

BY Dr. ALEYA MOUSAMI SULTANA

DEPT. OF POLITICAL SCIENCE, CPBU.

# **LOCAL SELF GOVERNMENT**

## **COURSE -424**

### **UNIT - II**

**Write a note on the composition, functions, types and functional domains of the Urban Local Government. 20**

Urban Local government implies the governance of an urban area by the people through their elected representatives. 74th Constitutional Amendment Act, 1992 provided constitutional status to local urban bodies.

#### **74th Constitutional Amendment**

This act added a new part IX-A to the Constitution entitled as ‘The Municipalities’ and a new Twelfth Schedule containing 18 functional items for municipalities. 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:

1. **Constitution of Nagar panchayats, municipal councils and municipal corporations** in transitional areas (areas in transition from a rural area to urban area), smaller urban areas and larger urban areas respectively;

2. **Reservation of seats in urban local bodies for Scheduled Castes / Scheduled Tribes** roughly in proportion to their population;
3. **Reservation of seats for women up to one-third seats;**
4. The **State Election Commission**, constituted in order to conduct elections in the panchayati raj bodies (see 73rd Amendment) will also conduct elections to the urban local self- governing bodies;
5. The **State Finance Commission**, constituted to deal with financial affairs of the Panchayati Raj bodies will also look into the financial affairs of the local urban self governing bodies;
6. **Tenure of urban local self-governing bodies is fixed** at five years and in case of earlier dissolution fresh elections are 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:

1. Giving representation to members of the Union and State Legislatures in these bodies;
2. Providing reservation for backward classes;
3. Giving financial powers in relation to taxes, duties, tolls and fees etc;
4. 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, one must remember that local self-government continues to be a subject in the State List.

Thus, the 73rd and 74th amendments provide a framework for the States in respect of local government. 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.

### **Composition**

The Municipal bodies are constituted of persons chosen by direct election from the territorial constituencies (known as wards) 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. The state legislature may also provide the manner of the election of the Chairpersons of a municipality. The state legislature may also provide the manner of the election of the Chairpersons of a municipality. Empowerment of weaker sections of society and women by reserving seats for such groups is one of the important constitutional provisions of the Constitutional Amendment. The offices of chairperson are also reserved for SC/ST and women. Thus, at least one year, out of five year duration of Municipal Corporation of Delhi, the office of Mayor is reserved for a woman, and for one year is reserved for a Councillor of Scheduled

Caste. It gives 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.

## **FUNCTIONS OF URBAN LOCAL BODIES**

It is a common practice to divide the organisation of a corporation or a municipality into two parts:

### **(a) deliberative and (b) 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, resources raising, 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 an epidemic, the deliberative wing criticises 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 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 centres; checking food adulteration; removal of slums; supply of electricity; 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 are given less priority. Some of the discretionary functions are construction and maintenance of rescue homes and orphanages, housing for low income groups, organising public receptions, provision of treatment facilities, etc.

## **FUNCTIONAL DOMAIN OF MUNICIPALITIES**

What should be dealt with by a particular local body would depend on the nature of the good as well as on the capacity/capability of that body as also on what other non-local bodies are doing in that local area. In our Constitution, matters of local public sphere are enumerated in the State List because the unit States were expected to constitute local bodies and assign them the tasks, functions and responsibilities and empower them with adequate resources so that the local bodies could look after the tasks assigned to them<sup>13</sup>. Since the unit States failed to do this job adequately, the State of India stepped in. The amendments evolved a

uniform pattern of local bodies across the country with little scope in details, suggested some of the functions/responsibilities/tasks for devolution/delegation, if already not devolved/delegated, and exhorted the State Legislatures to endow the local bodies with such power, authority and resources as may be necessary for carrying out such functions. In respect of Schedule Fifth and Sixth Areas, the Parliament has yet to extend the provisions for urban local bodies. Constitutional Position Part XI of the Constitution deals with the relationship between the Union and the States and it has two chapters—Chapter I dealing with legislative relations and Chapter II dealing with administrative relations. Of the eleven articles dealing with legislative relations, Art. 246 delineate the legislative competence of the Parliament and the State Legislatures as regards the subject-matters. The clause (3) of the article stipulates exclusive power to the State Legislatures to make laws with respect to any of the matters enumerated in List II in the Seventh Schedule while the clause (2) stipulates co-extensive power to the State Legislature along with the Parliament with respect to any of the matters enumerated in List III in the Seventh Schedule. All subject matters related with local functions are listed in List II and List III and traditionally local powers of raising resources (taxes, user charges and loans) are also listed in the List II. As the local bodies are not legislative bodies (but only deliberative bodies), local bodies do not have any exclusive domain of their own. Their domain is coextensive with and a subset of the state's functional domain. Twelfth Schedule Art. 243W suggests that the Legislature of a State may, by law, endow the municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and further suggests that such law may contain provision for the devolution of power and responsibilities upon municipalities—subject to such conditions as may be specified—with respect to (i) the preparation of plans for economic development

