

## 74<sup>th</sup> Amendment Act, 1992

Constitution (Seventy Forth Amendment) Act, 1992 has introduced a new **Part IXA** in the Constitution, which deals with Municipalities in an article 243 P to 243 ZG. This amendment, also known as **Nagarpalika Act**, came into force on 1st June 1993. It has given constitutional status to the municipalities and brought them under the justifiable part of the constitution. States were put under constitutional obligation to adopt municipalities as per system enshrined in the constitution.

### *Definition of Metropolitan area*

Metropolitan area in the country is an area where population is above 10 Lakh. (Article 243P)

### Three Kinds of Municipalities

Article 243Q provides for establishment of 3 kinds of Municipalities of every state.

- **Nagar Panchayat:** A Nagar Panchayat is for those areas which are transitional areas i.e. transiting from Rural Area to Urban areas. “Governor” will by public notice, will define these three areas based upon the population, density of population, revenue generated for local administration, % of employment in Non-agricultural activities and other factors. Further, a Governor may also if, he fits it necessary, based upon the industrial establishments, can specify the Industrial Townships by public notice.
- **Municipal Council:** A Municipal council is for smaller urban area
- **Municipal Corporation:** A municipal Corporation for Larger urban Areas

### *Composition of Municipalities*

All the members of a Municipality are to be directly elected by the people of the Municipal area and for the purpose of making the electorate; the municipal area will be divided into territorial constituencies known as **Wards**.

- Besides the seats filled by direct elections, some seats may be filled by nomination of persons having special knowledge and experience in municipal administration.
- Persons so nominated shall not have the right to vote in the meetings of the municipality.
- The Legislature of a State may, by law, also provide for the representation in a municipality of 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 and also the Members of the Council of States and the members of the Legislative Council of the State registered as electors within the municipal area.

The manner of election of Chairpersons of municipalities has been left to be specified by the **State Legislature**. {Article 243R}

### *Ward Committees*

There shall be constituted the ward committees consisting of one or more wards within the territorial area of all the municipalities with a population of 3 Lakhs or more. {Article 243S}

**Reservation of Seats:** Reservation of the seats for the Scheduled castes and scheduled tribes in every municipality corporation has to be provided in proportion to their population to the total population in the municipal area.

- The proportion of seats to be reserved for SC/ST to the total number of seats has to be same as the proportion of the population of SC/ST in the municipal area.

- The **reservation** has to be made for only those seats that are to be filled by the direct elections. (This means no **reservation** for nominated seats)
- This article also provides that not less than one-third of the total number of seats reserved for SC/ST shall be reserved for women belonging to SC/ST. (**Mandatory provision**)
- In respect of women, the seats shall be reserved to the extent of not less than one-third of the total number of seats. This includes seats reserved for women belonging to SC/ST. These reservations will apply for direct elections only. (**Mandatory provision**)
- There are no bar on State Legislatures from making provisions for **reservation** of seats in any municipality or office of Chairperson in the municipalities in favor of backward class of citizens. (**Optional Provision**). {Article 243S}

### ***Duration of Municipalities***

Duration of the municipality has been fixed at 5 years from the date appointed for its first meeting. Elections to constitute a municipality are required to be completed before the expiration of the duration of the municipality. If the municipality is dissolved before the expiry of 5 years, the elections for constituting a new municipality are required to be completed within a period of 6 months from the date of its dissolution. {Article 243U}

### ***Disqualifications of the members***

A member is disqualified to be chosen as a member of municipality if he / she is disqualified under any law to be elected as MLA. The minimum age to be qualified as a **member is 21 years**.

### ***Powers, authorities and responsibilities***

As per Article 243 W, all municipalities would be empowered with such powers and responsibilities as may be necessary to enable them to function as effective institutions of self-government.

- The State Legislature may, by law, specify what powers and responsibilities would be given to the municipalities in respect of preparation of plans for economic development and social justice and for implementation of schemes as may be entrusted to them.  
An illustrative list of functions that may be entrusted to the municipalities has been incorporated as the Twelfth Schedule of the Constitution. This schedule defines 18 new tasks in the functional domain of the Urban Local Bodies.

