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**STANDING COMMITTEE ON  
URBAN DEVELOPMENT  
(2004-2005)**

**FOURTEENTH LOK SABHA**

**MINISTRY OF URBAN DEVELOPMENT**

**IMPLEMENTATION OF PART IXA  
OF THE CONSTITUTION**

**THIRD REPORT**



सत्यमेव जयते

**LOK SABHA SECRETARIAT  
NEW DELHI**

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MINISTRY OF URBAN DEVELOPMENT

IMPLEMENTATION OF PART IX A  
OF THE CONSTITUTION

*Presented to Lok Sabha on 7.12.2004*

*Laid in Rajya Sabha on 7.12.2004*



LOK SABHA SECRETARIAT  
NEW DELHI

*November, 2004/Agrhayana, 1926 (Saka)*

## CONTENTS

	PAGES
COMPOSITION OF THE COMMITTEE .....	(iii)
INTRODUCTION .....	(v)

### REPORT

CHAPTER I	Introductory .....	1
CHAPTER II	Salient Features of the Part IX A of the Constitution .....	4
CHAPTER III	Process of Devolution of Powers to the Municipalities .....	16
CHAPTER IV	District Planning Committees .....	31
CHAPTER V	Metropolitan Planning Committees .....	36
CHAPTER VI	Training of Elected Members of Municipalities ..	39
CHAPTER VII	Role of Women .....	40

### ANNEXURES

I. Recommendatory/Mandatory Provisions contained in Part IX A of the Constitution .....	41
II. Devolution of functions to the Municipalities as per 12th Schedule of the Constitution .....	52
III. Taxation Powers of the Municipalities .....	57
IV. State-wise allocation of Local Bodies Grants by Tenth Finance Commission .....	59
V. State-wise allocation of Local Bodies Grants by Eleventh Finance Commission .....	61
VI. Revenue and expenditure of ULBs during 1999-2000 to 2001-2002 .....	63
VII. Statement showing State-wise details of Provision for Creation of Data-base and utilisation thereof as reported by State Government .....	64

	PAGES
VIII. Gist of the recommendations of the State Finance Commissions (State-wise) .....	66
IX. District Planning Committees .....	99
X. Minutes of the first sitting of the sub-Committee II of the Committee on Urban and Rural Development (2002) held on 6.6.2002 .....	102
XI. Minutes of the Twenty-eighth sitting of the Committee on Urban and Rural Development (2003) held on 5.11.2003 .....	104
XII. Minutes of the Twenty-ninth sitting of the Committee on Urban and Rural Development (2003) held on 4.12.2003....	106
XIII. Minutes of the Sixth sitting of the Committee on Urban Development (2004-2005) held on 4th October 2004 .....	108
XIV. Minutes of the Seventh sitting of the Committee on Urban Development (2004-2005) held on 25th October 2004 .....	110
XV. Statement of Observations/Recommendations .....	112

COMPOSITION OF THE STANDING COMMITTEE ON  
URBAN DEVELOPMENT (2004-2005)

Mohd. Salim—*Chairman*

MEMBERS

*Lok Sabha*

2. Shri Pawan Kumar Bansal
3. Shri Avtar Singh Bhadana
4. Shri Surendra Prakash Goyal
5. Shri Pushp Jain
6. Shri P. Mohan\*
7. Shri Shripad Yesso Naik
8. Shri Amitava Nandy
9. Shri Mahendra Prasad Nishad
10. Shri Devidas Anandrao Pingale
11. Shri L. Rajgopal
12. Shri D. Vittal Rao
13. Shri Sajjan Kumar
14. Shri Sudhangshu Seal
15. Shri Navjot Singh Sidhu
16. Shri Sugrib Singh
17. Shri K. Subbarayan
18. Shri Ravi Prakash Verma
19. Shri Suresh Ganpat Wagmare
20. Shri Akhilesh Yadav
21. Shri Baleshwar Yadav

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\* Nominated *w.e.f.* 27 October 2004.

(iv)

*Rajya Sabha*

22. Shri B.K. Hariprasad
23. Smt. Syeda Anwara Taimur
24. Shri Nandi Yellaiah
25. Shri Jayantilal Barot
26. Shri Laxminarayan Sharma
27. Shri Prasanta Chatterjee
28. Shri Shahid Siddiqui
29. Shri Faqir Chand Mullana
30. Vacant\*\*
31. Shri Urkhao Gwra Brahma

SECRETARIAT

1. Shri P.D.T. Achary — *Additional Secretary*
2. Shri K. Chakraborty — *Director*
3. Shrimati Neera Singh — *Under Secretary*

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\*\*Shri Vidya Niwas Mishra Ceased to be a member of this Committee w.e.f. 5 September, 2004 consequent upon his nomination to the Committee on Home Affairs.

## INTRODUCTION

I, the Chairman of the Standing Committee on Urban Development (2004-2005) having been authorised by the Committee to submit the Report on their behalf, present the Report of the Committee on the subject 'Implementation of Part IXA of the Constitution'.

2. Initially, Standing Committee on Urban and Rural Development (1999-2000), (Thirteenth Lok Sabha) had selected for examination and Report to Parliament the subject, 'Implementation of Part IX and IX A of the Constitution'. Before the Committee could examine the subject, their term expired. Subsequently, the Committee (2001) took up the same subject and formed a sub-Committee to examine the same. The said sub-Committee invited memoranda from various experts, individuals. Around 33 memoranda were received from various experts, individuals, etc. The sub-Committee conducted a study visit to Hyderabad in November, 2001 and held informal discussions with the representatives of State Governments, Panchayati Raj Institutions of Andhra Pradesh, Kerala, Karnataka and Tamil Nadu and experts on the subject. The sub-Committee also heard the views of some of the experts from Delhi and Dehradun at their sitting held on 3rd December 2001. Due to expiry of the term of the Committee (2001) on 31st December 2001, the Committee was unable to complete the examination.

3. The Committee (2002) once again took up the same subject and decided to examine and report to Parliament the subject 'Implementation of Part IX and IX A of the Constitution separately. Accordingly, two sub-Committees were formed, sub-Committee-I to examine 'Implementation of Part IX of the Constitution', and sub-Committee-II to examine 'Implementation of Part IXA of the Constitution'. The Committee (2002) decided to take up examination of the subject 'Implementation of Part IX of the Constitution' first. The Committee (2002) presented their 37th Report on 'Implementation of Part IX of the Constitution' which related to the Panchayati Raj Institutions to the House on 20 November 2002. However, in view of shortage of time, the Committee could not complete its examination of the subject *i.e.* 'Implementation of Part IX A of the Constitution' as their tenure was over on 31 December 2002.

4. The Committee on Urban and Rural Development (2003) selected again the subject 'Implementation of Part IX A of the Constitution', which relates to 'Municipalities'. The Committee heard the views of

an expert on 5th November 2003. The Committee then took oral evidence of the representatives of the Ministry of Urban Development and Poverty Alleviation (Department of Urban Development) on 4th December, 2003. However, due to paucity of time, the Committee could not present their report to the House during the Thirteenth Lok Sabha as the term of the Committee expired on 31 December 2003.

5. Considering the fact that the Constitution (74th Amendment) Act was indeed a path-breaking legislation and proper implementation of the constitutional provisions in respect of the functioning of municipalities etc., was absolutely necessary, the newly constituted Standing Committee on Urban Development (2004-2005) took up this unfinished work of the earlier Committees. After due deliberations, at their sittings held on 4th and 25th October, 2004, the Committee considered and adopted the Report.

6. The Committee places on record their deep sense of appreciation of the work done by the earlier Committees and sub-Committees.

7. The Committee also wish to express their thanks to the officials of the Ministry of Urban Development for placing before them the requisite material from time to time and their considered views in connection with the examination of the subject.

8. The Committee were greatly benefitted by the views of representatives of State Governments of Andhra Pradesh, Kerala, Karnataka and Tamil Nadu and the experts and individuals, who appeared before the sub-Committee/Committee in Hyderabad and New Delhi. The Committee express their profuse thanks to the representatives of the said State Governments and also to experts/individuals who furnished memoranda or tendered evidence before the sub-Committee/Committee.

9. The Committee would also like to place on record their deep sense of appreciation of the invaluable assistance rendered to them from time to time by the officials of the Lok Sabha Secretariat attached to the Committee.

NEW DELHI;  
30 November, 2004  
9 AgraHayana, 1926 (Saka)

MOHD. SALIM,  
Chairman,  
Standing Committee on Urban  
Development.



# **REPORT**

## **CHAPTER I**

### **INTRODUCTORY**

Urbanization in India is largely a process whereby the surplus population of workers from rural areas resettles in urban centres where non-agricultural job opportunities are available. While the towns and cities contribute substantially towards economic development of the country, these urban centres also play an important support role in the development of rural hinterland. It is now being recognized that cities are the engines of growth at both regional as well as national level. To facilitate and sustain this growth, cities have to provide both a high quality of life and a efficient infrastructure for economic activities. In order to keep pace with this economic transformation and the needs and realities at the grassroots level, it is necessary that the people and their representatives are fully involved in the planning and implementation of the developmental programmes at the local level. Notably, 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.

2. The Constitution of India has made detailed provisions for ensuring protection of democracy in Parliament and in State Legislatures. Hence, democracy in these institutions has survived and flourished. However, the Constitution did not make Local Self Government in urban areas a clear-cut Constitutional obligation. While the Directive Principles of State Policy refer to Village Panchayats, there is no specific reference to municipalities except implicitly in Entry-5 of the State List in the Constitution of India, which places the subject of Local Self Government as a responsibility of the State. There has been a steady diversion and diminution of responsibilities in the sphere of municipal functions. As a consequence of inadequate Constitutional provision for Local Self Government, democracy in municipal governance was not stable. Though, the respective municipal acts of the State provided for regular elections to municipal bodies, they were frequently suspended and superseded for indefinite periods of time. Frequent and indefinite suspensions or supersessions eroded the very basis of local self-government and had a negative effect on democracy at the grassroots' level. The general position with regard to the financial resources of the municipal was also not satisfactory. Over the years,

there was a steady encroachment on the assigned functions and revenues of these democratically elected bodies *i.e.* the Urban Local Bodies (ULBs) by specialized agencies of the State Governments. As a result, many Urban Local Bodies became weak and were not able to perform effectively. The weakened status of Urban Local Bodies brought to the fore public opinion in favour of need for a Constitutional guarantee to safeguard the interests of Urban Local Bodies (ULBs). In order to provide for:—

- Regular and fair conduct of elections to these bodies.
- Holding of elections within a specified time limit in case of supersession.
- Adequate representation of SC/ST and women in the elected bodies.
- Placing on firm footing the relationship between the State Governments and the Urban Local Bodies (ULBs) with respect to:
  - functions and taxation powers of the urban local bodies
  - arrangement for revenue sharing between the State Government and the urban local bodies.
  - involvement of elected representatives at the grass-root level, in planning at the district and metropolitan levels.

3. The Constitutional (74th Amendment) Act, 1992 (in short 74th CAA) relating to 'Municipalities' pertains to articles 243P to 243ZG of the Constitution of India. This Act as passed by the Parliament in 1992 covers all the urban areas across the country. The Act aims at imparting 'Constitutional guarantee' to safeguard the interest of Urban Local Bodies (ULBs) to enable them to function as effective democratic and self-governing institutions at grassroots level. The Constitution 74th Amendment entrusts the responsibilities for the upkeep and development of towns and cities to Municipalities and corporations. Apart from the important role of the Panchayats and its institutions in the administrative and democratic set up of the Governments, the articles 243W of the Constitution empowers the Legislature of a State to endow by law the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government. The Act provides for a framework for electing local level governments and for their effective functioning to ensure provisions

of urban services and infrastructure. It also provides ULBs with political, functioning and fiscal improvement for good governance.

The 74th CAA, which came into force on 1st June, 1993, mandates compulsory re-constitution of municipal bodies within a stipulated time frame, thus, ensuring continuity of local representatives in order to provide time to allow changes to be made in the then existing laws, which were inconsistent with the provisions of the Constitution (74th Amendment) Act, a transitional period of one year was provided for. The Act stipulates setting up of District Planning Committees (DPC) and Metropolitan Planning Committees (MPC) along with constitution of the State Finance Commissions to achieve integrated economic development and regional planning by formulation of urban plans at 'Municipality', District, Metropolitan and State levels.

This revolutionary piece of legislation by which Constitution of India was amended to incorporate a separate Chapter on urban local bodies is one of the legislations administered by the Ministry of Urban Development.

The erstwhile Committee on Urban and Rural Development (2002) took up for examination of the various aspects of the 'Implementation of Part IX A of the Constitution' focusing towards the Urban Local Bodies (ULBs) which are the primary implementing agencies of the developmental projects/programmes/schemes, in the urban areas of the country. The subject 'Implementation of Part IX of the Constitution', has been re-selected for scrutiny by the newly formed Committee on Urban Development in the Fourteenth Lok Sabha. The Committee on Urban Development (2004-2005) have considered the diverse aspects of timely and proper implementation of the provisions of the Part IX A of the Constitution and have made certain suggestions/recommendations recorded in the succeeding paragraphs.

## CHAPTER II

### SALIENT FEATURES OF THE PART IX A OF THE CONSTITUTION

The salient features of the 74th CAA are:—

- Urban local bodies, to be known as Municipal Corporations, Municipal Councils and Nagar Panchayat depending on the population, shall be constituted through universal adult franchise in each notified urban area of the country.
- These shall be constituted for a period of five years and if dissolved earlier, an election to reconstitute it shall be completed before the expiration of a period of six months from the date of its dissolution.
- Not less than one-third of total number of seats in each urban local body shall be reserved for women.
- The Legislature of a State may by law entrust on these bodies such power and authority as may be necessary to enable them to function as institution of local self government, including those listed in the Twelfth Schedule.
- The Twelfth Schedule of the Constitution has listed the following functions of the urban local bodies:—
  - \* Urban Planning including town planning.
  - \* Regulation of land-use and construction of buildings.
  - \* Planning for economic and social development.
  - \* Roads and bridges.
  - \* Water supply for domestic, industrial and commercial purposes.
  - \* Public health, sanitation, conservancy and solid waste management.
  - \* Fire services.
  - \* Urban forestry, protection of the environment and promotion of ecological aspects.

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

2.2 In order that the urban local bodies can perform the functions assigned to them effectively, the said legislation has provided that the Legislature of a State shall assign them specific taxes, duties, tolls and levies. It also authorizes them to impose, collect and appropriate the same. The 74th CAA also provides that:-

- Each State shall also constitute a Finance Commission, which shall review the financial position of the urban local bodies and recommend the principles, which should govern the devolution of resources, including grant-in-aid from the Consolidated Fund of the State of these bodies.
- The superintendence, direction and control of the preparation of electoral rolls and the conduct of all elections to the urban local bodies, shall vest in the State Election Commission.
- In each district, a District Planning Committee shall be constituted to consolidate the plan prepared by the urban and rural local bodies.
- Similarly, for each metropolitan area, a Metropolitan Planning Committee shall be constituted to prepare a development plan for the metropolitan area as a whole.

2.3 The following are the broad recommendatory provisions contained in Part IX A of the Constitution:

- (i) Power, authority and responsibility of the municipalities— Under these provisions of the State Legislature may, by law, make provisions relating to power and authority to municipal bodies as may be necessary to enable them to function as institutions of Self Government.
- (ii) Power to impose tax by the Municipalities— The State Legislature may, by law, make provisions regarding powers of Municipalities to levy, collect and appropriate taxes, duties, tolls and fees and also receive grants-in-aid from the State.
- (iii) Audit of Accounts of municipalities— The Legislature of a State, may by law, make provisions with respect to the maintenance of accounts by the municipalities and the auditing of such accounts.

2.4 Following are the mandatory provisions contained in Part IXA of the Constitution:

- (i) Constitution of Municipalities
- (ii) Composition of Municipalities
- (iii) Constitution and composition of Ward Committees
- (iv) Reservation of seats
- (v) Duration of Municipalities
- (vi) Disqualification from membership
- (vii) State Finance Commission
- (viii) Election to Municipalities
- (ix) Application to Union Territories
- (x) Part not to apply to certain areas
- (xi) Committee for District Planning
- (xii) Committee for Metropolitan Planning
- (xiii) Continuance of existing laws of Municipalities

Further, article 243ZB, specifies application of the provisions contained in Part IXA to Union Territories also. The Scheduled Areas and the tribal areas referred to in clause 243ZC have been excluded from the provisions of Part IXA of the Constitution. *(The Provisions of the Municipalities—Extension to the Scheduled Areas Bill, 2001, as introduced in Rajya Sabha on 30th July, 2001, was referred to the erstwhile Committee on Urban and Rural Development on 6th August, 2001 and was duly reported by the Committee vide their 50th Report, Thirteenth Lok Sabha, on 9th December, 2003)*

### **Constitution of Municipalities**

2.5 In accordance with the provision contained in article 243Q of Part IXA of Constitution, 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.

2.6 As regards composition of the Municipalities, article 243R(2) of Part IXA of Constitution states that the Legislature of a State may, by law, provide—

- (a) for the representation in a Municipality of—
  - (i) persons having special knowledge or experience in Municipal administration;
  - (ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;
  - (iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;
  - (iv) the Chairpersons of the Committees constituted under clause (5) of article 243S;

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

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

2.7 Article 243ZA stipulates the elections to the Municipalities as under:

- (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K.
- (2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

**Constitution and composition of Wards Committees, etc.**

2.8 Articles 243S of the Part IXA of the Constitution provides:

- (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 lakh 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.



2.9 Regarding the dissolution of Municipal bodies Article 243U of Part IXA provides that:—

- (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

- (2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

- (3) An election to constitute a Municipality shall be completed—

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

- (4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

The detailed of articles contained in Part IXA of the constitution are shown at Annexure I.

