



**B. A. PART III
SEMESTER-V**

**PUBLIC ADMINISTRATION
PAPER I
LOCAL ADMINISTRATION**

UNIT - 2

**Department of Distance Education
Punjabi University, Patiala**

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LESSON NO. :

- 2.1 : Urbanisation : Meaning and Problems
- 2.2 : Features of 74th Amendment Act 1992
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**Note : Students can download the syllabus from
department's website www.dccpbi.com**

LESSON NO. 2.1

CONCEPT OF URBANISATION

Urbanisation means growth of the cities. It also means phenomenon describing process of change in the population of cities due to changing conditions in a society at large. Various reasons have led to urbanisation and urbanisation has its impact on society i.e. social, economic and political aspects. Though urbanisation, positively is viewed as development of the area towards industrialization, better job opportunities etc, but at the same time, negatively it is taken as leading to severe pollution, health, hygiene problems, creating slums and poor living conditions for so many people.

Salient Features of Urbanisation In India

The salient features of the urbanisation process in India may be described as follows:-

(1) Tremendous increase in urban population— India has witnessed tremendous increase in its urban population since independence. The total population of the country had doubled from 350 million in 1947 to 800 millions in 1988, and it stood at 84-94 million on March 1, 1991. During 1947-1988 urban population had increased four-fold from 50 million to 200 million. By the end of the century (24th Oct, 1999), the total population is projected to touch 1000 million and urban population 350 million. Expert Committee of the Registrar General (Census), however, projects urban population of 32.6 crores in 2001. National Commission on Urbanisation is of the view that the total population of India in 2001 will exceed 100 crores and the urban population will be in the range of 34 to 35 crores 35% of the total. According to the latest projections made by the United Nations, India's urban population is expected to be 33 crores in 2001, 45.4 crores in 2010, 59.1 crores in 2020 and 65.8 crores' in 2025 when the total population of India is expected to be 122.9 crores.

(2) Uneven distribution of Urban population in various states/ UT's— Urban population is unevenly distributed in different states and Union Territories in the country. At the end of the spectrum, we have Arunachal Pradesh and Himachal Pradesh with 6.6 per cent and 7.6 per cent urban population respectively, at the other end are Maharashtra and Tamil Nadu with 35 per cent and 33 per cent urban population

respectively. In between, we have states with proportion of urban population ranging from 11 to 32 per cent. The Union Territory of Chandigarh is 93.6 per cent urban while Dadra and Nagar Haveli Union Territory is only 6.7 per cent urban.

(3) Rise in Urban India and Decline in Rural growth to continue— In the last five years of this century (1996-2001) the annual exponential growth rate in urban India as a whole is expected to be of the order of 3.4 per cent and for rural India 0.7 per cent. In economically backward states and high urban states the urban and rural growth rates are estimated to be as follows :

Economically Backward States		
	Urban Growth rate	Rural growth rate
Uttar Pradesh	5.1	0.5
Orissa	4.7	0.4
Rajasthan	4.4	1.1
Bihar	4.4	1.4
Madhya Pradesh	3.9	1.4
Andhra Pradesh	2.9	0.5

(4) Concentration of large percentage of population in Metropolitan Cities— Urbanisation in India is characterised by the concentration of large percentage of urban population in class I and metropolitan cities. In 1981, the 218 Class I cities accounted for more than 60 per cent of the total urban population of the country. In absolute numbers, out of 20 crores of urban population, class I cities contained about 12 crore people and the metropolitan cities Delhi, Calcutta, Bombay (Mumbai) and Madras (Chennai) alone had about 5 crores and sixty-five lakh people living in them. These are under the greatest strain because their infrastructure is overloaded to the point of breakdown.

(5) Development of new townships on the periphery of big cities— All cities of population of 20 lakh and more are reaching a size which renders them difficult to manage. They are characterised by excessive densities in core areas, non-availability of land, and overloaded infrastructure no longer amenable to improvement, lack of housing and a

transportation system which for want of land space can no longer be augmented. This leads to movement of population towards the periphery as is discernible by the outcropping of Calcutta, Madras (Chennai) and Bombay (Mumbai) and the new townships being developed in the periphery of Delhi by the adjoining state governments.

REASONS

The causes responsible for accelerated pace in the rise of process of urbanisation and factors contributing to increase in the number of urban areas and the magnitude of urban growth can be discerned as (a) migration from rural to urban areas, (b) natural increase in population in urban areas and (c) classification of earlier rural settlements as urban. These causes or factors may be discussed in detail as under.

(a) Migration from rural to urban areas — The following factors contribute to migration from rural to urban areas :

(i) *Push and pull factors*- Urbanisation is mainly attributed to migration of people from rural to urban areas due to 'Push' and 'Pull' factors. The 'Push' factors push or force the village people to move to towns or cities. These factors include population pressure on agricultural land, unemployment and under-employment (between sowing and harvesting seasons); life of drudgery in villages, little source of income and lack of adequate employment opportunities, orthodoxy in ideas and thinking, enchaining of individual freedom to traditional social codes, superstitions and conventional approach to life stifling a person physically and intellectually.

The 'Pull' factors lure or attract the village folk to towns and cities. These comprise money, good economic prospects and better standards of living, well developed network of civic amenities and facilities in every sphere making life smoother and comfortable as compared to the villages, more independence and freedom, more independent outlook and progressive ideas, better educational, cultural, medical and social life facilities and prospects of a prosperous and glorious future. For most city is a cornucopia of opportunity awaiting them. Some come to a town or a city looking for a life free from shackles of orthodoxy and ignorance, a place of aware and enlightened people. A handful come to be a part of the 'jet-set' modern society. In short, the lure of city, like El Dorado is irresistible and beckons the rural people from their native villages to alien cities-

(ii) *Migration, due to agricultural prosperity*- It is not only the rural

poverty which induces urbanisation but the agricultural prosperity brought about by green revolution in some states also induces urbanisation. In Punjab, for example, the urban growth rate increased from 25.3 per cent during 1961-71 to 44.5 per cent during 1971-81, while in Haryana, the comparable figures were 35.6 per cent and 56.4 per cent.

(iii) *Migration from urban to urban (small towns to cities)*- Urban to urban migration also plays an important role in process of urbanisation. There is no doubt that by virtue of higher education and skill even in small urban areas compared to rural areas, the potential migrant from the small town to the big cities has an edge over his counterpart from the rural areas in finding employment in the city except when the demand is for unskilled labour or labour of a specialised type like contract labour. According to 1981 census, of the 3 crores 40 lakhs migrants, 1 crore 70 lakhs were rural-urban migrants and a little over 1 crore 30 lakhs urban-urban migrants.

(iv) *Industrialisation* - Urbanisation is the inevitable consequence of industrialisation. Industrialisation and urbanisation are inseparable. Just as agriculture fosters village, industry encourages growth of cities. In fact, urbanisation is accomplished through a shift from agrarianism to industrial economy. Britain was transformed into an urbanised society in a span of one hundred years (1801-1900) due to industrialisation. The intensive urbanisation of most of the advanced countries began within the past 100 years; in the developing countries including India it got under way more recently primarily due to industrialisation and resultant economic growth. Industrialisation, by the very nature, demands huge force of labour which get concentrated in the areas where industries are set up or expanded.

Industrial development contributes to the growth of new towns as well, to provide housing, civic amenities and other services to the people engaged in the industrial concern and to counter the increasing concentration in large cities. Many new towns were set up to meet such requirements in the industrial centres, for example, single industry (steel) township like Rourkela and Bhilai, townships having an industrial complex such as Durgapur, Nangal, Chittranjan, Ranchi, etc., small townships like heavy Electrical Township near Bhopal, township of Indian Telephone Industries and Hindustan Aeronautics Ltd. near Bangalore, and Indian Ordnance Factory near Dehradun, and Company towns at Sindri and Modinagar and Hindustan Machine tools at Pinjore.

(v) *Expansion of means of Transport*- The development of transport infrastructure has also accelerated the pace of urbanisation. The development of railways throughout the length and breadth of the country and the construction of roads and bridges and the consequent expansion of transport linked together different parts of the country and facilitated an easy movement of goods and people giving an impetus to the growth of cities.

(b) Natural increase in population—Urban growth is also substantially affected by natural increase in population. During 1971-81 decade, natural increase accounted for a little over 41 per cent of the total urban growth with the higher percentage in the more urbanised states, 60 per cent in Tamil Nadu, 46 per cent in Maharashtra and 64 per cent in West Bengal. It would thus be wrong to assume that it is migration that is sustaining urbanisation, the share of natural increase is momentous.

(c) Reclassification of urban areas— The impact of reclassification of rural areas as urban areas has also led to rise increased which those institutions, presently constituted as they are, are grossly inadequately structured and equipped to meet. They are a hangover of early nineteenth century and are therefore not in position to meet the demands of the cities standing on the threshold of 21st century. Some of the major problems and challenges posed by urbanisation in India are as follows:

(i) Shortage of Housing — The most visible and dehumanising manifestation of urbanisation in a developing country is the large number of squatters and shanty dwellers found in all the major cities. The reason for this state of affair is housing crisis. The reality of the urban housing scene in India is that more than two lakh urban households are without any shelter and as many as 45 per cent are living in just single-room houses, nearly 5 persons to a room, in a state of extreme over crowding. In 1981, nearly 37 per cent were without electricity and about 66 per cent were without latrine. The Seventh Five Year Plan document states :

The key to success in increasing supply, both quantitatively and qualitatively, i.e. in sheltering the millions and providing need-based, appropriate houses, lies in ensuring success to housing inputs;- land, building material, finance and services: the state facilitating land supply; all city dwellers being served equally in the matter of provision of basic environmental and social services, and strengthening the resource base of the local bodies to ensure this; creating properly designed, structured and staffed housing finance agencies which may effectively reach out to

and service the poor; making arrangements that would accelerate production of low-cost building materials; and above all an effective industrial housing policy-providing minimum required accommodation to every employee as a pre-condition.

(ii) Strain on Civic Amenities— Under Article 47 of the Constitution, it is the duty of the State to improve the standard of living of the people, in particular, to improve public health standards. Water, Sewerage and drainage are three crucial elements for life, without which there can be neither health nor comfort.

A major feature of an urban scene is the misery and serious health hazards caused by lack of water supply and sanitation. Almost all the urban centres, even those which at one time had reasonably adequate water supply, are now suffering from crippling shortages. It is a matter of national disgrace that in 1988, there were prolonged periods when Hyderabad and Madras received piped water supply for only about 20 minutes a day with many localities going without water for many days. Delhi, too, has had to face severe problems in the summer of 1988.

(iii) Haphazard growth of transportation — All major cities are plagued with traffic congestion. The obvious factors responsible are the concentration of too many people and activities, in too small a place, and the inefficient relationship of work-places and residences. In the past two decades, the situation has further deteriorated significantly. In the absence of an integrated policy and coordinated approach, intra-city transportation has grown in a haphazard manner, without any long term perspective, causing congestion and severe crisis in the cities. An urban transportation system can be developed optimally only when transport and land use planning are examined together.

(iv) Growth of slums— People who migrate from villages to urban areas in search of employment or for other reasons cannot afford to pay the high prices of pucca shelters or are not in a position to buy land at the higher prices charged near their work places. They cannot afford to buy means of transport to reach their destinations. Therefore, they settle on marginal lands near their work places, which are considered unfit for habitation by the non-poor classes. These places are river banks, railway lands, unconstructed residential plots in private colonies, etc. They construct their living places with cheap scrap and material like gunny bags, tarpaulin, tin sheets, wooden planks, mud, etc. These places are always without civic amenities. As a result, public sanitation and personal

hygiene break down.

(v) Scourge of urban poverty— The major demanding of the urban challenges is the challenge posed by urban poverty, the worst pollution of all, manifest in the urban slums which dominate the townscape, and in the mass of beggars, petty hawkers and casual workers struggling to eke out a living. The task of adequately feeding, educating, housing and employing a large and rapidly growing, number of under-nourished, semi-literate, semi-skilled under-employed and impoverished city dwellers, living on pavements, in poorly serviced crawls, in unhygienic slums in illegal squatters colonies and in other forms of degraded and inadequate settlements and struggling to make a living from lowpaying and unstable occupations is the challenge facing urban planners. The phenomenon of urban poverty has altered the landscape, the social fabric and the overall character of Indian cities. In the coming years this can be expected to worsen as the Indian cities will have one-third of their population living below the poverty line.

(vi) Scarcity of urban land— The most disastrous feature of urbanisation in India has been that urban land has become extremely scarce and expensive beyond the reach of the poor. The shortage of land has forced both sellers and buyers into a disrespect for the law. Black money has proliferated, corruption has become rife and moral values have been eroded. The colonisers are making huge profits by fleecing those who are in dire need of shelters. Inevitably the poor have been affected most of all with legal, institutionalised and simplified access to urban land at affordable prices denied to them, they have had to take to the only option available-illegal occupation of land resulting in squatter colonies deprived of basic municipal services presenting the most brutish abuses of human dignity.

(vii) Menace of Pollution— The gravest challenge to urbanisation is that of pollution of water, air, noise and solid waste. The Environment (Protection) Act, 1986 defines environmental pollutants as any solid, liquid or gaseous substance present in such concentration as may or tend to be injurious to the environment. Industrial effluents, municipal sewage and agro-chemicals are the major pollutants of water. According to WHO estimates as much as 80 per cent of the world's diseases are traceable to water pollution. Long exposure to polluted air caused by industries and vehicles is responsible for a variety of diseases including lung cancer, pneumonia, bronchitis, asthma and even the common cold. Noise pollution

causes blood vessels contract leading to high-blood pressure and may affect the brain. Pollution also causes serious damage to animals, birds, aquatic life, crops and vegetation. Solid waste consisting mainly of municipal refuse and garbage is hazardous as it harbours disease carrying organism and vectors, attracts stray dogs and pollutes the surface and ground water. During the last two decades, as a result of industrial development more and more wastes are being generated which is more hazardous than the municipal waste as it is ignitable, corrosive, reactive or toxic and can pollute the ground water used for drinking.

(viii) Lack of Employment opportunities— Migrants to the urban areas are hopeful of getting employment as the towns and cities are expected to provide numerous job opportunities but they get frustrated when their hopes are belied as it is not easy to procure an employment commensurate with their qualifications and skills. Graduates and post-graduates working as peons and rickshaw-pullers are a common sight. Although the lower class migrants are mostly absorbed in building or construction work and in the labour force of the factories but the semi-literate form an unstable, excitable mass to be used by anti-social hoodlums for sinister and sadistic designs and diabolical actions of arson and looting during agitations.

(ix) Increasing social development problems— Urbanisation, according to Kingsley Davis, represents a revolutionary change in the whole pattern of social life. To quote a United Nations Report. “The explosive nature of urban growth and the dire poverty in which it typically takes place, poses special problems for social development. Illiterate, unskilled and socially bewildered rural migrants fill squatter shack towns and find little work, a bare subsistence and barren opportunities for self-employment. They are nearly a complete burden on the treacherously thin layer of public services. Illegitimacy, disease and crime symbolise demoralising social enzymes at work. Besides many immigrants remain semi-urbanised, for they maintain strong-ties with their native culture.

The immigrants with the same culture and background usually have a strong tendency to congregate together for various social reasons. Within a variety of jobs in urban areas, various castes and communities cannot retain their traditional occupations. The migrants may thus influence the social character of the cities and generate social problems and shortage of social amenities.

(x) Ruralisation of urban, areas— Another problem of urbanisation is the transfer of the phenomenon of ruralisation to urban centres especially those traits of rural living which render the towns and cities bear ugly looks and cause unhygienic conditions enormously straining the municipal administration and civic services. The rural migrants unable to get employment in urban areas continue with their traditional rural occupations such as animal husbandry and their livestock which results in cowdung spreading all over the streets and urban centres being crowded with buffaloes, cows, goats, poultry birds, pigs and stray cattle and the green belts and parks turning into grazing grounds and cattle sheds.

(xi) Encroachment of Agricultural lands— The process of urbanisation has also assumed a new dimension of encroachment on agricultural lands at an unprecedented rate. For example, urbanisation in Haryana has swallowed up over five lakhs acres of fertile rural land in the past 23 years since its inception in 1966. Municipalities revenues be increased by enhancement of their powers of taxation, share in the state revenues, generous grants-in-aid, reservation of seats for scheduled castes in proportion to their population and thirty-three percent quota for women and finally to accord due respect and prestige to the elected representatives by the bureaucracy.

The Act has been in force for a short period only. It will take some time to realise the objectives enshrined in the various provisions of the Act. But what has been actually observed so far, seems to fall short of the expectations raised by the Act as it is taking unnecessary long time to convince the people about the seriousness on the part of the politicians to let the urban local governments evolve as institutions of self government. Lack of political will and the obstructive attitude of bureaucracy are considered to be the greatest hurdles in the devolution of powers to the local bodies which need to be overcome to strengthen the democratic institutions at the grass roots level.

FEATURES OF 74TH AMENDMENT ACT 1992
THE MUNICIPALITIES

243-P. Definitions :- In this Part, unless the context otherwise requires —

- (a) "Committee" means a Committee constituted under Article 243-S;
- (b) "district" means a district of 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 243-Q;
- (f) "Panchayat" means a Panchayat constituted under Article 243 B;
- (g) "Population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

243-Q. 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 his 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 have 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.

243-R. 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 243-S :

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meeting of the Municipality;

(b) the manner of election of the Chairperson of a Municipality.

243-S. 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 a 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.

243-T. Reservation of seats— (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the 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 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 office 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 office 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 office of Chairpersons in the Municipalities in favour of backward class of citizens.

243-U. 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 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.

243-V. Disqualification for membership — (1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality—

(a) if he 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.

243-W. Powers, authority and responsibilities of Municipalities etc.—Subject to the provisions of this Constitution, the Legislature of 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 provision 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 matter 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.

243-X. 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 rolls 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.

243-Y. Finance Commission— 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 the 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.

243-Z. 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 audit of such accounts.

243-ZA. 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 State Election Commission referred to in Article 243-K.

(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.

243-ZB. 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

Legislature Assembly of a State were references in relation to a Union territory having a Legislature 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.

243-ZC. 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 expectations 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.

243-ZD. 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 organisation 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.

243-ZE. Committee for Metropolitan Planning— (1) 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 of 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 coordinated 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 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.

243-ZF. Continuance of existing laws and Municipalities—

Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediate 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.

243-ZG. 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 243-ZA 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 lettered as sub-clause (d) and before sub-clause (d) as so relettered, 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 243-W)

- 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."

**extract of article 243-I & 243-K from clause 2 of
the constitution (73rd Amendment) act, 1992
which are referred to in the constitution (74th
amendment) act, 1992**

243-I. 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 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 taxes, duties, tolls and fees which may be assigned to or appropriated by, the Panchayats;
 - (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.

243-K. 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 Judge of a High Court and the conditions of service of the State Election Commissioner shall not be averted 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.

MUNICIPAL COUNCIL

Structure

- 2.3.0 Objectives
- 2.3.1 Introduction
- 2.3.2 Meaning and basic features
- 2.3.3 Composition and organization
 - 2.3.3.1 The Council
 - 2.3.3.2 The President/chairman of the council
 - 2.3.3.3 The Executive Officer
 - 2.3.3.4 The Committees
- 2.3.4 Functions of Municipal Corporation
- 2.3.5 Evaluation of working
- 2.3.6 Summary
- 2.3.7 References and further readings
- 2.3.8 Key Words
- 2.3.9 Answer to Self-Check Exercise

2.3.0 Objectives

After going through this lesson on Municipal Council you shall be able to:

- Describe the setup of Municipal Councils
- Discuss their functions
- Distinguish its nature from other forms of local bodies,
- Evaluate their working and their problems.

2.3.1 Introduction

Municipal council is the most common form of urban local body throughout the world. In India too most of the cities and towns have the municipal councils as an institution of the local government. As noted earlier, the other forms of local bodies in cities and towns are: the municipal corporation, nagar panchayat and cantonment boards. A municipal corporation is established in big cities and metros, whereas a nagar panchayat is established in small and new towns. A cantonment board is for the military area only. All the rest of cities, small and medium have the municipal councils. A distinction between a corporation and a municipal council has already been made in lesson-9. After the 74th Constitutional Amendment Act, a large number of changes have been made in order to improve the structure and working of the urban local bodies and to bring about uniformity in all the states in their tenure, powers and functions.

In this lesson we shall be examining their structural and functional aspects and we shall also be looking into the problems in their working. Their finances and personnel have already been studied in the previous two lessons.

2.3.2 Meaning and Basic Features

As noted above, except for very big and very small cities and towns, Municipal Council is the form of local body for most of the cities and towns.

Meaning :

The word municipal is derived from the Latin word 'municipum' meaning a free town. Thus a municipal body denotes a self-governing body in a city/town. A municipal council is established in India, under a state act (statute) such as Punjab municipal Act. Thus it is for the state government to decide and by a notification to declare an area fit for setting up a municipal council. The structure and functions of council are determined on the basis of the governing act. Thus where to set up a council depends upon the decision of state government, which is reached on the basis of some factors. These are: size of population, area, nature of employment; annual income of the existing local body and the future prospects of the area.

Like any other local body, a municipal council is body corporate having a separate legal personality of its own. It can sue and be sued. It can hold, acquire or sell any property on its name. It can enter into contracts on its name, i.e., independent of state government.

Classification :

There is generally a classification of the municipal councils depending upon their size and city population and other bases. In some states these are graded as 1,2,3 or class A,B,C, etc.

2.3.3 Composition and Organisation

Like that of a corporation, a municipal council too is divided into two wings: deliberative wing and executive wing. The deliberative wing is composed of the councilors headed by a chairman or president, whereas executive wing is constituted of the administrative staff headed by a chief executive officer.

2.3.3.1 The Council And The President

The council is the assembly of elected members who are elected by the city residents.

Size of the Council

The state government determines the size of the council on the basis of the municipal act. The size of the council also varies depending upon the size of the city and population. The pattern of size varies from state to state. The minimum number of councilors in Punjab is 9 for population up to 5,000. In Punjab it is as follows:

Population up to	No of members
5000	9
10,000	11
20,000	13
30,000	15
and so on up to 1 lakh	29

After this two members are added with an addition of population of 25,000. After 2 lakhs, two members are added for every additional 50,000 population. After 4 lakhs, two members are added for every addition of 1 lakh of population. The upper limit of number of members of Punjab has been fixed at 49.

Reservation :

As per the provisions of 74th Constitutional Amendment Act a system of reservation of few seats has been introduced for certain categories. Earlier there was a system of cooption, under which few members such as women used to be nominated. Now under the amended state municipal acts, a provision of reservation for SC/ST backward classes and women has been

made. Reservation of seats for SC/ST has been made in proportion to their population. Also one third of the total seats have been reserved for women. All such reservations are rotated over different wards.

