *United States Agency for International Development* (USAID), in 1975, made it clear that the *American Development Assistance* is to be extended in ways that the beneficiaries' involvement becomes mandatory in the planning and implementation, as well as in the gains of the development. Besides this, the *World Bank* has formally agreed to support Governments in an effort to promote a more enabling environment for participatory development within the client countries.² All these recommendations have not emerged from any romantic tendency or fashion of change, but indeed from reality. Thirteen of

the twenty-five World Bank projects reviewed by *Michael Cernea* who found that no project had achieved the desired result or capacity building in large measure. They failed to institutionalise participation.³ In this context, the Governments of developing countries has assured that they would devolve power to the local elected bodies for ensuring people's participation to bring effectiveness, efficiency and equity in the development programmes.⁴ The prevailing view is that people's participation in planning and implementation ensures effectiveness, efficiency and equity in development process.⁵ Participation gives the ordinary locals a means of voicing their opinion and of showing that they are able to take on responsibilities in planning, organising, implementing and evaluating *Community Development Programmes (CDP's)*.⁶

The issue of participation is primarily associated with the grassroot people, including the poor and weaker sections, not only because they are most underprivileged within the society, but also because the rural areas in comparison to urban areas, have been relatively neglected by various development strategies. This philosophy of a '*people based*' development '*from below*' assumes that participation is not only an end in itself, but also, a fundamental condition and a tool of decentralised governance and successful development. The failure of past development strategy is fundamentally linked to the absence of decentralised governance and people's participation.⁷ Today, people's participation has become the *heart* of good governance that could be considered significant for a number of reasons.⁸ First, it is a mean for obtaining information about local conditions, needs and attitudes, without which development could fail. Secondly, people involve in planning and implementation process, thereby, portraying their commitment in its success, and they are more likely to identify themselves with it, and see it as their own enterprise. Their contribution and assistance in the construction and maintenance of the project is also very much required. It is in practice, the *people's power*. It is the only mechanism by

which the people can articulate, protect and promote their interests. It is assumed that they are always looking up for opportunities to participate and thereby, protect their individual and collective interests.

Participation: Its Significance

In the contemporary society there is a loud thinking within the Government and NGOs for people's involvement and participation in political and socio-economic development of the Nation. However, there is no clear agreement on what participation is all about, and the definition of the concept has been '*kept exceedingly vague, its implications blurred.*' However, different scholars and organisations have given different explanations of *Participation*; some of them are:

- *Organized efforts to increase control, over resources and regulative institutions in a given social situation, on the part of groups and movements of those hitherto excluded from such control.*

- *To sensitise people and, thus, to increase the receptivity and ability of rural people to responds to development programmes, as well as to encourage the local initiatives.⁹*

- *Involvement of a significant number of persons in situations or actions which enhance their well-being, such as, their income, security or self-esteem;¹⁰*

All these definitions are predicated upon the particular perspective of development, and as their dimension' are different and complex, we are looking at people's participation from the decentralised governance and development perspective, so, our understanding also may differ from them. For the present study '*people's participation*' is understood as a

mutual co-operation of local citizens in planning and implementation. It means that citizens can control and exercise the power over planning and implementation according to their capacity, knowledge, experience, representation, and contribution. The notion of people's participation can be characterised by two key processes: participation in the governance; and participation in the development process.

People's Participation in the Process of Governance

The nature of governance is most important for participation through which people are supposed to participate in the governance, as long as political participation is defined in terms of voting, representation, office holding, managing fiscal and other tasks as part of the working of political system. Election is the process through which people would participate in governance. However, it is argued that political participation would increase as development proceeds. For instance, people's participation is greater in *Great Britain and United States* than in *Germany, Italy and Mexico*.¹¹ The legacy of Western Democracy has an influence on the development of people's participation in developing countries. It is presumed that the ordinary citizen has a right to put in his share in the process of governance. Nevertheless, this inspiration is not based on the classical notion of *Representative Democracy*¹² but rather a modern variant of the liberal democratic theory known as '*Neighborhood Democracy*'. The theory of neighborhood democracy is the creation of small-scale institutions for the realization of political aspiration in the village and urban neighborhoods of the developing countries.

The view of participation was also infused by the populist notions in the developing countries. It has been argued that, ordinary people exploited by politicians and bureaucrats were excluded not only from political affairs but also from the development process, in general. The forces of modernization

and rapid social change threatened their simple way of life and they faced increasing hardship as a result of economic and political mismanagement. By organizing the local people and making them aware of their situation, community participation provided a mechanism for the mobilisation of the masses and a collective mean of redress. In many of the developing countries, particularly *Africa* and *Asia*, since independence, the mobilisation of masses or multi-party system has resulted in centralization and monopolisation of political power.¹³ the political process became crowded with intrigue, suspicion and disregard of institutional norms of behavior. The power holder, as long as they continued to exercise their power over politics, manipulated the system to their own advantages and that of their supporters. As *Oyugi* observes, "*in such political system, the masses can only be subjects of manipulation to be used by the power holders and seekers for their own advantage.*"¹⁴ In some developing countries where bureaucracy plays a major role in the political process through its deep involvement in the formulation of public policy, the role of the people in the political process is even more restricted. Thus, the citizens have very little or no influence over governance in their own local communities in the developing world.

People's Participation in the Process of Development

On the eve of independence, the idea of planning for development became a rather popular idea in this new Nation. To give meaning to it, some kind of central institutions (*viz.* Ministry, Planning Commission, or Committees) were at once created. Soon after, it was realized that such institutions could not be operated effectively in the *field* where the implementations of development policies actually take place. It has been argued that instead of relying on *top-down* planning there was need for paying more attention on decentralised local approaches of development.¹⁵ In this theoretical and practical context, people's participation becomes an inevitable and logical

consequence of the development efforts. *Firstly*, the *Community Development Programme (CDP)* was the first expression of participation in many developing countries. The people of the community could make plan and involve themselves in the development process like education, health, infrastructure etc.¹⁶ In this regard, in 1982, a communiqué of the *WHO* stated, 'that community participation was described as the process by which individuals, families or communities assumed responsibility for their own health and welfare and developed the capacity to contribute to their ownelves and the communities' development.' *Secondly*, mobilisation was an important dynamic element in development practice and reflected, an underlying ideology which argued the need to mobilise the rural sector in order to transform it and make it more modern and responsive. In this form of participation, the basic decision which underlined the development action had already been taken by the Government, and invited people in the process of implementation, to endorse and to collaborate with the decisions taken.¹⁷ *Thirdly*, there was a strong argument that the organization was the fundamental instrument to ensure participation of the rural poor in the development process. It was prevailed that active participation of the poor could only be brought about by a adequate number of people's organisations at the local level,¹⁸ because participation is a process by which the rural poor could organize themselves and have some say in the local development affairs. Once the organization is established the people will automatically have a voice and can influence planning. *Lastly*, it was argued that participation is concerned with the distribution of power in society, for it is power which needs, and whose needs will be met through the distribution of resources.¹⁹

In India, people's participation has been considered as a mechanism for village/town development.²⁰ People's participation was understood in the glorious alternative ways in India, such as *Shram Daan* (voluntary labour), *Bhoomi Daan* (contribution of land) and *Gram Daan* (contribution of

Gram). *Gram Daan* means to become *self-reliant* and to achieve *social justice*. *Mahatma Gandhi* was inspired by such an idyllic view of the village life and the village organisations, and formulated his ideas of alternative policy for a free India with village as the cornerstone. Many efforts have been taken by *Government of India* to ensure effective people's participation for promoting development at the grassroot level.

However, there has been a debate that the *Government of West Bengal* (Left Front) first ensured people's participation for the grassroot development by conducting *party based panchayat elections* in 1978. Since then, the *Government of West Bengal* has been performing a whole variety of functions, such as decision-making on project locations, implementation of land reforms (identification of land and beneficiary) and so on.²¹ The Government has identified a local level planning process in multilevel framework from the village level and upwards. The village panchayat is empowered to prepare its own plan for its development. They mobilised the grassroot people to participate in the process of planning. They also mobilised resources, the panchayat had been empowered to borrow money from Banks for the implementation of the development projects. Further, the *Government of West Bengal* empowered panchayats by following the 73rd Constitutional Amendment Act. However, this Act has not brought out any big change except the reservation of seats for SC's, ST's and Women in panchayats; since the Government had empowered panchayats before the introduction of the 73rd Amendment Act at the National Level.

At this juncture it is essential to know whether the decentralised governance (panchayats) has made any useful contribution towards the process of people's participation. People's participation here is seen as a process variable to decentralised governance. However, decentralised governance and people's participation have been viewed as independent and dependent variables, respectively. Conceptually, the governing process can be seen as

the product or an outcome of the interactive process among the people, elected members and officials. The nature of the outcome, can be reasonably assumed, depends on the quality of such interactive process which in turn depends on the level of awareness and perception of these actors. It is also equally important to assess the relationship between participation, and the level of awareness and perception of the actors regarding these institutions.

The Directorate: Its Working

Proper functioning of an Organization impinges upon, and is conditioned by, a number of factors such as its formal structure, the clarity with which its aims and purposes are defined. Its policies and programme, and the implementable processes available and adopted thus, it may be that an organization has a befitting structure and rational policies, yet it may considerably fall short of set targets on accounts of faulty implementation. On the other hand well-conceived and imaginative implementation even of slightly misconceived policies can be more result producing and goal-oriented. It is, thus, clear that the success, or otherwise, of an organization is directly related to its actual working as against the originally perceived working, and the more the distance between the two, the more way-ward is the organizational functioning. Hence the need, to come to grips with the actual functioning of the directorate and thereby determines the degree of compatibility between goals set and actual achievement level.

The Directorate has both stationary and touring duties. The latter include regular inspection and enquiries, and occasional visits. The Director and the Deputy Director have been making field visits to conduct enquiries and general inspection work, and to advice the Municipalities on financial and administrative matters.

Apart from annual inspection, inquiries are conducted by the Directorate into the affairs of specific Municipalities on *public demand*, or sometimes even on the request of the Municipal authorities themselves. While on tour, very often the Director would hold meetings with the councilors to discuss various municipal problems and suggest measure to solve them. For regular inspection, the Directorate has their '*Inspection Cell*' with *Superintending Officers* and few other staffs. The advance party of the inspection staff visits the Municipality on the basis of their findings and prepares inspection notes for the Director or his deputy, whoever the Director assigns such works.

The Directorate is often used for sending '*Circulars*' to the Municipalities with the view, to explain '*Government Orders*' (*GO's*), advising the Municipalities on specific cases, and elaborating procedural matters. This is an important method to keep in constant touch with the Municipalities, and in this process they receive timely advice and guidance.

Sometimes Municipalities also approach the Directorate to help them in specific cases. It may be in the form of a request to pressurize the Government for a speedy decision in a particular matters, or to ask a sister department to expedite action in a Municipal case.

The Directorate is also involved in *Municipal Personnel Administration* on which it devotes a considerable amount of its time. Cases of sanctioning of posts, transfers, promotion, disciplinary measures and appeals, account for a major portion of the Directorates activity in the State.

The role that the Directorate have to play in matters concerned with the Local Bodies is primarily dependent upon the conception, *firstly*, of the role of the entire system of Government in the life of the Nation, and *secondly*, on the role expected to be played by the Municipal Administration itself.

But the Directorate has not been able to work to the objectives for which it has been set up. A very active Director who conducted 'inspection' quite frequently was found to be an '*undesirable interference*' and was eased out. To avoid a policy being merely '*on looker*' and receiver of information as and when sent. So is the realization that there is a great need for setting up *Regional Directorates* and appoint *Regional Directors* to head these regional offices. For the present, two deputy secretaries, working in the Directorate have been designated *Regional Deputy Directors* but they sit at the Secretariat, Head Office itself and not at the regional office in the region. They are, therefore, unable to function effectively.

There are two other spheres in which the working has been ineffective. *First* is the creation of the *Central Property Valuation Department* as a wing of the Directorate. It has a makeshift arrangement of drawing officers from the *Town Planning Department* to serve as *Valuation Officers* at different places on an *ad-hoc* basis, which has not proved effective, nor is it a good substitute for having an efficiently constituted valuation wing. The *second* is in respect of the cadre of *Chief Officers* who have now been constituted as a cadre of Government Officers, but the Directorate is still grappling with the problem of breaking down old loyalties and defective functioning.

The structure of the Directorate is based on the *Report of Mahavir Prasad Commission* and at present the total strength of staffs at the Directorate is about *one hundred*. It includes Director, Joint Director, Deputy Directors, Assistant Director, Engineers, Accounts Officers, Administrative Officers, Clerks and Peons. (*See Table No. 4.3, Chapter IV.*)

The Directorate of Local Bodies should be expanded because of the nature and degree of work. Regional offices must be created for effective working of the Directorate. The Directorate faces many difficulties in getting information from the Local Bodies. This can be improved only by setting

other offices under the subordination of the Directorate, with legal authority to extract all information. There are numerous *legal cases* pending in different *Courts*, and unfortunately the Directorate has no legal expertise to deal with them. So, there is an urgent need to acquire legal expertise by appointing *Legal Experts* and *Law Officers*. Similar is the case with the Accounts and Technical wings of the Directorate. Quite a few cases have been detected which shows mal-administration, manipulation of financial matters like grants approved for some purposes and being spent for other purposes, to be specific, grants approved for low cost housing in two Municipalities in U.P. have been diverted to fund the payment of salaries of the employees. So there is an urgent need to strengthen the accounts system, so that the finances of the Municipal Government are regulated in the agreed manner. Same is the case with the technical wing of the Directorate, which needs to be strengthened in view of the increased technological intervention in the field of development and public services.

The Directorate mainly functions under the control of the State Government and has very few powers to exercise. Most of the powers are concentrated in State Government which also puts further limit to such an extent that the Directorate cannot take any policy decision on its own and has been left with minor powers like transfers, postings, inquiries etc. The Directorate should have independent powers regarding all matters of establishment and also some power to have an effective control over various Local Bodies in the State. The working of the Municipalities shows a greater need for decentralising powers from the State Government to the Directorate. There is a great need to post Deputy Directors in all the divisions to have effective control and supervision over the Municipal Bodies with adequate authority to carry out various policies and plan implementation programmes. Out of the sanctioned 4 posts of Assistant Directors 3 posts are lying vacant, which mars the effective functioning of the Directorate. Under the present system of working the role of the Directorate can be taken as a *mediator* or a *post*

office between the State Government and the Municipal Bodies. The Directorate has thus not been able to establish proper co-ordination between sectoral and technical department of the Government and also due to the lack of a technical cell and posting of technical officers in the Directorate. This results in inefficient functioning of the Directorate. The Directorate requires sufficient personnel to work and fulfill its obligations.

The main function of the Directorate is to control and supervise the Local bodies. But since the Chairman of the Municipality is a political man and the rest of the functionaries are also involved politically, this erodes the very limited powers of the Directorate, and the State Government comes into picture by surpassing the Directorate, when controlling of Municipal Bodies is concerned.

The function of Municipal Body is to implement developmental and various other schemes for the people of the area. Like, it has to provide sanitation facilities, development of slums, employment generation schemes, etc., for the welfare of the people and development of the area.

Presently, almost all Municipal Governments are engaged in implementing low cost sanitation schemes, *Malin Basti Sudhar Scheme* and *Jawahar Rojgar Yojna* etc. The funding of these schemes are mostly done either by the State Government or by the aid of *World Bank*. For the welfare of the employees of the Local Bodies, the Directorate had introduced many schemes such as, Pension Scheme, Beema (insurance) Scheme etc. The Group Insurance and other schemes were introduced for the employees of centralized and non-centralized services, whereas the pension scheme was introduced for the employees of the centralized services only.

In the present circumstances, where the State Government is exercising almost absolute control over the Directorate which is marring the efficiency,

effectiveness and the very purpose of the Directorate, there is an urgent need that some of the financial and supervisory powers must be transferred and delegated to the Directorate.

The very purpose of having a Directorate is defeated when important queries from the Municipalities are not attended to, or when the action to be taken by the Directorate is inordinately delayed. Such instances of difference and delay are not rare.

Doubts have been expressed about the feasibility of the scheme of bifurcation of the Secretariat and the Directorate. Instances are quite common where the secretariat including the Ministry concerned had intervened in areas, which should normally have been left for the Directorate to take decisions. In such cases, the Directorate has virtually been reduced to a non-entity. Another important point relates to the personnel of the Directorate both at headquarters as well as at the field. The Municipalities expected that the officers responsible for supervising, assisting and advising the Municipal Bodies should be well versed in their jobs and temperamentally and technically suited to undertake the responsibilities. Many a time, however, the over bearing attitude and lack of a sense of dedication among the officials of the Directorate are understood to have prevented '*entente cordiale*' between the Municipal Bodies and the Directorate.

The significance and role of Urban Local Governments, as an integral part of Local Self-Government has substantially increased with the advent of independence. Consequently they could not remain only field agencies for the development and maintenance of civic services and for the execution of National programmes in their respective areas but they were also called upon to act as primary units of democratic Governments. There is, however, a common feeling, that they have failed to achieve the twin objectives referred

to above. The expected role of the Urban Local Governments to act as a forum of political education has not been realized at all. Democracy rests on the assumption that a Government is basically an affair of the people and that all the problems are to be solved with fuller participation and consent of the people. The Municipal Committees and Corporations have unfortunately failed to perform such a role since their supersession have been rampant and they have not been resuscitated for years, and elections to some of them have not been held for decades ever since their inception.

The people all over the country feel that the Urban Local Governments have failed to meet their aspirations. The general level of administrative efficiency has been deplorably low, the standards of civic amenities have been disgusting, factionalism, and groupism have been vicious; corruption and graft have been an endemic; a healthy civic ethos has not evolved; right type of civic leadership has not developed and, morale has been, by and large, at very low ebb.

Our Urban Local Bodies are hampered in providing even the minimum basic needs by a structure that is 117 years old and their system of functioning which is equally ancient. While *Article 40* of the Constitution casts a mandate on the State to ensure the working of village panchayats, there is no specific corresponding mandate regarding Urban Local Bodies. These are, however, specified in *Entry 5* of the *State List*. The *Central Council of Local Self Government and Urban Development* has passed several resolutions about the need for the constitutional recognition of Local Bodies and for *statutory delineation* of their powers, functions and resources. The *All India Council of Mayors*, as also the *National Commission on Urbanization*, has stressed the grant of constitutional status to Urban Local Governments. The absence of adequate constitutional provision for Urban Self-Government had landed Municipal administration in a mess in most parts of the country. The Urban Local Bodies, therefore, need to be granted a constitutional safeguard for their revitalization.

There is no generally accepted set of criteria regarding even what constitutes

an urban agglomeration, let alone the manner in which it should be run. The colonial categorization of India with separate rural and urban India and devising separate sets of structure for them does not suit our country any longer. In the colonial system of Municipal administration, there was no place for *development planning* and no role for *development activity*. The development of India is not possible without planning for development in our urban settlements, as much as in our rural settlement. Indeed, planning as the crucial interface between the rural hinterland and the urban settlement will be the chief progenitor of accelerated growth. There is, therefore, the need for a linking structure between the rural hinterland and the urban growth centre and to achieve this, the existing structure needs to be recast with 'Nagar Panchayats' representing transitional structure, establishment of *two tier system* for the medium size towns—the lower tier comprising the small elected unit for each locality, *ward* or *mohalla* to whom the Municipality will devolve local powers, local responsibilities and such finances as are required to carry out their assigned tasks; and a *three tier system* with intermediate tier corresponding to the *Borough Council* in Corporation areas, which could have functions similar to the administered zones which exist in cities like Bombay and Delhi. This measure would facilitate democratic decentralization, more effective participation and more responsible Municipal administration.

