

Module 3: State Administration

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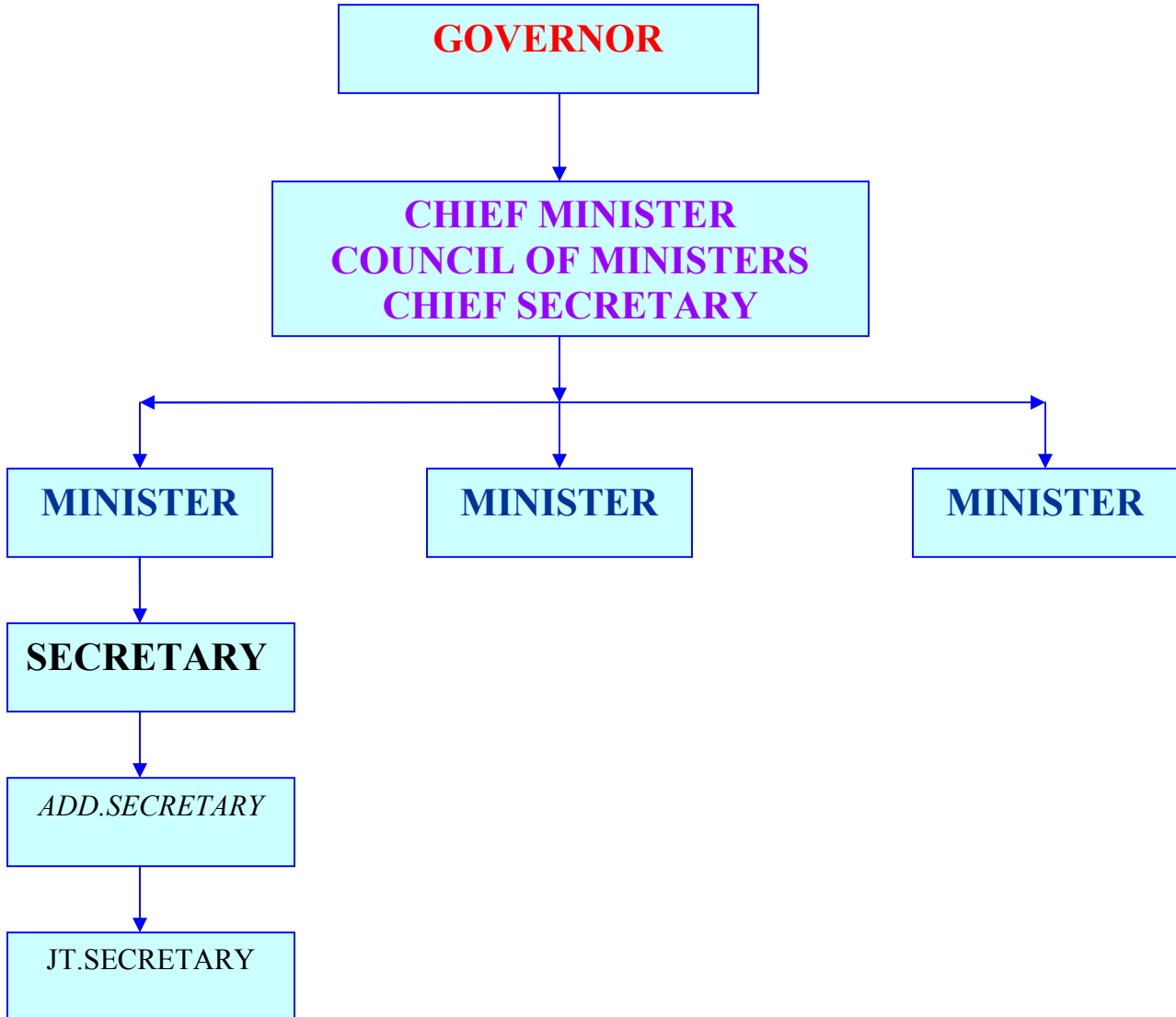
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Chapter I  
The Governor

State Administrative Set Up



## The Governor

In our Federal Structure, Parliamentary form of Government has been adopted for the Central as well as the State Governments. Like the President at the Centre, there is a Governor for every state or for a group of states. The real power is exercised by the Council of Ministers, headed by the Chief Minister, responsible to the state legislature.

### **A. Appointment of Governors**

The Governor of a state is appointed by the President and holds office during his pleasure. Any person who is citizen of India and is not below 35 years of age can be appointed Governor of a State. There is no other qualification laid down for such appointment. Of course, the President takes into consideration the personal qualities and experience in public affairs of a person who is appointed to the high office of the Governor of a State. The manner of appointment of a Governor has, however, raised a lot of controversy. The question was discussed at length in the Constituent Assembly. Initially an elected Governor was proposed for every state. But, the proposal was not finally accepted as it was not found suitable for conditions prevailing in the country at that time.

While the question was being debated in the Constituent Assembly, the country was witnessing the holocaust of partition. It underscored the need for a strong centre to ensure coordinated action to meet any danger to the security and integrity of the country. The Constituted Assembly, therefore, opted for a nominated Governor, who would be able to ensure better control of Union Government over the State Governments whenever the need arose. In fact, the whole approach of the Constituent Assembly got tilted in favour of a strong centre. The provision for a nominated Governor was a part of this over all stand.

### ***Selection and Appointment as a Governor***

Apart from the principle of having a nominated Governor, a great deal of controversy has also raged over selection of persons for appointment as Governors. It has been said that the quality and standard of some of the persons, appointed as Governors, has not been befitting the dignity of the high office. Several State Governments

complained to the Sarkaria Commission that Ministers resigned on Court strictures have been appointed as Governors. Some of the Governors have returned to active politics. Discarded and disgruntled politicians from the party in power in the Union, who cannot be accommodated elsewhere, have got appointed Governors. Such persons cannot be expected to display the qualities of integrity, impartiality and statesmanship required of a person holding the high office of the Governor.

The Administrative Reforms Commission had also found that many Governors had fallen short of the standards expected. It recommended that a person to be appointed as Governor should be capable of rising above party prejudice and preferences. Although this recommendation was accepted by the Government of India, there has not been a noticeable improvement in the selection of persons to be appointed as Governors. The Sarkaria Commission has suggested the following criteria for selecting a person for the office of the Governor:

- (i) He should be eminent in some walk of life, not necessarily politics.
- (ii) He should be a person from outside the State.
- (iii) He should be a detached figure, not too intimately connected with the local politics of the state.
- (iv) He should be a person who has not taken too great a part in politics generally and particularly in the recent past.
- (v) Persons belonging to minorities and disadvantaged sections of the society, having the qualifications mentioned above, should be given a chance, as hitherto given.

## **B. Term of office and conditions of appointments**

The Governor is appointed for a period of five years. His appointment may, however, be terminated due to the following:

- (i) By resignation – Under Article 156(2) of the Constitution.
- (ii) Dismissal by the President- The Governor holds office during the pleasure of the President. His appointment may, therefore, be terminated by the President at any time. The grounds on which the Governor can be removed by the President are not specified by the constitution. No procedure is prescribed for the

purpose. Clearly, the Governor can be removed by the President at any time without any notice and without assigning any reason for the same.

***Reappointment:***

On completion of his term of five years, the Governor may be reappointed to the same office. He may also be appointed as a Governor of a different state. On completion of his term, the Governor continues in office until his successor is appointed. Consequently, there have been several cases in which the Governors have continued their employment in conditions of uncertainty after the completion of their terms of five years.

***Other conditions of Appointment:***

A Governor is paid a fixed monthly salary and other allowances which are chargeable to the Consolidated Fund of India. He gets a free furnished residence along with servants. Power has been given to the Parliament to make laws relating to these matters, subject to the condition that the emoluments and allowances to the Governor cannot be diminished during his term of office.

***Security of Tenure for Governors:***

It may be interesting to note that as compared to the other constitutional functionaries like Comptroller and Auditor General of India or Supreme Court or High Court Judges the tenure of the office of the Governor is most uncertain and insecure. He can be removed from office without giving any notice or any reason of the withdrawal of the pleasure of the President.

***Restrictions of further holding of office:***

At present there are no restrictions on the Governors regarding holding any office after the completion of their tenure. This may make them vulnerable to the lure of future office thus impairing their integrity and impartiality.

**C. Powers of the Governor**

The Governor has no diplomatic or military powers like the President. His other powers can be classified under the following heads:

- (i) Executive powers;
- (ii) Legislative Powers;
- (iii) Judicial Powers;
- (iv) Emergency Powers.

### ***Executive Powers***

The Governor has the power to appoint his council of Ministers, Advocate General and the members of the State Public Service Commission. The Ministers as well as the Advocate General hold office during the pleasure of the Governor but the members of the State Public Service Commission cannot be removed by him. They can be removed only by the President on the report of the Supreme Court and in some cases on the happening of certain disqualifications. The Governor has no powers to appoint judges of the State High Court, but he is to be consulted by the President before such appointments are made [Article 217 (1)].

Like the President, the Governor also has the power to nominate one member of Anglo-Indian community to the Legislative Assembly of the State, if he is satisfied that they are not adequately represented in the Assembly. (Article.333). As regards the Legislative Council, the Governor has the power of nomination of members, corresponding to the powers of the President in case of the Council of States(Article 171/5).

### ***Legislative Powers***

The Governor is a part of the State Legislature (Article 164) just as the President is a part of the Parliament. Again he has a right of addressing and sending messages to and of summoning, proroguing the State Legislature and dissolving the lower House just as the President has in relation to the Parliament. He also has the power of getting laid before the State Legislature, the annual financial statement (Article 202) and of making demands for grants and recommending money bills (Article 207).

### ***Veto Over State Legislation***

The Governor has power to exercise a kind of veto in respect of the State Legislations presented to him for his assent.

The Governor may withhold his assent to the Bill passed by the Legislators and send it back to the Legislature for reconsideration. If the Bill is again passed by the Legislature with or without modifications, the Governor has to give his assent.

The power of veto given to the Governor is a real veto and can have the effect of thwarting the legislative power of the State Legislature. It has, however, been used in a very few cases like Kerala Education Bill where again the President sought the Advisory opinion of the Supreme Court.

### ***Power to issue Ordinance***

The Governor has the power to make laws by ordinance when the Legislature is not in session. The ordinance have to be placed before the Legislature within six weeks of its reassembly. If this is not done, the ordinance lapses.

### ***Judicial Powers***

The Governor has the power to –

- i) grant pardon, reprieve, respite, remission of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends (Article 161). This is a power similar to that enjoyed by the President subject to some minor difference.
- ii) Under Article 201, the Governor may reserve for the assent of the President, any Bill passed by the state legislature. The President then may or may not give his assent to the Bill. He is under no obligation to give his assent if the bill is again passed by the state legislature with or without some modifications.

### ***Emergency Powers***

The Governor has no emergency powers to meet the situation arising from internal or external aggression as the President has. However, he can report to the President whenever he is satisfied that situation has arisen in the State whereby the administration of the State Government cannot be carried out in accordance with the provisions of the Constitution (Article 156). On receipt of such a report, the President may assume to himself the functions as the Governor and may revert to the Parliament the powers of the State Legislature.

#### **D. Exercise of Executive Powers**

It has been said that the executive powers of the State Government vests in the Governor. However, in the exercise of his powers, he is constrained by the provisions of the Constitution. According to Article 163(1) of the Constitution, there is a Council of Ministers to aid and advise the Governor who is to act according to their advice except in matters in respect to which the Governor is empowered by the Constitution to act in his discretion. Thus under normal circumstances, the Governor has to act according to the advice of the Council of Ministers. However, unlike the President, the Constitution makes provisions for the exercise of discretionary power by the Governor. By the 42<sup>nd</sup> Amendment Act to the Constitution, a provision was made making it obligatory on the part of the President to act according to the advice of the Council of Ministers. Even in this amendment the provisions regarding the exercise of executive powers of the Governor have not been touched. Nor has it been made obligatory on the part of the Governor to always accept the advice of the Council of Ministers. The provisions for exercise of discretionary powers by the Governor have also not been amended. These discretionary functions of the Governor are discussed below:

##### ***Discretionary Functions:***

There are certain provisions of the Constitution which specifically give certain discretionary functions to the Governor:

- (i) Para 9(2) of the Schedule VI gives powers to the Governor of Assam, in his discretion, to determine the amount of royalty to the district councils.

- (ii) Article 239(2) authorizes the President to appoint the Governor of a State as the Administrator of the adjoining Union Territory. When the Governor is so appointed he exercises his functions as such administrator independently of the Council of Ministers.

### ***Special Responsibilities***

Besides the above functions to be exercised by the Governor in his discretion, there are certain functions under the Constitution which are to be exercised by the Governor for his special responsibility which practically means in his discretion. He has to consult the Council of Ministers, but the final judgment is to be exercised by him. Such functions are:

- (i) Under Article 371(20) the President may direct that the Governor of Maharashtra or Gujarat shall have the Special responsibility to take steps for the development of certain areas in the State such as Vidarbha, Saurashtra, etc.
- (ii) The Governor of Nagaland shall under Article 371A (1) (b) have similar responsibility with respect to law and order in the State so long as internal disturbances caused by the hostile Nagas in the State continue.
- (iii) Similarly Article 371 ( c ) empowers the President to direct the Governor of Manipur shall have special responsibility to secure the proper functioning of the Committee of Legislative Assembly of State consisting of the members elected from the Hill Areas of that State.
- (iv) Article 371F (g) imposes a special responsibility on the Governor of Sikkim for peace and for equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim.

In discharging of such special responsibilities, the Government has to act according to the directions issued by the President from time to time and subject thereto he has to act in his discretion.

### ***Discretion by Implication***

Besides the above provisions, the Governor may be required to discharge some functions in his discretion where the tenor of constitutional provision, the nature of the function or the exigencies of the situation may so warrant. Some examples are given below:-

- (i) A Governor has to act in his discretion where the advice of the Council of Ministers is not available e.g. in the appointment of a Chief Minister soon after an election.
- (ii) A Governor may have to act against the advice of his Council of Ministers e.g. he may have to dismiss a Ministry which refuses to resign even when defeated on a vote of no-confidence in the Assembly.
- (iii) A Governor may have to send a report to the President under Article 356 that the administration of the state cannot be carried out in accordance with the provisions of the constitution. Obviously, this cannot be on the advice of the Council of Ministers against which the report is being sent.
- (iv) A Governor may have to decide in his discretion whether any decision taken by a Minister should be required to be sent for the consideration of the Council of Ministers.
- (v) A Governor has to exercise his discretion to judge whether an Act of legislature should be reserved for the assent of the President.

The list of such cases can by its very nature not be exhaustive. The above list may, therefore, be treated as illustrative.

#### **E. Exercise of discretion in practice**

Functioning of the Governors in normal circumstances, when a party with absolute majority in the Assembly forms the Government, has been normally a smooth affair. However, the conduct of the Governors in abnormal or exceptional circumstances e.g. when no party can claim absolute majority in the Assembly or when a Chief Minister has lot majority support, has caused a lot of friction in Centre-State relations. Below are some illustrative cases where the discretion of the Governor, in these circumstances, has been actually exercised.

#### ***Appointment of Chief Minister.***

According to the constitution, the Governor appoints the Chief Minister and on his advice other Ministers. When a party gains absolute majority in the State Assembly its leader is automatically appointed the Chief Minister by Governor. However, in the past 1967 scenario many occasions arose when no party could claim absolute majority in the Assembly. In these situations, the Governors were required to exercise their discretion in choosing the Chief Ministers. For example, in 1970, Shri S. S. Dhawan, Governor of West Bengal invited Jyoti Basu, the leader of the largest single party to discuss formation of the Government. But, the Governor wanted him to prove his majority before being invited to form the Government. Mr. Jyoti Basu refused to do so and was not then invited. But, as early as in 1952, the Governor of Madras, Mr. Sri Prakash invited the single largest party (Congress) Mr. C. Rajagopalachari even though the other parties had formed a majority coalition under the leadership of Mr. T. Prakasham. At times, the Governors have insisted on a head count for deciding the question of appointing Chief Ministers. Different Governors have thus followed different course of action under similar circumstances.

### ***Dismissal of a Ministry***

According to the constitution a Minister holds office during the pleasure of the Governor. But, in the constitutional scheme, the pleasure of the Governor can be withdrawn from a Ministry only if it loses the confidence of the Assembly to whom it is responsible. It means that the Governor has to withdraw the pleasure as soon as the Ministry loses the confidence of the legislature. Normally, the Chief Ministers resign under these circumstances or face the Assembly. The Chief Minister of West Bengal (1967) did neither. The Governor gave a fortnights time and extended it by a week to the end of the November 1967. The Chief Minister refused to call the Assembly before 18<sup>th</sup> December 1967. In the case of U.P (1970) the Chief Minister was asked to resign though he was prepared to face the Assembly within two days. Thus, here again the Governors have tended to follow different courses in similar circumstances.

### ***Dissolution of State Assemblies***

Governors have not followed any uniform course of action in regard to the dissolution of Assemblies. It is of course clear that the advice of a Chief Minister enjoying majority support is binding on the Governor. But, when the Chief Minister appeared to have lost such support, some Governors refused to dissolve the Assembly on his advice while others in similar circumstances accepted the Chief Minister's advice to dissolve the Assembly. For example, when the Chief Minister of Kerala appeared to have lost majority support in 1970, the Governor dissolved the Assembly on his advice. The same thing happened in Punjab in 1971. But, a contrary course was followed by Governors in similar circumstances in Punjab (1967), U.P (1968), M.P (1969) and Orissa (1971). The Assembly was not dissolved and attempts were made to install alternative Ministries. It is obvious that no consistent policies have been followed in such cases by the Governors. It has very often led to the charges that the Governors have acted in a partisan manner, very often at the instance of the ruling party at the centre.

### ***Recommending President's Rule***

It has been alleged that the Governors have made an imprudent use of Article 356 of the Constitution to recommend imposition of President's rule in the State. They have often not given enough chance for the formation of alternative stable Ministries, nor have they dissolved the Assemblies to give a chance to the electorate to install an alternative Government. Very often, the Governors have used peculiar methods to ascertain the majority of the Government. The cases of Jammu and Kashmir and A.P (1984) were of this nature. There have been allegations that the Governors have not acted in their best judgment, but to further the interests of the ruling party at the centre at the behest of Central Government.

### ***Summoning of the Assemblies***

When a Government enjoys majority support in the Assembly, the Governor should summon the Assembly on the advice of the Chief Minister. There can be one exception to this rule. When the Chief Minister does not advise summoning of the Assembly within six months of its last sitting, the Governor may summon the Assembly

without his advice to ensure compliance with constitutional requirement. There may be some other situations where the Governor may be justified in summoning the Assembly without the advice or contrary to the advice of the Chief Minister. For example-

- (i) When a Chief Minister is installed who does not lead a party with a majority in the Assembly, he may be advised by the Governor to prove his majority in the Assembly within thirty days of his appointment. If the Chief Minister does not advise summoning the Assembly during this period, the Governor should himself summon the Assembly.
- (ii) When there is reason for Governor to believe that a Government has lost majority support in the Assembly, he may ask the Chief Minister to prove his majority within a reasonable period of 30 to 60 days. If the Chief Minister does not advise summoning of the Assembly within this period, the Governor should do so on his own.

### ***Dissolution of the Assembly***

When a Chief Minister enjoying majority support advises dissolution of the Assembly to seek a fresh mandate, the Governor must accept the advice. But, if the advice is tendered by a Chief Minister who appears to have lost majority support, it should not be accepted. Instead, the Chief Minister should be asked to prove his majority within a reasonable time of 30 to 60 days.

If a viable Government cannot be formed, the Governor may either dissolve the Assembly and order fresh election or recommend President's rule under Article 356. If elections are ordered, the outgoing Ministry may normally be continued. But, if the outgoing Ministry is unwilling to do so or is responsible for serious mal administration or corruption the Governor should recommend President's rule without dissolving the Assembly. This should also be done when for some reason elections cannot be held for a long time as a caretaker Ministry should not function for a long period.

## **F. General observations**

It would be seen from the foregoing discussion that a Governor has to perform dual functions. On the one hand he is the constitutional head of the State Government whereby his role is that of a “friend, philosopher and guide” as long as the elected Government functions within the frame work of the constitution. On the other he is also the guardian of the constitution. He has to ensure that the State Government is run according to the Constitution. If it does not, he has to act in his discretion to dismiss the Government, dissolve the Assembly, or to recommend President’s rule. In his latter role, the Governor is often seen as acting as an agent of the Central Government. The fact that the Governors appear to have acted at the behest of the Central Government confirms the suspicion in public mind that the Governor is really an agent of the Central Government. The provisions of the constitution regarding the appointment and dismissal of the Governor and the way the Governor have been transferred, forced to resign or dismissed, provide further proof that the Governor has to carry out the wishes of the Central government and can hardly act according to the best of his judgment based on goods conscience. The temptation of using the office of the Governor for partisan political purpose is too great for the Central Government. No political party has been able to resist it.