Besides reservation, a few more members may be nominated to the council. Their number and bases varies from state to state. In Punjab, like in some other states, the elected MLAs representing the municipal limits area are also associated with the municipal council.

Tenure and Elections :

The people on the basis of adult franchise directly elect the members of the council for five years except the nominated members. For the purpose of election the city is divided into wards. Some acts provide for some qualifications and disqualifications for the candidates seeking election to the council. The main grounds on which a person can be qualified are as follows:

- 1) Being a whole time salaried employee of a body, state or union government.
- 2) Having obtained a contract from the municipality.
- 3) Being an undercharged insolvent.
- 4) Being a defaulter in the payment of the municipal taxes.
- 5) Having been disqualified on some electoral offence.
- 6) Having been dismissed from the government service, and five years have not elapsed since then.

2.3.3.2 The President/Chairman of the Council

The presiding officer of the council is known as president or chairman in most of the states. In Punjab he is called president. The elected members of the municipal council elects from among themselves one president, and one vice president. The large municipal council elects two vice presidents, one senior and one junior. During the British regime, president was nominated but now a days he is elected. In 1974, the Maharashtra adopted the system of direct election for president of municipalities. But at present it has again reverted to the old system of indirect elections i.e. election by the elected members of the committee. Similarly, some of the municipalities of Madhya Pradesh and Uttar Pradesh have also evolved self-styled pattern of election through proportional representation by means of single transferable vote. A part from this provision the municipal act of Punjab makes the provision that if the municipal committee of the towns fails to

elect a president within the specified time then he concerned state govt. can appoint the president from within or outside the municipal committee.

Tenure :

The president remains in the office till the expiry of council's term. In Punjab the municipal (amendment) act 1994 under section 21 clearly provides that the term of office of president and vice-president is to be co-terminus with the term of the municipality. However, section 18 of the Haryana Municipal Act 1973 amended by Haryana Act of 1994 leaves it to the state government for prescribing the tenure of the president, however the term of the office of vice-president is one year.

Reservation :

The Punjab Municipal (amendment) Act, 1994 provides that the office of the presidents of municipalities is to be reserved is to be reserved by rotation in the following ration:

- a) Five percent for scheduled castes;
- b) Five percent for women including women belonging to the scheduled castes; and
- c) Two percent for the backward classes.

Removal :

The president can be asked to vacate the the office if he

- 1) persistently fails in discharging his legal duties;
- 2) misuse of powers;
- 3) appears as an advocate in any case against the municipal committee;
- 4) if he is not the resident of the city; and
- 5) is appointed as the official of the municipal committee.

He can also be removed if a motion of non-confidence is passed against him in a specially convened meeting. The motion for it requires 2/3 majority of the council.

Powers and Functions of President :

There is no uniformity among the states in regard to powers and functions of the president. In many cases his position is close to a mayor of the corporation, but in many states, the president is mere a figurehead and besides being a presiding officer does not enjoy much powers. His powers and functions are discussed as below :

1) As A Presiding Officer :

All the meetings of the council are presided over by the president. He, in consultation with the executive officer, prepares the agenda for the council meeting and when the meeting commences, the president holds the chair and regulates its proceedings. He decides about how the order and decorum of the meeting is to be maintained. He also decides about the genuineness of the point of the meeting is to be maintained. He also decided about the genuineness of the point of order. He puts the resolution to vote and declares the results. He enjoys the right of 'casting' vote. It is the president who summons the meetings and can adjourn them.

2) As The Executive Head :

In those states and municipalities where the 'Executive Officer' has not been given the executive powers, it is then the president who enjoys significant executive powers. As an executive officer he then is responsible to execute the decisions of council and other important functions and programs. He exercises supervision and control over the municipal works, projects and administration of the council. He also exercises control over the municipal staff and records. He may issue required instructions and directions towards the proper working of administrative machinery. He has authority to stop all unlawful constructions and encroachments. He can send for reports information or official documents.

3) Financial Powers :

The chairman/president gets the annual financial statement (budget) prepared with the help of executive officer. He presents the proposed budget to the council for its approval and submits the same to higher authorities after its approval by the council. He also ensures that all the provisions of the budget are implemented properly. He has to ensure proper maintenance of accounts and their audit. He is also empowered to issue tender, signing of contracts and other agreements. He is also responsible towards the maintenance of municipal properties.

4) Emergency Powers :

In case of any emergency he has power to issue orders towards action to tackle the eventuality. Such orders are needed to be placed before the council in its next meeting, if these are issued without the consent of the council.

5) Ceremonial Functions :

As the civic head and the first citizen of the city he represents the city on all-important occasions.

6) Miscellaneous Functions :

- 1) He receives the guests and VIPs, in the city.
- 2) He is the link between the non-officials and officials.
- 3) He listens to the problems of the residents of the city.
- 4) He is ex-officio member of committee of the council in some states.
- 5) He is also empowered to make certain minor appointments.
- 6) To participate in political activities and to provide leadership, new initiatives and policies.

2.3.3.3 The Executive Officer:

Like any municipal corporation there is an executive wing with a municipality. In bigger municipalities there is a large number of administrative staff headed by an executive officer. In the smaller municipalities there may be an executive officer or a secretary and real executive powers are vested in the president, as noted in the previous section. In the municipalities of reasonably good size, the executive officer enjoys most of the executive powers and is assisted by engineers, health officers, sanitary inspectors, sectional officers, accountants, tax collectors, etc. the executive officer is appointed by the state government. Executive officers are generally drawn from state civil service or a state wise cadre of municipal officers. In many states, however the municipal council appoints their own executive officers. In that case any law graduate can be appointed as the executive officer. The appointment is made on contractual basis in certain cases.

In Punjab the post of executive officers has been provincialised since 1975. The executive officer is the head of the municipal administration. As the designation indicates, he is vested with the entire executive authority of the municipality. The permanent personnel functions under his supervision, direction and control. He writes their confidential report and takes all the disciplinary actions of minor administrative nature against them if any drastic or more rigorous action is to be taken against any one of the permanent officials, and then it is he who suggest such an action to the committee. He is also authorized of appoint and dismiss officials drawing pay up to some limit.

In regard to financial administration, the budget of the municipal council is prepared under his direction and control. All contracts on the behalf of the municipal committee are negotiated and concluded by him. When there is any lapse on the part of the contractors to complete their work, he takes appropriate action against them. To collect the taxes and fees is again his responsibility. He also initiates action against the defaulters. Though not a member of the municipal council, he participates in the meetings of the municipal council, always taking his seat on the right hand side of the president. He tenders the needed assistance and guidance to the latter. Whenever the president is called upon by the house to explain any administrative matter, the executive officer helps him with all the information and papers that are needed to dispose off the matter under discussion. In regard to the meetings of the council, the agenda is prepared by the executive officer after consultation with the president. Minutes of the council meetings are also to be recorded and maintained under the supervision and control over the executive officer. All the resolutions passed by the council are needed to be recorded and carried out. This again is done under his control and supervision.

Finally, the executive officer acts as link between municipal council and the state government. All the official correspondence is undertaken through the executive officer

2.3.3.4 Standing Committees:

Like in the case of Municipal Corporation or the rural local self-government institutions all the municipal acts provide for setting up of committees to assist municipal council. The council meets generally once a month and for emergency meetings, it requires to be assisted by the committees, which are constituted of a few council members and meet frequently to examine certain issues in detail. Ordinarily the committees are of two kinds:

- 1) The statutory i.e. those which are required to be created under the municipal law, and
- 2) The non-statutory, which are created by the council under its byelaws.

In Punjab and Haryana, there is only one statutory committee designated as finance sub-committee consisting of 3 to 11 members elected by and from the municipal committee every year.

CHECK YOUR PROGRESS-1

Answer the following in the space given below :

1. List the major functions of municipal president.

2. Outline the structure of a municipal council.

2.3.4 Functions of Municipal Council

In a previous lesson on Municipal Corporation, the major municipal functions have been discussed in detail. In fact the nature of the functions being performed by the municipalities and the municipal corporation are the same, the real difference lies, in their powers and resources. The areas of operation may increase when a municipality is raised to the status of Municipal Corporation. Usually Municipal Acts contain long lists of municipal functions but in practice wide gap exist, some acts divide the functions into two categories: Obligatory and discretionary, but in others no distinction is made. Functions performed by municipalities may also be grouped under the following heads: Public safety: public health and conservancy medical relief; public education and public convenience. It may be mentioned here that in accordance with the appended 12th schedule to the constituting of India under the 74th Constitutional Amendment i.e. functions will have to be listed out to be performed by the local bodies. Consequently all the state governments /union territories have amended their acts. Some of the common obligatory and discretionary functions of the municipalities are given below :

Obligatory Functions :

- Supply of drinking water.
- Lighting of public streets.
- Construction and maintenance of public streets.
- Maintenance and cleaning of public places.
- Removal of unauthorized constructions, encroachments, etc.
- Removal of obstructions and projections in public streets and public places.
- Naming and numbering of streets.
- Registration of births and deaths.
- Maintenance of public health centers.

Discretionary Functions

- Construction and maintenance of public parks, gardens, libraries, museums, orphanages, rest houses, etc.
- Construction and maintenance of primary schools.
- Making surveys and carrying out town planning.
- Planting and maintaining road side trees.
- Construction of houses for low income groups.
- Making provisions for public transport facilities within the municipal limits.
- Playing music for the people at gardens/parks etc.
- Construction and maintenance of amusement park, shops, sarais, etc.

With the introduction of 74th amendment, the urban local bodies have been entrusted with a new list of functions as added in the 12th schedule of the Constitution. Most of the state governments have adopted the same. It includes the following functions:

- (1) Urban planning including town planning;
- (2) Regulation of land use and construction of building;
- (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 service;
- (8) Urban forestry, protection of the environment and promotion of ecological aspects;
- (9) Safeguarding the interests of weaker section of society, including the handicapped and mentally retarded;
- (10) Slum improvement and up gradation;
- (11) Urban poverty alleviation;
- (12) Provisions of urban amenities and facilities such as parks, gardens and playgrounds;
- (13) Promotion of cultural, educational and aesthetic aspects;
- (14) Burials, and burial grounds, cremations, cremation grounds and electric crematoriums;
- (15) Cattle ponds and prevention of cruelty to animals;
- (16) Vital statistic including registration of birth and deaths;
- (17) Public amenities including street lighting, parking lots, bus stops and public conveniences; and
- (18) Regulation of slaughter houses and tanneries.

2.3.5 Evalution of Working

Municipalities in India are expected to perform certain basic civic functions which are essential for the city residents. Beside these basic functions there are also a number of other functions which the municipalities may perform towards providing certain additional facilities to the citizens, welfare activities and recreational facilities. Over the years there has not been a satisfactory working of local bodies in India. This necessitated the introduction of 73rd and 74th amendment Acts following which the State governments too amended their Acts. A number of provisions have been made in these amendments in order to streamline the working of local bodies, these included the uniform term of five years, reservation of seats for women and weaker sections, regular elections, more powers and functions, more autonomy in working and better financial resources, and so on. However, even after a decade of the implementation of these provisions not much improvement has been noticed towards the overall effectiveness of these bodies. With the provision of compulsory reservation of SC/ST and women, and the regular elections, there has been an increased participation by the people in the municipal affairs. This has made an indirect healthy impact on the working of these bodies. But for this, there has not been any other significant change.

The municipalities in most of the parts continue to perform poorly. People in most of the cases are not at all satisfied by the working of these bodies. The major reasons for their poor working are as below :

- Too much of corruption
- Inefficiency and lack of commitment among the personnel
- Lack of training for officials and non-officials
- Poor financial resources.
- Poor tax collection and piling up of arrears.
- Political interference.
- Poor civic consciousness among the people.
- Excessive government control.
- Conflict between deliberative and executive wings.
- Lack of faith in the capability of municipalities.

2.3.6 Summary

In a big country like India, where powers have been distributed between the Centre and the States, the local bodies too perform a significant role. In fact the government set-up is not complete without these local bodies. In the urban areas, whereas the very big cities are covered by the Municipal Corporations, most of other small and medium/big cities have the municipal councils. Broadly, the structures and functions of these two are similar each other. However, most of the municipal councils are of smaller size with lesser powers and finances. After 74th Amendment Act a number of changes have been introduced to improve their structural and operational deficiencies. Still these local bodies are suffering from a number of problems. The State governments are under pressure to add further to the responsibilities of local bodies. However, it will be of no use to do so if the local bodies are not provided with additional financial resources and if their administrative capability is not raised through training and control. Equally important is to check the widespread corruption in these institutions. A comprehensive, sincere and effective strategy is therefore required to uplift the working standards of local bodies.

CHECK YOUR PROGRESS - II

Try to answer the following questions.

1. Give the major functions of Executive Officer.

2. Try to list major functions assigned to municipalities.

2.3.7 References and Further Readings

1. The Punjab Municipal (Amendment) Act, 1994
2. Sahib Singh and Swinder Singh, Local Government in India, New Academic Publishing Co., Jalandhar, 2000.
3. S.R. Maheswari, Local government in India, Laxmi Narain Aggarwal, Agra, 2004.
4. Abhijot Datta, Municipla Executives In India, IIPA, New Delhi, 1985.

2.3.8 Key Words

Adult Franchise	:	Voting right to all eligible adults, i.e. above 18 years.
Amusement Park	:	Parks meant for entertainment, recreation etc.
Casting Vote	:	Deciding vote by the Chairman in case of tie.
Cooption	:	Adding/nominating additional members.
Corporate	:	One body of many individuals
Discretionary	:	Acting on one's own judgment; freedom to act.

Obligatory	:	Compulsory; required by the law.
Statute	:	Law passed by legislative bodies.
Sue	:	Start legal proceedings against.

Self Check Exercise

Answer the following questions :

1. Discuss the composition, functions and working of Municipal Councils in Punjab.

2. Compare the powers, functions and role of Council President and the Executive Officer.

2.3.9 Answer to Self-Check Exercise.

Please do not copy from the text. Read the text carefully and then understand the questions and give your answer accordingly.

* This lesson has been prepared under the DEC scheme which has provided grant for the same

President and Executive Officer of Municipal Council

Introduction

As you know, we in India have a set of rural and urban local bodies — panchayati raj set up in rural areas and a set of municipal bodies in urban areas. Whereas for large sized urban areas there are Municipal Corporations, different classes of municipalities for medium and small towns and Nagar Panchayats for new and very small urban areas. The composition of all the urban local bodies is basically similar, having a deliberative and an executive wing but there are wide variations as far as the size, functions and powers are concerned. Whereas in a Municipal Corporation, the deliberative wing is headed by a Mayor and the executive wing is headed by a Municipal Commissioner, the similar wings are headed by a President and an Executive Officer in a Municipal Council. In this lesson we will discuss the appointment, functions, powers and role of the President and the Executive Officer of a Municipal Council.

President

Every Municipal Council at its first meeting elects one of its members to be the President and another as Vice-President. The large municipal councils may elect two Vice-Presidents – one senior and one junior.

President of the municipality is the civic chief and its presiding officer. He may be also exercising the executive powers as vested to his post by the governing Municipal Act of the concerned state.

Tenure

Before the enactment of 74th Constitutional Amendment Act, there were much variations as far as the tenure of the President was concerned. Now in most of the states the term of the President is same as that of the Council. For instance

the Punjab Municipal (Amendment) Act, 1994 under Section 21 clearly provides that the term of office of President and Vice-President is to be co-terminus with the term of the Municipality. However, Section 18 of the Haryana Municipal Act 1973 amended by Haryana act of 15, 1994 leaves it to the State Government for prescribing the tenure of the President, however, the term of the office of Vice-President is one year.

Reservation

In accordance with the guidelines provided in the 74th Constitutional Amendment Act 1992, all the State Governments have amended their parent Acts for providing reservation to the office of President. For instance in Punjab, a new Section 8A has been inserted in the Principal Act. Thus the Punjab Municipal (Amendment) Act, 1994, clearly provides that the office of President of Municipalities is to be reserved by rotation in the following ratio :

- (a) five percent for scheduled castes;
- (b) five percent for women including women belonging to the scheduled castes; and
- (c) two percent for the Backward classes.

In Haryana, however, no such ratio has been prescribed but the Haryana Municipal Election Rules 1978 indicate that the number of offices of the Presidents reserved for the scheduled castes in the States shall bear as may be the same proportion to the total number of such offices in the municipalities as the population of scheduled castes in the state bears to the total population of the State. However, 1/3rd of the total number of offices of President in the Municipalities have been reserved for women. The reservation of seats for women is to rotate to different municipalities except those reserved for scheduled castes, by draw of lots by a committee, consisting of Director, Local Bodies and two other officers not below the rank of Deputy Secretary. Similarly the reservation of seats for scheduled castes women is to be determined by draw of lots as mentioned above.

Removal : The president can be asked to vacate the office if he

- (i) Persistently fails in discharging his legal duties;
- (ii) Misuses his power.
- (iii) Appears as an advocate in any case against the municipal committee;
- (iv) If he is not a resident of the city;

(v) Is appointed as the official of the municipal committee.

He can also be removed if a motion of no-confidence is passed against him in a specially convened meeting. The motion for it requires 2/3 majority of the council.

Powers and Duties of President

As noted above, the President in a number of states has been assigned with executive powers besides his powers as a Presiding Officer. The President enjoys a considerable amount of powers and position within the municipal hierarchy. He, in consultation with the secretary or the executive officer prepares the agenda for the committee meeting and when the meeting commences, the President holds the chair and regulates its proceedings. He maintains proper discipline and decorum in the house if any member does not behave properly or does not obey the chair, he can ask the member concerned to leave the house. He can also suspend the proceeding of the house.

1. As a Presiding Officer : All the meetings of council are presided over by the president. It is he who decides how the order and decorum of the meeting is to be maintained. He also decides about the genuineness of the point of order. He puts the resolution to vote and declares the results. He can summon meetings and adjourn them. He also exercises his casting vote. He is the Chief spokesman of the council and represents the council in all official matters.

2. As the Executive Head : In those states where the executive officer has not been given the statutory powers, it is the President who acts as the Chief Executive officer of the municipal council. The president performs various functions as the executive head. It is he who is responsible for preparing the budget and presenting it before the council. He is the over-all incharge of financial administration. He makes all the policies and get them executed. He is accountable to the council for the success or failure of the policies.

He makes certain appointments and takes disciplinary action against the employees of the municipality.

As the executive head he also enjoys other powers such as, issuing of tenders, signing of contracts and other items of municipal work, he is to see that all enquiries from the government are promptly attended to. He is responsible to execute all the lawful resolutions of the council and may submit reports / returns as desired by the council.

3. Administrative and Supervisory Powers : The president can inspect and supervise any work and property of municipality. He can issue general directions to the administrative machinery. He also co-ordinates the work of various authorities. He can send for any report, statement or information from the officials.

4. Emergency Powers : In case of emergency, he issues orders or any action to face the eventuality. Such orders to be placed before the council in the next meeting since these are issued without the consent of the council.

5. Ceremonial and Political Functions : As a civic chief and the first citizen of the city, he represents the city on all ceremonial occasions and receives guests and VIPs in the city. As a political head, he takes part in all political activities of the city and provides leadership by initiating new measures and policies. He also keeps in touch with the changing environments. He, thus has to act as an active political leader rather than a passive presiding officer.

6. Miscellaneous Functions :

- a) He is the link between councillors and the officials.
- b) He acts as the Chairman of most of the standing committees of the council or becomes ex-officio member.
- c) The President, with the help of executive officer and the staff prepares the Annual Administrative Report of the preceeding year and submits the same to the state government.
- d) He listens to the problems of the residents of the city.
- e) All other residuary functions which are not expressly vested in any other authority of the municipality are to be performed by the President.

From the preceding discussion, it is clear that the President of municipal council enjoys a respectable position alongwith a combination of executive, deliberative and ceremonial powers. It is obvious that so long as he commands a majority support in the council, he can safely exercises these powers. In between the meeting sessions of the council, he is the supreme authority. However, the position of the President varies from state to state depending upon the nature of power given to him under the Municipal Act.

The Executive Officer

The Executive Officer is the head of municipal administration. He is appointed by the state government. His status and position varies with the size of municipality.

For medium and large municipalities, executive officers are generally drawn from state civil service or a state wide cadre of municipal officers. In some states, the municipal council continue to appoint their executive officers, particularly in the smaller municipalities. The executive officer appointed by the concerned council serves the same municipality till his retirement or as per the terms of the contract. However, those belonging to state level service may be transferred from one municipality to another within the state.

The executive officer is designated differently in different states, such as Chief Municipal Officer, Chief Executive Officer or simply Executive Officer.

Powers and Functions of Executive Officer :

The Executive Officer is head of the municipal administration. He is thus vested with executive powers. However, being the head of executive wing he is also required to perform financial, legislative and some miscellaneous functions.

1. Executive Powers

In Punjab, like in many other states, the Municipal Act provides that the administrative powers to perform the civic functions vests in the executive officer, subject to the general scrutiny by the municipal council and the overall control of the state government. Some of his important executive functions are :

- (i) He is to execute the resolutions of the council unless such resolutions are suspended or cancelled by the government.
- (ii) It is his duty to send copies of the resolutions to the head of the district i.e., deputy commissioner and other competent authorities.
- (iii) In some states he has got some emergency powers. In cases of emergency, the chief officer may direct the execution of any work or the doing of any act would ordinarily require the sanction of the council. In Punjab he has been given such power under Section 35 of the Punjab Municipal Act, 1911.
- (iv) All contracts on behalf of the municipal committee are negotiated and concluded by him.
- (v) All reports and statements are prepared and dispatched to the state government under his supervision and guidance.
- (vi) Being the Chief executive officer, he devotes sufficient time towards inspecting the municipal works / activities.

2. Administrative Functions / Powers

The executive officer is the head of municipal administration. The permanent personnel functions under his supervision, direction and control. He writes their confidential report and takes all disciplinary actions of minor administrative nature against them. If any drastic or more rigorous action is to be taken against any one of the permanent officials, then it is he who suggests such an action to the committee. He is also authorized to appoint and dismiss officials drawing pay upto some limit. Subject to certain restrictions, the executive officer may, by order in writing, delegate any of his functions to any officer or servant of the council or to any officer of the government.

3. Financial Powers

As an executive head, the Executive Officer is concerned with a number of financial functions. These are :

- (i) The budget estimates of the MC are prepared under his guidance and supervision.
- (ii) He sends a copy of the draft annual financial statement to the DC or the concerned official/deptt. of the State government.
- (iii) He is required to maintain all financial records of MC.
- (iv) He is responsible towards exercising all powers in relation to the collection of taxes, fees and licenses and removal of encroachments of municipal property.
- (v) He is also responsible to execute the budget, keep an eye on expenditure and maintenance of all accounts.
- (vi) The executive officer enters into contract on behalf of the municipality.