Elections to Municipal Bodies as mentioned earlier are not held for decades after their coming into being or at regular intervals thereafter, and to the superseded Municipal institutions for an indefinite period. The State Governments' well developed allergy for local elections stems from the reasons that they become the barometer of the political parties' standing with the masses; the State Governments feel safer and more secure to deal with bureaucracy placed at the helm of civic administration than with the popularly elected Councilors, and Corporations and Municipal Bodies run on a system of graft and patronage cannot stand scrutiny by elected bodies. The State Government has thus been able to insulate civic administration from the people and run it by edicts from the State Capitals. In order to ensure the functioning of democracy at grassroot level, it should be obligatory for the State Government to hold elections to Local Bodies at the expiry of the term of the Council and no extension should be granted to their

tenure and they should not be superseded without judicial scrutiny and elections should be held within a period of six months of suppression.

The device of co-option is intended to avail of the services of public spirited and seasoned persons who refrain from fighting elections due to the inconveniences involved with it. But, unfortunately, this device is exercised to get berths to their supporters by the political parties commanding majority in the Councils. It would be desirable to make use of this provision by co-opting the right type of people irrespective of their party affiliations to serve the best interests of the inhabitants of the town/city. Direct elections of the President/Mayors (as being done in some of the States) would be more democratic as compared to indirect elections and, therefore, should be preferred. The election of sub-committees on the basis of proportional representation system and devolution of powers on them will further improve the functioning of Civic Bodies.

Municipal Committees and Municipal Corporations are assigned by the State Government a large number of functions of almost identical nature, with the only difference that the Municipal Corporations have been endowed with greater powers and finances. The functions are classified into obligatory and optional, the former are concerned with the minimum basic needs of the city people such as paved streets, metallic roads, drainage, sewerage, lighting and water supply, while the latter aim at improving quality of their life by providing facilities as gardens, swimming pools, playgrounds, stadium and other recreational facilities, institutions of higher education, libraries, reading rooms, cultural and art galleries, tourist resorts and other programmes for the beautification of the city. After Independence their functions should have increased to tackle the problems of tremendous increase in urbanization and population and to achieve the objectives of a socialist and welfare State to which our polity is committed. On the contrary, the Municipal Bodies have suffered a great setback in the steady diminution of their functions which have either been taken over by the State Governments themselves or transferred to special purpose agencies on the pretext of their inefficiency and inadequacy of resources.

It is regrettable that the performance of Municipal Committees has been disappointing in carrying out even their obligatory functions, compared to their discretionary functions. They have not been able to provide basic civic amenities to their population generally and especially in the suburbs which comprise of unauthorized and unplanned colonies accommodating almost 50 per cent of their population, piped water supply and sewerage facilities have covered only a minority of the population, roads are in deplorable conditions, encroachments are galore, unsafe buildings continue to constitute a constant threat to the lives of the inhabitants, stray cattle are on the increase, traffic hazards are inhabiting, insanitation and unhygienic conditions in the form of heaps of garbage are a nuisance even in posh localities, and slums have emerged in almost all parts of the cities.

The cities can be restored their pristine glory and made livable if the State Governments make a judicious selection of functions to be assigned to them and do not impose upon them such functions as transport which have proved a great liability for every city: and make adequate provisions for finance, the lack of which has rendered many Municipal Bodies unable to take up any development work in their respective areas. It has been rightly observed that *devolution of powers and functions necessarily involves devolution of finances also*. The State Governments, therefore, should observe this principle if they want the urban bodies to discharge their functions effectively.

Municipal services were provincialised by States with a view to eliminate the evils of nepotism, favoritism and political patronage of a separate personnel system and to ensure their efficient performance. But unfortunately this innovation seems have failed to realize the desired objectives of *recruitment on merit* by a *Centralized Selection Committee/Board*, better avenues of promotions, more favorable conditions of service including transferability, etc., due to the reasons that *Municipal Services Selection Committees/Board*, dominated by *ex-officio* bureaucrats and experts nominated by the State Government without the exclusion of any public men, fail to inspire confidence of a *fair recruitment*. The importance of training for the Municipal Staff has not been realized as no training facilities have been made available in most of the States by

establishing training *institutes*. The *pay scales* are not comparable with those of the State Services. The transfers are done at the whims and fancies of the bureaucrats.

Municipal finances are in an unmitigated mess, due to the failure of the Municipal Bodies to impose and revise different kinds of *levies* and *taxes*, evasion of municipal revenues, accumulation of arrears into cores of rupees, meager amount of grants, their non-utilization or diversion to purposes other than those for which they were sanctioned, rigid stipulation for raising of loans with the prior approval of the State Government and Reserve Bank of India and the non-seriousness on the part of the State Governments to either determine or siphon off the Municipal Bodies' share, despite statutory provisions.

Financial stringency has become the biggest hurdle for almost all Municipal Bodies on account of ever increasing expenditure on establishment which has gone up to about *60 per cent* of their income, virtually no money is available for development work; Municipal Committees of many small towns even find it difficult to disburse salaries to their employees in time; many civic bodies have not been able to provide even the basic civic amenities in the areas which have been included in their jurisdiction during the last couple of decades, these suburbs, in many cases, have no arrangement even for scavenging of streets, the facility of piped water supply and sewerage systems; Municipal Committees have defaulted the payment of their share of the cost of water supply and sewerage works carried out in their areas. Some Municipal institutions are facing great financial crisis and a few of them are virtually on the brink of bankruptcy.

Municipal Bodies can overcome their financial crisis, if the elected members of the Municipal Bodies exploit to the maximum possible extent, the resources which they are empowered to determine and raise, if evasion of municipal revenues is checked and leakage is plugged by raising flying squads, and by deploying municipal police and municipal magistracy for expeditious decisions of cases as these have been found to be quite effective in some municipal bodies; grants-in-aid are liberalized, system of special matching grants is introduced and loans procedures are simplified and

Municipal Bodies are allowed access to commercial banks; they are assured of their share in revenues accruing to them under the statute by the State Government; are encouraged to take up remunerative enterprises, exercise economy in expenditure; A Revolving fund, a Municipal Finance Corporation, an Urban Development Finance Corporation, similar to the National Bank for Agriculture and Rural Development (NABARD) which has functioned with great success in rural India, are set up to help them in meeting their financial needs as also Municipal Finance Commission is constituted on the lines of National Finance Commission to review municipal finances and recommend principles on the basis of which sound finances of the municipal bodies can be secured.

It has been a continuous curse on our Urban Local Bodies that they have been under the control of State Governments and their bureaucracy. The State Governments have always treated them as appendages to the departments. Despite the constitution of Directorate of Local Bodies and the establishment of its field agencies, the Deputy Commissioners continue to exercise their erstwhile powers with the same vigor. It is because there is no clear cut demarcation of powers of the Regional Deputy Directors and the Deputy Commissioners, and sometimes their jurisdictions and functions overlap resulting in confusion and inefficiency.

Suppressions, the most obnoxious type of control, have been rampant, arbitrary and prolonged. Some Municipal Bodies have remained superseded for decades. Elections to some of them have not been held even since their inception. The Local Self-Government institutions have thus become defunct, moribund and non-existent. The Urban Local Bodies are at the mercy of the State Government for their finances, inhibited as they are in matter of imposing or raising taxes, etc. without Government approval, and depend on the State Government for the sanction of loans and allocation of uncertain and meager grants and face similar rigidities in matters of expenditure. The State control over civic bodies has thus been restrictive, negative and oppressive. It is high time to grant them democratic freedom to function independently and to provide them guidance and co-operation in managing their own affairs. Resort to suppression should be made very

sparingly subject to the approval of the State Legislature and dissolved bodies should be reconstituted within six months.

Finally, the judiciary, which plays an important role in securing justice to the aggrieved parties against the arbitrary and unlawful actions of Municipal Bodies and State Government, should *inter alia* ensure expeditious justice. Establishment of *Municipal Courts* could be one of the means to achieve this objective. In short, the Government control should not be so meticulous or minute as to destroy the autonomy or self-reliance of Urban Local Bodies; rather the purpose of State control should be to develop the Local Self-Government institutions as efficient institutions of administration capable of formulating policies and executing them.

However, forcefully with logical, cogent and canvassing arguments we may deny and decry the participation of political parties in Municipal Governments, *inter alia*, for the reason that civic affairs being non-ideological and concerned with improvement of civic life of the people should not be conducted on partisan basis, yet we cannot afford to be oblivious of the fact that political parties do involve themselves overtly or covertly in civic affairs. They operate at two levels. *First*, the political party wielding power at the State level acts as the arbitrator of the fate of Municipal Bodies by their partisan decisions in determining whether election for them should be held or not, notifying or withholding the notification of the elected President, removing or disqualifying the Councilors, making appointments, effecting transfers and removing Executive Officers and other Municipal staff, accepting or rescinding the resolutions of Municipal Councils and finally superseding them and postponing their election for indefinite periods.

Political parties operate within the Municipal Bodies themselves. Political parties contest elections by putting up their own candidates or extending support to independents, elect the Chairman and Vice-Chairman on party lines, co-opt the members from their own parties, constitute sub-committees on party basis, and take decisions on various issues on party considerations. The Chairmen exercise their casting votes to promote their party interest and political considerations are the determining factor in recruitment and

promotion of Municipal employees and for taking disciplinary action against them. Above all, political parties indulge in the pernicious game of defections resulting in the erosion of ethical values, changing the complexion and character of political set-up in the Municipal Council and leading to rise and fall of office bearers and deterioration in Municipal Administration.

In view of the fact that political parties play a significant role in Municipal administration, their participation in civic affairs should be given due recognition; and they should play a constructive and healthy role by laying down proper norms and rules for nominating their candidates for election, actively campaigning for them on relevant issues, educating them for the faithful execution of their responsibilities for the welfare of the citizens, exercising control over them and taking action against them if they are at fault. Similarly, the party in power in the State should consider the interests of the city people to be supreme and they should decide the civic issues on their merit and not on party lines. Such an approach on the part of the political parties would go a long way in mitigating the vices of political intervention in Municipal Administration and in ensuring the promotion of a healthy civic life.

In order to remove the defects and deficiencies in the construction, composition, functions and powers of the Municipal Bodies and to revamp and rejuvenate them so as to enable them to Work as an efficient and an effective democratic institution, the *Constitution (74th Amendment) Act, 1992*, relating to Municipalities (known as the *Nagarpalika Act*) was passed by Parliament in the winter session of the Parliament in 1992 and it received the assent of the *President on 20th April 1993*. The act seeks to provide a common framework of the structure as effective democratic units of Local Self-Government. It is expected that the faithful implementation of the various provisions of this Act will absolve the Urban Local Governments of their infirmities and shortcomings highlighted in the foregoing discussion of their unsatisfactory performance.

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CHAPTER - VII

***RELATIONSHIP BETWEEN
THE DIRECTORATE & THE
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Local Government: The Reality

Local Government is defined by *Goulding* as "the management of their own affairs by the people of a locality."¹ In the words of *Harris*, it is a Government by the people themselves through freely elected representatives.² According to *Venkataramia*, "it is the administration of a locality by a body representing the local inhabitants."³ Professor *W.A. Robson* observes "that local Government presupposes the existence of a local authority as well as the participation of the local community in the administration of its own affairs."⁴

These definitions of local Government reflect the crucial significance of participation of people in the management and administration of their local affairs through their periodically elected representatives, Municipal Councilors, and their own frequent involvement in the formulation and implementation of development plans for their locality and the provision of civic amenities for their better living. Thus, the concept of peoples/community/public/citizen participation in Local Government is of more importance for the successful functioning of a local authority. *J.S. Mill* and *Lord Bryce* also stressed the importance of Local Government because of its most important element *viz.* that it affords the facility for the active participation of people.⁵ Local institutions cannot make much headway without the involvement and cooperation of the citizens it seeks to serve. Citizen participation not only enhances the dignity of the individual and sense of community at all levels, but also adds vitality to the Government programmes.

Citizens' participation makes the programmes more responsive and better adapted to local needs. The importance of Local Government also lies in the involvement in public affairs not only of those who are elected but also indirectly of the citizens at large who elect them and to whom they are ultimately accountable. People's participation is, thus, the *sine qua non* of the success of Local Government. Citizens' interest in local administration, unlike the higher levels of government, i.e., Central and State Government is greater because Municipal Government is closest to the people, and it is this intimate Government — citizen nexus that justifies the existence of Local Government and the manifestation of democracy at the grassroot level.

What exactly we mean by citizens' participation in local affairs becomes rather enigmatic because everyone interprets this term in his own way. The interpretation ranges from taking passive interest in local affairs by reading newspapers, listening to radio, viewing TV and discussing local matters with others, taking part in political activities like attending meetings, conferences, etc. and participating in processions and demonstrations. It may even include protest actions like strikes, sit-ins and the like. It is through participation that citizens at large are associated with the decisions taken by the Government. Participation can be at various levels and by different sets of people on different issues in each case drawing different segments of community. It may be manifest in different degrees of intensity.⁶ Broadly speaking, the word 'participation' is used to refer to the role of members of general public, as distinguished from that of appointed officials, including civil servants, in influencing the activities of Government or in providing directly for community needs. It may occur at any level — from the village to the country as a whole. It may involve decision making, as in the case of Governing Bodies of local authorities; and it may extend to actual implementation, as it occurs when villagers/town dwellers decide to carry out a community self-help project. The participation may be direct, as in

community projects and in the work of private welfare organizations, or it may be indirect, through elected officials or representative bodies responsive to public opinion. Individuals may participate through *Non-Governmental or Statutory Bodies*.

The extent of participation - whether direct or indirect will ultimately depend upon citizens', access to information and opportunity of presenting their views to elected representatives.⁷ As Local Government's activities expand, they have more extensive and frequent impact upon people at the local level. The Councilors should be prepared to provide more information to the citizens in order to justify their decisions. Yet, as the size and range of Government activity has grown, the elected representatives have less opportunity to provide with such information and justification. The need for supplementing means of involving the citizens in local decisions has been precipitated as much by the expanding activities of local authorities as by public pressure. The pressures indicate the inability of the current procedures and institutions to cope with an increasingly articulate public. It is rightly observed. '*It is impossible that people should be able and know what they are able to exert some influence on local decisions affecting their own lives (and) if the democratic process is to flourish, there must be ready access to full information about a local authority's activities.*'⁸

The Impediments

Despite the acknowledged and recognized acceptance of the role of peoples participation in Urban Local Governments for the achievement of the objectives of their serving as training ground for democracy, the provision of civic amenities and services to the citizen and the development of cities and towns, the people's involvement in Urban Government has been insufficient and even conspicuous by its absence in some cities, and the people have been indifferent; disinterested, apathetic, and even disgusted

and alienated to urban administration. Such a state of affairs can be attributed to the following factors/ reasons:

1. Lack of Able Leadership and Poor Image of Elected Members:

In the past our Urban Local Governments had leaders of national eminence and stature like *Ferozeshah Mehta, Moti Lal Nehru, Jawahar Lal Nehru, Subash Chandra Bose, Vallabh Bhai Patel, Lala Lajpat Rai, etc.*, who were shining examples of sober and healthy Municipal politics and restored to these institutes the authority and the dignity they deserved.⁹ But our Urban Governments now suffer from dearth of able leadership. The Municipal Councilors of today are unqualified some of them illiterate, semi-educated, and devoid of a spirit of dedication and service. Various researches made in respect of Municipal leadership confirm that the Councilors belong to particular social strata and many qualified persons, professionals etc. do not seek elections to local bodies. As such the standing of the people's representatives in local bodies is not high in the eyes of the people. Further the Councilors are not reticent while they exercise their power or claim their privileges. They also do not hesitate to throw their weight around. They thus fail to endear themselves to the people. They also do not even find it necessary to report to the electorate on their performance as their representatives. This results in the creation of a negative image of the local bodies which needs to be converted into a positive one, if we seriously and sincerely mean to make grassroot democracy a success in India.¹⁰

2. Misconception about Government's Obligations:

People generally have the misconception that the Government has the responsibility to perform every possible function for their welfare and better living. The modern tendency is to expect the Government to do everything for the people and they must get maximum benefits at

almost no cost. This wrong thinking on their part also renders the people indifferent and callous towards local bodies.

3. Lack of Attachment of the people with City Government:

It is a common feature of city life that quite a substantial part of its population tends to look at the city merely as a place for earning money and they would likely go back to the distant villages or towns to which they originally belong. Loyalty to the cities grows out of continual urban living, but many of our urbanites have still their firm roots in remote villages or small towns. The citizens have, therefore, little attachment with the Municipal Government. The citizens, in general, exhibit an attitude of aloofness, or even hostility at times, which is a peculiar personality trait possibly reared by the primary social groups such as family and communal groups.

4. Attitude of Bureaucrats towards the General Public:

One main factor responsible for alienation of people is the attitude of the bureaucrats at all levels of Government including the Local Government towards the public. The Municipal bureaucracy acts in a bureaucratic and autocratic manner and underestimates the intelligence and capability of the people to offer any suggestions for improvement of city administration, development programmes, and betterment of services and does not hold them fit enough to participate in decision making. They do not extend the normal courtesies to the people to which they are legitimately entitled. The officials forget that they are 'public servants'. This attitude frustrates the people and results in the loss of their interest in Municipal affairs.

5. Lack of Homogeneity in the Population of the Cities:

In India, due to linguistic, religions and community diversities, individuals in big cities tend to move with their narrow community

groups. Unless a locality has a culturally homogeneous population, it is doubtful if the people in the city would intermix socially, and own the city community belonging to them as one.

6. Absence of Continuous Contact of the Councillors with the Public:

It is unfortunate that people are approached by the prospective candidates for election to Municipal Bodies at the time of elections only. People are considered as only *vote banks* by them. Once the Councilors are elected they do not bother about the electorate. They seldom visit their wards to know about their needs and grievances. They do not create awareness in them about their responsibilities in paying for the benefits of the city living through appropriate taxes and other charges and observing discipline and helping in the management of services such as better solid waste management or traffic management.¹¹

7. Lack of Consciousness and Awareness Among People About Their Role in Municipal Affairs:

The people because of their illiteracy and ignorance are not aware and conscious about their rights and obligations and the role they are expected to play in the administration of Local Bodies, nor does the Government or the elected representatives make any serious efforts to create such awareness among the people through various means. The Government does not take the public into confidence while making plans for their well-being. It just meets the legal requirement of publishing notices in the Government gazette or newspapers or by some other means of making it known that a certain plan is under preparation or some changes are in the offing, etc., and it does not involve the people in decision making in respect of the plans, projects or schemes. The people are, thus, denied the opportunities for participation in the proposals affecting their lives.

8. Rampant Corruption:

Our Municipal Governments have become synonyms of corruption, favoritism, nepotism, and inefficiency. The common people have to experience a lot of inconvenience, disappointment and frustration when they have to get their building plans sanctioned, water meters and connections installed, inflated water, and sewerage bills corrected, and to procure licenses and are obliged to run from pillar to post to get their legitimate demands enquired into and accepted by the Municipal authorities, and to realize in the end that they cannot get justice without greasing the palm of the Municipal officials and sometimes the Councilors. They learn, to their shock, that it is only the well-to-do, influential, and elite sections of the society who are favored with better quality of services of paved streets, metalled roads, abundant uninterrupted water supply and other benefits for better living. All this tends the people to lose faith in the Municipal agencies.

9. Appalling Poverty:

One of the major impediments to civic consciousness and people's participation in Local Government is the appalling poverty and living conditions in all our big cities. With the exception of a small minority of affluent class, the public in general have been used to face almost a perennial scarcity of essential civic amenities like water, roads, schools, and even burial grounds. On top of it, slums are an endemic phenomenon where urban poverty assumes the ugliest scene. Good citizenship and people's participation cannot be expected to emerge from bad living environment.

