

Urban Governance and Development Management (UGDM)
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Lecture – 04
Legislative Provisions

Hello. In the last lecture, we discussed the constitutional 74th amendment and its provision and we discussed its significance, how it mandated the local governance structure in India. It was also said that with the local governance structure in the 74th constitutional amendments act, it is also necessary by the respective state government to form their municipal act so that every urban local government can function within the overall domain of the state government.

So today, we will see that how a state government and the state level municipal acts are formed in India's legislative assemblies and what are those provisions in the legislative acts and what are the type of acts and what are their components of those acts and how these acts are functioning at the local level. So let us start.

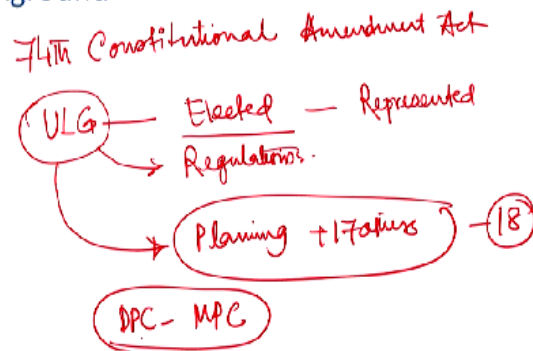
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So basically we will discuss on the background, the components of municipal laws. Some of definitions, essential definitions and structures of the function of the municipal laws, how they actually function at the local level. Categories of urban local bodies, rules and regulations.

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Background



So background I have told that following the 74th constitutional amendments act, urban local government is basically to be elected, elected government and represented by all category of the people. And because of this, it is getting a local government's status that means it is elected by the common citizen, common people of the country, that is why it is the government. And not only that, it can frame their own local regulations and not only that, it will function as the planning authority +17 other functions, total 18 functions.

It is mandated and it is mentioned that DPC and MPC will be a very important organization in doing the planning of the overall larger areas in a geographical context. Now as per the constitutional amendment act, it is also important to transfer all these provisions to the state level act. So we will see that how it is transferred.

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Components of Municipal Laws

- ✓ Municipal Corporation Act/s — 3 lakh +
- Municipal Act ✓ — M. Council
N. Panchayat
- Metropolitan Planning Committee Acts
- District Planning Committee Acts — MPC Act
DPC Act
- Ward Committee Rules
- Regulations and byelaws — thematic subject of
governance & development



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In a typical municipal setup of a state government, there are various types of, kinds of municipal acts and legislation. So let us see one by one. The first level of the municipal act will be the municipal corporation act. In 74th amendment, it is told that 3 lakh+ population cities will have the municipal corporation. But it is up to the state government who can also form the municipal corporation even lower than 3 lakh population.

So for that time to time, they will form municipal corporation acts. For example, the municipal corporation of Delhi, municipal corporation of the Mumbai, municipal corporation of Chennai and other cities, they have the separate municipal corporation act. For the other municipalities other than the corporation, is the municipal council and Nagar Panchayat. You know that there are 3 categories of the urban local bodies.

One is municipal corporation. Second is municipal council and Nagar Panchayat. So for these 2 kind of urban local bodies, the municipal act is framed which will govern all kinds of local bodies other than the municipal corporation. Is that fine? And for the planning of the overall metropolitan area, the metropolitan planning committee act, in short it is MPC act and district planning committee, DPC act, will be also there.

And as per the mandate of the constitutional amendment, what committee rules is also framed under municipal act. So this is basically rules which will govern the day to day business and the

function of the ward committees. And apart from the rules, there can be regulation and the byelaws which is formed for various thematic subject of governance and development. For example, the municipal corporations and municipal bodies, they can frame their regulations of local taxes, regulations of the building and byelaws for the building and the other development.

So those kind of provisions are given all domain of municipal laws. Apart from that, there are town and country planning act of every state government. The town and country planning act provides the planning authority in some particular area but those planning authorities are not local government as such because they are not elected by the government but the provision of the municipal act and the corporation, they are the elected government because the board is formed through the elected representative of the people.