4. Legislative Functions

Being the executive head of the municipality the executive officer is not only concerned with executive or administrative functions but also with certain legislative functions, such as formulation of draft bye-laws, preparation of agenda for council meetings, keeping records of council meetings, resolutions, etc. he has right to attend meetings of the council or any committee, take part in the discussions, providing of necessary information but he is not having the power to move resolutions or vote in the meetings.

To sum up, it can be said that the executive officer performs multiple functions. Being the head of executive wing, he is responsible for carrying out all the activities, operations, projects etc. of the municipality. It is on his efficiency, integrity and caliber depends the quality of civic and other services in the city. In other words, since the implementation of policies and programmes are of crucial importance to any administration, he being the head of executive machinery plays an extraordinary role in the municipal affairs of the city.

Relations between President and Executive Officer :

Whereas the President is a political head of the deliberative wing of municipal council, the Executive Officer is the head of executive wing. Although, the President is a layman, but he/she is generally an experienced politician and expert in human relations having a knowledge of local affairs, people's aspirations and local needs. On the other hand an Executive Officer may belong to state service with professional expertise and having security of service. The President is a local social leader with fixed term, the Executive Officer is generally an outsider. Theoretically, there seems to be no area of clash between these two bosses, however, practically in a number of cities there are areas of sour relations and frequent conflicts between the two heads. Whenever the Executive Officer refuses to oblige the President or a group of councilors, it becomes a cause of tension. The tension generally arises in connection with certain local issues having political colouring, inspection of works, use of official vehicles or official machinery. Where the Executive Officer is of obliging nature, the relationship becomes cordial. Infact for the success of local government the relations between the two heads needs to be cordial but it should be directed towards the welfare of the people and better civic services.

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MUNICIPAL CORPORATION

Structure

- 2.5.0 Objectives
- 2.5.1 Introduction
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2.5.0 Objectives

- After reading this lesson you shall be able to :
- compare Municipal Corporation from a municipal committee
- describe the set up of a Municipal Corporation
- discuss its functions and role
- appreciate the significance of committee system
- list the major problems of Municipal Corporation

2.5.1 Introduction

A unit of urban local government, like that of rural local government is expected to act a democratic self-government institution and provide local public services and conveniences for healthy living, work and play. As noted in an earlier lesson, in India the units of urban local government

were set up only during the British rule. Municipal Corporation is the all important form of urban local government which is generally established in big cities only. It is little different from other types of urban local bodies. With the growing population, size of cities, complexities and increasing demands the tasks before a corporation are becoming more and more challenging. Today a unit of local government such as Municipal Corporation greatly influences the lives of the citizens and their living environment in various ways. It thus makes it quite significant to learn and study the set up and working of a Municipal Corporation. In this lesson we shall be looking into the basic features of Municipal Corporation, its organizational set up functions and working.

2.5.2 Meaning and Basic Features

A set of Urban Local Bodies has been envisaged under Article 243 of the Constitution inserted by the Constitutional Amendment Act 1992; these Urban Local Bodies are:

- (a) Nagar Panchayat for a Transitional Area.
- (b) Municipal Council for a smaller urban area.
- (c) Municipal Corporation for a larger urban

An industrial township, however, can be independently developed and administered by the states. No military cantonment is to form a part of a municipality, for which there are Cantonment Boards.

2.5.2.1 Meaning of Municipal Corporation

The word 'municipal' has a variety of meanings all over the world. However, it generally applies to a unit of government which acts as an agent of the State. The term 'Municipal Corporation' too has been defined differently. According to the Encyclopedia of Social Sciences, "Municipal Corporations are purely political institutions created by the legislative power without the necessary consent of the people. As organs or agencies of state, they are endowed with government powers, but these rights, privileges and powers are conferred upon 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 corporate entities. The scope of their functions is often broader than that of the state government and the rules and regulations enacted by them affect the life of the citizens far more directly than those of the Federal Government."

According to American Encyclopaedia "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 and improvement and administration of affairs of the area." Thus a Corporation is a body politic, created by the State government, elected by the people for the people and the locality.

2.5.2.2 Nature of Area

Municipal Corporations are generally set up in big cities only, such as Delhi, Bombay, Ahmedabad, Baroda, Surat, Indore, Bhopal, Amritsar, Ludhiana, etc. At the time of independence only three presidency towns were having Municipal corporations :

Bombay, Madras and Calcutta. Now the number is much bigger. In the North-West states of Punjab, Haryana, J & K, H.P. & Chandigarh (U.T.) there are only six corporations, i.e. in Amritsar, Ludhiana, Jalandhar, Patiala, Shimla and Chandigarh.

According to 74th Amendment Act, Municipal Corporations are set up for larger urban areas, which is to be decided by the State government after giving due consideration to:-

- Population in the City
- Revenue Generated
- Percentage of Population employed in non-agricultural activities
- Economic and Commercial Importance
- Potential for Development

2.5.2.3 Legal Status

A Municipal Corporation is constituted by an Act which is passed by the state legislature or by the Parliament in case of Union territory. Municipal Corporation is a corporate body having perpetual succession and a common seal with power to acquire, hold and dispose of property. It can sue and be sued. It means that corporation has a legal entity before law. It consists of a group of persons and constituted by the state legislature as one unit. In that way a corporation has the collective responsibility.

2.5.2.4 Difference Between Municipal Corporation and a Municipality

On the surface it may appear that there is hardly any difference between these two types of urban local institutions. However, if these are studied deeply many points of difference can be observed. There are:

1. Difference in the Area of Operation :

As noted above, a Municipal corporation is constituted in big cities such as Delhi, Chennai, Kanpur, Amritsar, Ahmedabad, Chandigarh etc. The rural urban relationship committee (1966) recommended a corporation form of a government only for cities which have a population of not less than 5 lakh and annual income of not less than one crore of rupees. But, the Constitutional Amendment Act, 1992 provides for a comprehensive criterion for determining an urban area as noted above. There are:

Population of the area; density; size; economic importance etc.

Since the demographic and other conditions for determining a particular type of urban local body differ from state to state, the 74th Amendment Act has provided for sufficient elasticity for the states in constituting different types of urban local bodies.

2. Difference in Composition :

These two bodies differ from each other in regard to their composition. In Municipal Corporation there are councillors, aldermen. Its civic chief is Mayor. In Municipalities there are councillors and President/Chairman. However, the various amended Acts of State Governments after the 74th amendment came into force do not provide for the institution of aldermen.

3. Difference in the Autonomy :

Municipal corporations enjoy autonomy to a great extent than that of municipalities. It means government control is more on municipalities than that on Municipal Corporations. Municipal Corporations can take important decisions regarding budget, by-laws etc. Without the prior approval of the government. The corporations of Bombay and Madras Municipal corporations can deal with the government directly whereas the municipalities cannot deal with the government directly, but only indirectly.

4. Difference in Powers and Functions :

Functionally, both are responsible for the administration of almost the entire range of civic affairs in their respective areas. However, there are wide variations between powers and functions of a municipal council and those of a municipal corporation. Since a municipal corporation operates in comparatively bigger and more important urban area and has a wider economic base, i.e. more resources, its operational responsibilities, naturally, tend to be much wider than those of a municipality.

5. Difference in Position of Executive Officer :

The executive using of a municipal committee may be headed by the Executive Officer or President whereas that of a Municipal corporation is headed by the Municipal Commissioner. Though the Commissioner is answerable for his actions to the council, yet he is not removable by it.

On the other hand in a municipal council/committee the executive powers may be vested in the President or the Executive Officer, who is much less powerful as compare to Commissioner.

2.5.3 Composition and Setup

The Municipal Corporation may be divided into wings-deliberative and executive. The deliberative wing is composed of a council headed by Mayor and standing committees. The executive wing is the administrative wing comprising of technical and non-technical or administrative staff which is headed by a municipal commissioner. In fact the structure of most of the MCs in India is more or less similar to what was designed under the Bombay Municipal Corporation Act, 1988. **12.3.1 The Council**

By council we mean an assembly of persons who meet together to discuss certain issues. A council can be equated with a legislative assembly at local level. **Composition :**

The Municipal Corporation Act of the respective states determine the size/ composition and functions of a corporation council. The size may also vary depending upon the size and population of the city. In India this size varies from 40 to 140, for instance in Bombay this limit is 120 whereas in Delhi, as per Delhi Municipal Corporation Act 1993 this limit is 134.

In Punjab all the four corporations for Ludhiana, Amritsar, Patiala and Jalandhar have been set up under the Punjab Municipal Corporation Act, 1976 and The Punjab Municipal Corporation (Amendment) Act, 1994. The Act has fixed the minimum number of the members at 40 and maximum number of 50 and further authorizes the state government to determine the exact number within these limits. However, it has been provided that in case of Municipal Corporations of Amritsar and Ludhiana the number of elected members is to be 50 and in case of Jalandhar and Patiala there are to be 40 elected members.

Election of Councilors

For the purpose of the election of councillors, the city has to be divided into wards. The size of a ward or the number of members to be elected from each ward depend upon the provisions in the Act or as decided by

the concerned government.

Qualifications for the Councillors

A person is fit to be chosen as councillors or as an alderman if he or she possesses the following qualifications :

He/She must not be of unsound mind.

- (1) Must not be insolvent
- (2) Must be an Indian national.
- (3) Must not be found guilty of any corrupt practices, and offence punishable under section 171 E or section 1971 F of the Indian Penal Code.

Reservation of Seats :

Under most of the earlier Acts there was a system of making special representations i.e. reservation of seats for certain sections of society such as SC/ST, women or even certain distinguished persons of the city. Now all the Acts governing the Municipal Corporations in the various states have been amended by the respective State Governments in accordance with the provision/guidelines contained in the Constitutional 74th Amendment Act, 1992 (Article 243T). Reservation for scheduled castes and scheduled tribes in proportion to their population has been made in respects of directly elected member. One third of the total seats have been reserved for women. All reservations are to be rotated over different wards. The provisions with regard to reservation for the weaker sections of our society are intended to secure adequate representation, full participation and an equitable share of the benefits of municipal administration.

Tenure of the Council :

Before coming into force the 74th Constitutional Amendment Act, 1992, the term of the Council varied from 3 to 5 years. The State Governments were authorized to extend the period for another one year by giving specified reasons in the official notification. Since all the states have now amended their Acts in accordance with the constitutional provisions under the Acts of 1992. Thus, by introducing uniformity of 5 years, no state can deviate from this provision. For instance The Punjab Municipal Corporation (Amendment Act) 1994 provides for completing the election before the expiry of 5 years. The term of the Corporation cannot be extended beyond 6 months.

Resignation and Removal of Members : Any members can cease to be

member by-

- I) submitting his resignation
- II) prolonged absence;
- III) removal ;and
- IV) becoming disqualified.

A common incurring disqualification for a councillor is his failure to pay municipal dues. In Bombay there are provisions that a councillor ceases to be a member if :

- i) He or she is absent for 3 successive months without the approval of the corporation and.
- ii) In any case if absent for twelve successive months.

Meetings

A Municipal Corporation meets once a month at least. Mayor can call a special meeting on his own or when demanded by a specific number of members. Quorum varies from 1/5th to 173rd of the members present and voting.

Powers and Functions of Council :

Again there are variations from state to state in regard to functions and powers assigned to councils. Generally there is a long list of functions and powers assigned to councils which can only be summarized here. Most significant of these are the Legislative Powers because the councils are required to make policy decisions. It passes resolutions, bye laws and ordinances. Under the Administrative head, it enjoys the power of appointment of certain categories of officials, fixes salaries of staff, determine their conditions of services, to approve disciplinary action, enter into contracts etc. Under its Financial Power are included the consideration and passing of budget, power of taxation, borrowing, purchases etc. Controls over investment. It has investigatory Power also to check the arbitrariness, dishonesty, corruption and laxity of administration. Under judicial powers are included the powers to take quasi-judicial decisions, such as recommending actions or penalising the tax offenders. Finally, under the General Powers it has certain powers relating to appointment of certain committees, determining their powers and duties, it has power to ask for any information from the commissioner and committees.

The Presiding Officer (Mayor)

The Presiding officer (or Chairperson) of the Council is known as Mayor

who is indirectly elected in most of the cases. Every council at its first meeting elects one of its members to be the Mayor who thus presides over the meetings of the council.

In some of the States there is a provision of Deputy Mayor. Under the Punjab Municipal Corporation Act there is a provision also for a Senior Deputy Mayor and a Deputy Mayor. The term of Mayor and Deputy Mayor is one year in most of the States. However, in Punjab it is two and a half years.

(The powers and functions of Mayor have been taken up in the next lesson)

Check your Progress-I

1. On what basis a Municipal Corporation is constituted?
2. What is the usual size of its council?
3. Give three differences between Corporation and Municipal Committee.

2.5.3.2 The Executive Wing

The executive wing of the Municipal Corporation comprises of a large

number of staff which is headed by a Commissioner popularly known as Municipal Commissioner. In certain States there are also Deputy Municipal Commissioners and Additional Deputy Municipal Commissioner. The Commissioner is normally a senior member of I.A.S. He enjoys a large number of powers and functions. (These have been discussed in the next lesson).

The staff working in a municipal corporation may be divided into two broad categories i.e. government staff belonging to various departments of the state government and working on deputation with the Municipal Corporation; and the other category of staff is that which is recruited by the Municipal Corporation its self. The second category of staff works under the terms and condition of MC and retire as the employees of that Corporation only.

The personnel working under a Municipal Corporation belong to different departments such as health, finance, transport, public works, education, audit etc. For instance under a Municipal Corporation there are a number of Health Officers, SDOs, Transport Officers, Medical Officers, Taxation Officers, Accounts Officers, a large number of inspectors, office superintendents and other office staff, tax collectors, health workers, public works staff and so on.

2.5.3.3 The Committees

Every local body, like that of a legislative body, functions through various committees. These Committees are divided into statutory and non-statutory. The statutory committee are those which are constituted by the Act by which the Corporation has been created and established. Non-statutory Committees are those which are not set up by the Act of Corporation but are created by the Council to transact different kinds of business.

The Statutory Committees :

A Statutory/Standing Committee consists of members elected by the councillors from among themselves. The committee elects one of its members to be Chairman and another as the Deputy Chairman. Term of the members vary from state to state. Generally, one half of the members retire after one year.

In Punjab the Act provides for the following Committees-

- (i) Finance and Contract Committee.

- (ii) Water Supply and Sewerage Committee.
- (iii) Building and Roads Committee.
- (iv) House and Tax Committee.

The council can also constitute as many adhoc committees as it may consider it necessary for any matter. The Finance and Contract Committee is the most powerful committee as it is one of the authorities of the corporation. It consists of the mayor, two deputy mayors, the commissioner and two councillors elected by the council.

Other Committees

In accordance with the provisions contained in the Constitution (74th Amendment) Act, 1992 under Articles 243, 243 ZD and 243 ZE it is mandatory for all the State/Union Territories to constitute Ward Committees, District Planning Committee and a committee for Metropolitan Planning respectively. Consequently in Punjab, for instance, under the Punjab Act, Ward Committees, District/Metropolitan Planning Committees are to be constituted.

Ward Committees

A Corporation having a population of three lakhs or more shall constitute wards committees. The commissioner has been authorized to constitute such number of wards committees as may be determined by him. Each Wards Committee is to consist of not less than 5 wards. While constituting a wards committee the commissioner is to ensure that geographical contiguity is maintained. Each Ward Committee is to consist of councillors elected from the concerned wards. The Commissioner as ex-officio member, or any other officer nominated by Commissioner.

District Planning Committee

Each district is to have a District Planning Committee to consolidate the plans prepared by the corporation in the District. It is to prepare a Draft Development Plan of the District as a whole. The amended Act authorizes the State Government to determine the manner in which the seats in the District Planning Committee are to be filled. Similarly, the functions which may be assigned to such committee and the manner in which the chairperson is to be chosen are to be prescribed by the Government.

Metropolitan Planning Committee :

As per the provisions of the Constitution such a committee must be constituted in each metropolitan area for preparing the draft development

plan. While preparing such a plan the committee is to give due regard to the plans prepared by the Municipal Corporation, Municipalities and Panchayat bodies of the area.

2.5.4 Functions of Municipal Corporation

Any urban local body is expected to fulfil certain basic functions, such as-

- (a) to provide local public services and conveniences for healthy living, work and play;
- (b) to ensure planned and regulated development of urban areas;
- (c) to mobilize local resources and utilize them to the maximum good of the community; and
- (d) to promote social, economic and cultural development in an integrated manner.

These basic functions are sometimes prescribed in a general way in the Municipal Act or these are described in" detail. Sometimes, the corporations are loaded with every type of responsibility and functions concerning the city administration. Usually, the Municipal Corporation Acts divide the functions into two categories: Obligatory and discretionary. The obligatory functions are those which the Municipal Corporations have to perform as enumerated in the statute. But the discretionary list of the functions in all the statutes mentions that "any other matter likely to promote public safety, health convenience of general welfare", would be discharged by the Corporation.

2.5.4.1 Obligatory Functions :

As noted above these are the functions which a MC has to compulsorily perform. Such functions are generally common in nature as far as the various Acts are concerned. These are:

- (1) Water supply for public and private purposes.
- (2) Drainage and similar public conveniences.
- (3) Constructions, maintenance and management of undertakings for electricity supply, road transport, water supply services.
- (4) Maintenance of municipal offices and other properties vested in the Corporation.
- (5) Scavenging, removal and disposal of filth.
- (6) Slum Clearance and the abatement of the nuisances.

- (7) Naming and numbering of streets.
- (8) Removal of obstructions upon streets and bridges.
- (9) Lighting and Cleaning of public streets.
- (10) Regulation and maintenance of places for the disposal of dead bodies.
- (11) Registration of births and deaths.
- (12) Public vaccination.
- (13) Prevention of dangerous diseases.
- (14) Hospitals, dispensaries and infant welfare centres.
- (15) Control of offensive or dangerous trades.
- (16) Removal of dangerous buildings.
- (17) Construction and maintenance of public streets, bridges, culverts, etc.
- (18) Control and regulation of eating places and eatables.

2.5.4.2 Discretionary Functions:

As the title suggests these are the functions which depend upon the discretion of a particular corporation. However, in many cases most of such functions are expected compulsorily to be undertaken by the corporation. These may include :

- (i) Construction of gardens, public parks, libraries, museums, theatres, akharas and stadium;
- (ii) Public housing;
- (iii) Planting and care of trees on road side and elsewhere;
- (iv) Survey of buildings and lands;
- (v) Relief to destitute and disabled persons;
- (vi) Destruction or detention of stray dogs, stray pigs or detention of animals causing nuisance;
- (vii) Civic reception to V.I.Ps;
- (viii) Registration of marriages;
- (ix) Organization and management of fairs and exhibitions; and
- (x) Playing of music for people.

The Punjab Municipal Corporation Act also provides a similar list of obligatory and discretionary functions. Majority of functions are related to Public Health, Public Works, Public Safety, Recreation etc. All the major functions of Municipal Corporation may be categorized under the following heads:

Public Health Services	:	Drainage and Sewerage; water supply; garbage removal; immunization; etc.
Public Utility	:	Transport services; primary education; electricity supply.
Public Safety	:	Fire fighting; demolition of unsafe buildings; street lighting; etc.
Regulatory Activities	:	Issuing of licenses; regulating eating places; regulating slaughter house; other activities; removing unauthorized structures etc;
Public works	:	Maintenance of building, road, bridges etc.
Welfare Activities	:	Parks and gardens; playing grounds; swimming pool: old age home; Nariniketan; etc.
Planning and Development	:	Economic development and planning; town planning: regional planning.

2.5.5 Finances of Municipal Corporation

The finances and financial management in urban local bodies has been taken up separately in a later lesson. Here we'll briefly take up the sources of income to an MC, which are broadly divided in the following categories :

1. Tax Revenue;
2. Non-tax Revenue;
3. Government Grants; and
4. Loan and Borrowings.

Of all the taxes and government grants constitute the major source or revenue for the corporations.

A Corporation is usually empowered to levy following taxes:

1. Property tax.
2. A tax on vehicles and animals.
3. A theatre tax.
4. A tax on advertisements other than advertisement published in the newspapers.
5. A tax on buildings.

6. A tax on professions, trades, callings, employment.
7. A tax on the consumption and sale of electricity.
8. A betterment tax on the increase in Urban land values caused by the execution of any development or improvement work.
9. A tax on boats and tools.

Among the non-tax revenue we may include certain fees and fines, education cess, a local tax on land revenue, a duty on transfer of property, income from municipal properties/services, etc.

2.5.6. Critical Evaluation of the Working of MC:

We have already noted earlier that a unit of local self government plays very important role in the working of democracy. It provides opportunity to people to participate (through their representatives) in the governance of their local and immediate affairs. The Municipal Corporation is the most significant, largest and most powerful of all the institutions of local self government in India. It has to provide a variety of local services, plan and regulate the development of the city, mobilize local resources, bring about an integrated social, economic and cultural development. Ever since the independence of our country, the local bodies have not been working properly due to a variety of reasons. Most prominent of these reasons have been:

- Poor Financial Resources
- Inefficient and Corrupt Administration.
- Political and Bureaucratic hurdles.
- Lack of proper Constitutional Status.
- Lack of trained and technical staff.
- Lack of civic consciousness among the citizens.
- Lack of faith in capacity of local government institutions.
- Excessive and negative government control.

All the above reasons influenced the working of local government in India. Municipal Corporation, despite having better financial resources and powers, have also not been working properly and their performance has been much below the expectation.

With the passage of 74th Amendment Act some of the above lacunas have been removed. Corporation have now got more responsibilities, finances and powers. However, as a number of studies indicate, the working of

these bodies have not improved much even after the Amendment in their governing Acts.

In order to further improve their working, there is a need to change the attitude of those in power-at the state level as well as those in the corporation. There must be proper and positive control over the corporation, better training of staff, better recovery of taxes and arrears, more transparency in their working and above all there must be better awareness among the people.

2.5.7 Let us Sum Up :

Of all the forms of local government, Municipal Corporation is the most prestigious and powerful, which is established in the big cities with large population and with better economic and commercial capabilities. In Punjab, the old corporations of Amritsar, Ludhiana and Jalandhar have been recently joined by the MC of Patiala. These corporations have been assigned added powers, responsibilities and resources under the new Act in the light of 74th Constitutional Amendment Act. However, despite the reforms and changes, these corporations like many other in the country, have not shown significant improvement in their working except their regular elections and structural changes. People have started feeling the presence of these local bodies, but more consciousness among the citizens and more reforms are still desired.

