

74 th CONSTITUTIONAL AMENDMENT ACT

PROVISIONS AND ITS IMPACT

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HISTORICAL BACKGROUND

Historically speaking, the congress government headed by late sh. Rajiv Gandhi took sincere efforts in 1989 to provide status to urban local bodies. So many discussions were also held with the ministers of local self governments and the chief ministers of various states. At least 65th constitution amendment bill was introduced in the parliament in august 1989 but was not passed in the rajya sabha . Subsequently with the change of government at the national level the bill was reviewed and introduced in the lok sabha in 1990. But with the change of government , the bill was lapsed. Due to this lapse , 74th constitutional amendment act was passed

URBAN LOCAL GOVERNMENT AND 74TH CONSTITUTION AMENDMENT

- *In september 1991, the 73rd constitution amendment bill was introduced in Lok Sabha.*
- *The committee consisted of 30 members- 20 from Lok Sabha and 10 from Rajya Sabha.*
- *Sh.K.P Singh Deo was appointed as its chairman.*
- *On the basis of the report of this committee,Lok Sabha passed this amendment on Dec 22 and Rajya Sabha on Dec 23, 1993.*
- *After the president accorded his assent to the bill on april 24, 1993 it became 74th constitution amendment act. This act has*

CHARACTERISTICS/FEATURES

1. CONSTITUTIONAL SANCTION TO URBAN LOCAL INSTITUTIONS:-

By incorporating part 9-A and 12th schedule into the constitution through 74th constitutional amendment , constitutional sanction has been granted to urban local bodies. Part 9-A includes 18 articles from 243 to 243 G relating to composition, functions and powers etc of urban local institutions.

■ **COMPOSITION OF**

MUNICIPALITIES:- *Under article 243-R, the area of each municipality shall be determined by state government. The area falling in the jurisdiction of each municipality shall be divided into wards and the citizens shall elect representatives of their wards directly.*

■ **CONSTITUTION OF WARD**

COMMITTEES:- *By incorporating article 243-S into the constitution, 74th constitutional amendment provides for the establishment of ward committees in the areas of those municipalities whose area has population of 3lakh or more. The state legislature is empowered to determine the composition and jurisdiction of ward committees*

✘ RESERVATION OF SEATS:-

- ✘ *In every municipality, there shall be reservation of seats for scheduled castes and scheduled tribes in Proportion to their population.*
- ✘ *1/3 of the total seats reserved for SC and ST shall be reserved for women belonging to these castes.*
- ✘ *1/3 of the total seats shall be reserved for women, in addition to seats reserved for women belonging to SC and ST.*
- ✘ *As per the provision made by the laws of the laws of the state legislature , the posts of the chairpersons of municipalities shall be reserved for SC,ST and women.*
- ✘ *State legislature by law makes provisions for the reservation of seats of other backward classes also.*

× **REGULAR ELECTIONS AND FIXED**

TENURE:- *According to the 74th constitution amendment the tenure of urban local bodies has been fixed for 5 years. In case a municipality is dissolved or superseded before the expiry of its normal tenure, it shall be obligatory to hold elections within 6 months and the newly elected municipality would hold the office for the remaining 5 years.*

× **QUALIFICATION OF MEMBERS:-** *For contesting election of municipalities at each level, a person shall possess the same qualifications as required for becoming a member of state legislature. But he/she must be at least 21 years of age. A person who is disqualified from contesting the election to state legislature shall be debarred from contesting the election of municipality as well.'*

✘ POWERS AND RESPONSIBILITIES OF MUNICIPALITIES:-

- ✘ *Urban planning which includes town planning.*
- ✘ *Making rules regarding the use of land and construction of buildings.*
- ✘ *Planning for economic and social justice.*
- ✘ *Roads and bridges*
- ✘ *Public health and sanitation.*
- ✘ *Fire services*
- ✘ *Urban forestry and ecological protection and equilibrium.*
- ✘ *Removal of urban poverty*
- ✘ *Urban facilities such as parks , gardens and playgrounds.*
- ✘ *Cultural educational and artistic development*
- ✘ *Prevention of cruelties on animals.*
- ✘ *Registration of birth and death.*
- ✘ *Making rules for slaughter houses and dyeing of skins, etc.*