#### **Action taken for the Implementation of Part IXA of the Constitution**

2.10 The Committee have been informed by the Ministry of Urban Development *vide* a written reply that all the States and UTs have already made necessary, provisions in their municipal laws to implement the aforesaid provisions of the Part IXA of the Constitution. These include constitution and composition of municipalities, fixed duration of municipality, reservation of seats for SC/ST and women; power, authority and responsibility of municipalities, financial powers,

setting up of State Finance Commissions and State Election Commission and also setting up of District Planning Committees and Metropolitan Planning Committees. The provisions of the 74th CAA are at various stages of implementation by the State Governments/UTs. The amended State Municipal Laws now provide for powers, authority and responsibility of municipalities and power to impose taxes by the municipalities.

2.11 When the Committee asked as to whether any State or Municipality had brought to the notice of the Central Government certain practical difficulties in carrying out the requisite amendments in their Municipal laws based on the provisions contained in Part IXA of the Constitution, the Ministry of Urban Development informed in a written note that no such practical difficulties in implementation of the said Act had come to the notice of the Ministry.

2.12 On a query as to whether the Central Government had formed a 'Review Committee' to look into the implementation of Part IXA of the Constitution, the Ministry of Urban Development informed in their written note that no such Committee had ever been constituted.

2.13 The Ministry of Urban Development had informed in their written note that the Ministry has persuaded the State Governments to enact necessary amendments in their State Municipal Laws in conformity with the provisions laid down under article 243P to 243ZA of the Constitution of India. As a result of the steps taken by the Ministry through correspondence and also organizing meetings of the State Level Secretaries, the State Governments implemented the Part IXA by amending their municipal laws. As a follow up, the elections have been conducted by all States except Jharkhand and Union Territory of Pondicherry. State Finance Commissions have also been constituted to review the financial position of ULBs. However, ULBs do not exist in Arunachal Pradesh, Mizoram, Sikkim, Lakshadweep and Dadra & Nagar Haveli. For the reasons for not setting up of ULBs in the State of Arunachal Pradesh and UT Lakshadweep, the Ministry informed that information was awaited from these State Governments.

2.14 As regards delay in formation of ULBs in Mizoram, the Ministry of Urban Development have stated that the State Government has informed that autonomous districts of Lai, Mara and Chakma are tribal areas and are out of the purview of Part IXA of the Constitution. The rationale behind keeping the tribal areas out of the purview of the Part IXA is that an alternative to municipality or Nagarpalika, in

the form of 'Town Committee' has been provided in the Sixth Schedule to the Constitution and that the requisite population for applying the Constitutional provision is not there in any of the tribal areas of the State. The State Government has further mentioned that a Municipal Bill has been prepared by the Local Administration Department and is under consideration.

2.15 With regard to the position of the State of Sikkim, the Ministry have stated that the State Government has intimated that there is no urban local body in the State. However, the State Government has already enacted the Sikkim Municipal Act enacted in 1995 in accordance with the Constitution (74th Amendment) Act. The State Government has further mentioned that the people of adjoining areas of the capital town of Gangtok and its suburbs in Sikkim are not willing for inclusion into the municipalities on the ground that till date these areas fall under the rural areas. Nevertheless, the Government is actively considering holding elections to the municipalities.

2.16 With regard to Dadra & Nagar Haveli, the Ministry have stated that the UT of Dadra & Nagar Haveli has intimated that there is no municipality existing in the Union Territory. However, they have sent a proposal for setting up a Municipality to the Ministry of Home Affairs.

2.17 As regards the holding of Municipal elections in various States/UTs, the Ministry of Urban Development have submitted that the elections to Municipalities have been conducted by all States except Jharkhand and Union Territory of Pondicherry. The Government of Jharkhand has informed that the reasons for pendency of the election for ULBs is that after the creation of new State, action has been taken up to adopt the Acts and Rules which were regulated in the State of Bihar. The Government of Pondicherry has informed that following the judgement of High Court of Madras regarding reservation for backward classes, the UT Administration is taking necessary action to complete the civic elections.

#### **Role of Ministry of Urban Development & Poverty Alleviation in implementation of Part IXA of the Constitution**

2.18 When asked about the work done so far by the Ministry of Urban Development in the implementation of Part IXA of the Constitution, the Ministry in a written reply furnished to the Committee stated that the Ministry has been in constant touch with the State Governments in the task of implementation of Part IXA of the

Constitution. The States/UTs have not brought any specific difficulties to the notice of the Ministry. Meetings/Conferences with Ministers/Secretaries in-charge of Local Self-Government of States/UTs and also elected representatives of local bodies have been held from time to time to impress upon them the need for proper implementation of Part IXA. The Ministry has conducted meetings/conferences with the representatives of States/UTs on implementation of Part IXA of the Constitution as per the following details:—

1. Meeting of Central Council of Local Government and Urban Development—May, 1994.
2. Meeting of Central Council of Local Government and Urban Development—May, 1999.
3. Four Regional Meets with the elected representatives held at Delhi (December, 1998), Hyderabad, (January, 1999), Mumbai (January, 1999), Kolkata (February, 2000).
4. Conference of Local Self-Governments (LSG)/UD Ministers of States/UTs—January, 2000.
5. National Conference of Mayors—April, 2002.
6. Conference of UD/LSG Ministers of States/UTs—September, 2002.
7. Meetings with the Secretaries of LSG of States/UTs—15th December, 2003.

2.19 In the above meetings suggestions were made for devolution of functional and financial powers to ULBs, delegating powers to ULBs to fix tax rates, users charges to ULBs, setting up of DPCs/MPCs, enhancing capacity of municipal employees, participation of private sector in municipal/urban services etc. In the recent meetings of Secretariat of LSG of States/UTs held on 15.12.2003, the position relating to implementation of various provisions of Part IXA. All States/UTs were emphasized to implement the provisions of Part IXA in a time bound manner.

2.20 As a result of various steps taken by the Ministry, the State Finance Commissions have been set up in all States/UTs excepting Jharkhand. Elections to ULBs have been held in all States/UTs, except Jharkhand and Pondicherry. Similarly, District Planning Committees have been set up in 20 States/UTs. 6 States/UTs have taken under their consideration to set up these bodies. In 2 States (Meghalaya and

Mizoram), these Committees have not been set up, as they do not have any urban local body. The UT of Lakshadweep is entirely rural area. Delhi is exempted. In Nagaland and Gujarat, District Planning Boards are working as DPCs. To enhance the capacity of elected women councillors, this Ministry has initiated a training programme under which all women councillors will be provided trainings through State identified training institutions for which this Ministry provides needed financial assistance. As for the training programmes approved by this Ministry to various training institutions involving an expenditure of Rs. 175.03 lakh, a total number of 8709 elected women councillors are to be trained. Besides, a cell is being set up in National Institute of Urban Affairs to monitor the implementation of Part IXA of Constitution on regular basis. This Ministry has prepared Activity Mapping and circulated to all States/UTs for devolution of functional powers to urban local bodies. A 'Task Force' consisting representatives of States and the Ministry of Urban Development has been constituted to look into the devolution of functions into specific operational and activity related responsibilities of ULBs and suggest administrative and managerial measures to bring into operation the administrative decentralization and rationalization of delivery mechanism, to ensure effective planning and implementation of development programmes by municipalities.

**2.21 The Committee definitely regard the Constitutional (74th Amendment) Act, 1992 as a path-breaking piece of legislation by which Constitution of India had been amended to incorporate a separate Chapter on Urban Local Bodies (ULB) by emphasising the deserved significance of local self-governance in line with the democratic set-up of the country. The 74th CAA has redefined the role, power function and finances of 'Municipalities' or ULBs across the country. The Committee, therefore, are of the firm view that with the complete and proper implementation of the provisions under article 243P to 243ZG of Part IXA of the Constitution, better control and effective working of the ULBs in passing on the economic benefits and suitable urban infrastructure to the people at large, would be achieved. The Committee also recommend that innovative and good governance methods be adopted by ULBs with proper information and training inputs, data base, as required, for improving the living conditions and quality of life of urban residents in the country.**

**2.22 The Committee note that the 74th CAA aims at a Constitutional guarantee to safeguard the interest of Urban Local**

**Bodies (ULBs) to enable them to function as effective, democratic and self-governing institutions at grass root level. The Committee strongly emphasize that suitable steps be taken to ensure the following:—**

- regularity in elections under the supervision of the State Election Commission;
- a clear tenure of five years for the elected body;
- protection for the elected body against arbitrary dissolution;
- constitution of Ward Committees for greater proximity to the citizens;
- mandate to State Legislature to endow the ULBs with such powers and authority as may be necessary to enable them to function as institution of Self-Government;
- the functions enumerated in Twelfth Schedule are effectively transferred to the ULBs;
- the constitution of State Finance Commission (SFCs) to review municipal finances and make recommendations regarding distribution of the proceeds of State-level taxes between the State Governments and the ULBs, criteria for grants-in-aid, measures needed to improve the financial position of the ULBs and compliance of the recommendations of the State Finance Commissions; and
- urgent formation of District Planning Committees (DPCs) and Metropolitan Planning Committees (MPCs) for integrated as well as coordinated planning for urban and rural areas.

**2.23 The Committee also find that all States except Jharkhand and Union Territory of Pondicherry conducted initial elections to Municipal bodies. Also ULBs, do not exist in Arunachal Pradesh, Mizoram, Sikkim, Lakshadweep and Dadra & Nagar Haveli. The Committee, therefore, recommend that the Union Government hold municipal elections in the Union Territory of Pondicherry at the earliest. The Committee further urge Arunachal Pradesh, Mizoram, Sikkim, Lakshadweep and Dadra & Nagar Haveli for early setting up of ULBs so that the system of self-governing institutions at grassroots level could be established without any delay and the development Schemes/Programmes are implemented effectively.**

**2.24 The Committee note that the responsibility of implementation of all matters relating to Municipalities has been entrusted to the Ministry of Urban Development and the Ministry has been in constant touch with the State Governments in the task of implementation of Part IXA of the Constitution. Also Meetings/Conferences with Ministers/Secretaries-in-Charge of local self-Government to States/UTs and elected representatives of Urban Local Bodies have been held from time to time to impress upon them the need for proper implementation of Part IXA. While the Committee are quite convinced that coordinative efforts are being made by the Ministry of Urban Development for the implementation of Part IX A of the Constitution the Committee feel that the mandatory as well as recommendatory provisions of Part IXA of the Constitution are not being properly implemented by the respective State Governments/UTs. The Committee, therefore, recommend that Union Government should make a comprehensive study of the existing situation and ensure that mandatory as well as recommendatory provisions of Part IXA are followed by the State Governments/UTs in letter and spirit. Since UTs are under its direct administrative control, an example in local self governance to be followed by others can be set up in UTs by the Government of India.**

**2.25 The Committee are informed that a 'Task Force' consisting of representatives of States and the Ministry of Urban Development has been constituted to look into devolution of function into specific operational and activity related responsibilities of ULBs and suggest administrative and managerial measures to bring into operation the administrative decentralization and rationalization of delivery mechanism and implementation of urban development programmes by municipalities/ULBs. In this regard, the Committee recommend that a high level body, or 'Review Committee' at the Central level may be constituted so as to review the proper and timely implementation of the norms and conditions laid down in Part IXA and the Twelfth Schedule of the Constitution relating to ULBs.**

## CHAPTER III

### PROCESS OF DEVOLUTION OF POWERS TO THE MUNICIPALITIES

In order to initiate a process of participative and decentralized democratic government of urban areas, the 74th Constitutional (Amendment) Act, 1992 has given significant constitutional status to the Municipalities. Article 243W of the Constitution, as reproduced below, specifies the Power, Authority and Responsibilities of Municipalities:

“Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow-

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-Government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein with respect to-
  - (i) the preparation of plans for economic development and social justice;
  - (ii) the performance of functions and the implementation of Schemes as may be entrusted to them including those in relation to the 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.”

3.2 As regards, the process of devolution of funds, functions and functionaries to the Municipalities, the Ministry of Urban Development have informed the Committee that the Constitutional (74th Amendment) Act seeks to devolve functional and financial powers to ULBs as the article 243W requires the State Legislatures to make law to endow the Municipalities with such powers and authority, as may be necessary, to enable them to function as institutions of self-Government,



particularly with respect to preparation of plans for economic development and social justice and perform functions and implement all Schemes as may be entrusted to them including matters listed in the Twelfth Schedule of the Constitution. Similarly, as per Article 243X, it has been left to the Legislature of the 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.
- Grants-in-aid that would be given to the Municipalities from the State.
- Constitution of funds for crediting and withdrawal of moneys by the Municipality.

3.3 When asked about the repercussions of the transfer of powers and responsibilities to the Municipal Bodies and ULBs, the Ministry of Urban Development submitted to the Committee that the States had made provisions and their municipal laws to provide for financial and functional powers to ULBs. The details regarding State-wise position of devolution of functional and financial powers, as given by the Ministry, may be seen at Annexures-II and III.

When asked about the details of funds, functions and functionaries, which have been transferred to Municipalities, the Ministry in a written note stated that Part IXA of the Constitution does not prescribe any list of Municipal functions/finances, which may be transferred by the State Governments to the Municipalities. Article 243W and 243X leave it to the State Legislatures to endow Municipalities with such powers, authorities and powers relating to imposing of taxes as may be specified in the concerned Municipal laws. Accordingly, State Governments have made provisions in their respective Municipal laws specifying their functional and financial powers.

3.4 On a query as to whether State Governments have been suggested any time-period by the Union Government to achieve complete devolution of functional powers and funds etc., the Ministry stated that as Municipality is a 'State Subject', no such suggestion has been made to the State Governments.

3.5 The Committee took the oral evidence of the representatives of the Ministry of Urban Development at their sitting held on 4th December, 2003. During the course of evidence, Secretary Urban Development conceded before the Committee that:—

“With time we expect that this movement of devolution of financial powers shall progressively improve. As you are aware, the amendment itself gives a lot of flexibility to the States. It gives an illustrative list of powers in an appendix, perhaps 18 of them. But these are essentially illustrative, not binding, mandatory and exhaustive. They are illustrative because situation in each State is variable.

Secondly, if local-government indeed is a State Subject, then the State legislatures must be permitted to apply their own minds to their own local conditions to try and see how best they can handle the law as has been incorporated in the Constitutional amendment.”

3.6 When asked about the steps taken for conducting a detailed study on devolution of funds, functions and functionaries to Municipalities, the Ministry stated that they have invited proposals from the Regional Centres for Urban and Environmental Studies (REUES) to conduct detailed study on devolution of funds, functions and functionaries to Municipalities. The study proposals were examined from the point of view of cost and terms of reference. Accordingly, the revised proposals have been obtained and RCUES at Hyderabad, Lucknow, Mumbai and Centre for Urban Studies at IIPA, New Delhi had been entrusted with the said study. Under this study, the implementation of various provision of Part IX-A will be studied and the areas, which need further reforms and improvement will be identified. Besides, the ‘Task Force’ consisting representatives of States and this Ministry also substantiates the devolution of functions into specific operational and activity related responsibilities of ULBs and suggest administrative and managerial measures.

#### **Parallel bodies**

3.7 On the question of existence of any parallel bodies set up by the different States and the functioning of these parallel bodies which affect the implementation of certain provisions of Part IXA of the Constitution, the Ministry of Urban Development have informed the Committee that no such study has been made by the Ministry in this regard. However, the Committee gather from an expert that a major problem with the municipal functional domain is the continuation of

parallel bodies set up by the State Governments dealing with even basic municipal functions like water supply, state level water and sewerage boards. In many cases, the capital works are executed by the special agencies, though the loan liability is passed on to the 'Municipality'. These agencies are not accountable to the citizens of any particular municipality. Their priorities are claimed to be state-wise and, therefore, not responsive to local needs.

**3.8 The Committee note that the Constitutional (74th Amendment) Act seeks to devolve functional and financial powers to ULBs. Article 243W requires the State Legislatures to make law to endow the municipalities with such powers and authority, as may be necessary to enable them to function as institutions of self-governance, particularly, with respect to preparation of plans for economic development and social justice, and perform functions and implement all Schemes as are entrusted to them including matters listed in the Twelfth Schedule of the Constitution. Similarly, as per Article 243X, it has been left to the Legislature of the State to specify by law the matters relating to imposition of taxes. The Committee would like to emphasize that measures must be taken by the Union Government so as to ensure that the stipulated functions, powers and finances actually devolve on the ULBs. The Committee find that any mismatch between functions and finances of the ULBs may slacken the growth of ULBs and optimum utilization of the available resources and infrastructure for the various urban developmental schemes. The Committee, therefore, recommend that the Ministry of Urban Development should draw upon the suggestions of the expert bodies like National Institute of Urban Affairs by Maintaining proper data base and utilization of the state-of-the-art technologies. The Committee also recommend that Community Based Information System formulated by National Institution of Urban Affairs be made available to the municipalities etc. for better resource management and planning.**

**3.9 Regarding, the formulation of development plans, the Committee note that a three tier planning structure comprising of Municipal level/District level, Metropolitan level and State level is envisaged in 74th CAA. Under this framework, the Municipalities would prepare plans for their area which would be consolidated at the District level in the form of a District Development Plan. These District Development Plans would lead to formulation of the State level plans. In this regard, the Committee desire that comprehensive and coordinative efforts be made by the Central Government to**

impress upon the States and required UTs to formulate their development plans in time.

3.10 The Committee also note that the State Governments specify the taxes that the Municipalities could levy and collect which are largely taken from the State List in the 7th Schedule of the Constitution of India. Since no distinctive tax domain has been specified for the Municipalities, the State Municipal Laws are non-uniform in respect of municipal taxes. The Committee, therefore, recommend that the Union Government should emphasize on the States/UTs for clear-cut-tax domain for municipalities in all the State Governments/UTs so as to ensure more methodical and proper fiscal management by Municipal bodies.

3.11 The Committee note that the Ministry had invited proposals from the Regional Centres for Urban and Environmental Studies (RCUES) to conduct detailed study on devolution of funds, functions and deployment of functionaries to municipalities. A 'Task Force' consisting of representatives of States and the Ministry has been constituted to look into the devolution of functions into specific operational and activity related responsibilities of ULBs and suggest administrative and managerial measures. The Committee would like that an in depth study is made on the suggestions/recommendations of RCUES by a High level Governmental Committee or a Review Committee, and suitable procedural amendments/modifications, if required, by advised to the State Governments for effective functioning of the ULBs and ensure good governance and adequate financial resources for the Municipalities.

