

Role of Municipal Corporation in Education & 74th Amendment

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History of Municipal administration in India

The earliest evidence of local management of civic administration in India can be traced to Indus Valley civilization (around 2300 B.C) which was essentially an urban civilization. Commenting on the Indus Valley civilization, Golden Childe says “well planned streets and a magnificent system of drains, regularly cleared out; reflect the vigilance of some regular municipal government”. The nature of society and governance at local level underwent a significant change over the changing course of Indian history. It is beyond the scope of this paper to trace the process of this evolution and therefore one moves straight to the modern civic administration in urban India.

The first Municipal Corporation in modern India was set up in the former Presidency town of Madras in 1688. This was followed by Municipal Corporations of Calcutta in 1876 and Bombay in 1888. Lord Ripon (1880-84), the Viceroy of India introduced an element of elections in the Municipal Corporation and is known as “father of Local Self-government in India” for his pioneering work in this direction. The reforms introduced by Lord Ripon continue to have its traces in the existing local self governments.

Need for constitutionally mandated Urban Governance Model in the last few decades

a. No reference to urban governance

The constitution of independent India did not make the local self government in urban areas a clear cut constitutional obligation. While the Directive Principal of State policy refers to village Panchayat, there is no specific reference to municipalities except implicitly in Entry 5 of the state list which places the subject of Local self governments as responsibility of the states. Therefore, the Indian parliament passed Delhi Municipal Corporation Act 1957 considering the fact that it was the largest union territory and the national capital was situated within the territory. The state governments formed Municipal corporations by the Act of their respective legislatures like The Bombay Provincial Municipal Corporations Act of 1949 and the Gujarat Municipalities Act of 1964.

b. Changing demographic profile of urban India

India’s urban population has grown from 62 million (17.3% of the total population) in 1951 to 285 million (28%) in 2001. With an annual growth rate of about 2.75% (Census 2001), urban population is projected to touch 549 million by 2021 i.e. 41% of the total country’s population. Also, number of cities has doubled from nearly 2600 in 1971 to 5161 in 2001. Thus, the increasing urbanization offers its own challenge to the town planners and calls for finding different solutions which cannot be overlooked because India of the present decade will be very different from India of last decade.

74th Constitutional Amendment Act 1992

In order to provide the common framework for urban local bodies and help to strengthen the functioning of the local bodies as effective democratic units of self-government, Parliament

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amended the constitution (74th Amendment Act 1992) and provided constitutional status to “municipalities” which are of 3 types:

- a. Nagar Panchayat-for transitional area (an area which is being transformed from rural to urban area),
- b. Municipal Council for a smaller urban area,
- c. Municipal Corporation for a larger urban area.

Through this amendment Part IX A has been added to the constitution along with a schedule (12th schedule). This means that now constitution of India sets out clear guidelines on the following:

- Composition of municipalities
- Composition and constitution of Ward Committees, District planning committees and Metropolitan Planning committee.
- Reservation of seats for SCs/ST and Women,
- Power, authority, duration, dissolution and elections of the municipalities,
- Constitution of State Finance Commission

Besides, Schedule 12 lists down 18 subjects on which it can formulate its policies and execute it. However, as mentioned earlier Local government is the “**State Subject**” therefore based on these constitutional guidelines states were required to make a law for the functioning of the municipalities in their respective states. All the states (except the 4 North East states where the act does not apply- Arunachal Pradesh, Meghalaya, Mizoram and Nagaland) have constituted Municipalities in their states and they conduct regular elections.

What has actually changed after 74th Constitution Amendment Act 1992?

The question arises that municipalities have been in existent in several cities of India before 1992 as well so what exactly have changed after this Act? The difference between the previous and present bodies is as follows:

- The Municipalities in Pre-1992 era did not have the Constitutional status and the state governments were free to extend or control the functional sphere through executive decisions which they cannot do now.
- The state government could control the municipalities by controlling the funds. However, now the State government is mandated to transfer the funds in accordance with the recommendations of the State Finance Commission.
- The subject of jurisdiction is clearly defined now with Municipalities having exclusive control over 18 listed subjects.
- Representation of SC/STs and women is laid down in the Act itself making the municipalities a more representative body.

