

Chapter-3
Compliance with Provisions of 74th CAA

Chapter-3

Compliance with Provisions of 74th CAA

3.1 Comparison of State level legislations with 74th CAA

The State of Uttarakhand carved out of Uttar Pradesh on 09 November 2000 adopted the UP Municipal Corporation Act, 1959 and UP Municipalities Act, 1916 for ULBs in January, 2002. The 74th CAA introduced certain provisions relating to municipalities vide Article 243Q to 243ZG. A comparison of the State level legislations with the provisions of 74th CAA is 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 State Act/Acts (Section-wise)
Article 243Q	Constitution of Municipalities: It provides for constitution of three types of municipalities namely a NP for transitional area, a Municipal Council for a smaller urban area and a Municipal Corporation for a larger urban area.	Section 3 & 3-A of UP Municipalities Act, 1916 and Section 4 of UP MC Act, 1959.
Article 243R	Composition of Municipalities: All the seats in a Municipality shall be filled by direct elections and State may, by law, provide for the representation in a Municipality of— (i) persons having special knowledge or experience in Municipal administration; (ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area; (iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area.	Section 9 of UP Municipalities Act, 1916 and Section 6 of UP MC Act, 1959.
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.	Section 3B of UP Municipalities Act, 1916 and Section 6-A of UP MC Act, 1959.
Article 243T	Reservation of seats: The seats to be reserved for SC/ST, women and Backward classes for direct election.	Section 9A of UP Municipalities Act, 1916 and Section 7 of UP MC Act, 1959.
Article 243U	Duration of Municipalities: The municipality has a fixed tenure of five years from the date appointed for its first meeting and re-election to be held within the six months before the expiry of its tenure or within six months of its dissolution.	Section 10A of UP Municipalities Act, 1916 and Section 8 of UP MC Act, 1959.

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of State Act/Acts (Section-wise)
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 13 D of UP Municipalities Act, 1916 and Section 25 of UP MC Act, 1959.
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 50, 51,51-A, 52,53-A of UP Municipalities Act, 1916 and Chapter V of UP MC Act,1959.
Article 243X	<p>Power to impose taxes by, and funds of the Municipalities:</p> <ul style="list-style-type: none"> • The State may by law, authorise Municipalities to levy and collect the taxes, fees, duties <i>etc.</i> • Grants-in-aid would be given to the Municipalities from the State. • Constitution of funds for crediting and withdrawal of money by the Municipalities. 	<p>Chapter V of UP Municipalities Act 1916 and Chapter IX of UP MC Act, 1959.</p> <p>Section 127C (a) (iii) of UP Municipalities Act, 1916.</p> <p>Section 114 of UP Municipalities Act, 1916 and Section 139 of UP MC Act, 1959.</p>
Article 243Y read with Article 243I	<p>Finance Commission: State Government shall constitute Finance Commission which review and make recommendation for the financial position of the Municipalities and taking such steps that help in boosting the financial condition of the Municipal bodies.</p> <p>Distributing between the State and the Municipalities of the net proceeds of the taxes, fees, tolls and duties that are levied by the State Government.</p> <p>Allotting the funds to the municipal bodies in the State from the consolidated fund of the State.</p>	<p>Section 127C of UP Municipalities Act, 1916 and Section 138-A of UP MC Act, 1959.</p> <p>Section 127 C (a) (i) of UP Municipalities Act, 1916 and Section 138-A (a) (i) of UP MC Act, 1959.</p> <p>Section 127 C (a)(iii) of UP Municipalities Act, 1916.</p>
Article 243Z	<p>Audit of accounts of Municipalities: The State may, by law, make provisions for maintenance of accounts by the Municipalities and the Auditing of such accounts.</p>	Section 142 and 143 of UP MC Act, 1959.
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 13B of UP Municipalities Act, 1916 and Section 45 of UP MC Act, 1959.

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of State Act/Acts (Section-wise)
Article 243 ZD	<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 of the State. 	Section 127A and 127B of UP Municipalities Act, 1916 and Section 383-A of UP MC Act, 1959.
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.</p>	-

The above table shows that the enacted statutes complied with the provisions of the 74th CAA. However, compliance with 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 mechanism for effective decentralisation which are discussed in the subsequent chapters.