Check your progress - II

1. List briefly the functions of Municipal Corporation.

2. List the major categories of financial resources of a Corporation.

3. Give any three reasons for their poor working.

2.5.8 References and Further Readings :

1. The Punjab Municipal Corporation (Amended) Act, 1994
2. Government of India, Proposals for Model Legislation for Municipal Corporations, Center for Urban studies, IIPA, New Delhi, 1977
3. Abhijit Datta, Municipal Executives in India, IIPA, New Delhi, 1985
4. S. R. Maheshwari, Local Government in India, Laxminarain Aggarwal, Agra. 2004.
5. Sahib Singh and Swinder Singh, Local Government in India, New Academic Jalandhar, 2000.

2.5.9 Key Words :

Aldermen	:	senior/experienced persons in a council, generally nominated.
Cease	:	Come to an end; stoppage
Cess	:	Tax/surcharge
Discretionary	:	Based on own judgement, freedom to decide
Deliberative Wing	:	Decision making unit, the wing which discusses and deliberate.
Lacuna	:	Shortcoming, weakness
Non-official	:	Who is not permanently appointed: other than government official.
Quorum	:	Required minimum attendance in a meeting
Standing Committee	:	Permanent in existence (members may change)
Transparency	:	Openness, Clarity in work/activities.

Self Check Exercise

Q.1. Distinguish a Municipal Corporation from a Municipal Committee. Critically examine the structure and working of a Municipal Corporation

2.5.10 Answers to Self-Check Exercise :

1. Please do not copy from lecture script.
2. Read the study material thoroughly.
3. Read the question carefully and then memorizing the answer from the text, write the answer in your own words. Try to divide your answer into three parts - Introduction, Main Part and Conclusion.

* This lesson has been written with the financial help of DEC.

**RELATIONSHIP BETWEEN DELIBERATIVE
AND EXECUTIVE
WING - MAYOR AND MUNICIPAL COMMISSIONER**

Structure

- 2.6.0 Objectives
- 2.6.1 Introduction
- 2.6.2 Mayor
- 2.6.3 Municipal Commissioner
- 2.6.4 Relationship between Deliberative and Executive Wings
- 2.6.5 Summary
- 2.6.6 References and Further Readings
- 2.6.7 Key Words

2.6.0 Objectives

After going through this lesson-you will be able to:

- appreciate the significance of relationship between the deliberative and executive wings.
- describe the functions and role of Mayor.
- discuss the functions and role of Commissioner.
- list the areas of interactions and problems in relationship between the two wings.

2.6.1 Introduction

In any organization, human force is the basic and most significant constituent. It is their quality and efforts which determine the success of any organization. There are always different categories of humans which calls for a proper co-ordination among them. In this regard a Municipal Corporation is not any exception. As noted in the previous lesson, a Municipal Corporation is constituted of councillors headed by a Mayor which may be referred to as 'non-officials', and on the other hand there is a large number of administrative staff which is headed by a Municipal

Commissioner. For the successful working of a Municipal Corporation a smooth, harmonious and positive relationship between these two major wings is very much essential. Whereas the non-officials (the deliberative wing) is responsible for decision making or policy making, it is the executive wing which is supposed to be responsible for implementing the decisions of deliberative wing. Therefore -overall health of a Municipal Corporation depends upon the well balanced relationship between the two wings. It is therefore significant to study the nature of relations, interactions and possible areas of conflict between the deliberative and executive wings. In this lesson, before looking into their relations the detailed functions and role of Mayor as well as those of Municipal Commissioner have been examined.

2.6.2 The Mayor

We know that Mayor is the head of the deliberative wing of a Municipal Corporation. The deliberative wing which is constituted of non-official (elected) members, called councillors, numbering from 40 to 140. As the name suggests, the deliberative wing is primarily concerned with making deliberations or discussions on various issues and passing resolutions relating to a variety of policy matters and basic functions of an urban local body.

All the Corporations have the institution of Mayor, who is the chairman of the council of the Municipal Corporation. There is also a Deputy Mayor.

2.6.2.1 Election :

The Mayor is elected by the members of the council for a term of one year in most of the States. In Punjab, the Punjab Municipal Corporation Act provides for the institution of Mayor, a Senior Deputy Mayor and Deputy Mayor for each corporation. All these three are elected for a renewable term of two and a half years.

The Punjab Municipal Corporation (Amendment) Act, 1994 under section 6 A reserves the offices of Mayors of the Corporations by rotation in the prescribed manner for the members of the scheduled castes, backward classes and women in the following ratio, namely:

- (a) five per cent for scheduled castes;
- (b) two per cent for backward classes; and
- (c) five per cent for women including women belonging to the scheduled castes. There is also a provision for removal of Mayor or any of his deputies by a resolution of the corporation by a majority of not less

than 2/3rd of the members of the corporation present and voting.

2.6.2.2 Powers and Functions of Mayor

The Mayor is the first citizen of the city. His main function is to act as the chairman of the council and to control and guide the meetings. The detailed functions of a Mayor are as follows:

1. Mayor is the ceremonial head of his city government and represents the city on ceremonial occasions.
2. He presides over the meetings of Corporation council. And as a presiding officer he conducts the meetings, maintains order and decorum in the meetings, regulates and controls the proceedings, takes votes when necessary, and as a chairman exercises the right of casting vote.
3. He can also call for extra ordinary or special meetings.
4. He can hear complaints from the public and may pass on their grievances to the council members during the meetings.
5. He has the access to all the records of the Corporation and may ask for reports from the Commissioner or from government departments.
6. He can supervise and inspect the on going works of the Corporation in the city.
7. He acts as a channel of communication between the Corporation and the State Government. All the letters pass through the Mayor who may add his comments to the file concerning one or the other issue.
8. Mayor also acts as a link between the deliberative and executive wing of the Corporation. He is the final authority to deal with any problem in regard to the office of Commissioner or any work undertaken by the executive wing.
9. He acts as an ex-officio member of the standing committee the Municipal Corporation.
10. In certain cases he may take action against the erring staff. He may recommend disciplinary action against any council members or the administrative personnel as the case may be.
11. In some cases he also acts as an appointing authority in regard to certain categories of corporation employees.
12. In some Corporations, the Mayor exercises certain financial powers

too. As per certain Acts, the office of Municipal Commissioner is required to get endorsement of Mayor if the expenditure exceeds certain amount.

13. He also exercises a sought of emergency powers as he can issue certain directions in case of any natural calamity or any other urgent situation and can order to start or stop certain works.
14. Finally, the Mayor is expected to perform certain social and political duties too. He is to listen to the voice of community and various groups in society. Also as an elected leader he has to fulfill certain duties in regard to his political party, the party members in the council and the party workers in the city.

2.6.2.3 Position of the Mayor

On the basis of above list of the functions and powers of Mayor we can say that his position is neither weak, nor very- strong. He performs most of his duties as a presiding officer of the elected council. Although he is elected indirectly by the council, he enjoys the position being the civic head and the first citizen of the city. His position largely depends upon his position in the party and the strength of his party men in the council. If he is having a thin majority at his back in the council, he may prove to be a weak Mayor but if his party enjoys a strong majority, he is likely to enjoy a much better position. Besides this, the position of the Mayor also depends upon his personal capabilities, leadership qualities, his inter-personal approach and his dealings with the commissioner and other staff. A good leader with charismatic personality is likely to enjoy much respect and powers and may prove to be popular civic head among the city residents. Such a Mayor is also likely to be re-elected for another term. On the other hand a Mayor with weak personality and weak backing from his own party men may have to face a turbulent time during his term and is not likely to get reelected for another term. As regards his absolute powers, there is a difference of opinion among the scholars, where as some scholars are of the view that Mayor enjoys a strong position in the corporation and his work style and policies may greatly influence the working of the Municipal Corporation, the other opinion is that a Mayor is more of a ceremonial head and besides conducting the meetings does not enjoy much of other powers. In certain countries such as France, a Mayor enjoys much more powers as compared to Indian Mayor. There is a strong view among certain sections that the Mayor being indirectly elected is a weak head. Therefore it

is suggested by some scholars and even certain committees (committee on All India Council of Mayors) that the Mayor should be directly elected by the people of city and his term should be more than one year and it should be coterminous with that of council. In their opinion one year's term is too short to enable the Mayor to understand the real problems of the city, to find out their worthwhile solutions and to make any significant contribution. This short term only helps the bureaucracy to further strengthen its hands. Whereas the Commissioner enjoys longer tenure of stay in the corporation a Mayor with short term does not prove effective to counter the powers of commission.

Keeping all this in view, the Punjab Act has rightly provided for a reasonable term of 2 years for the Mayor.

Regarding the suggested direct election of the Mayor, it has been pointed out that a Mayor elected directly for a period of five years may raise a number of problems. He may then not just be a figure head or a ceremonial head. He may try to utilize his political influence and may come into conflict with the commissioner as well as the council. This may, it is feared, adversely affect the working of the Corporation as a whole.

Finally, it is suggested that the practice of indirectly elected Mayor is right one. There is no need of a directly elected Mayor. Secondly the term of Mayor where it is just one year is not useful. This further weakens the position of Mayor. This should be raised. Punjab has taken right step in this direction by raising it to two and a half years. Lastly, there should be clarity of role, i.e. powers and functions of Mayor needs to be elaborated clearly in the Act.

2.6.3 Municipal Commissioner

The executive wing of an urban local body is equally important and in a corporation it is rather more important as it has to undertake a large number of functions. The executive wing is headed by a chief executive officer known as the Municipal Commissioner. The executive wing has to look after a variety of functions including the implementation of council decisions, preparation of budget and maintain accounts and records. All the technical, non-technical and financial tasks are undertaken under the supervision and control of Municipal Commissioner.

2.6.3.1 Appointment of Municipal Commissioner

The Commissioner is generally a senior officer belonging to IAS. He is appointed by the State Government. In Punjab too the Municipal

Commissioner is appointed by the State Government from amongst its class I officers (may be an, I.A.S.) having sufficient administrative experience. The term of a Commissioner varies from State to State. It may vary from two to five years. It is five years in Delhi and three years in Bombay and Chennai. However, most of the Acts are silent about his term.

A Commissioner may, however, be removed from his post, i.e. transferred to other department, if in the opinion of the State government the person has not been proved suitable for the job or due to inefficiency, incompetency or negligence of his duties. He may also be removed by the council if a resolution to this effect is passed by a majority vote as specified in the Act.

2.6.3.2 Powers and Functions of Commissioner

The powers and function of the Commissioner may be classified as: executive, financial and semi-legislative.

Executive Powers

The entire executive powers for the purpose of carrying out the provision of a Municipal Corporation Act are vested in the Commissioner. He also exercises those powers which are delegated to him by the council and its standing committees. His detailed executive or administrative functions may be listed as below:

- To implement the resolutions of council.
- To be responsible for the proper enforcement of bye-laws passed by the council.
- To control the day to-day administration of the MC.
- To exercise control and supervision over the corporation staff.
- To act as a custodian of all records.
- To exercise the powers to issue notices, orders and to issue licenses etc.
- To make certain appointments.
- To impose penalties in specified cases.
- To look into the numerous cases having disputes during municipal operations (such as removal of encroachments, cancellation of licenses, etc)
- To ensure the speedy work of corporation projects and to make field visits, inspections, etc.

Semi-Legislative Functions

The semi or quasi-legislative functions of the Commissioner includes :

- To attend the meetings of the council.
- To participate in the deliberations, give his comments and defend the administrative actions.
- To provide the necessary information to the council, relevant records, letters etc. as required.
- To participate in the meetings of the statutory committees as and when required and to provide necessary information, records, guidance to the committees.
- To appraise the council and the committees about the progress of works/ status of projects whenever asked for.

Financial Functions

These include:

- The most important financial function of a Commissioner is to get prepared the budget estimates of income and expenditure.
- To ensure the maintenance of proper accounts and to get them audited.
- To ensure proper imposition and collection of taxes and arrears.
- To look after the MC property; and to acquire or sell off any of corporation property whenever required.

He enters into contract on behalf of the corporation.

He is also responsible to make financial assessments of various kinds and may also propose the imposition of fresh taxes, fees and fines or may propose to revise their rates.

2.6.3.3 Position of Municipal Commissioner

Municipal Commissioner is the chief executive officer of the corporation. He is a senior administrator and in most of the cases, he belongs to IAS cadre. This in itself reflects the significance of the post of Municipal Commissioner. A large number of administrative staff works under him. Therefore the whole executive work of the corporation is largely influenced by the capability and attitude of Municipal Commissioner. The policies and decisions made by the deliberative wing can only be effectively implemented if these are sincerely backed up by the Commissioner. A corporation has to handle a large number of civic functions and there is a

huge budget for the same. These works are effectively carried out only if there is a positive and honest administrative leadership provided by the commissioner. Thus the overall working and health of a corporation is largely in the hands of its administrative chief.

A number of studies have indicated numerous problems in regard to the effectiveness of the office of Municipal Commissioner. These problems put certain hurdles in the overall working of the corporation. These are:

- Being an IAS officer in most of the cases, a commissioner is a trained administrator, but in many cases this status leads to the high headedness of the incumbent thus resulting into their autocratic way of working.
- Problem of cordial relations with Mayor, the non-official head of the corporation.
- Problem of relations with councillors or undue interference by the councillors.
- Problem of devotion towards solving local problems. 'In many cases, Commissioners work in one or the other corporation or a department as a part of their routine posting thus fail to be sensitive to genuine problems of the area and people.
- Problem of vested interests developed by some Commissioners.
- Problem of inefficiency, mal administration and dereliction of duties.

Check Your Progress-I

1. List any three basic functions of a Mayor.

2. Write the major functions of Municipal Commissioner.

2.6.4 Relationship between Deliberative and Executive Wings :

As noted earlier, the relationship between the deliberative or non-official (i.e. elected council and Mayor) and the executive wing or official wing (i.e. administrative officials headed by the Commissioner) is quite significant towards the effective working of a municipal corporation. In a corporation both the wings are equally important. The deliberative is to make resolutions and decisions relating to a variety of issues, all these are then implemented by the executive wing. Thus there is a clear demarcation of functions between the two, but they are to act as the two basic pillars of the Corporation. We can now examine the nature of relations or problems of relationship between these two wings. For this purpose we need to examine the relationship between Mayor and Commissioner; council and Commissioner plus his staff and Commissioner and the standing committees.

2.6.4.1 Mayor and Commissioner

As we know that whereas the Commissioner is the head of executive wing, the Mayor is a political head of the deliberative wing of corporation. Although the Mayor is a layman, but an experienced politician and expert in human relations. On the other hand Commissioner being a senior IAS officer possesses professional expertise and security of service. The Mayor has a fixed but short tenure and is generally a local leader. The Commissioner on the other hand is generally an outsider.

Theoretically, there seems to be no area of clash among these two bosses. However, practically, in most of the cases the relations between the two have been found to be strained. Whenever, the Commissioner refuses to oblige the Mayor or his group of Councillors, it becomes a cause for tension. Similarly, the tension between the two may arise if the Mayor do not welcome the proposals put forward by the Commissioner (the executive). A number of studies have indicated that in many cases, both these heads-political and administrative have nothing but the problem of ego. Each one, tries to prove his superiority. It has also been found that in the corporations, where the relations between them are smooth and cordial those corporations have shown good results and have proved effective towards solving the problems of the city.

The Commissioner, being a senior civil servant is expected to faithfully implement the provisions of law and the resolutions passed by the council. His business is not to create hurdles or comment on the resolutions but to implement the legal resolutions passed by the council. Mayor, on the other

hand, is having the role of a presiding officer only and exercises ceremonial powers only. However, he too sometimes jumps the limits in order to impress upon his constituency or his parent political parties. This at many times leads towards embarrassing position for the executive wing.

In order to improve the relations between the two it has been rightly suggested that the Mayor must be consulted before appointing the Commissioner.

2.6.4.2 The Commissioner and the Councillors

We have already noted that the Commissioner is a state appointee and derives his powers from the Act of the Corporation, but he closely interacts with the council in his day-to-day working. The Commissioner attends the meetings of the Council and even participates in its discussions, but he has no right to vote. Again the Council exercises its control over him by prescribing the manner in which, he is to wield his powers and responsibilities and if the Commissioner is not able to carry the wishes of the Council it requests the State Government to recall him back by passing a resolution against him. The Commissioner executes the policies of the Council. Hence there is constant interaction between the two. In this way it can be said that technically, the Commissioner is subordinate to the council and he is supposed to carry out the works assigned to him for the city. The Commissioner is supposed to act as a link between public and the corporation council. The Commissioner is thus expected to act as a secretary to the council who may propose certain plans and budgetary interventions. It is up to the council to accept or reject the same. The Commissioner is expected to get all the proceedings recorded and carryout the decisions of Council. He is to present the report on implementation, explain the reasons for the shortfalls or deviations and has to defend the executive actions.

All this creates conflicts in various cases. Difference of opinion due to personal or political reasons are likely to come up. Moreover, in many corporations there is a tendency on the part of councillors to unduly interfere in the working of Municipal Commissioner.

In order to maintain healthy working atmosphere there must be a balance in the relationship between the two wings. For this, it is required on the part of the councillors not to interfere in the executive work until it is really required. The day-to-day administration must be left to work on its own without outside interference. On the other hand the Commissioner, too

must not pressurize upon the councillors and should not try to influence them due to his administrative status.

2.6.4.3 Commissioner and the Standing Committees

Lastly, the executive wing comes into contact also with the standing Committees of the corporation council. These committees, as we noted in the previous lesson, perform important role towards the discharge of many important functions by the council. Some important committees are: finance and contract committee; building and roads committee; water supply and sewerage committee; and house tax committee. Thus all the important municipal functions are covered under one or the other standing committee.

The executive wing through the commissioner is required to take up one or the other issues with these committees. These committee comprises of small number of members and discuss the relevant issues at length with minute details. These committees therefore like to see their decisions to be carried out without change or hindrance. But this is always not so. Many a times there are objections from the executive officer in regard to one or the other decisions of the committees. The committee members find these as unnecessary hurdles in the way of committee system and thus a neglect to the democratic process. On the other hand the committees too sometimes try to intervene in purely administrative matters. The committee members try to bring each and every legitimate duties of executive under the purview of one or the other committee. All this thus leads to a threat to the cordial relations and smooth functioning of the Corporation.

The overall relationship between the deliberative and executive wing is thus needs to be tuned properly in many cases. A smooth and harmonious relationship is required which depends upon the kind of leadership a corporation is having. A mature political and administrative leadership along with the sincere devotion to serve the city and its people will definitely bring out the best of these two wings. A proper and effective training of council members, Mayors and the municipal personnel shall definitely help to resolve the problems of these urban local bodies and shall lead to better relations between the two wings.

2.6.5 Let us Sum Up

A Corporation is a very important unit of urban local bodies. It affects the lives of all city residents in one or the other way. Both the wings of a Corporation i.e. the Mayor and his team of councillors and the Municipal

Commissioner along with his big team of administrative staff play equally important role in the smooth functioning of the Corporation. The powers and functions of each wing have been demarcated but many a times there may be some or the other problem resulting into the conflict or irritation between the two wings. The minor problems between the two may be resolved with the wisdom of leadership and by assuring that no problem turns to be so big as to hinder the smooth working of the corporation. A regular system of training needs to be taken up effectively for all the local bodies in order to ensure that the problem of conflict between the two wings does not arise frequently. A local body with smooth and healthy relations between the two wings is likely to serve the locality in much better way.

Check Your Progress-II

1. List out any two reasons of conflict each between a Mayor and the Commissioner; and standing committees and the executive

2. List any three factors on which smooth relations between the two wings depend.

2.6.6 References and Further Readings

1. Abijit Datta, Municipal Executives in India, IIPA, New Delhi, 1985.

2. The Punjab Municipal Corporation (Amendment) Act, 1994.
3. G. Millikarjanayya, The working of Standing Committees, in Abhijit Datta op. cit.
4. R.N. Chopra, Role of Municipal Commissioner in India, in Abhijit Datta op. cit.
5. Sahib Singh and Swinder Singh, Local Government in India, New Academic Publishers, Jalandhar, 2000.

2.6.7 Key Words

Autocratic	-	Absolute ruling; Dictatorial
Ceremonial	-	Formal acts; relating to rituals; Formalities.
Co-terminus	-	Equal term; similar tenure.
Dereliction	-	Wilful neglect; abandon
Endorsement	-	Approval, Confirmation
Figure-head	-	Nominal head or leader, Dummy,
High headedness	-	Arrogance, Proud
Mal-administration	-	Inefficient; Dishonest

Answer the following question.

1. Briefly describe the powers and role of Mayor and a Municipal Commissioner. Discuss the problem of conflict between the two.

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FINANCIAL RESOURCES OF URBAN LOCAL BODIES

Structure

2.7.0 Objective

2.7.1 Introduction

2.7.2 Sources of Income

2.7.2.1 Tax Revenue

2.7.2.2 Non Tax Revenue

2.7.2.3 Grants

2.7.2.4 Loans and Borrowings

2.7.3 Heads of Expenditure

2.7.4 Budgeting and Audit

2.7.5 Critical Evaluation of the Financial Position

2.7.5.1 Reasons for Poor Financial Position

2.7.5.2 Suggestions for improvement

2.7.6 Position after Recent Amendments

2.7.7 Summary

2.7.8 References and Further Readings

2.7.0 Objectives

After going through this lesson, you'll be able to:

- Describe the various sources of income to municipalities.
- List of heads of expenditures .
- Evaluate critically the financial position of urban local bodies.
- Appreciate the recent measures to strengthen the financial position of municipalities.

2.7.1 Introduction

Finance is the life blood for any administrative structure. Local bodies, like any other governmental set up, require sufficient finance to work and provide services to the city residents. However, as noted in the previous lessons to raise the finance has always been a big problem for local bodies. In most of the cases the financial position of the municipal bodies have been found far from satisfactory. Different authors, committees, etc. have tried to analyse the financial position of local bodies and have given a long list of the reasons for their poor financial position and have also put forward a number of suggestions to improve the same. In this lesson the major sources of finances and the main heads of expenditure have also been examined along with the recent measures after the constitutional 74th Amendment.

2.7.2 Sources of Income

The sources of revenue or income to the municipalities are generally classified as:

- i) Tax revenue;
- ii) Non-Tax revenue;
- iii) Grants; and
- iv) Loans and Borrowings

These are discussed further in the following sections.