10. Existence of Numerous Local Authorities:

The Government has the tendency to set up more and more urban authorities like Trusts, Housing Boards, Water Supply and Sewerage Boards, Pollution Control Boards, etc., to provide the services to the

people which primarily belong to the Municipal Governments themselves. This fragmentation of administration does not only cause problems of co-ordination, but also confuses citizens who have to approach a number of authorities to get their work done. This arrangement erodes the authority of elected Municipal Bodies and discourages the citizens for participation in the sphere of activity of Local Government.

11. Defunct Public Relations in Municipal Administration:

Public relation is defined by 'J.D. Millet' as "*knowing what the public expects and explaining how administration is meeting their desires.*" This activity on the part of Local Governments assumes great significance as the people being in close touch with the administration would be eager to know its achievements regarding the satisfaction of their needs, and the constraints if any, which hinder the Government in meeting their aspirations. Most of the Municipal Bodies are deficient in this important aspect of their organization. They do not possess a machinery or agency to cultivate relationship with the public and to inform them about their activities through various media of publicity. In the absence of such needed activity, the people fail to appreciate the achievements or failures of their Local Bodies and, therefore, do not evince any interest in their affairs.

12. Absence of Effective Machinery for the Redressal of Grievances:

People have numerous grievances against the local authorities for their acts of omission and commission, denial of their rights, perpetuation of injustice, never-ending delays, non-provision of civic services, non-grant of building plans, licenses, water, sewerage connections, overcharging in the bills and their rectification, etc. but they have no specific agency/authority in the Local Bodies to listen to their

grievances, entertain their representations and petitions and to give them expeditious justice.

13. Vicious Role of Political Parties:

The people are fed up with the vicious role of political parties in the administration of Local Bodies, as is manifested in the decisions being taken on partisan and political consideration as against on merits of individual cases, favours being shown to the residents of the wards belonging to the Councilors of the party commanding power in the Municipal body/State Government at a particular time, persons indulging in evasion of taxes going scot free, infighting among the Councilors and suppression of elected Municipal bodies exclusively on partisan considerations. It is desirable that political parties, to participate in the elections and management of the affairs of the Local Bodies should play a positive and constructive role and not interfere in Municipal affairs to promote their partisan interests. They should work for the interests of the entire local community. Once the people are convinced of the role of political parties contributing to the overall development of the town/city and well being of the whole community, they are bound to evince interest in Municipal Bodies and actively participate in their activities.

14. Inefficiency of Municipal Administration:

The alienation of citizen is also, to a large extent, a direct result of inefficiency on the part of Municipal administration. Several studies on Municipal administration have come to the conclusion that our Municipal Governments are in a bad shape. The *Rural-Urban Relationship Committee (1966)* has expressed a *sense* of despair and lack of confidence in the capacity of the Local Bodies to tackle the problems that is faced by towns and cities. The image of a Local Body in the public mind is that of inefficiency, maladministration, delay in

services and corruption. Such an image and poor performance of functions by the Local Bodies have further accentuated the indifference of citizens towards the affairs of the Local Government.¹²

The cumulative effect of the factors mentioned above has resulted in the alienation of people by local administration and the dilution of their interest to participation in local affairs.

The lack of interest and participation of people in Local Government and administration as discussed above, however, should not lead us to conclude that the people do not possess the capability, potential and will to participate in local affairs. These qualities they possess in abundance and have exhibited them by participating in the affairs of Local Bodies in various forms, such as constituting *Citizens Councils* for the ventilation of their needs, expectations and aspirations, taking up certain activities for keeping their localities clean, owning various roundabouts and road crossings for their beautification, improving environments, through planning projects and programmes and taking follow-up actions by the environmental societies, dumping of garbage and solid wastes at fixed places, cleaning of holy tanks through *kar-sewa*, desilting of public pools and lakes (*viz.* Sukhna Lake in Chandigarh), and forming voluntary organization to help the people in distress who are affected by epidemics and natural calamities like floods, fires, droughts, earthquakes, and migration related activities and observing health and sanitation days and weeks to create awareness among the people about their obligations to keep their surroundings, streets and roads, clean and so on. The potentials of the people for participation in local affairs need to be exploited to the maximum.

Our Urban Local Governments, faced with the daunting task of providing physical and social services and gainful income opportunities to about 700 million urban poor estimated to be living on the onset of the 21st century,

almost financially bankrupt and organizationally stagnant, unable to raise the resources required to extend and maintain services to the deprived sections and areas, unable to reach out for support in appropriate forms due to legal, structural, attitudinal and procedural constraints; and most of them unable and ill-equipped to draw upon people's internal resources, creativity and initiative, confronted with general resource constraints in a situation of competing priorities in other sectors and fields, recognizing the limitations of voluntary effect in effectively reaching out to large numbers in a sustained manner, in diverse roles and services, the Urban Community Development (UCD) projects appear to be useful instruments to reach out, to organize, deliver services to, and integrate low income communities with the mainstream of city life. Community participation in Urban Community Development projects may, therefore, be discussed in some details.

The most significant effort on the part of the Government to achieve community participation on a sustainable basis in the urban sector is through the *Urban Community Development (UCD) programme*, started in 1952. *The United Nations Organisation (UNO)* has conducted a number of studies regarding the various aspects of community development programmes, i.e., programmes to stimulate self-effort, to provide technical and material help to make such efforts effective and to associate people generally with Government activities.¹³ Urban community development is designed to function as a part of the local body and is viewed as a link between the people and the Municipal Body.

The staff is given scope to develop activities according to the needs of the people and to cover activities normally not covered by the Local Bodies. The aim is to create strong communities with their own leaders who would plan, finance and carry out self-help projects in the problematic urban areas. To achieve this, local voluntary organizations are strengthened and middle level agencies/committees are set up. The project activities are guided by

the assumption that the neighborhood, no matter how poor, can do something to improve itself by its own efforts, and that any approach for outside help should be resorted to only after it has exhausted its own resources fully.

The *Third Five Year Plan* had mentioned the need for each city to mobilize its own resources to help create better conditions for its citizens and placed emphasis on the need for and the potentialities of urban community development. The Rural Urban Relationship Committee had reported that there was a lack of awareness among people that the Municipality was there to serve their needs. It had stressed the need for constant discussion of local problems and need, so as to help people verbalize their felt needs, to motivate, change and encourage people to exercise their own initiative in planning and carrying out important projects. The then Ministry of Health, Family Planning and Urban Development had formulated a scheme based on these recommendations which was viewed as a continuation and expansion of the experimental work that had already commenced. The country's two most successful UCD projects have been in Hyderabad and Vishakhapatnam. The Former attempts to cover the entire slum population and other low income home dwellers (about a million people in the city) and tries to deliver 'multiple services, such as housing, slum improvement, education, health, nutrition, child care, family welfare, income supports, community organization, etc by channelising resources of various Government and Non-Government organizations and also by mobilizing the community's internal resources through participatory work practices.

Possible Remedies to Reform the System

Despite the desirability, advisability and rationality for people's participation in Urban Local Governments, barring a few exceptions like the Urban Community Development (UCD) projects and the activities of some

Non-Governmental voluntary agencies, not much planned effort is visible, either to involve people in urban development processes, projects and schemes, or even to offer them incentives to find their own solutions for local problems. The following measures can go a long way' in encouraging, motivating and ensuring people's participation in Urban Local Government to the desired extent:

1. Municipal bureaucracy has alienated the public due to their inaccessibility, rigid adherence to rules, regulations and procedures and arrogant attitude due to their misconception of being 'big boss', the legacy inherited from the alien British rulers which is out of place in a democratic and free country. The bureaucrats, therefore, need to change their attitudes towards the people, so as to reflect that they are public servants as well as friend, philosopher and guide of the people, easily accessible, helpful and sympathetic to them. This will stimulate the interest and involvement of people in civic affairs.
2. The Councilors should maintain regular and frequent contacts with the people of their respective constituencies/wards by visiting them as often as possible to acquaint themselves with their needs, expectations and aspirations and to report to them about the interest they are taking in the development of their area, and providing better living facilities and explaining to them the constraints they are facing in implementing the programmes and executing the projects for achieving the objectives of a good Local Government.
3. The role of Public Relations is to inform the public about the programmes and activities of the Government undertaken for their welfare and to feed the Government about the expectations and aspirations of the people. Unfortunately, proper attention has not been given to this important aspect of Municipal administration. Unless the

citizens are imparted proper information, they cannot be expected to evince any interest in the affairs of the Municipal Government. It is, therefore, imperative that a regular system of communication between the citizens and Municipal administration is set up, and citizens are informed about the civic problems, plans and development by the Public Relations Department/agency of the Municipal Governments through communication media like radio, television, leaflets, brochures, journals, meetings, seminars, and group discussions. This will facilitate the communication of information to the citizens, arouse their interest and generate their participation in local affairs.

4. Educational institutions, such as schools and colleges can play a significant role in inculcating the spirit of contributing fully to the fulfillment of the essentials of civic life and the cultivation of habit of a good citizen in one's self as to create them in others. Students form the core citizenship and happen to be at the critical stage of habit formation. The school can, therefore, play an important role in cultivating virtues of good citizenry including the sense of participation in civic affairs. The teachers and the local leaders can mobilize students in cleanliness drives and adult education. They can adopt certain localities for their activities and enlist public support as well in their endeavors to keep the environments of the neighborhood clean and fit for healthful living. The high school and college students are rendering appreciable services in providing civic amenities and educating the public about their obligations to local bodies under the *National Service Scheme (NSS)* by organizing campaigns for eradication of illiteracy, imparting information about various development and welfare programmes of civic bodies and enlisting public support.
5. Citizens imbued with the spirit of service and civic sense form non-governmental organizations/voluntary agencies to formulate and

implement various plans, projects and programmes for the development of urban areas and welfare of citizens on their own with the support of the Local Governments. These programmes include development and improvement of slum areas, running of institutions for removal of illiteracy, welfare of women and children, and also the deprived and disadvantaged sections of society, welfare of the disabled and the aged living in various territorial areas of Local Bodies. Voluntary organizations spring up spontaneously when we are threatened by a great emergency like external aggression or natural calamities. There is a need to strengthen the existing voluntary organization and to establish them in the areas where they do not exist at present to promote citizens participation in civic affairs.

6. The institution of *Ombudsman* to receive complaints about injustice and mal-administration from aggrieved persons against the administration was set up in *Sweden* in 1809 and has, since then, been established in numerous countries. Since the citizen's dealings with the Local Government is closer and more frequent, *public administration* at the local level becomes of crucial importance, and since the institution of *Ombudsman* has been found useful by many countries at different levels of Government, there has been a feeling that this institution may be of great help to the citizens at the local level too.¹⁴ *Ombudsman* surveillance of activities of Local Government, was introduced in *Sweden* in 1957, and in *Britain* in 1974.¹⁵ The creation of an *Ombudsman* for Local Government in our country would substantially contribute to the speedy redressal of grievances of citizens and promote their participation in Local Government.
7. A citizens' consciousness regarding his rights as well as responsibilities is essential for the proper functioning of an administration. This is all the more important for the success of Local Government which is founded

on the principle of people's participation in local administration. But, unfortunately, the citizens are not conscious of their rights and responsibilities *vis-a-vis* Local Government. It is, therefore, essential that necessary measures should be taken to create awareness among the citizens about their rights and duties in order to make Local Government a success. The relationship between the citizens and Local Bodies should be based on mutual understanding, responsiveness and co-operation and that is possible only when citizens are conscious of their rights as well as duties.

8. Local inhabitants have multitude of grievances against Local Government such as unhygienic and unsanitary conditions, water scarcity, upkeep and maintenance of roads with particular reference to the maintenance of pot-holes, street lights, cattle nuisance, lack of transport and communication facilities, lack of medical facilities, lack of educational facilities, lack of recreational facilities, delay in sanctioning building plans, over-charging of water and sewerage services bills, etc. The Municipal authorities are callous in matter of even entertaining genuine grievances and redressing them, amicably, promptly and properly. The citizens have to bribe the officials to get their rightful demands accepted and grievances redressed. This causes frustration and disgust among the citizens and alienates from the administration. It is therefore desirable that proper machinery should be set up to look into citizens grievances and redress them speedily and effectively so as to create confidence and goodwill among the citizens and the local authorities and to promote their participation in the local affairs.
9. The structure and organization of our Urban Local Governments is more than one hundred years old. It needs to be restructured and re-modeled in order to facilitate citizen's participation in Municipal affairs. Instead of keeping a range of allied civic services in the hands of a single,

compendious Municipal Government, the general tendency in our country is to create a number of *competitive local authorities*, mostly without any popular base, each having control over specific functions. Concentrating all the civic functions in one single Municipal authority, a system of two tier Municipal Government on the federal principle of distribution of power between the Centre and its constituent units and elective group at the local level and the city level, are sure to widen the scope for popular participation. These suggestions for the revamping and reforming of Municipal Governments have been given due consideration and incorporated in the Constitution 74th Amendment Act 1992. This will help citizens to take adequate interest in the Municipal affairs.

10. The alienated citizen is, to a large extent, a direct result of Municipal administrative inefficiency. There is no denying the fact that the Municipal administration works under many constraints. Yet, the average citizen can be won through the efficient delivery of essential civic services. A good park, a good road, adequate water supply, a timely sanction of building plan - are direct routes to the citizen's heart. The best way of winning the confidence of citizens is to make Municipal administration, service oriented. Red tapism and rigid bureaucratism are incompatible with Local Government administration. Promptness and a greater degree of informality are expected of Municipal administration because of its location at the local community level.

11. The interference of political parties in Municipal Government and administration has damaged its image and has been responsible for the alienation of citizens to Local Bodies. It is rightly complained that the management of Municipal affairs is very much dominated by group and party politics. It is also alleged that the sanction of various development work is delayed because of the anxiety of the Councilors to benefit sectional interests. People's participation in Municipal affairs can be

ensured if the political parties refrain from promoting the interests of their respective constituencies and work for the well-being of the entire local community. The party in power in the State Government also needs to decide local issues on their merits and not on partisan basis. The confidence of the people can be won if they are convinced that political parties are immune from the vices of groupism, favoritism, and nepotism which are generally associated with them.

12. Municipal administration suffers from weak and incompetent leadership. Municipal Councilors, who are expected to provide strong and capable leadership, are lacking in the qualities of good leadership, viz. integrity and honesty, selflessness and responsiveness to public. They are not only deficient in intelligence, intellect and integrity, but also instrumental in encouraging corrupt practices. Many of them have been found to be corrupt and removed from the membership of the Council. They are parry to unauthorized constructions, encroachments, leakages of taxes and violation of Municipal rules and regulations. Mayors and Chairmen also do not inspire confidence among the citizens as they work on partisan basis. The Municipal bureaucracy consisting of Municipal Commissioner/Executive Officers and other officials who are to act as leaders and seek the co-operation of the public, also fail to win over the people because of their bureaucratic attitude and lack of sympathy with the citizens. A strong and competent leadership is, therefore, necessary to inspire people's confidence and participation in Local Governments.

Significant Suggestions given by various Committees

The following recommendations were made to ensure and facilitate people's participation in the formulation and implementation of programmes and projects to meet their needs and to improve the civic services.¹⁶ The

Directorate of Local Bodies has the *Herculean task* of facilitating and implementing the following recommendations in their true spirit:

1. Initiating *Urban Community Development (UCD)* projects through the Municipal Bodies in cities with a population above 5,000, with necessary changes in their organizational structure, mandate, financing arrangements and institutional linkages.
2. Designing UCD projects as effective instruments to reach out to, motivate, service and organize the urban poor, and as agencies for co-ordination and convergence of service delivery and poverty alleviation schemes, and projects and programmes of different Government and Quasi-Government agencies.
3. Ensuring that the mandatory public hearing process, before finalization of the city development plan, is effectively gone through, without anyone in any way being benefiting from the process.
4. Strengthening the Urban Local Bodies by holding popular elections whenever they are superseded; improving the financial positions of Local Bodies; and making necessary changes in *Laws* governing the working of the Municipal Bodies, systems and procedures to enable them to utilize the skills and resources of individuals, groups, agencies and institutions in planning, execution and monitoring of development activities.
5. Ensuring adherence to participatory and consultative procedures prescribed by law but neglected or circumvented in practice by cultivating attitudes and evolving tools and methodologies within the responsible and concerned planning and implementing agencies.

6. Facilitating entry and encouraging the role of the NGOs at the macro-policy formulation and programme design levels. The *Planning Commission*, the *Ministry of Urban Affairs* and many other agencies of the Government have started inducting senior and experienced workers/executives from the NGOs. This arrangement needs to be further strengthened at the Municipal level. The interaction, dialogue and outcome will be mutually beneficial.
7. Encouraging, assisting, and facilitating networking among NGOs working in various sectors at regional and city level for the purpose of sharing information and experience.
8. Recognizing the existing role and work of Non-Government voluntary agencies in the urban areas and creating facility/support arrangements of the *Council for Advancement of People's Action and Rural Technology (CAPART)* model for urban projects and works of Non-Government agencies. This facility should finance study, research, advocate action, demonstrate projects and other innovative acts, by Non-Government voluntary agencies.
9. Providing proper methods of communication and information sharing and appropriately designed consultation platforms for useful feedback for planners and education for the people.
10. Establishing the *National Urban Council for Citizen Action* at the National level (*NUCCA*), the *State Urban Council for Citizen Action* at the State level (*SUCCA*) and the *Forum for Citizen Action (FOCIA)* at the city level to enable Non-Governmental voluntary agencies to play the watch-dog, facilitator, promotional, educational, advocacy and innovative roles and to activate citizens' participation in the

urban development field in general and in city development, in particular.

Local Government is conceived as an instrument for the creation of the widest possible participation of the people in grassroot Government. As *Dorald C. Stone* puts it "*An enlightened citizenry, ready and capable of participating in political action and community decision making, is the foundation of democratic self-government.*"¹⁷ The local institutions depend for their successful working, not on the formal arrangements but on the degree of participation and cooperation of citizens. Local Government is founded with an ostensible objective of ensuring people's participation in its programmes. Unlike other higher level of Government, the Local Governments, being closer to the people have maximum contact and a strong communication with the citizens which help them in devising ways and means of serving the needs and aspirations of local community living within their jurisdictions. The Local Government thus provides an important forum for serving the needs of the local population according to their wishes. An enlightened citizenry and an articulate civic consciousness, therefore, prove to be a valuable asset for the local authorities.¹⁸ However, in spite of relatively larger history of their existence, the local authorities have not been able to receive people's participation adequately. Numerous factors are responsible for the lack of civic consciousness and people's involvement in local affairs. Some of these are:

Lack of homogeneity in the population of the cities, and consequent lack of their attachment with Local Government, poor leadership, absence of continuous contacts of the Councilors with the public, bureaucratic attitude, inefficiency of Municipal administration, rampant corruption, lack of awareness among people about their role in Municipal affairs, poor public relation, absence of machinery for the quick redressal of citizen's grievances, inadequacy of the peoples' associations and organizations,

appalling poverty, erosion of the authority of Municipal Bodies by the creation of multitude of urban authorities, deficiencies in the structure of Municipal Governments and their organization, and the vicious role of political parties as manifested in their interference in Municipal administration on partisan considerations.

Despite these factors/reasons/causes responsible for the indifference and alienation of people to Municipal administration, they have been participating in local administration by electing their representatives periodically, organizing themselves to help the local authorities in emergencies like external aggression and natural calamities and rendering assistance to Municipal Bodies in improving city life by carrying out cleanliness campaigns, adopting certain areas for improvement of civic services, removing illiteracy, and assisting the destitute, the deprived sections of society, women and children, the aged and the addicts etc.

