

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 municipal bodies as incorporated in Articles 243Q to 243ZG. The State Government vide amendments to HM Act and enactment of the HMC Act, introduced provisions corresponding to the 74th CAA provisions as indicated in **Table 3.1**.

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

Provisions of Constitution of India	Requirement as per provisions of Constitution of India	Provision of State Act/Acts (Section-wise)
Article 243Q	Constitution of Municipalities: It provides for constitution of 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.	Section 2 (A) of HM Act and Section 3 of HMC Act
Article 243R	Composition of Municipalities: All the seats in a Municipality 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 Members of the Council of States and State Legislative Council who are registered as electors within the city.	Section 9 of HM Act and Section 4 of HMC Act
Article 243S	Constitution and composition of Wards Committee: This provides for constitution of Wards Committees in all municipalities with a population of three lakh or more	Section 34 of HM Act and Section 10 of HMC Act
Article 243T	Reservation of seats: The seats to be reserved for Scheduled Caste (SC)/Scheduled Tribe (ST), Women and Backward Classes for direct election.	Section 10 of HM Act and Section 11 of HMC Act
Article 243U	Duration of Municipalities: The municipality has a fixed tenure of five years from the date of its first meeting and re-election to be held within the six months of end of tenure.	Section 12 of HM Act and Section 5 of HMC Act
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. 	Section 13 (A) of HM Act and Section 8 of HMC Act

Provisions of Constitution of India	Requirement as per provisions of Constitution of India	Provision of State Act/Acts (Section-wise)
Article 243W	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 12 th Schedule.	Section 66A of HM Act and Section 41 to 42 of HMC Act
Article 243X	Power to impose taxes by, and funds of the Municipalities: <ul style="list-style-type: none"> • Municipalities would be empowered to levy and collect the taxes, fees, duties, etc. • Grant-in-aid would be given to the Municipalities from the State • Constitution of funds for crediting and withdrawal of moneys by the Municipality 	Section 56, 57, 69 and 70 of HM Act and Section 72, 78, 87 and 88 of HMC Act
Article 243Y read with Article 243I	Finance Commission: State Government shall constitute Finance Commission for <ul style="list-style-type: none"> • Reviewing 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 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. 	Section 68A of HM Act and Section 82 of HMC Act
Article 243Z	Audit of accounts of Municipalities: This provides provision for maintenance of accounts by the Municipalities and the auditing of such accounts.	Section 203N of HM Act read with Para 1.7 of the Municipal Account Code, 1930 and Sections 168 of HMC Act
Article 243ZA read with Article 243K	Elections to the Municipalities: The Superintendence, direction and control of all procedure of election of the Municipalities shall be vested in the State Election Commission (SEC)	Section 3A of HM Act and Section 9 of HMC Act
Article 243 ZD	Committee for District Planning: <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 forwarded to the Government. 	Section 203-B of HM Act

Provisions of Constitution of India	Requirement as per provisions of Constitution of India	Provision of State Act/Acts (Section-wise)
Article 243ZE	Committee for Metropolitan Planning: Provision for constitution of Metropolitan Planning Committee (MPC) in every Metropolitan area with a population of 10 lakhs or more to prepare a draft development plan for the metropolitan area as a whole.	Section 417 of HMC Act

The above table shows that the enacted statutes complied with the provisions of the 74th CAA. However, compliance with the constitutional provisions by law does not guarantee effective decentralisation on ground unless followed by effective implementation. Audit observed that the legal provisions were not backed by decisive actions resulting in a situation in which the spirit of the 74th CAA has not fructified. This was especially true in case of provisions pertaining to the devolution of functions and creation of appropriate institutional mechanisms for effective decentralisation, which are discussed in the subsequent chapters.

During exit conference, the Department confirmed the facts about the compliance of the statutes enacted (Haryana Municipal Act, 1973 and Haryana Municipal Corporation Act, 1994) with the provisions of the 74th CAA mentioned in Table 3.1 of the report.