3.12 The Committee are perturbed to note that with the presence of various other governmental and on-governmental bodies there is considerable encroachment upon the functional domain of the 'Municipalities'. The Committee also note that such bodies are not accountable to 'Municipalities', although such agencies deal with even basic municipal functions like water supply, sewerage and capital works etc. The Committee have been informed by an expert that in certain cases, the capital works are executed by a Specialised Agency and their loan liability is passed on to the Municipalities. The Committee can not approve of this kind of practice. The Committee, therefore, strongly recommend that the functional domain of the 'Municipalities' must be exclusive and clearly demarcated to check any kind of encroachment and confusion. If due to special and technical reasons other bodies are required, the Committee

**recommend that such bodies should be made accountable and answerable to the Municipalities.**

### **Financial Position of Municipalities**

3.13 The Tenth Finance Commission was the first Finance Commission after the Constitution (74th Amendment) Act came into force to review the financial position of ULBs. It covered the period from 1995-2000. In its report, it did not make any detailed analysis of financial status of ULBs. However, it recommended for a provision of Rs. 1000 crore to enable the ULBs to meet their primary obligations. It also desired that local bodies should provide suitable matching contribution by raising resources. The grant recommended by the Tenth Finance Commission was not intended for expenditure on salaries and wages.

3.14 The Eleventh Finance Commission has, however, studied the financial position of ULBs in detail. The Commission emphasized need for meeting the revenue mobilization by the local bodies themselves. It suggested for suitable reforms in property/house tax system need for replacing octroi/entry tax with a suitable tax and also revising the rate structure of user charges on a regular basis. The Eleventh Finance Commission has recommended for devolution of Rs. 2000 crore to ULBs for 5 years period (2000-2005). The basic objective of these grant is to finance the maintenance of civic services which include provision for primary schools, safe drinking water, street lighting, sanitation etc. The State-wise details of the grants recommended by the 10th and 11th Finance Commission to Municipalities are given in the Annexures IV and V.

3.15 When asked about the financial position of the Municipalities and steps taken by the Union Government to augment the resources of ULBs, the Ministry in their written note submitted to the Committee had informed that the financial position of Municipalities has always been an issue at various forums. It has been an acknowledged fact that financial position of ULBs is in a very deplorable condition. Many of the Municipalities are not able to carry out their assigned civic functions and not able to pay salaries and wages to their employees. However, the financial conditions of bigger Municipal Corporations are not as bad as of smaller Municipalities. There is always a mismatch between the responsibilities and duties assigned to Municipalities and their resources. As evident from the information received from 11 States for the year 1999-2000, 2000-01, 2001-02 (Annexure-VI) Municipalities have experienced a resource gap between revenue generated and

expenditure incurred. Ministry of Urban Development is taking necessary steps to strengthen the financial position of ULBs and urban reform agenda is underway which provides for the Urban Reforms Incentive Funds, City Challenge Fund, State Level Pooled Financing Structure, Tax Free Municipal Bonds, Foreign Direct Investment and Public Private Partnership guidelines.

3.16 When asked about the statistical details relating to the financial status of ULBs and the Data Base for the funding patterns of the Municipalities etc., the Ministry stated that the Eleventh Finance Commission (EFC) has suggested for developing a 'Data Base' on the finances of the Panchayats and Municipalities at the District, State and Central Government level. It has further suggested that Director, Local Fund Audit or the authority prescribed for conducting the audit of accounts of the local bodies may be made responsible for this task. The Chief Secretary of the State may do the State level coordination and monitoring. The Eleventh Finance Commission (EFC) has suggested that this responsibility may be undertaken by the Comptroller & Auditor General of India at the Central level. The Commission has estimated a cost of Rs. 200 crore for the above purpose both for Panchayats and Municipalities. The estimated cost for Municipalities come to Rs. 293.72 lakh. Ministry of Finance, Department of Expenditure have issued the guidelines for the utilisation of local body grants as recommended by the EFC. As per these guidelines, the amount provided for development of database for different States shall be the first charge on the local body grants as recommended by the EFC. The guidelines further lay down that the Director, Local Fund Audit or the authority prescribed for conducting the audit of accounts of the local bodies shall be made responsible for this task of creation of database. A statement received from Ministry of Finance, Department of Expenditure showing State-wise details of provision for creation of Database and utilisation thereof as reported by State Governments is given in the Annexure VII.

3.17 As regards the accounting reform made by the State Governments in order to ensure proper financial management of the ULBs and Municipalities, the Ministry of UD in their written note informed that State Government are also being persuaded to bring needed reforms in the existing Municipal Accounting System of Urban Local Bodies. The Task Force constituted by the Comptroller & Auditor General of India has suggested for adoption of double entry accounting system in place of the existing cash based system. The Task Force has also suggested municipal accounting and budget formats for

maintenance of accounts by urban local bodies. The report of the Task Force has been circulated to all the State for necessary action. Recently a National Workshop of Secretaries Incharge of Local Funds Audit of all States has been convened at New Delhi on 26.9.2003 in which the roadmap for implementation of the Municipal Accounting Reforms in the urban local bodies was discussed in detail.

3.18 The above reform agenda has been initiated by this Ministry with a view to strengthening the capacity of ULBs to perform their assigned function in an effective manner. The initiatives of this Ministry will supplement the efforts of the States in streamlining the functioning of ULBs.

3.19 The Committee express their deep anguish to note that most of the Municipalities etc., which are statutorily responsible for provisioning and maintenance of basic infrastructure and services in cities and towns are under fiscal stress. They are given to understand that many of the municipalities have not been able to carry out their assigned civic functions and pay salaries and wages to their employees, although, the financial conditions of bigger municipal corporations has not been as bad as of smaller municipalities. The Committee recommend that the Ministry of Urban Development should coordinate and persuade the concerned State Governments/ UTs to take the necessary corrective measures on their part by adopting suitable taxation methods, accounting standards etc. to enable the municipalities to generate their own funds. The Committee desire that the Ministry of Urban Development should persuade the State Governments to link their development plans with resources mobilization plans and credit enhancement mechanisms keeping in view the long-term perspective and aims of the institutions of urban local self government. The Committee recommend that cost recovery procedures and revenue collection methods of such bodies should be strengthened in a scientific and prudent manner. As regards the action taken on the suggestions of the 'Task Force' as constituted by the Ministry, the Committee would like to be apprised about the latest position in the matter.

3.20 The Committee note that the Eleventh Finance Commission (EFC) has suggested for developing a data base on the finances of the Panchayats and Municipalities at the District, State and Central Government level. It has further suggested that Director, Local Fund Audit or the authority prescribed for conducting the audit of accounts of the local bodies may be assigned responsibility for this task. The

Chief Secretary of the State may do the State level coordination and monitoring and the Comptroller and Auditor General of India do the same at the Central level. The Committee are of the firm view that this would ensure greater accountability in matters relating to municipal management and transparency in their functioning. The Committee recommend that proper and timely follow-up action should be taken up by the Ministry of Urban Development for updating and maintenance of the 'Data Base' of the finances of the Municipalities as the planning exercise needs continuous 'Data Base' analysis. The Committee also recommend that a computer generated data base and information system be developed at various levels which would provide support to planners in development planning.

3.21 The Committee note that the Tenth Finance Commission recommended for a provision of Rs. 1000 crore to enable ULBs to meet their primary obligations. It also desired that Local Bodies should provide suitable matching contribution by raising resources. The Committee further note that the Eleventh Finance Commission had emphasized the need for meeting the revenue mobilizations by the local bodies themselves. It suggested for suitable reforms in property/house tax system and the need for replacing octroi/entry tax with a suitable tax and also revising the rate structure of user charges on a regular basis. The Eleventh Finance Commission has recommended for devolution of Rs. 2000 crore to ULBs for 5 year period from 2000 to 2005. While the Committee are happy to note that financial provision by way of devolution of Rs. 2000 crore to ULBs has been made by Eleventh Finance Commission, but the Municipalities/ULBs are still unable to perform well due to lack of funds. The Committee desire to know why the resource crunch still exists inspite of the recommendation of devolution of a considerable amount by the Eleventh Finance Commission. The Committee recommend that the Union Government should impress upon the State Governments to bring up proper reforms of Municipal taxes, including property tax system so that ULBs could generate sufficient resources to finance the maintenance of civic services. The Committee also recommend that loopholes in collection of municipal taxes, leakage/diversion of funds etc. are plugged and action is taken against any misuse of funds.

3.22 The Committee note with optimism the various reform initiatives taken by the Union Government to strengthen the capacity of ULBs to perform their assigned functions in an effective manner. The Committee should be kept informed about the achievements



**made out of the reform agenda and the steps taken by the States in streamlining the functioning of ULBs in pursuance thereof.**

### **The State Finance Commissions**

3.23 Article 243Y of Part IX A of the Constitution provides for the setting up of Finance Commissions to review the financial position of the Municipalities and make recommendations to the Governor of the State as to:—

- (1) (a) the principles which should govern—
  - (i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;
  - (ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;
  - (iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;
- (b) the measures needed to improve the financial position of the Municipalities;
- (c) Any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities;
- (2) The Governor shall cause every recommendation made by Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

Article 243Y of the Constitution further provides that the Finance Commission constituted under Article 243-I shall make similar recommendation *vis-a-vis* municipalities.

3.24 On the issue of setting up of the State Finance Commissions and the action taken on the suggestions of this Commission, the Ministry of Urban Development in their written note informed the Committee that all the States and UTs had constituted SFCs out 28

States and 7 UTs. The SFCs of 17 States *viz.*, Andhra Pradesh, Assam, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal had submitted SFCs Reports to respective State Governments. As per Entry '5' of the State List of the Seventh Schedule to the Constitution, 'Municipality' is a State subject. The State Finance Commission reviewed the financial position of the ULBs and gave its recommendations to the Governor of the State. The Governor causes every recommendation of this Commission together with a explanatory memorandum as to the action taken thereon to be laid before the legislature of the State. Hence, a mechanism already exists under the article 243Y for implementation of the recommendation of the State Finance Commission.

3.25 During the course of oral evidence held on 4th December, 2003, the Committee asked the witnesses of the Ministry of Urban Development that SFCs must come into existence within a reasonable time limit. Therefore, proactive monitoring by the Ministry to ensure that the Country is run according to the spirit of Constitution should be urged upon.

3.26 On the reasons for delay in the constitution of the SFCs, the Ministry of Urban Development informed the Committee that there was delay in constitution of the First SFC in Arunachal Pradesh, Goa, Manipur, Jharkhand, Orissa, Sikkim, Tripura and Pondicherry. As per the information received from the State Government of Goa and Government of Pondicherry the reasons of delay were:

- Goa — After the enactment of the 73rd and 74th Constitutional Amendment, the Goa Panchayat Raj Act, 1994 was enacted and the Goa Municipalities Act, 1968 was amended in 1994 to give effect to the Constitutional amendment. Efforts were made by the Government to constitute the SFC in accordance with the provisions in the Act. However, on account of frequent changes in the Government and other administrative reasons, the appointment of the Commission was delayed. The first notification constituting the SFC was issued on 29.9.1997. However, due to demise of the Chairman of the Commission, the same had to be reconstituted on 1.4.1999.
- Pondicherry — The State Government of Pondicherry had initiated action in 1994 itself for the constitution of the First

SFC. However, various options regarding constitution and composition of the Members of the Commission were examined and there were suggestions and counter suggestions leading to administrative delay. The first SFC was constituted on 12.3.1997.

Jharkhand — The case regarding constitution of SFC was held up due to court case in the High Court. The Hon'ble Court since disposed of the case. They have further mentioned, since the Government has approved the constitution of SFC, it shall become functional shortly.

3.27 The Committee were informed that the First SFCs was constituted in Arunachal Pradesh, Manipur, Orissa, Sikkim and Tripura on dates/year mentioned against each:

Arunachal Pradesh	—	21.5.2003
Manipur	—	1996
Orissa	—	2.11.1996
Sikkim	—	1999
Tripura	—	19.11.1998

3.28 The gist of the recommendations of the State Finance Commissions, State-wise and the position of their acceptance by the State Government as submitted by the Ministry are given in the Annexure VIII.

3.29 In a subsequent written note, the Ministry informed the Committee that only in Pondicherry, the Second SFC had not been re-constituted and the Second SFC had been set up in Assam, Chhattisgarh, Goa, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Orissa, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal, Chandigarh, GNCT of Delhi, Andaman and Nicobar Islands, Daman and Diu, Lakshadweep and Dadra & Nagar Haveli.

3.30 Regarding the Second SFC in Jharkhand, the Ministry informed that the State Government had cleared the proposal for SFC, but due to some litigation pending in High Court, it had been held up.

3.31 The Committee note that the State Finance Commissions are required to be set up under Article 243-I of the Constitution. There was delay in Constitution of First SFC in Goa, Pondicherry and Jharkhand and Second SFC is yet to be constituted in Pondicherry. Keeping in view the gist of recommendations of the various SFCs and the action taken thereon as Annexed (Annexure VIII) to the Report, the Committee observe that most of the recommendations made by the various State Finance Commissions have been accepted by the respective State Governments. The Committee desire that the State Governments should take expeditious measures to ensure that all recommendations of the respective State Finance Commissions are implemented through relevant administrative, legislative and financial measures within a given time frame. The Committee also recommend that the Union Government should pursue with the respective State Governments/UTs which are lagging behind in the setting up of the SFCs within the prescribed time limit and give their recommendations/observations to the Governor of the State so as to facilitate better fiscal management by the ULBs. Since the administration of UTs is directly under the Union Government an example could be set up in regard to the role of the State Finance Commissions by accepting its recommendations regarding the concerned UTs.

3.32 The Committee note Article 243Y accords the primary responsibility to oversee the financial position of the Municipalities to State Finance Commission with a view to make recommendations to the Governor of the State relating to 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 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 the grants-in-aid to the Municipalities from the Consolidated Fund of the State. The SFCs then given their suggestions and the measures need to improve the financial position of the Municipalities and report to the Governor of the State. In this regard, the Committee recommend that appropriate steps should be taken up by the Union Government to impress upon the State Governments to implement all recommendations of the respective State Finance Commission within a given time frame and in the case of Union Territories, Government of India should take necessary steps in this regard.

### **Audit of Accounts of Municipalities**

3.33 Article 243Z provides that the legislature of a State may, by law, make provision with respect to the maintenance of accounts by the municipalities and the auditing of such accounts. In pursuance to the above, the State Municipal Acts have incorporated the relevant provisions regarding maintenance and audit of accounts of municipal bodies. The accounts of municipal bodies are accordingly audited and maintained as per the provisions of the respective municipal act.

3.34 When asked as to whether the Tenth and Eleventh Central Finance Commissions have issued any guidelines in respect of audit of accounts maintained by Municipalities, the Ministry stated that the Tenth and Eleventh Central Finance Commission have not issued any guidelines in respect of audit of accounts to be maintained by the municipalities. However, Eleventh Finance Commission have made certain suggestions for proper upkeep of accounts of municipalities and their audit. The following are the broad suggestions in this regard—

- (i) Study and review the existing account heads under which the funds are being transferred to ULBs
- (ii) The Comptroller & Auditor General of India should be entrusted with the responsibility of exercising control and supervision over the proper maintenance of accounts and their audit by the ULBs
- (iii) The Director, Local Fund Audit or any other agency be made responsible for the audit of the accounts of local bodies, and work under technical and administrative supervision of C&AG.
- (iv) C&AG should prescribe formats for the preparation of budgets and for keeping of accounts of the local bodies.

3.35 On being enquired as to whether the audit of accounts has been done by all the States and Union Territories, the Ministry in a written reply stated that the accounts of municipal bodies are audited and maintained as per the provisions of the respective municipal acts. Since this is a continuous process, the information whether, the accounts of all municipalities have been audited as per Article 243Z, is not maintained by this Ministry.

**3.36 The Committee note that the Eleventh Finance Commission have made certain suggestions for proper upkeep of accounts of municipalities and their audit. The Committee desire that State Government should be persuaded to bring needed reforms in the existing Municipal Accounting System of Urban Local Bodies as suggested by the Eleventh Finance Commission. The Committee further desire that Municipal Accounting System should be overhauled and made transparent with a view to ensure acceptance by lending agencies and financial market so that ULBs could have proper access to debt funds to finance and maintain the civic amenities which are suffering due to lack of funds.**

## CHAPTER IV

### DISTRICT PLANNING COMMITTEES

Article 243ZD of the Constitution provided as below:

- (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 Commission;
  - (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 organizations 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.

#### **Constitution of DPCs in States/UTs**

4.2 As per the written note furnished by the Ministry of Urban Development, DPCs have already been constituted in Haryana, Karnataka, Kerala, Madhya Pradesh, Rajasthan, Tamil Nadu, West Bengal, Andaman & Nicobar Islands, Daman and Diu, Dadar & Nagar Haveli and Lakshadweep. The DPCs have also been constituted in Arunachal Pradesh, Bihar, Chhattisgarh, Gujarat, Maharashtra, Manipur, Mizoram, Andhra Pradesh, Goa, Himachal Pradesh, Orissa, Sikkim and Uttaranchal. Delhi has been exempted from setting up of DPC. In Pondicherry and Jharkhand, elections are yet to be held. Tripura Government has informed that constitution of DPC in the State is under-consideration. Punjab Government has informed that the necessary action is being initiated. The Government of Jammu and Kashmir has informed that there is no provision for DPC in the State. Hence, District Development Boards in each district under single line administration has been under operation since 1976. Chandigarh Administration is considering to set up DPC. Meghalaya Government has informed that the State is exempted from Part IXA in view of Article 243ZC. In Nagaland, no municipality has been constituted so far. Hence, District Planning and Development Boards also function as DPC in the State as informed by the State Government. The defaulting States have been asked to furnish the reasons. The current update as constitution of DPCs in different States is given in Annexure-IX.