Education and Municipalities

Unlike the 11th Schedule which lists Education including Primary and secondary schools for the Panchayat, the 12th schedule does not mention Education as the subject under municipalities. It mentions vaguely “Promotion of cultural, educational and aesthetic aspects” (Entry 13, Schedule XII). Thus, Municipalities like Municipal Corporation of Delhi (MCD) and Bombay Municipal Corporation (BMC) continue to be engaged in the delivery of Primary Education in their respective cities by virtue of their respective Acts, eg in case of Delhi, it is Delhi Municipal Corporation Act 1957 and its amendment in 1993. Hence, 74th amendment Act 1992 per se cannot give any thrust to the delivery of Primary and secondary education at the city level.

Case of Delhi

The **Municipal Corporation of Delhi** is among the largest municipal bodies in the world providing civic services to about 14 million citizens in the capital city. It is next only to Tokyo in terms of area. Within its jurisdiction are some of the most densely populated areas in the world. It has also the unique distinction of providing civic services to rural and urban villages, Resettlement Colonies, regularized unauthorized colonies, JJ Squatter Settlements, slum 'Bastis, private 'katras' etc.

As mentioned, Delhi Municipal Corporation Act 1957 was amended in 1993 to bring the act in sync with the principals of 74th constitutional amendment Act. The revised Act, Delhi Municipal Corporation (Amendment) Act, 1993, came into existence in October 1993. The Amendment in the Act brought about fundamental changes in composition, functions, governance and administration of the Corporation.

a. Structure of MCD

- **Political-** The geographical area of MCD is divided into 12 zones. These Zones are further sub-divided into 268 Wards. Thus ward is the basic administrative unit of the corporation and is the electoral constituency of the councilor. The Councilors are elected directly by the people for a period of 5 years, who in turn elect the Mayor for one year from amongst themselves. There is one constitutional committee- Ward Committee which is 12 in number i.e. a committee for each zone. Also there are two statutory committees- Standing Committee and Subject Committee (eg Education committee). Standing committee is the most powerful body because it is this committee which recommends policy action and plan involving finance to the House. Because of its composition and nature of party politics, the recommendation of standing committee often gets approved by the house.
- **Permanent-** The commissioner is the Executive Head of the Corporation. Various Departmental Heads known as Director form the core team of permanent executives. The commissioner is appointed by the state government and is a senior IAS officer. There are 3 additional commissioners who are also senior civil servants to share the work with commissioner.

b. Education Department

- **Permanent-** MCD runs about 1750 Primary Schools (Std I-V) enrolling about 900,000 children. This is almost 50% of the total children in Primary school age group. The functioning of the schools in Delhi including Private recognized and government aided schools is governed by Delhi School Education Act 1973. The Director Primary Education is the Head of the Education Department of MCD and functions under the administrative supervision of the Commissioner (effectively under Additional Municipal Commissioner). For better distribution of work there are three Additional Directors. At the zonal level, the department is headed by Deputy Education Officer (DEO) supported by 1-3 Assistant Education Officer (AEO). For the regular monitoring of Schools, there are School Inspectors having on an average 30-40 school. There are four categories of School inspectors- General, Nursery, Physical Education and Science. As the name suggests they are either for the general or for special purpose. At present there are 60 school inspectors. They report to the AEO or the DEO as the case may be. School is headed by the Head Master. There are about 22000 sanctioned post of Primary School teachers in MCD Schools.

- **Political-** A Statutory Education Committee comprising of 7 counselors and headed by the chairman is formed for a period of one year. The Director Primary Education is the ex-officio Secretary of the Education Committee and all policy matters have to be cleared by this committee and placed before standing committee. Any decision which has financial component has to be approved by the House.

In pursuance with the 74th Constitutional Amendment 1992, there are 12 Ward committees constituted in Delhi-one for each ward. From the Education Department, the DEO is the member of its respective ward committee. On matters of civil works in schools, this committee plays a very important role.