## Chapter II

### The Chief Minister

While the Governor is the Constitutional head of the State, the real executive power vests in the Council of Ministers headed by the Chief Minister. The Office of the Chief Minister is one of great authority and prestige. The Chief Minister performs the same functions in respect of the State Government as the Prime Minister does in respect of the Union Government. Although the powers of the executive Government are really vested in the council of Ministers, the Chief Minister has a very important role in the exercise of this executive power. He is not the first among equals, but the prime mover of the executive Government in the State.

#### **A. Appointment and term of office of the Chief Minister**

The Chief Minister is appointed by the Governor of the State. No guidelines are given in the Constitution or in any law about the criteria to be used by the Governor in the selection of the Chief Minister. Legally speaking, the Governor can appoint any body as the Chief Minister of the State. However, according to the functions of the Parliamentary Government, the leader of the majority party in the State Assembly has to be invited by the Governor to form the Government. So long as any particular political party enjoys an absolute majority in the Assembly, the Governor does not have much of a choice. The leader of the majority party in the Assembly has to be invited by him to form the Government because the Chief Minister and the Council of Ministers have to be responsible to the Assembly. However, the situation becomes rather fluid when no political party holds an absolute majority in the Assembly. No clear convention has been established in this regard and the Governors have used their discretion to certain extent in appointing the Chief Ministers. This point has already been discussed while studying the discretionary powers of the Governor.

## **B. Term of Office.**

There is no particular term of office prescribed for the Chief Minister under the Constitution. He continues to be the Chief Minister as long as he enjoys the pleasure of the Governor. As already mentioned the pleasure of the Governor obtains as long as the Chief Minister and the Council of Ministers enjoy the Confidence of the State Assembly. Of course, the term of the Assembly being only five years, the Chief Minister would naturally hold office only up to the end of the term of the Assembly. There is, however, nothing to prevent him from getting re-elected after the new Assembly is constituted as a result of fresh general election. There is, however, another contingency when the Chief Minister may have to quit the office even when the party which elected him continues to enjoy the absolute majority in the Assembly. This may happen when the majority party chooses to elect another leader and requests the Governor to appoint him as the Chief Minister. This contingency has arisen in a number of cases in the past. For example, in 1972, Mr. P.C. Sethi became the Chief Minister of Madhya Pradesh in place of Mr. S.C. Shukla, although both of them belonged to the Congress party and the party continued to enjoy an absolute majority in the Assembly. In 2001 Shri Narendra Modi became the Chief Minister of Gujarat in place of Shri Keshubhai Patel, although both of them belonged to the BJP and the party continued to enjoy an absolute majority in the Assembly.

## **C. Other Conditions**

The Chief Minister is entitled to a free furnished residence in addition to fixed monthly salary and allowances, as laid down by a law, such laws have been amended from time to time.

## **D. Dismissal of the Chief Minister**

An unseemly controversy has arisen on the question whether the Governor has the power to dismiss the Council of ministers headed by the Chief Minister. The question has already been discussed while studying the discretionary powers of the Governor. The legal positions that the Chief Minister and the Council of Ministers hold office during the pleasure of the Governor which is to be conditioned by the responsibility of the Chief Minister to the Assembly. Obviously, as

long as the Chief Minister and the Council of ministers enjoy the confidence of the Assembly, the Governor has no power to dismiss them. The general contention of the experts is that it is, the Assembly which should determine whether the Chief Minister enjoys the confidence of the House or not. The Governor should not take up on himself these powers of the Assembly as was done by Dharam Veera in West Bengal in 1967 and by Governor Gopala Reddy in U.P. in 1970.

## **E. Functions of the Chief Minister**

### ***Chief Minister as Head of the Council of Ministers***

The Chief Minister is the leader of his legislature party and also that of the Council of Ministers. He is to distribute the executive function among the Ministers. He is responsible for coordinating their activities and making the Council of Ministers functions as a team. In other words, he is to ensure the collective responsibility of his Council of Ministers to the State Assembly. In the functioning of the Executive Government there are many subjects which are reserved for his concurrence before the individual Ministers an act on them even in respect of the portfolios allotted to the Ministers. Besides, it is the Chief Minister who decides the agenda of the Cabinet and largely influences its decisions. With the passage of time, the position of the Chief Minister has, therefore, strengthened vis-à-vis his council of Ministers. As long as a cohesive party is in power in the State, the Ministers are usually afraid of or at least respectful to the Chief Minister. The situation, however, changes when a Coalition Government is in power or the Chief Minister's Party is very much faction ridden. In that case, the Chief Minister is to try to carry together the various factions or parties.

### ***Chief Minister and the Party***

The Chief Minister apart from being the head of the Executive Government also belongs to a political party. He is to retain the support of his party in the Assembly as well as outside. For this purpose, he is to distribute a lot of patronage in the form of various political offices and other advantages to his party workers and

legislators. To stay in power, the Chief Minister has to maintain the balance between his duties to the party and to the State.

### ***Chief Minister as Head of the Administration***

Besides being the political head of the executive, the Chief Minister controls the entire bureaucracy of the State. Of course, he does it through the Secretariat headed by a Chief Secretary who is his main instrument in performing this function. As Head of the Government and consequently as Head of the Administration he has to take care of the interests of his employees and keep them working in a motivated state. He has to keep in direct touch with the senior civil servants and inspire them to perform their functions to the best of their capacities. On the other hand he has also to keep a watch on their performance usually through the administrative channels. But, the Chief Minister has many other channels to be informed about the functioning of his administrators. He may either observe their work during his extensive tours of the state, or may learn about their performance through party workers or some aggrieved persons who come to him for redressal of their grievances etc.

### ***Chief Minister and the Legislature***

The Chief Minister is also the leader of the House. Apart from this formal position he is also to provide legislative leadership to the Assembly through his Council of Ministers. The various legislative measures have to be initiated by the Council of Ministers under the guidance of the Chief Minister. It is well known that the proposals for legislation brought in by the non-official members hardly have a chance of success. Moreover, it is only the Chief Minister and his Council of Ministers who have the support of necessary administrative machinery to be able to frame the proposals in proper fashion after considering all the pros and cons of the situation. They are also in possession of more information than the members to be able to inform them about the various consequences. The Chief Minister has also to keep the Assembly informed of the major activities of the Government through answering the Assembly questions, special Statements and through various discussions during presidential address, Budget, etc. The Chief Minister has to assure that

the input required from the side of the Government for the proper conduct of legislative business is provided by all the Ministers.

### ***Chief Minister as a Public Relations Man***

The continuance in office of any Government depends upon the support of the people. The Government has therefore, to project a good image before the people. For this purpose it is necessary that the information about the various programmes initiated by the Government is given to the public. The people have also to be kept informed about the success or failure of different programmes and the steps taken by the government to improve the conditions of the people. The Chief Minister comes in daily contact with a large number of people including the persons representing various interests and members of the press with whom he has to maintain good relations and keep them supplied with the information necessary for projecting a proper image of the Government. Being in a very important position in the State, the Chief Minister gets a good media coverage if he is in a position to organize this work properly. Of course, in the performance of this function he is assisted by his staff in the public relations department as well as some of his political advisors.

### ***Other Functions***

Apart from the functions mentioned above, the Chief Minister is also to keep the Governor informed of all the important decisions of the Government. He is to furnish him such information relating to the administrative affairs of the State as may be called for. If the Governor so requires, the Chief Minister has to submit for the consideration of the Council of Ministers any matter which has not been considered by the Council.

Besides the Chief Minister has to maintain a liaison with the Prime Minister and other Central Ministers so that the problems relating to his Government at the Central level may be attended to promptly. In this respect he can also take the help of the Members of Parliament from his State. Obviously he has to maintain a good working relationship with the Members of Parliament, even with those belonging to the opposition parties.

## Chapter III

### The Council of Ministers

#### **A. Appointment of the Ministers and terms of their office**

The power to appoint the Council of Ministers including the Chief Minister vests in the Governor. As discussed earlier, the Governor can appoint any one as Chief Minister. Of course, he has to appoint the leader of the majority party as the Chief Minister. However, in the appointment of the Ministers, he has no choice. In this respect, he has to act only on the advice of the Chief Minister. There are no particular qualifications prescribed for a person to be appointed as a minister. Initially, he need not be even a member of the State legislature. But any person appointed as Minister ceases to be minister if he does not remain for a period of 6 consecutive months a member of the State Legislature. It means that if a non-legislator is appointed a Minister he has to get elected to the State Legislature within a period of 6 months. If he fails to do so, he would cease to be a minister.

#### ***Term of Office***

There is no particular term of office prescribed for the Ministers. A Minister holds office during the pleasure of the Governor. As a member of the Council of Ministers, a Minister is collectively and individually responsible to the State Assembly. In addition, he is also responsible to the State Assembly. The Minister is additionally responsible to the Chief Minister. The Governor can at any time dismiss a Minister on the advice of the Chief Minister. There have been many cases where the Ministers have been dismissed by the Governor on the advice of the Chief Minister.

#### **B. Functions of the Council of Ministers**

All the Ministers comprising the Council of Minister are not of the same rank. Like the union Cabinet, the State Government also has a Cabinet. While the council of Ministers is a large body only a few of

these Ministers are Cabinet Ministers. The various categories of the Ministers are:

- (i) Cabinet Ministers
- (ii) Minister of State
- (iii) Deputy Ministers
- (iv) Parliamentary Secretaries

The Categories of the Ministers are similar to those in the Union Government. There is however one significant difference. At the Centre Level, the ministers of State, Deputy Ministers and Parliamentary Secretaries do not attend the meetings of the Cabinet. Usually, only Cabinet Ministers attend. However, such of the other Ministers are invited whose subjects are likely to be discussed in a particular meeting. In the States, usually all categories of Ministers' attend the Cabinet meetings. This results in unwieldy gathering of a large body of Ministers in which it is very difficult to discuss serious matters.

### ***Cabinet Committees***

Like the union Government, some of the State Governments have also adopted the system of Cabinet Committees for efficient and expeditious transaction of Government business. For example, Maharashtra Government in 1965 had the following Cabinet Committees:

- (i) Integration Committee of the Ministers
- (ii) Sub-committee for war
- (iii) Committee on Food matters
- (iv) High Power Committee of Ministers for development of Bombay
- (v) High Power committee of Agricultural Production

However, the numerical membership and composition of the Cabinet Committees differ from State to State and in the same State from time to time. While some of the committees may be Standing Committees, but most of them are ad hoc Cabinet Committees formed for certain specific purposes. These ad hoc Committees are dissolved as soon as the work allotted to them is completed. It may also be noted that the

system of Cabinet Committees is not as popular in the State Governments as in the Central Government. Many of the State governments have not set up any Cabinet Committees. Most of the important matters are placed before the Cabinet whose meetings are held frequently.

### ***Transaction of Business in the Cabinet***

The meetings of the Cabinet are called by the Chief Minister. The Chief Minister also decides as to the items which are to be placed before any meeting of the Cabinet. The Agenda Notes for individual items to be placed before the Committee are prepared by the concerned departmental secretaries with the approval of their Ministers. The agenda notes are circulated to the members of the Council of Ministers with the approval of the Chief Minister. The Cabinet considers these items and takes a decision on each one of them and defers some items for future meetings. The decisions in the Cabinet are arrived at by consensus. Whenever an agreement cannot reach on any subject, it is usually deferred for the next meeting.

### ***Record of Decisions of Cabinet***

Along with the agenda notes, the files of concerned departments are also sent to the Cabinet. The decision of the Cabinet is recorded by the Chief Secretary on each case. The Chief Secretary is the Secretary of the Cabinet and remains present in all meetings. The Departmental Secretaries usually remain in attendance and are called inside the meetings whenever the Chief Minister or the Chief Secretary desires them for any clarification. Unlike the Central Government, there is no separate Cabinet Secretariat in the State Government. The Chief Secretary acts as the Secretary of the Cabinet. The decision of the Cabinet in each case is recorded by the Chief Secretary. The real work regarding the preparation of agenda notes is done by the respective departments. The remaining secretarial work is done by the personal staff of the Chief Secretary.

## **C. Allocation of Business**

While the Council of Ministers is collectively responsible to the State Assembly, it is impossible for it to take all the decisions collectively.

Most of the work relating to the portfolio allotted to a Minister is disposed of by him. Under our Constitution, the Governor has powers to make rules of more efficient conduct of business [Article 166(3)]. Most of the States have therefore framed allocation of Business Rules according to which the work is divided among different ministers. These rules can be changed from time to time. The different subjects are grouped differently at different times. Usually, the grouping of the subjects should be done either on the basis of the functions or on the basis of clientele or geographical areas etc. It is observed that even in the case of Union Government, the grouping of different subjects was not very rational. In State Government the position is much worse. Very diverse subjects are often grouped together and allocation of work among the Ministers is based more on personal considerations rather than for efficient conduct of business. Most of the work in respect of the department allotted to a particular Minister is dispersed of by the Minister. However, according to the rules of business, some matters are reserved for:

***(i) Consideration of the Chief Minister***

These are called the coordination cases in which the files are submitted by the Minister to the Chief Minister for his orders in coordination. These are usually the matters in which more than one department are involved and cannot reach agreement among themselves. Some of these cases are of importance to the Government as a whole. Sometimes the Chief Minister by special instructions reserves some cases for his order. For example, to check the unnecessary transfer in individual departments the Chief Minister reserves some categories of transfers for his orders.

***(ii) Presentation before Cabinet***

These are cases which are required to be placed before the Cabinet for final decisions. These are important matters requiring overall policy divisions. The Allocation of Business Rules gives details of such cases which have to be placed before the cabinet. A sample of such categories is given below:

- (a) Proposals for the appointment or removal of Advocate General and relating to his remuneration;

- (b) Proposals to summon, prorogue or dissolve the assembly;
- (c) Proposals for legislation, including issue of an ordinance;
- (d) Cases in which the attitude of the Government to any resolution or the bill be moved in the legislature is to be determined ;
- (e) Proposals relating to recruitment and conditions of service of Government servants including judicial officers ;
- (f) Proposals for making or amending regulations relating to the conditions of service of the members of State Public Service Commission and execution of specified matters from the purview of the State Public Service Commission. The proposals of appointment inconsistent with the recommendations of the State Public Service Commission are also to be put up before the Cabinet:
- (g) Annual financial statements to be laid before the legislature and demands for supplementary, additional or excess grants ;
- (h) Action to be taken on the report of the State Public Service Commission ;
- (i) Proposals for imposition of new taxation or changes in taxation, including land and irrigation rates and for raising loans or giving guarantees by the State Government;
- (j) Proposals affecting the State Finance which are not approved by the Finance Minister;
- (k) Proposals for withdrawal of prosecution against the advice of law and justice department ;
- (l) Proposals of re-appropriation of funds to which the Finance Minister has withheld his assent;
- (m) Proposals for creation of certain high level posts ;
- (n) Reports of Committees of enquiry;
- (o) Proposals involving important changes in the policy of practices in the administrative system.

This is only an illustrative list of the cases to be placed before the Cabinet. There are many more, which can be seen in the Allocation of business Rules of the concerned State Government.

#### **D. Size of the Cabinet**

During the British period, the Governor had a small council which could function collectively on all matters. When the work expanded different members were allotted different portfolios. With the increase

in work the number of portfolios went on increasing necessitating the appointment of a large number of ministers to look after the new functions. Moreover, in a democratic Government there is a great deal of pressure on the Chief Minister to increase the patronage by increasing the number of Ministers. The size of the Council of Ministers has, therefore, been increasing.

However, The Constitution (91st Amendment) Act, 2003, which limits the size of all ministries in India, came into force on July 7, 2003. This Act stipulates that the strength of a council of ministers should not exceed 15 percent of the total number of members in the Lok Sabha (in case of the central government) or the relevant state assembly. An exception has been made only for smaller states such as Sikkim, Mizoram and Goa where the strength of the assembly is 40 or less. There, the state government can have a maximum of 12 ministers.

## Chapter IV

### The Chief Secretary

#### A. Functions of the Chief Secretary

Every state has a Chief Secretary who is more or less the head of the Civil Services. He is the King-pin of the Secretariat. His control extends to all the departments of the Secretariat, although he is in the direct charge of only the General Administration Department (GAD). He is more than *primus inter pares among the* secretaries. He is in fact the chief of the Secretaries. He is the mentor and the conscience keeper of the civil servants of the state. The civil servants look to him to deal with all their problems concerning their conditions of service and work. He provides the leadership to the administrative system of the state. The office of the Chief Secretary is considered so important that it has been excluded from the operation of tenure system. The Chief Secretary is supposed to retire as a Chief Secretary or moves to the Central Government to take up a more important position. There are, however, some exceptions to this rule.

Since 1973, the post of Chief Secretary has been made equivalent to the Secretary to the Government of India. At present, he is usually the senior most civil servant of the state except when the senior most officer cannot be appointed for reason of unsuitability or for political unacceptability. In that situation, the unwanted senior most officer is shifted to some innocuous position. The Chief Secretary then is the next senior most officer and wields all the authority that the position commands.

#### *Chief Secretary as an Advisor of Chief Minister*

The Chief Secretary of the State is the principal advisor of the Chief Minister in all administrative matters. It is customary for the Chief Minister to consult the Chief Secretary in all matters concerning appointments to senior positions like those to Secretaries, Special Secretaries, Deputy Secretaries, Heads of the Departments, etc.

Besides, the Chief Minister also consults the Chief Secretary on all important matters concerning the policy matters.

### ***Chief Secretary as the Secretary of the Cabinet***

The Chief Secretary is the Secretary to the Cabinet. He gets the agenda for the meetings of the Cabinet prepared by the department secretaries. He obtains the approval of the Chief Minister regarding the inclusion of the agenda items in the Cabinet meetings. He also makes arrangements for the Cabinet meeting with the approval of the Chief Minister. After the meeting of the Cabinet, it is the Chief Secretary who records the minutes and the decisions of the Cabinet.

### ***Chief Secretary as the Head of the Civil Service***

The Chief Secretary is the head of the entire civil service in the State. He is consulted by the Chief Minister in the matters of all the important appointments. Besides he is in charge of the General Administration Department which controls the transfers and posting of all the Indian Administrative Service and State Civil Service Officers. The department is also responsible for the general control over the service conditions of the employees of different departments in the State. All the recruitment, rules and disciplinary matters are decided in consultation with the General Administration Department only. The General Administration department also controls the Secretariat Services and arranges the maintenance and upkeep of the Secretariat. In this way the entire staff attached to the different Ministers is also under the control of the Chief Secretary.

### ***Chief Secretary as the main coordinator***

The Chief Secretary in fact is the Chief of all the Secretaries. He is to resolve the differences between the different secretaries to the State Government. He is the Chairman of so many committees of the Secretaries and in that way he is in a position to coordinate the activities of the entire Secretariat.

### ***Chief Secretary during emergency***

In times of emergency or crisis, the Chief Secretary constitutes the nerve centre of the State. During these times his role as the Chief Coordinator comes into full play. During this period he is able to utilize his multifarious contacts in the Central Government as well as with his counterparts in other States.

### ***Chief Secretary as the Secretary of the Zonal Council***

The States Reorganization Act, 1956 provides for setting up a number of Zonal Councils in the Country. These Zonal Councils are headed by the Union Home Minister. The other members of Zonal Councils are the Chief Minister and a couple of other Ministers from each state in the Zone. The Chief Secretaries of the different states act as Secretaries to this Zonal Council by rotation.

### ***General Superintendence***

The Chief Secretary exercises general superintendence and control over the entire Secretariat and through the Secretariat over the entire field administration. He is to keep himself generally informed about the happenings in the State. He does this by keeping contact with his secretaries, heads of departments, commissioners, collectors, legislators and other members of the public. In this process, he comes in contact with various interests and maintains liaison between the administration and the people.

### ***Liaison with the Centre and the other States***

The Chief Secretary is also to maintain a close liaison with the Central Government and the other State Governments. He is able to perform this function for two very special advantages which his service permits him. Due to the tenure system he normally has worked in various positions in the Central Government. For this reason he would have come in contact with many officers of the other states who may now be holding senior positions in Government of India or the other State Governments. Besides he attends the Chief Secretaries conferences called by the Cabinet Secretary. In these conferences various matters connected with the State Governments and the Central Government may be sorted out.

### ***During President's Rule***

During the President's Rule the position of the Chief Secretary gets affected in two different ways. If no advisors are appointed, the Chief Secretary becomes very powerful. He becomes the direct advisor of the Governor and performs more or less all the functions of the Ministry. In case the Governor appoints a number of advisors, to that extent the Chief Secretary's position is undermined. However, even during President's rule, the Chief Secretary is to perform the all important functions of coordinating the functioning of the entire Government. Any failure of the Government of that time would be considered a direct failure of the administrative machinery as there is no popular Government in the State.