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Legal mandates (Examples: West Bengal)

- ❖ W.B. Town & country (Planning & Development) Act 1979, (Amended in 1994)
- ❖ W.B. Municipal Act 1993 (WBM Act) and (Amendment) Act, 2002.
- ❖ W.B. District Planning Committee Act 1994 and Rules 1994.
- ❖ W.B. Ward Committee Rules 1994.
- ❖ W.B. Metropolitan Planning Committee Act 1994 and Rules 2001.
- ❖ Six Municipal Corporation Acts. → *Separate Act/unique*

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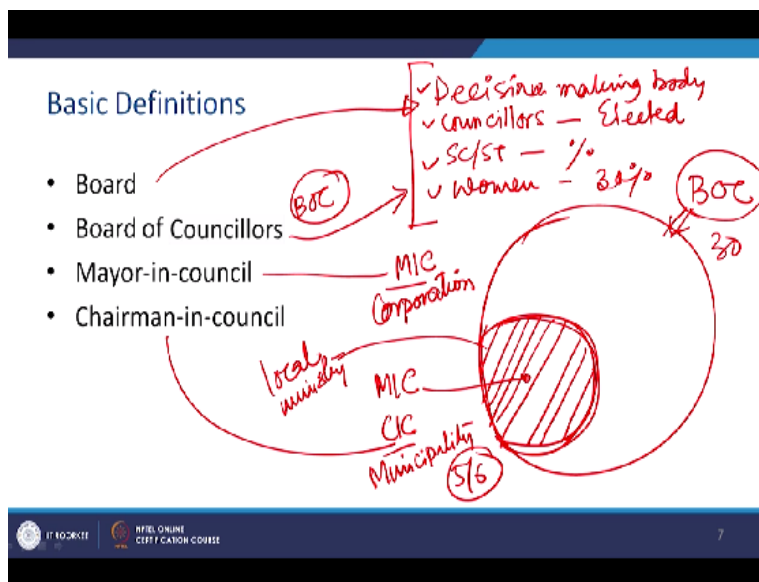
So let us take an example that how the, what kind of acts and regulations are there. We have taken the example of West Bengal because some of the acts formed very early time. The first act was the West Bengal Town and country planning act which came in 1979 and amended later on. Then West Bengal Municipal Act 1992 and its amendment came in 2002. West Bengal District Planning Committee Act 1994. Ward Committee Rules 1994, Metropolitan Planning Committee Act 1994 and Rules and other 6 Municipal Corporation Acts.

Now please observe that for municipal corporation, they have separate act which is unique. For

example, Kolkata Municipal Corporation Act, it is a unique Act which will be governing only the Kolkata Municipal Corporation. Similarly, at your state, please see that what are the municipal corporation acts are there. How many are there.

For how many, there could be situations like government, some government can form 1 consolidated municipal corporation act to govern the fate of or few fate of municipal corporation, that is also possible. So it is better to have a visit to your concerned state government departments website and have a understanding of this. Now let us see some basic definitions.

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The Board is basically a decision making body consisting councillors, basically who are elected and in the board, it will be represented by the SC/ST in terms of the percentage available in the municipalities and woman representation of at least 30%. So this is how a highest decision making body which is called board of councillor will be formed in a municipality. So this board of councillor, in short, it is BOC, will take the maximum decision in the urban local bodies.

There is another concept of the Mayor-in-council. In short, it is MIC. So if there are, if this is board of councillor, there could be a small section of the board of councillor which is entrusted to give some dedicated responsibility in terms of standing committees. Those are called Mayor-in-council or Chairman in council, CIC. So if it is a corporation, it will be termed as Mayor-in-council.

If it is a municipality, it will be called Chairman in council. So basically, conceptually, the Mayor-in-council or the Chairman in council, these will act as a local ministry. So it is as good as the ministry at the state level or the central level conceptually. So if the total number of the member of parliaments is more than 500 and only about 50 to 60 or 100 are the minister. So similarly, if the total number of board of councillors, the members are say 30, so there could be like 5 or 6 member in a Mayor-in-council or Chairman in council.

So Mayor-in-council and Chairman in council, they take thematic, the decisions of the thematic areas like the roads or the public health or the social development, etc., etc. through various standing committees. So we will see that.

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Functional Structure of ULBs in a typical M/A Act

Criteria's

- ❖ Municipal Area is designated for a town containing:
 - Population not less than 20,000 (e.g.)
 - Population density of not less than 750 per square meter of area, and
 - More than half of the total adult population is engaged in non-agricultural pursuits.
- ❖ Municipal Authority means Board of Councillor (BDC):
- ❖ Number of Councillors (elected) = nos. of Wards in the municipal area.

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So now let us see that what are the functional structure of urban local bodies in a typical municipal act or municipal corporation act. You can see, the first thing which a municipal act should mandatorily dictate or mandatorily mandate is the criteria. So as we have discussed, mostly the criteria are population, population density and the non-agricultural sector population.