- **Appointment and control of Academic and Administrative staff-** Permanent teachers in MCD School are appointed on the recommendation of Delhi Subordinate Service Selection Board (DSSSB). The board which is an autonomous body under the Government of NCT Delhi conducts the written exams for teachers' selection on the basis of requirements sent to it by the MCD. The board is also required to conduct exam for the direct appointment of 50% of the School Inspectors and 25% of the Head Masters. Appointments of 50% of AEO & DEO are through a direct recruitment by Union Public Service Commission and the rest through promotions where seniority is one of the most important criteria. The direct recruitment of Head Masters has not yet commenced due to procedural reasons. The Director is appointed by the MCD either by way of promotion of the senior most Additional Director or any civil servant from generalist cadre as the post is not considered as specialist. The 3 senior most DEOs are promoted to the post of Additional director to share the burden of work from Director.

The conduct and performance of the administrative and academic Staff of the Education Department is governed by Central Civil Services Conduct Rule. However, the politically active committees have immense power with respect to transfer and posting of teachers and other education officers.

- **Training-** The Pre-service training of MCD teachers are conducted by DIETs (District Institute of Education Training) and after recruitment the in-service teacher training is conducted by MCD's own teacher training institute. However, above the teacher i.e. Head Masters onwards there is no structured mechanism for imparting training on education administration.

c. Issues in Education management in Delhi

As mentioned, the MCD derives its authority by virtue of central legislation in terms of DMC Act 1957. The Act makes MCD an autonomous body. MCD's mandate of Primary education in Delhi is also by the same act. Delhi is not a full fledged State and derives a special status i.e. National Capital territory by Article 239AA inserted through 69th Constitutional Amendment Act 1991. Thus, MCD does not come under the direct control of the Government of Delhi and the two bodies share the similar space. The Primary Schools are run by MCD while Upper Primary and Secondary by Delhi government therefore movement from one set of school to another often results in children dropping out.

The creation of several committees and multiple structures has further complicated the situation as there are many to share the spoils but not the responsibility. Further, the process of democratic representation has created a situation where the permanent executive either willfully or compelled by the circumstances have yielded the administrative space to the political leaders whose constituency is teachers (who vote and create opinion) and contractors (who build the school buildings and can offer good commission which is essential to contest and win elections in order to become public representative) and not children.

d. Implication of Structural deficiency on the academic outcome of schools

With the acceptance of the fact that children only from poor background would be the client of Municipal schools, the focus of government too is more on the populist measures and creating physical targets only. Thus, the reports of Municipal corporation will mention about money spend on Mid-Day meals, constructions of new rooms in schools, appointment of teachers, etc as if they are both necessary and sufficient condition for learning. Academic monitoring or tracking the progress of children is therefore not very high on the agenda of the system. Accordingly, the focus of teachers and other academic staff is more to fulfill their obligations just like any other government servants.

Conclusion

“A USAID manual quoted in Petrsek (2002) has rightly pointed out that decentralization is about potential, it guarantees nothing. The benefits and criticism of decentralization depend on who is using it, for what purpose, and with what precautions” (Juneja, N, 2005). The 74th Amendment is a democratic decentralization of power which creates a framework of adequate representation to even the weaker sections of the society to formulate the plans and manage local civic affairs. The omission of school education from the list of subjects on which the Corporation or other municipal body can have jurisdiction is another manifestation of the urban complexity. Perhaps the corporations by the very nature of its existence are ill-equipped to handle issue like education. Can the situation change for better after the enactment of Right of Children to Free and Compulsory Education Act 2009?

Reference

1. Study of Education in Urban India, NIUA, 2004
2. Nehru, J.L; The Discovery of India, Jawaharlal Nehru Memorial Fund, New Delhi, 1981
3. Basu D.D; Introduction to the Constitution of India, Prentice-Hall India,1997
4. Bakshi P.M; The constitution of India, Universal Law Publishing Co. Pvt Ltd, 2002
5. Mayraj Fahim; Local government in India still carries characteristics of its colonial heritage,
6. Juneja N; “Is a ‘Blocked Chimney’ Liable for ‘failing’ municipal schools? Doubts from recent city case studies; City Children, City Schools, Pratham Resource Center, 2005