4.3 On being asked whether any guidelines have been issued by the Union Government regarding setting up of DPCs by the State Governments in a given time frame, the Ministry stated in a written reply that in order to assist the State Governments to implement the provision of constitution of DPCs, the Ministry of Urban Development and Poverty Alleviation had drafted the guidelines and issued the same to all State Governments. These guidelines have been prescribed for composition and function of District Planning Committees, integration of the plans prepared by the Panchayats and municipalities at the District level. The State Governments were requested to consider



the draft guidelines, and if found by and large adequate to serve the purpose of operation of the District Planning Committees and Metropolitan Planning Committees, to adopt them with such modifications and additions as the State Government may deem proper. The Constitution (74th Amendment) Act does not specify any time limit within which District Planning Committees are required to be made operational. In view of this, no such directions have been issued to the States. However, State Governments are being requested from time to time to constitute DPCs urgently.

4.4 The Ministry further stated that the Central Council of Local Government and Urban Development in its 26th Meeting held in May 1999 under the Chairmanship of Minister of Urban Development and Poverty Alleviation and attended by Ministers in charge of local Self-Governments of all States unanimously resolved that State Governments immediately constitute the District Planning Committees. The Ministry also organised conference of local Self-Government and Urban Development Ministers of all States and Union Territories in January 2000 at New Delhi followed by National Conference of Mayors in April 2000 and Conference of Ministers of Urban Development, local Self-Government and Housing of States and Union Territories in September 2002 at New Delhi. In these conferences, a need was expressed for setting up of DPCs. As the issue of DPC falls within the purview of State Governments, the minutes of conferences were circulated to them for taking necessary action.

4.5 When enquired whether the Municipalities are getting adequate representation in the District Planning Committees, the Ministry in their written reply stated that as per the provisions of Article 243ZD (2)(b), the manner in which the seats in DPCs shall be filled will be prescribed by the State Legislature, 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. In view of this, it may be seen that provisions already exist for adequate representation of Municipalities in DPCs.

4.6 On being asked whether DPCs are being chaired by Ministers of the respective State Governments, the Ministry in a written reply stated that as per Article 243ZD of the Constitution, the Legislature of States has been empowered to make laws with respect to composition

of the DPCs including the manner in which the Chairpersons of such Committees shall be chosen. Accordingly, DPCs are chaired by the Chairpersons, as chosen according to the provisions made by the State Legislature in this regard. As regards the fact that DPCs are being chaired by Ministers of the respective State Governments, no such instance has come to the notice of this Ministry.

4.7 In this regard, it needs to be pointed out that in a Memorandum submitted to the Committee by a Research Fellow, it has been stated that in Madhya Pradesh, Gujarat, Maharashtra and Uttar Pradesh, a Minister of the State Government is the chairperson of the DPC.

**4.8 The Committee note that almost a decade has elapsed since the enactment of the Constitution (74th Amendment) Act w.e.f. 01.06.1993, however, a number of States are yet to constitute District Planning Committees although this is a mandatory provision under article 243ZD of the Constitution. In the circumstance, the Committee are distressed over the fact that the constitutional obligation to constitute the DPCs in the defaulting States has not been fulfilled. The Committee, therefore, strongly recommend that the Central Government should urge such States, where DPC has not yet been constituted yet, to form their respective DPCs within a specified time frame. If necessary, suitable provisions in this regard should be incorporated in the Constitution by bringing up the required amendment to the Constitution. The Committee would like to be apprised about the position in this regard. In case of UTs, the Government of India should ensure immediate constitution of DPCs in all UTs.**

4.9 The Committee note that in order to assist the State Governments to implement the provision of constitution of DPCs, the Ministry has drafted the guidelines and issued the same to all State Governments. These guidelines prescribe for composition and function of District Planning Committees, integration of the plans prepared by the Panchayats and Municipalities at the District level. The Committee desire that the Union Government should persuade the State Government to scrupulously implement the guidelines. The Committee also desire that Government should also provide for association and involvement of the NGOs, professionals, experts in the DPCs. The Committee further urge the Union Government to make adequate provisions by amending Article 243ZD to secure the participation of MPs and MLAs in DPCs.

4.10 The Committee are informed that in some of the States, DPCs are being chaired by Ministers in the State Governments. The

Committee fear that this may not be in consonance with the true aim and spirit of the decentralization of responsibilities under the Constitution of India.

4.11 The Committee note that article 243ZD(3) stipulates that every District Planning Committee (DPC) shall draft development plans and also one of the main functions of the District Planning Committee is in regard to formulation of the District Development Plans and allocation of resources to local bodies for implementation of the local level projects in urban areas. The Committee have been given to understand that under the framework of the Constitution, the District Development Plans, Metropolitan Plans would lead to formulation of the State Plans. The Committee are distressed to find that in the absence of the DPC in certain States, the Planning Process would lose the intending meaning behind it. The Committee recommend that concerted and earnest action should be initiated by the Union Government to urge upon the States/UTs to formulate District development plans so as to benefit the people at large.

4.12 The Committee note that as per article 243ZD (3), draft development plans of DPC should take into consideration, (i) the 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; and (iii) consult such institution and organisation as the Governor may, by order, specify. Keeping in view the main aims and objectives of this said proviso of Part IX A of Constitution, the Committee desire that the planning process be completed with a positive perspective and by taking into account of the following:

- (i) each level of Plan must include measures for infrastructure development and environment conservation;
- (ii) these development Plans must be flexible to provide for the ever-growing and ever-expanding city boundaries and provide quality life to its inhabitants;
- (iii) people's participation in formulation of perspective plans be ensured through the elected bodies;
- (iv) given the paucity of resources, proper measures are taken to utilize strategic methods in selected urban areas as 'Core' development plans; and
- (v) cost recovery methods of ULBs are strengthened. The Committee would like to be apprised about the steps taken in the matter.

## CHAPTER V

### METROPOLITAN PLANNING COMMITTEE

Article 243ZE of the Constitution provides as below:

- (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 no 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 organizations and Institutions as may be deemed necessary for carrying out the functions assigned to such Committees;
  - (d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;
  - (e) the manner in which the Chairpersons of such Committees shall be chosen.
- (3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,—
  - (a) have regard to—
    - (i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan areas;

- (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 the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;
- (b) consult such institutions and organisations as the Governor may, by order, specify.
- (3) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

5.2 As per written information furnished by the Ministry, there are 35 urban agglomerations with population of more than one million in the country. State Government of Maharashtra have issued an ordinance dated 26 September, 1999 for constitution of MPCs for Mumbai, Pune and Nagpur. The ordinance was converted into the Maharashtra Metropolitan Planning Committees (Constitution and Functions) (Continuance of provisions) Act, 1999 dated 7th January, 2000. State Government of Tamil Nadu has informed that action is being taken to constitute the MPC by introducing a Legislation. The Government of Delhi has already been granted exemption from setting up of MPC.

**5.3 The Committee note that there are 35 urban agglomerations with population of more than one million in the country and for these areas, the Metropolitan Planning Committee (MPC) is a constitutional requirement under article 243ZE of the Constitution. The Committee are dismayed to note that only State Government of Maharashtra have made an Act for constitution of MPCs for Mumbai, Pune and Nagpur till date but other States are lagging behind. The Committee take serious note of it and feel that this amounts to serious infringement of mandatory constitutional provisions. The Committee urge upon the Union Government to ensure that in all remaining Urban agglomerations with population of more than one million MPCs are constituted within a stipulated time period. The**

**Committee further urge the Union Government to make adequate provisions by amending Article 243ZE to secure the participation of MPs and MLAs in MPCs.**

**5.4 The Committee note that one of the main aims of the MPC is to formulate the Metropolitan Development Plans and to help the planning process so as to provide the various urban services to the urban population. The Committee are, however, perturbed to find that the due cognizance has not been given to the planning aspect of the ULBs/Municipalities in most of the States/UTs in the country. The Committee recommend that proper attention must be given towards the formulation of development plans at district, metropolitan and State levels so as to ensure local self-governance be an effective instrument of economic and infrastructural growth in the urban areas.**

## CHAPTER VI

### TRAINING OF ELECTED MEMBERS OF MUNICIPALITIES

On training arrangements available for elected members of municipalities, the Ministry stated in a written reply that, as 'Municipality' is a State subject, it is for the State Governments to look into the issue of providing training to elected representatives of municipalities. However, to supplement the efforts of the State Governments and to provide needed training facilities to elected members of municipalities, Ministry of Urban development and Poverty Alleviation provides financial assistance to certain training institutions. These Training Centres conduct training programmes on various subjects of municipal bodies. The Ministry of Urban Development and Poverty Alleviation had initiated a plan to train women elected Councillors of all municipalities. For this purpose, proposals have been invited from various State Governments. Ministry of Urban development and Poverty Alleviation will provide 50% of the total expenditure on training of elected women Councillors as per the criteria of the plan. The first instalment of funds has been released to Kerala (Rs. 1.5 lakh), Uttaranchal (Rs. 4.77 lakh), Madhya Pradesh (Rs. 17.32 lakh) and Maharashtra (Rs. 18.00 lakh). Further, proposals are under consideration for release of funds to West Bengal (Rs. 13.41 lakh), Tripura (Rs. 1.82 lakh), Chhattisgarh (Rs. 3.47 lakh) and Karnataka (Rs. 14.42 lakh).

**6.2 The Committee note that to supplement the efforts of the State Government and to provide needed training facilities to elected members of municipalities, the Ministry provides financial assistance to certain training institutions. The Ministry has initiated a plan to train women elected councillors of all municipalities and the Ministry will provide 50 per cent of the total expenditure on training of elected women councillors. The Committee are of the firm view that potentiality of all the elected members of the Municipalities could be enhanced by giving proper training. The Committee, therefore, desire that concerted efforts are made to provide for training by utilization of latest training methods and computerization network for capacity building of all the elected members of municipalities.**

## CHAPTER VII

### ROLE OF WOMEN

Part IX A of the Constitution under article 243T(3) prescribes mandatory provision for reservation of 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 municipalities.

7.2 When enquired about the steps initiated by the Union Government and as well as States Government for effective participation of women in Municipalities, the Ministry in a written reply informed the Committee that in pursuance of stipulation made in Article 243T, provisions have been made by the State Governments in the Municipal laws for reservation of not less than one-third of total number of seats in municipalities for women to ensure their effective participation in municipalities. As a result women are now coming up as members of Municipal bodies and have an active participation in democratic process at the local level.

7.3 When asked about the guidelines issued by the Union Government to the State Governments to ensure attendance of women in the meetings of municipalities, the Ministry vide their note informed that no such guidelines have been issued by their Ministry to the State Governments.

**7.4 The Committee note that article 243T(3) of the Constitution recognized the role of women in local self-governance and the functioning of the Municipalities. In this regard, the Committee are of the firm view that the women participation in 'Municipalities' being a mandatory provision under the constitution, the Union Government should issue guidelines to encourage and promote effective participation of women in the deliberations and decision making process of municipalities.**

NEW DELHI;  
30 November, 2004  
9 Agrahayana, 1926 (Saka)

MOHD. SALIM,  
Chairman,  
Standing Committee on Urban  
Development.



*ANNEXURE-I*

RECOMMENDATORY/MANDATORY PROVISIONS CONTAINED  
IN PART IXA OF THE CONSTITUTION

The following provisions of Part IXA of the Constitution are recommendatory in nature:

Powers, authority and responsibilities of Municipalities, etc. 243W

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein,

With respect to—

- (i) the preparation of plans for economic development and social justice;
- (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;
- (b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

**243X Power to impose taxes by and Funds of the Municipalities**

The Legislature of a State may, by law—

- (a) authorised a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- (b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purpose 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.

#### **Audit of accounts of Municipalities 243Z**

The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

The mandatory provisions contained in Part IXA of the Constitution are as follows:

#### **Constitution of Municipalities 243Q**

- (1) There shall be constituted in every State—
  - (a) a Nagar Panchayat (by whatever name called for a transitional area, that is to say, an area in transition from a rural area to an urban area;
  - (b) a Municipal Council for a smaller urban area; and
  - (c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Part.

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

- (2) In this article, “a transitional area”, “a smaller urban area” or a “a larger urban area” means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purpose of this part.

**Composition of Municipalities 243R**

- (1) Save as provided in clause (2) all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.
- (2) The Legislature of a State may, by law, provide—
  - (a) for the representation in a Municipality of—
    - (i) persons having special knowledge or experience in Municipal administration;
    - (ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;
    - (iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;
    - (iv) the Chairpersons of the Committees constituted under clause (5) of article 243S.

Provided that the persons referred to in paragraph

- (i) shall not have the right to vote in the meetings of the Municipality;
- (b) the manner of election of the Chairperson of a Municipality.

**Constitution and composition of Wards Committees, etc. 243S**

- (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.

**Reservation of seats 243T**

- (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 a Municipality.
- (2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
- (3) Not less than one third (including the number of seats reserved for women belonging to the Scheduled Castes and 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 Municipality.
- (4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

- (5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.
- (6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

**Duration of Municipalities, etc. 243U**

- (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.  
 Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.
- (2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).
- (3) An election to constitute a Municipality shall be completed—
  - (a) before the expiry of its duration specified in clause (1);
  - (b) before the expiration of a period of six months from the date of its dissolution.

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

- (4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

**Disqualifications for membership 243V**

- (1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality—
  - (a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:
 

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;
  - (b) if he is so disqualified by or under any law made by the Legislature of the State.
- (2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

**Finance Commission 243Y**

- (1) The Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to—
  - (a) the principles which should govern—
    - (i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;
    - (ii) the determination of the taxes, duties tolls and fees which may be assigned to, or appropriated by, the Municipalities;
    - (iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;
  - (b) the measures needed to improve the financial position of the Municipalities;
  - (c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

- (2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

#### **Elections to the Municipalities 243ZA**

- (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K.
- (2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

#### **Application to Union Territories 243ZB**

The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly.

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

#### **Part not to apply to certain areas 243ZC**

- (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.
- (2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.
- (3) Notwithstanding anything in this Constitution Parliament may by law extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1)

subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

**Committee for district planning 243ZD**

- (1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.
- (2) The Legislature of a State may by law, make provision with respect to—
  - (a) the composition of the District Planning Committees;
  - (b) the manner in which the seats in such Committees shall be filled;
 

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by and from amongst the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;
  - (c) the functions relating to district planning which may be assigned to such Committees;
  - (d) the manner in which the Chairpersons of such Committees shall be chosen.
- (3) Every District Planning Committee shall, in preparing the draft development plan,
  - (a) have regard to—
    - (i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
    - (ii) the extent and type of available resources whether financial or otherwise;



- (b) consult such institutions and organisations as the Governor may, by order, specify.
- (4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

**Committee for Metropolitan Planning 243ZE**

- (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 the functions assigned to such Committees;
  - (d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;
  - (e) the manner in which the Chairpersons of such Committees shall be chosen.
- (3) Every Metropolitan Planning Committee shall in preparing the draft development plan—
  - (a) have regard to—
    - (i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

- (ii) matters of common interest between the Municipalities and the Panchayats, including 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 the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;
- (b) consult such institutions and organisations as the Governor may be 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.

**Continuance of existing laws and Municipalities 243ZF**

Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992 which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council by each House of the Legislature of that State.

**Bar to interference by courts in electoral matters 243ZG**

Notwithstanding anything in this Constitution:

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;

- (b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

ANNEXURE VII

STATEMENT SHOWING STATE-WISE DETAILS OF PROVISION  
FOR CREATION OF DATA BASE AND UTILIZATION THEREOF  
AS REPORTED BY STATE GOVTS.

(Rs. in lakhs)

Sl.No.	Name of State	ULBs creation of data base	
		Allocation by Eleventh Finance Commission	Utilisation Reported
1	2	3	4
1.	Andhra Pradesh	9.25	IA
2.	Arunachal Pradesh	0.00	IA
3.	Assam	6.30	IA
4.	Bihar	9.81	IA
5.	Chhattisgarh	5.91	IA
6.	Goa	1.12	IA
7.	Gujarat	11.89	IA
8.	Haryana	6.54	IA
9.	Himachal Pradesh	3.83	IA
10.	Jammu & Kashmir	5.50	IA
11.	Jharkhand	3.75	IA
12.	Karnataka	17.15	IA
13.	Kerala	4.63	1625.11
14.	Madhya Pradesh	26.32	IA
15.	Maharashtra	19.46	IA
16.	Manipur	2.23	IA

1	2	3	4
17.	Meghalaya	0.48	IA
18.	Mizoram	0.48	0.16
19.	Nagaland	0.72	IA
20.	Orissa	8.14	7.20
21.	Punjab	10.93	IA
22.	Rajasthan	14.60	IA
23.	Sikkim	0.00	IA
24.	Tamil Nadu	59.35	23.74
25.	Tripura	1.04	IA
26.	Uttar Pradesh	49.41	IA
27.	Uttaranchal	5.15	IA
28.	West Bengal	9.73	IA
	Total	293.72	

IA: Information awaited

Note: In Tamil Nadu above mentioned amount has been kept reserve for want of finalisation of account format and software for data base.

(Source: Ministry of Finance, Department of Expenditure).