### ***Residuary Functions***

According to the rules of business, the Chief Secretary has to look after all matters which are not falling within the responsibilities of any other secretary. Usually, such instances are few and far between, but, they do occur as the functions of the Government are becoming more and more varied and complex.

### **B. Undermining the position of the Chief Secretary**

The political process have worked in such a fashion that the position of the Chief Secretary has been greatly undermined. The Chief Minister has so many political advisors that he very often does not seek the advice from the Chief Secretary in many administrative matters. He is rather guided by his political contacts or sometimes even by junior officers who happen to get the ear of the Chief Minister through some politicians. This has severely undermined the position of the Chief Secretary and reduced his control over the bureaucracy. The avoidable result has been the breakdown of the hierarchical system of the bureaucracy all along the line. This has adversely affected the morale of the civil services and their discipline.

### **C. Tenure of the Chief Secretary**

It was stated earlier that the usual practice was to continue the Chief Secretary until he retires or move to a higher position in Government of India. Unfortunately, this is no longer the case. The Chief Secretary does not enjoy the security of tenure now. Often the Chief Secretary is removed from his position unceremoniously and sent to unimportant job. The unfortunate position is that it happens for reasons not connected with any administrative failure on his part. This again is undermining the position of the Chief Secretary with detrimental effect on the morale of administration.

## Chapter V

### The Secretariat

The expression Secretariat is used to refer to the complex of departments whose administrative heads are Secretaries and political heads the Ministers.

#### **A. Organization of the Secretariat**

As already seen, the functions of the Government are organised in different departments. Each department is headed at the political level by the Minister and at the Administrative level by the Secretary. The Secretary is in turn assisted by a group of officers and an office.

#### ***Officers***

The Officers in the Secretariat are grouped into various categories mentioned below:

- (i) Secretary to the Government
- (ii) Special Secretary/Additional Secretary
- (iii) Joint Secretary
- (iv) Deputy Secretary
- (v) Under Secretary

We shall be discussing here the functions of these officers briefly:

#### ***Secretary***

The Secretary is an overall charge of the department. He is the Chief Advisor to the Minister regarding the matters in his department. He allocates work among the different officers of his department. He represents his department before the committees of the Assembly.

#### ***Additional Secretary/Special Secretary***

When the work in a particular department becomes too heavy, some posts of Special Secretaries/Additional Secretaries may be created to

relieve the Secretary of some of the burden of his work. These officers can directly perform some of the functions of the Secretary and may submit files directly to the Minister in respect of the delegated functions performed by them.

### ***Deputy Secretary***

The real operating level below the Secretary is the Deputy Secretary. In some of the States the post of Joint Secretaries has been created to distinguish between the officers of different seniorities. Sometimes, the officers coming from the State Civil Services are designated as Deputy Secretaries while those coming from the Indian Administrative Services are known as Joint Secretaries. However, they perform the same functions. The Deputy Secretaries/Joint Secretaries are placed in charge of definite wing of the Department. This requires the supervision of the work of a number of Under Secretaries. A Deputy Secretary is also delegated some powers to dispose of certain routine cases at his level. He sends important cases to the Additional Secretary or the Secretary depending upon the scheme of delegation of work. The Deputy Secretaries are supposed to have a thorough knowledge of the wing controlled by them. They are supposed to analyze the various policy alternatives before sending the files upwards.

### ***Under Secretary***

These are the lowest level officers who perform the vital function of providing a link between the office and the officers. They are placed in charge of a number of sections each headed by a Section Officer. Section is the lowest unit of work. In some states, the Section is headed by an Assistant Secretary while in others by a Section Officer. In some places, he is also included in the class of officers while in others he is included in the office. The Section Officer is responsible for the distribution of work among the various functionaries of the Section and to ensure the timely submission of files to the officers. He supervises the work of the Assistant/UDCs working in his section and makes them present the cases suitably docketed and referenced. Precedents of similar cases have also to be cited while presenting the files.

## *Office*

While the officers analyze the case and suggest alternative courses of action, the function of the officer is to present cases in the proper form before the officers. The office has the following categories of functionaries:

- (i) Assistant Secretary/Section Officer
- (ii) Assistant
- (iii) Upper Division Clerk
- (iv) Lower Division Clerk/Typist

## **B. Functions of the Secretariat**

Secretariat may be regarded as the extended personality of the Council of Ministers. Its main functions are:

- (i) to assist and advice the Minister in the formulation of Government policies and programmes;
- (ii) To frame the policies, it is necessary to collect a great deal of data from the field agencies and several other sources. The Secretariat performs the function of collecting the necessary data from different sources and analyzing it with a view to suggest various courses of action necessary in the formulation of policies.
- (iii) The Secretariat gives general direction and guidance to the Directorates and other field agencies for the efficient implementation of the Government policies and the decisions. It may be noted that these are only broad policy guidelines and are not supposed to be in the nature of detailed instructions which are to be issued by the respective head of the executive departments.
- (iv) The Secretariat monitors the programmes regarding the implementation of various programmes and evaluates the performance of different field agencies. Finally, it suggests the corrective action whenever it becomes necessary in view of the evaluation conducted by it.

- (v) The Secretariat acts as the spokesman of the Government. It maintains contact with the Central Government and other State Governments and outside agencies.

The functions of the Secretariat have to be distinguished from the functions of the executive departments. The Secretariat is supposed to give only general policy guidelines while the actual execution of the policy is the work of the executive head of the departments.

## Chapter VI

### The Departments

Whereas the Secretariat is concerned mainly with the formulation of policies, the responsibility of their execution falls on the heads of the departments and their field formations. Usually there is a separate department for every important activity of the State. These departments provide the executive direction required in the implementation of the policies laid down by the Secretariat. The head of the departments from the Government and their officers draw their powers either from any statute or by delegation from the Government or both. For example, the Registrar of the Cooperative Societies derives his powers from the Cooperative Societies Act, whereas the Director of Agriculture derives his powers mainly by delegation from the State Government.

#### **A. Organization for the Departments**

It would be worthwhile to distinguish between the departments in the Secretariat and the Executive Departments. While the Secretariat Department works under a generalized Secretary and perform the functions of laying down the policies, the executive departments are organised for the performance of the field functions. Generally the executive departments are headed by a technical officer called by different names such as, Registrar of Cooperative Societies, Director General of Police, Engineer-in-Charge, etc. There is thus no common nomenclature of the head of Department in the different departments of the State. As an illustration some of the departments and the designation of their heads are shown below:

<b>Departments</b>	<b>Heads</b>
Police Department	Director General of Police
Cooperation	Registrar of Cooperative Societies
Education	Director of Education
Forest	Conservator – in- Chief
Irrigation	Engineer – in – Chief (irrigation) etc.

## **B. Functioning of the Departments**

The Executive departments of the Government are their executive arm meant for the performance of specific functions. The Organizations of different departments is different, depending upon the nature of the functions to be performed by them. However, certain common features are mentioned here. Work in all the departments is usually divided between the headquarters, divisional and district levels. Some of the departments have their organization even below the district level. Sometimes, their organization extends to blocks and even village level. For example, The Panchayat Department, Agriculture Department and Revenue Department have their organizations extending right up to the village levels.

### ***Functions of the Department***

In accordance with the principle of the distinction between the policy making and executive functions, the head of the department is supposed to perform the following functions:

- (i) Proposing at the beginning of the budget period the departmental activities for the ensuing year;
- (ii) Formulating a first draft of the department's budget'
- (iii) Acting as technical adviser to the Ministry;
- (iv) Carrying out the research and experiment programme and improving the department's techniques of work;
- (v) Training the department's officers in these techniques;

- (vi) Inspecting the execution of work in these departmental district staff;
- (vii) Allocating grants according to rules, making budget re-appropriation within prescribed limits;
- (viii) Making within approved rules all appointments, confirmations, including also sanctioning leave and making acting arrangements.
- (ix) Exercising disciplinary powers over all subordinate officers according to rules;
- (x) Advising the Public Commission concerning promotions;
- (xi) Advising the Minister on nominations to be made by Government to out side institutions;
- (xii) Sanctioning the attendance of officers in conferences.

## Chapter VII

### The State Services and Commissions

#### **A. The State Services**

The State Services consist of such services as the State Government may, from time to time, declare by notification in the official, Gazette to be included in that category. The number of such services varies from State to State. A State has, generally speaking State Civil Service, Medical Service, Police Service, Judicial Service, Public Health Service, Forest Service, Education Service, Veterinary Service, Cooperative Service, Engineering Service, Accounts Service etc. Generally the State services are divided into four categories viz. Class I, Class II, Class III and Class IV services. Class I and Class II belong to the officers' class. Class III is related to ministerial staff and Class IV comprises unskilled staff.

#### **B. State Public Service Commission**

The Constitution makes it obligatory for the State Government to constitute a Public Service Commission to assist it in the recruitment, promotion and maintenance of discipline amongst the State Services. The exact strength of the Commission is not specified in the Constitution. The Governor of the State is empowered to determine the strength. However, the Constitution permits for constituting a Joint State Public Service Commission for two or more States. If a resolution to this effect is passed by the Legislature; Parliament may, by law, provide for constituting such a Joint State Public Service Commission. In such a case the strength of a Joint State Public Service Commission is determined by the President of India.

The Governor appoints the Chairman and other members of the State Public Service Commission, while the Chairman and other members of a Joint State Commission are appointed by the President of India. The Constitution provides that, as nearly as may be, on behalf of the members must be persons who have held office for at least ten years either under the Government of India or under the Government of a

State. If the office of the Chairman of the Commission falls vacant for any reason, the President, in case of Joint State Public Service Commission and the Governor in case of a State Public Service Commission, appoints a person from amongst the members to take charge until a new Chairman is appointed.

A member of the Joint State Public Service Commission/State Public Service Commission holds office for a period of six years from the date he assumes his office or until he attains the age of sixty-two years, whichever is earlier. A member of the Commission may resign by addressing a letter to the President in case of Joint State Public Service Commission or to the Governor of the State in case of State Public Service Commission.

The Chairman or any other member of the Commission can be removed from his office by the order of President only on the ground of misbehavior. The President may also, by order, remove from office the Chairman or any other member, as the case may be, if he is adjudged insolvent or engages during his term of office in any paid employment outside the duties of his office or is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body.

On ceasing to hold office, the Chairman of a State Public Service Commission, shall be eligible for appointment as the Chairman or a member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission. He cannot take up any other employment either under the Government of India or under the Government of a State.

***Functions of the Commission:***

It shall be the duty of the Commission to conduct examinations for appointments to the services of the State Government. The Commission shall be consulted on all matters relating to the methods of recruitment to civil services and for civil posts and the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers. The Commission is also consulted on all disciplinary

matters affecting a person serving under the Government of India or the Government of a State, in civil capacity including memorials or petitions relating to such matters and on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or the Government of a State, in a civil capacity, and any question as to the amount of any such awards.

It shall be the duty of the State Public Service Commission to present annually to the Governor a report as to the work done by the Commission. The Governor shall cause it to lay its copy together with a memorandum explaining as respects the cases, if any, where the advice of the Commission was not accepted, the reasons for such non-acceptance, before the Legislature of the State.

### **C. Advocate-General**

The Constitution provides for the office of an Advocate-General. He is appointed by the Governor on the advice of the State Ministry. He holds office during the pleasure of the Governor, but, in actual practice, he holds office during the tenure of the ministry appointing him. The only qualification laid down is that he should be qualified to be a judge of a High Court.

Though he is not a member of the State Legislature, he is empowered to attend its meetings when called upon to explain certain legal technicalities. He has the right to speak and take part in the proceedings of the legislature but he cannot vote.

He performs all such functions as are enjoined on him by law. He is the highest legal adviser to the State Government and appears on its behalf in almost all courts. He is also the public prosecutor in all case coming up before the High Court in exercise of its original criminal jurisdiction. He examines all the Bills drafted by different departments.

### **D. State Finance Commission**

The Constitution (Seventy-third Amendment) Act of 1992 and the Constitution (Seventy-fourth Amendment) Act of 1992 have added Part IX and Part X respectively, to the Constitution of India regarding the constitution and empowerment of Panchayats and Municipalities

respectively. These amendments have provided for constituting and empowering Finance Commission in each of the States of India.

The Governor of a State shall constitute a Finance Commission for the State every five years. The Legislature of the State may (by law) provide for the composition of the Commission, the qualifications that shall be requisite for the appointment of its members, and the manner in which they shall be selected. The Commission is empowered to review the financial position of the Panchayats and the Municipalities and to make recommendations to the Governor as to — (i) the principles which should govern the determination, the distribution and allocation between the State and Panchayats as well as the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State; besides the decision about the grants-in-aid to the Panchayats/Municipalities from the consolidated fund of the State, (ii) the measures needed to improve the financial position of the Panchayats /Municipalities, and (iii) any other matter referred to the Commission by the Governor in the interests of the Panchayats/Municipalities.

The Governor shall cause it to lay every recommendation made by the commission together with an explanatory memorandum as to the action taken on it before the Legislature of the State.

To sum up, we can say that the real administration of the state is carried on by the Secretariat and the Executive Departments. The policies of the Government are framed by the ministers on the advice of the Secretariat and the Executive Departments implement them.

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# Chapter – I

## District Administration

### **A. District Administration in India**

District Administration, as a unit of governance goes back to ancient times. We come across a reference of District Administration in the works of Manu. According to Manu, a thousand villages formed a district that was under the charge of a separate official known as ‘Sthanika’. During the times of Mauryas and the Guptas there were well-knit administrative machineries at the district level. The Mughal rulers also had a distinct organization for administration at the district level. The East India Company also followed the Mughal pattern with minor changes. When the Company acquired the ‘diwani’ rights from the Mughal emperors, it appointed its own officers to collect revenue. Warren Hastings created the post of the Collector in 1772 for the dual purpose of collecting revenues and dispensing justice. Later on, this post acquired more and more powers and the District Collector became the eye and ear of the British Administration in India. After India achieved independence in 1947 and Central and State Governments launched development programmes, the powers and functions of the District Collector increased immensely.

It is at the level of the district that the policies of government are translated into practice and the problems of local people are studied and communicated to the State Government. It may be truly said that the district is the unit of administration with which almost every citizen comes into contact. Most departments of State Governments; outside the secretariat, have field offices in the district. In certain cases even the Union Government has its field offices located at this level. The sum total of the activities of these departments together constitutes the administrative machinery of the district. The many and varied tasks of the District Administration can be summarized as follows:

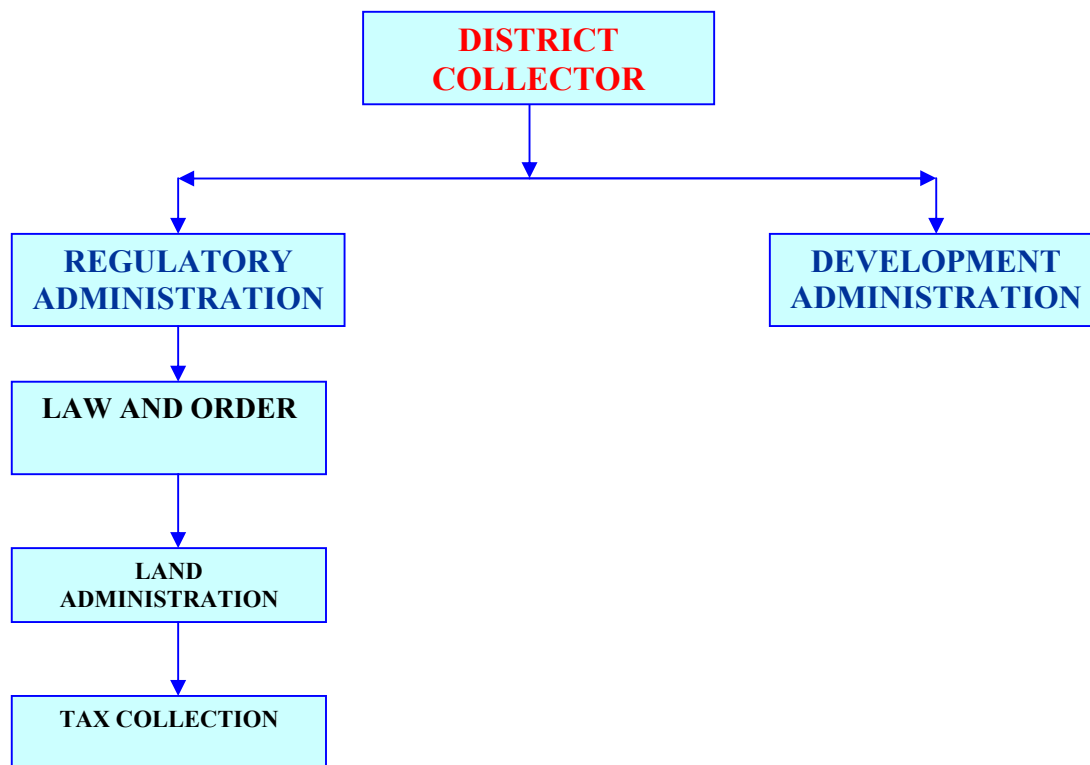
- (i) The regulatory functions include the maintenance of law and order; control of crime; land administration which includes the

assessment and collection of land revenue and other public dues; control, regulation and distribution of food and civil supplies.

- (ii) The District Administration performs certain developmental functions that include agricultural production, co-operation, animal husbandry, fisheries and welfare activities like public health, education and social welfare.
- (iii) The District Administration organizes the holding of elections to Parliament, State Legislature and local bodies (rural and urban).
- (iv) It also deals with providing emergency services, natural calamities like floods, droughts etc.
- (v) The Collector, in his capacity as the Chief representative of the Government, performs a number of functions such as issue of arm licenses, their renewal, suspension and cancellation; small savings campaigns; publicity and public relations; protocol duties etc. A survey of the history of Indian Administration shows that in the early stages of evolution a single authority viz. District Collector was in charge of all these functions of Government at the district level. In course of time, local self-governing institutions and the technical departments were set up. As a result; the unity of command was replaced by the multiplicity of commands. The district has, thus, become a sort of sub capital where district headquarters of the various departments are located. These departments are headed by district level officers having different nomenclatures. This has resulted in a change of role of the District Collector.

## **B. Role of the Collector in the District Administration**

The Collector, as the head of the District' Administration, occupies a unique position in the Indian administrative system. During the pre-Independence era he belonged to the Indian Civil Service. After Independence, he is recruited through the Indian Administrative Service. Sometimes he gets this position through promotions from the State Civil Service. He is required to perform multifarious functions which can broadly be depicted under:



The plethora of functions of a District Collector can be summarised as follows:

***Law and order***

The principle role of District Collector even today, in areas outside the Police Commissionership, is to maintain law and order in his district, which is the basis of orderly, civilized life, in the capacity as District Magistrate.

These powers governing the day-to-day freedom of movement and of life of a citizen derive from the Criminal Procedure Code and are exercised almost in complete independence from the elected representatives. These powers in themselves are extremely wide ranging. But in addition, the District Magistrate earlier exercised judicial functions, which made him almost the sole arbitrator of the life and freedom of an individual.

A word may be said here regarding the fast changing role of the district magistrate. Recognizing the possibilities of misuse of the powers

vested in the executive through the District Magistrate, the Constitution of India is committed to the separation of the judiciary from the executive and this process is already under way. Under separation, the head of the judiciary is now clearly the District and Sessions Judge who works directly and independently under the High Court of the State. In spite of these powers being vested with the judiciary, immense power of preventive detention, etc. vests even today with the District Magistrate. Further even today, there are pockets such as the District Councils where the District Magistrate continues to exercise wide-ranging judicial functions. But the trends continually towards the reduction of such function. Further, there is a trend to entrust the law and order functions, along with limited magisterial functions, to the Police especially in the metropolises.

The District Magistrate nevertheless continues to be responsible for law and order and related matters. Towards this end, the District Collector undertakes regular tours in his district, visiting even far-flung villages, seeing the programmes of the Government are being efficiently carried out, meeting people and understanding – even solving, to the extent possible at this time – their problems, thus preventing disaffection with Government and consequent law and order problems. The aphorism that “in Indian public administration the sword is mightier than the pen” was coined consciously and vividly to impress upon the Collector the necessity of field visits to meet the people in their normal surroundings and to see the things for himself.

### ***Revenue functions***

The District Collector derives the designation from the almost supreme revenue functions which he performs, to which there is very little scope of appeal, and extremely limited scope for the exercise of executive functions of the elected representatives.

### ***Coordination and integration of the Government offices***

Among other things which a good Collector would never neglect are to develop friendly relations with governmental personnel operating in his district so as to maximize goal achievement, to train junior officers, and to keep his office efficient. Even where the development functions are being vested in other district level officials, the District Collector

remains the District Officer and continues to be looked upon as such by the public, the government and the officers at the district level.

### ***Development functions***

Tamil Nadu on the one hand and Maharashtra and Gujarat on the other have each responded differently to the emergent functions of development.

