

Chapter - 2

MEANING, NATURE AND SCOPE OF LOCAL GOVERNMENTS

India has the distinction of being a unique federal country. Ordinarily, federalism involves a two tier system – central/union government at the first level and the state/provincial government at the second level. But the Indian constitution provides for a three tier federal structure as below: -

Union Government at the top

State Government in the Middle

**Local Government i.e. Panchayats and Municipalities at Grass
Root**

As such, in India, Local Government is the third stratum of the Government, the first two being the central and state Governments. India is known to be the world's largest democracy. In constitutional sense, democracy is the system of Government, in the administration of which, every adult citizen of the country enjoys some direct or indirect share. Keeping in view the real spirit and high ideas of democracy, Local Government forms an indispensable part of governance and administration in India.

The Local Government's jurisdiction is limited to a specific area and its functions relate to the provision of civic amenities to the population being within its jurisdiction. A Local Government functions

within the provisions of the statute which has created it. It is subordinate to the state or provincial government which exercises control and supervision over it. But the activities of the Local Government are not less numerous. Local Government has been undertaking new activities which either regulated the conduct of the citizens or are in the nature of service such as provision of mass transport, construction of houses for the poor, supply of electricity, health centers, parks, play grounds etc. In fact, Local Government is today much more important in the daily life of a citizen than the state or central government.

The importance of Local government can hardly be over emphasized when we consider the range, the character and the impact upon the daily life of the citizen of the functions which local authorities carry out. Local Government provides public amenities and services which are necessary for the convenience, healthful living and welfare of the individual and the community. Breaking down of municipal services means the entire dislocation of social and economic life of the community. If these services were suddenly to cease, we should relapse into chaos.¹

The Local Government institutions are based on the principle of division of labour. They are indispensable because the aggregate duties of government and local authorities can thus be shared.² The

1 J.H. Warren, "The Local Government Service" (1952), p. 5.

2 J.S. Mill, "Considerations on Representative Government", (1865), p. 213.

administration from without lacks the vitalizing ability to be responsible to public opinion. It cannot grasp the genius of the place. Local Government is therefore educative in perhaps a higher degree than any other part of government.³ The constitution of India aims at the establishment of a welfare state and strengthening of Local Government may ensure its proper achievement. The welfare services of the modern state, in view of the flexible technique of administration they required, essentially municipal in principle and practice.⁴

Local Government both in urban and rural areas has thus to shoulder manifold and complex responsibilities. The central and state governments are conscious of the short-coming from which local government suffered in the past. They have therefore been trying to understand them by instituting several enquires and studies.⁵ The Central Government, for instance, set up the Local Finance Enquiry Committee (1951) and the Taxation Enquiry Commission (1954) to examine the problems of finances of urban local bodies. A central council of Local Self-Government was established in 1954 to consider and recommend broad lines of policy and draw up a common programme of action to promote local self-government through out India. The council set up a committee on Augmentation of Financial Resources of Urban Local bodies in 1965.

3 Harold Laski, "Grammar of Politics" (1950), p. 212.

4 M.P. Sharma, "Local Self-Government in India" (1965), p. 2.

5 The Report of seminar on "The Pattern of Rural Government" Published by Indian Institute of Public Administration, New Delhi, (1958), pp. 80-94.

Town and villages are two distinct entities in India. They have different needs and problems. The main requirements of towns are the provisions of housing, transport, communications, water supply, sanitary conditions, community centers, slum clearance and town planning while main emphasis in the village has to be on improvement of agriculture, irrigation facilities, animal husbandry, village industries and the like. The personnel of Urban Local Government and Panchayati Raj institutions would thus require specialised training to cater the specific needs of urban and rural areas respectively. The study therefore, emphasis's the need for two distinct set of personnel requirement for the urban and rural local bodies.

MEANING OF LOCAL GOVERNMENTS

It is not easy to answer the question "what is local government"? Local Government may be described as government by popularly elected bodies charged with administrative and executive duties in matters concerning the inhabitants of a particular district or place and vested with powers to make bye-laws for their guidance. Local Government has been defined from various angles. It has been defined as "an authority to determine and execute measures with in restricted area inside and smaller than the whole state."

The term "Local Government" literally means management of the local affairs by the people of the locality. It is based on the principle that the local problems and needs can be looked by the

people of the locality better than by central or state governments. The administration of local affair is entrusted to the representatives elected by the people of the locality on regular intervals. Though local government institutions enjoy autonomy of operations, it does not mean that there are no legal restrictions upon them. The central and state governments are free to prescribe the limits within which a local government has to operate and also reserve the right to issue directions from time to time.

The term "Local Government" or "Local-self government" means the government by freely elected local bodies which are endowed with power, discretion and responsibility to be exercised and discharged by them, without control over their decisions by any other higher authority. Their actions are, however, subjected to the supremacy of the national government. Defining local self-government, it has been observed that: Local inhabitants representing local body possessing autonomy within its limited spheres, raising revenue through local taxation and spending its income on local services constitute the local-self-government.⁶ For a better understanding of the concept of Local Government and its meaning, scope and nature, it shall be desirable to study a few important definitions and interpretations from various sources.

As per the General Clauses Act, 1897 "Local Government shall mean the person authorized by law to administer executive

6 K. Venkata rangia "Local Government in India", Bombay (1969), p. 1.

Government in the part of British India in which the Act or Regulation containing the expression operates and shall include a Chief Commissioner.⁷ The word Local Government also finds mention in the Government of India Act, 1935.⁸ Whereby the phrase Local Government has a due place, though not relevant for the present discussion. According to eminent scholar and political scientist *Clarke*, "Local Government is that part of the Government of a nation or state which deals mainly with such matters as concern the inhabitants of the particular district of places, together with those matters which parliament has deemed it desirable should be administered by local bodies, subordinate to the Central Government."⁹ This definition though quite comprehensive makes no reference to two important elements of Local Government viz. locally elected or controlled councils and local finances.

According to *D. Lockard* Opines that local government may be loosely defined as a public organization, authorized to decide and administer a limited range of public policies within relatively small territory which is a sub division of a regional or national government.¹⁰ According to *M. Goetz* "Self-Government implies merely a form of communal administration". *E.L. Hasluk* opines that local

7 Section 3 (29).

8 Section 134 (4).

9 The Local Government of U.K., 1948, p. 1 (Also see Development & Local Administration by Sahib Singh, 2001, p. 5).

10 D. Lockard, "Encyclopedia of Social Sciences", Vol. 9, New York, p. 45.

government is that sphere of government within which local bodies are legally permitted to adopt variations in administration. *H. Sidgwick* talks about local government as certain subordinate bodies which have defined powers of making rules and regulations within their prescribed areas of administration.