## ANNEXURE IX

## DISTRICT PLANNING COMMITTEE

Name of the State	Whether DPC set up	If not, the status
1	2	3
Andhra Pradesh	Yes	—
Arunachal Pradesh	Yes	—
Assam	—	Constitution of DPC is under progress.
Bihar	Yes	—
Chhattisgarh	Yes	—
Goa	Yes	—
Gujarat	Yes	—
Haryana	Yes	—
Himachal Pradesh	Yes	—
J&K	—	There is no provision for constitution of DPCs in the State. District Development Boards in each District under single line administration has been under operation since 1976.
Jharkhand	—	The State Govt. has informed DPCs have not been set up because elections of ULBs and Panchayats have not been held. As soon as elections are completed, DPCs will be formed.
Karnataka	Yes	—
Kerala	Yes	—

1	2	3
Madhya Pradesh	Yes	—
Maharashtra	Yes	—
Manipur	Yes	—
Meghalaya	—	DPCs have not been set up in the State due to no ULBs.
Mizoram	Yes	The State Govt. have informed that District Planning Board has been constituted for one District <i>i.e.</i> Lunglei on a pilot basis.
Nagaland	—	No municipality has been constituted so far. So, District Planning & Development Boards have also to function as DPC in the State. After the constitution of the municipalities, the Planning Boards will be re-constituted.
Orissa	Yes	—
Punjab	—	Action initiated to constitute DPCs.
Rajasthan	Yes	—
Sikkim	Yes	—
Tamil Nadu	Yes	—
Tripura	—	State Govt. have informed that a Bill for DPCs is pending in the State Legislative Assembly.
Uttaranchal	Yes	—
Uttar Pradesh	—	DPC not constituted.
West Bengal	Yes	—
A&N Islands	Yes	—

1	2	3
Chandigarh	—	Chandigarh Admn. has informed that they are considering to set up DPC.
Dadra & Nagar Haveli	Yes	—
Daman & Diu	Yes	—
GNCT of Delhi	Exempted	—
Pondicherry	—	Not set up. The UT Govt. has informed that Pondicherry District Planning Committee Act, 1994 has already been enacted. It is yet to be constituted as the elections have not been held.
Lakshadweep	Yes	—
DPCs set up		— 24 States/UTs
Under Consideration/not set up		— 5 States/UTs
Not set up due to non-election of ULBs		— 2 (Jharkhand & Pondicherry)
Not set up due to no ULBs		— 1 (Meghalaya)
Exempted		— 2 (J&K and Delhi)
District Planning Board working as DPC		— 1 (Nagaland)



ANNEXURE X

COMMITTEE ON URBAN AND RURAL DEVELOPMENT (2002)  
(Sub-Committee II to examine the subject 'Implementation  
of Part IXA of the Constitution)

MINUTES OF THE FIRST SITTING OF THE SUB-COMMITTEE II  
OF THE COMMITTEE ON URBAN AND RURAL DEVELOPMENT

The sub-Committee met on Thursday, the 6<sup>th</sup> June, 2002 from 1515 hrs. to 1545 hrs. in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

Shri Anant Gangaram Geete — *Chairman*  
Prof. (Shrimati) A.K. Premajam — *Alternate Convenor*

MEMBERS

*Lok Sabha*

3. Shri Jaswant Singh Bishnoi
4. Shri G. Putta Swamy Gowda
5. Shri D.C. Srikantappa
6. Shri Ravi Prakash Verma

*Rajya Sabha*

7. Shrimati Shabana Azmi
8. Shrimati Prema Cariappa
9. Shri Faqir Chand Mullana
10. Shri Man Mohan Samal
11. Shrimati Maya Singh

SECRETARIAT

- |                           |   |                             |
|---------------------------|---|-----------------------------|
| 1. Shri P.D.T. Achary     | — | <i>Additional Secretary</i> |
| 2. Shri S.C. Rastogi      | — | <i>Joint Secretary</i>      |
| 3. Shri K. Chakraborty    | — | <i>Deputy Secretary</i>     |
| 4. Shrimati Sudesh Luthra | — | <i>Under Secretary</i>      |
| 5. Shri N.S. Hooda        | — | <i>Assistant Director</i>   |

2. At the outset, the Chairman welcomed the members to the first sitting of the sub-Committee. He thereafter welcomed Shrimati Prema Cariappa and Shrimati Maya Singh, M.Ps. from Rajya Sabha who have recently been nominated to this Committee. The Chairman then informed the members that the subject 'Implementation of Part IX A of the Constitution' was examined by the sub-Committee of the Committee during 2001. The said sub-Committee invited memoranda from various experts in the field, besides they also conducted a study visit to Hyderabad on 17th and 18th November, 2001 and held informal discussions with the representatives of State Governments and Panchayati Raj Institutions of Andhra Pradesh, Kerala, Karnataka and Tamil Nadu. They also heard the views of some of the experts from Delhi and Dehradun on 3rd December, 2001 at New Delhi. However, before the sub-Committee could finalise their next course of action, the term of the Committee expired on 31st December, 2001. He also apprised the sub-Committee that the next course for examination of the subject was to take oral evidence of the representatives of concerned Ministry/Department. He requested the members to give their valuable suggestions on the said subject.

3. The sub-Committee thereafter decided that the next sitting to take oral evidence of the representatives of the Ministry of Urban Development and Poverty Alleviation on the said subject might be held during the next session of Parliament which is likely to commence sometime in the middle of July, 2002.

*The sub-Committee then adjourned.*

ANNEXURE XI

COMMITTEE ON URBAN AND RURAL DEVELOPMENT (2003)

MINUTES OF THE TWENTY-EIGHTH SITTING OF THE  
COMMITTEE HELD ON WEDNESDAY, 5 NOVEMBER 2003

The Committee sat from 1500 hours to 1700 hours in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Chandrakant Khaire — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Mani Shankar Aiyar
3. Shri S. Ajaya Kumar
4. Shri Padmanava Behera
5. Shri Shriram Chauhan
6. Shri Shamsheer Singh Dullo
7. Shrimati Hema Gamang
8. Shri G. Putta Swamy Gowda
9. Shri Jaiprakash
10. Shri Savshibhai Makwana
11. Shri Mahendra Singh Pal
12. Prof. (Shrimati) A.K. Premajam
13. Shri Maheshwar Singh
14. Shri D.C. Srikantappa
15. Shri Pradeep Yadav

*Rajya Sabha*

16. Shrimati Prema Cariappa
17. Shri Prasanta Chatterjee
18. Shri N.R. Dasari
19. Shri Ramadhar Kashyap
20. Shrimati Gurcharan Kaur
21. Shri Faqir Chand Mullana

22. Shri Rumandla Ramachandraiah
23. Shri Harish Rawat
24. Shri Man Mohan Samal

## SECRETARIAT

- |                           |   |                           |
|---------------------------|---|---------------------------|
| 1. Shri N.K. Sapra        | — | <i>Joint Secretary</i>    |
| 2. Shri K. Chakraborty    | — | <i>Director</i>           |
| 3. Shrimati Sudesh Luthra | — | <i>Under Secretary</i>    |
| 4. Shri A.K. Shah         | — | <i>Assistant Director</i> |

**Expert**

Shri K.C. Sivaramakrishnan, IAS, Former Secretary to Government of India & Visiting Professor, Centre for Policy Research

2. At the outset, the Chairman welcomed the members to the sitting of the Committee and apprised them briefly about the work done by the earlier Committee and the Sub-Committee regarding the examination of the subject, 'Implementation of Part IXA of the Constitution'.

3. Thereafter, the expert was called in to present his views on the subject, 'Implementation of Part IXA of the Constitution'. Before he was asked to present his views on the said subject, the Chairman welcomed him to the sitting of the Committee and drew his attention to the provision of direction 55(1) of the Directions by the Speaker.

4. The expert then presented his views on the various issues related to the subject, 'Implementation of Part IXA of the Constitution'. The members raised clarificatory queries on the said subject. Most of them were answered by the expert. For others, the expert was requested to send replies/information to the Secretariat within a week.

5. The Committee thereafter decided to take the oral evidence of the representatives of the Ministry of Urban Development and Poverty Alleviation (Department of Urban Development) on the subject 'Implementation of Part IXA of the Constitution' on 4 and 5 December 2003.

6. A verbatim record of the proceedings was kept.

*The Committee then adjourned.*

ANNEXURE XII

COMMITTEE ON URBAN AND RURAL DEVELOPMENT (2003)

MINUTES OF THE TWENTY-NINTH SITTING OF THE  
COMMITTEE HELD ON THURSDAY, 4 DECEMBER 2003

The Committee sat from 1500 hours to 1615 hours in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Chandrakant Khaire — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Mani Shankar Aiyar
3. Shri Ranen Barman
4. Shri Padmanava Behera
5. Shri Haribhai Chaudhary
6. Shrimati Hema Gamang
7. Shri Hassan Khan
8. Shri Mahendra Singh Pal
9. Shri Chandresh Patel
10. Prof. (Shrimati) A.K. Premajam

*Rajya Sabha*

11. Shri S. Agniraj
12. Shrimati Prema Cariappa
13. Shri Prasanta Chatterjee
14. Shrimati Gurcharan Kaur
15. Shri Man Mohan Samal

SECRETARIAT

- |                           |   |                           |
|---------------------------|---|---------------------------|
| 1. Shri N.K. Sapra        | — | <i>Joint Secretary</i>    |
| 2. Shri K. Chakraborty    | — | <i>Director</i>           |
| 3. Shrimati Sudesh Luthra | — | <i>Under Secretary</i>    |
| 4. Shri A.K. Shah         | — | <i>Assistant Director</i> |

**Representatives of the Ministry of Urban Development and  
Poverty Alleviation (Department of Urban Development)**

- |                     |   |                 |
|---------------------|---|-----------------|
| 1. Shri N.N. Khanna | — | Secretary       |
| 2. Shri M. Rajamani | — | Joint Secretary |

2. At the outset, the Chairman welcomed the members to the sitting of the Committee and apprised them briefly about the work done by the Committee on the subject, 'Implementation of Part IXA of the Constitution'.

3. Thereafter, the representatives of the Ministry of Urban Development and Poverty Alleviation (Department of Urban Development) were called in. The Chairman welcomed the representatives of the Ministry to the sitting and drew their attention to the direction 55(1) of the 'Directions by the Speaker, Lok Sabha'.

4. The Committee then took the oral evidence of the representatives of the aforesaid Ministry/Department on the subject 'Implementation of Part IXA of the Constitution'. The members raised clarificatory queries on various aspects of the said subject. Most of them could not be answered satisfactorily by the representatives of the Ministry as the requisite information was not readily available with them. Moreover, the Committee found that the replies given by the representatives in response to questionnaire sent by the Secretariat as well as during the course of oral evidence, were evasive in nature. The Committee took strong exception to such casual deposition by the Secretary of the Ministry before the Parliamentary Committee. In view of this, the Committee directed the Ministry to furnish comprehensive written replies to queries raised by the members of the Committee during evidence within two weeks' time. They also desired that legal opinion, if deemed necessary, on some of the points be obtained. The Committee also directed that the Ministry should carefully study the recommendations of the Committee contained in their 37th Report on 'Implementation of Part IX of the Constitution', presented to the House on 20 November, 2002 and forward their considered views, as the substance of the Part IX and Part IXA was more or less similar. Such an approach would also enable the Committee to prepare a Comprehensive Report based on facts and logical conclusions.

5. In view of above, the Committee decided to cancel the sitting of the Committee scheduled to be held on 5 December, 2003, to take further oral evidence of the representatives of Ministry of Urban Development and Poverty Alleviation (Department of Urban Development) on the above subject.

6. A verbatim record of the proceedings was kept.

*The Committee then adjourned.*

ANNEXURE XIII

COMMITTEE ON URBAN DEVELOPMENT (2004-2005)

MINUTES OF THE SIXTH SITTING OF THE COMMITTEE HELD  
ON MONDAY, THE 4TH OCTOBER 2004

The Committee sat from 1130 hrs. to 1300 hrs. in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

Shri Mohd. Salim — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Pawan Kumar Bansal
3. Shri Amitava Nandy
4. Shri D. Vittal Rao
5. Shri Sudhangshu Seal
6. Shri Sugrib Singh
7. Shri K. Subbarayan
8. Shri Ravi Prakash Verma
9. Shri Baleshwar Yadav

*Rajya Sabha*

10. Shri Nandi Yellaiah
11. Shri Jayantilal Barot
12. Shri Laxminarayan Sharma
13. Shri Prasanta Chatterjee
14. Shri Faqir Chand Mullana

SECRETARIAT

- |                        |   |                             |
|------------------------|---|-----------------------------|
| 1. Shri P.D.T. Achary  | — | <i>Additional Secretary</i> |
| 2. Shri K. Chakraborty | — | <i>Director</i>             |
| 3. Smt. Neera Singh    | — | <i>Under Secretary</i>      |

2. At the outset, Hon'ble Chairman welcomed the Members to the sitting of the Committee convened for consideration and adoption of draft Report on the subject 'Implementation of Part IXA of the Constitution'. The Chairman, thereafter briefed the members about the work done by the earlier Committees regarding examination of the above subject. The Chairman then pointed out that the Committee on Urban Development (2004-2005) has taken up this unfinished work of the earlier Committee (2003-2004) and a draft Report on the above subject has been prepared by the Secretariat based on the findings of the earlier Committee and latest information received from the Ministry of Urban Development.

3. The Committee then took up for consideration the draft Report on 'Implementation of Part IXA of the Constitution'. The consideration of the draft Report remained inconclusive. The Committee, therefore, decided to hold their next sitting on 25th October 2004, to further consider and adopt the draft Report on the above subject.

*The Committee then adjourned.*



ANNEXURE XIV

COMMITTEE ON URBAN DEVELOPMENT (2004-2005)

MINUTES OF THE SEVENTH SITTING OF THE COMMITTEE  
HELD ON MONDAY, THE 25<sup>TH</sup> OCTOBER, 2004

The Committee sat from 1500 hrs. to 1645 hrs. in Room No. 139,  
Parliament House Annexe, New Delhi.

PRESENT

Shri Mohd. Salim — *Chairman*

MEMBERS

*Lok Sabha*

2. Shri Pawan Kumar Bansal
3. Shri Surendra Prakash Goyal
4. Shri Shripad Yesso Naik
5. Shri Mahendra Prasad Nishad
6. Shri Devidas Anandrao Pingale
7. Shri D. Vittal Rao
8. Shri Sudhangshu Seal
9. Shri Sugrib Singh
10. Shri K. Subbarayan
11. Shri Suresh Ganpat Wagnmare
12. Shri Baleshwar Yadav

*Rajya Sabha*

13. Shri Nandi Yellaiah
14. Shri Laxminarayan Sharma
15. Shri Urkhao Gwra Brahma

SECRETARIAT

1. Shri K. Chakraborty — *Director*
2. Smt. Neera Singh — *Under Secretary*

2. At the outset, the Hon'ble Chairman welcomed the Members to the sitting of the Committee convened to further consider and adopt the draft report on the subject 'Implementation of Part IXA of the Constitution.'

3. The Committee then resumed the consideration of the draft report. After deliberations, the Committee adopted the draft report with slight modifications.

4. The Committee then authorized the Hon'ble Chairman to finalise the report on the basis of factual verification from the concerned Ministry and present the same to both the Houses of Parliament.

*The Committee then adjourned.*

## ANNEXURE XV

## STATEMENT OF RECOMMENDATIONS/OBSERVATIONS

Sl.No.	Para No.	Recommendations/Observations
1	2	3
1.	2.21	The Committee definitely regard the Constitutional (74th Amendment) Act, 1992 as a path-breaking piece of legislation by which Constitution of India had been amended to incorporate a separate Chapter on Urban Local Bodies (ULB) by emphasising the deserved significance of local self-governance in line with the democratic set-up of the country. The 74th CAA has redefined the role, power function and finances of 'Municipalities' or ULBs across the country. The Committee, therefore, are of the firm view that with the complete and proper implementation of the provisions under article 243P to 243ZG of Part IXA of the Constitution, better control and effective working of the ULBs in passing on the economic benefits and suitable urban infrastructure to the people at large, would be achieved. The Committee also recommend that innovative and good governance methods be adopted by ULBs with proper information and training inputs, data base, as required, for improving the living conditions and quality of life of urban residents in the country.
2.	2.22	The Committee note that the 74th CAA aims at a Constitutional guarantee to

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**1****2****3**

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safeguard the interest of Urban Local Bodies (ULBs) to enable them to function as effective, democratic and self-governing institutions at grass root level. The Committee strongly emphasize the suitable steps be taken to ensure the followings:—

- regularity in elections under the supervision of the State Election Commission;
  - a clear tenure of five years for the elected body;
  - protection for the elected body against arbitrary dissolution;
  - constitution of Ward Committees for greater proximity to the citizens;
  - mandate to State Legislature to endow the ULBs with such powers and authority as may be necessary to enable them to function as institution of self-Government;
  - the functions enumerated in Twelfth Schedule are effectively transferred to the ULBs;
  - the constitution of State Finance Commission (SFCs) to review municipal finances and make recommendations regarding distribution of the proceeds of State-level taxes between the State Governments and the ULBs, criteria for grants-in-aid, measures needed to improve the financial position of the ULBs and compliance of the recommendations of the State Finance Commissions; and
-

1	2	3
		<p>— urgent formation of District Planning Committees (DPCs) and Metropolitan Planning Committees (MPCs) for integrated as well as coordinated planning for urban and rural areas.</p>
3.	2.23	<p>The Committee also find that all States except Jharkhand and Union Territory of Pondicherry conducted initial elections to Municipal bodies. Also ULBs, do not exist in Arunachal Pradesh, Mizoram, Sikkim, Lakshadweep and Dadra &amp; Nagar Haveli. The Committee, therefore, recommend that the Union Government hold municipal elections in the Union Territory of Pondicherry at the earliest. The Committee further urge Arunachal Pradesh, Mizoram, Sikkim, Lakshadweep and Dadra &amp; Nagar Haveli for early setting up of ULBs so that the system of self-governing institutions at grassroots level could be established without any delay and the development Schemes/Programmes are implemented effectively.</p>
4.	2.24	<p>The Committee note that the responsibility of implementation of all matters relating to Municipalities has been entrusted to the Ministry of Urban Development and the Ministry has been in constant touch with the State Governments in the task of implementation of Part IXA of the Constitution. Also Meetings/Conferences with Ministers/Secretaries-in-Charge of local self-Government to States/UTs and elected representatives</p>

1	2	3
		<p>of Urban Local Bodies have been held from time to time to impress upon them the need for proper implementation of Part IXA. While the Committee are quite convinced that coordinative efforts are being made by the Ministry of Urban Development for the implementation of Part IXA of the Constitution, the Committee feel that the mandatory as well as recommendatory provisions of Part IXA of the Constitution are not being properly implemented by the respective State Governments/UTs. The Committee, therefore, recommend that Union Government should make a comprehensive study of the existing situation and ensure that mandatory as well as recommendatory provisions of Part IXA are followed by the State Governments/UTs in letter and spirit. Since UTs are under its direct administrative control, an example in local self governance to be followed by others can be set up in UTs by the Government of India.</p>
5.	2.25	<p>The Committee are informed that a 'Task Force' consisting of representatives of States and the Ministry of Urban Development has been constituted to look into devolution of function into specific operational and activity related responsibilities of ULBs and suggest administrative and managerial measures to bring into operation the administrative decentralization and rationalization of delivery mechanism and implementation of urban development programmes by municipalities/ULBs. In this regard, the Committee recommend that a high level</p>