But the people's participation in Municipal Government and administration leaves much to be desired. From time to time the *Directorate* needs to step out from its regular nature of work and initiate various measures to exploit their potential to the maximum. These may include - constant contact of the Councilors with their constituents, change in the attitude of bureaucrats, utilizing educational institutions for inculcating the spirit of service and civic sense amongst the students, strengthening voluntary agencies to perform their roles as catalysts for peoples' participation, instituting Public Relations Agencies to serve as a bridge between administration and the people, providing some sort of mechanism for the speedy redressal of citizens' grievances, and introducing institutions of *Ombudsmen* at Local Government level, encouraging competent and reputed people known for their integrity to take leadership, efficient delivery of essential civic services, constructive role of political parties in the interests of the whole urban community and not of a particular section or society, and finally

restructuring of the Local Governments so as to make it more democratic and responsive.

The Directorate can undertake the implementation/initiation of the above mentioned measures by organizing seminars, symposiums, workshops with the help of specialized non-profit groups/NGOs, etc. It can encourage public participation by providing incentives and public recognition and honour for their input. It can organize training programmes, with the help of experts, for the staff and officials of the Local Bodies, relating to customer satisfaction, front office management, public dealing procedures and other goodwill and confidence building measures, etc. It can convince the State Government regarding the statutory requirements necessary for reforming and overhauling the Local Bodies and persuade the Government to make the required Legislation.

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CHAPTER - VIII

***CONCLUSIONS &
SUGGESTIONS***

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CONCLUSIONS AND SUGGESTIONS

With the attainment of Independence and subsequent constitutional commitments, to the concept of Local Government, to adopt a new philosophy of relationship with the Government postulated the promotion of a concept of partnership among the three tiers of government based on the principle of 'give and take', in the pursuit of those objectives of rendering services to the people. Consequently, the traditional concept of autonomy on one hand, has to be replaced with mutual inter-relationship with the State Government by setting up broad tasks and priorities, and giving administrative, technical and financial support to the local authorities, and on the other hand, the actual administration of social welfare and socio-economic programmes should be filtered down to the local level/authorities. Development must deal with the entire society, not just with the economy, and people must be put at the centre of the stage. Some scholars have also put forth another argument that the expansion of social opportunity is a key to development. Extension of basic education, better health care, more effective land reforms and greater access to provisions of social security would enable the marginalized sections of society to lead a less restricted life and also better use of markets. A governance process should aim at eliminating disparities and promote development. It should be concerned with mankind and should meet the basic needs of human beings, particularly the poor. It has been, therefore, widely argued that decentralized governance is an instrument for this multifaceted development and it can ensure effective and equitable development at grassroot level. This is because, locally elected representatives know their small constituency better and are in advantageous position to provide better services according to their electorate's preferences. It is easier for the electorates to hold elected bodies accountable for their performance. *Effectiveness of governance* means

maximizing its contribution to development, or to increase its welfare activities. *Effectiveness* involves minimizing opportunity cost and getting the maximum amount of output. *Equity* means not to allow greater inequalities of income, wealth, power, privilege, and social status in society. Similarly, *UNDP* observes that '*all men and women have opportunities to improve or maintain their well-being.*' Sustainability is a long term process which includes the establishment of the basic social and economic institutions necessary for continuing economic growth. The sustainability of the institution in the development process depends on the management of the institution, people's participation, performance of scheme/plan being implementation, local capacity, and capacity of resource mobilization and focus on the benefits for long term continuation. Development refers to the progress achieved in decentralized governance *per se* and its effective, equitable and sustainable delivery of services to the satisfaction of the people.

Decentralized governance has been seen as a magical elixir to bring about development involving the local citizenry. Decentralization helps in identifying the needs and preferences of people through their direct participation in plan formulation and implementation. It ensures accountability on the part of the leaders and administrators to the people. Furthermore, decentralization tends to produce greater transparency. However, some scholars have expressed their doubts about the effective functioning of these institutions. According to these scholars, decentralization promotes corruption and inefficiency. It is argued that the involvement of more people in planning and implementation process contributes to more corruption and wastage.

Unlike other developing countries, India has been experimenting with decentralized governance practices for quite some time. The significance of decentralized governance was realized with Mahatma Gandhi's insistence for

such bodies for development at the grassroot levels. As a result, Panchayats as units of Local Self-Government found place in the Constitution. The block as a centre of community development came into existence throughout the country in 1952. However, these Institutions were replaced by a three-tier structure of Local Self- Government on the basis of *Balwant Rai Mehta Committee Report* to involve people in development programmes in many of the States in 1959. These institutions could not be stabilized due to irregular elections, inadequate powers, poor finances and lack of political will. The broad framework for decentralized governance has been laid down in India under the 73rd & 74th Constitution Amendment Acts. This has brought about uniformity in the structure (three-tier), composition (reservation for SC, ST and women), powers and functions (financial and planning) of these institutions to achieve economic and social development. The three-tier structure of the Local Bodies has given an impetus to Municipalities to promote development in terms of infrastructure, poverty alleviation, education, health and improvement of the living conditions of the people in urban India. There is also a lack of will on the part of the State or Central Government for making decentralized governance more effective. Empirical evidences from various Indian States have shown that the decentralization exercises succeeded to some extent in U.P., Karnataka, West Bengal, Kerala and Andhra Pradesh. The literature on decentralized governance whether theoretical or empirical assumes it to be both good and bad. It is bad because decentralized governance increases corruption due to a great influence of interest groups at the local level, discretion available to local officials and long tenure of local officials at the same place making it easier to establish unethical relationships between officials and citizens which promotes personalization and reduces professionalism, which in turn breeds corruption and the officials pay greater attention to individual citizen's needs and disregard public interest.

However, decentralized governance is good because, *firstly*, it helps to attain

efficiency in the face of different local preferences for local public goods and services. *Secondly*, it improves the competitiveness of Governments in order to satisfy the wishes of citizens which require both the ability of citizens to monitor and evaluate Governments in terms of the services they provide and the taxes they levy, and the ability of citizens to affect and alter the decisions of Government. *Third*, it may promote good governance by means of people's participation, enhance accountability and transparency as well as improve service outcomes. At last, it may help formation of social capital, a feature of social organization, such as trust, norms and network which would improve co-ordination and co-operation among people, local officials and office bearers. This will result in effective delivery of services. Though the situation varies from State to State, the overall development is still in its infancy regarding the relationship between States Government and the Local Governments which has to be strengthened in the coming years by empowering Local Governments. while the State Government continues to have an important and significant role the core principles to be applied in the reform of local governance are: application of the principle of subsidiary in the context of decentralization, clear delineation of functions of Local Governments vis-à-vis State Governments and among different tiers of Local Governments; effective devolution of these functions and resources accompanied by capacity-building and accountability; integrated view of local services and development through convergence of programmes and agencies and above all, '*citizen-centricity*'.

The central idea of subsidiarity is that citizens as sovereigns and stakeholders in a democracy are the final decision-makers. Citizens are also the consumers of all services provided by the State. The *citizen-sovereign-consumer* must exercise as much authority as practicable, and delegate upward the rest of the functions which require economies of scale, technological and managerial capacity or collective amenities.

The *Oxford dictionary* defines subsidiarity as, "a principle that a central authority should have a subsidiary function, performing only those tasks which cannot be performed at a more local level."

The principle of subsidiarity stipulates that functions shall be carried out closest to citizens, at the smallest unit of governance possible and delegated upwards only when the local unit cannot perform the task. The citizen delegates those functions that he cannot perform to the community, functions that the community cannot discharge are passed on to Local Governments in the smallest tiers, and so on, from smaller tiers to larger tiers, from Local Government to the State Government (through the Directorate of Local Bodies), and from the States to the Union Government. In this scheme, the citizen and the community are the centre of governance. Application of the subsidiarity principle has three great advantages in practical terms. *First*, local decision-making improves efficiency, promotes self-reliance at the local level, encourages competition and nurtures innovation. The demonstration effects of successful practices will ensure rapid spread of good innovations and there will also be greater ownership of programmes and practices by the local communities. *Second*, democracy is based on three fundamental assumptions that all citizens are equal irrespective of station and birth; the citizen is the ultimate sovereign; and the citizen has the capacity to decide what is in his best interest. Only when these principles are put in practice can a democratic system derive its full legitimacy and same should be the case with the Local Governments also. Subsidiarity is the concrete expression of these foundations of a democratic society. *Third*, once decision-making and its consequences are integrally linked at the local level, people can better appreciate those hard choices that need to be made. Such awareness promotes greater responsibility, enlightened citizenship and maturing of democracy.

If democracy is to be real and meaningful, the locus of power should shift as close to the citizen as possible in order to facilitate direct participation, constant vigil and timely intervention.

Only in an effective and empowered Local Government can the positive power to promote public good be reinforced and the negative impulses to abuse authority curbed. Equally, ordinary citizens can hold public servants accountable in the face of the asymmetry of power exercised by the bureaucracy, only when such citizens who are directly affected by their actions are empowered to exercise oversight functions. In a federal democracy, the roles and responsibilities of various tiers of Government have to be clearly defined. In all federations, this is usually done through a constitutionally mandated scheme. It is no accident that every federal democracy has a written Constitution, clearly listing the subjects under the jurisdiction of each tier of government and the specific role assigned to it. India's Constitution too enumerates the subjects under State control under *List II of the Seventh Schedule*. Where a subject requires a federal and State jurisdiction it is included in *List III* and clear principles are enunciated defining the extent of authority of the Union and the States. However, in respect of Local Governments there are two complications. *First*, since all Local Government subjects by definition are also State subjects, there should be clear delineation of roles of the State and the Local Government, in respect of each of the subjects/functions, otherwise needless confusion and undue interference by the State will be the inevitable consequences. It must be recognized that in several of these functions, States have a vital and legitimate role to play. *Second*, within Local Governments there is a need for clear functional delineation amongst the various tiers. There is need to delineate the functions between a city/urban government and the smaller tier of a Ward Committee. The Ward Committee can be entrusted with sub-local functions like street lighting, local sanitation, management of local schools, management of local health centers etc.

Devolution, to be real and meaningful, demands that the Local Governments should be effectively empowered to frame regulations, take decisions and enforce their will within their legitimate sphere of action. Such empowerment should be clearly and unambiguously defined by the Constitution and State Legislatures. Even legislated empowerment remains illusory unless public servants entrusted with the discharge of responsibilities under the Local Governments are fully and permanently under the control of Local Government, subject to protection of their service conditions. Only then is the responsibility of the Local Government commensurate with the authority. Fiscal devolution to the Local Governments must meet two standards, *first*, the Local Government must be able to effectively fulfill its obligation; and *second*, there must be sufficient room for flexibility through untied resources, to establish priorities, devise new schemes and allocate funds. Equally important, there must be both opportunity and incentive to mobilize local resources through local taxes, cess and user fees, subject to the norms of financial propriety and accountability.

Equally important is the building of capacity of Local Governments to discharge their functions effectively. Strengthening organizational and management capacity, constant training and human resource development activities, conversion of State Agencies into expert manpower pools providing guidance and support on demand, strong federations, pooling of resources, talent and management practices, ability to attract expertise available outside Government to meet the growing need for high quality human resources in public management, are some of the crucial challenges in enhancing the capabilities of Local Governments.

The real empowerment not only demands devolution and capacity building but strategies also need to be evolved to overcome the resistance of the State Executives and Governments as the compulsions of real politics often

preclude the possibility of any serious measures to enable Local Governments to function as institutions of self governance.

The citizen must be enabled to interact with all service providers through a single window as far as practicable. Increasingly, all over the world, several disparate services provided by different agencies of Government, are available to citizens under one roof. *For instance*, the 'Post Office' is a nodal agency for *voter registration* and many other services in some countries. In *Germany*, the *Local Government Office* is the point of contact in obtaining a *passport*, though the actual service is provided by the Federal Government. Similarly, collection of tariffs, fees and taxes by various service providers can be at a *common kiosk* and all complaints and suggestions can be received at a *common call centre*.

Since propensity to abuse authority is intrinsic to all authorities; and Local Governments are no exceptions, for Local Governments to be effective in fulfilling their desired objectives, a series of mechanisms need to be constituted by giving voice to the citizens. Measurement of citizens' satisfaction as the consumer of public services is an important mechanism. Report cards, citizens' feedback at delivery and service counters, call centers and such forum for the citizens' voice to be heard and their feedback to be counted. In addition, social audit through credible community based organizations, civil society groups and prominent citizens would ensure *citizen centricity*.

The attitude of the State Government towards the Urban Local Bodies has seldom been constructive and helpful. It has a negative approach of faultfinding, and is unashamedly punitive. This is a legacy of the past and little has been done since Independence to wipe it out and to develop a constructive and friendly relationship between the two. Even the '*Indian Statutory Commission*', popularly known as the *Simon Commission*, noted as

early as 1930, that, "We have heard the criticism that the only effective powers possessed by provincial governments, namely, those of suspension and dissolution, have left the ministers powerless in the face of misconduct calling for less drastic treatment, and we think that this criticism is well founded. Where spur and rein were needed, the ministers were only given a pole axe"¹.

To provide guidance and advice to the Urban Local Bodies a 'Directorate of Municipal Administration' was envisaged to be established. (*Appendix 'D'*). Both the *Central Councils of Local Self-Government* and the *Conference of State Ministers of Town and Country Planning* have emphasized the desirability of setting up of such an organization in the States. They observed that, "The state government should set up directorates of local government to look after problems of urban local government in the states and watch the implementation of the resolutions of the Central Council of local self government and conferences of Municipal Corporations as well as executives of the local self government scheme".²

The analysis of the proceedings reveals that there is a lack of design and purpose in the organization of the Directorate itself. Since the role of the Directorate is unlike that of any other executive functional agency of the Government and it is responsible for developing, promoting and co-ordinating the work of the Local Government, institutions, its proper manning specially at middle and lower levels is extremely necessary as there is a lack of experience and tradition in the *rank and file*. There is, therefore, a need for better control over the functions and authorities in the changed environment. The Director should be empowered to exercise more control over the officials. The present practice of imposing taxes by the Urban Local Bodies needs to be improved. When there is reluctance to impose the necessary taxes at the requisite rates for the Municipal Bodies, the Directorate should be vested with the necessary powers to secure the

imposition of the taxes if the concerned Local Bodies fail to do so. It would thus be seen that the Directorate in U.P. is of recent origin and it will be premature to evaluate its functioning and utility. In the absence of any field organization it has also not been able to undertake the inspection of local bodies on a comprehensive scale. However, the directorate has succeeded in finalizing the seniority list of all the centralized services cadres in its preview. It has also started to perform its advisory role. It has advised the Local Bodies to undertake the programme of removal of encroachments on a massive scale, and to entrust to the field staff to look to the citizen's grievances in all aspects, irrespective of the fact whether the particular staff is concerned with the aspect or not, and to report it to the concerning authorities, to maintain and review the complaint books by the departmental heads, and to undertake sanitation drives. To ensure successful implementation of these programmes it has also suggested for the maintenance of diaries by the departmental heads³. It has also suggested ways and means to Local Bodies to raise their income. One of the suggestions is to provide incentives to any person who helps in detecting the leakage and thefts in Municipal Taxes/Fees, a scheme that has successfully been implemented by the Municipalities of *Etah* and *Kasganj*.⁴ Workshops for the Local Bodies are being organized to consider the improvement in the framing of the budget and to increase revenue at the Divisional Commissioner's level.

Policy Recommendations

It is therefore, imperative to draw some lessons of policy implications on the basis of the present field study as well as the review of various literatures on the changing role of governance and the governed.

- Regarding the rent-controlled buildings, the basis of the Property Tax is the controlled rent actually received or receivable. It is therefore

suggested that the *rent-control law* should be amended to make periodic up-ward revision of the controlled rent possible; and if the Local Bodies are reluctant to do so then the Directorate should make the necessary provisions for the determination of '*Fair Letting Value*' on the basis of the amount for which the building could be reasonably let out, which should be comparable with the prevailing *Market Rate*, and thereafter pursue to amend the *U.P. Nagar Mahapalika Adhiniyam, 1959*, accordingly. It should also be specified that any increase in the property tax would be legitimately passed on to the tenant, in the form of increased rent.

- The property tax has been an ideal tax for the Local Bodies for various reasons, maybe since it can be levied at a progressive rate. Its incidence fall on the comparative economically stable property owning classes. The tax payers can be easily identified and if the property is judiciously assessed and properly administered, evasion of tax could be kept at bay.
- It is felt that the valuation of property done by property tax officials (*Tax Inspectors*) of the Local Bodies is far than satisfactory. Therefore, the Directorate, should advice/provide the Local Bodies to take the services of independent and reputed *Experts/Consultancies*, for the evaluation of properties, which has recently become more technical and complicated. It is therefore, recommended that an '*Independent Valuation Authority*' be set up, comprising of trained Civil Servants, Engineers, and Municipal Officers, and also a few reputed and seasoned persons from the *Civil Society* . The central agency as a *special division* within the Directorate of Local Bodies. The function of this agency should be to impart technical/logistic training and also to lay down norms and guidelines for the municipal

staffs and to carry out random /specific 'snap-checking' of the valuation of properties done by them.

- In some States a tax on vacant urban land is being levied, therefore, it is recommended that taxes, such as holding tax, etc., should be levied on unconstructed residential/commercial land and plots, especially in big cities. The rental value of the property should be calculated on the basis of an average of the Government (D.M's) circle rate and the prevailing market rate. This will surely increase the revenues of the cash trapped Municipal Bodies and also discourage unnecessary/unwarranted holding of lands for year after year, only for the greed of earning exorbitant profit, and therefore, hampering the process of development.
- The management of 'Nazul Land' is generally entrusted to, Municipal Corporations, Municipal Boards, or Development Authorities by the State Government; unfortunately it has been observed that the Nazul Lands are illegally occupied at most of the places. It therefore, appears to me, that in cases of long standing unauthorized possessions, where evicting the land, appears to be difficult or is not advisable, in such case, the land may be leased to the occupant at a premium commensurate with the prevailing market rate. To avoid procedural delay at the Government level, it is suggested that the Directorate should make a provision that once the part of auction money is referred to the State Government for its sanction or otherwise, it should be communicated to the person concerned within a month from the date of reference.
- It is suggested that the Directorate should take the initiative of making it mandatory for all Municipal Bodies to introduce/operationalise a 'Citizen's Charter' (as per the provisions

laid down by the *Department Of Administrative Reforms and Public Grievances*, in the *Ministry of Personnel, Public Grievances and Pensions, Government of India*, which has formulated it) with the commitment of maintaining *standard, quality, and time-frame of service delivery, grievance redressal mechanism, transparency and accountability*, as a reform, and efforts should also be made, to provide more responsive and citizen friendly governance. The '*Director*' should be made the '*Nodal Officer*', who should ensure the effective implementation of the '*Citizen's Charter*' at all the three tiers of Municipal Government.

- It is further recommended that the Directorate should devise a mechanism for the creation of, *Municipal Police/Flying Squad* to check the evasion of Municipal Revenues as well as plug the revenue leakages, and *Municipal Magistracy* (in the lines of Railways etc.) for the expeditious settlement of dispute/cases as they have been found to be quite effective in some countries.
- To improve the financial condition of the Municipalities and to make them financially stable, it is suggested that the Directorate should facilitate in the formation of an '*Urban Development Finance Commission*,' similar to the '*National Bank for Agriculture and Rural Development*' (*NABARD*), which is functioning with great success in rural India, to help the Urban Local Bodies in meeting their financial needs.
- It is further suggested that that a '*Municipal Finance Commission*' is constituted in the lines of the '*State Finance Commission*,' to review the Municipal Finances, and recommend principles on the basis of which, sound finances of the Municipal Bodies can be secured.