According to *P. Stones* "Local Government is that part of the government of a country which deals with those matters which concern the people in particular locality."¹¹ He points out further that it acts as the communities' housewife, in that it makes our surroundings fit to live in, keeps the streets clean, educate our children, builds our houses and does all those other similar jobs which enable us to lead a civilized life. *V. Vankata Rao* points out that "Local Government is that part of the government which deals mainly with local affairs, administered by authorities subordinate to the state government but elected independently of the state authority by the qualified residents."¹² According to *L. Golding* "Local Government is the management of their own affairs by the people of a locality"¹³ *Jennings* define "Local Government as governmental organs having jurisdiction not over the whole of a country but over specific portion of it."¹⁴

11 P. Stone, "Local Government for Students", London, MC Donald and Evons Ltd., (1963), p. 1.

12 V. Venkata Rao "A hundred year of Local Self- Government in Assam, Calcutta, Beni Parkash, Mander, (1965), p. 1.

13 Golding L. "Local Government" London (1955), p. 19.

14 L. Jennings, "Principles of Local Government Law" (3rd Edition), London, 1947, p. 1.

According to *B. K. Gokhale* "Local Government is the government of specific locality by the local people through the representatives elected by them."¹⁵ In the words of *Humes and Martin* "Local Government possesses most of the following attributes: a population, a clearly defined area, the capacity to sue and be sued, the ability to make contracts, a continuing organisation, the authority to undertake and the power to conduct public activities and the right to collect revenue and determine a budget"¹⁶ According to *Byrne* "Local Government is marked out as a distinctive form of public administration by five key features."¹⁷ It is elected, multipurpose operates on a local scale has a clearly defined structure, and is subordinate to parliament. *Hampton* opines that "Local authorities have clearly defined geographical boundaries, multipurpose or compendious bodies, directly elected and having independent power of raising taxation."¹⁸ According to *Michael Keating* "Local Governments are seen as associations of individuals choosing to govern their own affairs, defining their boundaries and negotiating their powers."¹⁹ According to *David*

15 Gokhale B.K., "The Constitution of India" Bombay, Sheth & Company (1972), pp. 1307-08.

16 Humes & E. Martin, "The structure of Local Environment" (1st ed.), The Hague, (1961), p. 28.

17 Tony Byrne, "Local Government", in Britain (5th ed.), London, Rengwin Books (1990), p. 2.

18 Willian Hampton "Local Government and Urban Politics", (2nd ed.), London, (1991), p. 3.

19 Michael Keating, "Comparative Urban Politics", Aldershot England, Edward Elgar (1991), pp. 21-22.

Wilson and associates "Local Government is a large geographically defined multi-functional organisation, pursuing a variety of social, political and economic objectives, either through the direct provision or through the sponsorship, indirect funding, regulation or monitoring of a very extensive range of services to its local community.²⁰ *Professor W. A. Robson* opines that Local Government may be said to involve the conception of a territorial, non sovereign community possessing the legal right and the necessary organisation to regulate its own affairs. This in turn presupposes the existence of local authority with power to act independently of external control as well as the participation of the local community in the administration of its own affairs.²¹

An analysis of above mentioned definitions of local government reflects that there are two aspects of local government (a) the relation of the local bodies to the central/state governments, (b) their relation to the local community, which should be determined by the following principles:-

- (i) It is desirable to aim at the smallest possible unit that can perform a particular task efficiently so as to bring local government as nearer as possible to the people,

20 David Wilson & Chris Game and others, "Local Government in the United Kingdom", London, Macmillan, (1994), p. 8.

21 Robson, W.A., "Encyclopedia of Social Sciences", Vol. 9, New York, The Macmillan Company, p. 574.

- (ii) If a unit is so large that members of Local Government cannot regularly attend its meetings, local Government will tend to lose its representative character,
- (iii) Wherever possible that unit should be based on natural local loyalties, though this principle will often have to be sacrificed to efficiency or alternatively we will have to abandon the idea of progress.

Thus, the essential characteristics of Local Government are (i) its statutory status (ii) its power to raise finance by taxation in the area under its jurisdiction, (iii) participation of local community in decision making in specified subjects and their administration (iv) the freedom to act independently of central control and (v) its general purpose, in contrast to single purpose, character.²²

Thus analysis or examination of various definitions of Local Government given above reveals that local government is a combination of various elements and no single definition includes all of them. These elements include a local statutory body, local inhabitants electing and controlling that body, limited autonomy in the sense that state governments in a federation and central government in unitary system give them a limited freedom to perform their functions prescribed by law, a recognition of distinction between

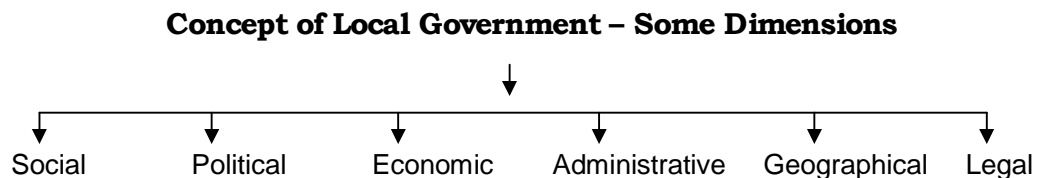
22 Maheshwari, S.R., "Local Government in India" Agra, Lakshmi Narain Aggarwal, 1984, p. 5.

local and non-local services, and power to levy local taxes. Thus, a local government has many attributes.

DIMENSIONS OF THE CONCEPTS OF LOCAL GOVERNMENT

The concept of local government thus is multi-dimensional. It has been pointed out that it is basically an organized social entity with a feeling of oneness. The local government is an integrant of the political mechanism for governance in a country. As a body corporate with juristic person, it represents a legal concept.²³ Further, Local Government is an administrative concept, not known to other level of government, with its councilors involved in making, unmaking and remaking administrative decisions in council and its committees with direct bearing on civil services to the local people and now in nation building activities. Similarly, geography and demography of a local area along with economic factors offer important dimensions in the conceptual articulation of local government. Not only has this, but also environment, contributed to its birth, growth and development.