Model-I Maharashtra and Gujarat have relieved the Collector of his responsibility in developmental field by appoint a Chief Executive Officer/District Development Officer in each district to look after developmental functions.

Model –II Tamil Nadu, on the other hand, has concentrated development administration in the Collector's hand and has appointed a new authority, called District Revenue Officer, to deal with land revenue and general administration. The Tamil Nadu scheme makes fullest utilization of the time-honored office of the District Collector and the unique halo surrounding it in the new but oppressing tasks of development.

Model – III There still exist the traditional states such as Assam and Haryana, where both the Revenue and Developmental functions continue to vest with the District Collector. As head of the District Rural Development Agency, the District Collector, or Deputy Commissioner exercises development powers. In Assam the District Collector is also the Secretary of the Subdivision Planning Council and exercises wide ranging powers in the process of Decentralized Planning.

Without attempting to determine the appropriateness or not of either of these three models, it can be argued that Collector is the appropriate person to look after developmental activities in the District and in support of this, the following points are often cited:

- (i) Development work requires personal direction to a much greater extent than the ordinary duties of land revenue and general administration.

- (ii) The work is of a novel character, and hence, should be entrusted to the time-tested institution of the Collector.
- (iii) This work calls for effective co-ordination of the work of district officers of all the different development departments. The District Collector can achieve this more effectively.
- (iv) Since the development activities involve personal dealings with legislators and members of the Panchayati Raj institutions, the District Collector is likely to prove more effective.

### ***Food and Civil Supplies***

District Collector does the planning, and puts such plans into execution about the procurement and distribution of certain essential commodities in the district. In case of shortages of the essential commodities, he is empowered to carry out raids and forced procurements under the provisions of ESMA (Essential Services Maintenance Act). District Supply Officer (DSO) in each district is there to assist him in the discharge of this function.

### ***Electoral function***

For the Parliamentary and Legislative Assembly elections, the Collector Acts as the District Election Officer who supervises the overall conduct of elections in the constituency. He is the Returning Officer of the whole constituency (or constituencies falling within his district) and receives nominations of the candidates, once the elections are announced. He also declares the election results of the district. Normally Presiding Officers at the polling booths are posted by him and they act as the representatives of the Returning Officer at the polling booths. In addition to the Parliamentary and State Legislative Assembly Elections, DC (District Collector) is entrusted with the responsibility of conducting the elections for the local bodies and the Panchayati Raj Institutions.

### ***Duties (or functions) with respect to Local Self-Government Institutions***

The role of the District Collector vis-à-vis local self-governing institutions is that of the friend, the guide and the philosopher. He is associated with rural and urban local self-governing institutions as

their Executive Secretary. He hence helps these bodies in the discharge of their functions e.g. if these bodies need police to discharge a particular function, then the District Collector ensures that they get it in time. It is the advice of the District Collector to the State Government that often decides the fate and the life of the local self governing bodies. As already discussed, he is also responsible for conducting the elections to the bodies.

### ***Executive and residuary functions***

The D.C is the premier officer for the execution of the Government policies at the district level. In all these cases of execution, the collector and his staff are expected to carry out the work with the assistance of the concerned departments. He controls the hierarchy of officials who reach down to the village level; and he alone, through his revenue staff and land records, is in constant touch with the conditions of rural life in his district. Further, because of the magisterial powers vested in him, he enjoys a great amount of prestige in the district which enables him to effectively implement the Government policies. He is expected to take interest in the functioning of all the departments at the district level. The departments connected with agriculture, public health, cooperation, public works and rural development programmes find his special attention. After the introduction of the non-official bodies (e.g. NGOs) at the district level and in view of the fact that these non official bodes have to work in tandem with the officials of various departments at the district level, the Collector has to play the role of the leader of the team.

### ***Departments coordinated by the Collector***

Apart from the revenue, magisterial and executive functions, the Collector has direct control and responsibility for a number of administrative activities in the district. Hence the staff of the concerned departments at the district level functions more or less under the Collector and sometimes these departments are so closely aligned to the Collector that to a casual observer they may appear almost as sections in the Collector's office. Such is the case with the Food and Civil Supplies Department, the Excise Departments etc. Many of these departments are manned by officials drawn from the

Revenue department. Some of the important departments at the district level are:

(i) *Department of Agriculture*

The Agriculture Department in a State is usually headed by the Director of Agriculture functioning at the state level under the Minister for Agriculture. Usually there are Joint Directors at the Divisional level and Deputy Directors of Agriculture at the district level. The Agriculture Department is one of the few departments which has its staff from the top level right down to the village level. The village level workers, who are recruited under the Community Development Programmes (CDPs) are today expected to devote themselves almost exclusively to the agricultural extension work in their respective circles. In addition, at the block level, there are Agricultural Extension Officers who are mostly on deputation from the Department of Agriculture. In this manner a whole chain of command operates from the Director of Agriculture at the State level right down to the village level workers at the village level. The Deputy Directors at the District level are theoretically under the control of the District Collector and they supply necessary data as required by the D.C from time to time about the net cropped area, cropping pattern in the area, any changes in cropping pattern, irrigational facilities provided to the farmers etc.

(ii) *Excise Department*

While the Department of Excise at the State Level (Note: This is State Excise Department and not the Central Excise Department) is under the charge of the State Government or the Board of Revenue as the case may be, at the district level, the Excise Department functions under the overall control of the Collector. At the State level, there is an officer who may be called the Excise Superintendent or the Deputy Commissioner of Excise or sometimes even an Assistant Commissioner of Excise as the case may be. The District Excise Officer performs many functions of the Collector under the Excise Act and Excise Manual. The duties of the excise staff relate to the supervision of warehouses of the distilleries, inspection of licenses for the

sale of liquor and other intoxicants. In addition, wherever prohibition is in force, it has to be enforced by the Excise Department with the help of District Collector and the local police.

(iii) *Treasury*

There is a District Treasury at the district level and a Sub-Treasury at the Tehsil level. The District Treasury is headed by a Treasury Officer who is an officer of the Accounts Department (or Treasury Department, if any). The Collector is the overall in-charge of the District Treasury and is responsible ultimately to the Government for the general administration of the treasury.

All the receipts on behalf of all the Departments in the district are paid into the Treasury and payments on behalf of all the departments are made from it. The salaries and pensions of all the officers are paid from the District Treasury. Besides currency and Treasury balance, stamps of various kinds, court fee, general revenue collected from farmers, postal and water mark paper are kept there.

(iv) *Irrigation Department*

The irrigation department is concerned generally with the construction, regulation and maintenance of irrigation works, both major and minor. The Department also sends statements of arrears regarding supply of irrigation water along with the names of the beneficiaries to the Revenue Department (which is under the control of District Collector), which thereafter recovers the arrears for the water supplied to them. In addition, the department also charges betterment levy which represents the Government's share in the increase in the value of land that has resulted from the provision of irrigation facilities. This levy also is collected by the Revenue Department.

(v) *Public Health Engineering Department*

Public Health activity has been entrusted to the local self governing bodies. The Department advises and acts as a

consultant to the local bodies and Government intuitions through District Collector, who is associated with them as their Executive Secretary. The department deals with matters concerning sanitation and public health, maintenance of water supply and drainage works owned by the Government and offers advise to the Revenue Department on the execution of similar schemes.

The Department dealing with Electricity and the Buildings and roads are also very important departments at the district level. They are in now way under the direct control of the District Collector but they are only under indirect control of the D.C through their departmental chiefs at the district level, who are theoretically under the control of the District Collector.

The following list of functions and responsibilities of the District Collector further establishes the importance of Collector as the head of district administration:

### **C. Functions and Responsibilities of the District Collector**

Some of the functions and responsibilities generally entrusted to District Collector are listed below:

#### ***As Collector***

- Collection of land revenue.
- Collection of canal dues.
- Collection of other Government dues.
- Distribution of taccavi loans.
- Recovery of taccavi dues.
- National calamities – assessment of losses to crop and recommendations for relief.
- Distribution of distress taccavi.
- Relief of fire suffers.
- All matters relating to land records.
- Control over land records establishment.

- To collect and furnish multifarious agrarian statistics regarding rainfall, crops etc.
- Land acquisition work.
- Supervision of Treasury and sub-treasuries.
- To sanction land revenue assignment.
- Payment of Zamindari Abolition Compensation and Rehabilitation Grant.
- Assessment and realization of agricultural income tax.
- As Ex-Officio Deputy Director of Consolidation Holdings hears appeals from the orders of the lower authorities.
- Taking relief measures in case of scarcity conditions caused by natural calamities like fire, drought, flood, water logging and excessive rains etc.
- Enforcement of Stamp Act.
- Management of Government estates.

#### ***As District Magistrate***

- To control and supervise the subordinate s magistracy, to order magisterial postings during festivals.
- To promulgate orders whenever there is any danger of breach of public peace and tranquility.
- To dispose off all the petitions and miscellaneous general complaints received from government and orders.
- To make jail inspections and expeditious disposal of cases of under trail prisoners.
- Grant of superior classes to prisoners.
- Premature release of prisoners
- Release of prisoners
- To deal with mercy petitions from prisoners
- As head of criminal administration of the district to control and direct the action of police.
- To submit an annual criminal report to the Government
- Appointment and punishment of village Chowkidar.
- Inspection of police stations once a year.
- To sanction of expunction of a crime from the Crime Register.
- Recovery of repatriation charges.
- Accidents

- Payment of compensation under the Workmen's Compensation Act.
- Labour Problems, strikes, etc.
- Recovery of cess.
- Prosecution under Sugar Factories Control Act.
- Infringement of Trade Mark Act.
- Sanction of temporary electric connection including enquiry regarding breach.
- Grant and cancellation of many kinds of licences.
- Supervision over supply office and rent control and eviction officer under Rent Control Act and in supply matters.
- Supervision and control over local bodies, municipal boards, notified areas and town areas and channel for correspondence.
- Enforcement of the Cinema and Entertainment and Betting Tax Act.
- Supervision of the work of probation officers.
- Making of reception orders for lunatics.
- Enforcement of the Press Act and disposal of declaration in respect of press and newspapers.
- Administration of nazul lands.
- Recommendation of Schemes for the development of forests.
- Issue of permits for the cutting of trees.
- Control of supervision of the work of elections in the district.
- Issue of certificates for domicile, Scheduled and backward issues, guardianship of a political sufferer, etc.
- To provide for effectuation of poles, etc. on a private land or building for conveyance of the electric current.

### *As District Officer*

- The principal agency of Government in matters of general administration in the district; looks after the interest of the Government in general.
- Responsible for proper implementation of government orders.
- To effect coordination in the work of all the district level officers and to preside over the District Plan Implementation Committee.
- To ensure that public grievances against the administration in the district are properly and effectively dealt with.

- Interview with members of public and officials.
- To train junior officers in official procedures, administrative work as well as in personal conduct and behaviour.
- To compile and submit annual administration report of the district.
- Postings, transfer and leave of the gazette officers within the district.
- Appointing authority in respect of ministerial and lower functionaries of Collectorate and tahshil staff and other allied officers.
- To deal with pension cases of district staff.
- Controlling, drawing and disbursing officer of the district staff.
- To submit annual budget estimates.
- Preparation of estimates of works in respect of revenue buildings and responsibility for maintenance of all government buildings under the charge of Revenue Department.
- Incharge of the Treasury and District Stamp Officer and responsible for verification for the security of Government Treasurer.
- Chairman/President of various local institutions. Some are members of Regional members of Regional Transport Authority, Roadways Advisory Committees etc.
- To issue tentative tour programmer of Ministers and VIPs.
- Acts as Chief Protocol Officer in the District.
- To arrange for stay of VIPs at circuit house or other inspection houses.
- To attend to the work of enquiries relating to character verifications.
- To supervise the proper conduct of the civil suits in which States are a party.
- To appoint in the district, Government Counsels and Panel of Lawyers.
- To countersign fee bills of district Government Counsel.
- To make enquiries relating to the issue of certificates to homoeopaths and correspondence regarding registration and enrolment.
- To countersign the grant-in-aid bills of various educational institutions.
- Sale of excise shops.

- Recovery of paper suits dues and deficit court fees under Stamp Act.
- To make enquiries regarding grant of financial aid to the cases as well as to the scholars applying for scholarship/technical education loans etc.

### ***As District Census Officer***

As the District Census Officer, the Collector is responsible for conduct of census operations once in ten years. This work entails a more elaborate arrangement than the election. He appoints enumerators, provides for their training and arranges timely supply of forms etc.

### ***Returning Officer***

The Collector is the Returning Officer for elections to Parliamentary and Vidhan Sabha Constituencies, and has the responsibility for coordination of the election work at the district level.

### ***Other functions***

To the above list may be added the following functions:

- Work relating to civil defense.
- Responsibilities in the field of agricultural production.
- Collection of loans, donations and subscriptions.
- Role as the public relations officer of the Government.
- Responsibilities in the field of municipal administration.
- A natural leader in an emergency such as floods, famine, earthquake, internal and external aggressions, etc.
- Liaison with military authorities and welfare of members of the armed forces – both serving and retired.

Even the above list, formidable looking as it is, leaves many things unsaid. In fact, functions not specifically allotted to any office by any department but which nonetheless are required to be performed at the district level, devolve naturally on the Collector. He has to collect information in regard to matters including parliamentary questions

concerning his district. The latest addition in his functions relates to the electronic data base preparation for purposes of assisting in the planning process which is being now carried out through the District Computer Centre located in his office.

## Chapter – II

### Local administration

The local administration set up that India inherited from the Britishers was chiefly in two forms:

- A. Rural Local Government
- B. Urban Local Government

#### **A. Rural Local Government**

India is rightly regarded as the land of villages. In a country where 72.22% of the population (2001 Census) lives in 5,80,781 villages, the importance of rural local government popularly known as Panchayati Raj in India, is self-evident. Indeed, the idea of rural local government is part of a larger concern for social & economic amelioration of the people, a task to which the country is irrevocably committed. The Panchayats have been among the oldest political institutions of India and the very use of this term has a deeply nostalgic association tending to take the mind to the distant & dim past. One need not go into the distant past and may, instead, start with the inauguration, on 2nd October, 1952 of the Community Development (CD) Programme. This date was chosen to synchronize the birth anniversary of the Father of the Nation, Mahatma Gandhi, to whom nothing was dearer than rural amelioration.

After the Community Development Programme was launched in 1952, it was realized that without an agency at the village level “which could represent the entire community, assume responsibility and provide the necessary leadership for implementing development programmes”, real progress in rural development could not take place. It was against this background that a Committee headed by Balwantrai G.Mehta (1957) was appointed to make recommendations for the revitalization of the Panchayati Raj system and define its role in the development process. The Balwantrai Mehta Committee published its report (1957) recommending a 3-tier system of rural local government, called Panchayati Raj (in India). The principal thrust of the report was

towards decentralization of the democratic institutions in an effort to shift decision centers closer to the people to enable their participation and to put up bureaucracy under local popular control. The State Governments were persuaded to accept the recommendations and to decentralize adequate powers to popularly elected Panchayati Raj bodies, besides making them responsible for development activities within their jurisdiction. The report of the Committee was influential in creating a three-tier Panchayati Raj structure with District Panchayat at the top and Gram Panchayat at the bottom. The intermediate tier was co-terminus with Community Development Blocks. Most of the States amended their laws to conform to the recommendations of the Committee. The introduction of Panchayati Raj in India constitutes the most conspicuous measure of reform in the system of governance in Independent India. But Panchayati Raj came to be associated with 3 broad images:

- (i) It is viewed as an instrument for the realization of the ends of Community Development.
- (ii) It is perceived as an organ of the State Government to execute the Community Development Programme and such other schemes as the State Govt. may entrust to it.
- (iii) It is an extension and the embodiment of democracy at the village level.

Panchayati Raj is also a cardinal part of Sarvodaya, a harbinger of a new social order to replace the present system. Panchayati Raj was in low profile from the mid-sixties. As a form of local government, it fell out of favour everywhere and its justification was sought increasingly in terms of an agency to augment agriculture production.

It was in this context, the Central Government appointed in December 1977, a Committee under the Chairmanship of Ashoka Mehta to suggest measures to strengthen the Panchayati Raj Institution. The Committee's principal thesis is the functional necessity for the decentralization of administration. At the same time, in order to remain continually sensitive to popular will and aspirations, it requires democratic supervision. The Committee recommended in its Report (1978) the creation of a two-tier system of Panchayati Raj, the first point of decentralization being the revenue district (below the State level) which assures technical expertise of high order required for rural

development. The Zilla Parishad should be the executive body. Below the Zilla Parishad is to be a Mandal Panchayat which is to be constituted by grouping a number of villages. The Ashoka Mehta Committee Report was influential in bringing about a shift in emphasis between the first and second generation of Panchayats from development per se to local Government in its full meaning.

The Ashoka Mehta Committee treats rural development as part of the urban rural local continuum and, therefore, argued for the provision of basic amenities, such as roads, potable water, medical care, employment and education in rural areas to weaken or even neutralize the pull for migration to urban centers. It is to Balvantrai Mehta Committee that the present pattern of Panchayati Raj owes its parentage. It was given to Ashoka Mehta Committee to take a close look at the institution with a view to revitalizing it. Between the two Mehtas, lie two decades of the functioning of this grass root government. Both are easily landmarks in the history of local government in India. In certain aspects, the second Mehta builds upon the first, but in many others, he seeks a deliberate departure from his predecessor. While the first Mehta made the block as the level of decentralization and thus the cornerstone of Panchayati Raj structure, the second one treated the district Zilla Parishad as the lynchpin of the new proposed pattern.

It may be mentioned that local government is the oldest one, much older than the State governments. Man first evolved his neighborhood government, the village government, before he could visualize or even succumb to a more remote authority like the State or Central Government. Having a system of elected local government is important to the vitality of a democratic system for a number of reasons. It greatly expands the opportunities for taking part in public decision – making and the number of those involved in it. Because it is locally based, it is much more responsive to the particularity of local needs and circumstances than national government can be. It allows for small scale experiments in policy, which if successful can be copied elsewhere, at national level or otherwise

### ***Position under Indian Constitution***

The Village Panchayat was a unit of local administration since the early British days, but they had to work under Government control. When Indian leaders pressed for local autonomy at the national level, the British Government sought to meet the demand by offering concession at the lowest level, at the initial stage, by giving powers of self-government to Panchayats in rural area and municipalities in urban areas, under various local names under different enactments, e.g., the Bengal Local Self-Government Act, 1885, the Bengal Village Self-Government Act, 1919, the Bengal Municipal Act, 1884.

In the Government of India Act, 1935, the power to enact legislation was specifically given to the Provincial Legislature by Entry 12 in the Provincial Legislative List. By virtue of this power, new Acts were enacted by many other States vesting powers of administration, including criminal justice, in the hands of the Panchayats.

Notwithstanding such existing legislation, the makers of the Constitution of Independent India were not much satisfied with the working of these local bodies as Institutions of popular government and, therefore, a directive was included in the Constitution of 1949 in Art.40 as follows:

The state shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.

It was considered necessary to further the organization of these local units by inserting specific provisions in the Constitution itself on the basis of which the Legislatures of the various States might enact detailed laws according to the guidelines provided by the constitutional provisions. The ideas so evolved, culminated in the passing of Constitution 73rd and 74<sup>th</sup> Amendment Acts, 1992 which inserted Parts IX and IX-A in the Constitution. While Part IX relates to the Panchayats, containing Arts. 243 to 243 -O, Part IX A relates to the Municipalities, containing Arts. 243 P to 243 ZG. The provisions in Parts IX and IX-A are more or less parallel or analogous. It may be mentioned that new system contained certain novel provisions, for example, direct election by the people in the same manner as at the

Union and State levels; reservation of seats for women; an Election Commission to conduct election, a Finance Commission to ensure financial viability of these institutions.

Another striking feature is that the provisions inserted in the Constitution by Arts. 243-243 ZG are in the nature of basic provisions which are to be supplemented by laws made by the respective State Legislatures, which will define the details as to the powers and functions of the various organs, just mentioned.

### ***Devolution of powers, authority and responsibilities to Panchayats***

Schedule 11 of the 73rd Constitutional Amendment Act listed 29 subjects by way of elaboration of Article 243 G, which deals with the devolution of powers and responsibilities, which may be entrusted to the Panchayats. In the same manner 12<sup>th</sup> Schedule of the 74th Constitutional Amendment Act listed 18 subjects for devolution of powers and responsibilities, which may be entrusted to urban local bodies. The subjects included in the 11th and 12th Schedule indicate the broad area for devolution and further elaboration specifying functions and activities, which may be transferred to local bodies, was considered necessary.

### ***Need for local Self Government in India***

Apart from the reason of fulfilling the aspiration of the people, there are other compulsive reasons for having the institutions of local Self Government in India. The primary objective of the policy makers of the nation is to establish a just social order. There are two ways to achieve this social condition.

