

74th Constitutional Amendment Act of 1992

The system of Municipalities or Urban Local Governments was constitutionalised through the 74th Constitutional Amendment Act of 1992. The provisions in this amendment are included in Part IXA which came into force on June 1, 1993. Therefore, it gave a constitutional foundation to the local self-government units in urban areas.

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Evolution of Urban Bodies

The institutions of urban local government originated and developed in modern India during the period of British rule. The major events in this context are as follows:

1. In 1687-88, the first municipal corporation in India was set up at Madras.
2. In 1726, the municipal corporations were set up in Bombay and Calcutta.
3. Lord Mayo's Resolution of 1870 on financial decentralisation visualised the development of local self-government institutions.
4. Lord Ripon's Resolution of 1882 has been hailed as the 'Magna Carta' of local self-government. He is called the father of the local-self government in India.
5. The Royal Commission on decentralisation was appointed in 1907, and it submitted its report in 1909. Its chairman was Hobhouse.
6. Under the dyarchical scheme introduced in Provinces by the Government of India Act, 1919, local self-government became a transferred subject under the charge of a responsible Indian minister.
7. In 1924, the Cantonments Act was passed by the Central legislature.

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8. Under the provincial autonomy scheme introduced by the Government of India Act, 1935, local self-government was declared a provincial subject.

<u>Panchayati Raj in India</u>	<u>Cooperatives in India</u>
<u>Schedules of Indian Constitution</u>	73rd Amendment Act Came Into Effect – [April 24, 1993]
<u>Government of India Act 1919</u>	<u>Government of India Act 1935</u>
<u>Lord Ripon</u>	<u>Lord Mayo</u>
<u>List of Important Articles in the Indian Constitution</u>	<u>Important Amendments in Indian Constitution</u>

74th Constitutional Amendment

The 74th Amendment Act of 1992 provides a basic framework of decentralisation of powers and authorities to the Municipal bodies at different levels. However, responsibility for giving it a practical shape rests with the States.

The term ‘**Urban Local Government**’ in India signifies the governance of an urban area by the people through their elected representatives. The jurisdiction of an urban local government is limited to a specific urban area, which is demarcated for this purpose by the state government.

Introduction

- The 74th Amendment Act has added a new **Part IX-A** to the Constitution of India.
- This part is entitled as ‘**The Municipalities**’ and consists of provisions from Articles **243-P to 243-ZG**.
- Additionally, the act also added a new **Twelfth Schedule** to the Constitution. This schedule contains 18 functional items of municipalities.
- The Act has brought Municipalities under the purview of the justiciable part of the Constitution.
- In other words, state governments are under constitutional obligation to adopt the new system of municipalities in accordance with the provisions of the act [Article 243 Q].

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- The act aims at revitalising and strengthening the urban governments so that they function effectively as units of local government.

Historical Background

- In 1989, the Rajiv Gandhi government introduced the 65th Constitutional Amendment Bill (Nagarpalika bill) in the Lok Sabha. The bill aimed at strengthening and revamping the municipal bodies by conferring constitutional status on them.
- Although the bill was passed in the Lok Sabha, it was defeated in the Rajya Sabha in October 1989 and, hence, lapsed.
- The National Front Government under V P Singh introduced the revised Nagarpalika Bill in the Lok Sabha again in September 1990. However, the bill was not passed and finally lapsed due to the dissolution of the Lok Sabha.
- P V Narasimha Rao's Government also introduced the modified Municipalities Bill in the Lok Sabha in September 1991. It finally emerged as the 74th Constitutional Amendment Act of 1992 and came into force on 1 June 1993.

Significance

- Towns and cities contribute substantially to the economic development of the country.
- These urban centres also play an important support role in the development of the rural hinterland.
- To keep this economic transformation in line with needs and realities at the grass-root level, it is necessary that the people and their representatives are fully involved in the planning and implementation of the programmes at the local level.
- If democracy in Parliament and State Legislatures is to remain strong and stable, its roots must reach towns and villages and the cities where the people live.

Features of 74th Amendment Act, 1992

The main provisions introduced by the above Act were as follows:-

Constitution of Municipalities

The Act provides for the constitution of 3 types of municipalities, depending upon the size and area in every state.

1. Nagar Panchayat (for an area in transition from rural to the urban area);
2. Municipal Council for the smaller urban area; and
3. Municipal Corporation for a larger urban area.

