

## APPENDIX B

### DETAILED POSITION IN REGARD TO CONSTITUTION OF MUNICIPALITIES IN VARIOUS STATES

#### ASSAM

There are 23 municipalities serving a population of 3·81 lakhs. They are designated municipal boards in bigger and town committees in smaller towns.

*Constitution:* At least four-fifths of the members are to be elected, the remaining being appointed by the Government. Government, however, have power to direct that all members should be elected. The "Chairman" is the executive authority of the municipality. He is generally elected by the board, but in some specified municipalities he can be appointed by the Government.

*Supervisory powers of Government:* If a board makes default in performing a statutory duty, the Government may fix a period for its performance. If it fails to carry it out within the time given, Government may appoint some one to do it at municipal expense. Government may supersede an incompetent municipal board.

#### BIHAR

There are 59 municipalities serving a population of 16·54 lakhs.

*Constitution:* The members are called municipal commissioners. Not less than four-fifths of the municipal commissioners are elected. Government appoint the rest. The term of office of municipal commissioners, etc. is five years. The Chairman is the executive authority and is elected by the municipal commissioners. A President also is elected for a tenure of five years. The President presides over meetings of the commissioners.

*Supervisory powers of the Government:* If a municipality makes default in performing a statutory duty, Government may fix a period for its performance. If the municipality still fails, Government may appoint the District Magistrate to perform it at municipal expense.

In cases of incompetency, or persistent default, or abuse of power, Government may supersede a municipality.

#### BOMBAY

There are 219 municipalities including 32 borough municipalities, which are larger district towns. These municipalities serve a population of 48·17 lakhs. The borough municipalities are governed by the Bombay Municipal Boroughs Act of 1925, while the other municipalities are governed by the Bombay District Municipalities Act of 1901.

*Constitution: Borough Municipalities.*—A municipality consists of councillors, elected on adult franchise. The President is elected by the councillors. He can be removed by the State Government for neglect or incapacity to perform his duty. The President has power to exercise supervision and control over the acts of all officers and servants of the municipality in matters of executive administration and in regard to accounts and records and to dispose of questions relating to the service of the said officers and servants and their pay and privileges.

A chief officer shall be appointed by every borough municipality. He shall be a graduate or qualified engineer. The chief officer shall not be removed from office, reduced or suspended unless by the vote of at least two-thirds of the whole number of councillors and shall not be fined. Subject to the general control of the President, the chief officer shall watch over the financial and executive administration of the municipality.

*District Municipalities.*—These too consist of councillors elected on adult franchise. There shall be a President who shall be either—

- (a) appointed by State Government by name,
- (b) an *ex-officio* president, or
- (c) if the State Government so directs, elected by the municipality.

In a municipality for which there is a municipal commissioner, the executive power vests in the municipal commissioner. Where there is no municipal commissioner, the executive power vests in the President.

#### *Supervisory powers of the Government*

*Borough Municipalities.*—If a municipality fails to perform a statutory duty, State Government may ask the Commissioner (of the Division) to fix a period for its performance. If it is still not performed, the Commissioner may appoint a person to perform it at the expense of the municipality.

State Government may dissolve or supersede a municipality on the ground of incompetence or persistent defaults in performing duties.

*District Municipalities.*—The State Government may require any city municipality to appoint a Chief Officer. The State Government may appoint a municipal commissioner to any municipality which has a population of not less than 1,00,000 and to any other municipality if the municipality wants it by an application supported by not less than two-thirds of the whole number of councillors. When a Commissioner is appointed, the Chief Officer's post ceases.

The powers of the State Government to get a municipal duty performed in default and to dissolve or supersede a municipality is the same as in the case of borough municipalities mentioned above.

Any municipality having a population exceeding 15,000 may be notified as a city municipality by the State Government. Any city municipality may appoint a Chief Officer. No Chief Officer shall (save with Government sanction) be removable from office unless by the votes of at least three-fourths of the whole number of councillors. The Chief Officer shall exercise the executive functions specified in the Act. All officers and servants of the municipality shall be subordinate to the Chief Officer.

