

3.1 Comparison of State level legislations with 74th CAA

The 74th CAA introduced certain provisions relating to municipalities vide Articles 243Q to 243ZG. The State Government vide amendments to the KMC/KM Acts introduced provisions corresponding to the CAA provisions as indicated in **Table 3.1**.

Table 3.1: Comparison of State level legislations with the provisions of 74th CAA

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of KMC/KM Act
Article 243Q	Constitution of Municipalities: It provides for constitution of three types of municipalities namely a Nagar Panchayat for transitional area, a Municipal Council for a smaller urban area and a Municipal Corporation for a larger urban area.	Section 3 of KMC and KM Acts
Article 243R	Composition of Municipalities: All the seats in a Municipality shall be filled by direct elections and by persons with special knowledge in municipal administration nominated by Government. The Legislature of a State may by law, provide for representation to the Municipality, Members of Parliament and Legislative Assembly whose constituencies lie within the municipal area and Members of the Council of States and State Legislative Council who are registered as electors within the city.	Section 7 of KMC Act and Section 11 of KM Act
Article 243S	Constitution and composition of Wards Committee: This provides for constitution of Wards Committees in all municipalities with a population of 3 lakh or more	Section 13H of KMC Act
Article 243T	Reservation of seats: The seats to be reserved for Scheduled Caste (SC)/Scheduled Tribe (ST), Women and Backward classes for direct election.	Section 7(2), (3), (4) of KMC Act and Section 11(2), (3), (4) of KM Act

Article 243U	<p>Duration of Municipalities: The municipality has a fixed tenure of 5 years from the date of its first meeting and re-election to be held within the six months of end of tenure.</p>	Section 8 of KMC Act & Section 18 of KM Act
Article 243V	<p>Disqualifications for membership: A Person shall be disqualified for a member of a Municipality-</p> <ul style="list-style-type: none"> • If he is so disqualified by or under any law for the time being in force for the purposes of elections of the Legislature of the State concerned. • If he is so disqualified by or under any law made by the Legislature of the State. 	Section 26 of KMC Act & Section 16 of KM Act
Article 243W	<p>Powers, authority and responsibilities of the Municipalities: All municipalities would be empowered with such powers as may be necessary to enable them to function as effective institutions of self-government. The State Government shall entrust with such powers and authority to enable them to carry out the responsibilities in relation to the 12th Schedule.</p>	Section 58 & 59 of KMC Act & Section 87 & 91 of KM Act. Section 11 of KMC Act & Section 63 of KM Act
Article 243X	<p>Power to impose taxes by, and funds of the Municipalities:</p> <ul style="list-style-type: none"> • Municipalities would be empowered to levy and collect the taxes, fees, duties etc. • Grant-in-aid would be given to the Municipalities from the State • Constitution of funds for crediting and withdrawal of moneys by the Municipality 	Chapter X of KMC Act and Chapter VI of KM Act
Article 243Y read with Article 243I	<p>Finance Commission: State Government shall constitute Finance Commission for</p> <ul style="list-style-type: none"> • Review the financial position of the Municipalities and taking such steps that help in boosting the financial condition of the Municipal bodies • Distributing between the State and the Municipalities of the net proceeds of the taxes, fees, tolls and 	Section 503C of KMC Act & Section 302B of KM Act read with Section 267 of KPR Act

	<p>duties that are charged by the State Government.</p> <ul style="list-style-type: none"> • Allotting the funds to the municipal bodies in the state from the consolidated fund of the State. 	
Article 243Z	<p>Audit of accounts of Municipalities: This provides provision for maintenance of accounts by the Municipalities and the auditing of such accounts.</p>	Section 150 of KMC Act Section 290 of KM Act
Article 243ZA read with Article 243K	<p>Elections to the Municipalities: The Superintendence, direction and control of all procedure of election of the Municipalities shall be vested in the State Election Commission (SEC)</p>	Section 308 of KPR Act, Section 55 of KMC Act and Section 38 of KM Act.
Article 243ZD	<p>Committee for District Planning:</p> <ul style="list-style-type: none"> • Constitution of District Planning Committee at district level. • Composition of District Planning Committee. • Preparation of draft development plan and forwarded to the Government. 	Section 310 of KPR Act, Section 503A of KMC Act and Section 302A of KM Act.
Article 243ZE	<p>Committee for Metropolitan Planning: Provision for constitution of Metropolitan Planning Committee (MPC) in every Metropolitan area with a population of 10 lakhs or more to prepare a draft development plan for the metropolitan area as a whole.</p>	Section 503B of KMC Act

Source: KM and KMC Acts

The above table shows that the statutes complied with the provisions of the 74th CAA. However, compliance to the constitutional provisions by law does not guarantee effective decentralisation on ground unless followed by effective implementation. Audit observed that the legal provisions were not backed by decisive actions resulting in a situation in which the spirit of the 74th CAA has not fructified. This was especially true in case of provisions pertaining to the devolution of functions and creation of appropriate institutional mechanisms for effective decentralisation, which are discussed in the subsequent chapter.