- Assistance from the Centre is an important addition to Urban Local Bodies' resources, though it has been visibly less effective in bringing about reforms in the urban sector. A larger degree of central assistance, including external assistance routed through the Centre, as well as institutional finance from agencies like the *Housing and Urban Development Corporation (HUDCO)* would be necessary in order to take up a vigorous programme of upgrading infrastructure and services. It is also necessary that these forms of assistance strengthen the elected Urban Local Bodies 'as the legitimate institutions of governance at the local level. The assistance must be made conditional on sector reforms, in particular, better standards of service and the collection of user charges.

- Public-private partnerships should be brought on to the urban agenda for improving efficiency and better service delivery. However, capacity building in the public services has to be given highest priority, through training of both elected and appointed officials, and by restructuring of Municipal entities for more efficient management. Performance of the Urban Local Bodies in their allotted tasks, apart from being watched by the citizens, should also be closely monitored by the State Governments.

- Finances of the Urban Local Bodies need strengthening through smooth working of the State Finance Commission awards, rationalisation and improvement of the property taxation system, and a sufficient level of levy of user charges. Transfers from State budget should be linked to defined levels of performance of the Urban Local Bodies in resource-raising, expenditure control, proper financial management, and transparency in functioning.

- It is important that for accessing the capital market, Municipalities are required to develop their credit worthiness by way of devolution of additional taxes, increasing use of user charges and fiscal autonomy to set their own rates. One of the options is to finance urban infrastructure by accessing the capital market through debt instruments like '*Municipal Bond*'. Ahmedabad Municipal Corporation issued a first historical Municipal Bond in Asia to raise Rs.100 crores from the capital market for part of financing a water supply project. The Municipal Corporation of Bangalore issued bond and raised *Rs.125 crores* to finance construction of roads and street lighting. Therefore, it is suggested that something of similar kind could be done by the Municipal Bodies of Uttar Pradesh under the guidance and supervision of the State Government through the Directorate.
- It is also suggested to involve private sector participation in the Urban Local Bodies to instill competition and to bring technological innovations in the delivery of services.

Conclusion

Our Constitution provides a clear mandate for democratic decentralization not only through the *Directive Principles of State Policy* which exhorts the State to promote Panchayati Raj Institutions but more specifically now through the *73rd* and *74th* *Amendments of the Constitution* which seek to create an institutional framework for ushering in grassroots democracy through the medium of genuinely self-governing *Local Bodies* in both urban and rural areas of the country. However, despite the constitutional mandate, the growth of self-governing Local Bodies as the third tier of governance in the country has been uneven, halting and slow.

Integrating institutional reforms in local governance with economic reforms was *Gandhiji's* far-sighted vision of '*Poorna Swaraj*'. Economic reforms and Local Government empowerment are the two great initiatives launched in the 1990's. Economic reforms have taken roots over the years and have yielded significant dividends in the form of enhanced growth rate, bulging foreign exchange reserves and availability of a variety of goods and services. The freedom and choice resulting from the reforms have built a broad national consensus across the political spectrum ensuring their continuity. Local Government empowerment too is broadly accepted as a vital principle but, in practice, real empowerment as envisaged has not taken place.

Therefore, effective empowerment of stakeholders accompanied by mechanisms for co-ordination, in the form of a user friendly and a committed *Directorate* equipped with the required power and willingness to perform for the empowerment and betterment, of the Local Governments is, therefore, a key principle to be followed.

References

1. Report of the Indian Statutory Commission, Cmd, 3568, London, HMSO, 1930 Para 351.
2. Resolution No. 10 passed in the 10th meeting of the Central Council of Local Self Government and the 5th Conference of State Ministers of Town & Country Planning held at Bombay in February 1965.
3. Circular No: 10557/37-General-1-1-74 dated April 8, 1974 issued by the Directorate of Local Bodies, U.P.
4. Annual Report of the Directorate of Local Bodies, U.P. 2000.

APPENDIX 'A'

APPENDIX "A"

THE CONSTITUTION (SEVENTY-THIRD AMENDMENT) ACT, 1992

Statement of Objects and Reasons appended to the Constitution (Seventy-second Amendment) Bill, 1991 which was enacted as the Constitution (Seventy-third Amendment) Act, 1992

STATEMENT OF OBJECTS AND REASONS

1. Though the Panchayati Raj Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons including absence of regular elections, prolonged supersession, insufficient representation of weaker sections like Scheduled Castes, Scheduled Tribes and women, inadequate devolution of powers and lack of financial resources.

2. Article 40 of the Constitution which enshrines one of the Directive Principles of State Policy lays down that the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. In the light of the experience in the last forty years and in view of the short-comings which have been observed,

it is considered that there is an imperative need to enshrine in the Constitution certain basic and essential features of Panchayati Raj Institutions to impart certainty, continuity and strength to them.

3. Accordingly, it is proposed to add a new Part relating to Panchayats in the Constitution to provide for among other things, Gram Sabha in a village or group of villages; constitution of Panchayats at village and other level or levels; direct elections to all seats in Panchayats at the village and intermediate level, if any, and to the offices of Chairpersons of Panchayats at such levels; reservation of seats for the Scheduled Castes and Scheduled Tribes in proportion to their population for membership of Panchayats and office of Chairpersons in Panchayats at each level; reservation of not less than one-third of the seats for women; fixing tenure of 5 years for Panchayats and holding elections within a period of 6 months in the event of supersession of any Panchayat; disqualifications for membership of Panchayats; devolution by the State Legislature of powers and responsibilities upon the Panchayats with respect to the preparation of plans for economic developments and social justice and for the implementation of development schemes; sound finance of the Panchayats by securing authorisation from State Legislatures for

grants-in-aid to the Panchayats from the Consolidated Fund of the State, as also assignment to, or appropriation by, the Panchayats of the revenues of designated taxes, duties, tolls and fees; setting up of a Finance Commission within one year of the proposed amendment and thereafter every 5 years to review the financial position of Panchayats; auditing of accounts of the Panchayats; powers of State Legislatures to make provisions with respect to elections to Panchayats under the superintendence, direction and control of the chief electoral officer of the State; application of the provisions of the said Part to Union territories; excluding certain States and areas from the application of the provisions of the said Part; continuance of existing laws and Panchayats until one year from the commencement of the proposed amendment and barring interference by courts in electoral matters relating to Panchayats.

4. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;

G. VENKAT SWAMY.

The 10th September, 1991.

**THE CONSTITUTION (SEVENTY-THIRD AMENDMENT)
ACT, 1992**

[20th April, 1993.]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Constitution (Seventy-third Amendment) Act, 1992.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. Insertion of new Part IX.- After Part VIII of the Constitution, the following Part shall be inserted, namely:-

**PART IX
THE PANCHAYATS**

243. Definitions.- In this Part, unless the context otherwise requires,-

- (a) "district" means a district in a State;

- (b) "Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;
- (c) "Intermediate level" means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;
- (d) "Panchayat" means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;
- (e) "Panchayat area" means the territorial area of a Panchayat;
- (f) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (g) "village" means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

243A. Gram Sabha.- A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

243B. Constitution of Panchayats.- (1) There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

(2) Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243C. Composition of Panchayats.- (1) Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats:

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State.

(2) All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and; for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.

(3) The Legislature of a State may, by law, provide for the representation-

(a) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the

district level;

(b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;

(c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;

(d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within-

(i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level;

(ii) a Panchayat area at the district level, in Panchayat at the district level.

(4) The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.

(5) The Chairperson of -

(a) a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and

(b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

243D. Reservation of seats.- (1) Seats shall be reserved for-

(a) the Scheduled Castes; and

(b) the Scheduled Tribes,

in every Panchayat and the number of seats of reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

243E. Duration of Panchayats, etc.- (1) Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Panchayat shall be completed-

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.

(4) A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved.

243F. Disqualifications for membership.- (1) A person shall be disqualified for being chosen as, and for being, a member of a Panchayat-

(a) if he is so disqualified by or under any law for the time being in

force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243G. Powers, authority and responsibilities of Panchayats.- Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein with respect to-

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

243H. Powers to impose taxes by, and Funds of, the Panchayats.- The Legislature of a State may, by law,-

(a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and

(d) provide for Constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys therefrom, as may be specified in the law.

243I. Constitution of Finance Commission to review financial position.-(1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial

position of the Panchayats and to make recommendations to the Governor as to-

(a) the principles which should govern-

(i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

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

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayats;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may, by law, provide for the composition of the commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which

they shall be selected.

(3) The Commission shall determine their procedure and shall have such

powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum

as to the action taken thereon to be laid before the Legislature of the State.

243J. Audit of accounts of Panchayats.- The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

243K. Elections to the Panchayats.- (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a

Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

243L. Application to Union territories.-The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243M. Part not to apply to certain areas.- (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

(2) Nothing in this Part shall apply to-

(a) the States of Nagaland, Meghalaya and Mizoram;

(b) the Hill Areas in the State of Manipur for which District Councils exist under any law for the time being in force.

(3) Nothing in this Part-

(a) relating to Panchayats at the district level shall apply to the hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;

(b) shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.

(4) Notwithstanding anything in this Constitution,-

(a) the Legislature of a State referred to in sub-clause (a) of clause (2) may, by law, extend this Part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting;

(b) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243N. Continuance of existing laws and Panchayats.- Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-third Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Panchayats existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243O. Bar to interference by courts in electoral matters.- Notwithstanding anything in this Constitution,-

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

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

Constitution, after sub-clause (b), the following sub-clause shall be inserted, namely:-

"(bb) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State;"

Constitution, the following Schedule shall be added, namely:-

"ELEVENTH SCHEDULE"

(Article 243G)

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.

5. Fisheries.
 6. Social forestry and farm forestry.
 7. Minor forest produce.
 8. Small scale industries, including food processing industries.
 9. Khadi, village and cottage industries.
 10. Rural housing.
 11. Drinking water.
 12. Fuel and fodder.
 13. Roads, culverts, bridges, ferries, waterways and other means of communication.
 14. Rural electrification, including distribution of electricity.
 15. Non-conventional energy sources.
 16. Poverty alleviation programme.
 17. Education, including primary and secondary schools.
 18. Technical training and vocational education.
 19. Adult and non-formal education.
 20. Libraries.
 21. Cultural activities.
 22. Markets and fairs.
 23. Health and sanitation, including hospitals, primary health centers and dispensaries.
 24. Family welfare.
 25. Women and child development.
 26. Social welfare, including welfare of the handicapped and mentally retarded.
 27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
 28. Public distribution system.
 29. Maintenance of community assets."
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APPENDIX 'B'

APPENDIX 'B'

THE UTTAR PRADESH MUNICIPAL CORPORATION ACT, 1959

[U.P. Act No. 2 of 1959]

[22nd January, 1959]

An Act to provide for the establishment of Municipal Corporations for certain cities in Uttar Pradesh.

Whereas it is expedient to provide for the establishment of Municipal Corporations in certain cities with a view to ensure better municipal government of the said cities; it is hereby enacted as follows:

GENERAL AMENDMENT

In the Uttar Pradesh Municipal Corporation Act, 1959, hereinafter referred to as the principal Act, for the words "Mukhya Nagar Adhikari", "Apar Mukhya Nagar Adhikari", "Upa Nagar Adhikari", "Sahayak Nagar Adhikari", "Nagar Pramukh", "Upa Nagar Pramukh", "Sabhasad" and "Sabhasads", wherever occurring, including headings, sub-headings and marginal headings, the words, "Municipal Commissioner", "Additional Municipal Commissioner", "Deputy Municipal Commissioner", "Assistant Municipal Commissioner", "Mayor", [• • •], ² "Corporator" and "Corporators" shall respectively be substituted. [U.P. Act 16 of 2004, S.2 (w.r.e.f. 21-11-2002)].

CHAPTER- I

PRELIMINARY

1. Short title, extent and commencement ³ –

(1) This Act may be called the Uttar Pradesh Municipal Corporation Act, 1959

(2) It extends to the whole of the State of Uttar Pradesh.

(3) This Chapter shall come into operation at once, and the remaining provisions of this Act shall in relation to a City come into operation from such day as the State Government may by notification in the Official Gazette appoint in that behalf [and different dates may be appointed for different provisions]⁴.

Provided that for the limited purpose of constituting a Corporation for a City under this Act, the provisions of Chapter II including –

- (a) The delimitation of wards in the City;
- (b) The preparation and publication of electoral rolls;
- (c) The qualifications and disqualifications for being chosen as Mayor, [***]⁵ or Corporator of a Corporation; and for nomination as candidate for election as Mayor [* * *]⁶ or Corporator; and
- (d) Generally, the conduct of election and all other matters necessary for the due constitution of the Corporation; shall come into operation in and in respect of such City from the date of notification under Section 3 and notwithstanding anything in any other enactments all acts may be done and all proceedings taken as may be necessary for holding the elections in accordance with the provisions of the said Chapter and rules made thereunder for the due constitution of the Corporation.

NOTES

1. Commencement of the Act. – The Legislature has stated expressly that Chapter 1 of the Act shall come into operation at once, and the remaining provisions shall come into operation from such day as the State Government may by notification in the Official Gazette appoint. Notification No. 41 Ma-PRA-II/XI-C-12: Corp-59 dated January 18, 1960, published in U.P. Gazette, Extraordinary, dated January 18, 1960, appointed the 1st day of February, 1960. It runs as under:

“In exercise of the powers conferred by sub-section (3) of Section 1 of the U.P. Nagar Mahapalika Adhiniyam, 1959 and in continuation of Notification No. 331-PRA-I/XI-C-30-Corp-58, dated September 28, 1959, bringing into operation Section 579 and 580 of the said Adhiniyam, the Governor of the Uttar Pradesh is pleased to appoint the 1st day of February, 1960, as the date on which the remaining provisions of the said Act and three Schedules, appended thereto shall come into operation in relation to the cities of Kanpur, Allahabad, Varanasi, Agra and Lucknow as constituted under Section 3 of the said Adhiniyam”.

2. Extent. – The Act extends to the whole of State of Uttar Pradesh. It is restricted in its application to only KAVAL towns. But subsequently, under Section 8- AA(1)(b), the District Magistrates concerned were appointed as Administrators and deemed Nagar Mahapalikas for the cities of Gorakhpur, Meerut and Bareilly. [For details see 1982 LLT - 201[232], 1982 LLT-V-201[233], 1984 LLT-V-133 [190]. Extension to other towns was being contemplated for which details are not available. The State of U.P. comprises of the territories which immediately before the commencement of the Indian Constitution were either comprised in the province known as the United Provinces or were being administered as if they formed part of the Province.

2. Definitions. – In this Act unless there be something repugnant in the subject or context –

- (1) "advertisement" means any word, letter, model, sign, placard, board, notice, device, or representation whether illuminated or not, in the nature of and employed wholly or in part for the purpose of advertisement, announcement or direction and includes any hoarding or similar structures used or adapted to be used for the display of advertisement;
- (2) "appointed day" with reference to a City means the day on which the due constitution of the Corporation for the City is notified in the Official Gazette;
- (3) "Assembly Rolls" mean the electoral rolls prepared for the Assembly constituencies under and in accordance with the provisions of the Representation of the People Act, 1950;
- (4) "bakery or bake-house" means any place in which bread, biscuits or confectionery are baked, cooked or prepared in any manner whatsoever for the purposes of sale or profit;
- (5) "budget grant" means the total sum entered on the expenditure side of a budget estimate under a major head as prescribed by rules and adopted by the Corporation and includes any sum by which such budget grant may be increased or reduced by a transfer from or to other heads in accordance with the provisions of this Act and rules;
- (6) "building" includes a house, out-house, stable, shed, hut and other enclosure or structure whether of masonry, bricks, wood, mud, metal or any other material whatever, whether used as a human dwelling or otherwise, and also includes verandahs, fixed platforms, plinths, door-steps, walls including compound walls and fencing and the like but does not include a tent or other such portable temporary structures;
- (7) "building-line" means a line which is in rear of the street-alignment and to which the main wall of a building abutting on a street may lawfully extend and beyond which no portion of the building may extend except as prescribed in the building rules;
- (8) "by-law" means a bye-law made under the provisions of this Act;
- (9) "Cess-pool" includes a settlement tank or other tank for the reception or disposal of foul matter from building;

- (10) ["city" means a larger urban area as notified under clause (2) of Article 243-Q of the Constitution]⁷
- (10-A) ["Commercial building" means any building not being a factory which is used or occupied for carrying on any trade or commerce or any work connected therewith or incidental or ancillary thereto;]⁸
- (11) "Commissioner of Division" with reference to a City means the Commissioner of the Division in which the City is situated and includes any Additional Commissioner to whom the Commissioner of the Division has delegated his functions under this Act;
- (11-A) ["Corporation" or "Municipal Corporation" means the Municipal Corporation constituted for a city under sub-clause (c) of clause (1) of Article 243-Q of the constitution;]⁹
- (12) "cubical contents" when used with reference to the measurement of a building means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest storey, or, when the building consists of one storey only, the upper surface of its floor;
- (13) "dairy" includes any farm, cattle-shed, milk-store, milk-shop or other place from which milk is supplied for sale or in which milk is kept for the purposes of sale or manufactured into butter, ghee, cheese, curd, or dried or condensed milk for sale and, in the case of dairyman who does not occupy any place for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk but does not include a shop or other place in which milk is sold for consumption on the premises only;
- (14) "dairyman" includes the keeper of a cow, buffalo, goat, ass or other animal, the milk of which is offered or intended to be offered for sale for human consumption and any purveyor of milk and any occupier of a dairy;
- (15) "dairy product" includes milk, butter, ghee, curd, butter-milk, cheese and every product of milk;
- (16) "dangerous disease" means cholera, plague, smallpox, or any other epidemic or infectious disease by which the life of human beings is endangered and which the Corporation may from time to time by public notice declare to be a dangerous disease;
- (17) [..]¹⁰

- (17-A) "Director" means the Director of Local Bodies, Uttar Pradesh, appointed by the State Government under Section 5-A].¹¹
- (18) "District Judge" includes an Additional District Judge to whom any function of the District Judge has been transferred under this Act;
- (19) "drain" includes a sewer, tunnel, pipe, ditch, gutter or channel and cistern flush-tank, septic-tank, or other devices for carrying off or treating sewage offensive matter, polluted water, sullage, waste water, drain water, or subsoil water and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith and any ejectors, compressed air mains, sealed sewage main and special machinery or apparatus for raising, collecting, expelling or removing sewage offensive matter from any place;
- (20) "eating house" means any premises to which the public or any section of the public are admitted and where any kind of food is prepared or supplied for consumption on the premises or elsewhere for the profit or gain of any person owning or having an interest in or managing such premises;
- (21) "elector" in relation to a ward means a person whose name is for the time being entered in the electoral roll of that ward;
- (22) ["essential service" means a service referred to in Section 112-B];¹²
- (23) "factory" means a factory as defined in the Factories Act, 1948;
- (24) "filth" includes sewage, night-soil and all offensive matter;
- (24-A)¹³ ["Finance Commission" means the Finance Commission¹⁴[constituted under} Article 243-I of the Constitution];
- (25) "financial year" means the year commencing on the first day of April;
- (26) "food" includes every article used for food or drink by man other than drugs or water, and any article which ordinarily enters into or is used in composition or preparation of human food, and also includes confectionery, flavouring and colorings matters and spices and condiments;
- (27) "frame building" means a building the external walls of which are constructed of timber framing or iron framing, and the stability of which depends on such framing.