2.7.2.1 Tax Revenue

Municipal taxes constitute the major source of revenue to these institutions. In many cases income from taxes range from one half to two third of the total income from all the sources. A variety of taxes are levied in different states. The most common taxes are property tax/house tax, profession tax, vehicle tax, octroi, tolls, terminal tax, tax on transfer of property and tax on advertisements. There has always been a controversy regarding the overlapping of taxes by the state government and the municipalities. The question of exclusive taxation by the local bodies was taken up by a number of enquiry committees such as, the Local Finance Enquiry Committee, the Taxation Enquiry Commission, the Rural-Urban Relationship Committee, etc. The Taxation Enquiry Commission (1953-54), for instance, recommended a list of ten taxes for the exclusive utilization by or for local government.

The Punjab Municipal Act includes a list of major taxes which subject to any general or special orders of state government any municipality may impose in the whole or any part of the municipality area:

- (i) House Tax;
- (ii) Tax on Professions and Trades;
- (iii) Sanitation Tax;
- (iv) Vehicle Tax;
- (v) Octroi;
- (vi) Water Tax;
- (vii) Servant Tax;
- (viii) Tolls;
- (ix) Terminal Tax;
- (x) Tax on Performance and Luxuries;
- (xi) Tax on Animals, Dogs;

Some major taxes are discussed below:

The tax on land and buildings, which is known as 'house tax' or 'property tax' in most of the states constitutes an important source of municipal tax revenue. The expression 'property tax' implies a tax on property. Traditionally, it is a tax on immovable and tangible property. It excludes such movable properties as furniture, fixture, machinery, equipment, etc. And such rights as license to run a hotel, a shop or a cinema theatre. Under the Punjab Municipal Act it is a tax payable by the owner on buildings and lands not exceeding 15 per cent of the annual rental value. Income from this tax ranges from 10 percent to 30 percent according to certain rough estimates.

Another important tax, though a controversial one, is imposed now only in a few states is the Octroi. It is the tax on the entry of goods in to local area for consumption, use or sale there in, popularly known as 'chungi'. As a source of tax revenue, 'chungi' occupies a significant place wherever it is levied. This tax is controversial as it said to have hindered the growth of trade and industry wherever it is imposed. Of late, a number of states have abolished Octroi and have compensated their municipalities through some grants ..

Other remunerative taxes levied by the municipalities are the taxes on professions and trades, tax on vehicles, boats, animals, etc. Terminal tax,

Tolls, Entertainment Tax, etc. Some other taxes are tax on electricity, tax on dogs, tax on pilgrimages, tax on lotteries, sale tax on certain items.

The First Finance Commission of Punjab is of the opinion that although it is true that there are constraints on Municipal taxation by way of State Controls, it is also true that the Municipalities have been unwilling to fully utilize the tax instrumentalities at their disposal.

2.7.2.2 Non-Tax Revenue

Apart from taxes, there are some non-tax sources of revenue such as rates, fees, fines, penalties, rents and income from other minor sources. Income from all these sources is quite substantial. In Punjab, this source includes income from water supply, sewerage, licence fees, interest on investments, fees, fines and charges in relation to performance of statutory and regulatory functions. A fee is charged on certain items or services. The term 'fee' is generally defined to be a charge for special service rendered to individuals by some government or any other agency. The amount of fee levied is supposed to bear some relationship with the expenses incurred by such agency in rendering the service, though costs are sometimes arbitrarily assessed. Other than fees, a substantial portion of revenue is earned by way of rents of municipal property. This may include land and buildings, dak bungalows, rest house, serais, etc. It has been noticed that both in Punjab and Haryana, income from this source has increased substantially over the years.

Some other revenue is also collected by the municipalities in the shape of fines, penalties, etc. Besides, municipalities derive revenue as a result of sale of plots, trees and other products of land. A number of municipalities in Punjab and Haryana also own markets and slaughter houses which are the source of income to them. Fee is levied on commodities which are brought to market for sale. The fee varies according to the nature and quality of articles.

2.7.2.3 Grants and Contributions

Ever since the independence, grants or 'grants-in-aid' as they are popularly known constitute one of the basic and important source of revenue for the municipalities. Some of the municipalities almost totally depend upon these grants. A grant is a financial subsidy given by the higher government-state or Union-in aid of certain services rendered by the local bodies. In Punjab, the income from grants is not very high as compared to other states. The types of grants vary among different states.

These are :

1. General Purpose Grants :

These grants are primarily intended to bridge and gap between the needs and resources of the local bodies. The only condition laid down for its eligibility is that municipal council should have imposed taxes prescribed by the municipal laws and taken all necessary steps for their realization.

2. Specific Purpose Grants :

These grants are tied to the provision of certain services or performance of certain tasks. Such services rendered by municipal bodies, may fall under the obligation of state government also or they are national in character. These grants are generally provided for implementation of development plans; for water supply and draining; for housing, public works, roads, drains, etc., for maintenance of dispensaries, schools, fire fighting service and so on.

3. Statutory and Compensatory Grants :

These grants are given under various enactments to local bodies as compensation on account of loss of any revenue on taking over a tax by state government from local government.

The First State Finance Commission of Punjab however, has observed that there are no criteria for the devolution of these grants, indicating the absence of predictable grants policy.

Besides the state grants, there are grants from the central government too. These grants are given by the central government in order to take up certain specific projects or towards the implementation of some union government schemes or development projects.

2.7.2.4 Loans and Borrowings

Over the years, the expenses of the municipalities have increased significantly. There are increased demands and pressures on the municipalities. Municipal bodies are required to meet a number of capital projects such as purchase of land/machinery, installation of water works, development residential estates, parks etc. Municipal borrowing is governed by the Local Authorities Loans Act, 1914 Municipalities can borrow with the permission of the state government and in certain cases, of the central government as well. As per rules these loans or borrowings from institution can be made for a period not exceeding 30 years. These, borrowings can be made from the open market/public also.

2.7.3 Heads of Expenditure

Local bodies are expected to perform a large number of functions. We have already noted these functions in the lesson Municipal Corporation. With the rise in urbanization and increased pressure on municipalities to provide more and more services, the municipal bodies are required to spend more and more. But due to their limited resources and poor financial management the local bodies are always under the financial burden. The major heads of expenditure for the municipalities are:

- Establishment and General Administration.
- Providing of Municipal Services.
- Capital projects and Investments.
- Others, including repayment of loans, etc.

The highest expenditure by the municipalities is on its establishment and administration. This includes payment of salaries of its staff, wages, office maintenance, telephone, electricity bills, petrol, etc. In many cases more than half of the total income of municipalities is spent on this head.

The second category includes the items related to municipal services such as public health, water supply, sanitation, public safety, public works, education and other developmental of functions. On Public Safety and public works more expenditure is made in Punjab whereas in Haryana more percentage is devoted on items such as public health water supply, drainage, conservancy etc. This again in the main head of expenditure, which is mainly made on the providing of basic civic services.

The expenditure on capital projects is made by very few municipalities. This expenditure is generally made when there is specific grant assigned by the state or union government.

Beside the above category of expenditures there may be certain other miscellaneous expenditure which mainly includes repayment of loans and interest, expenses incurred during some emergencies or on certain ceremonies etc.

Check Your Progress {Self-Assessment Questions}

1. List the major sources of taxes and other resources of income to the Municipalities.

2. Write in order, their major and minor heads of expenditure.

2.7.4 Budgeting and Audit

For any administrative organization budget is an important instrument to regulate, control and plan its finances i.e. sources of income and items of expenditure. A local body too must prepare its budget. The budget of an urban local body is prepared by the executive wing (executive officer or the Commissioner) and it is presented to the council for its approval. The council may accept the same or it may reject or amend the items contained in it.

Generally, the budget is prepared in two forms, i.e., an abstract of the budget and the detailed budget. Members of the Council get the opportunity to discuss the performance of previous and current year's budget and ask questions from the executive in regard to its performance and management. After the budget is passed it is for the executive to implement the same. The passed budget is required to be sent to the Deputy Commissioner concerned or the Director local bodies, depending upon the provisions in the Act.

All the incomes and expenditures are required to be accounted and maintained alongwith the vouchers etc. The special auditors audit the same in order to check frauds, embezzlement or carelessness. The audit of the local bodies is conducted by Examiner Local Funds Accounts.

2.7.5 Critical Evaluation of the Financial Position

We have already noted the major sources of revenue to the urban local bodies and, the main heads of their expenditure. Although there are a number of sources of income to the municipalities such as taxes, fees, fines and income from their own property, still most of the municipalities are heavily dependent upon the government grants. Moreover, whatever the income is for an average municipality, more than half of the same is spent on its own office establishment, salaries, etc. They are left with not

much to spend on the municipal services. And that too is managed very badly. Thus ultimately, the financial position of urban local bodies is not good in general. There are various reasons for their deplorable financial condition. These are discussed in the next section.

2.7.5.1 Reasons for Poor Financial Condition

There is a long list of reasons for the poor financial condition of urban local bodies, the main reasons are listed below:

- Poor distribution of resources between the state and local governments leading to poor financial avenues for local bodies.
- Reluctance to levy new or higher taxes.
- Too much corruption in local bodies.
- Price rise, leading to higher expenses.
- Rise in salaries of local body employees.
- Poor recovery of taxes and arrears.
- Increase in population.
- Insufficient grants from governments.
- Poor financial management.
- Poor financial autonomy for local bodies.
- Insufficient financial control and irregular audit.

2.7.5.2 Suggestions for Improvement

From time to time a number of committees, commissions and various authors have examined the financial position of local bodies. The above stated reasons for their poor financial position have come out mainly through their reports. They have also put forward a number of suggestions to improve the financial health of urban local bodies. The main suggestions are as follows;

- Assigning of more tax resources to local bodies.
- Encouragement and development of their own resources.
- Recovery to tax dues and arrears.
- Curbing the corruption.
- Improving the financial management.
- Appointment of Finance Commission for local bodies.
- Better government grants and liberal compensatory grants.

- Liberal conditional loans.
- Encouraging municipal enterprises, income from properties etc.
- Proper accounting and effective audit system.
- Effective training for officials as well as for non-officials.

2.7.6 Position after Recent Amendments

As a result of pressure on governments, number of measures have already been introduced after the 73rd and 74th Constitutional Amendment Act. The most important measure has been the setting up State Finance Commissions by all the States. Other measures after the Amendment Acts. include, the specifying "by law" (1) taxes, duties, tools and fees to be levied and collected by the municipalities; (2) taxes, duties, tools and fees levied and collected by the state government, which are to be as signed to or shared with the municipalities; and (3) grants-in-aid to be given to the municipalities from the Consolidated Fund of the States.

The Finance Commissions have been set up with a view to rationalize the distribution of financial resources between the State and the local bodies on the pattern of setting up of Finance Commission by the center for determining distribution of financial resources between the Centre and the States. The State Finance Commissions are to determine the quantum of transfer of funds from state to local bodies. Similarly the State Finance Commission is to allocate plan funds to the Municipalities after taking into account the planning exercises done by the district and metropolitan planning committees.

In Punjab the first Punjab Finance Commission was set up in July, 1994 which submitted its report in December, 1995. The objectives of the commission were:

- (i) To provide adequate funds to Local Bodies;
- (ii) To enable the Local Bodies to maintain the essential service at a desirable level;
- (iii) To create financial surplus;
- (iv) To correct the horizontal and vertical imbalances amongst the Local Bodies;
- (v) To encourage fiscal responsibility and autonomy.

It is unfortunate that despite accepting most of the recommendations of the SFC, the Punjab government has failed to implement most of these.

The State Finance Commission in its report assigned a share in taxes, grants and other means for development for the next five years- till 2001. The only recommendation of the SFC implemented by the government relates to 20 per cent sharing of some taxes- stamp duty, the Punjab motor vehicles tax, electricity duty, and entertainment tax.

The SFC had recommended that these bodies should get RS.732.28 crore as share from taxes, Rs. 500 crore as grants-in-aid during these five years. In addition, these bodies were to mobilize their own resources. Here too the government failed to go ahead.

Also the Government had promised that octroi would be abolished, but soon the Local Bodies Minister discovered that this was not possible. Instead, the government introduced a new plan - collection of octroi by contractors. The recovery went up from Rs. 550 crore to Rs. 730 crore. Till date the octroi has not been abolished but the private contractors have been removed due to certain problems.

2.7.7 Let us Sum Up

With the rapid urbanization, growth in population and increasing demands of city residents, finance and financial administration becomes very crucial for the municipalities. With increased responsibilities after the recent constitutional amendments, the pressure for finance has further increased. There are a variety of sources for urban local bodies but mainly the taxes and government grants.

On the other hand due to increasing costs, high establishment expenses, corruption and mismanagement the urban local bodies are facing further paucity of funds. A number of suggestions have been made from time to time to improve their financial position and some measures including the establishment of Finance Commission have been implemented. Infact the financial problem of the urban local bodies cannot be viewed in isolation. It is related to overall economic situation in the country, tax structure, the system of financial devolution and so on. While introducing reforms the governments should view the problem in wider perspective of the public finance in the country. All along this, there is also a need for honest efforts on the part of state governments and a strict financial control and efficient and transparent administration on the part of municipalities.

Check Your Progress-II

1. Try to list the reasons for the poor financial position of the municipalities. Briefly describe the suggested measures for improving the same.

2.7.8 References and Further Readings

1. K.S.R.N. Sarma (ed.), Financing Urban development in India, Centre for Urban Studies, IIPA, New Delhi, 1990.
2. The Punjab Municipal Act (Amended), 1994, Report of the Punjab Finance Commission.
3. Sahib Singh and Swinder Singh, Local Government in India., New Publishing co., Jalandhar, 2000.
4. S.R. Maheshwari, Local Government in India, Laxminarain Aggarwal, Agra, 2004.

2.7.9 Key Words :

Abstract	:	Brief; essence.
Curbing	:	Stopping; checking.
Deplorable	:	very bad; distressing
Devolution	:	Transfer
Embezzlement	:	Misuse; Misappropriate
Impost	:	Levy; fix; introduce
Installation	:	Fix; Set up.
Paucity	:	Scarcity; Shortage
Reluctance	:	unwillingness; dislike
Remunerative	:	Lucrative; paying; profitable

Self-Check Exercise

Answer the following question.

- Q. Critically evaluate the sources of finance and financial position of urban local bodies. Give suggestions to improve the same.

2.7.10 Answer to self-check exercise

Please do not copy from the text. Read the text carefully, then read the question and answer it without copying from the lesson. All the parts of the questions must be answered.

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STATE CONTROL OVER LOCAL BODIES

Structure

- 2.8.0 Objectives
- 2.8.1 Introduction
- 2.8.2 Need and Significance of Control
- 2.8.3 Types of Control
 - 2.8.3.1 Legislative Control
 - 2.8.3.2 Administrative Control
 - 2.8.3.3 Financial Control
 - 2.8.3.4 Judicial Control
- 2.8.4 Critical Evaluation
- 2.8.5 Summary
- 2.8.6 Key Words
- 2.8.7 References and Further Readings
- 2.8.8 Answers to Self-Check Exercise

2.8.0 OBJECTIVES

After going through this lesson you should be able to-

- appreciate the importance of state control over local bodies;
- classify the pattern of control;
- list the types of control over local bodies;
- describe the problems of state control;

2.8.1 INTRODUCTION

Local bodies, as we have noted in the previous lessons, are the primary units of democracy having local authority and autonomy. However, these institutions are the creations of State governments. These institutions enjoying mainly the delegated authority must necessarily be guided and supervised from above. In fact, all the countries in the world-developed or developing-exercise some degree of control over local bodies. At the same

time, there are divergent views regarding the nature and amount of control to be exercised from above over the local bodies. This is because of different ideologies prevailing in different countries, that there is no uniform pattern of control in different nations. Within India too, the nature and degree of State control over local bodies varies from State to State. In this lesson, we shall examine the pattern of state control in India, mainly in Punjab. Factors determining the nature of control in a state and the problems of state control have also been discussed in this lesson.

2.8.2 NEED AND SIGNIFICANCE OF CONTROL

Local bodies, operating in their respective local areas (jurisdiction) perform a variety of significant functions. A local body is a body corporate, having jurisdiction over its locality and people, enjoys a good number of functions and powers. It also enjoys some amount of autonomy or freedom in operations. But as we know, the local authorities are the creations of State governments and are expected to perform the functions assigned to these bodies from above. The powers these bodies enjoy are also delegated to them by the State. Due to the significance of local government institutions, some powers and necessary functions must be exclusively given to these institutions, but at the same time some direct or indirect control over these bodies is always desirable.

Besides being the units of State government, the institutions of local government are not much capable to perform a number of significant functions on its own. There are a number of reasons which compel the higher governments to exercise control and supervision over local bodies. Some of these are:

- Involvement of vested interests in the affairs of the local self government institutions;
- Insufficient administrative capability;
- Too much of corruption;
- Strained official--non-official relations;
- Poor financial management;
- Lack of properly trained personnel;
- Public apathy;
- Political interference;
- Declining general performance; and so on.

The above maladies in the functioning of local bodies are quite common in almost all the parts of India. These reasons clearly indicate the poor state of affairs in local bodies and makes it necessary to establish some mechanism and arrangements to exercise control and supervision over local bodies. Moreover with the development of science and technology and the pressure to catch up with around socio-economic development, the local institutions cannot be left to remain within their shells. Besides this, peoples' expectations from the providers of local services are also rising and the elected representatives of the people too feel the pressure to keep the electorate happy. Tax payers always want to receive proper return to the taxes paid by them in terms of better services by the local bodies. State governments too feel the pressure to check the mal-functioning of local bodies and to bring about necessary improvements in the working of these institutions. All this makes a strong case towards an effective system of State control over local bodies. It may be added here that in order to ensure their proper working, local bodies need not only the control and supervision but also guidance and support towards the discharge of its valid functions.

2.8.3 TYPES OF CONTROL

Local government being a State subject, the nature and pattern of state control over local bodies varies from State to State. Such control is mainly based on the State legislations-Municipal and Panchayati Raj Acts passed in the respective States. However, in most of the States there are a few common areas and grounds on which the state control is exercised. This may be classified as:

- i. Legislative control;
- ii. Administrative control;
- iii. Financial control; and
- iv. Judicial control.

Each of these types has been examined and analysed in the following sections.

2.8.3.1 LEGISLATIVE CONTROL

The primary control by a State over local bodies is exercised by the State legislature. It is the State legislature which decides about the basic framework of the local bodies - their structures, functions, powers, limitations to their powers and authority, and so on. The State legislature

also exercises general control and supervision over the working and performance of these institutions. The detailed legislative control is discussed under the following heads:

1. Control Through Legislative Process :- The local bodies derive their basic existence and powers through the legislation passed by the State Legislative Assembly. These statutes/Acts enshrine the structures of various local bodies in the State, the duties and functions to be performed by these bodies, the powers and discretion to be enjoyed by them, the nature of control over these bodies and so on. In Punjab, the Punjab Panchayati Raj Act, 1994, and the Municipal Act, 1994, were passed by the State Legislative Assembly in the light of 73rd and 74th Constitutional Amendment Acts, 1992. The Punjab Acts replaced the earlier Acts, such as Punjab Gram Panchayats Act, 1952, Punjab Panchayat Samiti and Zila Parishads Act, Punjab Municipal Act and Punjab Municipal Corporation Act. The new Acts have changed the basic composition and functions of local bodies in Punjab.

2. Control by Amending the Basic Act :- The State legislature can bring about any change in the primary Act. By effecting changes, the state legislature can enlarge or restrict the powers, functions and jurisdiction of local bodies. When the state legislature is not in session, the amendments are made by promulgating ordinances by the Governor of the state. In every state, the state legislature has enacted a number of Acts and has also amended the Acts.

3. Control at the Floor of Houses : - Every legislative body in India, like that of Parliament, exercises control over its subordinate bodies and the executive, through a number of techniques. These may be debates and discussions, question hours, zero hour, call attention motion, adjournment motion, etc. Any matter with regard to the functioning of local bodies can be discussed in the State legislature. Legislature can seek information regarding these bodies and questions may be asked by the members about elections, appointments of administrators and general administration of municipal or corporation councils. Similarly, the legislature and the cabinet may set up committees for the subjects connected with local government.

4. Power to call for Proceedings of Local Bodies :- Local bodies enjoy the power to pass resolutions and by laws. The state government may call for the records of meetings and resolutions passed by the local

bodies for the purpose of satisfying itself as to the legality and propriety of any order passed or by-laws made. It is in all the states that the relevant legislations empower the state governments to cancel or suspend resolutions adopted by a local body on certain grounds.

5. Control over Orders/Rules made by State Governments :-

State legislatures delegate its power of law making to the executive. This may relate to local bodies too. However, the State legislature exercises control over this delegated power of legislation (rule making). Besides this, certain Municipal Act provide a check on the State government with regard to the exercise of power to issue orders. These orders are subject to review and approval by the State legislature.

6. Right of State Government Officers to attend meetings :-

The State government may authorize any of its officers to attend the meetings of any of the municipal or panchayati raj bodies. Such an officer(s) has the right to speak in and otherwise take part in the proceedings of the meeting of a municipality, panchayati institution or any of their Standing Committees-but without any right to vote at any such meeting.

2.8.3.2 ADMINISTRATIVE CONTROL

Out of all the types of State Control over local bodies, the administrative control is the most comprehensive one. The day to day affairs of local bodies, particularly their policies and administration are affected by the mechanism of state control. The main instruments of administrative control have been discussed under the following heads:

1. Supersession and Dissolution :- A very lethal weapon generally used by the State governments against the defaulting local bodies has been the supersession and dissolution of local bodies before the expiry of their normal term. Such a drastic action is taken by the State Government when there is a case of default, abuse of power or incompetence of local bodies. On supersession, all the elected members of the local body cease to exercise their powers and functions and vacate their seats. As a consequence of dissolution, the local bodies cease to exist and the fresh elections may be ordered. However, before the recent Constitutional amendments, it was a usual practice with the governments not to hold re-elections for years together. However, after the Constitutional amendments and the fresh legislations by the State governments, the States are bound to make re-elections within the next six months after the dissolution.

2. Suspension/Removal of Members : - This is also an important medium of administrative control. All the controlling Acts of various states have provisions for this type of control. However, the authorities competent to order the removal of members, office bearers on the grounds as well as the mode of removal is not uniform in all the states. The main purpose of providing for the removal of members from the local bodies is to enable the controlling authority to take adequate disciplinary action against individual who does not abide by the laws governing these institutions. The common ground and circumstances on which the non-official members or office bearers of local bodies can be removed may include :

- a) Willfully violating the provisions of the Controlling Act and other rules and regulations.
- b) Abusing or exceeding the powers vested in them;
- c) Being guilty of willful misconduct, neglect or being remiss in the discharge of the duties;
- d) Continued absence from the meetings; and
- e) Conviction for an offence involving moral turpitude or election offence, etc.

