

Chapter-III
Compliance with provisions of
74th CAA

3.1 Comparison of State level legislations with 74th CAA

The 74th CAA introduced certain provisions relating to Municipalities vide Article 243Q to 243ZG. The State Government enacted the Himachal Pradesh Municipal Corporation Act (HPMC Act) and Himachal Pradesh Municipal Acts (HPM Act) on 18 October 1994 with introduction of provisions corresponding to the CAA provisions as detailed in **Table 3.1**.

Table-3.1: Comparison of State level legislations with the provisions of 74th CAA

Provision of Constitution of India	Requirement as per provision of Constitution of India	Sections of HPMC and HPM Act, 1994	
		HPMC	HPM
Article 243Q	Constitution of Municipalities provides for three types of municipalities namely a Nagar Panchayat for transitional area, a Municipal Council for a smaller urban area and a Municipal Corporation for a larger urban area.	03	03
Article 243R	Composition of Municipalities: All seats shall be filled by direct elections and by persons with special knowledge in municipal administration nominated by Government. The Legislature of a State may by law, provide for representation to the Municipality, Members of Parliament and Legislative Assembly whose constituencies lie within the municipal area and State Legislative Council who are registered as electors within the city.	04	10
Article 243S	Constitution and composition of Ward Committee: This provides for constitution of Ward Committees in all municipalities with a population of three lakh or more.	44C	51C
Article 243T	Reservation of seats: The seats to be reserved for Scheduled Caste (SC)/Scheduled Tribe (ST), Women and Backward classes for direct election.	10	11
Article 243U	Duration of Municipalities: The municipality has a fixed tenure of 5 years from the date of its first meeting and re-election to be held before the expiry of its term and within six months from the date of dissolution, if dissolved.	05	14
Article 243V	Disqualifications for membership: A person shall be disqualified for a member of a Municipality- <ul style="list-style-type: none"> • If he is so disqualified by or under any law for the time being in force for the purposes of elections of the Legislature of the State concerned. • If he is so disqualified by or under any law made by the Legislature of the State. 	08	16

Article 243W	<p>Powers, authority and responsibilities of the Municipalities: All municipalities would be empowered with such powers as may be necessary to enable them to function as effective institutions of self-government. The State Government shall entrust with such powers and authority to enable them to carry out the responsibilities in relation to the 12th Schedule.</p>	42	48
Article 243X	<p>Power to impose taxes by, and funds of the Municipalities:</p> <ul style="list-style-type: none"> • Municipalities would be empowered to levy and collect the taxes, fees, duties etc. • Assign taxes, duties, tolls and fees levied and collected by State Government. • Grant-in-aid would be given to the Municipalities from the Consolidated Fund of State. • Constitution of funds for crediting and withdrawal of money by Municipalities. 	84 & 85, 79 (a-ii & iii) & 69	65 & 66, 69, 64 (a-ii & iii), 52
Article 243Y read with Article 243I	<p>Finance Commission: State Government shall constitute Finance Commission for</p> <ul style="list-style-type: none"> • Review the financial position of the Municipalities and taking such steps that help in boosting the financial condition of the Municipal bodies • Distributing between the State and the Municipalities of the net proceeds of the taxes, fees, tolls and duties that are charged by the State Government. • Allotting the funds to the municipal bodies in the state from the consolidated fund of the State. 	79	64
Article 243Z	<p>Audit of accounts of Municipalities: This provides provision for maintenance of accounts by the Municipalities and the auditing of such accounts.</p>	161	252 & 255
Article 243ZA read with Article 243K	<p>Elections to the Municipalities: Superintendence, direction and control of all procedure of election of the Municipalities shall be vested in the State Election Commission (SEC).</p>	09	281
Article 243ZD	<p>Committee for District Planning:</p> <ul style="list-style-type: none"> • Constitution of District Planning Committee at district level. • Composition of District Planning Committee. • Preparation of draft development plan and forwarding to the Government. 	421	261

The State statutes complied with the provisions of the 74th CAA. However, compliance to the constitutional provisions by law does not guarantee effective decentralisation on ground, unless the same is also followed by effective implementation of functions enlisted in Twelfth Schedule of Constitution.

Audit observed that the legal provisions were not backed by decisive actions with regard to actual implementation, resulting in a situation in which the spirit of 74th CAA was not completely upheld. This was especially true in case of provisions pertaining to the devolution of functions and creation of appropriate institutional mechanisms for effective decentralisation, which have been discussed in the subsequent chapters.