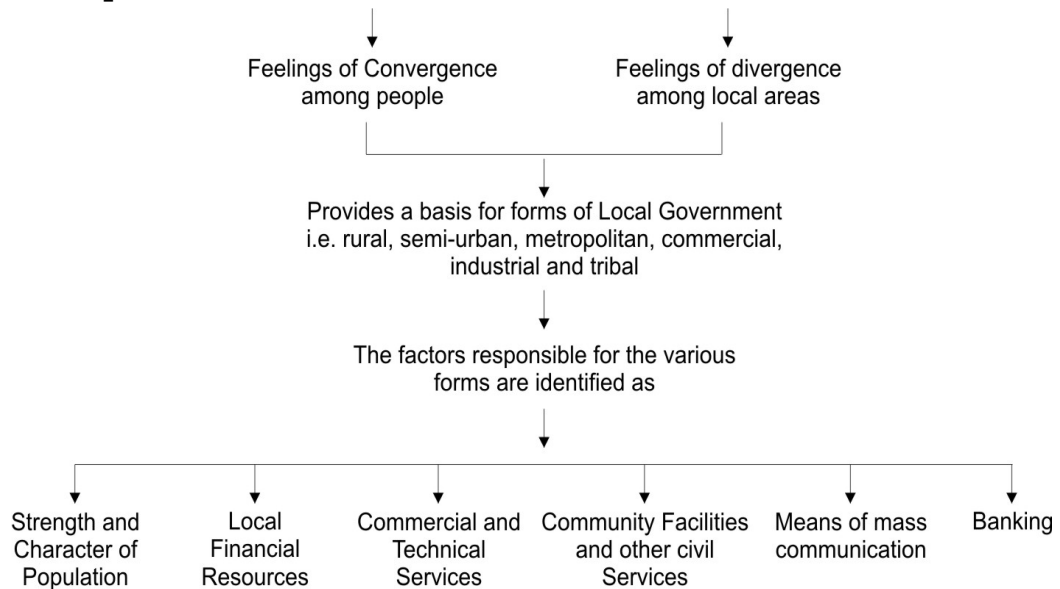
With an object to have a comprehensive knowledge about the concept of Local Government, it would be worth-while to discuss its various dimensions in some detail which are shown: -



²³ M.A. Muttalib and Akbar Ali Khan, "The Theory of Local Government", New Delhi, Sterling Publisher, 1982, p. 1-3.

1) Social

Local Government is an organized social entity. This in turn develops:-



Some Examples

- (i) **A small group of human settlement with agriculture as a major profession of the people and inadequate means of communication is characterized as a rural local authority.**
- (ii) **A human settlement with diverse professional i.e. agriculturalists and non-agriculturalists co-existing along with some means of communication is often classified in India, as municipality.**

2) Political

The political dimensions of Local Government presents to us the most important of its concepts, which is however, different from

others, forms of public agencies, in spite of the fact that they have some common characteristics. Since the operational freedom to fulfill local needs and aspirations with necessary popular mandate is the hall mark of local government, it is thus a variant of democracy, in spite of its variance in form. To be more specific, because of its democratic character, it imparts political education of the local people.

3) Economic

The concept of Local Government has an economic dimension of much significance. A local body can prove to be efficient and effective without much effect of the locality is economically sound. It has been pointed out that the economic base of different classes of the community determines the local politics. In India, for instance, a rural local authority is dominated by the farmers, while on urban authority has professionally diversified composition. The economic dimension in nutshell high-lights the facts of the local authorities: One, with a bearing on their very existence as units for self governance and the other their legitimate place in the national development. The cumulative effect can be in the form of partnership between government and local government so as to achieve the ultimate goal of good life.

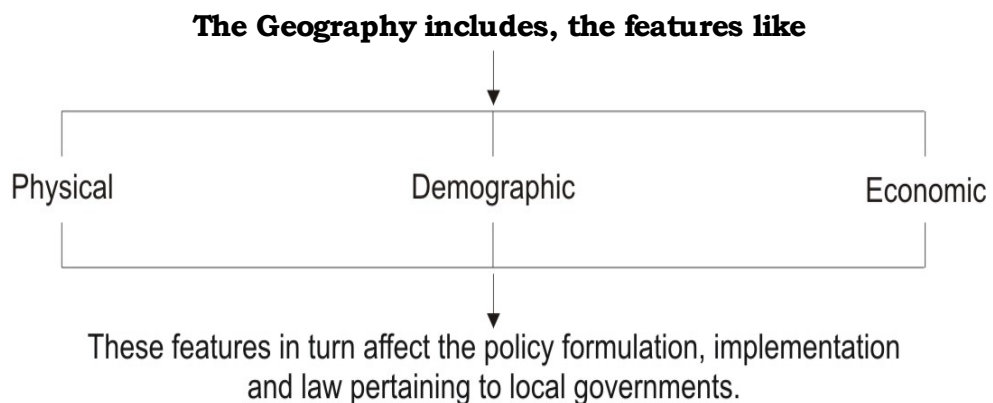
4) Administrative

In fact, the local government is operationally an administrative organization with the influence of politics, administration and

technology. The local authorities have been placed in such a way that both as units of local self-government and as agents of government, they may succeed in achieving the optimum results without sacrificing the basic norms of democracy. This is so because they conform to the two cardinal objectives of public administration; efficient performance and responsible performance. Initially, local government may face some problems, but with the attainment of maturity, local government may produce results that may combine the best of the two worlds, democratic and bureaucratic.²⁴

5) Geographical

With territorial jurisdiction over a particular human habitation, the local government may be conceptualised in geographical terms.