### ***Financial Powers***

Via Article 243X, the constitution has left it open to the Legislature of a State to specify by law matters relating to imposition of taxes. Such law may specify:

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

### ***Finance Commission***

Article 243Y makes provision that the [Finance Commission](#) constituted under Part IX for Panchayats shall also review the financial position of the municipalities and will make recommendations to the Governor.

- The recommendations of the [Finance Commission](#) will cover the following:
  - Distribution between the State Government and Municipalities of the net proceeds of the taxes, duties, tolls and fees to be levied by the State
  - Allocation of share of such proceeds between the Municipalities at all levels in the State
  - Determination of taxes, duties, tolls and fees to be assigned or appropriated by the Municipalities
  - Grants-in-aid to Municipalities from the Consolidated Fund of the State
  - Measures needed to improve the financial position of the Municipalities.
- Union [Finance Commission](#) also suggests the measures needed to augment the Consolidated Funds of States to supplement the resources of the panchayats in the states.

### ***Audit and Accounts***

As per article 243Z, the maintenance of the accounts of the municipalities and other audit shall be done in accordance with the provisions in the State law. The State Legislatures will be free to make appropriate provisions in this regard depending upon the local needs and institutional framework available for this purpose.

### ***Elections Commission***

Article 243ZA makes the provisions that the superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the Panchayats and municipalities shall be vested in the **State Election Commissions**.

### ***Application to Union Territories:***

Article 243ZB makes provisions for applications of these provisions to the Union Territories. This article says that the provisions of Municipalities shall be applicable to the UTs in same way as in case of the states but the President by a public notification may make any modifications in the applications of any part.

### ***Not applicability in some areas***

Article 243 ZC says that provisions of part IXA are not applicable to

- Scheduled Areas referred in article 244. These include Assam, Meghalaya, Tripura and Mizoram.
- This part is also not applicable to the area covered under Darjeeling Gorkha Hill Council. If the parliament makes any modifications in the scheduled areas, then the same restrictions would apply to those areas also.

### ***Committee for District Planning***

We have studied in the part IX that Planning and allocation of resources at the district level for the Panchayati Raj institutions are normally to be done by the Zila Parishad. As per the provisions of the Part IX-A, for urban areas, municipal bodies discharge these functions within their respective jurisdictions.

However, this gives rise to an important question that at the how the allocation of the funds has to be made. The Constitution has made provisions of creating **two Planning Committees in the state**.

- One is District Planning Committee at the district level with a view to consolidating the plans prepared by the Panchayats and the Municipalities and preparing a development plan for the district as a whole and the other is a Metropolitan Planning Committee.
- As per Article 243 ZD, 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.
- The option of composition and filling the seats has been left open to the states.
- District Planning Committee in preparing the Draft Development Plan shall have regard to:
- Matter of common interest between the Panchayats and the Municipalities including spatial planning
- Sharing of water and other physical and natural resources
- Integrated development of infrastructure and environment conservation
- Extent and type of available resources, whether financial or otherwise.

The Draft District Development Plan so prepared and recommended by the District Planning Committee shall be forwarded by the Chairperson of the Committee to the State Government.

#### **Metropolitan Planning Committee:**

Article 243 ZE says that 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. So, for the areas with a population of 10 lakhs or more, a Metropolitan Planning Committee shall be constituted for preparing a draft development plan for the metropolitan area as a whole.

- The composition and filling of seats is open to the State legislatures.
- The Metropolitan Planning Committee shall take into account the following for preparation of the Draft Development Plan:
- Plan prepared by the Municipalities and the Panchayats in the metropolitan area
- Matter of common interest between the Municipalities and Panchayats including coordinated spatial plans of the area
- Sharing of water and other physical and natural resources
- Integrated development of infrastructure and environmental conservation
- Overall objectives and priorities set by the Government of India and the State Government
- Extent and nature of investments likely to be made in the metropolitan area by agencies of the Government
- Other available resources, financial and otherwise.