✘ **POWER TO IMPOSE TAXES:-** *State legislature can by law authorise the municipalities to impose and collect taxes . Under this law , some of the taxes imposed by the state governments can be transferred to municipalities. Besides, the state government provides financial assistance to municipalities out of the consolidated fund of the state.*

✘ **CONSTITUTION OF FINANCE**

COMMISSION:- *The finance commission constituted under Article 234-1 of the constitution shall examine the financial position of municipalities also. Thus finance commission shall be set up by the governor within a year of coming into force of 73rd constitutional amendment. After this , such a finance commission shall be constituted after every five years.*

✘ COMMITTEE FOR DISTRICT PLANNING:-

74th constitutional amendment provides for district planning committee at district level in each state. State legislature can by law make provisions for:-

- ✘ The composition of district planning committee.*
- ✘ The method through which seats in the committee shall be filled.*
- ✘ The functions relating to district planning which are to be delegated to the planning committee.*
- ✘ The method of election of the chairperson of district planning committee etc.*

✘ **COMMITTEE FOR METROPOLITAN PLANNING:-**

According to 74th constitution amendment act , there shall be a committee for metropolitan planning for each metropolitan area. This committee shall prepare plan for the whole metropolitan area. By metropolitan area is meant an area having population of 20 lakhs or more and such an area has been declared metropolitan area by a public order issued by the state government

✘ **EXCEPTIONS FOR CERTAIN AREAS:-**

Provisions made under 74th constitutional amendment shall not be applicable to those areas described in article 244 of the constitution as scheduled areas and tribal areas . Similarly these provisions would not affect the powers and functions of other areas.

IMPACT OF 74TH
CONSTITUTIONA
L AMENDMENT

✘ While the 74th Amendment has become a lodestar for civic activism in many cities, it has certain inherent limitations. Many of its key provisions are not mandatory for the State government. The functions listed under the 12th Schedule — which a State government is expected to devolve to the local government — do not include essential civic issues such as urban transportation, housing or urban commons. The 74th Amendment also contains an industrial township exception whereby a municipality need not be constituted in areas which are declared as industrial townships. These provisions have been employed by State governments to keep local governments weak.

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- ✘ Civic activism has often been focussed on the creation of two bodies mandated by the 74th Amendment — ward committees and metropolitan planning committees. However, an over-reliance on such semi-representative bodies does not augur well for creating a genuinely democratic city government. In fact, civil society's fixation with nominating its members into ward committees can further depoliticise local governments and make them captive to the interests of certain elite resident welfare associations. Instead of distrusting them, we must acknowledge that local governments are inherently political spaces where multiple interests compete.



