

Chapter II

Compliance to provisions of 74th Constitutional Amendment Act

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2.1 Comparison of State level Legislations with 74th CAA

The 74th CAA vide Articles 243Q to 243ZG introduced certain provisions relating to Municipalities. Provisions corresponding to the 74th CAA were incorporated by the State Government in the Telangana Municipal Acts. Details of the Telangana Municipalities Act, 2019 which superseded all earlier Telangana Municipal Acts, are indicated in **Table-2.1**.

Table-2.1: 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 TM Act, 2019
(1)	(2)	(3)
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
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 House of People and Legislative Assembly whose constituencies comprise wholly or partly the municipal area and Members of the Council of States and State Legislative Council who are registered as electors within the municipal area.	Section-5
Article 243S	Constitution and composition of Wards Committee: This provides for constitution of Wards Committees in all Municipalities with a population of three lakh or more.	Sections-17 and 30
Article 243T	Reservation of seats: The seats to be reserved for Scheduled Caste (SC)/Scheduled Tribe (ST), Backward Classes (BC) and Women for direct election.	Section-7
Article 243U	Duration of Municipalities: The Municipality has a fixed tenure of five years from the date appointed for its first meeting. As per article 243U(3) an election for constitution of the Municipality shall be completed before the expiry of its duration of five years.	Sections-10(1) and 15(3)
Article 243V	Disqualifications for membership: A Person shall be disqualified for a member of a Municipality- 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; If he is so disqualified by or under any law made by the Legislature of the State.	Sections-12 and 13

Article 243W	Powers, authority and responsibilities of the Municipalities: All the 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 such powers and authority to enable them to carry out the responsibilities in relation to Twelfth Schedule of the Constitution of India.	Sections-51 to 55
Article 243X	Power to impose taxes by, and funds of the Municipalities: Municipalities would be empowered to levy and collect the taxes, fees, duties <i>etc.</i> Grant-in-aid would be given to the Municipalities from the State Consolidated Fund for crediting and withdrawal of moneys by the Municipality.	Sections-82, 83, 84 of TM Act, 2019 and Section-197 of GHMC Act, 1955
Article 243Y read with Article 243I	Finance Commission: State Government shall constitute Finance Commission for 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 duties that are charged by the State Government. Allotting the funds to the municipal bodies in the State from the Consolidated fund of the State.	Section-113A
Article 243Z	Audit of Accounts of Municipalities: This provides a provision for maintenance of accounts by the Municipalities and the auditing of such accounts.	Section-110 of TM Act, 2019 and Section-196 of GHMC Act, 1955
Article 243ZA Read with Article 243K	Elections to the Municipalities: The superintendence, direction and control of all procedure of election of the Municipalities shall be vested in the SEC.	Section-194
Article 243ZD	Committee for District Planning: Constitution of District Planning Committee (DPC) at district level. Composition of District Planning Committee. Preparation of draft development plan and forwarding it to the Government.	No provision was made in TM Acts for constitution of District Planning Committees. However, Government may constitute Planning Committees at Municipality level under Section-75(2) of TM Act, 2019.

Source: TM Act, 2019 and GHMC Act, 1955

The table shows that Telangana through statutes had 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. We 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 particularly with respect to timely conduct of elections, implementation of State Finance Commission (SFC) recommendations and constitution of DPCs. This was also true in the case of provisions

pertaining to the devolution of functions and creation of appropriate institutional mechanisms for effective decentralisation, as brought out in the succeeding chapters.

Government stated (March 2022) that the elections were delayed in 71 ULBs due to pending Court cases. As a major governance reform towards decentralisation of administration, the Government had created the post of Additional Collector (Local Bodies) in the districts.