#### MADHYA PRADESH

There are 112 municipalities serving a population of 20·23 lakhs.

*Constitution.*—A municipal committee consists of—

- (a) members elected on adult franchise,
- (b) selected members in number not exceeding one-fourth of total elected members to be selected by single transferable votes by the elected members from amongst residents of the municipality.

The President of municipal committee is elected by all the voters of the municipality by direct election from residents qualified to be voters. The President may appoint not more than 2 Vice-presidents from the members of the committee or from voters of the municipality.

If a municipal committee passes a motion of no-confidence against the President, the President may resign in three days or he will be removed by Government. A President who has so resigned may apply to Government for dissolution of the committee, in which case fresh elections shall be held.

A President who is unable to carry on due to opposition may resign and seek re-election. If re-elected, he may apply to Government for dissolution of the committee. Then re-election of the committee shall be ordered.

The executive powers of the committee vest in the President.

*Supervisory powers of the Government.*—The Government may require any committee to appoint an Executive Officer and to delegate to him specified powers of the committee and president. If it fails, Government themselves may issue orders for the purpose.

Where a committee is not competent, the Government may appoint a Government Officer as its Executive Officer for a period up to eighteen months and specify his powers.

If a committee fails to perform a statutory duty, Government may fix a period for its performance and if there is default, appoint a person to do it at municipal expense.

If a committee is incompetent to do its duty or persistently makes default in doing its duties or exceeds or abuses its powers to a grave extent, the Government may dissolve it and order fresh elections. If even the re-elected committee commits same defaults, Government may supersede the municipality for a period.

## MADRAS AND ANDHRA

There are 61 municipalities in Madras and 35 municipalities in Andhra.

*Constitution.*—Municipal councillors are elected on the basis of adult franchise. The chairman is elected by councillors. A Commissioner is appointed by Government for every municipality without the concurrence of the municipal council. A municipal council can require the removal of its Commissioner only at a special meeting with the support of not less than two-thirds of the total number of councillors of the municipality.

*Supervisory powers of the Government.*—The Government have power to compel any municipality to levy the property and service taxes at such rates as the Government deem fit. Where a municipal council abuses its appellate powers and reduces taxes unreasonably in a large number of cases, Government appoint under the Act a special officer to exercise the appellate powers for a specified period. Government can dissolve or supersede a municipality for incompetency, abuse of power, etc. and can also remove a chairman.

## ORISSA

There are twenty municipalities (besides six notified area councils and one notified area committee). The set up is akin to the set up in Bihar and Madras.

## PUNJAB

There are 94 municipalities (61 municipal committees and 33 town committees) serving a population of 21·18 lakhs.

*Constitution.*—A municipal committee consists of partly elected members and partly members appointed by Government. Unless Government otherwise directs, the number of appointed members shall not exceed one-fourth of the total number of members. President is elected by the committee. The person so elected becomes President, if approved by Government in the case of first class committees and by the Commissioner, in second class committees.

The Government or the Commissioner as the case may be, may appoint one of the members of the committee as President—

- (i) if the committee applies for doing so,
- (ii) if the committee has failed to elect one within a month of the occurrence of vacancy, or
- (iii) where any committee is excluded by Government from the provision for election.

With Government sanction, salary may be paid to President from municipal funds. Only a few municipalities have appointed Executive Officers with Government's approval.

*Supervisory powers of the Government.*—Government may remove a President for abuse of powers or habitual failure to perform his duties. In case of emergency, a Deputy Commissioner may carry out a municipal work at the expense of the municipality.

If a municipal committee defaults in performing a statutory duty, the Commissioner may fix a period for performance of the duty. If there is still default, Commissioner may appoint some person to perform it at municipal expense. Deputy Commissioner has similar powers in the case of second class municipalities.

In case of incompetency or persistent default in doing duty or abuse of powers, Government have power to supersede a municipality.

The law has recently been amended to empower Government to force any municipal committee (or district board or town committee) to impose a tax not already levied or to modify the rate of a tax levied. Government can order levy of the tax or modify the rate themselves in case of default by local body.