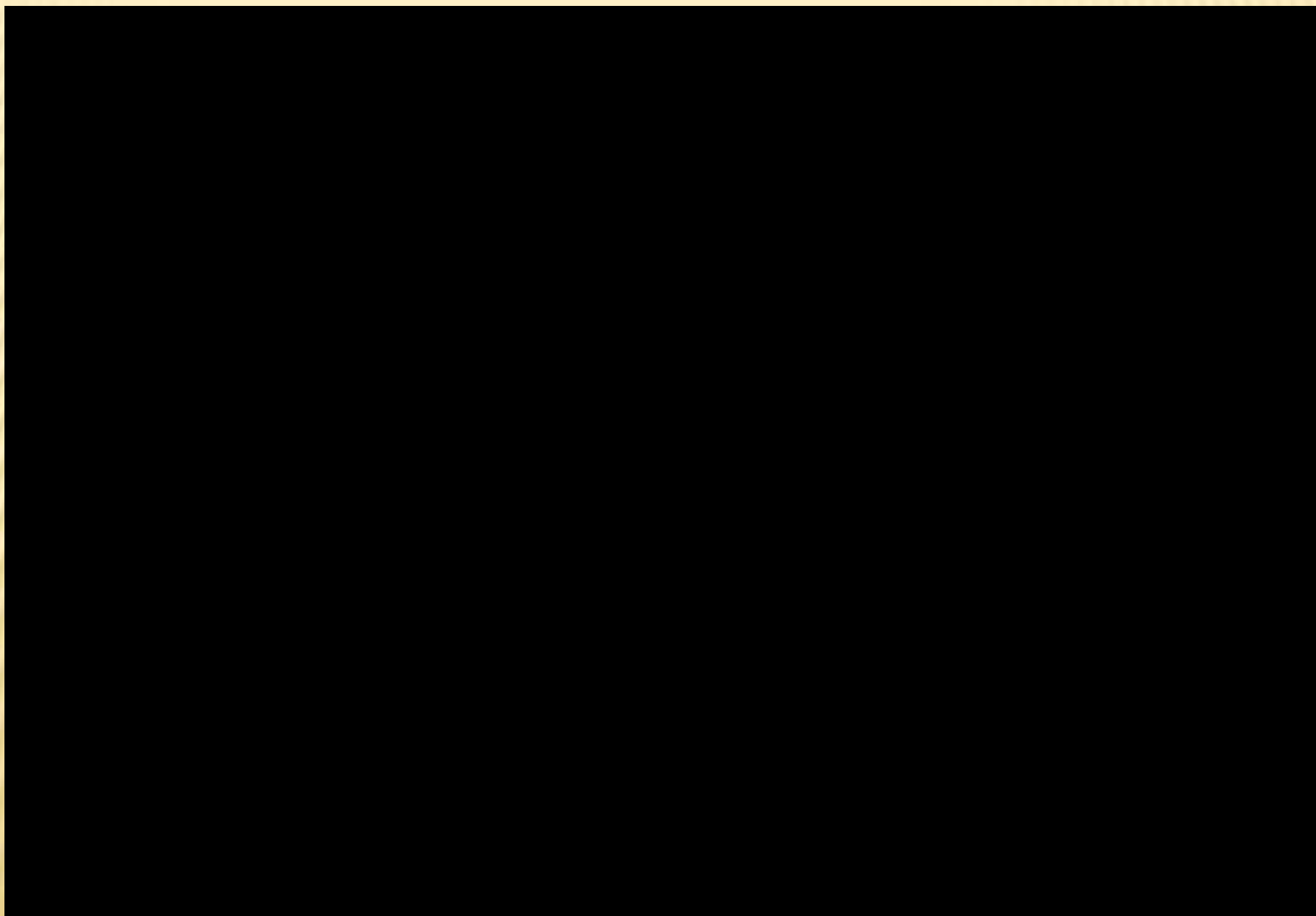
✘ As cities struggle to meet the basic needs of their inhabitants, we must re-examine the existing modes of organising power in urban India. Unlike the 73rd Amendment which provides for three levels of panchayats (village, taluk, and district levels), power in urban areas is concentrated in a single municipal body (whether it is a municipal corporation, municipal council or town panchayat). However, as Indian cities have grown exponentially over the last 25 years, with some crossing the 10 million population mark, we must rethink the present model of urban governance that vests power in a singular municipality. While urban governance reforms can take multiple shapes, they must be foregrounded in the political empowerment of local government that furthers local democratic accountability.

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EVALUATION

Twenty-five years ago, the Constitution underwent what is arguably its most significant transformation with the passage of the 73rd (mandating the creation of panchayats) and the 74th (creation of municipalities) Constitutional Amendments. While the 73rd Amendment came into force on April 24, 1993, the 74th Amendment came into effect on June 1, 1993. As the Central Government's Smart Cities mission completes three years this month, it's the right time to examine India's tryst with municipal governance. Much has been written about the failure of States to implement the provisions of the 74th Amendment. However, it is important to examine concerns in the underlying constitutional design of urban local governments and the politics impeding this Amendment's operation. The "implementation failure" narrative tends to focus on how local governments are financially constrained and do not have the administrative capacity to carry out its functions. It is also important to explore how urban local governments are actively disempowered and depoliticised as an institution.

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