1	2	3
		<p>body, or 'Review Committee' at the Central level may be constituted so as to review the proper and timely implementation of the norms and conditions laid down in Part IXA and the Twelfth Schedule of the Constitution relating to ULBs.</p>
6.	3.8	<p>The Committee note that the Constitutional (74th Amendment) Act seeks to devolve functional and financial powers to ULBs. Article 243W requires the State Legislatures to make law to endow the municipalities with such powers and authority, as may be necessary to enable them to function as institutions of self-governance, particularly, with respect to preparation of plans for economic development and social justice, and perform functions and implement all schemes as are entrusted to them including matters listed in the Twelfth Schedule of the Constitution. Similarly, as per Article 243X, it has been left to the Legislature of the State to specify by law the matters relating to imposition of taxes. The Committee would like to emphasize that measures must be taken by the Union Government so as to ensure that the stipulated functions, powers and finances actually devolve on the ULBs. The Committee find that any mismatch between functions and finances of the ULBs may slacken the growth of ULBs and optimum utilization of the available resources and infrastructure for the various urban developmental schemes. The Committee, therefore, recommend that</p>

1	2	3
		<p>the Ministry of Urban Development should draw upon the suggestions of the expert bodies like National Institute of Urban Affairs by Maintaining proper data base and utilization of the state-of-the-art technologies. The Committee also recommend that Community Based Information System formulated by National Institution of Urban Affairs be made available to the municipalities etc. for better resource management and planning.</p>
7.	3.9	<p>Regarding, the formulation of development plans, the Committee note that a three tier planning structure comprising of Municipal level/District level, Metropolitan level and State level is envisaged in 74th CAA. Under this framework, the Municipalities would prepare plans for their area which would be consolidated at the District level in the form of a District Development Plan. These District Development Plans would lead to formulation of the State level plans. In this regard, the Committee desire that comprehensive and coordinative efforts be made by the Central Government to impress upon the States and required UTs to formulate their development plans in time.</p>
8.	3.10	<p>The Committee also note that the State Governments specify the taxes that the Municipalities could levy and collect which are largely taken from the State List in the 7th Schedule of the Constitution of India. Since no distinctive tax domain has been</p>



1	2	3
9.	3.11	<p>specified for the Municipalities, the State Municipal Laws are non-uniform in respect of municipal taxes. The Committee, therefore, recommend that the Union Government should emphasize on the States/UTs for clear-cut-tax domain for municipalities in all the State Governments/UTs so as to ensure more methodical and proper fiscal management by Municipal bodies.</p> <p>The Committee note that the Ministry had invited proposals from the Regional Centres for Urban and Environmental Studies (RCUES) to conduct detailed study on devolution of funds, functions and deployment of functionaries to municipalities. A 'Task Force' consisting of representatives of States and the Ministry has been constituted to look into the devolution of functions into specific operational and activity related responsibilities of ULBs and suggest administrative and managerial measures. The Committee would like that an in depth study is made on the suggestions/recommendations of RCUES by a High level Governmental Committee or a Review Committee, and suitable procedural amendments/modifications, if required, be advised to the State Governments for effective functioning of the ULBs and ensure good governance and adequate financial resources for the Municipalities.</p>
10.	3.12	<p>The Committee are perturbed to note that with the presence of various other governmental and on-governmental bodies there is considerable encroachment upon the functional domain of the 'Municipalities'. The Committee also note that such bodies are not accountable to 'Municipalities', although such agencies deal with even basic municipal functions like water supply, sewerage and capital works etc.</p>

1	2	3
11.	3.19	<p>The Committee have been informed by an expert that in certain cases, the capital works are executed by a Specialised Agency and their loan liability is passed on to the Municipalities. The Committee cannot approve of this kind of practice. The Committee, therefore, strongly recommend that the functional domain of the 'Municipalities' must be exclusive and clearly demarcated to check any kind of encroachment and confusion. If due to special and technical reasons other bodies are required, the Committee recommend that such bodies should be made accountable and answerable to the Municipalities.</p> <p>The Committee express their deep anguish to note that most of the Municipalities etc., which are statutorily responsible for provisioning and maintenance of basic infrastructure and services in cities and towns are under fiscal stress. They are given to understand that many of the municipalities have not been able to carry out their assigned civic functions and pay salaries and wages to their employees, although, the financial conditions of bigger municipal corporations has not been as bad as of smaller municipalities. The Committee recommend that the Ministry of Urban Development should coordinate and persuade the concerned State Governments/UTs to take the necessary corrective measures on their part by adopting suitable taxation methods, accounting standards etc. to enable the municipalities to generate their own funds. The Committee desire that the Ministry of Urban Development should persuade the State Governments to link their development plans with resources mobilization plans and credit enhancement mechanisms keeping in</p>

1	2	3
		<p>view the long-term perspective and aims of the institutions of urban local self government. The Committee recommend that cost recovery procedures and revenue collection methods of such bodies should be strengthened in a scientific and prudent manner. As regards the action taken on the suggestions of the 'Task Force' as constituted by the Ministry, the Committee would like to be apprised about the latest position in the matter.</p>
12.	3.20	<p>The Committee note that the Eleventh Finance Commission (EFC) has suggested for developing a data base on the finances of the Panchayats and Municipalities at the District, State and Central Government level. It has further suggested that Director, Local Fund Audit or the authority prescribed for conducting the audit of accounts of the local bodies may be assigned responsibility for this task. The Chief Secretary of the State may do the State level coordination and monitoring and the Comptroller and Auditor General of India do the same at the Central level. The Committee are of the firm view that this would ensure greater accountability in matters relating to municipal management and transparency in their functioning. The Committee recommend that proper and timely follow-up action should taken up by the Ministry of Urban Development for updating and maintenance of the 'Data Base' of the finances of the Municipalities as the planning exercise needs continuous 'Data Base' analysis. The Committee also recommend that a computer generated data base and information system be developed at various levels which would provide support to planners in development planning.</p>

1	2	3
13.	3.21	<p>The Committee note that the Tenth Finance Commission recommended for a provision of Rs. 1000 crore to enable ULBs to meet their primary obligations. It also desired that Local Bodies should provide suitable matching contribution by raising resources. The Committee further note that the Eleventh Finance Commission had emphasized the need for meeting the revenue mobilizations by the local bodies themselves. It suggested for suitable reforms in property/house tax system and the need for replacing octroi/entry tax with a suitable tax and also revising the rate structure of user charges on a regular basis. The Eleventh Finance Commission has recommended for devolution of Rs. 2000 crore to ULBs for 5 years period from 2000 to 2005. While the Committee are happy to note that financial provision by way of devolution of Rs. 2000 crore to ULBs has been made by Eleventh Finance Commission, but the Municipalities/ULBs are still unable to perform well due to lack of funds. The Committee desire to know why the resource crunch still exists inspite of the recommendation of devolution of a considerable amount by the Eleventh Finance Commission. The Committee recommend that the Union Government should impress upon the State Governments to bring up proper reforms of Municipal taxes, including property tax system so that ULBs could generate sufficient resources to finance the maintenance of civic services. The Committee also recommend that loopholes in collection of municipal taxes, leakage/diversion of funds etc. are plugged and action is taken against any misuse of funds.</p>
14.	3.22	<p>The Committee note with optimism the various reform initiatives taken by the</p>

1	2	3
15.	3.31	<p data-bbox="746 465 1238 734">Union Government to strengthen the capacity of ULBs to perform their assigned functions in an effective manner. The Committee should be kept informed about the achievements made out of the reform agenda and the steps taken by the States in streamlining the functioning of ULBs in pursuance thereof.</p> <p data-bbox="746 750 1238 1854">The Committee note that the State Finance Commissions are required to be set up under Article 243-I of the Constitution. There was delay in Constitution of First SFC in Goa, Pondicherry and Jharkhand and Second SFC is yet to be constituted in Pondicherry. Keeping in view the gist of recommendations of the various SFCs and the action taken thereon as Annexed (<i>Annexure VIII</i>) to the Report, the Committee observe that most of the recommendations made by the various State Finance Commissions have been accepted by the respective State Governments. The Committee desire that the State Governments should take expeditious measures to ensure that all recommendations of the respective State Finance Commissions are implemented through relevant administrative, legislative and financial measures within a given time frame. The Committee also recommend that the Union Government should pursue with the respective State Governments/UTs which are lagging behind in the setting up of the SFCs within the prescribed time limit and give their recommendations/observations to the Governor of the State so as to facilitate better fiscal management by the ULBs. Since the administration of UTs is directly under the Union Government an example could be set up in regard to the role of the State Finance Commission by accepting its</p>

1	2	3
16.	3.32	<p>recommendations regarding the concerned UTs.</p> <p>The Committee note Article 243Y accords the primary responsibility to oversee the financial position of the Municipalities to State Finance Commission with a view to make recommendations to the Governor of the State relating to 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 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 the grants-in-aid to the Municipalities from the Consolidated Fund of the State. The SFCs then given their suggestions and the measures need to improve the financial position of the Municipalities and report to the Governor of the State. In this regard, the Committee recommend that appropriate steps should be taken up by the Union Government to impress upon the State Governments to implement all recommendations of the respective State Finance Commission within a given time frame and in the case of Union Territories, Government of India should take necessary steps in this regard.</p>
17.	3.36	<p>The Committee note that the Eleventh Finance Commission have made certain suggestions for proper upkeep of accounts of municipalities and their audit. The Committee desire that State Government should be persuaded to bring needed reforms in the existing Municipal Accounting System of Urban</p>

1	2	3
18.	4.8	<p>Local Bodies as suggested by the Eleventh Finance Commission. The Committee further desire that Municipal accounting system should be overhauled and made transparent with a view to ensure acceptance by lending agencies and financial market so that ULBs could have proper access to debt funds to finance and maintain the civic amenities which are suffering due to lack of funds.</p> <p>The Committee note that almost a decade has elapsed since the enactment of the Constitution (74th Amendment) Act <i>w.e.f.</i> 01.06.1993, however, a number of States are yet to constitute District Planning Committees although this is a mandatory provision under article 243ZD of the Constitution. In the circumstance, the Committee are distressed over the fact that the constitutional obligation to constitute the DPCs in the defaulting States has not been fulfilled. The Committee, therefore, strongly recommend that the Central Government should urge such States, where DPC has not yet been constituted yet, to form their respective DPCs within a specified time frame. If necessary, suitable provisions in this regard should be incorporated in the Constitution by bringing up the required amendment to the Constitution. The Committee would like to be apprised about the position in this regard. In case of UTs, the Government of India should ensure immediate constitution of DPCs in all UTs.</p>
19.	4.9	<p>The Committee note that in order to assist the State Governments to implement the provision of constitution of DPCs, the Ministry has drafted the guidelines and issued the same to all State Governments. These guidelines prescribe for composition and function</p>

1	2	3
		of District Planning Committees, integration of the plans prepared by the Panchayats and Municipalities at the District level. The Committee desire that the Union Government should persuade the State Government to scrupulously implement the guidelines. The Committee also desire that Government should also provide for association and involvement of the NGOs, professionals, experts in the DPCs. The Committee further urge the Union Government to make adequate provisions by amending Article 233ZD to secure the participation of MPs and MLAs in DPCs.
20.	4.10	The Committee are informed that in some of the States, DPCs are being chaired by Ministers in the State Governments. The Committee fear that this may not be in consonance with the true aim and spirit of the decentralization of responsibilities under the Constitution of India.
21.	4.11	The Committee note that article 243ZD(3) stipulates that every District Planning Committee (DPC) shall draft development plans and also one of the main functions of the District Planning Committee is in regard to formulation of the District Development Plans and allocation of resources to local bodies for implementation of the local level projects in urban areas. The Committee have been given to understand that under the framework of the Constitution, the District Development Plans, Metropolitan Plans would lead to formulation of the State Plans. The Committee are distressed to find that in the absence of the DPC in certain States, the Planning Process would lose the intending meaning behind it. The Committee recommend that concerted and earnest action should be initiated



1	2	3
22.	4.12	<p>by the Union Government to urge upon the States/UTs to formulate District development plans so as to benefit the people at large.</p> <p>The Committee note that as per article 243ZD (3), draft development plans of DPC should take into consideration, (i) the 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; and (iii) consult such institution and organisation as the Governor may, by order, specify. Keeping in view the main aims and objectives of this said proviso of Part IXA of Constitution, the Committee desire that the planning process be completed with a positive perspective and by taking into account of the following:</p> <ul style="list-style-type: none"> <li>(i) each level of Plan must include measures for infrastructure development and environment conservation;</li> <li>(ii) these development Plans must be flexible to provide for the ever-growing and ever-expanding city boundaries and provide quality life to its inhabitants;</li> <li>(iii) people's participation in formulation of perspective plans be ensured through the elected bodies;</li> <li>(iv) given the paucity of resources, proper measures are taken to utilize strategic methods in selected urban areas as 'Core' development plans; and</li> </ul>

1	2	3
23.	5.3	<p>(v) cost recovery methods of ULBs are strengthened. The Committee would like to be apprised about the steps taken in the matter.</p> <p>The Committee note that there are 35 urban agglomerations with population of more than one million in the country and for these areas, the Metropolitan Planning Committee (MPC) is a constitutional requirement under article 243ZE of the Constitution. The Committee are dismayed to note that only State Government of Maharashtra have made an Act for constitution of MPCs for Mumbai, Pune and Nagpur till date but other States are lagging behind. The Committee take serious note of it and feel that this amounts to serious infringement of mandatory constitutional provisions. The Committee urge upon the Union Government to ensure that in all remaining Urban agglomerations with population of more than one million MPCs are constituted within a stipulated time period. The Committee further urge the Union Government to make adequate provisions by amending Article 243ZE to secure the participation of MPs and MLAs in MPCs.</p>
24.	5.4	<p>The Committee note that one of the main aims of the MPC is to formulate the Metropolitan Development Plans and to help the planning process so as to provide the various urban services to the urban population. The Committee are, however, perturbed to find that the due cognizance has not been given to the planning aspect of the ULBs/Municipalities in most of the States/UTs in the country. The Committee recommend that proper attention must be given towards the</p>

1	2	3
25.	6.2	<p>formulation of development plans at district, metropolitan and State levels so as to ensure local self-governance be an effective instrument of economic and infrastructural growth in the urban areas.</p> <p>The Committee note that to supplement the efforts of the State Government and to provide needed training facilities to elected members of municipalities, the Ministry provides financial assistance to certain training institutions. The Ministry has initiated a plan to train women elected councillors of all municipalities and the Ministry will provide 50 per cent of the total expenditure on training of elected women councillors. The Committee are of the firm view that potentiality of all the elected members of the Municipalities could be enhanced by giving proper training. The Committee, therefore, desire that concerted efforts are made to provide for training by utilization of latest training methods and computerization network for capacity building of all the elected members of municipalities.</p>
26.	7.4	<p>The Committee note that article 243T(3) of the Constitution recognized the role of women in local self-governance and the functioning of the Municipalities. In this regard, the Committee are of the firm view that the women participation in 'Municipalities' being a mandatory provision under the Constitution, the Union Government should issue guidelines to encourage and promote effective participation of women in the deliberations and decision making process of municipalities.</p>

## ANNEXURE II

DEVOLUTION OF FUNCTIONS TO THE MUNICIPALITIES AS PER  
TWELFTH SCHEDULE OF THE CONSTITUTION

Major States	Orders issued by the State for Devolution of Functions	Functions to be performed as per twelfth schedule																	
		Functional Code																	
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Andhra Pradesh	—	√	√	√	√	√	√	—	√	√	√	√	√	√	√	√	√	√	
Assam	NA	√	√	√	√	√	—	√	√	—	√	√	—	√	—	—	—	—	
Bihar	—	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	
Gujarat	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	
Himachal Pradesh	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	
Madhya Pradesh	NA	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Maharashtra	√	—	—	√	—	—	—	—	√	—	√	√	—	—	—	—	—	—	
Orissa	—	—	—	—	√	—	—	√	—	—	—	—	√	√	√	√	√	√	
Punjab	—	√	—	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	
Rajasthan	√	√	—	—	—	—	—	√	√	√	√	√	√	√	√	√	√	√	
Tamil Nadu	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	√	√	√	
West Bengal	√	√	—	—	√	√	√	√	—	—	√	—	√	—	—	√	√	√	

Note: (√) Yes; (—) No; (NA)—Not available.

(Source: National Institute of Urban Affairs, 1998)

	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46
Andhra Pradesh	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Assam	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Bihar	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Gujarat	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	√	√	√	—	—	—	—	—	—	—	—	—	—
Himchal Pradesh	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Madhya Pradesh	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	√	—	—	—	—	—	—	—	—
Maharashtra	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Orisa	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	√	—	—	—	—	—	—	—
Punjab	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	√	—	—	—	—	—	—
Rajasthan	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Tamil Nadu	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
West Bengal	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	√	√

Note: (√) Yes; (—) No; (NA)—Not available.  
 (Source: National Institute of Urban Affairs, 1998)

## FUNCTIONAL CODES

### **Functions as per Twelfth Schedule of the Constitution (74th) Amendment Act**

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 purpose.
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. Burial, 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.

**Additional Functions Assigned by the States**

19. Licensing of trades & factories.
20. Reclamation of unhealthy localities, removal of noxious vegetation.
21. Erection of boundary marks, defining limits.
22. Regulation of offensive, dangerous trades.
23. Preparing returns, statements & reports.
24. Reclamation of unhealthy localities, removal of noxious vegetation, general abatement of all nuisances.
25. Giving relief, establishment in times of scarcity or general calamity.
26. Erection and maintenance of boundary marks defining the limits, alternation in the limits.
27. Construction, maintaining; aiding libraries.
28. Establishing scholarships.
29. Regulation of offensive & dangerous trades.