First is the 'Trickle down' concept advanced by J.L. Nehru and P.C. Mahalonobis whereby policies and programs are launched by the Government which leads to all- round development in the society and a share of the fruits of development is passed on to lower sections of the society. However, the failure of community Development Programme has highlighted that the trickle down theory is not successful in India, since this approach did not generate a sense of belongingness in people.

Hence the second option advocated by Gandhi, which advocates that people should be provided with the opportunities and requisite skills in order to carry out developmental activities themselves, needs to be explored in details. Besides, the constitution has also prescribed a system, which should guard the dignity of the people and increase the feeling of fraternity and has called for local self governing system which could free the people from the grip of vested interests, politics of linkages and patronage etc.

There are a few other reasons too. The Indian Union is quite big from the point of view of administrative convenience. Some of the district of the Union is as large as some of the countries in Europe. Hence, from the viewpoint of administrative efficiency, the administration should be decentralized and the best option for decentralization of administration is the local self Government. This will help in utilization of locally available resources by the local people and it will also keep the local bureaucracy under check.

These institutions are also desirable from the point of view of development of institutions of democracy in the country. These institutions bring democracy to the doorsteps of the people and instill in them a sense of belongingness and a sense of responsibility.

In addition, they also act as a training ground for the future political leaders at the State level and at the national level.

### ***Rural local Government in India***

The three tier structure of local self-Government was adopted by most of the States except West Bengal. This envisaged Village Panchayat (or Gram Panchayat) at the village level, Panchayat Samiti at the Block level and Zilla Parishad at the District level. Each tier, as it existed prior to 1993 (and even in the new set up), was (is) originally linked to the next tier through the system of indirect elections. The elections for the village Panchayat is however direct.

The organization and the functions of the various Panchayati Raj Institutions are as follows:

(i) *Gram Sabha*

The Gram Sabha is the general body consisting of all the voters residing in the jurisdiction of the Gram Panchayat, which may include one village or a group of villages. It is a statutory body in most of the States. e.g. Andhra Pradesh, Karnataka, Punjab, U.P, Bihar etc. But it is non-statutory body in Jammu and Kashmir, Karnataka, etc. States of Kerala and Tamil Nadu have no provisions for the institution of Gram Sabha in their Acts.

The statute provides for a minimum of two meetings in a year for the Gram Sabha for carrying out its functions. The functions allocated to it are – consideration of the annual statement of accounts, audit report of the Gram Panchayat, work programme for the ensuing year, taxation proposals and some development schemes. Overall, it is supposed to act as the watch-dog of the Gram Panchayat Office which is the executive arm of the Gram Panchayat.

But in practice it has been observed that Gram Sabha does not meet regularly. Scholars have observed that the Gram Sabha is yet to emerge as a forum of constructive criticism of the working of the Panchayati Raj Institutions. It has been observed that it is ineffective due to basically two factors. One, the citizens' attitude of apathy and unwillingness to spare time and share the inconvenience of undertaking any public service. The second factor is structurally built into the situation. The large, multi-caste, multi-religious village defies evolving either a common or distinctive programmes for each group. Some other reasons for the ineffectiveness of the Gram Sabha are – lack of proper publicity, unsuitable timings, on the part of the Sarpanch, illiteracy of the people, lack of secretarial assistance etc.

(ii) *Gram Panchayat*

The Gram Panchayat is the first tier in the Panchayati Raj System. A Gram Panchayat is constituted for one village or a group of villages with the average population being covered by one Gram Panchayat is about 2000. ARC (Administrative Reforms Commission), study team recommended the criteria of

economic viability of the unit, administrative costs, homogeneity and the distances between the villages should be taken into consideration.

The number of members of the Gram Panchayat varies from 5 to 31. Reservation for specified number of seats exists for SC/ST and women except for Bihar, U.P, Orissa, West Bengal (No reservation for women); and Jammu and Kashmir. In some of the states, Gram Panchayat President is elected directly e.g. in Haryana, U.P, Punjab, Tamil Nadu etc. while in other states, he is elected by the members of the Panchayat from amongst themselves. The Gram Panchayats function through their committees. The number of which varies from one (in Rajasthan) to eight or more in Bihar, while in many States the number of such Committees is not specified.

Powers and functions of Gram Panchayats are more or less similar in all the States. They have been made responsible for the formulation and implementation of developmental programmes at the village level. They also execute schemes entrusted to them by the Panchayat Samitis and Zilla Parishads. Their functions can be broadly divided into obligatory functions and discretionary functions.

➤ ***Obligatory functions***

Provisions of water supply for domestic purposes; sanitation; maintenance of public streets, drains, tanks, public buildings, street lighting; maintenance of cattle records; distress relief, etc.

➤ ***Discretionary Functions***

Provision of modes of recreation, maintenance of parks, playing ground for village children etc.

The village Panchayats intend to function not merely as agencies of Panchayat Samitis or Zilla Parishads, but are also supposed to be actively involved in the process of socio-economic development of the villages. They were supposed to plan and

implement on their own certain development programmes. However, they have been found to be lagging behind in this regard. But this unfavorable verdict on the performance of Gram Panchayats is probably due to the fairly impressive list of powers and functions. However, the fact is that several of them overlap, while many of them are beyond the financial and administrative capacity of the Panchayats. Hence there is need to define their functions more realistically and to provide them with at least one whole time Panchayat secretary. Another suggestion has been that “portfolio” system should be adopted even at Panchayat level where each member is made responsible for certain specific activities.

(iii) *Panchayat Samiti (Taluka Panchayats)*

It is the intermediate tier of the Panchayat system and is known under different nomenclature in different States e/g. Jampad Panchayat (Madhya Pradesh), Taluka Panchayat (Gujarat), Kshetra Samiti (U.P), Anchalik Parishad (West Bengal), Anchalik Panchayat (Assam) etc. The jurisdiction of Panchayat Samiti is coextensive with the Block in majority of the States. While in some other states, it is coextensive with the Taluka (a Bagga Unit as compared to Block). Its term varies from 3 to 5 years and it generally comprises of the following members:

1. Local MPs, MLAs, and MLCs (with or without right to vote).
2. Sarpanches of the Panchayats under it (ex-officio member).
3. Representatives from amongst the women, SCs, and STs who are generally co-opted whose membership are reserved.
4. Representatives of Municipalities, Cooperatives, etc.

To ensure the representation of SCs and STs the system of reservation is considered a better alternative to the present practice of co-option, since the practice of co-option tends to be misused by the political parties. Ex-officio membership of Sarpanches in the middle tier provides the organic link between the Panchayat Samiti and the village Panchayats. The Samiti

President is generally elected by the Members of the Samiti. The Samiti operates through its statutory committees and their functions can be broadly classified into:

1. Production Programmes
2. Social Welfare
3. Animal Husbandry
4. Minor Irrigation
5. Water Supply, Health and Sanitation
6. Rural Communication and Transport
7. Rural Education
8. Cooperatives, Cottage Industries etc.

The Panchayat Samitis are also the executing organs for the schemes of the State Government. Panchayat Samitis, like village Panchayats, have an impressive list of functions and responsibilities; but they hardly have resources to match them. Their resources are in the form of Community Development grants, funds allocated by the State Government and Zilla Parishad, share in the land or local cess and duty on transfers of property. Due to lack of resources and competence, they have not made any real headway in the direction of block planning which at present seems to be a mere aggregation of village plans.

(iv) *Zilla Parishad (Zila Panchayats)*

This is the top tier of the Panchayati Raj set up which is constituted at the district level. It is also known as District Panchayat (Gujarat), District Development Council (Karnataka and Tamil Nadu), Mahakuma Parishad (Assam), etc. The head of these bodies is generally elected while in Karnataka and Tamil Nadu, the Collector is the head of the District Development Council (or Board). The following categories of persons are the members of the Zilla Parishad generally:

- a) President (or Block Pramukhs) of the Panchayat Samitis (ex-officio members).
- b) Local MLAs, MPs, MLCs, (with or without right to vote)
- c) Representatives of cooperative societies, municipalities.

- d) Representatives of women and SC and ST candidates who are generally co-opted and whose membership is reserved.

The functions of Zilla Parishad are similar to the functions enumerated above in the case of the Panchayat Samitis. The only difference lies in the area of coverage and the degree of complexity. The Zilla Parishad also prepares plan for the development of agriculture, industries, water supply, minor irrigation schemes etc. It also acts as an executive arm of the State Government.

### ***Recent development in Panchayati Raj***

#### *Seventy third constitutional amendment act (73<sup>rd</sup> CAA) and after*

The Seventy Third Constitutional Amendment Act was passed in 1993 by the Parliament. The Amendment adds a separate part “Part IX”, to the Constitution which has been titled as “The Panchayats”. It provides for a three tier structure of the Panchayati Raj. The salient features of the Act are as follows:

- (i) The 73<sup>rd</sup> Constitutional Amendment Act provides constitutional status to the Panchayati Raj Institutions. A fresh part IX has been added to the Constitution titled as “The Panchayats” and Schedule 11 has been added to the Constitution.
- (ii) The Act provides for a uniform 3-tier structure of Panchayati Raj for the States having population of more than 20 lakhs. The three tiers are Village Panchayat, Mandal Panchayat, and Zilla Parishad. However, the States having population less than twenty lakhs (e.g. some of the north-eastern States) due to sparsely distributed population may opt for a two-tier structure of Panchayati Raj Instructions.
- (iii) Election to all the three tiers is provided for in the Act. All the village and the district level elections are to be direct. The Village Panchayat Chairmen are to be elected directly by the electorate and they are to be the ex-officio members of the Mandal Panchayat. The election of the Chairman for the rest of the two tiers may be direct.

- (iv) Provision has been made for reservation of seats for the SCs, STs, Women and people belonging to other backward classes (The Act uses the word – “Weaker Sections”) of the society. The number of seats are to be reserved proportional to the “population distribution” for the SC, ST and other weaker sections.
- (v) The Act, however, for the first time provides for the reservation of 30% of the seats for women. The reservation of 30% of the seats for women is to be done under each category of candidates i.e. SC, ST and other Backward Classes.
- (vi) The Act provides for a fixed tenure of five years for the rural local Government bodies and that the elections should be held periodically after every five years. However, the Governor on the advice of the Council of Ministers can dissolve a Panchayati Raj institution or may allow for its supersession.
- (vii) In case a mid-term dissolution or supersession of a Panchayat Raj institute, fresh elections should be held within 6 months. In case of a mid-term election, the fresh Panchayati Raj institutions so constituted shall function for the remaining term of the previous institution only. However, in case of a new Panchayati Raj institution formed after the supersession of the previous one, the new institution shall function for the full term of five years.
- (viii) The elections for the Panchayati Raj set-up are to be held under the supervision of election machinery provided by the State Government on the lines of “Election Commission of India” through a separate legislation.
- (ix) A separate Finance Commission is to be appointed by the State Government within one year of this Act entering into force and thereafter it should be appointed after every 5 years, to suggest the formula for sharing of revenue between the State Government and the Panchayati Raj Institutions.
- (x) A comprehensive list of 29 subjects has been provided in the Constitution in the freshly added 11<sup>th</sup> Schedule. These subjects have been transferred to these bodies. These include subjects of local importance like sanitation, cooperatives and cottage industries, rural water supply, minor irrigation, animal husbandry etc.
- (xi) State legislatures also shall make provisions for the maintenance and audit of the accounts of the Panchayati Raj Institutions in their respective State Acts.

## **B. Urban Local Government**

There are about 285 million people living in urban areas which constitute about 27.7 percent of the population of our country. Since population density is very high in these areas, to make community living possible, certain minimum civic amenities are desirable. This is more important from the view point of the problem of migration of the people from the rural areas to the urban areas as the process of development goes on. This results in increasing the strain on the existing community services as well as formation of slums around the urban areas. These slums have only minimum civic amenities i.e. there is no provision of even drinking water in most of the houses, no sanitation, no pre-planned housing etc. These slums are also the breeding ground for the upcoming criminals and law and order problems. However, many of the resident of these slums perform a number of menial functions and without them, some of the essential services may become rare and this would result in increasing the labour rates which would touch the sky. Hence from this view point it is not desirable to do away with slums totally. It appears that all these problems are so intimate to the city that it is difficult to solve them from the State Headquarters. At the same time the people aspire to decide for themselves as to what they want. Hence it seems that if there is no efficient “urban Government” accompanying the process of urbanization, proper development of the urban areas becomes impossible leading to stress and strain on the urban society which are manifested in the form of “law and order” problems making further development impossible. The presence of urban local Government also helps in proper utilization of locally available material and human resources for the specific local needs, which is the best method of developing a particular area.

### ***Evolution of Urban Local Bodies***

During the ancient period in India, we have evidence that the *Indus Valley Civilization* was a highly advanced and well organized urban civilization. We can safely assume that for this organization there must have been an efficient urban administration. However, the evolution of modern Urban Local Bodies (ULBs) in India can be traced as far back as to 1688, when the first municipal corporation of this sub-continent

was born in the city of Chennai followed by Kolkata and Mumbai (1726). The principal purpose for constituting municipalities in India was to accommodate the political aspirations of the rising group of educated Indians. The other purpose was to transfer civil and sanitation functions to local level institutions (municipalities) to prevent epidemic and to ensure supply of essential services like water supply, drainage etc. Local government institutions were, however, not given real power, resources and authority. The municipalities were given very few functions. Financial resources were far from adequate.

At first Indians were attracted towards municipal government. But, as freedom struggle intensified, public attention moved away from local government. After some time, the local self-governing institutions were boycotted by the Indian leaders and attention was fully focused on the country's freedom struggle. Even then, municipal government owes its origin to the colonial government's interest in setting up municipal institutions in towns and cities. At the beginning, these bodies had more nominated and official members. Later in the last decade of the 19<sup>th</sup> Century, the principle of elections to these corporations were introduced and in subsequent years small towns came to be recognized as urban centres and limited municipal functions were assigned to them. And in some cases a few representatives also came to be elected by the people living in those towns. At the time of independence there were only three corporations, one each in the presidency city of Bombay, Calcutta and Madras, there were as many as 628 municipalities in the country. But among these municipal bodies only corporations functioned as representative civic bodies.

After independence, municipal government has been sought to be integrated with planned development of the country. Many new schemes have been introduced from time to time to augment civic services and improve civic infrastructure. Attempts have been made to improve urban living conditions with specific emphasis on slums and poverty pockets in the urban areas.

Institutional changes like Mayor-in-Council type of political executive and municipal personnel enactment have been brought about in many states. Also, municipal financial situation has been sought to be improved by introducing regular grants-in-aid and other resource

transfer policies by state governments. Provision for more funds has been recommended by the State Finance Commissions and the National Finance Commission also.

After independence municipal administration was completely restructured and overhauled. Many important changes were introduced in keeping with the democratic constitution. Substantial executive powers and allocation of resources were granted to the municipalities. Municipal Corporation is at the top of urban local government. Cities like Mumbai, Madras, Delhi, Patna, Hyderabad, Ahmedabad, Bangalore, Kanpur, Calcutta and some others have Municipal Corporation. Except in the case of Delhi, the Municipal Corporations are set up by a special statute passed by the State Legislature. Delhi Municipal Corporation can be set up only by the Union Parliament.

### ***Classification of Urban Areas***

Prior to 1961 census, the term “urban areas” was not followed uniformly in the country. 1961 census for the first time gave a precise definition of the term. According to it, urban areas are such places which are –

1. Either under a municipal corporation or a municipal council or under a town committee or a notified area committee or cantonment board.
2. Census towns i.e. such towns which do not enjoy any statutory level of administration but satisfy some or all of the following empirical tests:
  - (a) A population density of not less than 1000 per sq. mile.
  - (b) A population not less than 5000.
  - (c) Seventy five per cent of the working population having occupation in secondary and tertiary sectors of economy i.e. occupation other than agriculture.
  - (d) The place should have a few pronounced urban characteristics and amenities e.g. large housing settlements, places of tourist importance which have been provided with all the civil amenities etc.

The conceptual unit for urban areas is a town. The terms, towns, cities and urban areas are used interchangeably. In Census of India 2001, the classification of an area as an urban unit is based on the following definition:

1. All places declared by the state government under a statute as a municipality, corporation, and cantonment board or notified town area committee, etc.
2. All other places which simultaneously satisfy or are expected to satisfy the following criteria:
  - A minimum population of 5,000;
  - At least 75 per cent of the male working population engaged in non-agricultural economic pursuits; and
  - A density of population of at least 400 per square kilometer (1,000 per square mile).

Any area, which is not covered by the definition of urban, is rural. At the time of 2001 Census there were 6.38 Lakh villages and 5,161 towns including 502 statutory towns and 636 census towns in India.

In India, the categorization of urban agglomeration / city / town by size of population is as follows:

- Mega city : 5 million plus
- Metro : 1 million – 5 million
- Class I : 1,00,000 +
- Class II : 50,000 – 99,999
- Class III : 20,000 – 49,999
- Class IV : 10,000 – 19,999
- Class V : 5,000 – 9,999
- Class VI : Less than 5,000

Based on the above definition, urban areas are identified and classification is done under one of the following types of Urban Local Government:

- (i) Municipal Corporations
- (ii) Municipal Council /Municipalities

- (iii) Notified Area Committees
- (iv) Town Area Committees
- (v) Townships (Industrial)
- (vi) Cantonment Boards

**(i) Municipal Corporations**

In terms of power and prestige associated with a local body, Municipal Corporation is the topmost urban local Government body. It is set up under a special statute passed by the state legislature. Members of the body are called as councilors who are elected on the basis of adult suffrage. The size of the corporation (in terms of member strength) varies from state to state and it is primarily relatable to the extent of the city population. There is often a provision for reservation of seats for SC and ST candidates but the number of such seats is determined from time to time by the State Government.

The Corporation has two types of executives- the Political Executive i.e. the Mayor; and the Official Executive i.e. the Municipal Commissioner. The post of Mayor is one of the dignified positions in India. He is elected annually from among the members of the corporation. He presides over the meetings of the corporation and he is the most important link in the proper channel of communication between the Commissioner and the State Government. He is also seemed to be the first citizen of the city. The Municipal Commissioner is the Chief Executive of the Corporation and he acts as the secretary to the corporation. He is appointed by the State Government and his salary and service conditions etc are fixed by the State Government but his salary is paid out of the funds of the Municipal body. He is entrusted with the task of supervising the entire administrative machinery of the corporation and hence he prepares the administrative report of the corporation (which is placed before the corporation) and writes the confidential report of the each and every staff member. He takes part in the discussions of the council meetings but he has no right to vote and move resolutions in the meetings. As the Secretary, he furnishes all the necessary information to the corporation and prepares the budged estimates which are placed before the corporation.

The functions of the Municipal Corporation can be divided into two categories Obligatory and Discretionary Functions. The Obligatory functions are the functions that must be performed by any municipal corporation e.g. Water supply, electricity; road; transport service; lighting. Watering and cleaning of public streets; establishment and maintenance of hospitals and primary health care centers; control and regulation of eating places and eatables; Registration of births and deaths. Etc. The discretionary functions are those which are not compulsory but may be taken up by the Corporation depending upon the financial resources available to it. These functions include construction and maintenance of public parks. Gardens, libraries, theaters, stadium; provision of public housing; relief to the disabled and destitute; detention and control over stray animals; registration of marriages; organization of fairs, exhibitions, etc.

The concept of municipal duties has not gone very much beyond that of sanitation and health with their allied functions in India. Municipal Governments have not been able to keep pace with the changing functions of the modern Governments. A chief reason for this is lack of funds with the Municipal bodies. Let us have a look at the sources of income of a corporation, which can be classified into 4 classes- Tax revenue; non-tax revenue; revenue from remunerative enterprises maintained by the corporation; and grants-in-aid. Among the tax sources of revenue are property tax, theatre tax, entertainment tax, profession tax, tax on advertisement etc. The non-tax revenue sources include fees relating to buildings, fees under communication systems, license fees for dangerous trades. The revenue from remunerative enterprises includes those enterprises like poultries, cinema theatres, commercial complexes etc., which a corporation is empowered to maintain. The urban local bodies get various types of grants from the State and Central Governments which is an important source of finance for these bodies today.

**(ii) Municipal Councils/Municipalities**

The Municipal councils are governed by the Municipal Act of the States. They generally comprise of three types of members- Councilors, ex-officio members and Aldermen. The Councilors are elected on adult suffrage, while the Aldermen are elected by the elected Councilors and the ex-officio Members. The Aldermen are however not eligible to become chairman or vice-chairman of the council. There is a provision for the reservation of seats in the same manner as described in the case of corporations. The size of the council depends upon the population of the town. The council too has two types of executives- Political executive, called the Municipal Chairman and official Executive called the Municipal Commissioner. The Municipal Chairman is elected from amongst the Councilors. He heads the deliberative wing of the municipality and presides over the council meetings and guides the deliberations. He is provided with a casting vote in case of equal division of vote in the council. Any official correspondence between the council and the Government must be conducted through the chairman. The Municipal Commissioner on the other hand is the head of the executive Wing who is appointed by the State Government. The Commissioner has to perform many functions. He has the right to speak and take part in the deliberations in the council meetings and acts as the Secretary to the Committees of the Municipality and the Council itself. He organizes the various administrative branches of the municipal council and distributes municipal work among them. He is the one who writes Confidential Reports (C.R.) of each and every member. Municipal records are kept in his custody and he produces them as and when required. He also prepares budget estimate of the council. Thus he occupies the most important and at the same time a very difficult position.