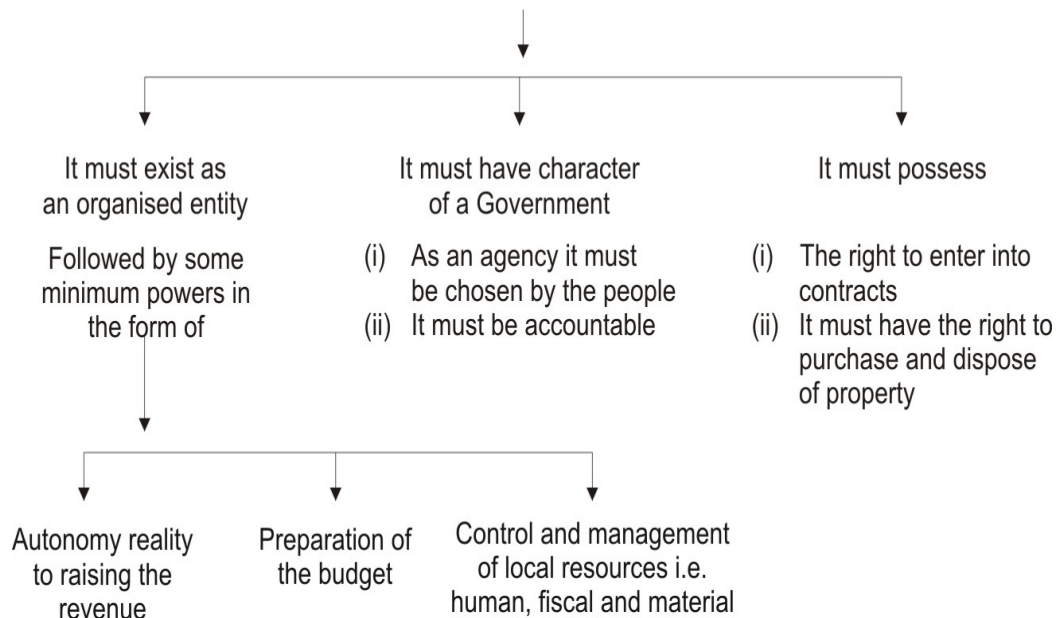


6) Legal

The legal dimension of the Local Government presents two things one, it is the agent of state and as much, represents public

²⁴ M.A. Muttalib, "Democracy, Bureaucracy and Technology", New Delhi, Concept Publishing Company, 1980, pp. 60-61.

interest. In the capacity of the agent of state, it exercises a part of the sovereignty of the state delegated to it within its geographical boundaries. Two, it is a self-governing institution. In this capacity, it must exhibit three qualifications, which are explained as: -



In Nutshell, it can be pointed out that legally, the local authorities can be described as creatures of government. Not only this, but, the contention that local self-government is an inherent right of local people is no longer held valid. The developing countries, that lack wrong traditions for grassroots democracy do not present a happy picture²⁵ In India, the local bodies have been dissolved or superseded frequently. This shows the tendency of the higher level of government to destroy its own creatures. The need of the hour is to

²⁵ R.W. Maddox, and others, "State and Local Government", Canada, 1962, p. 445.

provide some constitutional safeguards until favorable democratic traditions strike roots.

(I) LOCAL AUTHORITIES UNDER ARTICLE - 12

Article 12 of the constitution of India defines the term state for the purpose of fundamental rights contained in part-III of the constitution which says that local authority includes a state. The said constitutional provision has been upheld by the Hon'ble Supreme Court in the case *Rashid Ahmed v. Municipality Board, Khairana*²⁶ and *Ajit Singh V. State of Punjab*²⁷ whereby it has been said that municipality and Gram Panchayats are local authorities respectively against whom fundamental rights can be enforced. The Supreme Court has further in this context laid down the distinctive attributes and characteristics of Local Authority in *Union of India v. RC Jain*.²⁸ These are:

- The authority must have separate legal existence as corporate bodies.
- It must function in a defined area and must ordinarily, wholly or partly, directly or indirectly be elected by the inhabitants of the area.
- It must enjoy a certain degree of autonomy, with freedom to decide for itself, questions of policy affecting the area administered by it.

26 AIR 1950 SC 163.

27 AIR 1967 SC 856.

28 AIR 1981 SC 951.

- It must be entrusted by statute with such governmental functions and duties as are usually entrusted to municipal bodies.
- It must have the power to raise funds for furtherance of its activities and fulfillment of its projects by levying taxes, rates, charges and fees.

Thus, fundamental rights are available against the local bodies and can be enforced through court of law.

(II) WHETHER A MUNICIPALITY OR PANCHAYAT IS A PERSON WITH IN THE MEANING OF ARTICLE - 14

A reference to the above question assumes significance in view of the full bench decision in *Moti Lal v. state of U.P.*,²⁹ *Kesho Prashad v. State*,³⁰ *Shiv Prashad v. State of Punjab*³¹ and *Amraotic Electric Supply Co. v. District & Session Judge, Amraotic*³². Though, none of them raised the question whether is relation to impugned law of one state, other states affected by that law could be treated as persons with in the meaning of Article 14 of constitution of India. But, these cases made a distinction between the trading activities of a state and its governmental activities, apparently holding that as regards governmental activities, a state was not a person.

29 (1951) (i) All 269, (51) AA 257 (FB).

30 (1955) Nag. 459, (55) AN 177.

31 (1957) Punjab. 310 (57) A. Punj. 150.

32 (1952) Nag. 830 (53) An. 35.

It is submitted that the powers, rights, duties and obligations of a state are unlike those of any other person, natural or legal is not relevant to the question whether the state is a person, just as the fact the one corporation possesses extensive and another limited powers is not relevant to the question whether they are both corporations. If the state has rights and obligations that are unique, that only means that the state is a unique person and that for the purpose of Article 14 in most situations. If not in all, the state will be a class in itself.³³ In terms of the above analogy, it is submitted that the local bodies like corporations, municipalities and panchayats constitute a unique person and that for the purpose of Article 14 in most situations if not in all, the local bodies, will be a class in itself.

FORMS OF URBAN LOCAL GOVERNMENT

The number of urban Local Government has been increasing as a result of increase in urban and suburban population. The following table shows the various forms of urban government.

Sr. No.	Form of Urban Local Government
1.	Municipal Corporations
2.	Municipal Councils
3.	Notified Area Committees
4.	Town Area Committees
5.	Cantonment Boards
6.	Townships.

33 H.M. Seervai, "Constitutional Law of India", Vol. 1, Fourth Edition, 1991, p. 447.

CHARACTERISTICS OF LOCAL GOVERNMENTS

The discussion regarding meaning of local government makes it clear that there are certain characteristics on which the systems of local government are based. Some of its important characteristics are as follows: -

- (i) Local Areas: - A Local Government unit as far as its jurisdiction is concerned has a well defined area which is fixed by the concerned state government. This area can be termed as a city, a town or a village. The territorial limits of a local body unit are fixed by the state government subject to changes from time to time through legislation.**
- (ii) Local Authority: - The administration of a particular locality is run by an authority or body of persons who are elected directly by the people residing in that particular area. The authority which includes the elected representatives of the people is responsible for management of local affairs in that area.**
- (iii) Civil Amenities For Local Inhabitants: - The Primary objective of Local Government is to provide certain civic amenities to the people at their door-steps. The provision of these civic amenities ensures the healthy living of local community. These services are specifically meant for those inhabitants who are living in that restricted area for which the local government unit has been created. It has been rightly pointed out that all these**

amenities which make living better, physically, economically, socially and culturally should be assigned to the local inhabitants.