3. Power of Appointments/Removal etc. of Personnel :- Not only the elected members of the local bodies but also certain categories of employees of these institutions are under some control of the state government. Almost all the senior and middle grade appointments are made by the state government. Practice varies slightly from state to state but the state governments have the powers of appointment. The state government is empowered to make rules for the purposes of carrying into effect the provision relating to officers and servants, and it may make the rules, inter alia, providing for

- a) the method of recruitment and qualifications of persons to be appointed to the posts;
- b) the designation and grades of posts of officers, staff and other servants;
- c) the appointment of persons in temporary or officiating capacity;
- d) the salaries, emoluments and other allowances of persons appointed to the aforesaid posts;
- e) the leave, punishment, including dismissal and removal, appeal and other disciplinary matters and other conditions of service of the officers, staff and other servants; and

- f) specification of officers as head of Department of the municipal corporation/municipal council.

4. Power to Make Rules/Regulations :- As pointed out in the earlier section, the state government gets the power under the concerned Act (Statute) to frame rules, regulations, issue order etc. Such power is quite handy with the governments to exercise large and extensive powers to keep the local bodies under the State control. Government from time to time makes rules in relation to one or the other aspect of working or operations of local bodies.

5. To issue Directions and guidelines :- The State government is empowered to issue orders and guidelines from time to time to the municipal and panchayat bodies. For instance, the Punjab Panchayati Raj Act Section 204 states: "The State Government may from time to time issue directions to the Panchayats as it considers necessary for carrying out the purposes of this Act." The local bodies are bound to follow the orders and directions issued by the State government. The State government may issue orders, if in the opinion of the government, a particular local body has failed to perform its duties, or fail to follow the guidelines issued by the government.

6. Tours and Inspection :- The State government exercises control over local bodies not just from the headquarter but also through its officials making the field visits to the local bodies. The main purpose of inspection is to satisfy that the rules and regulations and laws in force are being complied with. Such an exercise is performed through medium of periodic inspection of their papers, proceedings of the municipal bodies and their immovable property and also to call for any information. In some of the states full-fledged Directorates of local bodies are discharging this function. Various Acts authorize the deputy commissioner concerned to inspect any document and accounts.

7. Calling for Reports and Information :- A very common instrument of State control over local bodies is the frequent or periodic calling of reports and statements from local bodies. Most of the Acts empower their respective state governments to call upon the local bodies to furnish these with extracts from the following proceedings:

- (a) Any proceeding of the Corporation/Council/Panchayat Samiti or Zila Parishad.
- (b) Any proceeding of the Executive Committee.
- (c) Any proceeding of any other committee constituted under the government Act.

8. Emergency Powers of the State Government :- A number of municipal and panchayat Acts in different States provide emergency powers to the State government. Such an emergency power is generally used when in the opinion of the government there is a danger to the safety or health of the community, or there is some serious obstruction in providing the essential services. While such a declaration is in operation, no member of such essential service, shall withdraw or absent himself from his duties except in the event of illness or accident disabling him from the discharge of his duties, or shall neglect or refuse to perform his duties or shall willfully perform them in inefficient manner. The Punjab Panchayati Raj Act, Section 202, provides emergency powers to the State government. It states: "If at any time the State government is satisfied that situation has arisen that the purposes of this Act cannot be carried out in accordance with its provisions, the State government by notification-

- a) declare that the functions of a Panchayat shall to such extent as may be specified in the notification, be exercised by such person or authority as it may direct; or
- b) assume to it all or any of the powers vested in or exercisable by the Panchayat; and such a notification may contain such incidental and consequential provisions as may appear to the State Government to be necessary or desirable for giving effect to the objects of the notification." As per the Act such an emergency notification is not to remain in force for a period exceeding six months.

9. Seizure of Records/Instituting Inquiries :- In a number of States, the Acts relating to local bodies empower the State government to conduct inquiries into the affairs of a municipality or any panchayat institution. Depending upon the adverse reports/complaints etc., the State government may at any time issue order to conduct an inquiry into the affairs of a local body by any of the officer of the State Government. The officer holding such an inquiry gets the powers of a civil court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and production of documents for the purpose of inquiry. Besides the special enquiries, a local body has to permit any officer authorized by the State government to have access to seize all its books, proceedings and records and to enter upon and inspect any immovable property occupied or any work in progress under a local body.

CHECK YOUR PROGRESS -1

Try to answer the following questions to check your progress:

1. Try to list any three reasons for having a system of State control over local bodies.

Ans.

2. Give any three mechanisms/instruments of legislative and administrative control.

Ans.

2.8.3.3 FINANCIAL CONTROL.

The State governments also exercise control over the financial administration of local bodies. In fact, financial control is regarded as the most effective control over the working of local bodies. The existence and working of local bodies mainly depend upon the grants provided by the State governments. Each local body, therefore, is expected to manage those grants in proper manner and are required to maintain a proper account of its income and expenditure. The basic instruments of financial control over local bodies are as follows:

1. Government Grants :- Most of the local bodies in India are heavily dependent upon the grants-in-aid provided by the higher governments. Their income through other resources is meager and

insufficient which make them look for more and more grants by the government. This makes the grants-in-aid as the most important tool of state control over local bodies. Such grants are sometimes general aids or these may be for specific purposes i.e. towards the implementation of certain schemes or development programmes or these may be of compensatory nature, may be in lieu of certain taxes withdrawn or any other income loss suffered by the local bodies due to any scheme or action of State government. However, the governments use the grants as an instrument to exercise control over local bodies. The State government may reduce or withdraw the grants. Also the local bodies are required to submit utilization report of the grants, particularly the purposive grants.

2. Control over Borrowings by Local Bodies :- Besides the government grants, local bodies in various states are empowered to borrow money at interest or by the issue of debentures or otherwise, any sum necessary for the purpose of meeting any costs incurred by it in the execution of the Act, for discharging any loan contracted under the Act and generally for carrying out the purposes of Act including the advance of loans authorized thereunder. However, with the object to avoid excessive borrowing, the state government keeps strict vigilance over the extent of borrowings by the local bodies. Every borrowing by these bodies requires previous sanction of the state governments whether loan is governmental or non-governmental.

3. Control over Financial Management :- State governments also exercise general control over the financial management of local bodies. The government may from time to time send instructions to local bodies or may inspect their financial books. Many Acts empower the state government to make rules to regulate the application of funds, to provide for the preparation of plan and estimates for works costing a certain amount. Being a corporate body it has to function within the area prescribed by the legislature following definite priorities. Besides, any lawful expenditure can be incurred with the prior sanction of the government. Similarly, various Acts authorize the state government to determine the persons by whose orders the payment of money from the municipal fund may be made.

4. State control over Taxation :- All the local bodies derive their taxation power from the State legislature. It is the statutes (Acts) passed by the State legislature which authorize the various local bodies to impose

or withdraw certain taxes. The State government may also issue guidelines in regard to certain taxes and even other sources of income such as fees, fines or penalties.

5. Budgetary Control :- All the local government institutions are required to prepare their annual budgets i.e., an annual financial statement of its income and expenditure, which in many states are required to be approved by the State government. For instance the budget estimates in Punjab, Andhra Pradesh and Tamil Nadu require the sanction of the government and here the control exercised is very rigid. The government may vary or make alterations in budget proposals. In the case of Panchayati Raj bodies, it is the superior tier that has the power to sanction the budget. In some states the final authority is an officer nominated by the government or the Directorate of Panchayati Raj.

6. Control Through Audit :- One of the most effective and powerful tool to control the public agencies is the audit mechanism. There maybe routine audit (regulatory audit) as well as special periodic audit. The basic purpose of audit is to ensure that all the incomes and expenditures have been properly accounted for i.e. maintaining of all accounts; the moneys have been paid by the proper authority; and the money has been spent for the purpose for which it was sanctioned by the appropriate authority. Audit has also to satisfy the propriety aspect i.e. to check or ensure the sincere intentions of the spending authority. Local Funds Accounts Department of the State government carries the audit of the local bodies.

2.8.3.4 JUDICIAL CONTROL

Last but not the least, judicial control over local bodies is also very significant. A local body is a body corporate, having a separate legal entity of its own. A local body can sue and be sued, i.e., it can on its own name move the Court against any person or organization and in the same way anyone can move the Court against a local body. However, unlike any commercial organization, local bodies enjoy a few immunities from legal action by virtue of their statutory duties. Local bodies like other public institutions are subject to judicial control on the following grounds:

- Error or violation of jurisdiction;
- Error or violation of law;
- Violation of its statutory duties;
- Error or action on the basis of wrong facts;

- Error or violation of rules of natural justice while acting in semi-judicial capacity.

Besides the judiciary, appeals against a local body's orders or actions can be made to the State government. These may relate to:

- Refusal to carry out its statutory duties,
- Refusing to grant or renew license for certain trades,
- Ordering removal of obstructions/demolitions, etc.,
- Ordering disciplinary action against members/employees.

2.8.4 CRITICAL EVALUATION

We have discussed above the pattern and types of State control over local bodies. Such control is quite desirable and universal. It can be seen in other countries also. However, the nature of State control in India may differ from other countries. Here the control is quite comprehensive. Basically, the control pattern in India is based on the governing Acts passed by the State legislatures and the power given to the executive under these Acts. There are not much variations from State to State in India. However, the degree of control may vary due to the prevailing political culture in a particular State, nature of political parties, the tradition of self government institutions and the quality and interest of citizenry. Here, a mention of two divergent views regarding State control is not out of place. One view devotes to the philosophy of providing autonomy to local bodies with least interference from above. To them, local bodies should be guided to perform well and these institutions should learn from their own mistakes. The other view is diametrically opposite to this. It stresses the need for a strict and effective control over the local bodies. To them these bodies are not mature enough to undertake the responsibilities of providing effective services and to undertake developmental tasks. The expectations of citizens from local bodies are increasing, demands are rising and overall standards are growing. The local bodies are not able to meet these challenges. Their capabilities are deteriorating. This necessitates a system of effective control over local bodies. There is also a middle view which advocates a mix of control and autonomy for local bodies.

A number of authors have pointed out the problems in the existing system of state control over local bodies in India. The major objections raised are listed below:

- Excessive control

- Negative control
- Ineffectiveness of control mechanism.
- Political colouring of control
- Improper auditing system.
- Doubtful integrity of investigating officials.

Too much control over local bodies is also regarded as negative and undemocratic. The state control which should be aimed for the positive development and guidance and motivation, generally takes the shape of control of mere political nature.

With the recent amendments after the passing of 73rd and 74th Constitutional Amendments Acts, the focus has been shifted to strengthening the local bodies. A number of functions have been added to their existing lists besides introducing other structural-functional changes. There is also a pressure of state governments to encourage the local bodies to accept more functions and to perform better. This calls for a balance between effective control and supervision from above as well as a positive participation by the local bodies in this wave of revival of democracy, decentralization and development.

Check your Progress - 2

Try to answer the following:

1. List any four means of financial control over local bodies.

Ans.

2. What are the main points of criticism against the present system of state control over local bodies?

2.8.5 Let us Sum up:

The system or practice of state control local bodies can be found in all the countries of world. The degree or extent of control varies due to the prevailing political systems, the traditions of democratic institutions and the quality of local bodies. In India, the local government Acts assign the power of control to State governments. The State governments are expected to supervise the working of local government, check the maladministration and corrupt practices, as well as guide these institutes to provide local services in an effective manner and contribute towards development of local areas. The patter of control and supervision is classified into legislative, administrative, financial and judicial control. The views expressed by various authors and the flaws in the existing system of state control have also been examined in this lesson.

2.8.6 KEY WORDS

Apathy	:	Disinterest or lack of interest
Autonomy	:	Freedom of action; Self-government
Body Corporate	:	One body of many individuals (having independent legal personality)
Consequential	:	As a result of; effect.
Default	:	Failure to do something
Dissolve	:	Termination; bringing to end.
Electorate	:	The voters; people having right to vote.
Jurisdiction	:	Defined area of operation; extent / limit of power
Maladies	:	Ills; Weaknesses
Natural Justice	:	God's justice; fairness; reasonableness
Notification	:	Information (official), declaration.
Supervision	:	Replacement; take-over

2.8.7 References and Further Readings

- Punjab Panchayat Raj Act, 1994, GOP, Chandigarh
- Punjab Municipal Act, 1994, GOP, Chandigarh
- Maheswari, S.R., Local Government in India, Laxmi Narain, Agra

- Singh, Sahib and Swinder Singh, Local Government in India, New Academic, Jalandhar, 2000
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- Bhatnagar, S, Rural Local Govt. in India, Light and Life, New Delhi, 1978.

Self-Check Exercise

1. Critically examine the need and modes of state control over local bodies in India.

2.8.8 Answers to Self-Check Exercise

Please do not copy from the lecture script. Write few lines of introduction, then given few points justifying the need for state control. Explain state control under four types in brief conclude your answer properly.

STATE FINANCE COMMISSION

Finance Commission

There is a provision for Finance Commission in the Constitution. The President of India is required under Article 280 of the Constitution to set up, within two years from the commencement of the constitution and there after five years or earlier a Finance Commission consisting of a Chairman and four members. The Finance Commission is a unique feature in the Indian Federal structure, which is not found elsewhere. It is something like the States Grants Commission in Australia.

Although, the sources of income of the Union and the states are given specifically in the constitution, yet the makers of the constitution desired to make a room for changes in them to suit for the changing times. According to B.N. Rao 'Primary duty of the Finance Commission is to do justice in the allocation of resources between the Union and the States.

The qualifications for the Chairmanship and other members are laid down in the Finance Commission Act of 1951. The Chairman of the Finance Commission has to be a person who has had experience of public affairs. The other members must be persons (a) who are, or have been or are qualified to be appointed as judges of a High Court or (b) have specified knowledge of the finance and accounts of the Government or (c) have had wide experience in Financial matters and administration or (d) have special knowledge of economics. The Commission is an advisory body but its recommendations have been almost invariably accepted by the Union Government. The Finance Commission has the status of a civil court and it determines its own procedure.

Functions of the Finance Commission

Article 280 (3) of the Constitution lays down the functions of the Finance Commission. The primary duty of the Commission is to make recommendations to the President mainly on the following matters :-

1. The distribution between the Union and States of the net proceeds of taxes which are to be, or may be divided between them and allocation between the States of the respective shares of such proceeds.

2. The principles which should govern grants-in-aid of the revenue of the States out of the Consolidated Fund of India.

Financial Assistance

The general principle of federal finance is that both the Union Government and the State Government should be independent of each other. But such a rigid application of this principle, is not possible and every federal constitution provides for the division of the proceeds of certain taxes between the federal government and the federating governments. Even such an arrangements is not found adequate to meet the ever expanding needs of the federating Governments and they have to rely on the grants-in-aid from the Central Government. Article 276 of the constitution authorises Parliament to make such grants as it may deem necessary to be charged on the consolidated fund of India. Apart from the general power of making grants by Parliament to states in need of financial assistance, the constitution itself provides for specific grants on two matters (1) grants-in-aid charged on the Consolidated fund of India for schemes of development, for the welfare of the scheduled tribes and for raising the level of administration of scheduled areas as may have been undertaken by a state with the approval of the Government of India, (2) grants-in-aid to use state of Assam for the development of the Tribal Areas in that State.

Financial assistance in the shape of grants-in-aid are a main sources of central control over the states.

New Punjab Panchayati Raj Act 1994-An Overview

At the time of independence, village panchayats in Punjab had been set up under the Panchayat Act, 1912. In 1952, a new Act was passed to reorganize the Panchayats. However, not many powers were vested with the Panchayats under this Act. In 1961, the Panchayats were recognised as per the Balwant Rai Mehta Committee report to a three tier structure. The Panchayat Samiti and Zila Parishad Act, 1961 set up the Gram Panchayat at the village level, the Panchayat Samiti at the block level and the Zila Parishad at the district level. The existing District Boards were abolished. The Panchayat Samitis and Zilla Parishad had a sporadic existence. They functioned as representative bodies from 1965 to 1970 and again from 1975 to 1978 and have remained superseded in other years. In 1992, the Punjab Gram Panchayat Act was enacted. The enactment of the 73rd Amendment to the Constitution saw the replacement of the 1961 Act with a new enactment.

Finances

The Gram Panchayat Fund shall consist of grants from the Government, donation, taxes, duties, cesses, tolls and fees and other incomes. The Gram Panchayat has been vested with certain taxation powers and it can impose tax on lands and buildings; on professions, trades, levy fees on the registration of vehicles, provision of sanitary arrangements; water rate and lighting rate, etc.

The Panchayat Samiti Fund shall consist of proceeds of local rate allotted to the Panchayat Samiti by the State Government, taxes, cases, duties and fees imposed by the Panchayat Samiti under the Act; Government contributions, grants, donations, etc.

The Zilla Parishad Fund shall consist of government contributions, grants, loans etc. The Act does not vest any taxation powers in the Zilla Parishad.

The Punjab Act has commendable such as empowerment of the Gram Sabha, providing judicial powers to Gram Panchayats and creation of Panchayat service at the village level. The functioning of this Act needs to be studied to understand the implementation of this enactment and its provisions.

The Constitution (Seventy-Third) Amendment Act, 1992, on Panchayats and The Constitution (Seventy-Fourth) Amendment Act, 1992, on Municipalities are a milestone development in the history of independent India. With the incorporation of wide ranging provisions dealing with the electoral processes, finances and planning mechanisms, the two Amendments aim at transforming the Panchayats and Municipalities into strong and viable units of "Self-Government", and bringing them into the mainstream of the country's socio-economic development.

An important aspect of the Amendments relates to the finance of Panchayats and Municipalities. Strengthening of finances is an essential condition for Panchayats and Municipalities to become viable units of Government. The Constitutional Amendments have provided for the setting up of a State Finance Commission to review the finances of Panchayats and Municipalities and suggest measures for their augmentation. The Punjab Finance Commission constituted by the Government of Punjab under the Punjab Finance Commission for Panchayats and Municipalities Act, 1994", has accordingly responded to the tasks as laid down in articles 243-1 and 243-Y of the Constitution of India. The Punjab Finance Commission has examined, in detail, the financial position of the Panchayats and Municipalities, identified the problems which are

confronting them in mobilising and generating sufficient resources and suggested a set of principles which, when put into effect, would significantly improve their financial position. In addition, the Commission has proposed a set of administrative reforms and measures, which in its view, must accompany the principles if the benefits of its recommendations are to be fully achieved.

The finances of Panchayats and Municipalities in the States of Punjab are in an unsatisfactory position. The Panchayats raised in the years 1993-94, a paltry sum of Rs. 1.31 crore by of taxes and another Rs. 75.97 crore via the non-tax sources, yielding a per capita annual income of Rs. 53. Despite the fact that the Panchayats have access to a number of taxes (House tax; Tax on professions, trades, calling and employment; Tax on advertisements and hoardings and the like), they at present levy only house tax. The Commission has recommended compulsory levying of taxes which stand assigned to them and suggested that the Gram Panchayats should, in addition, diversify their financial base by levying taxes on non-domestic properties. The Commission has also suggested a new *Shamlat* land policy and proposed fresh measures for augmentation of Panchayat finances. The central feature of the recommendations in respect of Panchayat finances is to raise, at the minimum, the Panchayat revenues to a level where they are able to perform at least the obligatory and Essential functions.

Report of the First Punjab Finance Commission

The Commission has recommended that land revenue in entirety be assigned to Panchayats.

One of the important sources of revenues with the Local Bodies-both rural and urban, relates to the shared taxes, At present, excepting 40 per cent land revenue assigned to the Gram Panchayats, no State-level taxes are shared with Panchayats and Municipalities. The Commission considers *shared taxes* as a predictable and an important source of income for Panchayats and Municipalities, and has consequently recommended sharing of motor vehicle tax, stamp duty, electricity duty, and entertainment taxes. This system of sharing would provide to the Panchayats and Municipalities buoyant sources of income.

The Municipalities in the State of Punjab in 1993-94 raised approximately Rs. 236 crore, giving a per capita municipal income of Rs. 357. However, when it is judged in terms of the potential that the Municipalities posses,

the performance is unsatisfactory. Comprising of property tax, octroi, other minor taxes and numerous charges and fees, municipal revenues have over the past few years increased at an annual average growth rate of 22 per cent, keeping somewhat ahead of the overall inflation rate. Property tax yieldings are extremely low on account of a narrow base and the ubiquitous problems of assessment and administration.

The Commission has noted the recent steps that the Local Government Department has taken to reform the property tax System. The Commission has proposed has reinforcement of the reform process, incorporating widening of the base by doing away with, over a period of time, the large scale exemptions, changing the existing method of assessment, and imparting greater efficiency to the property tax system.

There is no way in which the Municipalities can meet the financial needs of the expanding functional responsibilities with the limited fiscal powers enjoyed by them. The Municipalities have barely put into effect the system of "user charges" for recovering the cost incurred on the provision of different services including the regulatory services. The Commission is of the view that the cost recovery principle should increasingly be put into practice for major services. The Commission recognises that the target of full cost recovery involving the capital cost and the operation and maintenance cost may not be achieved in one or two years. The process; however, needs to be put into motion. Subsidies, where essential, should be direct and transparent.

The Commission is aware of the large potential of the private sector and public private partnership in the provision of basic services. Experiences within the country as also in many developing countries suggests that the potential of the private sector should be explored and used in provision of services. The central point of Commission's suggestion in this respect is not to create private monopolies in place of public monopolies; rather it is to give to the users the options and choices in provision of services at competitive costs.

Fiscal indiscipline and inefficiency is reflected in low revenue collection to demand ratios and, on the other hand, continually raising expenditure on administration. The Commission's recommendations assume a "minimum revenue effort" from the Panchayats and Municipalities; indeed, it is a crucial ingredient of its recommendations. Similarly, the cost of administration must be contained or else much of the effect of the proposed devolution will be neutralised by the rising administrative expenditure.

The Commission has also proposed the streamlining of functional relations between the parastatals and the Local Bodies.

The Commission has carried out its task under severe data constraints. The State Government does not maintain either the Panchayat or the Municipal Finance data. The Commission's efforts to collect data for its own deliberations were costly and timeconsuming. It has recommended instituting a system of regular data collection, maintenance and dissemination. The Punjab Finance Commission believes that recommendations made by it will not only strengthen the finances of Panchayat and Municipalities but take these institutions closer to the spirit and aspirations that underlie the 73rd and the 74th, Constitutional Amendments.

Constitution of the State Finance Commission

The Punjab Finance Commission was constituted on the 22nd April, 1994, by a legislative action of the Punjab State Government under "The Punjab Finance Commission for Panchayats and Municipalities Act, 1994. "This Act was passed by the State Legislature to meet the requirements of Articles 243- I and 243- Y of the Constitution of India inserted by the 73rd and the 74th Amendments to the Constitution, which required each State to set up a Finance Commission.