So most of the municipal act, they mandate like say 20,000 or 30,000 and population density of not less than 750 per sq., so sq., this will be km, per sq.km. of the area and more than half of the total adult population will be engaged in non-agricultural pursuits. And it will also, a typical

municipal act will also give some description of the board of councillor, how it is formed, what will be its function, etc., etc. As you know that the number of councillors, elected councillors=number of wards. It is very obvious.

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Functional Structure of ULBs

West Bengal Municipal Act 1993 (Sec 3 by an amendment of 2002)

- ❖ Municipal Area is designated for a town containing:
 - Population not less than 20,000 (w.e.f.2004)
 - Population density of not less than 750 per square meter of area, and
 - More than half of the total adult population is engaged in non-agricultural pursuits.
- ❖ Municipal Authority means Board of Councillor (BOC) (sec 13)
- ❖ Number of Councillors(elected) = nos. of Wards in the municipal area.

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It will dictate that what is the number of councillors as per the population.

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Board/Council

- ❖ The Authority charged with the responsibility
 - Municipality (BOC) ——— Large
 - Chairman-in-Council, and ——— Ministry
 - The Chairman / Mayor ——— Head.
- ❖ BOC constituted through elected representatives in general election/bye-election ✓
- ❖ Board of Councillors (BOC) will elect the Chairman
- ❖ All Executive power is vested on the Chairman-in-Council (CIC)

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So a board typically has the authority and the responsibility for executing all the decisions and the job of a municipality. So they have a board of councillors, Chairman in council and a Chairman or Mayor if it is a corporation. So the board of councillor is the largest body and this is the head of the, that body and Chairman in Council are the ministry which will guide the

development. And board of councillor constituted through elected representative in general election or bye-election. Board of councillor will elect the Chairman and all executive powers is vested on the Chairman in council or Mayor-in-council as case to case bases.

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Board/Council.....

- ❖ **Chairman-in-Council (CIC)**, consists of -
 - ✓ -- Chairman ✓
 - ✓ -- Vice Chairman, and
 - ✓ -- Other members not exceeding for:
 - Group A - 5 (large)
 - Group B - 4
 - Group C - 3, and
 - Group D & E - all power to the Chairman (small)
- ❖ Leader of opposition
- ❖ Borough Committee, with population one lakh+
- ❖ Ward Committees:

Handwritten notes: 'large' points to Group A, 'small' points to Group D & E, 'population' points to the group list. Circled numbers: 7 (total for Group A), 6 (total for Group B), 5 (total for Group C).

Now a typical Chairman in council consist of the Chairman, Vice Chairman, other members not exceeding like if it is a group A, it is 5. Now in some of the municipal act, you will find that there is a division or the categories of group A, B, C or D and E, something like that. So this division is done based on the population, population from large to small. So if it is a large municipality like group A, apart from Chairman and Vice Chairman, there will be 5 members.

So that becomes total 7 members. For a municipality little smaller than group A, it will be 6, total 6 members. And if it is a group C, it will be 5 members. Similarly, for group D and E, it will be 4 members. So this number will form the size of the Chairman in council or the Mayor-in-council. There will be a leader of opposition as we see in the Lok Sabha, Rajya Sabha or the legislative assembly.

Similarly, here also, there will be a leader of opposition. There could be Borough Committee with population 1 lakh+. So the concept of Borough Committee is a larger committees, larger than the ward committees. If the municipality is bigger, in most of the cases is 1 lakh or more than that, then the Borough Committee can be formed. Otherwise, if it is a less than 1 lakh, the

ward committees will be formed.

So conceptually, Borough Committees and ward committees are similar but the scale is different. Borough Committee are supposed to take care the development of the larger geographical area and ward committee is supposed to take care of the development of a smaller geographical area, that is the difference.

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Standing Committee

- ❖ Standing Committees:
 - Finance and Resource ✓
 - Solid Waste Management ✓
 - Water Supply/Public Works ✓ roads
 - Health, Education & Urban Poverty Alleviation ✓
 - Public Health & Sanitation ✓
- ❖ Other standing Committees may also be constituted
- ❖ No Councillors shall be member for more than 2 (two) Standing Committee.

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There are various kind of standing committees as I told. Number 1 is the finance and resource. Solid waste management; water supply and the public works like roads; health, education, urban poverty alleviation; public health and sanitation. So these are the essential standing committees which is required to be formed at the urban local bodies level. There could be other standing committee as required time to time and they can form the standing committee but it is mandated that no councillors shall be the member of more than 2 standing committees.

So there could be a kind of a conditions, kind of a boundary conditions for becoming member of the standing committee in municipal acts. So please see and check you municipal act. Now we will see how a municipal act look like, okay? When you see a municipal act, definitely if you are going to work in the urban areas, in a municipality or corporation, 2 fundamental documents you have to deal day to day basis that is one is the constitutional 74th amendment, 1992 document which we discussed earlier.