- (iv) **Local Finance:** - In order to perform its functions effectively, it is necessary that every local government unit is provided with adequate finances. The services provided to the local inhabitants are largely financed out of finances raised locally. The local inhabitants are required to pay taxes imposed by the concerned local authority. It is the authority of local government. However, unlike other levels of government that accords it a unique position among corporate bodies, this authority has legal and constitutional basis.³⁴ Infact, the local government possesses revenue raising and spending authority only to the extent that the state/central government grants it to them.
- (v) **Local Autonomy:** - Local Autonomy means the freedom of the local government to decide and act in the sphere of activities and functions allotted to them by the statute under which they are created. Among other things, it implies the legal right of the inhabitants of a local area to choose their representatives to govern the locality concerned, according to the laws framed by the local council and to adopt the budget. It is however, to be

34 O.P. Srivastva, *Municipal Government and Administration in India*, Allahabad, Chugh Publications, 1980, p. 1.

understood that the authorities which have been given the responsibility to run the local government are neither sovereign nor self-created entities and they will have to depend upon the higher levels of government for their creation, rank, powers and functions.

- (vi) **Local Participation:** - The success or failure of developmental plans at the local level depends upon the active participation of local people for whom these plans are made. It is a local government which provides an opportunity to the local people to participate in administration. If the goals of development have to be achieved, people's participation is a pre-requisite for it.
- (vii) **Local Leadership:** - The people who come under the purview of local government, especially those living in rural areas, are generally illiterate, inexperienced, non-professional and unaware about the functioning of local bodies. Strong leadership therefore needs to be provided to those people. This leadership is provided to the people from the local area in the shape of elected representatives and elected office bearers of the elected councils in regard to the policies and programmes of the government.
- (viii) **Local Accountability:** - Local Government units which are created to provide civic amenities to the people are accountable to the local people. The residents of a local area keep a watch on

local authorities to ensure effective performance of their functions. If a local body becomes inefficient and is not in a position to provide satisfactory services to the people, it faces severe criticism of local residents.

- (ix) **Local Development:** - Local Government is concerned with the overall development of the people living within its area. Every activity of local government is therefore aimed at development.

To sum up, it can be pointed out that in spite of the legal authority given to the local governments; the impoverished state of the finances of most authorities in the developing countries is a severe handicap to responsible local government since the backbone of local government is financial autonomy.³⁵ That is why in India since independence, the local finance has been critical in local government reforms.³⁶ Several Commissions have been appointed exclusively on the problems of local finance since independence both by the central and state governments.

DISTINCTION BETWEEN LOCAL GOVERNMENT AND LOCAL SELF GOVERNMENT

Local Government and Local Self-government in our country is generally known as local self government. The terms local self

35 United Nations, "Central Services to Local Authorities", The Hague, 1962, pp. 14-15.

36 United Nations, "Local Government Reforms, Analysis of Experience in Selected Countries", New York, 1975, p. 83.

government is a legacy of the British Rule when the country did not have self government either at the state or central levels. When the British government decided to associate Indians in administering local affairs, it meant a slice of self government for the people. But now the word 'self' has become superfluous or redundant because the country has self rule at all levels. Moreover, local bodies like Delhi Municipal Corporation and urban improvement trusts are not representative in character, the use of the term local self-government will not be proper. Despite this distinction, both the terms are continued to be used interchangeably in our country. That is why the term local government and not local self government is used in entry 5 of the list II of the seventh schedule of constitution of India.³⁷ The terms local self government is a value lauded and virtuous, sometimes difficult to justify while the term "Local Government" is moral in nature and preferred to virtue embodying "Local Self-Government".³⁸ From the preceding discussion, the distinction between local self-government and local government can be presented specifically in the following manner:-

- i) The Local Self-government is based on the principle of decentralisation (withdrawal from centre) whereas local government is based on the principle of deconcentration.

37 The Entry 5 of list II (State list) of the seventh schedule reads: "Local Government that is to say, the constitution & powers of municipal corporations, improvement trusts, Distt. Boards, mining settlements authorities and other local authorities for the purpose of local self Government or village administration.

38 Supra note 22. p. 35.

- ii) **The Local Self-government, the character of local units is singular because they are detached from state administrative units as is the practice prevailing in England. But in local government, the units have dual character, as local government units and also state administrative units. The French Communes in France are of this type.**
- iii) **In Local Self-government, staff is appointed by and responsible to respective local council. The functionaries do not have position independent of the local council. However, in case of local government, the officials are appointed by and responsible to central authorities. The local councils have little disciplinary control over them.**
- iv) **In local self government there is a considerable degree of autonomy in decision making but, local governments do not enjoy local freedom. To be more specific, local discretion is of very restrictive nature.**
- v) **In local self government, the councils are elective and responsible to the local people and law. The central authorities do not have the right to suspend, supersede or dissolve the local councils. In local government too, the local councils are elected wholly or partially by the local councils are elected wholly or partially by the local electorate, but the some are subject to suspension, super session or dissolution by the controlling authorities.**

To sum up, it is quite evident that the main assertion of the difference between the two is that the system is based either on decentralization or deconcentration. However, the prevailing situation is that no system is based on either of the two principles exclusively. This fact has also been highlighted by *Herman Finer*. To him, the mixture of both produced the high complexity of modern local (self) government. There is no system to which the theoretical distinction between Local Government and Local Self Government may apply as such.³⁹ However, the situation is that the term 'Self Government' appears to be embarrassing, for it has around itself a ring of virtue, which it is unnecessary to claim and an occasions, difficult to justify.⁴⁰ That is why it has been rightly pointed out by S.R. Maheshwari that the term 'Local Government' being a moral in nature, is to be preferred to virtue embodying 'Local Self-Government'.

NATURE AND SCOPE OF URBAN LOCAL GOVERNMENT

Municipal government and administrative is no longer a simple affair. It has become quite complicated and complex with the phenomenal increase in the process of urbanization and consequent spurt in the emergence of the urban problems and the increase in their function. In the post independence period, it was envisaged that in the new set up local bodies as instrument of national policy would

39 *Herman Finer, Encyclopedia Britannica, p. 180.*

40 *Supra Note 38. p. 60.*

be used more and more and there would be steady increase in their functions.⁴¹ The scope of local governments has thus become very wide and includes numerous areas in its sphere of study. The following areas can be easily discerned which constitute the subject matter of its study.