30. Encouragement of pisci culture, cultivation of vegetables.
31. Establishment of consumer cooperative stores & cottage industries.
32. Payment of rewards for the destruction of noxious animals or unclaimed dogs.
33. Enforcing building control.
34. Providing special medical aid for the sick in time of dangerous diseases, suppress, prevent the recurrence of diseases.
35. Giving immediate relief to persons rendered destitute by natural calamities.
36. Regulating or abating offensive or dangerous trade or practices.
37. Maintenance of monuments & memorials.
38. Provision of traffic signals.
39. Establishment of scholarships.
40. Crop protection & development.
41. Organisation, maintenance, management of chemical, bacteriological labs, examination of water.
42. Provision of anti-rabic treatment.
43. Regulation of traffic & traffic lights.
44. Establishing, maintaining, aiding physical culture.
45. Redevelopment of congested areas.
46. Abatement of pollutions of all kinds.



## TAXATION POWERS OF THE MUNICIPALITIES

Major States	Major taxes that could be levied as per the State Municipal Act												
	Property Tax/House Tax	Octroi	Water Tax	Lighting Tax	Drainage & Consery ancy Cess	Animal & Vehicle tax	Professional Tax	Trade & Callings Tax	Entertainment Tax	Terminal Tax	Advertisement Tax	Education Cess	Others
1	2	3	4	5	6	7	8	9	10	11	12	13	14
Andhra Pradesh	√	—	√	√	√	√	√	√	—	—	√	—	√
Assam	√	—	√	√	√	√	—	—	—	—	—	—	√
Bihar	√	—	√	√	√	√	√	√	√	—	√	√	√
Goa	√	—	√	√	√	√	√	√	√	NA	√	√	√
Gujarat	√	√	√	√	√	√	—	—	—	—	—	√	√
Haryana	√	—	√	√	√	√	√	√	√	√	NA	√	√
Himachal Pradesh	√	—	—	√	√	√	√	√	—	NA	—	√	√
Karnataka	√	—	√	√	√	√	√	—	—	—	√	—	√
Kerala	√	—	√	√	√	√	√	NA	√	NA	√	NA	√

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Madhya Pradesh	√	—	√	√	√	√	√	√	√	√	√	—	√
Maharashtra	√	√	√	√	√	√	√	√	√	—	√	√	√
Orissa	√	√	√	√	√	√	√	√	—	—	—	—	√
Punjab	√	—	√	—	√	√	√	√	—	—	—	—	—
Rajasthan	√	√	√	√	√	√	√	√	—	—	—	—	—
Tamil Nadu	√	—	√	√	√	√	√	√	—	NA	NA	√	√
Uttar Pradesh	√	—	√	√	√	√	√	√	√	√	—	—	√
West Bengal	√	—	√	√	√	√	√	√	—	—	—	—	√

Note (√) Yes; (—) No; (NA)—Not available.

(Source: National Institute of Urban Affairs, 1998)

## ANNEXURE IV

## STATE-WISE ALLOCATION OF LOCAL BODIES GRANTS BY TENTH FINANCE COMMISSION

## URBAN LOCAL BODIES

(Rs. in crores)

Sl.No.	Name of States	1995-96	1996-97	1997-98	1998-99	1999-2000	Total
1	2	3	4	5	6	7	8
1.	Andhra Pradesh	0.00	18.48	18.38	18.49	18.49	73.94
2.	Arunachal Pradesh	0.00	0.03	0.03	0.03	0.03	0.12
3.	Assam	0.00	3.55	3.55	3.55	3.55	14.20
4.	Bihar	0.00	16.77	16.77	16.78	16.77	67.09
5.	Goa	0.00	0.00	0.00	0.00	0.00	0.00
6.	Gujarat	0.00	16.87	16.86	16.86	16.87	67.46
7.	Haryana	0.00	4.15	4.15	4.14	4.14	16.58
8.	Himachal Pradesh	0.00	0.51	0.51	0.51	0.52	2.05
9.	Jammu & Kashmir	0.00	3.02	3.02	3.02	3.03	12.09
10.	Karnataka	0.00	17.54	17.55	17.55	17.55	70.19

1	2	3	4	5	6	7	8
11.	Kerala	0.00	6.36	6.36	6.36	6.35	25.43
12.	Madhya Pradesh	0.00	15.44	15.44	15.43	15.43	61.74
13.	Maharashtra	0.00	33.24	33.24	33.23	33.24	132.95
14.	Manipur	0.00	0.56	0.56	0.56	0.55	2.23
15.	Meghalaya	0.00	0.37	0.37	0.37	0.36	1.47
16.	Mizoram	0.00	0.09	0.09	0.10	0.10	0.38
17.	Nagaland	0.00	0.14	0.14	0.14	0.14	0.56
18.	Orissa	0.00	4.78	4.78	4.78	4.77	19.11
19.	Punjab	0.00	7.65	7.65	7.65	7.65	30.60
20.	Rajasthan	0.00	10.80	10.80	10.79	10.79	43.18
21.	Sikkim	0.00	0.14	0.14	0.15	0.15	0.58
22.	Tamil Nadu	0.00	28.88	28.88	28.88	28.88	115.52
23.	Tripura	0.00	0.26	0.26	0.25	0.26	1.03
24.	Uttar Pradesh	0.00	30.29	30.29	30.30	30.30	121.18
25.	West Bengal	0.00	30.08	30.08	30.08	30.08	120.32
	Total	0.00	250.00	250.00	250.00	250.00	1000.00

## ANNEXURE V

## STATE-WISE ALLOCATION OF LOCAL BODIES GRANTS BY ELEVENTH FINANCE COMMISSION

## URBAN LOCAL BODIES

(Rs. in lakhs)

Sl.No.	Name of States	2000-01	2001-02	2002-03	2003-04	2004-05	Total
1	2	3	4	5	6	7	8
1.	Andhra Pradesh	3293.14	3293.14	3293.14	3293.14	3293.14	16465.7
2.	Arunachal Pradesh	13.67	13.67	13.67	13.67	13.67	68.35
3.	Assam	430.84	430.84	430.84	430.84	430.84	2154.2
4.	Bihar	1340.94	1340.94	1340.94	1340.94	1340.94	6704.7
5.	Chhattisgarh	572.23	572.23	572.23	572.23	572.23	2681.15
6.	Goa	92.73	92.73	92.73	92.73	92.73	463.65
7.	Gujarat	2650.46	2650.46	2650.46	2650.46	2650.46	13252.3
8.	Haryana	732.8	732.8	732.8	732.8	732.8	3664
9.	Himachal Pradesh	77.84	77.84	77.84	77.84	77.84	389.2
10.	Jammu & Kashmir	313.16	313.16	313.16	313.16	313.16	1565.8
11.	Jharkhand	537	537	537	537	537	2685

1	2	3	4	5	6	7	8
12.	Karnataka	2496.39	2496.39	2496.39	2496.39	2496.39	12481.95
13.	Kerala	1504.91	1504.91	1504.91	1504.91	1504.91	7524.55
14.	Madhya Pradesh	2548	2548	2548	2548	2548	12740
15.	Maharashtra	6325.09	6325.09	6325.09	6325.09	6325.09	31625.45
16.	Manipur	87.92	87.92	87.92	87.92	87.92	439.6
17.	Meghalaya	53.98	53.98	53.98	53.98	53.98	269.9
18.	Mizoram	76.89	76.89	76.89	76.89	76.89	384.45
19.	Nagaland	35.72	35.72	35.72	35.72	35.72	178.6
20.	Orissa	799.2	799.2	799.2	799.2	799.2	3996
21.	Punjab	1094.53	1094.53	1094.53	1094.53	1094.53	5472.65
22.	Rajasthan	1988.32	1988.32	1988.32	1988.32	1988.32	9941.6
23.	Sikkim	4.16	4.16	4.16	4.16	4.16	20.8
24.	Tamil Nadu	3867.34	3867.34	3867.34	3867.34	3867.34	19336.7
25.	Tripura	80.32	80.32	80.32	80.32	80.32	401.6
26.	Uttar Pradesh	4557.64	4557.64	4557.64	4557.64	4557.64	22788.2
27.	Uttaranchal	475	475	475	475	475	2375
28.	West Bengal	3949.78	3949.78	3949.78	3949.78	3949.78	19748.9
	Total	40000	40000	40000	40000	40000	200000

## ANNEXURE VI

## REVENUE AND EXPENDITURE ULBs DURING 1999-2000 TO 2001-2002

(Rs. in crore)

State	Revenue generated				Expenditure				Gap			
	1999-2000	2000-01	2001-02	Total	1999-2000	2000-01	2001-02	Total	1999-2000	2000-01	2001-02	Total
Assam	19	26	28	73	21	28	30	79	-2	-2	-2	-6
Chhattisgarh	154	213	252	619	158	230	258	646	-4	-17	-6	-27
Haryana	80	79	101	260	93	88	101	282	-13	-9	0	-22
Himachal Pradesh	18	20	20	58	45	50	56	151	-27	-30	-36	-93
Jammu & Kashmir	10	11	12	33	58	70	80	208	-48	-59	-68	-175
Punjab	663	721	714	2098	495	704	728	1927	168	17	-14	171
Rajasthan	527	629	758	1914	512	617	689	1818	15	12	69	96
Tamil Nadu	243	564	507	1314	475	532	541	1548	-232	32	-34	-234
Tripura	2	2	3	7	16	17	20	53	-14	-15	-17	-46
Uttar Pradesh	230	244	277	751	959	987	1016	2962	-729	-743	-739	-2211
West Bengal	362	379	424	1165	1032	1172	1249	3453	-670	-793	-825	-2288
Grand Total	2308	2888	3096	8292	3864	4495	4768	13127	-1556	-1607	-1672	-4835

## GIST OF THE RECOMMENDATIONS OF SFCs (STATE-WISE)

Sl. No.	Name of the State/UT	Main recommendations of SFC	Action taken
1	2	3	4
1.	Karnataka	<ol style="list-style-type: none"> <li>1. Transfer of one consolidated share in the entire non-loan gross revenue receipt of the State Govt. to ULBs and Panchayati Raj Institutions.</li> <li>2. Replacement of the system of share of a portion of some specific taxes of State Govt. by a share in the total 'non-loan gross own revenue receipts' of the State Govt. This divisible pool of the resources between the State and local bodies would include gross yield from all taxes, duties and the State's share of Central revenues transferred on the recommendations of the National Finance Commission. However, loan receipts from the divisible pool may be excluded as they involve repayment obligation.</li> </ol>	<p>Though Government of Karnataka has accepted the report of SFC, it could not regulate the release of funds to the ULBs on the same principles and quantum recommended in the report, because of the developments that took place subsequent to submission of the report like several new areas were converted into ULBs, areas which were earlier in notified area around Bangalore, subsequent to submission of report of SFC were converted into seven city municipal Council, and some variance was also found with the parameters used in the report to that of actuals as per Government documents.</p>



3. The share of ULBs and Panchayat Raj Institutions in the divisible pool may be increased from the present 34.27% to 36% starting with 1996-97 up to 2000-2001.
4. The recommendations of the Commission with regard to financial devolution should be implemented in percentage Terms and not in absolute amounts.
5. For the purpose of allocating these funds between urban and rural areas, the Commission recommends the use of the 5 indicators—population (1991 census), area (1991 census), illiteracy (1991 census), number of persons per hospital bed (1991 census/1995) and road lengths per sq. km (1991 census)
6. The respective weights to these indicators shall be—population (33.33%), area (33.33%), illiteracy (11.11%), number of persons per hospital bed (11.11%) and

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road length per sq. km. (11.12%). A share of 15% out of the total amount devolved to ULBs and other non-municipal urban areas and 85% to Panchayat Raj institutions for a period of 5 years starting from 1996-97 is recommended.

7. The funds made available to ULBs under the award of the Tenth Finance Commission should be treated as additionally and not as a part plan funds as misinterpreted by Union Finance Ministry and earmarked entirely for reconstruction, improvement and repair purposes.
  8. Karnataka's share as per recommendations of the Tenth Finance Commission for improved and repairs of specific assets of ULBs over the next five years and should not be used for any other purpose.
  9. This amount may be distributed among the ULBs on the same criteria, which has
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		<p>been used by the commission to recommend their share in the State Govt.'s revenue.</p>	
2.	Chhattisgarh	<p>Recommendations of the Madhya Pradesh State Finance Commission have been made applicable in relation to the State of Chhattisgarh. The main recommendations are indicated against S.No. 3 below.</p>	<p>Though Chhattisgarh State Finance Commission is still to be constituted, the report accepted by the Govt. of Madhya Pradesh is in force in this State.</p>
3.	Madhya Pradesh	<ol style="list-style-type: none"> <li>1. In order to enable the ULBs to render basic services, the State Govt. should release to the ULBs Rs. 407 crores in 1996-97 from its Consolidated Fund, in terms of Article 243Y(a) of the Constitution.</li> <li>2. The above funds accounting for 8.669% of tax and non-tax revenue of the preceding year would be in accordance with the principle of "global sharing" which means the principle of universal partnership of resources. On the basis of</li> </ol>	<p>The SFC had suggested release of grants at the rate of 8.66 per cent of the receipt to the State from tax and non-tax revenue. The State Govt. has principally accepted the recommendations of the SFC to release the share of its receipts to ULBs at a lower rate of 0.516 percent.</p>

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this percentage, funds are to be released in the coming years also.

3. For district-wise allocation of the above funds, 40% weightage should be given to urban population, 35% to sales tax contribution, 15% to backwardness, SC/ST population (Urban) and 10% to the level of infrastructure for development (inverse of per capita electricity consumption in urban areas).
  4. There should be no deduction of any type from the funds to be devolved to ULBs and payment should be made in twelve equal monthly instalments.
  5. The State Govt. should continue to transfer to the ULBs, the special grant-in-aid in lieu of abolition of passenger tax, and payment of fees, penalties and other receipts, payable to them under different Acts.
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		<ul style="list-style-type: none"> <li>6. The base of entry tax should be made practical and broad and its rate structure should be rationalized.</li> <li>7. With the objectives of balancing revenue and expenditure of ULBs, the cost of public utility services should be recovered by charging appropriate fees from the users of services.</li> <li>8. An Urban Infrastructure Development Fund should be created for investment in infrastructure development of the urban local bodies.</li> <li>9. A data bank should be developed to ensure the availability of up-to-date reliable data for making financial review of urban local bodies.</li> </ul>	
4.	Uttar Pradesh	1. Devolution of the 7% of the net proceeds of the total tax revenue of the state Government to the ULBs.	The State Govt. has accepted the recommendation of the SFC.

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		<p>2. The inter-se distribution of the 7% of net proceeds is, 3.12% each for Municipal Corporations and Municipalities and the remaining 0.76% for Town Panchayats.</p> <p>3. SFC has recommended the criteria of 80% population and 20% area for devolution of net proceeds for state's tax revenue to the three categories of ULBs and determine their inter-se percentage share accordingly in 3.12% of net proceeds earmarked each for Municipal Corporations and Municipalities and 0.76% of net proceeds earmarked for Town Panchayats.</p>	<p>On the basis of the recommendations of Ist SFC following funds have been developed to the local bodies year-wise:</p> <table border="0"> <tr> <td data-bbox="1361 571 1451 595">1997-98</td> <td data-bbox="1720 571 1874 595">440.83 crore</td> </tr> <tr> <td data-bbox="1361 619 1451 643">1998-99</td> <td data-bbox="1720 619 1874 643">537.33 crore</td> </tr> <tr> <td data-bbox="1361 667 1480 691">1999-2000</td> <td data-bbox="1720 667 1874 691">573.55 crore</td> </tr> <tr> <td data-bbox="1361 715 1451 738">2000-01</td> <td data-bbox="1720 715 1874 738">621.87 crore</td> </tr> </table>	1997-98	440.83 crore	1998-99	537.33 crore	1999-2000	573.55 crore	2000-01	621.87 crore
1997-98	440.83 crore										
1998-99	537.33 crore										
1999-2000	573.55 crore										
2000-01	621.87 crore										
5.	Tamil Nadu	<p>1. In levy of property tax, the system of assessing property tax on plinth area method may be introduced, dispensing with the rental-basis method.</p> <p>2. Computerization of property tax register for quick service delivery. The State Govt. has accepted the recommendation. The</p>	<p>Recommendations are accepted and implemented.</p>								

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		<p>issue of birth and death certificate, property tax, water charges accounts etc. have been computerized in municipalities.</p> <p>3. SFC has recommended the levy of advertisement charges on advertisement boards and Cable TVs.</p> <p>4. SFC has suggested that an initial share of 8% of the total income of the State earned tax revenue and an incremental increase going up to 12% at the end of the award period. The State Govt. has accepted the recommendation giving 8% but did not give any incremental increase.</p> <p>5. SFC has recommended to approach the capital market for borrowing to meet the civil norms set by the SFC.</p>	
6.	Haryana	<p>1. Transfer of 20% of the net receipts on account of taxes on vehicles to the ULBs and the said recommendations have already been implemented;</p>	<p>Recommendations are accepted.</p>

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2. To transfer 25% of the net income from entertainment duty to the ULBs on the basis of origin instead of 50% of the net proceeds. The entire net income from show tax is also to be transferred to the ULBs on the basis of origin. Total devolution for 2000-2001—Rs. 3.5 crore approx. and the said recommendations have already been implemented.
3. Increase in tax on consumption of electricity within the municipal limits from 1 paisa to 5 paise per unit. Total devolution for 2000-2001 is likely to be Rs. 8.32 crore and the said recommendations have already been implemented; and
4. Rs. 35.34 crore including waiver of loans of Rs. 32.50 crores outstanding against MCs from 70-71 to 95-96, waiver of Rs. 2.66 crore outstanding against MCs towards Local Bodies Dte. and Rs. 0.18 crore



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7. Assam		<p>for strengthening of Local Govt. Dte. and the said recommendations have already been implemented.</p> <ol style="list-style-type: none"> <li>1. The ULBs have been instructed to maintain Registers and Forms for proper accounts and records.</li> <li>2. The existing rates and units of taxes may continue for transfer as share to local bodies with an additional 10% of net proceeds of Motor Vehicle Tax. The total percentage of share of State Taxes for transfer to local bodies should be 2% in each year.</li> <li>3. Funds may be provided by the State Govt. to Local Bodies for implementation of development programmes of core subjects. The funds as per 10<sup>th</sup> Finance Commission recommendations to be distributed to local bodies as per 1971 census population basis.</li> </ol>	<p>The State Govt. accepted the recommendations of the SFC with respect to Debt Relief of the Municipality/Town Committee.</p>