#### UTTAR PRADESH

There are 120 municipalities (apart from 37 notified areas and 265 small town committees) serving a population of 62.70 lakhs.

*Constitution.*—Municipal boards consist of members elected on adult franchise. A few are co-opted by the board from women, etc. in three municipalities, Government nominate a few members. A President is elected by direct election by electors of the municipality. Government may notify that this shall not apply to any board. In such a case, Government may nominate a person as President.

Every municipal board shall appoint an Executive Officer. His powers are to issue licences, receive and recover municipal dues and to credit them to municipal boards. Executive powers under specified sections vest in him.

*Supervisory powers of the Government.*—The appointment of the Executive Officer and his salary are subject to Government approval. In default of municipal board appointing an Executive Officer, Government may appoint him.

Municipalities whose income exceeds Rs. 50,000 shall (unless Government otherwise direct) employ an accountant belonging to the Provincial Accounts Service. The board may by a resolution recommend the transfer of the accountant. The Government shall transfer the accountant, provided the board gives sufficient reasons therefor.

The State Government may require a board to impose any tax leviable but not imposed at such rate and within such period as may be specified by Government, or modify the rate of any tax already imposed.

If the board fails, Government may pass order imposing or modifying the tax, and the order shall operate as if it had been resolution passed by the board. Government have also power to dissolve or supersede a municipal board.

#### WEST BENGAL

There are 81 municipalities, including one in the merged Cooch-Behar area.

*Constitution.*—All members of the municipality (called commissioners) are elected but not an adult franchise. A chairman is elected by the municipal commissioners.

The State Government may require any municipality whose annual income is above Rs. 1 lakh to appoint an Executive Officer. An Executive Officer can be removed by the commissioners only at a special meeting with the support of not less than two-thirds of the whole number of commissioners. Qualifications of Executive Officer are prescribed by Government. His pay is fixed by the municipal commissioners subject to approval of Government. All other officers and servants of the municipality are subordinate to the Executive Officer. The commissioners may delegate to the Executive Officer any of their powers and the Chairman shall cease to exercise such powers. In respect of all other matters, the Executive Officer shall act under the direction of the Chairman.

*Supervisory powers of the Government.*—In case of default of performing a statutory duty by the municipality, Government may ask District Magistrate to perform it at municipal expense. Government may dissolve or supersede a municipality. In case of default or incompetency of a department of municipality, Government may appoint a suitable person to be in charge of that department and exercise all powers of the commissioners in that department.

#### HYDERABAD

*Constitution.*—There are 140 city and town municipalities in the State serving a population of 25.11 lakhs.

Towns with a population of 15,000 or more are generally constituted into city municipalities while towns with a population of 5,000 or more but less than 15,000 are generally constituted into town municipalities. About one-fourth of the members of city municipalities and about one-third of the members of town municipalities are nominated by Government. Of the nominated members, two or three are officials. The remaining members are elected on adult franchise.

The President of a municipal or town committee is elected by the members of the committee from amongst the elected members thereof.

The President exercises supervision and control over the acts of all officers and servants of the committee including the executive officer. One of the duties of the President is to watch over the financial and executive administration of the committee.

The Government appoint an executive officer for each city and town municipality. The executive officer shall be a member of the Hyderabad Local Government Service. His transfer, promotion, and disciplinary action against him are regulated by the Government in consultation with the committee concerned. The executive officer exercises the executive power, subject to the sanction of the committee, wherever required.

Apart from the executive officer, other bigger officers also, e.g., municipal engineer, secretary, supervisors, etc. are appointed by the Government from amongst a State cadre of municipal service.

All local bodies have to contribute 12½ per cent. of their income to a fund out of which are paid all the staff earning a salary of Rs. 100 or above.

As the officers are appointed by the Government, the local bodies cannot take any disciplinary action against them. They can recommend appropriate action to the Government.

The appointment of the lower staff is completely within the power of the municipalities. Since they are the appointing authorities, they can take disciplinary action including dismissal. However there is an appeal to the Government and as the appellate authority Government exercises revisionary powers.