- (28) "house-drain" means any drain of, and used for the drainage of, one or more buildings or premises and made merely for the purpose of communicating therefrom with a Corporation drain;
- (29) "house-gully" or "service passage" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cess-pool or other receptacle for filthy or polluted matter, to Corporation servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom;
- (30) "hut" means any building which is constructed principally of wood, mud, leaves, grass, cloth, or thatch and includes any temporary structure of whatever size or any small building of whatever material made which the Corporation may declare to be a hut for the purpose of this Act;
- (31) "inhabitant" used with reference to a local area means any person ordinarily residing or carrying on business or owning or occupying immovable property therein.
- (32) "the judge" means the judge of the Court of Small Causes having jurisdiction in the City under the Provisional Small Cause Courts Act, 1887;
- (33) "land" includes land which is being built upon or is built upon or is covered with water, benefits to arise out of and things attached to the earth or permanently fastened to anything attached to the earth and rights created by legislative enactment over any street;
- (34) "licensed plumber", "licensed surveyor", "licensed architect", "licensed engineer", "licensed structural designer" and "licensed clerk of work" "respectively," mean a person licensed by the Corporation as a plumber, surveyor, architect, engineer, structural designer or a clerk of works under this Act;
- (35) "lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration and includes a collection of buildings, or a building, or part of a building used for the accommodation of pilgrims and travelers whether on payment or otherwise;
- (36) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, live-stock or food for live-stock or meat, fish fruit, vegetables, animals intended for human food or any other articles of human food whatsoever with or without the consent of

the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or any other person;

- (37) "masonry building" means any building other than a frame building or a hut and includes any structure a substantial part of which is made of masonry or of steel, iron or other metal;
- (38)¹⁵ ["member of a Corporation" means a Corporator, a Paden Sadasya, a Nam- Nirdishta Sadasya or a Chairperson of a Committee, if any, established under clause (e) of Section 5, if he is not member of the Corporation and, unless the contrary is indicated, includes a Mayor;
- (39) Municipal Commissioner means the Municipal Commissioner appointed under Section 58 and includes an Additional Municipal Commissioner appointed under the said section, a Deputy Municipal Commissioner and a Assistant Municipal Commissioner appointed under Section 107 while exercising powers and performing duties under Section 112;
- (40) "Corporation drain" means a drain vested in the Corporation;
- (41) "Corporation market" means a market vested in or managed by the Corporation;
- (42) "Corporation slaughter-house" means a slaughter-house vested in or managed by the Corporation;
- (43) "Corporation Office" means office of the Municipal Corporation;
- (44) "Corporation tax" means any impost levied under the provisions of this Act;
- (45) "Corporation waterworks" means waterworks belonging to or vesting in the Corporation;
- (45-A) ¹⁶ "[Metropolitan area" means an area as defined in clause (c) of Article 243-P of the Constitution;
- (45-B) "Municipality" means an institution of self government constituted under Section 4;
- (45-C) "municipal area" means the territorial area of a Corporation;]

- (46) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance, or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;
- (47) "occupier" includes –
- (a) any person who for the time being is paying or is liable to pay the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;
 - (b) an owner living in or otherwise using his land or building;
 - (c) a rent-free tenant;
 - (d) a licensee in occupation of any land or building; and
 - (e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;
- (48) "offensive matter" includes animal carcasses, dung, dirt and putrid or putrefying substances other than sewage;
- (49) "Officer of the Corporation" means a person holding for the time being an office created or continued by or under this Act but shall not include a member of the Corporation or of a Committee as such;
- (50) "Official Gazette" means the Gazette issued under the authority of the State Government;
- (51) "Order" means any order published in the Official Gazette or in the manner prescribed;
- (51-A) ["backward classes" means the backward classes of citizens specified in Schedule I of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994;]¹⁷
- (52) "owner" means –
- (a) When used with reference to any premises the person who receives the rent of the said premises or who would be entitled to receive the rent thereof if the premises were let and includes –
 - (i) an agent or trustee who receives such rent on account of the owner;

- (ii) an agent or trustee who receives the rent of or is entrusted with, or concerned for any premises devoted to religious or charitable purposes;
 - (iii) a receiver, sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises; and
 - (iv) a mortgagee-in-possession;
- (b) when used with reference to any animal, vehicle or boat, includes the person for the time being in charge of the animal, vehicle or boat;
- (52-A) ["Panchayat" means a Panchayat referred to in clause (f) of Article 243-P of the Constitution;]¹⁸
- (53) "part of a building" includes any wall, underground room or passage, verandah, fixed platform, plinth, staircase or door-step attached to, or within the compound of an existing building or constructed on ground which is to be the site or compound of a projected building;
- (53-A) ["population" means the population as ascertained at the last preceding census of which the relevant figures have been published;]¹⁹
- (54) ["premises" means any land or building;]²⁰
- (55) "prescribed" means prescribed by this Act or by rule or other made thereunder or by or under any other enactment;
- (56) "prescribed authority" means an officer or a body corporate appointed by the State Government in this behalf by notification in the Official Gazette, and, if no such officer or body corporate is appointed, the Commissioner of the Division in which the City is situated;
- (57) "petroleum" means petroleum as defined in the Petroleum Act, 1934;²¹
- (58) "private street" means a street which is not a public street;
- (59) "privy" means a place set apart for defecating or urinating or both, together with the structure comprising such place, the receptacle therein for human excreta and the fitting and apparatus, if any, connected therewith, and includes a closet of the dry type, an aqua privy, a latrine and a urinal;
- (60) "public place" includes any public park or garden or any ground to which the public have or are permitted to have access;

(61) "public securities" means –

- (a) securities of the Central Government or any State Government;
- (b) securities, stocks, debentures or shares, the interest whereon has been guaranteed by the Central or the State Government;
- (c) debentures or other securities for money issued by or on behalf of any local authority in exercise of the powers conferred by any enactment for the time being in force in any part of the Republic of India;
- (d) securities expressly authorized by any order which the State Government makes in this behalf;

(62) "public street" means any street –

- (a) heretofore leveled, paved, metalled, channeled, sewerred or repaired out of Corporation of other public funds; or
- (b) which under the provisions of Section 290 is declared to be, or under any other provisions of this Act becomes, a public street;

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(69) "Servant of the Corporation" means any person in the pay and service of the Corporation;

(70) "sewage" means night-soil and other contents of water-closets, latrines, privies, urinals, cess-pools, or drains and polluted water from sinks, bathrooms, stables, cattle-sheds, and other like places and includes trade effluent and discharges from manufactories of all kinds;

(71) "sky-sign" means any word, letter, model, sign, device or other representation, in the nature of an advertisement, announcement or direction, which is supported on or attached to any post, pole, standard, framework or other support wholly or in part upon, over or above any building or structure and which is wholly or in part visible against the sky from any point in any street or public place, and includes –

- (a) every part of support, and
- (b) any balloon, parachute or similar device employed wholly or in part

for the purpose of any advertisement or announcement, on, over or above any building, structure or erection of any kind, or on or over any street or public place; but shall not be deemed to include –

- (i) any flagstaff, pole, vane or weathercock unless adapted or used wholly or in part for the purposes of any advertisement or announcement;
- (ii) any sign on any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, on the cornice or blocking course of any wall or to the ridge or a roof, if such contrivance be of one continuous face and not open work and does not extend in height more than three feet above any part of such wall, parapet or ridge; or
- (iii) any representation which relates exclusively to the business of a railway Administration as defined in the Indian Railway Act, 1890, and which is placed wholly upon or over any railway station yard, platform or station approach, or premises belonging to such railway administration, and which is also so placed that it could not fall into any street or public place;

(72) “special fund” means a fund constituted under Section 139;

(73) “State Government” means the Government of Uttar Pradesh;

(73-A) [“State Election Commission” means the State Election Commission referred to in Article 243-K of the Constitution appointed by the Governor;]²³

(74) “street” includes any highway and any causeway, bridge, via-duct, arch, road, lane, foot-way, sub-way, court, alley or riding path or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years; and, when there is a foot-way as well as a carriage way in any street, the said term includes both;

(75) “street alignment” means the line dividing the land comprised in an forming part of a street from the adjoining land;

(76) “sweetmeat shop” means any premises or part of any premises used for manufacture, treatment or storage for sale or for the sale, wholesale or retail, of any ice-cream, confections or sweetmeats, whatsoever, for whomsoever intended, and by whatsoever name the same may be known, and whether the same be for consumption on or outside the premises;

- (77) "theatre tax" means a tax on amusement or entertainments;
- (78) "trade effluent" means any liquid either with or without particles of matter in Suspension therein, which is so wholly or in part produced in the course of any trade or industry carried on at trade premises and in relation to any trade premises, means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises, but does not include domestic sewage;
- (79) "trade premises" means any premises used or intended to be used for carrying on any trade or industry;
- (80) "trade refuse" means and includes the refuse of any trade, manufacture or business;
- (81) "vehicle" includes a carriage, cart, van dray, truck, hand-cart, bicycle, tricycle, motor-car and every wheeled conveyance which is used or is capable of being used on a street;
- (82) ["ward" means the territorial constituency of a Corporation;]²⁴
- (82-A)²⁵ "Ward Committees" means the Ward Committee [referred to in Article 243-S of the Constitution;]²⁶
- (83) "water closet" means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;
- (84) "water connection" includes –
- (a) any tank, cistern, hydrant, stand-pipe, meter or tap, situated on a private property and connected with a water-main or pipe belonging to the Corporation; and
 - (b) the water-pipe connecting such a tank, cistern, hydrant, stand-pipe, meter or tap with such water-main or pipe;
- (85) "water-course" includes any river, stream, or channel whether natural or artificial;
- (86) "water for domestic purposes" shall not include water for cattle or for horse, or for washing vehicles, when the cattle, horses or vehicles are kept for sale or hire, or by a common carrier, and shall not include water for any trade, manufacture or business, or for building purposes,

for watering gardens, or streets or for fountains or for any ornamental or mechanical purposes;

- (87) "waterworks" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open sluice, main-pipe, culvert, engine, water-trust, hydrant, stand-pipe, conduit and machinery, land, building or thing for supplying water or for protecting sources of water-supply;
- (88) "Workshop" means any building, place or premises, or any part thereof, not being a factory, to or over which the employer or the persons working therein have the right to access or control and in which or within the compound or precincts of which, any manual labour is employed or utilized in aid of or incidental to any process for the following purposes :
- (a) the making of any article or part thereof; or
 - (b) the altering, repairing, ornamenting or finishing of any article; or
 - (c) the adopting for sale or any article;
- (89) [The expressions "transitional area" and "smaller urban area" shall have the meanings respectively assigned to them in the U.P. Municipalities Act, 1916.]²⁷

3. Declaration of larger urban area.²⁸ -

- (1) Any area specified by the Governor in a notification under clause (2) of Article 243-Q of the Constitution with such limits as are specified therein to be a larger urban area, shall be known as a City, by such name as he may specify.
- (2) Where, by a subsequent notification under clause (2) of Article 243-Q of the Constitution the Governor includes any area in a city, such area shall thereby become subject to all notifications, rules, regulations, bye-laws, orders and directions issued or made under this or any other enactment and in force in the city at the time immediately preceding the inclusion of such area and all taxes, fees and charges imposed under this Act, shall be and continue to be levied and collected in the aforesaid area.]

References:

1. Passed in Hindi by the Uttar Pradesh Legislative Assembly on September 15, 1958 and by the Uttar Pradesh Legislative Council on December 17, 1958. Received the assent of the President on January 22, 1959 and was published in the Uttar Pradesh Gazette, Extra. dt. Jan. 24, 1959.
2. The word "Deputy Mayor" omitted by U.P. Act. 49 of 2007, S.8.
3. Substituted by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).
4. Instituted by U.P. Act. 14 of 1959.
5. Omitted by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).
6. Omitted by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).
7. Substituted by U.P. Act. 26 of 1995, S.2 (w.e.f. 28-12-1994).
8. Instituted by U.P. Act. 3 of 1987 (w.e.f. 21-1-1987).
9. Instituted by U.P. Act. 26 of 1995, S.2 (w.e.f. 28-12-1994))
10. Omitted by U.P. Act. 12 of 1994 (w.e.f. 30-05-1994).
11. Instituted by U.P. Act. 41 of 1976 (w.e.f. 15-9-1976).
12. Subs. by U.P. Act. 21 of 1964.
13. Ins. by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).
14. Subs. for "referred to in" by U.P. Act. 26 of 1995, S.2 (w.e.f. 28-12-1994).
15. Subs. by U.P. Act. 26 of 1995, S.2 (w.e.f. 28-12-1994).
16. Ins. by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).
17. Ins. by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).
18. Ins. by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994)
19. Ins. by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).
20. Subs. by U.P. Act. 24 of 1972.
21. Subs. by U.P. Act. 14 of 1959 for Indian Petroleum Act., 1899.
22. Omitted by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).
23. Ins. by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).
24. Subs. by U.P. Act. 26 of 1995, S.2 (w.e.f. 28-12-1994).
25. Ins. by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).

26. Subs. for "constituted under Section 6-A" by U.P. Act. 26 of 1995,
S.2 (w.e.f. 28-12-1994)
 27. Ins. by U.P. Act. 12 of 1994 (w.e.f. 30-5-1994).
 28. Subs. by U.P. Act. 26 of 1995, S.3 (w.e.f. 28-12-1994).
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APPENDIX 'C'

APPENDIX "C"
THE CONSTITUTION (SEVENTY-FOURTH AMENDMENT)
ACT, 1992

Statement of Objects and Reasons appended to the Constitution (Seventy-third Amendment) Bill, 1991 which was enacted as the Constitution (Seventy-fourth Amendment) Act, 1992

STATEMENT OF OBJECTS AND REASONS

1. In many States local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersession and inadequate devolution of powers and functions. As a result, Urban Local Bodies are not able to perform effectively as vibrant democratic units of self-government.

2. Having regard to these inadequacies, it is considered necessary that provisions relating to Urban Local Bodies are incorporated in the Constitution particularly for-
 - (i) putting on a firmer footing the relationship between the State Government and the Urban Local Bodies with respect to-
 - (a) the functions and taxation powers; and
 - (b) arrangements for revenue sharing;
 - (ii) Ensuring regular conduct of elections;
 - (iii) ensuring timely elections in the case of supersession; and
 - (iv) providing adequate representation for the weaker sections like Scheduled Castes, Scheduled Tribes and women

3. Accordingly, it is proposed to add a new part relating to the Urban Local Bodies in the Constitution to provide for-

(a) Constitution of three types of Municipalities:

- (i) Nagar Panchayats for areas in transition from a rural area to urban area;
- (ii) Municipal Councils for smaller urban areas;
- (iii) Municipal Corporations for larger urban areas.

The broad criteria for specifying the said areas is being provided in the proposed article 243-0;

(b) composition of Municipalities, which will be decided by the Legislature of a State, having the following features:

- (i) persons to be chosen by direct election;
 - (ii) representation of Chairpersons of Committees, if any, at ward or other levels in the Municipalities;
 - (iii) representation of persons having special knowledge or experience of Municipal Administration in Municipalities (without voting rights);
- (c) election of Chairpersons of a Municipality in the manner specified in the State law;

(d) constitution of Committees at ward level or other level or levels within the territorial area of a Municipality as may be provided in the State law;

(e) reservation of seats in every Municipality-

- (i) for Scheduled Castes and Scheduled Tribes in proportion to their population of which not less than one-third shall be for women;
- (ii) for women which shall not less than one-third of the total number of seats;
- (iii) in favour of backward class of citizens if so provided by the Legislature of the State;
- (iv) for Scheduled Castes, Scheduled Tribes and women in the office of Chairpersons as may be specified in the State law;

(f) Fixed tenure of 5 years for the Municipality and re-election within six months of end of tenure. If a Municipality is dissolved before expiration of its duration, elections to be held within a

- period of six months of its dissolution;
- (g) devolution by the State Legislature of powers and responsibilities upon the Municipalities with respect to preparation of plans for economic development and social justice, and for the implementation of development schemes as may be required to enable them to function as institutions of self-government;
 - (h) levy of taxes and duties by Municipalities, assigning of such taxes and duties to Municipalities by State Governments and for making grants-in-aid by the State to the Municipalities as may be provided in the State law;
 - (i) a Finance Commission to review the finances of the Municipalities and to recommend principles for-
 - (1) determining the taxes which may be assigned to the Municipalities;
 - (2) Sharing of taxes between the State and Municipalities;
 - (3) grants-in-aid to the Municipalities from the Consolidated Fund of the State;
 - (j) audit of accounts of the Municipal Corporations by the Comptroller and Auditor-General of India and laying of reports before the Legislature of the State and the Municipal Corporation concerned;
 - (k) making of law by a State Legislature with respect to elections to the Municipalities to be conducted under the superintendence, direction and control of the chief electoral officer of the State;
 - (l) application of the provisions of the Bill to any Union territory or part thereof with such modifications as may be specified by the President;
 - (m) Exempting Scheduled areas referred to in clause (1), and tribal areas referred to in clause (2), of article 244, from the application of the provisions of the Bill. Extension of provisions of the Bill to such areas may be done by Parliament by law;
 - (n) disqualifications for membership of a Municipality;

(o) bar of jurisdiction of Courts in matters relating to elections to the Municipalities.

4. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;

SHEILA KAUL.

The 11th September, 1991.

THE CONSTITUTION (SEVENTY-FOURTH AMENDMENT)

ACT, 1992

[20th April, 1993.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:-

1. Short title and commencement.-(1) This Act may be called the Constitution (Seventy-fourth Amendment) Act, 1992.
2. Insertion of new Part IXA.-After Part IX of the Constitution, the following Part shall be inserted, namely:-

PART IXA
THE MUNICIPALITIES

243P. Definitions - In this Part, unless the context otherwise requires:-

- (a) "Committee" means a Committee constituted under article 243S;
- (b) "district" means a district in a State;

- (c) "Metropolitan area" means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;
- (d) "Municipal area" means the territorial area of a Municipality as is notified by the Governor;
- (e) "Municipality" means an institution of self-government constituted under article 243Q;
- (f) "Panchayat" means a Panchayat constituted under article 243B;
- (g) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

243Q. Constitution of Municipalities.-(1) There shall be constituted in every State -

- (a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;
- (b) a Municipal Council for a smaller urban area; and
- (c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

- (2) In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population

therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

243R. Composition of Municipalities :

1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

2) The Legislature of a State may, by law, provide-

(a) for the representation in a Municipality of-

(i) persons having special knowledge or experience in Municipal administration;

(ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

(iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;

(iv) the Chairpersons of the Committees constituted under clause (5) of article 243S:

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

(b) the manner of election of the Chairperson of a Municipality.

243S. Constitution and composition of Wards Committees, etc.-

(1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of Municipality having a population of three lakhs or more.

- (2) The Legislature of a State may, by law, make provision with respect to-
- (a) the composition and the territorial area of a Wards Committee;
 - (b) the manner in which the seats in a Wards Committee shall be filled.
- (3) A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that committee,
- (4) Where a Wards Committee consists of-
- (a) one ward, the member representing that ward in the Municipality;
 - or
 - (b) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee, shall be the Chairperson of that Committee
- (5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

243T. Reservation of seats.-

- (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.
- (2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the

Scheduled Castes or, as the case may be, the Scheduled Tribes.

- (3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.
- (4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.
- (5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.
- (6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

243U. Duration of Municipalities, etc.-

- (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

- (2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).
- (3) An election to constitute a Municipality shall be completed -

- (a) before the expiry of its duration specified in clause (1);
- (b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

- (4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

243V. Disqualifications for membership.-(1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality -

- (a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

- (b) if he is so disqualified by or under any law made by the Legislature of the State.