4. The SFC recommended that assessment of Property Tax should be made in every 5 years and user charges should be levied for services rendered by the local bodies on parks, public toilets, public health centres etc.
5. The Commission recommended for transfer of subjects for registration of Birth and Death Certificate from Health and Family Welfare Deptt. to Local Bodies so that they can earn revenue by issuing the said Certificates.
6. Besides, Local Bodies have been instructed from time to time to gear up the resources through proper collection of taxes on property on the basis of existing rules.
7. Outstanding State Govt. loan as on 31.3.1996 against the municipalities is to be consolidated into a single block loan to be repaid in 30 annual equal

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		instalments with interest of 5% per annum, with effect from 1996-97.	
8.	Rajasthan	Details of recommendations of the SFC have not been received.	The State Govt. has mentioned that they have accepted all the recommendations of the SFC and have implemented the same.
9.	Punjab	<ol style="list-style-type: none"> <li data-bbox="741 695 1352 935">1. The Commission had recommended devolution of 20% of the net proceeds of the state taxes <i>i.e.</i> Stamp Duty, Punjab Motor Vehicles Tax, Electricity duty and Cinematography Shows Tax, to the local bodies and PRIs in accordance with the recommended principles of sharing.</li> <li data-bbox="741 959 1352 1193">2. The 1<sup>st</sup> FC had recommended 3 types of grants to urban local bodies and PRIs: (i) General Purpose Grants (ii) Specific purpose grants for specific projects and (iii) Incentive grants to encourage own efforts of the local bodies to raise internal resources.</li> </ol>	<ol style="list-style-type: none"> <li data-bbox="1352 695 1872 756">1. This recommendation has been accepted by the Govt.</li> <li data-bbox="1352 959 1872 1058">2. No decision has been taken by the State Government on this recommendation.</li> </ol>

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	<p>3. Enhancement of Additional Excise Duty: The Commission recommended that additional excise duty may be enhanced from 7% to 10% on country liquor and 16% to 20% on Indian made liquor and whole amount passed on to the urban local bodies.</p> <p>4. The SFC observed that the fundamental domain of the municipalities suffered from lack of clarity and precisions. Keeping in view of the illustrative list given in the twelfth schedule the SFC had recommended a set of duties classified as obligatory and discretionary.</p>	<p>3. The State Government has accepted the recommendation to enhance additional excise duty payable to ULBs from 7% to 10%.</p> <p>4. The State Govt. had passed a comprehensive municipal bill which clearly sets out in detail the obligatory and discretionary functions of the municipalities.</p>	
10. Himachal Pradesh	Details of main recommendations of SFC have not been received.	The 1 <sup>st</sup> State Finance Commission has submitted its report to the Govt., which was accepted by the Govt. <i>in toto</i> and the recommendations thereof are being implemented by the State for improving the financial position of the ULBs.	

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		<p>Action taken report on the recommendations made in the 1<sup>st</sup> Maharashtra Finance Commission to the Govt. on 31.1.1997.</p> <p>The State Finance Commission of Maharashtra have made recommendations covering the following topics:</p> <ol style="list-style-type: none"> <li>1. Devolution of grants and taxes:           <ol style="list-style-type: none"> <li>(a) Percentage of Dearness Allowance grant should be 90% for A Class and 100% for B and C Class Municipalities.</li> <li>(b) The amount of grant to Municipalities by way of land revenue be increased from 15% to 75%.</li> </ol> </li> </ol>	<p>Budgetary provisions are being made as per the scheme of devolution recommended by the SFC and funds are being released to the ULBs strictly as per their recommendations.</p> <p>State Govt. has accepted the most of the recommendations of the SFC. However, certain recommendations relating to devolution and Profession tax share to Nagar Palikas not accepted by the State Govt.</p>

- (c) The revised share of entertainment tax should be 50%, 90% and 100% for A, B and C class Municipalities respectively and 25% for Municipal Corporation.
- (d) 25% of net income from vehicle tax should be allocated as “Tax share” to all Urban Local Bodies.

2. Taxes and Fees:

- (a) Revaluation of the properties in Urban Areas should be done on regular basis.
  - (b) In the rate of Property Tax, the maximum limit of the range should be removed and only the minimum rates should be kept.
  - (c) Efforts should be made through frequent revisions to reach the maximum limit of rates of tax as fixed in the relevant Acts.
  - (d) The user charges and fees should be commensurate with the cost of providing the service to increase the revenue.
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3. Administrative Reforms:

- (a) To keep a control on establishment expenditures, a common policy of pay scales and allowances for all Urban Local Bodies is necessary.
- (b) All municipalities should prepare a separate budget for water supply to evaluate the performance of the activity.
- (c) Areas like garbage collection, maintenance of street lights/parking lots could be considered for privatisation.

4. Audit Inspection:

- (a) Each Municipality should have a Small Integral Audit Wing.
- (b) The recoveries should be completed within 2 years from the concerned persons or organizations and technical objections, if any, should be got settled.

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5. Statistical Data Bank:

- (a) There is a need for setting up of a Data Bank on the financial position of Local Bodies.

The State Government after considering the above recommendations have accepted most of them.

12. Gujarat

- 1. Urban Local Bodies are paid grant-in-aid for various types of roads as per the rates per kilometer. Grant in aid should be paid for construction of roads as per the recommendations of study group of the Tenth Central Finance Commission. Grant in aid for this purpose should be paid at the rate of 4% of expenditure incurred for constructing new road till the percentages are worked out according to the new formula. As the amount collected by the municipalities by way of motor vehicle

- 1. Grant in aid for maintenance of roads should be given as per the present formula of Roads & Buildings Department.

Recommendation of discontinuing grant in aid under the Motor Vehicles Tax Act is accepted.



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tax is meagre, collection of this tax should be discontinued. Grant in aid being given for this tax should also be discontinued.

2. As the professional tax is of the nature of local tax, urban local bodies should be paid 50% of the amount of recovered by it.

3. Process of allocating entertainment tax is complex. Therefore, it is required to be simplified. Municipal Finance Board should be given an autonomous status so that it has not to approach frequently for making proposals to the government. Board can refinance after obtaining loan from national and international institutions. At present 50% amount of entertainment tax is given to urban local bodies. This should be increased to 75%. As the incentive scheme introduced by the Gujarat Municipal Finance Board is not effective, it should be discontinued. For

2. Recommendation accepted.

3. Recommendation of giving 75% amount of entertainment tax instead of 50%, is accepted. However, additional amount of 25% should be allotted to municipalities for Bajpai Nagar Vikas Yojana.

improving basic facilities, urban local bodies should deposit 1% revenue of tax. Against this, State Government should given double the amount deposited by the urban local bodies. Out of this amount Board may give loan to municipalities at two-percent less than the average rate of interest charged by the Board.

4. Changes should be made in the rates of recovery expenses. At present non-authorized municipalities are paid 5% of the amount of education cess recovered by them. It is recommended that non-authorized municipalities should be paid 10% of the amount recovered, if recovery is made is more than 50% of the demand, no recovery expenses should be paid. Urban Local Bodies, which undertake the work of primary education, will be entitled to receive 100% of the amount collected by them. Non-authorized

4. Recommendation is accepted.

municipalities should be given 10% instead of 5% as recovery expenses.

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| <p>5. 75% of assessment on agricultural land is paid as grant-in-aid to the urban local bodies. This should be raised to 85%. Amount of conversion tax of agricultural land to non-agricultural land is not being paid to urban local bodies as grant-in-aid. 85% non-agricultural assessment should be paid in one instalment through Collector.</p> <p>6. Land revenue (agricultural) should be continued. At present 35% of land revenue amount is given as grant-in-aid. This should be increased to 85%.</p> <p>7. Local cess shall be increased from 50 paise to one rupee. Rates of land revenue should be doubled which will result in fourfold increase in the amount of local cess.</p> | <p>5. It has been decided to give 100% amount of non-agricultural assessment through Collector instead of 85% as recommended. Recommendation of giving grant-in-aid in respect of conversion tax of land is not accepted.</p> <p>6. Recommendation is not accepted.</p> <p>7. It has been decided to discontinue collecting local cess and irrigation cess.</p> |
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| <p>8. With a view to give grant-in-aid, the State Government has imposed surcharges at the rate of 25% of stamp duty since 1988-89 on documents of property of urban local bodies. This amount has since not been paid to the urban local bodies. The amount of surcharge amounting to Rs. 12708 lakhs accumulated for the years 1988-89 to 1997-98 should be credited to the Revolving Fund of Gujarat Municipal Finance Board in five instalments for development works. Urban local bodies should be paid the amount of surcharge from the year 1998-99.</p> <p>9. As entertainment tax on cable TV/dish antenna is of the nature of local tax, it should be given to urban local bodies. It should be distributed on 50%-50% basis between the State Government and urban local bodies. Urban local bodies should collect this tax under the supervision of Commissioner of Entertainment.</p> | <p>8. Recommendation is accepted, but its implementation will be made from the year 2000-01. Amount available from stamp duty surcharge will have to be given to municipalities for Bajpai Nagar Vikas Yojana.</p> <p>9. Recommendation is accepted.</p> |
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		10. Wherever grant-in-aid is given on the basis of 1981 census, figures of 1991 should be taken into account.	10. Recommendation is accepted.
		11. At present urban local bodies are given grant-in-aid in respect of pay and allowances at the rate of 33 $\frac{1}{3}$ % of total expenditure incurred for sanctioned post keeping in view in the rates of property tax/consolidated tax.	11. After taking into consideration of the recommendation Nos. 11 & 15 for grant in aid, it has been decided to club both the recommendations and give grant in aid of Rs. 35 per capita. This should be increased, after every three/four years.
		12. Authorised municipality should keep 100% amount of education cess and non-authorised municipalities should keep 10% as recovery expenses and 90% should be given to district Panchayat.	12. Recommendation is accepted.
		13. If "A" and "B" class municipalities does not want to get this work done by Gujarat Water Supply and Sewerage Board, they should be allowed to do this work. "C" and "D" class municipalities will have to get this work done by the Board.	13. All the municipalities, which desire to undertake the work of water supply and drainage on its own, should be allowed to do such work.

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		14. At the time of natural calamities, municipal corporations, "A" & "B" class municipalities and "C" & "D" class municipalities should be provided 25%, 50% & 75%, respectively of the relief expenditure incurred by them.	14. All possible relief should be provided at the time of natural calamities keeping in view of the expenditure incurred by urban local bodies.
		15. Rates of grant-in-aid in respect of per capita basic grant given to various types of urban local bodies should be doubled. The grant should be paid at Rs. 2, 3, 5 per head to class A, B and C&D respectively.	15. As mentioned again Recommendation No. 11.
		16. Dispensaries, hospitals, maternity homes and child welfare centres should be paid grant-in-aid at the rate of 40% for "A" class, 50% for "B" class and 60% for "C" & "D" class municipalities of the total admissible expenditure. Upper ceiling fixed in this regard should be removed.	16. Recommendation is accepted.
		17. 20% of the amount of district plan earmarked for decentralized district plan	17. Present system of utilizing grant of district planning board should be

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		is to be allocated. This amount should be distributed and the municipalities shall get 10.78% and municipal corporation 8.146% of the total grant.	continued. As far as possible, 20% amount should be distributed.
		18. Director of municipalities and Gujarat Municipal Finance Board should periodically review the position of Government dues for each urban local body.	18. Recommendation is accepted.
		19. Two percent rebate should be given to those urban local bodies which pay loan instalment regularly.	19. Recommendation is accepted.
		20. A tax/Tariff Commission should be constituted to fix minimum and maximum rate of tax in every five years.	20. Recommendation is accepted.
		21. To make compulsory for municipalities to impose property tax, water tax and sanitation tax.	21. Recommendation is accepted.
		22. Octroi should be continued till its alternative is found. Recommendations of	22. Recommendation is accepted.

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		the report of the committee appointed for fixing minimum/maximum rates of octroi should be implemented.	
		23. Licence fee should be introduced for drawing water from underground water resources. Tax/tariff commission should fix rate of licence fee.	23. Recommendation is accepted.
		24. Assessment of property tax should be made keeping in view the nature of assets, carpet area, age of assets and use of the assets.	24. Recommendation is accepted.
		25. Property tax on open private plots should be assets keeping in view its market prices.	25. Recommendation is accepted.
		26. Urban local bodies should be empowered to collect tax on all advertisements except newspaper advertisements.	26. Recommendation is accepted.
		27. Privatisation of services should be introduced wherever it is possible.	27. Recommendation is accepted.



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		28. Urban local bodies should be empowered to fix rates of transport and there should be no need to get the sanction from Regional Transport Authority or the State Government.	28. Recommendation is not accepted in view of the legal provision.
		29. A Special tribunal should be constituted to settle the disputes of employees of urban local bodies. And Urban local bodies should be excluded from the purview of Industrial Disputes Act.	29. Recommendation is not accepted.
		30. Books of Municipal Account Code should be made available. An expert committee should be formulated to suggest amendments.	30. Recommendation is accepted.
		31. Financial powers under section 65(2) of the Gujarat Municipalities Act 1963 should be amended to provide for the ceiling to be fixed by way of notification as may be decided by the State Government from time to time.	31. Recommendation is not accepted.

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		32. State Government should bear the expenditure in respect of elections to municipalities.	32. Municipalities having population more than 1 lakh should bear the expenditure of election. Election expenditure for other urban local bodies should be borne by the State Government.
		33. Government open land in urban areas should be handed over to municipalities for maintenance.	33. Recommendation is not accepted.
		34. Urban local bodies should be exempted from paying sales tax on the basis of "P" Form as applicable to government offices, for purchase of material performing the functions of compulsory and discretionary duties prescribed in the Act.	34. Recommendation is accepted.
		35. Recommendation should be sent to the Central Government for declaring "Ahmedabad" as mega city.	35. Recommendation is accepted.
		36. The term of office of the President/Mayor should be increase to two and a half years from present one year.	36. Recommendation is accepted.

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13.	Andhra Pradesh	<ol style="list-style-type: none"> <li>1. Govt. may provide Rs. 31 crores per annum for the year 1998-99 and 1999-2000 for developmental works in municipal bodies.</li> <li>2. Rs. 18 crores may be provided from 1997 onwards for water supply schemes in municipal areas after setting off the Tenth Finance Commission grant.</li> <li>3. Municipal Councils may be empowered to enhance the user charges for water supply.</li> <li>4. As regards ULBs, an amount of Rs. 94.00 crores recommended may be released based on per capital requirement grade-wise, as per weightage i.e. population—40%, area (excluding slum area)—40%, and area of slums in each municipality—20%.</li> <li>5. Property tax compensation may be enhanced by 5% every year.</li> </ol>	The State Govt. has accepted these recommendations of the SFC.

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14. Kerala		<p>6. Octroi compensation may be increased by 10% every year.</p> <p>7. Increase of Motor Vehicle Tax compensation to municipal bodies.</p> <p>8. Per capita grant to municipal bodies may be increased from Rs. 4 to Rs. 8.</p> <p>9. A special grant of Rs. 50,000 may be sanctioned as and when a Gram Panchayat is converted into a municipality.</p> <p>10. The Govt. should give grant-in-aid to the municipal bodies towards payment of pension to the non-teaching municipal employees by following the procedure being adopted in the case of payment of salaries to the Panchayat Raj Teachers.</p> <p>11. There should be no government interference in matters relating to taxation.</p> <p>Information sought from the State Government.</p>	

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15.	Manipur	Information sought from the State Government.	
16.	Orissa	<p>Surcharge on Entertainment Tax: (a) Rs. 44.85 lakhs per annum from 1998-99 be released to ULBs. This should not include surcharge payable by Cuttack, Bhubaneswar, Puri, Berhampur, Sambalpur and Rourkela municipalities. (b) Surcharge collected through compounding system in the above six municipalities be paid to them.</p> <p>Surcharge on Stamp Duty: (a) Surcharge on Stamp Duty should be levied @ 3% both in urban and rural areas of the State and not necessarily be confined to the areas coming under the Planning Authority/Improvement Trust/Dev. Authority. (b) Collection charges and incidental charges should be at a uniform rate of 2% for all the areas. (c) From 1998-99 pending amendment of Act and Rules Rs. 200.91 lakhs be paid to different Dev. Authorities/Planning Authorities.</p>	These recommendations have been accepted and approved by the State Government.

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Apportionment of Motor Vehicle Tax: From 1998-99 Rs. 15.00 crores be given as grant to municipalities and NACs from the collections of M.V. Tax for maintenance of roads (Rs. 9.00 crore to the municipalities + Rs. 6.00 crore to the NACs.

Imposition of Entry Tax in lieu of Octroi: Follow up action would be taken by F.D. in consultation with H&UD Dept.

Grant-in-aid to ULBs for salaries, etc.: (a) As per the agreed pattern, Govt. to bear 53% to pay and 50% of D.A. for the non-teaching posts approved up to 1.1.74 (6984 posts) and for the teaching posts (1510) approved prior to 1.11.76 of 80 ULBs. 22 ULBs emerging after 1.1.74 and 1.11.76 will not be eligible for any grants.

Utilization of T.F.C. Grants: In respect of ULBs State's matching share comprising 2/3 of the TFC's award is to be borne by

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the State Government. Total TFC Grant is Rs. 19.11 crores.

Other Recommendations:

1. The ULBs should be empowered to issue no due certificate to the aspirant loanee for availing loans from Govt., Semi-Govt. and financial institutions.
  2. Various departmental roads along with proportionate maintenance grant be transferred to ULBs.
  3. Administrative control & the salary cost etc. of health staff working in ULBs be transferred and also the maintenance of electricity (street lights) and sewerage line.
  4. Garbage disposal and improvement of sanitation in ULBs could be privatised.
  5. Govt. of India be moved to provide funds for upgrading the market places, library, play grounds and rehabilitation centres of the ULBs.
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		6. H&UD Dept. & P.R. Dept. to be provided Rs. 5.00 lakhs each to impart training to officials and selected representatives of ULBs.	
17. West Bengal		Information sought from the State Government.	