The Functions of the Municipal Council are similar in nature as compared to that of the Municipal Corporation and can be divided into obligatory functions and discretionary functions. The only difference lies in terms of powers provided to them and the scope of these functions; the corporation enjoys more powers and larger scope as compared to councils with respect to

these functions. The same condition exists in respect of the sources of revenue of the corporation and the council.

From the ongoing discussion, it seems that the Municipal Corporation and Municipal Councils are fairly similar forms of local Government in terms of size, organization, functions, sources of revenue etc., However, a closer comparison between the two brings out certain differences too. For example the Municipal Corporations are there generally for Metropolitan areas and large cities while the Municipal Councils are to be found in Medium and Small sized towns. In terms of autonomy, the Municipal Corporation enjoys maximum autonomy among all the types of the local Government system. They are entrusted with wide ranging functions and have diverse sources of income. Hence, their dependence on the Central and State Government is the least. Municipal Councils on the other hand enjoy lesser autonomy in terms of sources of income and the functions entrusted to them; frequent interference is to be found in their functioning from the State Government. In case of Municipal Corporation, there is a clear cut separation of functions between the deliberative wing and the executive wing which are headed by different functionaries. Mayor is the head of only the deliberative wing. However, in the case of the Municipal Council, no such clear cut division exists and hence there is a fusion of the deliberative and executive functions. Though, in theory, the Commissioner heads the executive functions, in practice, due to the fusion of the functions, the Chairman of the Municipal Council wields much more power as compared to the Mayor, who carries greater pomp and glory only.

### **(iii) Notified Area Committees**

Notified Area Committees are created for an area which does not yet fulfill all the conditions laid down as necessary for the constitution of a Municipality but which otherwise is considered important. These are found in newly developing towns and are currently in existence in mostly northern States of India i.e. U.P, Bihar, Haryana, Punjab, Himachal Pradesh, J&K, Madhya Pradesh. In Southern India, they are found in Karnataka. They

are known as Notified Area Committee because their formation is notified by the State Government in the Government Gazette. They act within the framework of the Municipal Act of the State but only such provisions of the Act apply to it as are notified in the Government Gazette. The difference between Notified Area Committee and other forms of Urban Local Government is that its members including its Chairman are nominated by the State Government i.e. it is an entirely nominated body.

**(iv) Town Area Committees**

Town Area Committees are meant for relatively small town (as compared to Notified Area Committee). They are found in Assam, Kerala, M.P., U.P, West Bengal, J&K and Himachal Pradesh. However, U.P is the avid patron of this form of local Government where over 80% of the town area committees of the country are found. The membership of the Town Area Committee is partly elected and partly nominated. The District Collector has, however, been given greater control and powers of surveillance over this form of urban local Government as compared to other forms. These committees however perform only a limited number of functions such as drainage, street lighting, conservancy etc. The States of Gujarat, Karnataka and Tamil Nadu however in their recent Panchayati Raj set up have merged these bodies with the institutions of rural local government e.g. Gujarat has set up Nagar Panchayats and Karnataka and Tamil Nadu, town Panchayats, in place of town area committees.

**(v) Township (Industrial)**

A number of townships have sprung up in the country since 1947, majority of which have been set up by the Public Sector Undertakings, These townships have been established either in the rural area or in the areas adjacent to the existing towns but their administration is independent of either of the rural local Government institutions or of the municipal forms of Government existing in the nearby towns. They are of broadly three types:

- a. Single industry townships e.g. Rourkela, Bhilai, Jamsedpur.
- b. Multiple industry townships e.g. Durgapur
- c. Small townships near large cities e.g. ITI and HAL townships near Bangalore.

The distinguishing feature of this form of urban local Government is that the civic amenities as well as administration of the township are provided by the Public Sector Undertakings itself and that no elective element is involved.

**(vi) Cantonment Board**

These are really centrally administered areas within the territories of the States, being placed under the direct administrative control of the Ministry of Defence in the Central Government which is in sharp contrast to the other forms of local self Government which are under the control of the State Government. This form of Government is hence unique in this respect and is perhaps, with the exception of Pakistan and Bangladesh, unparalleled in the world.

These boards were created under the Cantonments Act of 1924 (which is valid even today) for the areas acquired by the British Army in different ways e.g. under the treaties with the princes, through downright purchase, by conquest etc. Today these boards are in existence in the areas where there is a military settlement on a large scale. This form of urban local Government has some other important distinguishing characteristics which are, first, the ubiquitous control of the Ministry of Defence over the Municipal administration of the area earmarked as Cantonment and, secondly, the severely restricted role allowed to the elected element.

The Board is a corporate in the eyes of the law having a perpetual succession and a common seal with power to acquire and hold property and to enter into contracts and capable of suing and being sued. The composition of the board has nominated element in majority. The officer commanding the station is the President of the board who has been given casting vote. The other members include a first class Magistrate nominated by the

D.M, a Health Officer of the Cantonment, four (sometimes more than four) military officers nominated by the Commanding Officer of the station. Executive Engineer of the Cantonment and some elected (usually 7) members who are elected by the people.

### ***Recent development in Urban Local Government***

#### *74<sup>th</sup> Constitutional Amendment Act*

The 74<sup>th</sup> Constitutional Amendment Act, also known as the Nagar Palikas and Municipalities Act, 1993 was passed by the Parliament in 1993 and by 1994, it was ratified by nearly all the States of the Country. The Act provides constitutional status to the Urban Local Government bodies. The provisions of the Act are as follows:

- (i) The Amendment adds a separate part IX A to the Constitution with the title “The Municipalities”. The Act hence provides a constitutional status to the urban local bodies for the first time.
- (ii) The powers and functions of the Urban Local bodies have also been given constitutional status. A list of eighteen subjects allocated to the Municipal bodies has been added to the Constitution in the form of freshly created 12<sup>th</sup> Schedule. The subjects which are of local importance have been allocated to these bodies e.g. sanitation, water supply, street lighting, etc
- (iii) The Act provides for direct elections for all the Nagar Palikas and Municipal Corporations. The Chairman of the Municipal body may however be elected by the members of the body from among themselves.
- (iv) The Act provides for a fixed tenure of five years to the municipalities. However, the Governor of the State on the advice of the Council of Ministers is empowered to dissolve the municipality or to allow for its supersession.
- (v) Periodic elections supervised by the Election Commission created by the State Government have been provided in the Act. The elections for the urban local bodies are to be held at the interval of every five years. In the case of suppression or the dissolution of the urban local body, fresh elections should be held within a period of 6 months. In case of elections after mid-term dissolution of the municipal body, the new Municipality constituted after

elections shall hold office for the remaining term of the preceding municipality only. However, the new house constituted after the supersession shall hold office for the full 5 years term.

The amendment made revolutionary change in the social fabric of the nation in bringing the weaker section and usually shying sectors of the society to the power politically and administratively. In having given a sizable chunk of power in ruling themselves locally and also affording them a golden opportunity of shaping, training and readjusting themselves gradually to higher echelons of democracy and power both at State and National level, it not only provided opportunities to the women, but also considerable seats for the people belonging to the scheduled Caste and Scheduled Tribe.

The subject of planning, hitherto a subject of sole responsibility of the State, has been given to the local bodies making them responsible for planning for their own development without room for blaming the State for not planning for the development of urban areas. Article-243-ZB of the amendments paves way for the constitution of a District Planning Committee" for every district in respect of rural and urban local bodies and Article-243-ZC specifies about constitution of "Metropolitan Planning Committee" for metropolitan areas declared as such by the Governor of the state. The responsibility of preparing a plan for urban areas has been put to the local bodies themselves together with the load of executing their plans as approved by the Government.

An important change that took place was regarding the flow of funds. Earlier the urban local bodies were dependent on the State Government's goodwill. The constitution has directed a proportion of share of the State's revenue to the Local bodies based on the recommendation of the State Finance Commission. As a result of this the state has to oblige the local bodies with a specific share of their revenue every year.

## ***Municipal Decentralization***

The State Governments amended their municipal laws providing for:

1. Regular elections;
2. Protection from indiscriminate superseding
3. Reservation of seats for women as well as SC/ST population;
4. Constitution of State Finance Commission & State Election Commission
5. Constitution of District and Metropolitan Planning Committees; and
6. Constitution and composition of ward committee in municipalities having a population of 300,000 or more.

The important aspect of municipal decentralization includes functional decentralization and financial decentralization.

### **(i) Functional decentralization**

The 12th schedule of the Constitutional amendment provides a list of 18 municipal functions that a municipality may have to perform that may be classified in the following categories:

- (a) Essential municipal function
- (b) Environmental management functions
- (c) Planning function and
- (d) Other functions.

Following are the list of functions identified under the 12th Schedule of the 74th Constitutional amendment:

1. Water Supply for domestic, industrial and commercial purposes;
2. Public Health, Sanitation conservancy and solid waste management
3. Roads and bridges;
4. Provision of urban amenities and facilities such as forest, garden, and playgrounds;
5. Burials and burning grounds; cremations, cremation ground, and electric crematoriums;
6. Public amenities including street lighting, parking lots, bus stops and public conveniences.

7. Promotion of cultural, educational and aesthetic aspects;
8. Planning for economic and social development;
9. Urban forestry, protection of the environment and promotion of ecological aspects;
10. Safeguarding the interests of weaker section of society, including the handicapped and the mentally retarded;
11. Slum improvement and up gradation;
12. Urban poverty alleviation;
13. Cattle pounds, prevention of cruelty to animals;
14. Vital Statistics including registration of births and deaths;
15. Regulation of Slaughter Houses and tanneries
16. Urban planning including town planning;
17. Regulation of land use and construction of buildings;
18. Fire services;

**(ii) Financial Decentralization**

The approach of the 74th Constitutional amendment towards municipal decentralization is based on the mechanism of the Finance Commission at the State and Central levels.

## Chapter – III

### Public Services

#### A. Public Services

Public services have been listed in the previous chapter. Providing satisfactory services to the public is a problem for the local bodies for a variety of reasons. It would help understand the issue better if it is discussed first as to why the public services are unsatisfactory. This has been brought out in the following extracts of a series of articles adapted from the book, *Holding the State to Account* by **Samuel Paul**.

#### B. Why Public Services are unsatisfactory?

This issue has been dealt with in a series of six articles on “**What ails our Public Services?**” adapted from the book *Holding the State to Account* by **Samuel Paul** of the Public Affairs Center, Bangalore. An analytical account of the apparent causes as they are perceived by the observers along with the other side of the story has been presented to give a complete picture of the prevailing situation. Extracts of these articles are reproduced here to give a good idea of the problems, their real causes and possible solutions.

“Individual public services encounter many specific constraints and problems unique to them. But to get a broader picture of what ails our public services, it is necessary to look for the common factors that adversely affect all or most of them. Some would argue that feudal traditions and values and the role of elites in our society are at the root of the problem. While the historical trends and customs of a society can no doubt provide useful perspectives, it is equally important to identify the proximate factors that have brought our public services to the present state. Experts on government and experienced administrators who have a wider perspective on these matters have speculated on the different reasons for the unsatisfactory state of public services.”

### *Resource Constraints*

“Most planners and policy makers tend to cite resource constraints as the key barrier to the quantitative and qualitative improvement of public services. And they are partly right because the expansion and upgrading of most infrastructural services do call for heavy investments. Governments tax, borrow, and receive foreign aid in order to finance these investments. Unreliable supply of electricity, telecommunications, or water may well be due to a paucity of funds to improve these facilities. However, all problems of public services cannot be attributed to resource constraints.”

“If we probe into the resource constraints argument a bit deeper, we may find that there are other underlying problems that cause such constraints. Failures of government policy create shortages that ordinary citizens and even politicians do not fully comprehend. By providing electricity free or at nominal cost to large segments of the population such as farmers, governments create undue pressure on scarce resources. Policy decisions not to meter the electricity consumption of favored groups encourage the latter to waste energy. The end result is the inability of the government to generate the resources necessary to expand the supply of electricity and to improve the reliability of the service. While the problem may be explained away as a case of resource constraints, it has its roots in unsustainable or unsound policies.”

“The expansion of India's population and of its cities and towns, would no doubt call for increased resources to finance public services. But expanding cities also create new wealth and increased scope for resource mobilisation. This potential is, however, seldom tapped. On the other hand, we find that the smaller towns that did not expand are no better in terms of their essential services. Expansion can cause strains, no doubt, but cannot fully explain indifferent performance.”

“If resources were scarce, as the planners claim, one would expect greater care and efficiency in their utilisation. However, there are many examples of government's failure even to fully utilise available funds. The perplexing phenomenon in India is the failure of the government to effectively utilise the funds available for its numerous projects; many of them funded by international lending or donor

agencies. The World Bank, for example, has compared the track record of both China and India with respect to the utilisation of approved project loans. The finding is that India is much behind China in this regard.....”

“Even services that do not call for substantial resources are in an unsatisfactory state. Many public agencies, for example, are of a regulatory nature. They check on the compliance with the law, issue licenses or permits, and advise clients on how to utilise existing schemes. Though capital investment is not an issue here, their performance in terms of service delivery leaves much to be desired. The responsiveness of their staff to the needs of the public is often rated low.”

“Neglect of the maintenance of existing public assets is one of the reasons for the poor quality of services. The resource constraints argument may have some validity when it comes to the allocation of funds for the maintenance of facilities. Government planners have a preference for using funds for new investment projects. They may give money for constructing new roads, but may not provide adequate funds for the subsequent maintenance of the assets thus created. The priority is for the creation of new capital assets, not for operating them. This tendency is reinforced by foreign aid donors who prefer to give money for investment in new projects, rather than for the maintenance of existing projects or activities. Donors typically extract a promise on paper from the government that the new assets will be properly maintained. But few donors have the clout or interest to enforce these promises.”

“Thus government may build expensive water supply schemes and hospitals. But when the projects are completed and the plan period is over, the maintenance of these facilities is left to be financed from the government's recurrent budget. The revenues allocated to meet such recurrent costs are limited. In general, governments are not keen to levy appropriate user charges for a variety of reasons. At the end of the day, the squeeze is on the operation and maintenance of the services. Resources have been spent on building costly assets. But adequate resources are not available for their effective use. This is indeed a criminal waste, especially when the funds used to create these assets have to be repaid with interest to creditors, within the country or

without. This is a problem of internal allocation and prioritising of funds.”

“What is the purpose of building hospitals or schools without ensuring that the complementary inputs (e.g., medicines, blackboards, doctors, teachers, etc.) are available? Maintenance is supposed to be part of the non-plan expenditure in the budget that is considered lower priority. It is encouraging that there is a growing realisation in government that the artificial distinction between plan and non-plan expenditures needs to be done away with.”

“Resource constraints may arise also because government and its agencies are reluctant or ineffective in collecting the revenues people can be expected to pay. The classic case is the reluctance to tax agriculture even when it is clear that significant numbers of farmers can afford to pay. The leakage in the collection of excise and customs duties is another example. More controversial is the failure of our state governments to charge rural farmers for the use of electricity and to control its widespread theft. Municipalities and other local governments are notorious for their failure to levy and collect taxes, which are within their rights.....”

### ***Incompetence and lack of motivated employees***

“Many observers believe that most public agencies, especially those responsible for essential services, are inefficiently managed. The reference here is to both the incompetence and lack of incentives to perform in the public agencies responsible for service provision. The argument is not that their employees are ill equipped for the job, although that may be a part of the problem. The main contention is that these are poorly organised entities, with antiquated systems and practices, and leaders and workers who are not motivated to perform well. There are instances where populist policies have also contributed to their poor performance. A classic case is that of the state electricity boards in India. Most of them would have gone bankrupt a long time ago but for public subsidies. Public policies that force them to supply electricity to farmers or other groups free or at low cost have also contributed to their woes.”

“Most organizations improve their performance by reviewing their past experience and getting information on similar activities from other sources. But to do so, they need to assemble such information in a systematic fashion. Those in charge of many public agencies with the exception of certain commercial public enterprises have not been able to institutionalize these practices in their organizations. Their frequent transfers from one job to another and the practice of deputing officers on an ad hoc basis have reduced their long term stake in the organizations to which they are sent. It is not uncommon to find major service agencies and enterprises operating without chief executives in position for extended periods. Government seems to take a long time to make these key appointments. This, despite the fact that dates of retirement or expiry of the terms of officials are always known well in advance. The end result of this appalling inertia is that important public organizations remain for long without leaders.”

“Dynamic leaders play a dual role in their organizations. They not only produce and deliver the goods and services for which they are responsible, but also improve their organizations and prepare them to respond to the challenges of the future. The first one is a maintenance role. The second is a strategic role, one that calls for learning from the past, identifying the future needs of customers, realigning the legal and organizational frameworks to respond to these needs, and mobilizing the resources to achieve these ends. Public managers in India are, for the most part, at the maintenance end of this spectrum. Their record in strategic planning leaves much to be desired.”

“Many observers believe that the ills of our public agencies have a lot to do with the pressures being put on them by their political masters. The reference here is to the ministers and elected representatives who order and supervise those who manage these organizations. Instead of confining themselves to the policy-making role, they tend to intervene in operational matters and divert services and resources to meet their personal or sectional priorities rather than the public interest. To survive, many bureaucrats go along with these abuses and weaken their organizations. Loyalty rather than competence seems to get rewarded in this setting. The essential features of dynamic organizations such as good planning and supervision, training and customer focus are neglected in the process. Many public agencies are without training departments, leave alone training strategies. Lack of

training and job orientation of the staff, particularly at the lower levels, is a yawning gap in many service agencies. Yet these are precisely the staff who interact most with citizens for service delivery.”

### ***Corruption and public services***

“How do people cope with the unsatisfactory state of public services? That depends on who you are. Some observers believe that the elite in Indian society manage to get most of the services they need either through influence or money. We have evidence (presented in a later chapter) showing that the poor pay a larger proportion of their income as bribes than the rest of the population. Those who can exert influence need not go through such travails.”

“Influence can take many forms. People with good connections take help from politicians or bureaucrats to get out of turn allotments, approvals, etc. Members of Parliament, ministers, and other elected representatives have special quotas of telephones, gas connections, etc., that they can distribute at their discretion. Political support to parties during elections may be quid pro quo arrangements from which certain individuals or groups who provided the support tend to benefit. Friends, relatives, and other kinship networks get special treatment in the allocation of services.”

“Influence probably plays a limited role when business runs into hurdles with the bureaucracy. But in major transactions between business and government, the belief is that bribery is the most potent lubricant. Many of the "scams" reported by the media and the "sting" operations carried out by investigative journalists are the basis for this belief. Of late, systematic studies have begun to shed light on this murky phenomenon, though there is no reliable quantitative national estimate of its severity and spread”.

“..... The murky financing of political elections, the doubtful quality of many electoral candidates and the non-transparent ways in which many political parties function have no doubt contributed to the rising spiral of corruption and the reluctance of political leaders to set in motion a root and branch reform of pernicious corrupt practices. When candidates are encouraged to contest, spending money on which returns have to be reaped while in power, they will no doubt have a

strong incentive to sustain and expand the scope of corruption. In our cities where citizens can have a ringside view of democracy at work, elected cooperators are directly involved in the allocation of public works contracts and other purchases. These are lucrative sources of income for them and a major reason for many of them to contest elections.”

“At the root of the problem is the failure of many public agencies to plan and organize their services in a way that will minimize the need for their customers to go from pillar to post. The lack of clear guidelines and information on services, lack of time deadlines, lax supervision and monitoring of staff performance, and absence of remedial and appeal mechanisms exacerbate the problems that people face in public offices. Many who have experienced these dysfunctional operations prefer bribing in anticipation than paying a heavy price in terms of delay and harassment.”

“Irrespective of the mode of corruption, however, the consequence of this practice is to make services more costly for the customers, misallocate resources, violate the rule of law, and reduce transparency in government. Misallocation of resources results from improper and inequitable public decisions, with some of the resources flowing into private pockets.”

“Corruption of the "grand" variety involves only a few people. It receives much publicity because of their sensational value and the opportunity it offers for bashing political leaders and other public figures. On the other hand, the "retail corruption" that ordinary citizens face when they seek services from the different public service providers results in much harassment and avoidable costs to numerous people who can least afford them.”