Composition of Municipalities

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- The seats shall be filled by direct elections. For this purpose, each municipal area shall be divided into territorial constituencies to be known as **wards**.
- The state legislature may provide the manner of election of the chairperson of a municipality.
- It may also provide for the representation of the following persons in a municipality.
 - Persons having special knowledge and experience in municipal administration without the right to vote in the meetings of the municipality.
 - The members of the Lok Sabha and the state legislative assembly representing constituencies that comprise wholly or partly the municipal area.
 - The members of the Rajya Sabha and the State Legislative Council registered as electors within the municipal area.
 - The chairpersons of committees (other than ward committees).

Constitution of Wards Committees

- This provides for the constitution of Ward Committees in all municipalities with a population of **3 lakhs or more**.

Reservation of seats

- The Act provides for the reservation of seats for the scheduled castes and the scheduled tribes in every municipality in the proportion of their population to the total population in the municipal area.
- Further, it provides for the reservation of not less than one-third of the total number of seats for women (including the number of seats reserved for women belonging to the SCs and the STs).
- The state legislature may provide for the manner of reservation of offices of chairpersons in the municipalities for SCs, STs and women.
- It may also make any provision for the reservation of seats in any Municipality or offices of chairpersons in municipalities in favour of backward classes.

Duration of Municipalities

- The municipality has a fixed term of **5 years** from the date appointed for its first meeting.
- Elections to constitute a municipality are required to be completed before the expiration of the duration of the municipality.

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- If the municipality is dissolved before the expiry of 5 years, the elections for constituting a new municipality are required to be completed within a period of 6 months from the date of its dissolution.

Powers and Functions of the Municipalities

- All municipalities would be empowered with such powers and responsibilities as may be necessary to enable them to function as effective institutions of self-government.
- The State Legislature may, by law, specify what powers and responsibilities would be given to the municipalities in respect of preparation of plans for economic development and social justice and for implementation of schemes as may be entrusted to them.
- An illustrative list of functions that may be entrusted to the municipalities has been incorporated as the Twelfth Schedule of the Constitution.

Finances of Municipalities

It has been left to the Legislature of a State to specify by law matters relating to imposition of taxes. Such law may specify:

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

Finance Commission

The Finance Commission, constituted under Article 243-I to review the financial positions of Panchayati Raj Institutions, shall also review the financial position of the municipalities and will make recommendations to the Governor.

The recommendations of the Finance Commission will cover the following:

- The distribution between the State Government and Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State.
- Allocation of share of such proceeds between the Municipalities at all levels in the State.
- Determination of taxes, duties, tolls and fees to be assigned or appropriated by the Municipalities.
- Grants-in-aid to Municipalities from the Consolidated Fund of the State.
- Measures needed to improve the financial position of the Municipalities.

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The governor shall place the recommendations of the commission along with the action taken report before the state legislature.

Elections to Municipalities

The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the panchayats and municipalities shall be vested in the **State Election Commissions**.

Audit and Accounts

The maintenance of the accounts of the municipalities and other audits shall be done in accordance with the provisions in the State law. The State Legislatures will be free to make appropriate provisions in this regard, depending upon the local needs and institutional framework available for this purpose.

Committee for District Planning

- Every state shall constitute, at the district level, a district planning committee to consolidate the plans prepared by panchayats and municipalities in the district, and to prepare a draft development plan for the district as a whole.
- Planning and allocation of resources at the district level for the Panchayati Raj institutions are normally to be done by the Zila Parishad.

Metropolitan Planning Committees

Every metropolitan area shall have a metropolitan planning committee to prepare a draft development plan.

Continuance of Existing Laws and Municipalities

- All the state laws relating to municipalities shall continue to be in force until the expiry of one year from the commencement of this act.
- In other words, the states have to adopt the new system of municipalities based on this act within the maximum period of one year from 1 June 1993, which is the date of commencement of this act.
- However, all municipalities existing immediately before the commencement of this act shall continue till the expiry of their term, unless dissolved by the state legislature sooner.

Bar to Interference by Courts in Electoral Matters

- The act bars the interference by courts in the electoral matters of municipalities.

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- It declares that the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in any court.
- It further lays down that no election to any municipality is to be questioned except by an election petition presented to such authority and in such a manner as provided by the state legislature.

Types of Urban Governments

The following eight types of urban local bodies are created in India for the administration of urban areas:

1. Municipal corporation
2. Municipality
3. Notified Area Committee
4. Town Area Committee
5. Cantonment Board
6. Township
7. Port Trust
8. Special Purpose Agency

Municipal Personnel

There are three types of municipal personnel systems in India. The personnel working in the urban governments may belong to any one or all three types. These are:

1. Separate Personnel System
2. Unified Personnel System
3. Integrated Personnel System

Municipal Revenue

There are five sources of income of the urban local bodies. These are as follows:

1. Tax Revenue
2. Non-Tax Revenue
3. Grants
4. Devolution
5. Loans