(i) Urbanisation and Urban Problems

The process of urbanization in India is going on at an accelerated pace due to industrialization, migration from rural areas and the natural increase in population due to population explosion with the result that the urban population which constituted 50 million at the time of independence had reached 350 millions by the end of last century. The growth of urbanization on such an unprecedented scale has confronted urban governments with gigantic urban problems such as unplanned and haphazard growth of towns and cities, unbearable strain on urban governments for provision of civil amenities, traffic congestion, growth of slums, shortage of houses, scourge of urban poverty, menace of pollution, lack of employment opportunities etc.

(ii) Structure of Urban Governments

The local affairs of cities/towns are to be administered by local institution of various forms such as Nagar Panchayats, Municipal Committees, Municipal corporations and cantonment Boards, each urban areas to be assigned the form of local government it deserves by

41 Report of Punjab Local Government (Urban) Enquiry Committee, (1957) p. 98

virtue of the criteria laid down in terms of its population, territorial dimensions and revenue resources, depending on the size of their population and the financial viability as provided in the constitution (74th Amendment) Act, 1992.

(iii) Municipal Legislation

Local government being a state subject is created by the concerned state legislature, which enacts appropriate laws determining its status and providing for the constitution of the elected councils, co-option and nomination of members, procedure of election, term of the council, election and removal of office bearers, their powers and functions, finances, state control etc. The various Acts are also amended from time to time in the light of the changing need, of the urban government.

(iv) Municipal Personnel Management

The urban governments with their enlarged responsibilities and complicated financial, technical and administrative problems require efficient and well qualified personnel to various positions. They can be attracted to municipal services only when they are selected on merit, given salaries, avenues of promotion and other conditions of service comparable to those available to their counter-parts in other government departments, the provincialisation of municipal services in various states has no doubt, improved matters to great extent but it would be desirable to merge the state cadres of municipal services in

corresponding state cadres. This would not only give a psychological boost the local bodies personnel but the homogeneity between the state government and local government source will also raise the level of local performance.

(v) Municipal Finance Administration

Municipal governments in order to be viable require finances commensurate with their responsibilities and obligation but unfortunately they suffer from acute paucity of funds. The urban governments have not shown much aptitude for efficient financial management and control there is wastage, there are leakages of revenues, there is extensive under assessment, several source of income have not been tapped, inability has been shown to impose new taxes or increase the existing ones. The state finance commission provided in the constitution (74th Amendment) Act, 1992 will ensure the financial viability of the urban local bodies on their recommendation being accepted by state government.

(vi) State Control over Urban Governments

The state governments exercise supervision and control over urban governments to ensure minimum standard of services and proper performance of their functions through legislative, administrative and financial control. The urban governments are subject to judicial control, also for their acts or omission and commission. Urban centers contribute immensely to national

prosperity. The central and state governments should therefore act as their friends and benefactors and not as their powerful rivals or disinterested spectators.

(vii) Special Purpose Agencies

The state governments on the pretext of inadequacies of financial resources, Lack of technical expertise and inefficiency in the performance of the obligatory function by urban local governments, create certain special uni-purpose or multi purpose agencies to perform function which legitimately belong to the domain of urban local governments. These agencies include improvement trusts, water supply and sewage Boards, Housing Boards, Pollution Control Boards etc. The study of these urban institutions regarding their constitution function, power, finances and their relationship with the urban governments and their performance forms an important segment of the scope of urban local governments.

(viii) Urban Town Planning

The phenomenon of urban growth has resulted, in unplanned, haphazard and ugly urban settlements. Planning is therefore necessary to combat the menace of urbanization and its resultant problems. An important function of planning in purely physical terms is the judicious use of land a scarce commodity in most urban areas, and its rational and timely reservation for future use. Roads have to be widened, new ones built, sites are required for schools, hospitals, parks and play grounds, housing, industry, shopping, community

facilities and a number of other uses land planning is thus a very essential need.

(ix) Ministry of Urban Development and its Attached and Subordinate Offices

The central ministry of urban development set up in 1985 now known as ministry of urban affairs and employment has the responsibility of broad formulation and monitoring of programmes in the area of urban development, housing, urban poverty alleviation and urban water supply. These are essentially state subjects but the Govt. of India plays a coordinating and monitoring role and also supports these programmes through central sector schemes, institutional finance and expertise. The attached offices of the Ministry of urban affairs and employment are central public works Department, Directorate of Printing, Directorate of Estates, National Building organisation and its subordinate offices comprise land and controller Development office, town and country planning organisation, controller of stationery and controller publication. The constitution and function of all these, institutions would form a part of the study of those interested in urban and local governments.

(x) Reports of Commission and Committees

The government of India has been constituting commissions and committees from time to time for studying various urban issues and for making recommendation for their solution and passing

number of resolution in respect of municipal governments. The most prominent among them in the pre-independence period have been: Royal Army sanitation commission (1863), lord Ripon's Resolution on local-self Government (1882), Royal commission on Decentralisation (1909), Government of India Resolution (1918), taxation enquiry commission on local taxation and local government (1925), Indian statutory commission on local self-government (1929). In post independence period important Committees are: Local finance enquiry committee (1950), taxation enquiry committee (1953) Rural-urban Relationship committee (1963), Administrative Reorganization committee (1966-70) and the latest national commission on urbanization (1988). Similarly, the state governments have also been appointing committees to look into their urban affairs. The study of these reports would constitute an integrated part of the scope of urban local governments.

(xi) Seminars and Conferences

The central council of local self government has been organizing a number of conferences and seminars most notable of which are the Annual conferences of state Ministers of local self government and town and country planning of mayors and corporation members. The erstwhile Ministry of urban development convened conference of municipal executive officers and Nagarpalika sammelans on the eve of the formulation of Nagarpalika Bill in, 1989. Similarly the state

government also hold conferences of presidents and councilors of municipals bodies and of their executive authorities. The urban Regional centers and various colleges and universities hold seminars on various themes of urbanization and administration of urban areas. A study of the proceedings of these seminars are of considerable advantage to the officials of urban governments.

(xii) Municipal Reforms

The central government and state governments in their concern to improve urban governments have been considering the recommendations made by various commissions and committees in their respective reports and taking appropriate action in accepting and implementing them by enacting required legislation with a view to incorporate the necessary changes for the improvement of the constitution and functioning of urban local bodies. Among the numerous such attempts made as a sequence of the reports of the commissions and committees referred above the introduction of Nagarpalika Bill (1989) in the parliament which included provisions of great significance for restructuring and revamping urban local governments is of greater importance. The Bill was since rejected by Rajya Sabha, it had again been presented in 1991 and was passed as the constitution (74th Amendment) Act, 1992. It has ushered in an era of substantial reforms in urban local government.