We will provide some reference material to study. And second is your municipal act or the corporation act. So these 2 are very important mother document which you have to study in details to understand the provisions mandate and the style of the working of the municipality. So let us take an example of the West Bengal municipal act 1993.

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So not only that, the provision for hill areas is also provided in the municipal act. Public safety and the nuisances. For example, what kind of actions would be taken for the public safety. For example, some kind of prevention of the mosquito breeding. What kind of actions will be taken? So all these provisions are there. Then to avoid the infections and the public health, what kind of actions could be taken. Then vital statistics that is the registration of the birth and the death in the municipalities, what are the steps, what are the procedures that is mentioned.

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Disposal of the dead, how the municipalities will facilitate the disposal of the dead in terms of the burial grounds and the crematorium, that is mandated. Then other authorities like notified areas, industrial township. Within the municipal act, there could be provision of the notified area

for the smaller urban areas and the industrial townships.

And the powers, procedures, penalties and savings for the municipalities. There could be specific rules and regulations for a particular purpose. How the power will be delegated for particular job, cooperation and control. So these are all facets of a municipal act which I showed just as an example. So please see your municipal act that whether all the provisions are mandated in the municipal act or not.

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- Are all the functions of CAA delegated in Municipal Act ?

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Delegation of constitutional functions by Municipal Act

Urban Planning	Fire Services	Promotion of culture
Regulation of land use and construction	Urban Forestry	Burial grounds
Planning for economic and social development	Safeguarding weaker sections of society	Cattle ponds, Animal Welfare
Roads and Bridges	Slum upgradation	Birth and Death Registration
Water Supply	Poverty Alleviation	Public amenities
Public Health and Sanitation	Provision of amenities	Regulation of slaughterhouses and tanneries

Whether all the provisions in the constitution are transferred in the municipal act or not. For

example, these are the constitutional provisions which we discussed last day. Now in this case, we find that the urban forestry is such work, it is not fully delegated to the urban local bodies. So it is the job of a state government. At the same time, the fire service is a joint work. It is also urban local bodies and state government.

Remaining all the areas or all the jobs which is mandated by the constitution, is fully delegated to the municipalities. So we can say that the provisions of the constitution are mandatorily to be delegated to the urban local bodies through the set of municipal acts. so that will enable the urban local bodies to function properly. So having said that, let us summarize our discussion quickly.

So today, we discussed the provisions in the municipal acts. Firstly, we told that there could be several sets of law in the municipal act. The first set of law could be municipal corporation act. That the municipal corporation act basically defines the role, responsibility functions of the municipal corporation which basically governs the larger cities, usually it is 3 lakh and more. Second is the municipal act.

Apart from the municipal corporation, the municipal act governs the other municipal councils and the notified area committee or the Nagar Panchayats. Then it comes the ward committee rules. Ward committee rules is formed under the municipal act but it will govern the functions, roles, responsibility and the day to day business of the ward committee. In some lectures later, we will have a detailed discussion on the ward committee as well.

And apart from these basic rules, there could be the district planning committee act and the metropolitan planning committee act and also every state government has the town and country planning act which provides the planning mandate for a particular geographical area to some authority. But please take a note that the authority mandated under the town and country planning, they are not an urban local government.

Whereas the authorities mandated under the municipal act, they are a complete local government as per the law. So these are the set of acts which will govern the functioning of the urban local

bodies. Then we have seen that what are the basic components of a municipal act. A municipal act mandatorily gives the provision of the board its composition, its roles, responsibility, power, how it will function.

Second, it must give the idea and the direction how the standing committees will be formed and it will give very specific ideas that for every sector of the development as mandated in the constitutional amendment, how the works and jobs will be undertaken. So this is very important to see and I have mentioned earlier that for urban professionals who are going to work in the municipalities or any urban areas, the constitutional 74th amendment act and the respective municipal act.

These 2 are the mother act very important act, you should study thoroughly and if possible, one copy of the bare act, you should purchase and keep with you. And having said that, we end up this lecture.

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And the next lecture, we will discuss about the interfaces for the urban governance. After the constitutional and the legislative provisions, when municipalities are formed, they are supposed to function with integration with the vertical and the horizontal level of organizations. So in the next lecture, we will see that how the relation and the integration with the all kinds of organizations take place and what are the major challenges and the concern on this interfaces. So

with that, I conclude this lecture. Thank you very much for attending 6th lecture.