“Corruption corrodes the values people cherish and projects the state as predatory and unjust. Instead of being a lubricant for efficiency as some economists have argued, corruption tends to undercut the legitimacy of the state and make a mockery of the rule of law. What is most disturbing is that influence and money together give the small elite groups in society an unfair advantage in their access to public services at the cost of the vast majority of the population. Public

hospitals, for example, are known for the indifferent services they provide to ordinary citizens. But they offer "VIP" rooms and treatment for high level officials and other well connected persons at modest rates. Citizens pay the taxes, but only a few are able to get the best facilities available. In brief, a predictable consequence of corruption is the diversion of services and staff attention from large numbers of people who are unable to influence or bribe the officials to those who can."

"It is often argued that poor salaries in government explain the pervasiveness of public corruption. But this is at best only a partial truth as well paid higher level officials and affluent politicians are often behind most grand corruption cases. Salary reform by itself is unlikely to compensate for these gaps and weaknesses. Other important reforms and reinforcements will no doubt be required to control corruption. The tolerance of corruption in the society at large, inadequate legal frameworks and law enforcement, and the neglect of internal organizational reforms are among the more basic issues to be addressed."

### ***Civil Society weaknesses***

"It takes two hands to clap. When citizens who are also consumers of public services are not watchful and are weak in asserting their rights, there is no pressure on the public agencies to improve. This is particularly significant since public services invariably operate as monopolies with the stimulus of market competition being absent."

"Even when a community faces a common problem, some people will wait to get a "free ride" from the efforts of a small band of people who invest their time and energy to resolve them. In many communities, it is a small number of committed persons who dialogue with the public authorities and achieve results, whether it be improved roads or drainage. Many others watch from the side and are happy to benefit from the good work of the small group. It is only in emergency situations when the consequences of a service failure are serious for all that many members of a community tend to come together for collective action."

“The outcome of all this is that we have a civil society that for the most part is yet to see the need for collective action or an accepted code of civic life. Its members are therefore unable to set or sustain good standards and to demand similar conduct from their neighbours, let alone from the public agencies. Custom and tradition rather than laws and regulations govern our conduct. Tolerance is a celebrated virtue of Indian culture. Unfortunately, it has also meant a tolerance of corruption and of uncivil conduct in the public arena.”

“In brief, the weaknesses of our civil society have unwittingly delayed and stifled the development of standards and norms of conduct that are essential for the proper design and efficient delivery of public services. As a result, when the state fails to deliver, there is no one else to mobilize the people and demand new standards of conduct and performance.”

### ***Productivity not being a priority***

“A good place to start is with the planning function in the Government of India. This role is performed not only by the Planning Commission at the Centre, but also by policy and planning groups in the sector ministries as well as the state governments. These are the focal points for asking basic questions about the objectives of development and where resource allocation and management are defined and settled. National planning in India has always had a strong focus on increasing the volume of goods and services in the economy as a whole. Planners have tried to achieve this goal primarily by channeling a growing proportion of the incomes of the people into productive investments. From a low investment rate of 15 per cent, the country now invests nearly a quarter of its incomes. This is a respectable figure, even when compared with the experience of fast growing East Asian countries.”

“But the real problem is that the planners’ influence, if any, is only at the investment end, not on what happens on the output side. Their priority is on mobilizing resources for investment. Thus, public financial institutions such as the Life Insurance Corporation of India, transfer the people’s savings to the government. The planners in turn transfer resources to the state governments. The latter allocate funds to their various agencies and enterprises. But these transfers are seldom accompanied by tests of efficiency and performance.”

As economist Rakesh Mohan has noted: “The existing planning system has essentially resulted in the central government acting as a giant financial intermediary, borrowing from the public in different ways to finance plan expenditure at both the central and state levels. In this system there is no connection between the viability of projects and their financing costs. The consequence has been that returns from these investments have been consistently low”.

“Who then influences the production and productivity of public goods and services? The responsibility for their quantity, quality and productivity rests with a wide range of government departments and agencies, both at the central and state levels. These public agencies are given budgets in support of their ongoing production and delivery of services and new investments. Agency managers are more likely to be questioned by their superiors for failing to meet the expenditure targets rather than for failing to meet the output or quality standards that in any case are more difficult to measure.”

### ***Privatization of Public Services***

“Could the market have done a better job of delivering public services than the state? Champions of privatization will certainly answer this question in the affirmative. After all, in many developed economies, some of the services discussed above are indeed delivered by the private sector. In fact, private utilities have a good track record of producing and delivering services such as electricity, water, telephones, and transport in many parts of the world. Municipal services such as garbage clearance, road maintenance, etc., have also been privatized with much success in several countries. The United Kingdom (UK) has been the leader in this field with its privatization of telecom, water, electricity, and transport. Among developing countries, Latin American governments have privatized more of their stated owned enterprises than other countries.”

“But privatization does not mean that government would have nothing to do with these services. In all cases, it will be necessary for government and its specialized regulatory agencies to specify the standards and conditions of the services, regulate tariffs and related financial matters, and monitor the service providers’ performance. In India too, efforts are under way to let the private sector play an

increasing role in the production and delivery of some services such as electricity and telephones.”

“The pace of actual privatization of public enterprises has been agonizingly slow. These are relatively new policies and it is too early to judge their effectiveness and efficiency. However, if functions such as standard setting, pricing, and supervision are not well designed by the state, these reforms may end up creating a new set of private sector monopolies performing worse than the public sector. If government organizes itself well to perform its regulatory and monitoring roles, the private sector may deliver at least some of the services more efficiently than is the case at present. Private investors may also have stronger incentives and capabilities to access new technologies and innovative practices than their public sector counterparts.”

“Even if the state reorients itself and the market’s role is enlarged, there will still be many services that government will need to provide for its citizens. Some are public goods such as law and order, which benefit all people. Government will have to ensure that certain activities of households and business are in compliance with existing laws and regulations. Basic education, preventive health, maintenance of certain common facilities, pollution control, etc., are not tasks that can be left wholly to market forces. At a minimum, government has to play a regulatory role and monitor standards in these services. User charges cannot be levied on some public services that provide collective benefits to society. These activities and services will remain the responsibility of local governments, regulatory bodies, and other specialized public agencies. Getting the government to deliver these services more responsively to the people will be a continuing challenge in any society.”

“In conclusion, the quality and responsiveness of the providers of public services are unlikely to improve when external pressure for reform from the citizenry is weak. The state is clearly the key actor in the provision of public services. What we have shown in this chapter is that the problems inherent in the functioning of governments are such as to cast doubts on the state's ability to overcome them solely through its own efforts. There are two other actors who can make major contributions to the improvement of public services. As the diagram below shows, the state can reduce its overload and enhance its

performance by hiving off those services or activities which can benefit from market competition. Hiving off does not imply abdicating responsibilities by the state. There will also be opportunities for the state to partner the private sector in some of the services. Such partnerships could be in terms of technology, finance or innovative practices that enhance performance of service providers. Even when the private sector takes over a service, a regulatory role for the state may still be required. Whether the state is the sole supplier of services or provides them jointly with the market, the role of the civil society as an active monitor of the services and advocate of accountability is an essential one.”

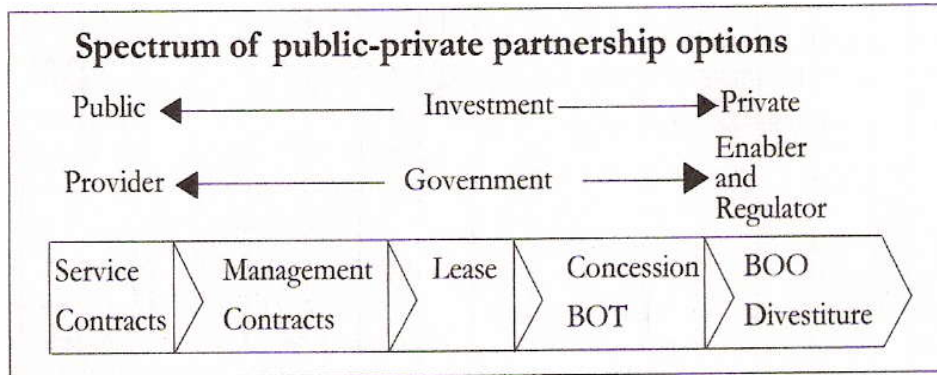
*(Samuel Paul is a former Professor and Director of the Indian Institute of Management, Ahmedabad.. This series of articles is adapted from his book "Holding the State to Account", published by Books For Change, Bangalore, 2002.)*

### **C. Privatization of Services**

The 74th Constitutional Amendments had delegated more responsibilities and powers to the local bodies to deal with the growing problems of the city. They are finding various alternatives to solve these problems and the various options to provide services on a faster track by augmenting the physical and financial resources include the involvement of Public Sector (i.e. Central and State Government, local bodies, various housing and urban development authorities) and more importantly the participation of private sector.

The spectrum of public - private partnership options and the process of Public-private partnership has been explained by Dr. Sasi Kumar and Mr. C. Jayasankar Prasad in February 2004 issue of Kerala Calling and the relevant extracts of the same are given below:

“The term “public-private partnership” (PPP) describes a spectrum of possible relationships between public and private actors for the cooperative provision of infrastructure services. The only essential ingredient is some degree of private participation in the delivery of traditionally public-domain services. Private actors may include private businesses, as well as nongovernmental organizations (NGOs) and community-based organizations (CBOs).



Through PPPs, the advantages of the private sector -innovation, access to finance, knowledge of technologies, managerial efficiency, and entrepreneurial spirit –are combined with the social responsibility, environmental awareness, and local knowledge of the public sector in an effort to solve problems. In cities throughout the world, private firms have demonstrated their ability to improve the operation of infrastructure services. However, it is important to bear in mind that private involvement does not provide an automatic solution to urban infrastructure problems.

The critical factors which do or undo the partnership or the successful running of it are government commitment, legal and regulatory capacity, stakeholder involvement, intelligent transaction design, cost-recovery tariffs, the right option and a systematic approach

If we may compare the options mentioned above on the basis of parameters like ownership, operations accountability, investment, commercial risk bearing and period of contracts, a general matrix like the following could be drawn (Table 1).

These options could also be compared by mapping the objectives for which private participation is sought (Table 2).

The table highlights the necessity of identifying the objectives clearly before venturing into an option.

Here are certain prerequisites for a public private partnership to develop and be sustained successfully the importance and priority of the factors as against the various options is as shown (Table 3).

**Table 1**

Option	Asset Ownership	O&M	Capital Investment	Commercial Risk	Duration
Management Contract	Public	Private	Public	Public	3-5 years
Lease	Public	Private	Public	Shared	8-15 years
Concession BOT	Public	Private	Private	Private	25-30 years
BOOT/BOO	Private/public	Private	Private	Private	20-30 years

**Table 2**

Objective Option	Technical Expertise	Managing Expertise	Operating Efficiency	Invest: in Bulk	Invest: in Distri:
Service Contract	Yes	No	No	No	No
Management Contract	Yes	Yes	Some	No	No
Lease	Yes	Yes	Some	No	No
Concession/BOT	Yes	Some	Some	Yes	No
BOOT/BOO	Yes	Yes	Yes	Yes	Yes

**Table 3**

Requirement Option	Political Commitment	Cost-covering Tariffs	Regulatory Framework	Good Information
Service Contract	Low	Low	Low	Low
Management Contract	Moderate	Moderate	Moderate	Low
Lease	Moderate	High	High	High
BOT Concession	Moderate	High	High	High
BOOT/BOO	High	High	High	High

It is not enough that the support of private sector be sought for the development but it should be well thought out and should be ventured into with adequate preparation and homework. There is a definite process to be followed for Private sector participation in infrastructure development this involves many systematic steps, but to put in general it is four phases. They are project preparation, selecting an appropriate PPP option, soliciting private sector participation, establishing a durable partnership

Each of the above phases has its own importance and there is a definite sequence to be followed. In general these steps would include detailed steps as given below:

### ***Project preparation***

The process from conceiving the idea to identifying the potentiality of the project and finding out the financial and economical feasibility of the same would come under this phase. They are conceiving the idea or problem definition, demand assessment, financial feasibility, economic feasibility and project feasibility (Generally a project feasibility report)

### ***Selecting an appropriate PPP option***

This phase would depend on the project/problem in hand which is to be addressed i.e., importance of the project, economics of the project, social and environmental backdrop, political and public interest, private sectors interest in terms of investment attractiveness.

The steps involved would be structuring the project for private participation, setting the necessary changes/ framework for the project, defining the terms of bidding (Bid design) and preparation of documents

### ***Soliciting private sector participation***

This involves the process of inviting private sector to participate in the project/venture and the subsequent steps of identifying the most appropriate partner in terms of technical and financial parameters. The steps would include pre-qualification, bid process, evaluation and negotiations

### ***Establishing a durable partnership***

The post bid scenario where the relation ship of 10-20 years is maintained in good manner keeping in lines with the spirit of the contract- Award of the contact, up keeping of the contractual obligations and considerate views on unforeseen events (mutually)

To sum up one would add that the success of the project would depend finally on getting the different stakeholder rallying for it, which requires a high level of awareness and a genuine effort for a consensus.

The emphasis on this point is because the relation ship is for 20 year where in it is possible that governments change, ideologies change and market dynamics may change but the long-term policies should remain and the commitment given to private sector and public should be honoured.”

The private sector participation can deliver many important benefits in the context of urban sector. They could help to:

- bring technical and managerial expertise to the sector, improve operation efficiency,
- result in large-scale injection of capital and greater efficiency in the use of that capital, reduce the need for subsidy, and
- increase responsiveness to consumer needs and preferences.

#### **D. Services to be opened for private participation**

The Govt. specifies the following Services to be opened for private sector participation:

##### ***Main Services***

- Solid Waste Management
- Street Lighting Maintenance
- Roads and Bridges Maintenance
- Drinking water and sanitation Maintenance
- Public Convenience

##### ***Other Services***

- Parks and Play Grounds
- Commercial Complexes
- Markets and Shandies
- 

The Govt. specifies that while opening up the services for private participation following guidelines need to be followed:

- All services opted for private participation should go through open and competitive bidding process

- There should not be retrenchment of the existing staff
- The condition of the contract should be clear

### **E. Pricing of services in Urban Local Bodies**

Pricing is one of the major instruments used by public authorities to make things happen in the urban sector and in other sectors of economy. The consequences of pricing are numerous and often conflicting and uncertain. The task facing the analyst who serves decision-makers responsible for pricing policies is to identify and analyze the major consequences of these policies and to appraise their overall merits. But this appraisal is difficult because some of the consequences are not measurable or cannot be expressed in the same units.

#### ***Why pricing?***

Traditionally town planning does not take into account the resource constraints and cost recovery aspects. This aspect is true in almost all urban local bodies which are characterized by the marked deficiencies in the existing service levels. Hence in order to improve the quality of this urban services capital intensive projects need to be implemented. But augmentation of the resources is a challenge by itself because of the inelastic resource base of the local bodies and further not supported by effective pricing and cost recovery of services.

If the public goods or services are supplied free of charge, the costs of producing them have to be financed out of tax revenues or public borrowing. But charging a price will produce revenues that would reduce the reliance on budgetary financing. In fact, the supply of urban services in most developing countries is heavily dependent on government financing. This is an unreliable source of financing and often accounts for the relative scarcity and poor quality of urban services. Thus, greater reliance on self-financing to pay the costs of supplying urban services will often produce more and better services.

Budgetary financing of urban services may be inequitable in its effects on income distribution. If the costs of supplying urban services are financed by imposing or raising sales taxes, the taxes often hit the poor harder than the rich and hence are likely to be more inequitable than

pricing. Also, if the financing is done by diverting public funds from other programs, the funds are often diverted from economic and social programs whose benefits accrue mostly to the lower income groups.

Pricing and user charges are likely to become a major source of new financing for local services due to the implementation of economic reforms both by Central and State governments

Pricing of urban services is possible and is practical only when the delivered service is quantifiable and it is easy to identify the beneficiary who is independent.

The above review of the major consequences of providing urban goods and services free of charge and financing their costs out of budgetary funds has identified the following main functions of pricing:

- It provides an orderly and economically efficient, though perhaps unfair, method for distributing a limited supply of goods and services.
- It provides an incentive for reducing wasteful uses of the goods and services.
- It provides a guideline for the suppliers of the goods and services to help them decide how much to supply.
- The revenues produced by pricing lighten the burden on government budgets and often lead to a more equitable method of financing the costs of public services.

**Cost-recovery:** To seek, as far as possible, to recover costs, so as to minimize the burden to be placed on taxation

**Charging Market rates:** To maximize revenue, hoping to realize profits - i.e. charging what the Market will bear, irrespective of the low cost of provision of the service.

***What should be the right price?***

The provision of certain urban services free of charge can produce chaos, waste and injustice. It is also true that charging the "wrong" price for these services can also produce problems. Having established

the desirability of pricing these services, what then is the "right" price or pricing policy?

A simple but imprecise answer is that it is 'the price or policy that leads to the production of the right amount of the service and its distribution to the right users in the right amounts and with the right quality'. It is also a statement of the criteria for assessing the merits of pricing policy for urban services. While most public authorities would be willing to accept these criteria, there are two major problems involved in applying them. One is that they are not started rigorously enough to be applied with acceptable precision. The other is that the functions of pricing are often in conflict with each other. For example, a pricing policy may lead to the production of the right amount of the service, but much of it may go to the wrong users. Hence, the decision makers face the task of reconciling these conflicting consequences.

This is often more a matter of judgment than rigorous analysis because the analysis is partial in its coverage, the causal relationships are uncertain and imprecise, and the conflicting consequences are not measurable at all or not in the same units, so that their net effect cannot be determined with precision. These problems are inherent in many issues of public policy and help to explain the limitations imposed on the use of rigorous analysis in decision-making.

### ***Theoretical basis of pricing of public service***

Some of the methods of pricing and tariff setting are:

**Marginal Cost Pricing:** It is the price based on additional unit production cost. The cost of production of additional unit is reflected in the price. Consumers who value the additional unit will purchase at a given price. This policy is however difficult from an administrative point of view.

**Return on Investment Pricing:** This approach is based on full cost recovery of capital cost and O&M with expected return on capital investment. It is possible where the water production and retailing activity of the service is managed like a commercial / business venture.

*Flat-Rate Pricing:* This pricing is based on the average cost of serving for each class user-usually applied in these cases where quantity of service is not feasible.

*Partial Cost Pricing:* The cost of service includes a capital cost with current cost of service. This pricing is added with subsidy and justified for the following reasons.

- (i) Spill over benefits-service access to the whole community. Low-income households primarily use services.
- (ii) Competitive Pricing of Service: It is based on pricing of comparable services by private or non-profit organizations or by surrounding municipalities/ private agencies.
- (iii) Differential Pricing: Differential Pricing is to charge different prices to different users depending on, how much service is used. The main aim of differential pricing is to cater to those consumers who are unable to pay for the service on the actual cost and has its own logic to charge more on others.

But while adopting differential pricing it is important to ascertain how much extra would be charged, i.e. how much times extra than the actual cost. This is because if the charge exceeds the market price then the consumers would stop to use the service and look out for alternatives. Once if this happens than the whole pricing system would become inefficient, and will be difficult to recover the cost as the consumers who are charged higher will become marginal and ultimately will lead to decrease in revenue flow.

### ***Conclusion***

The pricing policy applied to particular service will reflect the relative priority attached to the different objectives of pricing policy. These priorities will depend on the demand and supply characteristics of each service and also on the political and social forces facing the decision-makers. A pricing policy that should aim to achieve a balance among conflicting objectives is likely to be considerably more complicated than one in which a single objective predominates and hence is more difficult and costly to administer. It is also a means in which the

resources are distributed according to the needs based structure so that minimal is wasted which is the need of the hour.

In addition to sound pricing policy one need to adopt effective marketing strategy, though this may not be relevant in the present system, the marketing strategy here could be in terms of convincing the council and the citizens about the pricing and cost recovery aspects.

The other aspects of marketing the services is to create awareness among the citizens about the social, health and other related aspects of the service. The local body could utilize the services of voluntary organization or media to reach the citizens.

The Local Body could create the awareness among the citizens by the following methods.

Distribution of pamphlets high lighting the salient features of the scheme, pricing strategy, economic value of savings in terms of medical expenditure, saving in loss in man-days due to provision of improved and hygienic service levels.

- Stage shows on water related themes.
- Awareness walk
- House to House campaign
- Propaganda through Cable TV

This strategy would educate the citizens about the status of the service and the efforts and problems faced by the local body in delivering the service, which could convince the citizens in advance in the right perspective about the right price or higher price for the service provided.

## **F. Institutional finances to Urban Local Bodies**

With the onset of financial reforms, tremendous opportunities exist for ULBs to tap funds from external sources. This may be done through a variety of institutional arrangements such as direct borrowing for larger financially healthier bodies; borrowing by special purpose vehicle enterprise or indirect access through appropriate financial

intermediaries or institution and various other arrangements for attracting direct private investment.