and social justice and (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matter listed in the Twelfth Schedule. Art. 246 also suggests that the Legislature of a State may, by law, endow the Committees (the Wards 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. Certain things should be clear. First, this article is not a statutory binding for the State Legislatures. Second, provision for devolution of power and responsibilities, with conditions, is indicative. Third, the Twelfth Schedule is only illustrative; all matters listed therein neither need to be devolved, nor are they suggested to be exhaustive. Fourth, the schedule indicates only the subject-matters of functions, not the functions themselves that could be entrusted. Fifth, powers, responsibilities and authority may be devolved by the law in anticipation of functions and schemes that may be entrusted to them.

## **TYPES OF URBAN LOCAL GOVERNMENT**

There are **eight types** of urban governments in India.

1. **Municipal Corporation:** Municipal corporations are created for the administration of big cities like Delhi, Mumbai, Hyderabad and others. A Municipal Corporation has three authorities namely, the council (legislative wing of the corporation), the standing committee (to facilitate the working of the council) and the commissioner (chief executive authority of the corporation). The council consist of councillors directly elected by people and is headed by a Mayor

while the Commissioner is appointed by state government and is generally an IAS officer.

2.       **Municipality:** The municipalities are established for the administration of towns and smaller cities. They are known by various other names like municipal council, municipal committee, municipal board, borough municipality, city municipality and others. In composition they are quite similar to municipal corporations except that head of council is called President /chairman and in place of commissioner they have a chief executive officer/chief municipal officer.
3.       **Notified Area Committee:** A notified area committee is created for the administration of two types of areas- a fast developing town due to industrialisation, and a town which does not yet fulfill all the conditions necessary for the constitution of a municipality, but which otherwise is considered important by the state government. It is called so because it is created by a notification and unlike the municipality it is an entirely nominated body, i.e. all members, including the Chairman, are nominated by the state government. Thus, it is neither a statutory body (created by law) nor an elected body.
4.       **Town Area Committee:** It is set up by a separate act of state legislature for the administration of a small town. It is a semi-municipal authority entrusted with limited number of civic functions. It may be wholly elected or wholly nominated or partly elected and partly nominated as provided by state government.
5.       **Cantonment Board:** It is established for municipal administration for civilian population in the cantonment areas (area where military forces and troops are permanently stationed). It is set up under the provisions of the Cantonment Act, 2006 by central government and works under Defence ministry of central government. It is partly elected and partly nominated body having the Military officer commanding the station as its ex-officio President. Vice president is elected



amongst by the elected members of board. The executive officer of the cantonment board is appointed by the President of India.,

6. **Township:** It is established by large public enterprises to provide civic amenities to its staff and workers, who live in the housing colonies built near the plant. It is not an elected body and all members, including the town administrator, is appointed by the enterprise itself.
7. **Port Trust:** The port trusts are established in the port areas like Mumbai, Kolkata, Chennai and so on for two purposes: (a) to manage and protect the ports; (b) to provide civic amenities. It is created by an Act of Parliament and it consists of both elected and nominated members.
8. **Special Purpose Agency:** The states have set up certain agencies to undertake designated activities or specific functions that legitimately belong to the domain of municipal corporations, municipalities or other local urban governments. In other words, these are function based, not area based. They are known as 'single purpose', 'uni-purpose' or 'special purpose' or 'functional local bodies' like town improvement trust, housing boards, pollution control boards etc. They are established as statutory bodies by an act of state legislature or as departments by an executive resolution. They function as an autonomous body and are not subordinate agencies to local municipal bodies.