As per Section 3 (1) of The Punjab Finance Commission for Panchayats and Municipalities Act, 1994, the Governor of Punjab constituted a Finance Commission to review the financial position of Panchayats and Municipalities and to make recommendations to the Governor.

(A) in the case of "Panchayats" 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 and the allocation between 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 Panchayats; and'
- (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; and

- (c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats;

(B) in respect of “Municipalities” 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; and
- (b) the Measures needed to improve the financial position of the municipalities; and
- (c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

Composition and the Term of the Finance Commission

Under the provisions of Section 3 (2) of The Punjab Finance Commission for Panchayats and Municipalities Act, 1994, the Governor of Punjab appointed the Chairman and the other four Members of the Punjab Finance Commission on the 25th July, 1994, according to which the composition of the State Finance Commission was as follows :

- | | | |
|----|--|--------------------|
| 1. | Shri J.P. Gupta, IAS (Rtd.) | Chairman |
| 2. | Prof. Om Prakash Mathur | Member (Part time) |
| 3. | Shri R.R. Bhardwaj, IAS | Member (Part time) |
| 4. | Shri K.R. Lakhanpal, IAS
(25.07.94 to 12.06.95 F.N) | Member (Part time) |
| 5. | Shri B.K. Srivastava, IAS
(upto 23. 11. 94 F.N.) | Member Secretary |

The composition of the State Finance Commission underwent changes during the course of its term Shri Surjit Singh, IAS replaced Shri B.K. Srivastava, IAS as the Member Secretary on the 23rd November, 1994 Shri N.K. Arora, IAS, Principal Secretary to Government of Punjab, Department of Local Government, was appointed as a part time member replacing Shri K.R. Lakhanpal, IAS.

The term of the State Finance Commission was initially upto the 31st march, 1995. It was however, extended by the State Government dated 31st march, 1995. Upto the 30th September, 1995. It was again extended, dated 31st September, 1995, upto the 30th November, 1995 and then upto the 31st December, 1995.

Scope and Approach of the Commission

The terms of reference of the State Finance Commission have been defined in Section 9 of The Punjab Finance Commission for Panchayats and Municipalities Act. 1994. These have also been defined in Section 3 of the State Government- notification dated 22nd April, 1994, constituting the Punjab Finance Commission. They relate mainly to the financial resources of the Local Bodies and the Commission has a definite role to play in the distribution and the assignment of the revenue between the State Government and the Local Bodies. However, the scope and the role of the Finance Commission is to be understood in a much broader context of Articles 243-G, 243-I, 243- W, 243-X and 243Y of the 73rd and the 74 Constitutional Amendments in general and the 11th and 12th Schedules, in particular.

The Commission observes that the financial condition of the Local Bodies is far from satisfactory as the actual funds available to these institutions are far below to what are necessary to discharge even the obligatory functions of these Bodies. Corrections in this respect would call for rational distribution of financial resources between the State and the Local Bodies and elimination of the arbitrariness and adhocism in the State Local fiscal relations.

The Constitutional Amendments are aimed at strengthening of the Panchayats and the Municipalities by laying down the principals and procedures for sharing of the State level taxes and levies and grants-in-aid. These are designed to enable them to function as institutions of local self government which would involve a wider participation of locally elected representative at the grass root level. The idea of such participation is to permit the Local Bodies, both Panchayats and the Municipalities, to function as "*little republics*" by introducing far reaching changes in their functioning. The 73rd and the 74th Constitutional Amendments have also given a Constitutional Status to the Local Bodies as an important tier of the national administrative setup. Since the Amendments provide for a permanent Election Commission to ensure elections within six months of

any suppression or completion of the term, it is unlikely that these Local Bodies can be kept in hibernation for a longer period of time.

The Commission, in performing its task, has attempted to fulfil its role in conformity with the statement of objects and reasons which led to the Constitutional Amendments. It has, therefore, been considered desirable to adopt a much wider perspective which include financing system, staffing pattern and the administrative set-up of the Local Bodies. The Commission also found it necessary and desirable to recommend an organisational and working system which would provide better co-ordination between the State Government and the Local Bodies without sacrificing the principles of “responsive government” both at the state and the local levels. In doing so, the Commission has examined the existing structure and functions of the Local Bodies and has taken into account the views of the State Government regarding the transfer of functions and the conditions and the conditions necessary for an efficient system of functioning and coordination between the two levels of the Government.

The Commission, while formulating its recommendations, has broadly kept the following objectives in view :

- To identify the financial resources for the Local Bodies that would enable them to perform their functions. efficiently and equitably.

- To suggest sustainable income to the Local Bodies to meet their growing mandatory requirements.

- To give ewightage to the financially weaker Local Bodies, while determining their share in the grants-in-aid.

- To Provide for the expenditure on the upkeep and the maintenance of the capital assets on the basis of the norms.

- To ensure a system of equity and efficiency in allocating taxes amongst the Local Bodies along with incentives.

The existing schemes have been taken into account along with the funds and functionaries of the departments and the present structure of the departments of the Government.

Measures relating to the performances of Local Bodies in the matters pertaining to revenue collection, tax administration, expenditure control, efficiency in raising resources, planning and other corrective measures.

- To find ways of ensuring that the expenditure on the staff and the administration of the Local Bodies is in relation to their assigned

responsibilities and that the recurring cost of staff decreases over a period of time and that the Local Bodies are able to effectively use the competitive prices and the cost of effective services.

The scope and the methods of privatising the essential services and the functions which have been a drain on the finances of the Local Bodies.

The Scope of user charges for those services where the beneficiaries can be easily identified and the appropriate pricing mechanisms for such services to cover the cost of operation and maintenance including the methods of cross substitutions of the essential services.

The future policy of urban development vis-a-vis the capital cost of the essential services like water, sewerage and other developmental activities to save the Municipalities from the unmerited financial burden resulting from urbanization and unplanned development.

The procedures of levying tax, streamlining of the tax system, the scope and possibility of new taxes and assignment of inelastic taxes such as land revenue etc. In addition to the above, the Commission has also considered the following:

The financial review of the Local Bodies for the last three to five years.

The recommendations of the 10th Central Finance Commission. The existing system of data collection and its maintenance by the Local Bodies.

The revenue resources and the demand of Local Bodies for the next five years beginning from the 1st April, 1996.

Methodology Adopted by the Commission

The terms of reference of the Commission required very detailed and elaborate collection, processing and analysis of the data for the Local Bodies. Since much of the required data for the Local Bodies was not available from the secondary sources, the Commission undertook the task of primary data collection from the Municipalities and the Panchayati Raj Institutions. The Commission also interacted with the officials of the State Departments, Members of other State Finance Commissions such as the States of Maharashtra, Darnataka and Gujarat to understand the functioning of local Governments in those States. Thus, the Commission has taken several steps to come to grips with the problems of the finances of Local Bodies. Some of the steps taken by the commission are elaborated below :

Data Collection

The Commission felt that, in making any recommendation on the devolution of functions and powers, it was necessary for it to understand the current fiscal condition of the Local Bodies. This required extensive data and the Commission took steps to collect the data from the Local Bodies. For this purpose, the Commission issued detailed questionnaires to the Nagar Panchayats, Municipal Councils, Municipal Corporations, Gram Panchayats, Panchayat Samitis and the Zila parishads, soliciting financial data which was used to analyse their fiscal conditions. Besides the data on the finances of the Local Bodies, including that regarding the sources of income, pattern of expenditure, deficit and future requirements, the Commission also collected data on the Plan and Non-Plan expenditure. The Commission also reviewed the sources of revenue for the activities listed in the 11th and the 12th Schedules of the Constitution of India added by the 73rd and the 74th Constitutional Amendment.

Dissemination of Information & Public Participation

The Commission made extensive efforts to publicise the objectives and the intentions of the 73rd and 74th Constitutional Amendments. Copies of 73rd and 74th Constitutional Amendments were sent to all Commissioner, Executive Officers and Chairmen of the Municipal Corporations, Municipal Councils, Zila Parishads, Nagar Panchayats and Panchayat Samitis; they were requested to arrange for wide publicity of the said Amendments amongst the general Public as well as to make suggestions regarding the implementation of the Constitutional Amendments. To give wide publicity and to involve the intellectuals, the copies of 73rd and 74th Constitutional Amendments were also sent to all Deputy Commissioners for distribution and publicity in their districts. Copies of the Amendments were also sent to the following; soliciting their views and suggestions. :

- (a) All Members of Parliament (Rajya Sabha and Lok Sabha) from Punjab.
- (b) All Members of Punjab Legislative Assembly.
- (c) Vice chancellors of all Universities in Punjab.
- (d) Registrar, Punjab and Haryana High Court.

The Commission also took steps to involve in its work knowledgeable persons from various fields of public life. Appeals soliciting suggestions, as to what functions and responsibilities should be transferred, were issued through

newspapers (*Annexure*). In response to this, the Commission received valuable suggestions from the Municipalities, Gram Panchayats, Panchayat Samitis, Zila Parishads, Universities, and other public institutions and the public in general. The Local Bodies were also requested to furnish their assessments regarding the requirement of funds for the effective performance of the functions by the Local Bodies, as listed in the 11th and 12th Schedules of the Constitution of India, added by the 73rd and 74th Constitutional Amendments. In all, the Commission received active and meaningful consultation and reactions of the people in general and representatives of the State Legislature, Local Bodies, Panchayati Raj Institutions, Universities, Intellectuals and persons of authority, in particular.

The Commission also received presentations from the Heads of various Government Departments regarding the working of their departments with the help of charts, maps, graphs and diagrams. Several departments made presentations about various schemes and functions being implemented by them (*Annexure-II*). Senior functionaries of the State Government were also invited by the Commission to give their views on various issues in respect of financial and functional matters of the Panchayati Raj Institutions and the Municipalities. These functionaries included, besides others, the following :

- (a) Chief Secretary to Government, Punjab.
- (b) Financial Commissioner Development, Punjab.
- (c) Financial Commissioner and Secretary to Government, Punjab, Department of Rural Development and Panchayat.
- (d) Principal Secretary to Government, Punjab, Department of Finance.
- (e) Secretary to Government, Punjab, Department of Local Government.

Meetings and Consultations

The commission, with the objective of enhancing its own understanding of the local government finances and the functioning of these Local Bodies, organized a series of meetings with the representatives of the local governments such as Mayors, Presidents, Executive Officers of the Municipal Corporations and the Municipal Councils. Several such meetings were also held with Chairmen of the Zila Parishads and Panchayati Samitis.

A meeting with senior officers and retired officers of the Rural Development and Panchayat Departments, was also held to obtain their views (Annexure-III). The Chairman, Punjab Finance Commission attended four National meetings of the Commission visited a number of districts of the State and held a series of meetings with the Deputy Commissioners, Additional Deputy Commissioners, Presidents, Mayors and Executive Officers of the Municipalities. The chairman of the Commission visited the State of Gujarat to study the Panchayati Raj set up and its structure of taxation (*Annexure-IV*).

Evaluations & Recommendations

The Consultants of the Punjab Finance Commission visited the States of Gujarat and Maharashtra to study the functioning and resources of the local Bodies in those States. A study team consisting of Senior Consultant, Deputy Director (Planning) and other officers visited various Corporations and Municipalities in the State to collect data regarding the expenditure norms and current and future performance of their service levels. The Commission also consulted various experts in the field of local government finance such as Dr. Raja J. Chelliah (NIPFP), Dr. A.

Municipal finance data shows that Octroi is the major source of income to the Municipalities and is the most important and buoyant tax resources, followed by Property Tax. The two taxes i.e. Octroi and Property Tax accounted for about 60 per cent of the total Municipal income in the State during the year 1993-94. The other taxes have only minor significance as compared to the two taxes mentioned above. The Property tax has not shown the desired buoyancy or growth despite escalation in the value of urban property. As such, this tax has lagged behind Octroi. This calls for major and radical reforms in the structure and administration of the Property Tax. The Municipalities are also found to be not making the desired effort in utilising the instrument of user. Charges for recovering the cost of providing and maintaining the services. Indeed, the charges collected, as proportion of the costs, are as low as 30 per cent for services like water supply and sewerage.

Similarly, the Panchayati Raj Institutions, at various levels/ are empowered to levy taxes and fees under the existing Panchayati Legislation. They are also empowered to impose surcharge on State taxes such as Local Rate, Entertainment Tax and Duty on Transfer of Property. These are besides Water Rate, Conservancy Rate, Sanitation Rate and Lighting Rate. Actually,

in terms of variety of available tax sources, the taxes leviable by the Panchayats outnumber those of the Municipalities. However, in the matter of Utilisation, of their tax sources, the performance of the Panchayati Raj Institutions is found to be unsatisfactory. The only tax being used at present by the Panchayats, and that too in a limited way, is the domestic Property Tax. No other tax instrumentality is being utilised by the Panchayats.

It should also be pointed out that the Local Bodies, both Panchayats and Municipalities are not fully utilising their existing tax powers. The Profession Tax is currently not levied either by the Panchayats or by the Municipalities. The Local Bodies are also not efficient in the administration to their tax domain. The collection of demand ration for a number of taxes is uniformly low and falls below the normal expected tax effort.

The current tax domain of the Local Bodies is found to be narrow and relatively inelastic. They have little flexibility in the matter of adjusting tax rates and charges. The rates and charges are fixed by the State, and the Local Bodies have little autonomy in the fixation of the rates of taxes number of exemptions from Property Tax and Octroi to various groups of individuals substantially depletes the revenue resources of the Local Bodies.

The Private sector participation in the matter of provision of services has also not been tried by the Local Bodies on any significant scale Except in the collection of Octroi, which has been recently tried in the State there is not enough participation by the private sector in the provision and maintenance of services.

The Commission, having taken cognizance of the prevailing situation regarding the tax base of the Local Bodies and the inadequacies in the internal revenue effort, is of the opinion that the tax powers of the Local Bodies need to be strengthened through widening of the tax base, enhancing the tax powers and assigning of the elastic and buoyant sources of income. For this purpose, not only the existing taxes which are assigned to them, need rationalisation for making them buoyant and elastic, but the internal revenue effort of the Local Bodies also needs considerable improvement. To achieve this end, the Commission makes the following recommendations.

The Commission is of the opinion that the tax domain of the Municipalities should be clearly identified and its enforcement made obligatory upon this Body. The Municipalities of the flexibility that they need in order to adjust the schedule of rate to meet their obligatory and functional expenditure responsibilities. The Commission is of the opinion that the Municipalities

should have flexibility in the fixation of tax rate. In addition, they must make a minimum tax effort to claim incentive grants. However, for some years to come, till the Municipalities gain adequate experience of acquire fiscal autonomy, a system of suggesting floor rates of taxation and schedules thereof, can continue, subject to the condition that the Municipalities have the right to enhance the rates in order to mobilise larger resources to discharge their obligatory and essential functions.

Panchayati Raj Institutions

Tax On Professions, Trades, Callings and Employments

Under Section 88 (b) of The Punjab Panchayati Raj Act, 1994, a Gram Panchayat has a mandatory obligation to impose a tax on professions, trades, callings and employments, other than agriculture, carried on or held within the local limits of its jurisdiction. This tax is on the basis of the total annual income from such professions. There will be a considerable increase in the income of the Gram Panchayats, if this tax imposed on professionals, individuals, traders, commission agents, shopkeepers etc. is based on income slabs. The Commission thus, recommends that this compulsory tax be imposed by the Gram Panchayats, after the Government has fixed slabs of taxation.

Tax on Advertisements and Hoardings

Gram Panchayats should levy a tax on advertisements other than those appearing in the newspapers within their respective areas. Posters dealing with religious purposes should, however, be exempted from the levy of this tax. The Panchayats should lease out spaces, owned by them on village roads to advertisers for putting up hoardings. The National and multi-national business are targeting at the rural areas for their sales promotion campaigns. Therefore, Gram, Panchayats should also cash on this potential source of income.

Property Tax on Non-Domestic Properties

The Commission recommends that the Gram Panchayats should tax Brick Kilns, Rice Shellers, Stone Crushers, and Petrol Pumps on the lumps sum rate basis of Rs. 2500/- per year. Small Scale Industries should be taxed @ of Rs. 500/- upto 1000 sq. yards and Rs. 1, 000/- beyond 1000 sq. yards. Similarly, Large Scale Industries be taxed @ Rs. 10,000/- upto 10 acres and Rs. 20,000/- incase beyond 10 acres. Similarly, tax should be levied on Poultry Farms, Dairy Units, Fish Farms and Stud Farms. All these levies will be in the form of Property tax payable in lump sum on yearly basis. The procedure for the levy, collection and appeal in respect of these taxes should be the same as recommended for House Tax.

Market Fee on Goods for Sale in the Panchayat Area

Markets which are an important feature of villages can be a good source of income to the Gram Panchayats. The Gram Panchayats should charge a fee on sale of goods @ 2 per cent of the value of goods sold.

Fee on Auto Stands

The Gram Panchayats own land on the main roads and the crossings of main roads through out the State. They can provide to the road users services such as shelters, drinking water etc. and in return of these services charge Parchi Fee from the buses operating on the route @ Rs. 5 to Rs. 10 per vehicle.

Devolution of State Revenue

Revenue devolution, covering the assignment and sharing of the state revenue with the Panchayats and the Municipalities, is the fiscal instrumentality for reducing vertical gap, arising out of insufficient domestic revenue sources, to meet their functional obligations. Since revenue devolution is backed by legal entitlement, this is a transparent, predictable and a stable source of revenue for the Panchayats and Municipalities and as such, is an effective instrumentality for promoting the fiscal autonomy of the Local Bodies.

Assigned Revenue

Assigned revenue includes revenue sources that are presently with the State Government, but need to be assigned to the Panchayats and the Municipalities for the reason that these sources are local in nature. Since Local Tax Authority is a delegated power of the State Government through a legislative authorisation, the power delegated to the Municipalities and Panchayats for the purpose of collection and use of revenue from specified tax is referred to as tax assignment.

Principles of Tax Assignment

From the angle of Principles of tax assignment, the Commission is of the opinion that the Local Bodies should be assigned taxes on the basis of the following principles :

- (a) Taxes based on immobile factors, such as land and its use, should be assigned to the Local Bodies. Taxes whose benefits extend to the residents of a particular jurisdiction without any spill over effects, would be local in nature and are best assigned to the local Government. A tax whose benefits are spread over to larger areas, should stay with the higher level of the

Government. Thus, the taxes based on the goods for local consumption, local services and business, should be allocated to the Local Government.

(b) The tax instruments selected should meet the criteria of equity, cost-effectiveness and buoyancy so as to ensure adequate flow of income to the Local Bodies. Taxes whose cost of collection is disproportionately high, as compared to its yield, should not be allocated to the Local Bodies.

Based on the above principles, the Commission recommends the following in respect of assignment of taxes on the Local Bodies.

Municipalities

The Commission has examined that existing tax powers of the Municipalities, a detailed mention of which has already been made in the portion on Local Tax Authority and suitable recommendations given thereupon. The Commission is of the opinion that except for the yield from taxes, the tax power with the Municipalities from the point of view of the principles enunciated, are adequate. All Municipal Taxes, except Octroi, suffer from low yield and inelasticity due to erosion of the tax base and inadequate revenue efforts by the Local Bodies. Apart from the recommendations given earlier to increase the revenue from the existing tax resources through appropriate efforts by the Municipalities by restructuring the tax base and tax rates, especially of Property Tax and other measures already suggested, no further assignment of tax to the Municipalities, is recommended.

Panchayati Raj Institutions

The Commission has examined the tax powers available to the Pannchayats and considers them adequate, except in terms of their revenue generating capacity. Apart from the recommendations made for making the existing taxes of the Panchayats more productive, the Commission recommends the following measures.

Land Revenue

At present, only 40 per cent of the land revenue is given to the Gram Panchayat. Instead, the total land revenue should be assigned to the Gram Panchayats. Land revenue cess, when revived, should also be assigned to the Panchayati Raj Institutions. If Zila Parishads pass a resolution for levying the cess on land revenue, the State should levy, collect and then transfer it to the Zilla Parishads. This distribution of cess should be as under :

Gram Panchayat	50 per cent
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Panchayat Samitis	30 per cent
Zila Parishads	20 per cent

Revenue Sharing for Panchayati Raj Institutions and Municipalities

The sharing of certain elastic sources of the State Tax revenue with the Local Bodies is an important additional source of revenue for these bodies. It is important that such transfers should be so designed as to meet the objective of removing the vertical and the horizontal, providing for upgrading in the existing levels of civic services and for the additional services to be performed by the Local Bodies.

Principles of Tax Sharing

The Commission has examined the range of State taxes to determine the principles which should govern the sharing of the proceeds of State taxes with the Local Bodies. The principles are, in brief, as stated below :

- (a) The taxes identified for sharing between the State and the Local Bodies should be those which fall within the fiscal domain of the Local Government and to the proceeds of which, the Local Bodies have a legitimate right.
- (b) The taxes identified should be elastic and buoyant in nature so as to provide a proportionately enhanced flow of income to the Local Bodies.
- (c) The proportion of the share to the Local Bodies should be fixed taking in view the fiscal needs of the Local Bodies. The share of the Local Bodies should be enough to reduce their dependence on the grams.
- (d) The distribution of shared taxes between the State and the Local Bodies should be determined on a percentage basis of the selected taxes rather than on fixed amount basis. This will ensure that the quantum and frequency of the transfers is transparent and predictable
- (e) To enhance the autonomy of the Local Bodies no conditions should be attached to the transfers. However, the transfers must have in-built incentives for promoting local resource mobilisation and good performance.

After considering various alternatives and the diverse practices prevailing in other States, the Commission is of the opinion that the objectives of the local fiscal autonomy and financial self-sufficiency would be met by transferring to the local bodies, a share of a few elastic and buoyant

individual State tax revenues. The Commission notes that there is already a provision in The Punjab Municipal Corporations Act, 1976, under sub-section (6) of Section, 90, whereby the Government is required to pay to the Corporations, the whole or such part, as it may determine, of the taxes collected by it :

- a) under The Indian Stamp Act, 1989, on amount of Stamp Duty on transfer of property situated within the local areas of the city;
- b) under The Punjab Motor Vehicles Act, 1942, from every person, keeping a Motor Vehicle within the local area of the city;
- c) Under The Punjab Electricity (Duty) Act, 1958, on the energy supplied within the local area of the city;
- d) Under The Punjab Entertainment Duty Act, 1955, from every person admitted to an entertainment within the local area of the city, and
- e) Under the Punjab Entertainment Tax (Cinematograph Shows) Act, 1954 from the proprietor of the premises, where a public cinematograph exhibition is held within the local area of the city.