(xiii) Municipal Bureaucracy

The state Bureaucracy is endowed with vast power in the administration of urban local bodies. Deputy commissioners despite the creation of Directorate of local Bodies and the office of Regional Deputy Directors still play a predominant role in the management of urban affairs. The administrator appointed to administer a superseded local bodies as the deliberative and executive authority. The municipal bureaucracy especially the municipal commissioner in municipal corporation is key figure in their administration and enjoys greater authority in comparison to the elected Mayor who represents the elected body of the city.

(xiv) Associations and Unions of Municipal Employees

Municipal employees organize themselves in union at the local, state and national levels for the furtherance of their interests and hold protest meetings and demonstrations to put forth their demands in a forceful way and to get these accepted by the concerned municipal and state authorities by resorting to strikes causing unavoidable inconveniences to the public. The agitational approach has proved to be successful, many a time, in getting their demands accepted the latest ones being the grant of pensionary benefits and gratuity to them.

The president of municipal committees and Mayors of municipal corporations also constitute their association for the promotion of their interests.

(xv) Role of Political Parties

Despite the fact that local issues should not be decided on partisan basis, political parties participate in urban governments by putting up their candidates in election and party symbols are allotted to them by the election authorities, for elections as to municipal corporations and municipal committees in some states and the winning political parties elect their own mayors and chairman of municipal corporation/committee.

(xvi) Research and Evaluation

Research and evaluation of urban policies, strategies and programme is of vital importance in the study of urban governments. The central and state governments make provisions for these activities. Various universities conduct research of different problems of urbanization and management of urban areas. Their findings can be utilized in the formulation of urban policies such as national urbanization policy, National Housing Policy etc. The evaluation of the programmes introduced for improvement of urban areas and the living condition of their residents enables the concerned governments to make necessary modification and alteration in them to make them more effective.

(xvii) Comparative Urban Local Government

Comparative study makes it possible to examine the extent to which solution adopted abroad may be taken advantage of at home. In

this context, the local government system of England (maximum autonomy to local governments) USA (decentralisation) and France (which was once over centralized is since in the process of decentralisation) are of significant importance to the study of urban local government in one country.

Evidently the universe of urban local government is very vast, its scope is very wide and comprehensive, encompassing every conceivable issue concerning urbanization, urban growth, urban development and redevelopment, urban infrastructure, provision of urban basic services, urban planning and urban management. The nature and scope of the study of urban governments is bound to increase with the unabated pace of urbanization and the growing complexities of urban problems with the advancement of science and technology.

IMPORTANCE OF LOCAL GOVERNMENT

The importance of local government lies in sustaining the democracy. If democracy has to function properly as many citizens as possible should be encouraged and provided with opportunities to take a continuing interest in its activities and problems. In a democracy, people have to work with great patience and perseverance. In the long run, we may find that the progress achieved under such democratic methods is more firm and more solid than under totalitarian set up. People should have faith in democracy and is like reposing faith in themselves. Since faith sustains people's patience,

people can acquire this faith more easily through experience of working in democratic institutions. Our first Prime Minister Pt. Jawaharlal Nehru, while inaugurating the first local self-government Ministers, conference in 1948, had said that "local self government is and must be the basis of any true systems of democracy. We have got rather into the habit of thinking democracy at the top may not be success unless you build on its foundation from below."⁴²

The importance of local government may be discussed under the following heads:

i) **School of Democracy**

The Success of national democracy largely depends upon the success of democracy at the grass-root level. The proposition that self-governing localities are the citadels and schools of democracy, has been stressed by an advisory committee of the commission on Inter governmental Relations (U.S.A):-

“Local governments are to total government what basic tissues are to human body without the government would have no vitality. The countries, cities, towns, villages and boroughs serve as training schools for the leaders of government, and in the affairs of local government are tried those who aspire to state and national offices.”⁴³

42 Jawaharlal Nehru's address to the conference of provincial Local Government Ministers, 1948.

43 Anwar Hussain Syed, "The political theory of the American Local government", New York, Random House, 1969, p. 93.

Symbolizing democracy by local government *G.D.H. Cole* points out: "Democracy is nothing unless it means, in the last report, letting the people have their own way, not only in the mass, by means of an aggregate vote in a nation wide scale, but also in their lesser groups and societies of which the grater societies are made up and through which it is made articulate in such a way that the less clamorous voices can be heard".⁴⁴

ii) Platform for Political and Popular Education

Lord Ripon's Resolution of 1882 emphasized the need of political and popular education through local government. It is not primarily with a view to improvement in administration that their measure is put forward and supported. It is chiefly designed as an instrument of political and popular education. Highlighting the importance of local government as an educational institution. *Prof laski* says. "The institution of local government is education in perhaps a higher degree at least contingently, than any other part of government. And it must be remembered that there is no other way of bringing the mass of citizens into intimate contact with persons responsible for decisions."⁴⁵ Local government is a system which ensures effective participation of citizens in administration and makes them realise about their responsibilities towards the society.

44 G.D.H. Cole, "Local and Regional Government", London, Cassell and Co. Ltd. 1974, p. 64.

45 Laski, Harold, "A grammar of politics", London, George Allen and Unwin, 1961 p. 412.

iii) Promotes Spirit Of Liberty And Equality

The local assemblies of citizens says De Tocque Ville, add to the strength of free nations. "Town meeting are to liberty what primary schools are to science: they bring it within the people's reach, they teach men how to use and how to enjoy it. A nation may establish a free government but without municipal institutions, it cannot have the spirit of liberty.⁴⁶ The concept of equality has many meanings but in the context of local government it may enhance equality by providing access to political office and political activity for wider groups of people than are accommodated through national politics.⁴⁷

iv) Effective Solution of Local Problems

All the problems are not supposed to be solved by the central and state governments. In fact, there are some problems which occur at the local level and need to be solved locally in accordance with local needs, atmosphere, environment and wishes of the people. To be acquainted with all these things, the government shall have to step down to the local level in order to solve local problems in an effective manner. According to *H.J. Laski* "we cannot realize the full benefits of democratic government, unless we begin by the admission that all problems are not control problems, and that the results of problems in

46 Alexis de Tocqueville, "Democracy in America", the Hency Reeve Text Phillips. Bradley (edn.) New York, Alfred A-Knopf. 1953, p. 61.