- (2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243W. Powers, authority and responsibilities of Municipalities, etc.- Subject to the provisions of this Constitution, the Legislature of a

State may, by law, endow -

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to-
 - (i) the preparation of plans for economic development and social justice;
 - (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;
- (b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

243X. Power to impose taxes by, and Funds of, the Municipalities.-The Legislature of a State may, by law -

- (a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- (b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- (c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and
- (d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom as may be specified in the law.

243Y. Finance Commission -

(1) The Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to-

(a) the principles which should govern -

(i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

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

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243Z. Audit of accounts of Municipalities.-The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

243ZA. Elections to the Municipalities.-(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in

the State Election Commission referred to in article 243K.

- (2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

243ZB. Application to Union territories.-The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243ZC. Part not to apply to certain areas.-

- (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

- (2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

- (3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of

article 368.

243ZD. Committee for district planning.-(1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to -

(a) the composition of the District Planning Committees;

(b) the manner in which the seats in such Committees shall be filled;

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

(c) the functions relating to district planning which may be assigned to such Committees;

(d) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan -

(a) have regard to-

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may,

by order, specify.

- (4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZE. Committee for Metropolitan planning.-(I) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

- (2) The Legislature of a State may, by law, make provision with respect to -

- (a) the composition of the Metropolitan Planning Committees;
- (b) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

- (c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;
- (d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;
- (e) the manner in which the Chairpersons of such Committees shall be chosen.

- (3) Every Metropolitan Planning Committee shall, in preparing the draft development plan -

- (a) have regard to-

- (i) the plans prepared by the Municipalities and the Panchayats in the

Metropolitan area;

- (ii) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
 - (iii) the overall objectives and priorities set by the Government of India and the Government of the State;
 - (iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;
- (b) consult such institutions and organisations as the Governor may, by order, specify.
- (4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZF. Continuance of existing laws and Municipalities.-

Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of THE CONSTITUTION (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the

Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243ZG. Bar to interference by courts in electoral matters.-

Notwithstanding anything in this Constitution,-

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;
 - (b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.
3. Amendment of article 280.- In clause (3) of article 280 of the Constitution, sub-clause (c) shall be re-lettered as sub-clause (d) and before sub-clause (d) as so re-lettered, the following sub-clause shall be inserted, namely:-
- (c) "the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State".
4. Addition of Twelfth Schedule.-After the Eleventh Schedule to the Constitution, the following Schedule shall be added, namely:-

"TWELFTH SCHEDULE"

(Article 243W)

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.

5. Water supply for domestic, industrial and commercial purposes.
 6. Public health, sanitation conservancy and solid waste management.
 7. Fire services.
 8. Urban forestry, protection of the environment and promotion of ecological aspects.
 9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
 10. Slum improvement and upgradation.
 11. Urban poverty alleviation.
 12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
 13. Promotion of cultural, educational and aesthetic aspects.
 14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
 15. Cattle pounds; prevention of cruelty to animals.
 16. Vital statistics including registration of births and deaths.
 17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
 18. Regulation of slaughter houses and tanneries.
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APPENDIX 'D'

APPENDIX 'D'
RECOMMENDATIONS OF THE RURAL URBAN
RELATIONSHIP COMMITTEE ON STATE DIRECTORATES OF
LOCAL BODIES

Para 11.14: State Directorate of Local Bodies

The Committee feels that a well-organized Directorate at the State level with effective regions inspecting staff should go a long way towards improving the system of direction, supervision and control of local bodies. It should guide and advise the local authority in the solution of their current and future problems and advocate their cause with the relevant Departments. The Director and the Inspector should function as friends and guides to the local bodies. A body of inspectors for scrutinizing the work of local authorities and keeping the State Government in touch with their special needs would also serve as a source of information for the State and the local officials.

Para 11.16: Organization and Functions

The Committee is aware that it will take some time to build a well-organized set-up in States for promoting the healthy growth of local bodies. The Committee recommends that there should be:

- A Directorate of Urban Local Administration at the State Head Quarters under the charge of a senior officer, preferably one who possesses experience of municipal administration.
- Personnel section in the Directorate to control and regulate the State cadre of municipal employees and guide and advice local authorities about personnel management and training.

- A central Valuation Section to guide and control the work of Valuation Officers and to act as the appellate authority for valuation of property.
- A planning and Finance Cell to guide and assist urban authorities in preparing their Five year Plans on a uniform pattern as part of their State Plan. The Cell shall act as a liaison between the functional and technical departments of the Government in the planning and execution of their programmes in urban areas. It will also collect data, analyze information and intelligence, prepare documents and circulate them among the local bodies.
- An inspectorate at the field level, with one inspector for such division or a group of districts.
- A section under the direct control of the Director, aided by inspectors to give general direction and exercise supervision over the working of local bodies. The inspectors shall submit regular reports assessing the working of local bodies, bringing out their difficulties, and suggesting remedial action. The section must also undertake the work of drafting model by-laws, rules, and advice the State Government on charges in the law relating to urban local authorities.

Para 11.17: Relation with Technical Department

The functions of Directorate as given above do not include technical guidance and assistance in town planning, development, designing, and execution of major works such as water supply sewerage and sewage disposal. Recently, some State Governments have set up Town Planning Departments. The Committee recommended that a well equipped Town and Country Planning Organization should be established in every State to assist

the municipal councils in the preparation of master plans. The organization may also prepare regional plans providing the framework for local plans. The Committee further recommends that every State must have specialized organization for public health engineering and water supply, sewerage and sewage disposal. These two technical services should function in close co-operation between themselves and with the Directorate of Local Bodies to ensure constant consultations and well co-ordinated field activity.

Para 11.18: Audit of Accounts

Other important matter that would require the constant attention of the Directorate is the audit of accounts. Audit will continue to be the responsibility of the Examiner of Local Fund Accounts but it should become more meaningful and purposeful. Audit must play a more effective and positive role in improving the working of the local bodies. There are a large number of audit objections remaining indisposed off, but many of them are of a routing character relating to procedural matters. It is necessary that the more serious objections should receive prior and careful attention. The Directorate should be able to give suitable directions and indicate specific aspects on which probe is indeed.

ANNEXURE 'A-1'

ANNEXURE 'A-1'

Income and Expenditure of the Local Bodies, U.P., in the Financial Years of 1997 to 2000

Income from Taxes [I]

(In rupees crore)

Financial Year	Name of the Local Body	House Tax	Water Tax	2% Share of Registration of immovable Properties & Stamp Revenue	Vehicular Tax	Sewage & Drainage Tax	Advertisement Tax	Show House/Entertainment Tax	Other Tax	Total Tax [I]
1	2	3	4	5	6	7	8	9	10	11
1997-98	Nagar Nigam	28.63	5.13	1.16	-	-	-	-	4.84	39.76
"	Nagar Palika Parishad	9.79	7.48	1.83	-	-	-	-	1.04	20.14
"	Nagar Panchayat	2.36	0.13	-	-	-	-	-	0.76	3.25
"	TOTAL	40.78	12.74	2.99	-	-	-	-	6.64	63.15
1998-99	Nagar Nigam	41.57	5.12	5.60	-	-	-	-	5.69	57.98
"	Nagar Palika Parishad	12.36	9.73	2.50	-	-	-	-	3.17	27.76
"	Nagar Panchayat	3.24	0.26	-	-	-	-	-	0.96	4.46
"	TOTAL	57.17	15.11	8.10	-	-	-	-	9.82	90.20
1999-2000	Nagar Nigam	56.42	5.73	0.37	1.36	1.84	3.09	0.48	0.39	69.68
"	Nagar Palika Parishad	14.52	11.06	1.84	0.03	0.15	0.09	0.79	0.43	28.91
"	Nagar Panchayat	2.89	0.27	0.02	-	-	-	-	1.81	4.99
"	TOTAL	73.83	7.06	2.23	1.39	1.99	3.18	1.27	2.63	103.58

Source: Directorate of Local Bodies, U.P.

Income from Resources other than Taxes [2]

(In rupees crore)

<i>Financial Year</i>	<i>Name of the Local Body</i>	<i>Temporary Water Arrangements</i>	<i>Tehbazari fees collected from vendors in the market</i>	<i>Trade Licenses Fees</i>	<i>Parking Fees</i>	<i>Income from Leasing (shops, Lands & Buildings)</i>	<i>Road ceiling/Cutting fees</i>	<i>Income from Other Resources</i>	<i>Total income other Than Taxes [2]</i>	<i>Income from Personal Resources [1+2]</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>	<i>11</i>
1997-98	Nagar Nigam	2.79	3.72	0.38	0.58	4.42	-	16.32	28.21	67.97
"	Nagar Palika Parishad	2.96	8.22	1.00	2.50	5.19	-	20.13	40.00	60.14
"	Nagar Panchayat	2.10	7.33	0.13	2.73	1.49	-	6.66	20.44	23.69
"	TOTAL	7.85	19.27	1.51	5.81	11.10	-	43.11	88.65	151.80
1998-99	Nagar Nigam	2.86	4.45	0.42	0.31	4.73	-	29.12	41.89	99.87
"	Nagar Palika Parishad	4.52	11.29	1.54	2.29	7.06	-	25.34	52.04	79.80
"	Nagar Panchayat	2.30	8.36	0.28	3.74	0.19	-	7.30	22.89	27.35
"	TOTAL	9.68	24.10	2.24	6.34	12.70	-	61.76	116.82	207.02
1999-2000	Nagar Nigam	4.76	4.00	0.82	0.53	6.24	7.25	32.66	56.26	125.94
"	Nagar Palika Parishad	4.00	11.29	1.11	3.09	8.34	0.68	21.08	49.59	78.50
"	Nagar Panchayat	2.59	8.21	0.26	0.82	1.04	-	8.11	21.03	26.02
"	TOTAL	11.35	23.50	2.19	4.44	15.62	7.93	61.85	126.88	230.46

Source: Directorate of Local Bodies, U.P.

Income from Governmental Aids/Shares for Developmental Works [3]

(In rupees crore)

<i>Financial Year</i>	<i>Name of the Local Body</i>	<i>Tenth Finance Commission</i>	<i>State Finance Commission</i>	<i>Natural Calamities</i>	<i>Parliamentarian's/ Legislator's Fund</i>	<i>Other Aids</i>	<i>Total Income from Aids & Shares [3]</i>	<i>Total Income [1+2+3]</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>
1997-98	Nagar Nigam	13.50	209.17	-	-	-	222.67	290.64
"	Nagar Palika Parishad	13.50	190.68	-	-	-	204.18	264.64
"	Nagar Panchayat	3.29	40.65	-	-	-	43.94	67.63
"	TOTAL	30.29	440.50	-	-	-	470.79	622.59
1998-99	Nagar Nigam	13.50	232.69	-	-	54.64	301.15	401.02
"	Nagar Palika Parishad	13.50	249.74	-	-	13.50	276.74	356.54
"	Nagar Panchayat	3.30	54.90	-	-	7.49	65.69	93.04
"	TOTAL	30.30	537.33	-	-	75.95	643.58	850.60
1999-2000	Nagar Nigam	13.50	245.88	3.63	10.74	21.16	294.91	420.85
"	Nagar Palika Parishad	13.50	262.01	2.28	4.17	3.34	285.30	363.80
"	Nagar Panchayat	3.30	65.66	-	-	9.51	78.47	104.49
"	TOTAL	30.30	573.55	5.91	14.91	34.01	658.68	889.14

Source: Directorate of Local Bodies, U.P.

Income from Loans [4]

(In rupees crore)

<i>Financial Year</i>	<i>Name of the Local Body</i>	<i>Governmental Loans</i>	<i>Non-Governmental Loans</i>	<i>Total Income from Loans [4]</i>	<i>Total Income [1+2+3+4]</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
1997-98	Nagar Nigam	1.19	-	-	291.83
"	Nagar Palika Parishad	-	-	-	264.64
"	Nagar Panchayat	-	-	-	67.63
"	TOTAL	1.19	-	-	624.10
1998-99	Nagar Nigam	8.12	7.24	15.36	416.38
"	Nagar Palika Parishad	4.67	-	4.67	361.21
"	Nagar Panchayat	-	-	-	93.04
"	TOTAL	12.79	7.24	20.03	870.63
1999-2000	Nagar Nigam	5.68	3.92	9.60	430.45
"	Nagar Palika Parishad	-	-	-	363.80
"	Nagar Panchayat	-	-	-	104.49
"	TOTAL	5.66	3.92	9.60	898.74

Source: Directorate of Local Bodies, U.P.

Expenditure on Development Works [5]

(In rupees crore)

<i>Financial Year</i>	<i>Name of the Local Body</i>	<i>Road Lighting</i>	<i>Road Repairing</i>	<i>Building & Other Construction works</i>	<i>Cleaning Machines</i>	<i>Provision of Water</i>	<i>Recovery of Loans</i>	<i>Other Expenditures</i>	<i>Total Expenditure on Developmental Works [5]</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	<i>9</i>	<i>10</i>
1997-98	Nagar Nigam	7.57	30.32	3.99	15.83	4.85	0.60	49.76	112.92
"	Nagar Palika Parishad	3.36	27.99	3.37	7.36	4.91	0.13	22.03	69.15
"	Nagar Panchayat	1.14	6.99	3.51	1.28	1.70	-	6.85	21.47
"	TOTAL	12.07	65.30	10.87	24.47	11.48	0.93	78.64	203.54
1998-99	Nagar Nigam	10.47	61.32	2.05	17.10	6.01	2.32	72.43	171.70
"	Nagar Palika Parishad	7.55	57.65	6.26	11.03	9.41	0.22	51.32	143.44
"	Nagar Panchayat	2.03	12.52	6.29	2.29	3.04	-	12.26	38.43
"	TOTAL	20.05	131.49	14.60	30.42	18.46	2.54	136.01	353.57
1999-2000	Nagar Nigam	6.88	59.21	13.40	6.33	8.53	0.25	98.69	193.29
"	Nagar Palika Parishad	5.23	63.13	7.88	7.36	6.67	-	26.38	116.65
"	Nagar Panchayat	2.37	14.65	7.36	2.63	3.57	-	14.34	44.97
"	TOTAL	14.48	136.99	28.64	16.37	18.77	0.25	139.41	354.91

Source: Directorate of Local Bodies, U.P.

Expenditure on Establishments [6]

(In rupees crore)

<i>Financial Year</i>	<i>Name of the Local Body</i>	<i>Salary of General Staff</i>	<i>Salary of Cleaning Staff</i>	<i>Provident Fund of Employees</i>	<i>Pension of Retired Employees</i>	<i>Total Expenditure on Establishments [6]</i>	<i>Total Expenditure [5+6]</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>
1997-98	Nagar Nigam	65.72	99.13	-	-	164.85	277.77
"	Nagar Palika Parishad	59.49	74.65	-	-	134.14	203.29
"	Nagar Panchayat	15.97	16.56	-	-	32.53	54.00
"	TOTAL	141.18	190.34	-	-	331.52	535.06
1998-99	Nagar Nigam	83.57	124.15	-	-	207.72	379.42
"	Nagar Palika Parishad	104.99	120.87	-	-	225.86	369.30
"	Nagar Panchayat	25.98	26.69	-	-	52.67	91.10
"	TOTAL	214.54	271.71	-	-	486.25	839.82
1999-2000	Nagar Nigam	109.00	160.52	15.97	3.95	289.44	482.73
"	Nagar Palika Parishad	106.78	129.45	13.36	4.91	254.50	371.15
"	Nagar Panchayat	25.37	34.85	-	-	60.22	105.19
"	TOTAL	241.15	324.82	29.33	8.86	604.16	959.07

Source: Directorate of Local Bodies, U.P.

ANNEXURE 'A-2'

ANNEXURE 'A-2'
Aggregate Receipt of Grants by Urban Local Bodies of
U.P. (2004-07)*[1]

(in rupees crore)

<i>Sl. No.</i>	<i>Year</i>	<i>11th & 12th Finance Commissions</i>	<i>State Finance Commission</i>	<i>Own Resource</i>	<i>Total</i>
1	2004 - 05	22.79 (1.74%)	877.00 (66.84%)	412.33 (31.42%)	1312.12
2	2005 - 06	51.70 (3.59%)	911.25 (63.33%)	475.78 (33.08%)	1438.93
3	2006 - 07	103.40 (5.00%)	1518.00 (73.34%)	448.36 (21.66%)	2069.76
4	2007 - 08	310.20 (11.04%)	1838.43 (65.40%)	662.23 (23.56%)	2810.86
<i>Total</i>		488.09 (6.40%)	5144.68 (67.40%)	1998.90 (26.19%)	7631.67

**Devolution of State Finance Commission's Grant to the Urban Local
Bodies of U.P. (2004-07)*[2]**

(in rupees crore)

<i>Year</i>	<i>Net Proceeds of Tax Revenue of State Government</i>	<i>Funds to be Devolved</i>	<i>Funds actually Devolved</i>	<i>Short release (percentage)</i>
2004-05	15693	1177	877	300 (25%)
2005-06	18858	1414	911	503 (36%)
2006-07	22998	1725	1518	207 (12%)
<i>Total</i>	57549	4316	3306	1010 (23%)

**Utilization of Grants by the Urban Local Bodies of U.P.,
under the 11th & 12th Finance Commission, and State Finance
Commission (2004-07)* [3]**

(in rupees crores)

<i>Name of the Grant</i>	<i>Year</i>	<i>Funds Available</i>	<i>Funds Utilised</i>	<i>Funds not Utilised</i>
<i>11th Finance Commission and 12th Finance Commission</i>	2004-05	22.79	22.79	-
	2005-06	51.70	51.70	-
	2006-07	103.40	51.70	51.70
<i>Second State Finance Commission</i>	2004-05	877.00	877.00	-
	2005-06	911.25	911.25	-
	2006-07	1518.00	1518.00	-

**Revenue realized by Urban Local Bodies from Own Resources
(2004-07)* [4]**

(in rupees crore)

<i>Name & Numbers of Urban Local Bodies</i>	<i>2004-05</i>		<i>2005-06</i>		<i>2006-07</i>	
	<i>Target</i>	<i>Achievements (Percent)</i>	<i>Target</i>	<i>Achievements (Percent)</i>	<i>Target</i>	<i>Achievements (Percent)</i>
<i>12 Nagar Nigams</i>	318.87	272.52 (85%)	261.52	299.88 (115%)	298.93	254.41 (85%)
<i>194 Nagar Palika Parishad</i>	147.73	116.83 (79%)	158.92	132.10 (83%)	161.90	116.73 (72%)
<i>421 Nagar Panchayat</i>	52.28	22.98 (44%)	19.81	44.00 (222%)	19.81	77.22 (390%)
<i>Total</i>	518.88	412.33 (79%)	440.25	475.98 (108%)	480.64	448.36 (93%)

Overall Financial Positions of the Urban Local Bodies (Audit Records) 2004-07*[5]

(in rupees crore)

<i>Year</i>	<i>No. of Urban Local Bodies Test Checked</i>	<i>Opening Balances</i>	<i>Funds Received</i>	<i>Total Funds Available</i>	<i>Expenditure (Percentage)</i>	<i>Closing Balances</i>
<i>Nagar Nigams</i>						
2004-05	5	39.05	302.97	342.02	287.47 (84%)	54.55
2005-06	7	132.32	581.23	713.55	501.83 (70%)	211.72
2006-07	7	211.72	605.50	817.22	595.48 (73%)	221.74
<i>Nagar Palika Parishads</i>						
2004-05	38	27.48	98.16	125.64	92.40 (73%)	33.24
2005-06	39	34.10	122.99	157.09	113.14 (72%)	43.95
2006-07	39	43.95	124.01	167.96	126.32 (75%)	41.64
<i>Nagar Panchayats</i>						
2004-05	57	11.47	25.82	37.29	23.14 (62%)	14.15
2005-06	59	15.05	40.83	55.88	39.09 (70%)	16.79
2006-07	60	17.20	49.63	66.83	51.37 (77%)	-
Total	-	-	-	-	1830.24	-

*Source: Directorate of Local Bodies, U.P.