*Supervisory powers of Government.*—A member or President may be removed for abuse of power by the State Government in the case of municipal committees and by the Secretary, Local Government in the case of town committees. The Government may dissolve and reconstitute by fresh elections incompetent Committees. If even the reconstituted committee is incompetent Government may supersede the committee.

#### MADHYA BHARAT

*Constitution and supervisory powers of the Government.*—There are 84 municipalities in the State serving a population of 14·63 lakhs.

A new Municipal Bill for all the municipalities in the State is under the consideration of the State Legislature. Pending enactment of the Bill, the laws which were in force in the covenanted States of Madhya Bharat, before merger, continue to be in force in the respective municipalities. Most of them are elected on restricted franchise and control of the Government both in respect of general matters and taxation is greater.

#### MYSORE

There are 107 municipalities in the State, two city and 105 town municipalities. Town municipalities are created generally for towns with a population of 3,000 and over but less than 25,000, while city municipalities are constituted for towns with a population of more than 25,000.

*Town Municipalities.*—There is a council consisting of from ten to twenty councillors. All of them are to be elected on adult franchise, Government appointment being reserved to cases of vacancies arising out of the failure of the electors to elect a councillor.

The council shall elect a President. The President is the executive authority in municipalities where no executive officer is appointed. In municipalities where an executive officer is appointed, he shall exercise supervisory powers and “watch over the financial and executive administration of the municipal council”, besides presiding over the meetings of the Council.

*Supervisory powers of the Government.*—Supervisory powers of the Government are extensive. Apart from the power to supersede

a municipality for maladministration, they have power to require the municipality to appoint certain officers for due performance of functions, viz., health officer and engineer; may order an inquiry into the conduct of affairs of any municipality and may repeal wholly or in part or modify any rule or bye-law made by any municipal council.

In regard to taxation, the Government have power to require the municipality to levy any permissible tax or arise rate.

*City Municipalities:* There is a council consisting of councillors of whom not less than four-fifths are elected and the rest may be nominated. Of the nominated members, salaried servants of the Government shall not exceed one half.

For every municipality, there shall be a president, who may either be elected or appointed by the Government either by name or designation. He shall be the executive authority in municipalities where there is no executive officer or municipal commissioner: in municipalities where either an executive officer or a municipal commissioner is appointed, he shall exercise supervisory powers and watch over the financial and executive administration of the municipality, besides presiding over the meetings of the council.

*Supervisory powers of the Government.*—Government have powers, including the power to require the municipality to levy any tax or raise its rate, of supervision similar to those in the case of town municipalities.

### PEPSU

There are 21 municipalities and 37 small town committees serving a population of 6.48 lakhs. The constitution and powers of supervision of the Government are akin to those of Punjab State.

### RAJASTHAN

There are 139 municipal boards. A new Act, the Rajasthan Town Municipalities Act, 1951, was promulgated on 22nd December 1951, but the position has not been stabilised under that Act.

Prior to the promulgation of this Act, the municipalities in the various covenanting States were governed by different laws. In some cases, they were mere departments of the Governments.

### SAURASHTRA

There are 80 municipalities, serving a population of 13.11 lakhs. Twenty of these municipalities are in towns with a population of less than 5,000.

The constitution and powers of supervision of the Government are akin to those in Bombay, Saurashtra having adopted the Bombay enactments with slight modifications.

### TRAVANCORE-COCHIN

There are 24 municipalities serving a population of 8.01 lakhs.

*Constitution.*—In each municipality, there is a council consisting of not less than 12 and not more than 24 members.



Every municipality shall have a Chairman who may be elected by the council or if the Government desire, may be appointed by the Government. The Chairman however is not the executive authority but only an authority presiding over the meetings of the Council and supervising the affairs.

The Government may appoint a Commissioner for a municipality and he shall be the executive authority.

*Supervisory powers of the Government.*—Government have power to supersede or dissolve a municipality, appoint an administrator, cancel or modify any resolution of the municipality, remove a chairman for misconduct, etc., and transfer any municipal servant from one municipality to another municipality (with the consent of the municipalities).