47 William Hampton, "Local Government and Urban Politics", (2nd Ed.) London Logman, (1991), p. 3.

their incidence require decision at the place and by the persons, where and by whom the incidence is most deeply felt.

v) **Provides Civil Services**

Local government institution perform numerous function to provide civil amenities to the inhabitants. The services performed by these bodies include garbage collection, cleaning of streets, drainage, electricity, water supply, fire services, health service etc, are very important for good civil life. Moreover *R. Argal* opines that from the pre-natal days to even after death, the municipal institutions serve us, but we may be utterly ignorant of the composition of the town council, we realise that importance of local institution only when its services the water supply, scavenging etc. fail.⁴⁸

vi) **Reduce the Burden of Work of State/Central Government**

A large number of functions are performed by local government which otherwise would have been performed by central/state government. This, local government not only provides certain essential services to the people, but also reduces the burden of central/state government as well. If the central/state government in over loaded with work, it becomes incompetent, in capable and inefficient to perform its duties. Therefore, local government is necessary for the development of initiative and interest of local masses in government and responsibility. Local government is an invaluable socio-political

48 R. Argal, "Municipal Government in India", (2nd Edn.) Allahabad, 1960, p. 1.

laboratory for trying and testing on a small scale, various new proposals for government organisation and socio-economic policies. It is a persevere of local colours in the national life.⁴⁹

vii) Check against Bureaucracy

The control of bureaucracy over the community increases in the absence of a strong local government system. A centralized system of administration, even though democratic, results in control of the community by bureaucracy. The rigid behavior of bureaucrats largely effects the people's initiative and their confidence in the government. The transmission of powers from bureaucrats to democratically formed local government has positively checked the influence of bureaucracy. *Venkatarao* has rightly remarked, "one of the virtues of local government is the easy intimacy and ready access to local government officials."

viii) Local Government is Economical

The performance of any government whether central or local largely depends upon availability of finances. In performing functions by local government economy is secured because local functions are performed by local authorities out of the funds raised locally by levying taxes. When the local people are entrusted with the management of local affairs, they will manage them at the lowest cost because they know that it is their money which is spent on local

49 Ranney, Austin, "Governing of man", New York, 1958. p. 484.

services, therefore, they remain conscious to make services more economical and avoid wastage.

The Widdicambe committee on the conduct of local Authority Business summaries the case thus:-

The value of local government stems from its three attributes of:

- a) **Pluralism, through which it contributes to the national political system,**
 - b) **Participation, through which it contributes to local democracy,**
 - c) **Responsiveness, through which it contributes to the provision of local needs through the delivery of services.⁵⁰**
- ix) Training Ground for Emerging Leaders**

Local government is also an invaluable training ground for emerging leaders, who after acquiring experience in the art of politics and government at the local level rise as such to the state and national level. In our country local governments have produced many leaders of national eminence and stature like Ferozeshah Mehta Motilal Nehru, Jawaharlal Nehru, Subhash Chandra Bose, Vallabh Bhai Patel, Lal Lajpat Rai etc, who are shining examples of sober and healthy local politics and restored to these local institutions, the authority and dignity they deserved.⁵¹ These examples justify the

50 The conduct of local Authority Business "widdicombe" Report, HMSO, 1986, p. 47.

51 P.R. Dubhashi in his foreward to S.L Kaushik's "Leadership in urban governments in India, "Allahabad, Kitab Mahal, 1986.

maxim that the best school of democracy and the best guarantee for its success is the practices of local government.

x) Efficient and Effective Management of Local Affairs

Local government being concerned generally with the welfare of the people deals mainly with these functions which contribute to socio-economic development of the country. It being more conversant and concerned with the local problems as compared to the government in the capital, can manage the local affairs more efficiently and effectively.

xi) Channel of Communication between the State Government and the Community

Local government serves as a channel of communication between state government and the community. The demands made by the local community are on the one hand transmitted to the state government, the creator of local government and on the other hand, people living in far flung areas come to know about the government policies and programmes through local bodies. This, local government, ensures close relationship between the people and the higher level of governments through the device of communication.

xii) Mitigation of the Evils of Party System

Political parties have always influenced the democracy not only at the state and national level, but at the local level as well because it is not possible for democracy to functions without the political parties.

Local government in urban areas in England has been operating on party lines. But we in India advocate the avoidance of participation of political parties in local bodies as they bring in the management of local affairs, the evils usually attributed to them such as functionalism, groupism, favoritism and nepotism. The role of political parties as such is therefore not encouraged in local governments and thus they are expected to remain immune from the evils of party system.

CONCLUSION

Local government means the administration of the affairs of a locality in urban and rural areas by the people through their elected representatives. It may be described as government by popularly elected bodies charged with the administration and executive duties in matters concerning the inhabitants of the particular district or place and vested with powers to make bye laws for their guidance. The urban local government operates in towns and cities through Municipal Corporations, Municipal Committees, Cantonment Boards, Town and Notified Area Committees.

The scope of urban local government extends to the study of the phenomenon of urbanization and its problem, urban planning, structure of urban governments and their classification, municipal legislation, personnel management, financial administration, state local relations, special purpose agencies, organisation and function of

the union Ministry of urban Affairs and Employment and its subordinate and attached offices, as also that of the State departments of urban local government; Report of various commissions and committees appointed from time to time by the central and state governments to study the various aspects of the working of urban local governments and the recommendation made by them, municipal bureaucracy, role of political parties, research and evaluation and comparative urban local governments.

In the case of *Mathra Dass Setia v. Sate of Punjab*⁵² the Punjab and Haryana High Court held that the lack of Financial resource was one of the main reason for the 74th amendment of the constitution. It was made to provide for the sound finance of municipalities by securing authorization from state legislatures for grant-in-aid from the consolidated fund as also assignment to or appropriation by the municipalities of the revenues of designated taxes, tolls and fees. The local bodies are seen as institution of self government. The legislature has to make laws to endow them with power and authority so as to be able to prepare plans for economic development and social justice and to implement schemes. Even the finance commission as constituted under Article 243-Y of constitution of India has to review the financial position of the municipalities and make recommendations regarding the measures needed to improve

52 2002 (3) RCR (Civil) 571.

the financial position. It has further been held by the Hon'ble Court that the constitution has specifically amended in the year 1992 to empower the states to make laws so as to ensure that the municipalities become effective instruments of local self-government. Part IX-A of constitution of India clearly visualizes the municipalities as institution for economic development and social justice, schedule 12 enumerates the function that can be entrusted to the municipalities.

The significance or importance of urban local governments in India has considerably increased in the post independence era with the inauguration of the Constitution embodying the principles of democracy and Welfare State and emphasizing upon the governments in urban areas to promote social and economic development.