ANNEXURE 'A-3'

ANNEXURE 'A-3'

Municipal Corporations of U.P. (Nagar Nigam), Description of Area, Population, and Employees

Budget Session 2009-10

Sl. No.	Name of the Municipal Body	According to Census 2001		No. Employees as on 31.03.2010																											
				General																											
				Centralised														Non - Centralised													
									Permanent					Daily wages			Contractual			Work - Charge			Fixed Salary								
				Area (in Sq. Km.)		Popul-ation		A		B		C		D		Total		C		D		Total		C	D	Total	C	D	Total	C	D
				Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled	Sanc-tioned	Filled		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32
1.	Moradabad	0.75	641583	0	1	0	4	0	30	0	0	0	35	119	80	236	202	355	282	0	2	2	0	117	117	0	0	0	0	0	0
2.	Meerut	41.89	1068772	3	1	65	40	2	2	0	0	70	43	120	101	622	615	742	716	0	6	6	8	0	128	0	0	0	0	0	0
3.	Ghaziabad	20.00	968256	12	12	11	8	48	34	0	0	71	54	131	119	1655	1643	1786	1762	6	476	482	0	2472	2472	0	0	0	0	0	0
4.	Bareilly	106.05	720315	7	6	9	7	43	25	0	0	59	38	158	153	419	405	577	558	1	86	87	6	0	6	0	0	0	0	0	0
5.	Agra	121.54	1275134	7	6	18	13	111	54	0	0	136	73	358	209	655	582	1013	791	0	2	2	52	46	98	0	0	0	0	0	0
6.	Aligarh	32.37	669087	8	8	8	5	40	23	0	0	56	36	137	120	436	404	573	524	0	13	13	0	0	0	0	0	0	0	0	0
7.	Kanpur	261.69	2555811	21	17	31	21	279	99	0	0	331	137	705	513	5637	1662	6342	2175	0	0	0	4	184	188	0	0	0	0	0	0
8.	Jhansi	45.22	492840	1	12	2	2	25	17	0	0	28	21	47	32	147	193	194	225	0	13	13	0	23	23	0	0	0	0	0	0
9.	Allahabad	64.00	1018092	17	11	27	11	103	49	0	0	147	71	441	321	852	763	1293	1084	9	4	13	0	0	0	0	0	0	0	1	1
10.	Lucknow	310.10	2185927	24	21	37	22	200	101	0	0	261	144	681	531	1873	1585	2554	2116	5	17	22	27	156	183	0	0	0	0	0	0
11.	Gorakhpur	136.58	622701	9	7	9	6	33	33	0	0	51	46	124	114	454	416	578	530	29	54	83	2	0	2	0	0	0	0	0	0
12.	Varanasi	77.25	1103952	10	8	31	15	100	52	0	0	141	75	369	279	1100	803	1469	1082	0	0	0	62	67	129	0	0	0	0	0	0
13.	Saharanpur	46.74	544090	1	1	2	2	42	22	0	0	45	25	131	58	409	287	540	345	0	7	7	0	0	0	0	0	0	0	0	0
Total		1654.18	13866560	120	101	250	156	1026	541	0	0	1396	798	3521	2630	-	9560	18016	12190	50	680	730	161	3185	3346	0	0	0	0	1	1

Source: Directorate of Economics and Statistics, Govt. of U.P. & Directorate of Local Bodies, U.P.

ANNEXURE 'B'

ANNEXURE 'B'

Income -Expenditure Pattern of Lucknow Nagar Nigam [I]

(in rupees lakh)

Income Head	2000-01	2001-02	2002-03	2003-04	2004-05
Revenue Income	7564.07	8123.27	9407.9	10637.18	10655.02
Capital Income	1699.20	2213.34	7814.03	1124.18	1438.58
Total Income	9263.27	10336.61	17221.93	11761.36	12093.6
Revenue Expenditure	7044.91	6996.54	9658.03	8347.68	9021.8
Capital Expenditure	2045.54	2268.8	4900.56	2560.17	2637.22
Total Expenditure	9090.45	9265.34	14558.59	10907.85	11659.02

Status of Surplus/Deficit

Revenue Surplus / Deficit	519.16	1126.73	-250.13	2289.5	1633.22
Capital Surplus / Deficit	-346.34	-55.46	2913.47	1435.99	1198.64
Total Surplus / Deficit	172.82	1071.27	2663.34	853.51	434.58

Source: Lucknow Nagar Nigam.

Composition of Revenue Income of Lucknow Nagar Nigam [2]

(in rupees lakh)

Years	2000-01	2001-02	2002-03	2003-04	2004-05
<i>Taxes</i>	1674.5	1418.95	1708.81	3180.92	3851.42
<i>(% to total)</i>	22.14	17.47	18.16	29.90	36.15
<i>Other than Taxes</i>	475.26	717.34	624.84	861.83	893.07
<i>(% to total)</i>	6.28	8.83	6.64	8.10	8.38
<i>Road Cutting</i>	202.01	211.2	212.42	129.75	83.5
<i>(% to total)</i>	2.67	2.60	2.26	1.22	0.78
<i>Transfer of Colonies</i>	106.92	72.42	651.82	194.81	62.71
<i>(% to total)</i>	1.41	0.89	6.93	1.83	0.59
<i>Assistance under SFC</i>	5024.09	5617.05	6164.13	6190.03	5712.52
<i>(% to total)</i>	66.42	69.15	65.52	58.19	53.61
<i>Education Grant</i>	81.29	86.31	45.88	79.84	51.8
<i>(% to total)</i>	1.07	1.06	0.49	0.75	0.49
Total	7564.07	8123.27	9407.9	10637.18	10655.02

Source: Lucknow Nagar Nigam.

Composition of Capital Income of Lucknow Nagar Nigam [3]

(in rupees lakh)

Years	2000-01	2001-02	2002-03	2003-04	2004-05
<i>11th Finance Commission</i>	0.00	282.23	661.76	379.26	379.26
<i>(% to total)</i>	0.00	12.75	8.47	33.74	26.36
<i>Revolving Fund</i>	794.59	1354.39	1364	270	716.55
<i>(% to total)</i>	46.76	61.19	17.46	24.02	49.81
<i>Calamities Fund</i>	238.41	41.21	0.00	0.00	0.00
<i>(% to total)</i>	14.03	1.86	0.00	0.00	0.00
<i>MLAs LAD Scheme</i>	318.87	376.1	418.16	254.55	288.59
<i>(% to total)</i>	18.77	16.99	5.35	22.64	20.06
<i>MPs LAD Scheme</i>	347.33	126.07	54.93	49.09	54.18
<i>(% to total)</i>	20.44	5.70	0.70	4.37	3.77
<i>Deposits / others</i>	0.00	33.34	5315.18	171.28	0.00
<i>(% to total)</i>	0.00	1.51	68.02	15.24	0.00
Total	1699.2	2213.34	7814.03	1124.18	1438.58

Source: Lucknow Nagar Nigam.

Pattern of Revenue Expenditure of Lucknow Nagar Nigam [4]

(in rupees lakh)

Years	2000-01	2001-02	2002-03	2003-04	2004-05
Establishment	5168.65	5231.91	5449.92	5644.95	5520.47
(% to total)	73.37	74.78	56.43	67.62	61.19
Public Works	1379.66	1128.51	1896.93	1727.78	2047.97
(% to total)	19.58	16.13	19.64	20.70	22.70
Health	8.77	101.2	78.44	53.00	80.47
(% to total)	0.12	1.45	0.81	0.63	0.89
Workshop/Solid Waste	337.01	384.37	427.97	567.23	681.90
(% to total)	4.78	5.49	4.43	6.80	7.56
Street Lights	133.22	139.55	224.01	340.40	450.70
(% to total)	1.89	1.99	2.32	4.08	5.00
Others	17.60	11.00	1580.76	14.32	240.29
(% to total)	0.25	0.16	16.37	0.17	2.66
Total	7044.91	6996.54	9658.03	8347.68	9021.8

Source: Lucknow Nagar Nigam.

Pattern of Capital Expenditure of Lucknow Nagar Nigam [5]

(in rupees lakh)

Years	2000-01	2001-02	2002-03	2003-04	2004-05
11 th Finance Commission	225.33	395.47	726.36	421.01	537.31
(% to total)	11.02	17.43	14.82	16.44	20.37
Revolving Fund	0.00	897.72	395.43	1188.59	793.22
(% to total)	0.00	39.57	8.07	46.43	30.08
Calamities Fund	256.47	8.79	36.79	0.01	0.00
(% to total)	12.54	0.39	0.75	0.00	0.00
MLAs& MPs LAD Scheme	734.77	494.91	459.05	282.65	245.23
(% to total)	35.92	21.81	9.37	11.04	9.30
Deposits / Others	160.53	150.61	2917.81	237.59	227.38
(% to total)	7.85	6.64	59.54	9.28	8.62
Infrastructure/ Dev. of Works	668.44	321.3	365.12	430.32	834.08
(% to total)	32.68	14.16	7.45	16.81	31.63
Total	2045.54	2268.8	4900.56	2560.17	2637.22

Source: Lucknow Nagar Nigam.

Balance Sheet Of Lucknow Nagar Nigam – 2010 [6]

LUCKNOW NAGAR NIGAM				
Balance Sheet as on 31 st March 2010				
Code No.	Item/ Head of Account	Schedule No	Current Year Amount (₹)	Previous Year Amount (₹)
1	2	3	4	5
LIABILITIES				
Reserve & Surplus				
3-10	Municipal (General) Fund	B-1	10,418,885,641.83	10,295,956,757.52
3-11	earmarked Funds	B-2	-	-
3-12	Reserves	B-3	-	-
	Total Reserves & Surplus		10,418,885,641.83	10,295,956,757.52
3-20	Grants, Contributions for specific purposes	B-4	5,223,069,706.00	3,850,523,200.00
Loans				
3-30	Secured Loans	B-5	-	-
3-31	Unsecured Loans	B-6	1,698,672,000.00	1,407,214,000.00
	Total Loans		1,698,672,000.00	1,407,214,000.00
Current Liabilities and Provisions				
3-40	Deposits Received	B-7	15,666,723.00	14,617,096.00
3-41	Deposit works	B-8	1,290,021,360.00	1,279,910,000.00
3-50	Other Liabilities (Sundry Creditors)	B-9	581,599,433.00	266,645,866.00
3-60	Provisions	B-10	-	-
	Total Current Liabilities and Provisions		1,877,287,516.00	1,561,172,962.00
	TOTAL LIABILITIES		19,217,854,863.83	17,114,866,919.52
ASSETS				
Fixed Assets				
4-10	Gross Block	B-11	11,358,961,329.70	9,278,881,091.70
4-11	Less: Accumulated Depreciation		524,671,552.90	-
	Net Block		10,834,289,776.80	9,278,881,091.70
4-12	Capital Work-in-Progress	B-16	72,273,979.00	-
	Total Fixed Assets		10,906,563,755.80	9,278,881,091.70
Investments				
4-20	Investment – General Fund	B-12	227,989,605.00	209,257,482.00
4-21	Investments – Other Funds	B-13	-	-
	Total Investments		227,989,605.00	209,257,482.00
Current Assets, Loans and Advances				
4-30	Stock in Hand (Inventories)	B-14	5,364,449.50	7,894,025.80
4-31	Sundry Debtors (Receivables)	B-15	1,452,953,161.66	1,373,382,215.79
4-40	Prepaid Expenses	Ann. I	269,548.86	67,651.64
4-50	Cash and Bank Balances	B-17	1,925,309,358.01	3,743,477,367.59
4-60	Loans, advances and deposits	B-18	4,699,404,985.00	2,501,907,085.00
4-61	Less: Accumulated provision against Loans Net Amount outstanding		-	-
	Total Current Assets, Loans & Advances		8,083,301,503.04	7,626,728,345.82
4-70	Other Assets	B-19	-	-
4-80	Miscellaneous Expenditure (to the extent not written off)	B-20	-	-
	TOTAL ASSETS		19,217,854,863.84	17,114,866,919.52

0.00

*Note- The Balance Sheet has been compiled as per information & explanation provided

For Habibullah & Company
(Chartered Accountants)

(Signature)
K.K. Lalchandani
(Partner)
Membership no. 0711/13



(Signature)
Chief Account
Officer

(Signature)
Addl. Municipal
Commissioner
(Lucknow Nagar Nigam)

(Signature)
Municipal
Commissioner

Date-27.12.2012
Place: Lucknow

Lucknow Nagar Nigam

Page 1 of 1

Source: Lucknow Nagar Nigam

ANNEXURE 'C'

ANNEXURE 'C'
Source of Municipal Revenues of some Major States in India,
1997-98 [II]

(In rupees crore.)

States	Total Revenue	Own sources (%)			Transfers (External Sources) (%)			
		Tax	Non-Tax	Both	Shared Taxes	Grants	Others	All
Andhra Pradesh	13800.1	36.37	14.80	51.17	33.56	13.03	2.25	48.84
Assam	4721.4	23.24	35.84	59.08	-	23.37	17.55	40.92
Bihar	10313.3	36.86	15.91	52.77	2.99	40.31	3.93	47.23
Gujarat	10921.0	79.74	7.71	87.45	0.18	11.10	1.27	12.55
Haryana	5716.8	42.80	37.71	80.51	13.44	3.95	2.09	19.48
Karnataka	11417.3	18.12	25.06	43.18	5.67	43.62	7.53	56.82
Kerala	7629.6	44.69	25.63	70.32	20.65	4.74	4.29	29.68
Madhya Pradesh	11472.8	22.61	24.73	47.34	11.88	39.90	0.88	52.66
Maharashtra	21721.1	65.44	29.96	95.40	0.53	3.84	0.23	4.60
Orissa	5046.7	46.92	20.20	67.12	0.93	28.59	3.36	32.88
Punjab	7074.2	69.60	19.42	89.02	6.14	3.81	1.03	10.98
Rajasthan	8713.8	62.90	26.90	89.80	0.17	9.30	0.74	10.21
Tamil Nadu	13418.4	21.21	23.13	44.34	21.93	29.49	4.24	55.66
Uttar Pradesh	17478.1	13.50	5.95	19.44	0.36	79.14	1.06	80.56
West Bengal	9764.41	36.51	22.82	59.33	5.05	30.53	5.10	40.68
Himachal Pradesh	2117.6	15.27	10.59	25.86	-	72.04	2.09	74.13
Manipur	906.9	90.42	7.87	98.29	0.20	0.15	1.35	1.70
Meghalaya	947.5	37.66	8.62	46.27	-	40.09	13.63	53.72
Tripura	1130.3	27.31	15.61	42.92	-	33.74	23.34	57.08
All	163413.49	56.40	26.38	82.78	4.05	11.99	1.19	17.23

Source: NIPFP (2000).

**Per Capita Revenue Expenditure of some Major States of India on
Core Services, 1997-98**

(In rupees crore.)

<i>States</i>	<i>Water Supply</i>	<i>Sewerage & Drainage</i>	<i>Conservancy & Sanitation</i>	<i>Municipal Roads</i>	<i>Street Lighting</i>	<i>All Functions</i>
<i>Andhra Pradesh</i>	50.52	55.12	63.37	102.53	13.19	313.38
<i>Assam</i>	2.98	7.46	12.60	24.17	2.49	81.77
<i>Bihar</i>	4.32	40.45	39.85	2.93	1.29	104.29
<i>Gujarat</i>	60.40	44.28	119.37	52.23	29.76	438.21
<i>Haryana</i>	191.84	89.99	108.56	57.77	30.74	598.22
<i>Karnataka</i>	62.56	42.91	74.19	46.46	25.92	321.05
<i>Kerala</i>	2.84	8.98	66.14	46.49	8.37	228.38
<i>Madhya Pradesh</i>	79.44	31.92	37.10	27.19	13.16	322.74
<i>Maharashtra</i>	230.00	155.58	195.87	117.35	43.08	1750.50
<i>Orissa</i>	9.66	42.58	67.91	16.29	13.08	248.29
<i>Punjab</i>	95.38	109.70	118.44	48.67	23.35	542.81
<i>Rajasthan</i>	-	165.07	-	12.28	5.40	497.24
<i>Tamil Nadu</i>	45.92	13.39	111.86	56.13	23.25	331.46
<i>Uttar Pradesh</i>	16.48	5.41	112.10	34.64	9.52	223.23
<i>West Bengal</i>	60.01	41.58	119.48	63.71	13.72	522.83
<i>Himachal Pradesh</i>	89.57	36.67	251.76	304.90	15.62	1112.85
<i>Manipur</i>	0.03	-	27.05	16.38	-	101.42
<i>Meghalaya</i>	46.57	16.66	55.98	47.32	23.03	272.10
<i>Tripura</i>	0.01	-	-	2.13	4.99	255.90
Total	125.77	93.21	123.36	70.19	23.28	747.02

Source: NIPFP (2000).

ANNEXURE 'D'

QUESTIONNAIRE

ANNEXURE 'D'

QUESTIONNAIRE

Part-I

[For Officials of the Directorate of Local Bodies, U.P.]

1. Do you feel that the powers entrusted to the Directorate of Local Bodies, U.P., are adequate for its efficient functioning?
Yes/No
2. Are all the powers and functions previously (prior to the 74th Amendment Act) assigned to the District Magistrate/ Collector under the Municipalities Act has been transferred to the Directorate of Local Bodies?
Yes/No
3. Do you feel that there is a need for field level sub- organisations under the Directorate for escalating efficiency?
Yes/No
4. Is the Directorate capable enough to exercise financial control over the Local Bodies?
Yes/No
5. Does the Directorate enjoy political control over the Local Bodies?
Yes/No
6. Are you satisfied by the organizational (hierarchical) structure of Directorate of Local Bodies, U.P.?
Yes/No
7. Are you satisfied by the measures taken by the Directorate for the welfare of the Municipal staffs?
Yes/No
8. Do you feel that the finances received by the Directorate, from the State Government is adequate?
Yes/No

9. Do you feel that the Directorate has succeeded in supervising and controlling the Local Bodies?

Yes/No

10. Are you satisfied and contented with your job?

Yes/No

QUESTIONNAIRE

Part-II

[For Officials as well as the Elected Members of the Municipal Bodies of U.P.]

1. Do you agree that existence of two parallel posts i.e. Mayor/Chairman and Commissioner/Executive Officer is an obstacle in the development of the city/town?

Yes/No
2. Whether existence of two parallel posts i.e. Mayor/Chairman and Commission/Executive Officer will raise Financial Burden on the General Public?

Yes/No
3. Do you agree that the Local Bodies be given free hand to lay down their policies and generate resources for the development of their city?

Yes/No
4. Do you agree that development expenditure be allocated to each colony of corporate city in accordance with the ratio of income generated from the colony?

Yes/No
5. Do you agree that the capital market should be tapped for generating funds?

Yes/No
6. Do you concede the need for Decentralization of power?

Yes/No
7. Is the Directorate of Local Bodies, able to establish proper co-ordination between the sectoral and technical departments of the State Government?

Yes/No
8. Has the Directorate of Local Bodies, been able to properly and efficiently discharge its duties (for which it has been constituted)?

Yes/No

9. Do you think that the Directorate of Local Bodies has encroached upon the autonomy of the Local Bodies?

Yes/No

10. Do you think that that the Directorate of Local Bodies is a useful gateway between the Local Bodies and the State Government?

Yes/No

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