Private mobilization of resources for infrastructure is possible provided they are structured to meet the investors' needs. Such private investments can provide better and efficient service. This is because private institutions achieve their results using standard instruments, risk assessment and cost control mechanisms.

### ***Methods of financing***

The basic approach on which the resource mobilization and recovery plan is framed is discussed below:

#### *Internally Generated Cash Flow:*

To the extent possible, the requirement of funds is generally met from the surplus resources generated through development of land.

#### *Revenue Surplus:*

Utilization of revenue surplus for financing the new projects and services.

#### *New Resources:*

Identification of additional means of revenue generation in the areas where the city has inherent advantages.

#### *Cost Recovery:*

Recovery of cost based on the nature of infrastructure services.

If the above sources are inadequate and/or not feasible then the local body generally goes for the following depending on the project and provisions of the Municipal Acts.

*Project Debt:*

Funds provided securities by project assets, lenders safety is on project cash flows and equity from sponsors.

*Bonds:*

Financial Security issued by firms to individuals with public listing.

*Debt Financing:*

If project debt or Bonds are not feasible from lenders safety point of view local bodies can go in for debt financing based on their overall cash flow.

*Equity:*

Long term capital provided in form of shares, signifying part ownership of the company.

*Privatization:*

The other funding option could be BOT (Build Operate and Transfer), BOO (Build Own and Operate), BOOT (Build Own Operate and Transfer) etc. Under these options a private operator agrees to finance, construct, operate and maintain a facility for a certain period and transfer, own or lease.

***Institution financial market in India***

The external sources of resource mobilization can be either through capital market (debt/equity) or through the direct participation of financial institutions/organizations by way of debt or equity investments. This method of financing (mainly the role of capital market) is yet to be developed in India. The USAID programme named Financial Institutional Reforms and Expansion Program is assisting in expansion of India's debt market through the development and financing of urban infrastructure projects.

However, the financing institution like HUDCO, IL&FS, IDBI, ICICI etc. have become popular and a considerable amount of financing is done by these agencies.

### *Selection of financial institution*

If the local body is unable to finance its capital investment from its internal generation, it has to look for some external source of funding. Thus the main task of any local body after identifying the need for project is to identify the Financial Institution for funding the project..

The following parameters may be considered while short listing the Fls:

- Availability of Technical Assistance
- Loan Processing Fee
- Interest Rate and Repayment Period
- Guarantee Conditions
- Penalty Condition in case of default
- Project Implementation Conditions
- Tariff and Cost Recovery Conditions
- Performance Targets
- Monitoring and Reporting Conditions

## Chapter – IV

### District Rural Development Agency (DRDA)

Soon after Independence, the main thrust of development was on the implementation of the sectoral programmes particularly those related to agriculture and allied sectors. The Community Development Programme of 1952 for the first time adopted a systematic and integrated approach to rural development. However, the failure of the Community Development Programme led to the emergence of Panchayati Raj Institutions in the next decade. Soon after a number of Agricultural development programmes were launched along with some specialist programmes and agencies like MFLA, SFDA, etc., to take care of individual beneficiaries by the 5<sup>th</sup> Five Year Plan. These programmes also met with partial success. The reasons for their failures were three fold i.e. firstly, the assumption of Trickle Down theory did not hold good in Indian conditions. Secondly, the aims and goals set under these programmes were not very clear and there was total absence of a Planning and Execution agency that was specially designed for the purpose; and lastly, the bureaucracy in India was still not representative and hence was not enthusiastic enough to implement the programmes.

At this point of time, IRDP was launched by the Government which was of integrated and comprehensive nature and was supposed to improve the economic conditions of the poor in India. DRDAs were launched at the same time in order to provide a proper administrative structure at the district level for the effective implementation of the various programmes.

The District Rural Development Agency is visualized as specialized and a professional agency capable of managing the anti-poverty programmes of the Ministry of Rural Development on the one hand and to effectively relate these to the overall effort of poverty eradication in the District.

The DRDAs will maintain their separate identity but function under the chairmanship of the Chairman of Zilla Parishad. They are expected to be a facilitating and supporting organization to Zilla Parishad, providing necessary executive and technical support in respect of poverty reduction efforts. Wherever the Zilla Parishads are not in existence or are not functional, the DRDAs would function under the Collector/District

Magistrate/Deputy Commissioner, as the case may be. In Gujarat, the DRDA functions under the District Development Officer (DDO).

The DRDAs are expected to oversee the implementation of different anti-poverty programmes of the Ministry of Rural Development in the district. This is not to be confused with actual implementation, which will be by the Panchayati Raj and other Institutions.

## **A Functions of DRDA**

The functions of DRDA include:

- (i) To monitor closely the implementation through obtaining of periodic reports as well as frequent field visits.
- (ii) To keep the Zilla Parishad, the State and Central Government duly informed of the progress of the implementation of the programmes through periodic reports in the prescribed formats. Special report, as and when called for, shall be provided.
- (iii) To oversee and ensure that the benefits specifically earmarked for certain target groups (SC/ST, women and disabled) reach them. They shall all necessary steps to achieve the prescribed norms.
- (iv) To improve the awareness regarding rural development and poverty alleviation particularly among the rural poor. This would involve issues of poverty, the opportunities available to the rural poor and generally infusing a sense of confidence in their ability to overcome poverty. It would also involve sensitizing the different functionaries in the district to the different aspects of poverty and poverty alleviation programmes. To promote transparency in the implementation of different anti-poverty programmes. Towards this end, they publish periodically, the details of the different programmes and their implementation.
- (v) To ensure financial discipline in respect of the funds received by them, whether from Central or State Governments and also to ensure that the accounts are properly maintained including in respect of the funds allocated to banks or implementing agencies in accordance with the guidelines of different programmes.
- (vi) To coordinate and oversee the conduct of the BPL Census and such other surveys that is required from time to time.

- (vii) To carry out/aid in carrying out action research/ or evaluation studies that are initiated by the Central/State Governments.

Thus the role of the DRDA is in terms of planning for effective implementation of anti-poverty programmes; coordinating with other agencies-Governmental, non-Governmental, technical and financial for successful programme implementation; enabling the community and the rural poor to participate in the decision making process, overseeing the implementation to ensure adherence to guidelines, quality, equity and efficiency; reporting to the prescribed authorities on the implementation; and promoting transparency in decision making and implementation.

## **B. Administration of DRDAs**

As indicated, the role of the DRDA is to perform tasks which are distinctly different from other institutions/departments.

The DRDA is either a registered society registered under a Societies Registration Act or a district cell in the Zilla Parishad having a separate identity. The Chairman of the Zilla Parishad is the Chairman of Governing Body of the DRDA. The Executive and financial functions however lie with CEO, Zilla Parishad/District Collector who is designated as the Chief Executive Officer or Executive Director. It is his responsibility to ensure that the administration of DRDA and the programmes are conducted in accordance with the guidelines. Wherever the Zilla Parishads are not in existence or are not functional, the DRDAs function under the Collector/ District Magistrate/Deputy Commissioner of the District, as the case may be.

The administration of the DRDA is carried out by a Governing Body. The Governing Body of the DRDA provides policy directions, approves the annual plan and also reviews and monitors the implementation of the plan, including the different programmes. They give such directions to the DRDA as may be necessary from time to time. The Governing Body of the DRDA meets once in a quarter.

The composition of the Governing Body shall be as follows.

- Chairman of Zilla Parishad -**Chairman**
- All MPs and MLAs and MLCs of the District
- 1/3<sup>rd</sup> of Panchayat Samiti Chairpersons to be nominated by rotation in alphabetical order for a tenure of one year, one of whom must belong to SC/ST and another a woman.
- CEO of Zilla Parishad/District Collector -**C E O/E D**
- Head of the Central Cooperative Bank of the District
- Chairman Regional Rural Bank
- District Lead Bank Officer
- Representative of the Reserve Bank of India at district level
- NABARD representative at district level
- General Manager, DIC
- Representative of KVIB
- District Officer in charge of Scheduled Caste/  
Scheduled Tribe Welfare
- District women & Child welfare officer
- District officer dealing with welfare of the disabled
- One representative from technical institutions
- Two representatives of NGOs
- Two representatives of the weaker sections,  
one of whom may be drawn from SCs and STs
- One representative of rural women
- Project Director, DRDA - **Member Secretary**

Wherever the Zilla Parishads are not in existence, the State Governments may nominate elected members of the State Legislature from the concerned districts to act as Chairman of the Governing Bodies of the DRDAs.

### ***Executive Committee (EC)***

All executive and financial powers of the DRDA are exercised by the executive committee as per a scheme of delegation of financial and executive powers to be determined by each State/UT Government and this Committee is fully accountable in all matters of DRDA to the Governing Body as well as to the Government. The Executive

Committee of DRDA is headed by the Chief Executive Officer/Executive Director and consists of all the District level officers and any other officer deemed necessary for planning and implementation of the anti-poverty programmes. The Project Director DRDA is the Member Secretary of the EC.

The Executive Committee will meet atleast once in a month.

### ***Financial Procedures***

The scheme of “DRDA Administration” a centrally sponsored scheme. The funds required under this programme are to be shared between the Centre and the States in the ratio of 75:25. Funds will be released directly to the DRDAs, in accordance with the guidelines under this programme.

The Centre releases funds in two installments.

#### ***a) Release of First Installment***

- i) The release of first installment can be made without any formal request if the second installment in the previous year had been released without any condition. If latter installment was not released at all or was released with some conditions, formal requests for release of first installment are required from the DRDAs after the conditions have been fulfilled/reasons for non-release of the second installment have been met.
- ii) The release of the first installment should ordinarily be completed by the end of the second month of the financial year.

#### ***b) Release of Second Installment***

- i) The quantum of the second installment shall be subject to actual requirement within the overall ceiling. The second installment of Central funds is released on the request of the DRDAs in the prescribed proforma on fulfillment of the following conditions.

- Budget provision for the current year may be indicated by the State Governments. The Central release will not exceed it proportionately.
  - The State Government should have released its contribution during the previous year. Deficiency in release of its share will be deducted from the second installment. Also the contribution of the State Government for the first current year should have been released.
  - Available funds including carry forward funds should have been utilized at least to 60%.
  - The opening balance of the DRDAs should not exceed 15% of the allocation of the year in which funds are being released. In case, the opening balance exceeds this limit, the Central share of the amount by which it exceeds this limit will be deducted at the time of release of second installment.
  - Audit reports, utilization certificates for the previous year should be furnished. This will not be required in the first year i.e., 1999-2000.
  - Any other terms and conditions imposed at the time of the last release should have been met.
- ii) The DRDA has to maintain the fund under the head 'DRDA Administration', in a separate bank account in any of the nationalized banks. Interest earned on the funds will necessarily be used only for admissible items of expenditure under DRDA administration. They shall not be used for any programme funding or non-admissible items of expenditure, such as construction of buildings and purchase of vehicles.

### ***Maintenance of Accounts***

#### **Principles**

Separate accounts have to be maintained of this scheme and each other scheme under which the DRDA receives funds. Such maintenance of accounts is governed by the principles that the expenditure incurred is not repugnant to the objective of the scheme and is made, in

accordance with the prescribed procedures. DRDA accounts are to be maintained on double entry system. The accounting procedure for DRDAs has been described in detail in the Government of India, Ministry of Rural Development Publication entitled “Revised Accounting Procedure for District Rural Development Agencies / Societies”, 1984 and subsequent instruction issued / to be issued from time to time. Internal Audit Cells should be specifically charged with the responsibility of overseeing and the observance of these principles. One of the Accounts Officers should perform the role of internal audit.

### ***Audit of the Accounts***

- (i) The Comptroller and Auditor General (CAG) has the right to conduct the audit of the accounts of the society and for this purpose shall have the right of access to the books of accounts and other relevant records of the DRDA. For this purpose a copy of the annual accounts along with the audit report and the comments of the DRDA thereon shall be sent to the audit office nominated by CAG.

## Chapter – V

### Development Programmes

Rural development and poverty alleviation programmes are implemented on a decentralized basis, keeping in view the large geographical areas, the administrative requirements and the need to involve grassroots-level officials and the community in the implementation of the programmes. At the central level the Ministry of Rural Areas & Employment has been implementing these programmes. The Ministry is responsible for the release of central share of funds, policy formulation, overall guidance, monitoring and evaluation of the programmes. At the State level Secretary, Rural Development and the Director of Rural Development are overall incharge for implementation of the rural development programmes. At the District level, the programmes are implemented through the DRDAs (District Rural Development Agencies). The governing body of DRDA includes Members of Parliament (MPs), Members of Legislative Assemblies (MLAs), District level officials of Development Departments, Bankers, NGO's and representatives of weaker sections of the society. The District Collector is the Chairman of the Governing Board and the Project Officer/ Project Director the Member Secretary. At the block level the Panchayat Union Council, Block Development Officers and at the village level, Panchayat leaders or village level workers are responsible for implementation of the Programme. The Governing body at the district level provides guidance and directions to DRDA.

Many Schemes of the Central and State Governments are introduced from time to time. Several schemes are available providing support to different components of Rural Development. Schemes are also periodically modified to reflect the experience over the years. The task of DRDA has been to identify the needs of the rural population and reach the appropriate schemes where they are needed. In implementing the schemes, the role of the DRDA has been Technical, Managerial and Financial. Thus DRDA is not only a body to disburse the funds for the schemes but also provide appropriate Managerial and Technical support.

In order to ensure proper implementation of the programmes at the grass roots Ministry of Rural Development has evolved a comprehensive system

of Monitoring and Evaluation and professional agencies are made use of in this. Regular monitoring of the programmes are done to assess the physical and financial progress. Concurrent evaluation is conducted periodically to streamline the implementation and improve the delivery systems. The Monitoring and Evaluation programme includes Progress Reports, Financial Statements, and Intensive Inspection by officers of the central and state governments, Parliamentary Committees and research studies on specific areas.

### **Centrally sponsored schemes**

#### ***Sampoorna Grameen Rojgar Yojana (SGRY)***

The Employment Assurance Scheme (EAS) and Jawahar Rozgar Yojana (JRY) implemented up to 2001-2002 for creation of employment opportunities and infrastructure facilities in the rural areas have been merged and a new scheme known as “Sampoorna Grameen Rojgar Yojana” (SGRY) has been introduced by the Government of India with effect from 01-04-2002. The main objective of this scheme is to provide Wage Employment and food security in rural areas along with the creation of durable community, social and economic assets in these areas. This programme is implemented as a Centrally Sponsored Scheme on cost sharing basis between Centre and State in the ratio of 75:25. This scheme will be available for all the rural population (BPL & APL). However, preference will be given to the poorest among the poor, AD & Tribal and parents of child labour withdrawn from hazardous occupations. Under this programme, the funds and food grains would be allocated to the States on the basis of proportion of the rural population.

The main features of the new programme are as follows:

- Annual allocation will be made to Village Panchayat, Block Panchayat and District Panchayat in the ratio of 50 : 30 and 20.
- Workers will be paid food grains as part of their wages at the rate of 5 Kgs of Rice per man ay. The workers will be paid the balance of wages in cash, such that they are assured of the notified minimum wages.

- The Payment of Wages, in cash as well as in food grains, will be made every week.
- The works to be taken up will be labour intensive resulting in creation of additional wage employment and durable assets and infrastructure like moisture conservation works, watershed development, promoting traditional water resources, construction of Village infrastructure, link roads, Primary School Building, Dispensaries, Veterinary Hospitals, marketing infrastructure etc.

### ***Implementation Methodology***

District Rural Development Agency will allocate funds to all village Panchayats. Identification of works and annual action plan preparation will be done by Village Panchayat. Such annual action plan will be approved by Gram Sabha and forwarded to DRDA. For works up to Rs.50,000 of estimate no external approval is required. Works will be executed by the Village Panchayat. Execution by contractor is prohibited. Technical supervision shall be the responsibility of Block and DRDA. Wage employment under the programme is given to below poverty line families. Muster roll shall be maintained for every work separately showing the details of wages paid to workers.

### ***Components***

Rural infrastructure like roads, buildings, improvement of streets, drainages, infrastructure support for SHGs can be taken up. Priority is given for the improvement of streets with cut stone, brick or concrete pavement or with bituminous surface. Economic assets can be provided to individual SC/ST beneficiaries for sustainable employment. Water harvesting works like desalting and strengthening of ponds, Ooraries, Kulam, Kuttai etc, desilting of inlet and supply channels, construction of check dams etc should be taken up on priority.

### ***Implementing Agency***

The scheme is primarily implemented through village Panchayat, block Panchayat and District Panchayat which will be responsible for planning and execution.

### ***Swarnjayanti Gram Swarozgar Yojana (SGSY)***

Swarnjayanti Gram Swarozgar Yojana (SGSY) is the single self-employment programme for the rural poor. Launched on April 1, 1999 the programme replaces the earlier self-employment and allied programmes - IRDP, TRYSEM, DWCRA, SITRA, GKY and MWS, which are no longer in operation. SGSY is an innovative and carefully thought-out programme. It takes into account all the strengths and weaknesses of the earlier self-employment programmes. It offers the perfect balance of credit and subsidy.

Swarnjayanti Gram Swarozgar Yojana aims at establishing a large number of micro-enterprises in the rural areas, building upon the potential of the rural poor. A significant aspect of SGSY is that every family assisted under this programme will be brought above the poverty line in three years and therefore the programme aims at creating substantial additional incomes for the rural poor. Subject to availability of funds, it is proposed to cover 30% of the rural poor in each block in the next five years.

It will target the most vulnerable among them. At least 50% of the Swarozgaris (Self Employed) will be SC/STs, 40% women and 3% disabled.

### ***Salient features***

SGSY is conceived as a holistic programme of micro-enterprises covering all aspects of self-employment, viz., organization of the rural poor into self-help groups and their capacity building, planning of activity clusters, infrastructure build up, technology, credit and marketing.

SGSY focuses on Group approach. This would involve organization of the poor into self-help groups (SHGs) and their capacity building.

The Gram Sabha will authenticate the list of families below the poverty line identified in the BPL census. Identification of individual swarozgaris will be made through a participatory process

SGSY is a credit-cum-subsidy programme. Credit will be the critical component in SGSY, subsidy being only an enabling element. Accordingly, SGSY envisages a greater involvement of the banks, in the planning and preparation of projects, identification of activity clusters, infrastructure planning as well as capacity building and choice of activity.

Subsidy under Swarnjayanti Gram Swarozgar Yojana would be uniform at 30% of the project cost subject to a ceiling of Rs. 7,500 (for SCs/STs it would be 50% and Rs. 10,000 respectively). For self-help groups, subsidy would be 50% of the project cost subject to a ceiling of 1.25 lakh.

SGSY takes into account the role of every participant - the panchayats, gram sabhas, banks, financial institutions, NGOs as well as the technical institutions in the district.

### ***Funding Pattern***

Funds under the SGSY will be shared by the Central and State Governments in the ratio of 75:25.

### ***Indira Awaas Yojana***

#### ***Introduction***

As part of the efforts to meet the housing needs of the rural poor, Indira Awaas Yojana was started in May 1985 as a sub-scheme of Jawahar Rozgar Yojana. From 1 January, 1996 it is being implemented as an independent scheme.

The objective of Indira Awaas Yojana is primarily to help construction of dwelling units and upgradation of existing unserviceable kutcha houses of members of Scheduled Castes/Scheduled Tribes, freed bonded labourers and also non-SC/ST rural poor below the poverty line by providing them with grant-in aid.

The target group for houses under Indira Awaas Yojana includes people below poverty line living in rural areas belonging to SCs/STs, freed bonded labourers and non-SC/ST categories. From 1995-96, the IAY benefits have been extended to widows or next-of kin of defence personnel killed in action. Benefits have also been extended to ex-servicemen and retired members of the paramilitary forces as long as they fulfill the normal eligibility conditions of Indira Awaas Yojana. 3 percent of funds are reserved for the benefit of disabled below the poverty line in rural areas.

### ***Salient Features***

Allotment of the house in the name of the female member of the house-hold or in the joint names of husband and wife. A minimum of 60 percent of funds are to be utilized for construction of houses for the SC/ST people. Sanitary latrine and smokeless chulah are integral to an IAY house. Selection of beneficiaries under IAY is done by the Gram Sabha. Selection of construction technology, materials and design is left entirely to the choice of beneficiaries. Up-gradation of unserviceable kutchha houses at the rate of Rs. 10,000 per unit has also been introduced from the year 1999-2000. Indira Awaas Yojana is a Centrally sponsored scheme funded on cost-sharing basis between the Government of India and the States in the ratio of 75:25.

### ***Implementing Agency***

The IAY is implemented through District Rural Development Agencies (DRDAs) specially set up in each district of the country for the implementation of Rural Development Programmes or through Zilla Parishads. At the village level, the Gram Sabha is responsible for selection of beneficiaries.