

CHAPTER-VIII

Conclusions

The 74th Constitutional Amendment Act (74th CAA) introduced Part IX A (the Municipalities) containing Articles 243P to 243ZG in the Constitution. 74th CAA, which came into effect on 1 June 1993, authorised the State Legislature to enact laws to endow Local Bodies with powers and authority as may be necessary to enable them to function as institutions of Self-Government and make provisions for devolution of powers and responsibilities (Article 243W). The 12th Schedule lists out the 18 functions to be carried out by ULBs.

8.1 Audit Objectives

Whether provisions of the 74th CAA have been adequately covered in the State Legislation?

Each State had to enact a legislation to implement the 74th CAA. The ULBs in the State were governed by the HM Act, 1973. The State Government vide amendments to HM Act and enactment of the HMC Act, 1994 introduced provisions corresponding to the 74th CAA. These amendments were, however, not supported by firm action. Thus, defeating the spirit of the constitutional amendment especially with reference to devolution of areas and creation of appropriate institutional mechanisms.

Whether ULBs have been empowered by the State Government to discharge their functions/responsibilities effectively through creation of appropriately designed institutions/institutional mechanisms and their function?

Transfer of functions: The State Government transferred all the 18 functions. Out of 18 functions, ULBs were solely responsible for four functions; had insignificant role in two functions; had limited role in five functions; were mere implementing agencies in four functions; and in respect of three functions ULBs have important role to play with overlapping role of parastatals/Government Departments. Thus, the discharge of devolved functions was highly restricted.

Meeting of the House: In 15 test checked ULBs, only 226 house meetings were held as against the stipulated 710 meetings during the period 2015-20.

Formation of ad-hoc Committees: Only three ULBs out of 15 test checked ULBs, constituted *ad-hoc* committees (ranging between four and eight), which were not also functional as very few meetings were held by these committees.

Wards Committees: Although Section 10 and 34 regarding constitution of Wards Committees were incorporated in HMC Act and HM Act respectively, enabling rules were not framed under these Acts by the State Government. Resultantly, no Wards Committee in any of the eight ULBs could be constituted where population was more than three lakh as per Census 2011.

Area Sabha and Ward Committee: State Government has not framed rules for nomination of Area Sabha representatives. None of the 15 test checked ULBs formed Area Sabha/Ward Committee.

District Planning Committee (DPC)/Metropolitan Planning Committee (MPC) - District Development Plans for urban areas were not being prepared by the respective ULBs and were being prepared by Town and Country Planning Department/Urban Local Bodies Department.

State Finance Commission: Six SFCs were constituted between May 1994 and September 2020 with delay ranging from two to 15 months.

Impact of parastatals on ULBs: The functions of urban/town planning, regulation of land use were delivered by parastatals as well as State Government Departments. These parastatals had their own governing bodies, which did not include elected representative of ULBs. This arrangement infringed on the ability of ULBs to discharge their mandated functions and undermined the objective of accountability to the people.

Whether effectiveness of the functions stated to have been devolved?

Water Supply and Sewerage: These activities were performed by only four ULBs and in rest of 83 ULBs, these function was performed by PHED.

Solid Waste Management: DULB had major role in Solid Waste Management policy and strategy formulation, tendering and technology selection and ULBs are just implementing various activities under the overall supervision of DULB.

Whether ULBs have been empowered to access adequate resources including sufficient resources for discharge of functions stated to be devolved to them?

Fiscal Transfer to ULBs: The 74th CAA provided for fiscal transfers from the Central and State Governments besides empowering them to raise their own revenue. The fiscal transfers constituted about 50.22 *per cent* of the revenue of ULBs during the period 2015-20.

Share of own and assigned revenue: Own and assigned revenue constituted 30.04 and 19.74 *per cent* of total revenue respectively during the period 2015-20.

SFCs Grants: The loss of grant to ULBs due to delayed constitution and acceptance of report of 4th SFC was ₹ 95.15 crore during the period 2015-16. However, there was excess release of grant of ₹ 41.98 crore to ULBs vis-à-vis recommendation of 5th SFC during 2016-20.

Additional Stamp Duty: ULBs were not getting their due share of Additional Stamp Duty due to short release of funds against the allotted budget through Supplementary Estimates.

Autonomy in generating own revenue: The ULBs lacked autonomy in generating their own revenue. While the authority to collect certain taxes/fee like property tax and water charges vested with ULBs, powers pertaining to the rates and revision thereof, procedure of collection (property tax), method of assessment, exemptions, concessions, etc., is vested with the State Government. The intervention of the State Government constrained the ULBs.

Buoyancy of property tax system: Property tax system was non-buoyant and non-revision of rates periodically affected the revenue generation of ULBs.

Budget making process: Budget making process was flawed and unrealistic. Scientific estimation of cost of each municipal service was not carried out, leading to huge variations between estimates and actuals. ULBs were able to generate own resources to the extent of only 80 *per cent* of revenue expenditure and had utilised on an average about 57 *per cent* of the available funds.

Financial and Administrative process: The expenditure constraints included limited financial and administrative powers to ULBs and shortage of manpower.

Power to assess requirement and recruitment of Staff: ULBs were not vested with the powers to assess staff requirement and recruit staff. These were vested with the State Government. The State Government had the powers regarding method of recruitment, conditions of service, pay and allowances, initiate disciplinary action on staff of ULBs, transfer staff across ULBs or to other Government Departments.

Adequacy of Manpower: The ULBs lacked adequate manpower as there were huge vacancies across all cadres affecting efficient delivery of services. This impacts the efficacy of service delivery by ULBs.

The above points have been referred (September 2021) to the Government of Haryana for comments and replies. Response from the Government was awaited (November 2021).



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