Despite the above provisions, the Government has not so far transferred any share from the proceeds of these taxes to the Municipal Corporations. The Commission is of the opinion that not only should the provisions of The Punjab Municipal Corporation Act, 1976, be acted upon in respect of the Municipal Corporations, but other Municipalities and the Panchayati Raj Institutions should also have access to a share of the proceeds from these taxes. In order to operationalise the sharing scheme, the Commission has proposed a three stage sharing mechanism as listed below :

- (a) Fixing a percentage of the total yield from above taxes, which should be adequate to meet the objectives in view.
- (b) Fixing the share of divisible pool, so determined, between the Municipalities and the Panchayati Raj Institutions.
- (c) A formula for distribution of funds, so allocated, amongst the Municipalities and the Panchayati Raj Institutions.

The Commission has formulated its recommendations regarding sharing of State Tax revenues based on the criteria and principles listed above. It is recommended that 20 percent of the net proceeds of following five taxes, at present levied and collected by the State be shared with the Municipalities and the Panchayati Raj Institutions. As for the distribution

of these taxes amongst the Municipal Bodies and Panchayati Raj Institutions, the following principles should be followed :

Stamp Duty

The share of proceeds from stamp Duty should be distributed between the Municipalities and the Panchayati Raj Institutions on the basis of derivative principle. The Stamp Duty collected from the urban areas should form the share of Municipalities and that from the rural areas should be transferred to the Panchayati Raj Institutions. It is also recommended that separate records for the transactions relating to urban and rural areas should be maintained by the registering authorities.

Punjab Motor Vehicles Tax

The sharing of the Punjab Motor Vehicles Tax be on the basis of proportionate lengths of roads maintained by the Municipalities and the Panchayati Raj Institutions. Keeping in view the intensity of usage of roads in urban and rural areas, the proportion of urban and rural roads should be worked out by applying a multiplier of 10 to the actual length of Municipal roads.

Electricity Duty

The sharing of Electricity Duty between the Municipalities and Panchayati Raj Institutions should be on the basis of collection.

Entertainment Tax and Entertainment Tax (Cinamatograph Shows)

The sharing of the Entertainment Tax and the Entertainment Tax (Cinamatograph Shows) be on the criteria listed below :

Municipalities	80 per cent
Panchayati Raj Institutions	20 per cent

The inter se distribution of these taxes amongst the Panchayati Raj Institutions should be as under :

Gram Panchayats	50 per cent
Panchayat Samitis	30 per cent
Zila Parishads	20 per cent

Further, the distribution amongst each tier of the Panchayati Raj Institutions should be on the population basis.

State Grants to Local Bodies

The review of the finances of Local Bodies has shown that both the Municipalities and the Panchayati Raj Institutions suffer from a variety of Problems. Most of the Municipalities suffer from resource crunch and their

inability to provide desirable level of civic services. There are also wide inequalities amongst the Municipalities, not only of different classes but within the same class. Thus, the Local Bodies suffer both from the horizontal as well as vertical imbalances in their finances.

Regrettably, there is no well-developed system of grants-in-aid to the Local Bodies in the State. The grant-in-aid is not given by the State Government to the Local bodies to meet their revenue deficit. Since 1991-92, grants-in-aid to the Municipalities are given for specific developmental projects approved by the State or the District Planning Boards. Further, the funds are released for the Centrally Sponsored Schemes such as Nehru Rozgar Yojna, Urban Basic Services for the poor, Integrated Development of Small and Medium Towns (IDSMT) and Environmental Improvement of Urban Slum (ELUS) Schemes. The funds released are tied to the execution of specific centrally sponsored schemes and Local Bodies have no say in their utilisation.

It is thus, clear that the existing system of grants is unsatisfactory. In its present form, neither does it meet the requirement of the Local Bodies, nor is it designed to correct the horizontal or vertical imbalances. These problems make it necessary that Grants-in-aid to Local Bodies should meet the objectives listed below :

- (a) Reduction of their horizontal revenue gap.
- (b) Provision of a desirable level of civic services.
- (c) Meeting the expenses of undertaking State assigned responsibilities and tasks.

Principles of Grants-in-Aid

The Commission is of the considered opinion that the system of giving grants should be equitable. It should take into account the fiscal needs as well as the fiscal capacity of the recipient Local Bodies. The system should be so designed that the Local Bodies, with weak fiscal capacities, are able to provide a level of civic services to the community which is not below the average level within the same class. In brief, the grants-in-aid policy of the State should be based on the following principles :

- (a) The system of grants should be transparent, predictable and should be so designed that the various Local Bodies are able to predict their share of allocation for each year. In other words it should be based on objective measurable factors.

- (b) For considerations such as equity and justice, the grants should be related to the fiscal needs and the taxable capacities of the Local Bodies.
- (c) The grants-in-aid from the State provide to the Local Bodies, sufficient autonomy and flexibility in planning their priorities as per the needs of the community. Stress should be on united grants than on those which are tied to any specific Government policy.
- (d) There should be a system of incentive grants to encourage the Local Bodies to undertake better use of their own resources and sound management of their finances.

Major Recommendations of 3rd Punjab State Finance Commission :

1. To Strengthen Local Bodies : Constitutionally, local bodies are adequately empowered to perform their functions but in reality, they lack finances, expertise and proper planning in performing their responsibilities. It is necessary that state devolution should be enough so as to enable local bodies to discharge their functions properly.
2. A sound infrastructure for providing healthy environment and a good quality of life is a prime requirement of the state and is vital for economic development.
3. The involvement of the community is most essential in the process of planning, execution and maintenance of infrastructure. For efficient provision of civic services, financial involvement of the community should be ensured through levy of appropriate user charges.
4. Municipalities and Panchayati Raj institutions lack resources to undertake capital intensive infrastructure projects. It is important to increase their capacity for technical, financial management and planning.
5. There is a need for effective institutional mechanisms to ensure that financial and other needs of the local bodies are accurately estimated and met.
6. It is recommended that direct devolution of finances by State Government to cover the cost of running the local bodies at present levels.
7. Alternative sources of raising funds such as municipal bodies, loans from financial institutions assistance from government of India schemes and public-private partnership.

8. Funds be made available through Municipal Development Fund. For rural infrastructure, it is more feasible to find funds from the State's own resources, as well as international bodies like World Bank.
9. All the State Finance Commissions have had to face similar problems in the initial stages, is that a great deal of time and energy gets expended in becoming operational. In order to make their functioning effective, a permanent office should be set up in the finance department. This office should monitor follow up action on the implementation of the commissions's recommendations, provide staff and office to the succeeding commission and keep all old records.
10. A consumption based tax should be levied in municipal areas, which may be collected by the Excise and Taxation Department and transferred to the local body concerned.
11. Property tax should be levied on non-domestic and commercial properties in rural areas, by Gram Panchyats and on vacant lands by Municipalities. Computerization of property tax records, use of CIS technology should be taken up to ensure that no property escapes the tax net. In rural areas the responsibility for recovery of house tax should be assigned to the Panchayat secretaries who may be given some incentives against a minimum achievement.
12. User charges should be levied on a variety of services at affordable levels to increasingly recover the cost of operation, maintenance, billing and collection.

Municipalities that levy such user charges be given incentives proportional to results achieved. Municipalities should also explore non tax sources through levy of additional fees and charges such as valorization charges, betterment fees and impact fees etc.

13. Municipalities should have the authority to fix water/sewerage rates subject to a minimum to be fixed by the government.
14. Profession tax be levied and collected for the local bodies by the Excise and Taxation Department.
15. Measures suggested for economy in expenditure on establishment through progressive outsourcing and privatization of services and improvement in billing and revenue recovery systems.
16. To improve financial resources base, recommendations of 11th Central Finance Commission for bringing about improvements in the accounts

of Panchayats need to be implemented. Selective introduction of pre-audit be adopted and the State Government examine the working of examiner of Local Fund Account, to ensure objective scrutiny of local body accounts.

17. Quasi-judicial authority on the pattern of lokpal be set-up to look into cases of corruption against Mayors, Sarpanches, Chairpersons of Panchayat Samiti and Zila Parishad.
18. To make decentralization meaningful needed funds and staff be provided. Gram Sewaks be trained to perform the functions of Panchayat Secretaries.
19. Deprovincialization of all posts be carried out in municipal bodies to strengthen the autonomy of the urban local bodies and to improve their administration.
20. Impetus to capacity building is required.
21. Role clarity and awareness among local authorities should be stressed upon. Training programmes aiming at improving their capacity.
22. System should be made transparent and open to public scrutiny to bring about more accountability and confidence in the decisions taken by the state and local governments. Empowerment of the common citizen as a primary stakeholder is essential for strengthening local bodies and improving governance systems through the Right to Information Act.

Public awareness raising campaigns are needed for educating citizens on their rights and responsibilities through open debates in the media with the participation of eminent public persons. Non-government organisations also need to be strengthened in the state.

23. The Action Taken Report should comprehensively report on the action taken on all the recommendations and not just those relating to financial devolution.

Recommendations that have not been accepted should be placed before the Cabinet. An implementation committee under the Chairmanship of the Chief Secretary be set up to ensure implementation of a Commission's accepted recommendations.

Appraisal

Panchayati Raj institutions in India have completed five decades of their existence. Its introduction was considered a social revolution and an answer

to several problems afflicting the rural society. A question that is often raised is whether Panchayati Raj is successful or not? There are two view points on this. Protagonists of Panchayati Raj argue that it is successful and has achieved its objectives. On the other hand, critics argue that it has failed to realise its objectives. Panchayati Raj during the last three decades, has/had its ups and downs. It has passed through the phases of ascend, stagnation and decline. At present there appears to be disappointment and disillusionment with the working of these institutions.

Protagonists argue that Panchayati Raj has become a democratic seed-drilling by making the people conscious of their rights. It has bridged the gap between the bureaucracy and the people. It has also generated a new leadership which is young, forward looking and modernistic. It has even cultivated a development psyche among the people. It has played a positive role in initiating and implementing the development programmes. At many places, political base has been used to provide the needed impetus to implement development programmes. It has thrown open a new type of leadership in the rural areas. These leaders trained in the art of democratic institutions have climbed the ladder and have become political executives at the higher echelons of democratic institutions.

A question often raised is whether there has been sufficient transfer of power to the local bodies or not. The Acts creating Panchayati Raj institutions have no doubt, specified the powers and functions of each of the tiers of Panchayati Raj. They were expected to formulate plans based on local needs and implement them. But unfortunately, local bodies began formulating plans in a mechanical and routine way without taking into consideration the local requirements. One reason attributed to this is the narrow resource base of the Panchayati Raj institutions which does not enable them to take all the local needs and plan for the failure of coordination. Emphasis is on cumbersome administrative procedures which dampen the initiative and hamper the process of implementation. There appears to be more emphasis on rule mindedness than on roles to be performed. This has resulted in delays in the execution of development programmes. Red tape is dampening the initiative of peoples' representatives as well. Identification of officials with the goals of the organisation is a pre-conditions for the successful working of any programme. In Panchayati Raj Institutions, as we have noted, there are several officials coming from different departments, their divided loyalties

between Panchayati Raj and parent departments, also comes in the way of total identification of the officials with the goals and objectives of Panchayati Raj.

Panchayati Raj institutions, particularly, at the grass-roots level, concentrate on civic amenities than extension work. There appears to be enthusiasm in the construction of school buildings than running the schools effectively. Though civic amenities and infrastructure are important, extension cannot be totally ignored. Another problem area, is that the welfare of weaker sections, which either for want of commitment or for want of resources, does not seem to have received proper attention by the Panchayati Raj institutions.

Panchayati Raj notwithstanding these limitations has provided the needed impetus in democratising rural-local institutions. It has generated interest and enthusiasm among the rural people. This enthusiasm unfortunately is not matched by support from the higher levels and is not supplemented by matching resources.

It is this which is creating problems for Panchayati Raj Institutions. As Hugh Gray has noted, "it is not a question of either or Panchayati Raj, it is a question of either democracy or no democracy." If we are committed to the commons of democracy, there is a need for self-governing institutions at local level and Panchayati Raj institutions are democratic institutions in India. Success of Panchayati Raj would strengthen the democracy in the country and their failure will weaken it. Democracy cannot stop at national and state level. If democracy is to survive, establishment of democratic institutions and their proper functioning at the grass-roots level is an imperative necessity. Only through the strengthening of the institution, at the grass-roots level will people participate in their Governance. In a plural society, opportunities to participate in policy formulation and implementation for different groups is possible only through institutions of local self-Government. Without these representative institutions, it would not be possible to churn the soil in rural India and induct social change". The enormity of the development problems, vastness of the nation, competing demands and nation's commitment to democracy require strengthening of these institutions at the grass-roots level.

Let us sum up

Panchayati Raj has been heralded as a social revolution in the country. It was established in the country on the basis of the Balwant Raj Mehta

Committee's recommendations. Though there is broad agreement about the need for decentralisation and strengthening local self institutions at the grass root level, there are variations in the structure of these institutions in different states. In some states there are three tiers in some there are two tiers. In some states they are provided with proper financial resources and in some it is not the case. Therefore, we find wide variations in the organisation and working of Panchayati Raj Institutions in the country. What is heartening is that there has been a realisation on the need and significance of Panchayati Raj to strengthen democracy.

Key Words

Co-option : It is a method of taking a new member in a body or any committee by the votes of those, who are already members.

Diwakar Committee : Study Team on the position of Gram Sabha in Panchayati Raj Movement, set up by the Ministry of Community Development and Co-option in 1965

Directive Principles of State Policy : Part IV of the Indian Constitution consists of these principles which are certain ideals particularly economic that the state should strive for. They are obligations of the state towards its citizens. Though these are not enforceable by the courts the State is expected to apply these principles while making laws.

Gram Sabha : It is lowest administrative body of the village level, consisting of adult members residing in the area. It meets at least twice a year to review and scrutinise the work done by the Panchayats.

Periodic Audit : Examination of the accounts of the Panchayati Raj bodies at regular intervals to ensure that the money has been spent in a proper manner to fulfil the purpose for which it was asked.

Some Useful Books

1. Committee on Plan Projects, Government of India, 1957 : *Report on the Team for the Study of Community and National Extension Service*. Vol. I, New Delhi.
2. Government of India, 1978 : *Report of the Committee on Panchayati Raj Institutions*, New Delhi.
3. Maddick Henry, 1970 : *Panchayati Raj- A study of the Rural Local Self Government in India*, Longman, London.
4. Reddy, Ram. G. (Ed.), 1978 : *Patterns of Panchayati Raj*; Macmillan; New Delhi.

Guidelines for writing Answers

Your answer must include the following points :

- Recommendations of the Balwant rai Mehta Team formed the basis of three tier structure of Panchayati Raj in India.
- Creation of a new local body with the territorial jurisdiction larger than the village and smaller than the district.

The Committee favoured the creation of block which would undertake functions which the village panchayat cannot perform and would attract the interest and service of residents. It recommended establishment of panchayat samithi's for each block.

There should be village panchayat at the village and above the panchayat samiti, should be a zilla parishad for each district.

LESSON NO. 2.10

DISTRICT PLANNING COMMITTEE

Planning in India falls in concurrent list as a result of which the planning process was started both at the center and in the States. For a long time these were the only two levels of planning in India. However, slowly and slowly a pressure as built on the government to initiate multi-level planning in India. Due to the size and diversities in India, it was felt that multi-level planning was needed if the fruits of development were to reach the grassroots level also. With no planning at local levels, it was feared that there was a possibility of losing sight of local problems and tapping the potential of the areas much below the state level. Therefore the planning should not be limited to 'planning from headquarter' only but also 'planning from below'.

The working Group on District Planning of the Planning Commission had remarked that decentralization (through district planning) enables "a better perception of the needs of the local areas, makes better informed decision-making possible, gives people a better voice in decision concerning their development and welfare, serves to achieve better coordination and integration among programmes, enables felt needs of the people to be taken into account, ensure effective participation of the people, serves to build up a measure of self-reliance by mobilizing resources of the community in kind or money, making development of local resources and growth potentials of local area for improved productivity and increasing production feasible". Similarly, the Planning Commission from time to time issued guidelines to the States. In 1954, the commission issued guidelines in regard to the preparation of local plans concerning agricultural production, industries and cooperation. The Five Year Plans have also been making repeated stress on local level planning.

A former Deputy Chairman of the Planning Commission, Professor D.T. Lakdawala is of the view that local planning has the great advantage of compelling the planners to look more closely and concretely at the problems at local levels and to devise measures for the optimum utilization of natural and manpower resources to suit local potentials needs and problems.

In particular, the local or District Level Planning has the following merits:

- Effective use of local areas and manpower.

- Local area being smaller is homogenous.
- Better participation of people and local groups.
- Local areas have their own peculiar problems.
- Strengthening of democratic values.

PLANNING MACHINERY AT DISTRICT LEVEL

Article 243 ZD of the Indian constitution provides for the formation of District Planning Committees in all states except J&K, Meghalya, Mizoram, Nagaland and the NCT of Delhi. All the states must accordingly enact legislations for the constitution of the DPCs and issue notifications bringing them into effect. However there is no uniform pattern of machinery for planning at local level. Each state has adopted its own form of local planning machinery. The most common are the District Planning Boards and Committees. But their composition varies from state to state. Moreover, not all the states have arrangements towards local level planning. Some of the states, such as Maharashtra, U.P., Punjab, Haryana, Kerala, J & K, etc. have paid good attention on District Planning.

In Maharashtra, district planning is quite advanced and has elaborate machinery for this purpose. The main organization for this in Maharashtra is the District Planning and Development Council. In Haryana, Gujarat and Nagaland there are District Planning Boards, in Rajasthan there are District Planning Committees. The composition of these boards/committees varies in all the states. Broadly the following four patterns have emerged:

- i) Minister Chairman Model, where a Minister of the State Government is the Chairman of the body as in Maharashtra, Gujarat, U.P. and Bihar.
- ii) Deputy Commissioner/District Collector Chairman Model. This pattern is prevalent in Assam, H.P., J & K, Punjab, Haryana, Rajasthan, Karnataka and Nagaland.
- iii) Non-official Chairman Model. This is found in M.P. and Meghalaya.
- iv) The MLA Chairman model is prevalent only in Sikkim.

The first model provides effective coordination at the district level and establishes linkages with the Secretariat, but the minister may not find sufficient time to devote to the district planning. The second model is advantageous because Deputy Commissioner is a senior officer in the district having high prestige. He is a natural coordinator of the district

activities but he is also an overburdened man and he alone may not be very effective. In case of MLA or other leader, there may be a problem of expertise and politicization. During the various Five Year Plans a number of tasks emerged for district plans, such as:

- Agriculture production programmes.
- Rural development and poverty alleviation.
- Social welfare extension programmes.
- Programmes relating to urban development.
- Efforts to check pollution and slums.
- Programmes relating to social services- education, health, family planning etc.
- Extension of certain basic civic services such as, electricity, supply of drinking water, building and roads.
- Effective utilization of local resources.
- Small-scale industrial development.

Provisions under the 74th Amendment Act

The Constitutional 74th Amendment Act 1992 Section 243-D provides for the constitution of District Planning Committees in every State at the district level to consolidate the plans prepared by the Panchayats and Municipalities and prepare a draft development plans for the district as a whole. The plan is to take care of matters of common interest between Municipalities such as spatial planning, sharing of water and other physical and natural resources, development of infra-structure and environmental conservation.

Metropolitan Planning Committee :- In case of Metropolitan area, i.e., cities or areas having a population of more than 10 lakhs, the Act provides for setting up of a Metropolitan Planning Committees for preparing a draft development plan for Metropolitan area as a whole. Although, the composition of the MPC and the manner in which the seats are to be filled up is left to the State Governments to decide, however, in case of Metropolitan Committee, not less than 66 per cent members are to be elected by and from amongst the elected members of panchayats and Municipalities of the district in proportion to the ratio between the population of the Municipalities of the Panchayats in that area. Rest of the members are to be nominated to represent the Government of India and the State Government.

DISTRICT PLANNING- A CRITICAL EVALUATION

Punjab District Planning Committees Act, 2005 provides for the constitution of District Planning Committees in order to consolidate the plans by the panchayats and the municipalities in the districts.

Composition

1. Chairperson (from amongst the members of the committee)
2. 4/5th of the total members from amongst the panchayat at the district level and of the municipalities on the basis of population ratio.
3. 1/5 of the total number of members include MLAs and other persons nominated by the state Government.
4. Deputy Commissioner of the district ex-officio.
5. Additonal Deputy Commissioner (Development) of the district.
6. Deputy Economic & Statistical Adviser of the district is its ex-officio Joint Secretary.

Immediately after the initiation of national planning it was realized that besides the planning from the center for the whole of India, there must be plans separately for each states. The Planning Commission and later on the ARC recommended for the setting up of planning machinery in each state for the formulation, implementation and evaluation of their plans. These plans, are however, to be in consistence with the national planning in some terms. Most of the States have now the State Planning Boards and State Planning Departments. Soon after, it was realized that there is also a need for local level planning-particularly at the District level. However, the experience in most of the States in regard to State level and District level planning has not been encouraging. As compared to national planning by the Planning Commission of India, planning at state and local levels has a number of shortcomings, such as:

- Ineffective planning machinery at state level.
- Insufficient research and other organizational support.
- Problems of coordination between Planning Department and other departments.
- Poor monitoring system.
- Problem of center-state planning relations.
- Window-dressing and misleading pictures presented by the states to the center.

- Excessive dependence of states on central grants.
- Poor data base and lack of scientific research and capability.
- Too much of political considerations and interference.
- Problem of coordination at District level.

It is due to a number of problems at local level that the 74th Amendment Act included the provisions of District and Metropolitan Planning Committees. However, despite the provisions and the amendment in the State Acts, these committees have not been properly constituted and wherever these have been constituted there is no clarity about their functions, role and the mechanism.

SUM IT UP

Due to large area, big population and diversities, the planning only from the center for the whole of India is not fully beneficial. Therefore India slowly adopted the system of multilevel planning. During the 1960s most of the States constituted the State Planning Boards along with the existing planning departments. The set up and working of planning machinery at the state level is similar to the one at the center. However, the effectiveness of state planning machinery is much below the expectation in most of the cases. Planning at local level is also not effective in India due a number of reasons. The District Planning Committees have been constituted in all the states after the 74th Constitutional Amendment Act. But in most of the cases, the planning machinery and the process at the local level is not at all effective.

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Key Words

Compatible	:	Befitting, Able to Work together
Liaison	:	Contact, relate, communication
Meticulous	:	Perfect, scientific, carefully made
Monitor	:	Supervise, Watching the progress
Outlay	:	Amount of Money sanctioned for same programme/ project

Type Setting :

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