Understanding Seventy-Fourth Constitutional Amendment Act
And Its Effects On Urban Local Governance With Special
Reference To Guwahati Municipal Corporation, Assam

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Abstract:
Local government can be considered as the best form of government due to its closest
association with the local people. Local government provides a space to the people to
concentrate on the characters of local problems and to come up with suitable solutions that
are in conformity with the obtaining local situations. Its direct interface with the local
citizenry makes it highly communitarian. Again, it is these institutions which provide training
ground for administrators and ministers. The Constitution of India in 1992 was amended to
give constitutional recognition to the local self government, especially to Urban Local Bodies
(ULB) and for ushering in a regime of empowered and strengthened urban governance in the
country. This paper attempts to study the Seventy-fourth Constitutional Amendment Act
(CAA) and its effects on urban local governance.

Keywords: Local Government; Association; Interface; Constitution; Amendment.

Introduction:
The introduction of local governance in India started when India’s constitution came into
effect in 1950. A two tier system of governance comprising of a central govt. and state
governments was set up with the coming of India’s constitution into force. The local
governance of settlements was left for states to manage. There were wide variations across
states with regard to how local governments in rural and urban areas were organized and how
efficiently they were run. In 1989, two Constitutional Amendment Bills were introduced in
Parliament to mandate the existence and form of local governments. Proponents argued that
this was necessary to ensure the existence of viable units of local self government across the
country and equal access to democratic mechanisms by citizens across states. Moreover,
standard local governance structures would help to administer government programmes by
enabling a uniform pathway and accountability structure to connect the central government
with settlements. While these Bills neither were nor passed rather similar Bills were
reintroduced in 1991 and passed in 1992, resulting in 73rd and 74th Constitutional
Amendments. These amendments mandated that all settlements have either a rural local body or an urban local body. This introduced Constitutional status and form for the third tier of government (Hiranandani, 2018).

**Historical Background of Urban Local Government in India:**

The beginnings of the modern system of municipal government were due to the initiative taken by Sir Josia Child, who obtained a Charter from James II to set up a Municipal Corporation in Madras in 1642. Since then municipal government gradually developed in the country. The beginnings of the municipal government are to be found in the establishment of voluntary associations for the improvement of sanitary condition in several places in the country. These voluntary associations were established by local officers and they were financed by the Provincial Government. Since 1842, statutory bodies were established replacing the voluntary associations. Actually it was the Town Improvements Act 1850 that was implemented in some places.

The history of modern municipal government in India under the British rule may be divided into five distinct periods. The first ends with the issue of the famous Resolution of Lord Ripon in 1882. Ripon’s resolution for local self government continued to influence the development of local self government in India till 1947. He is thus called the father of local self government in India. The second ends with the introduction of Dyarchy in the Provinces in 1919. The third ends with the introduction of Provincial Autonomy in 1937. The fourth period ends with the framing of the Constitution of India in 1947. The final period commenced in 1950 when the Indian Constitution was brought into force.

**Concept of Urban Local Government:**

The governance of an urban area by the people through their elected representatives for a period of five years is regarded as Urban Local Government. The 74th Constitutional Amendment Act, 1992 provided constitutional status to local urban bodies. Prior to the 74th CAA, the municipal governments heavily relied on the state governments for their set up as well as administrative and fiscal decisions as it lacked any constitutional recognition. Before the introduction of the 74th CAA, the notion of a municipal government as a self governing institution did not exist. This lack of recognition meant that the states were not mandated to set up city governments while there existed the mandate to constitute panchayats. This resulted in erratic or no elections in the cities for municipal governments. Article 243Q provides for establishment of three kinds of Municipalities in every state of India.

**Nagar Panchayat:** A Nagar Panchayat is for those areas which are transitional areas i.e. transiting from Rural Area to Urban areas. “Governor” will by public notice, will define these three areas based upon the population, density of population, revenue generated for local administration, percentage of employment in non-agricultural activities and other factors. Further, a Governor may also if, he fits it necessary, based upon the industrial establishments, can specify the Industrial Townships by public notice.
Municipal Council: A Municipal council is established for smaller town and cities. Municipal council and municipal corporations are quite similar in composition except that head of council is called chairman and in place of commissioner they have a chief executive officer/ chief municipal officer.

Municipal Corporation: A municipal Corporation is meant for larger urban Areas. The council consist of councillors directly elected by people and is headed by a Mayor while the Commissioner of the corporation is appointed by state government and is generally a senior civil servant.

Seventy-Fourth Constitutional Amendment Act (CAA): An Overview
The 74th Constitutional Amendment Bill came into force on 1st June 1993. It is also called as Nagarpalika Act. The Act provided a constitutional status for urban local bodies in the country. It provided one-third reservation for women in urban local bodies and also extended the same principle of reservation to women in the categories like Schedule Caste, Schedule tribe apart from general category. This act also provided one –third reservation for women in the political executives, Chairman or Mayors of Urban local bodies. One of the provisions of the Act is the five year tenure to the elected member of the urban local bodies.

The major achievements of this act is the regular elections to the municipal bodies, 33 percent reservation policy for women and seats reserved for SCs, STs and OBCs in the election of municipalities. Moreover, states like Rajasthan and Andhra Pradesh have introduced criteria such as two- children norm for the contestants, toilet in the house (Bihar), educational qualifications (Haryana), declaring non-voters as defaulters (Gujarat), etc. The states like Madhya Pradesh, Jharkhand and Chhattisgarh have provided provision to recall the elected councillors. However, there were variations in the adoption and implementation of the discretionary provisions (Prasad & Pardhasaradhi, 2020, pg: 4-5)

Review of Literature:
Jha (2020) in the article “Impact of Gender Reservation in Indian Urban Local Bodies” published in “Observer Research Foundation” argues that despite the effective implementation of the reservation for over two decades, gender inequalities remain in party hierarchies, and women continue to be kept out of key governance posts. Despite the gender reservation system, historic gender inequalities have been too deep seated to be entirely uprooted. Within the ULBs, one witnesses the wide-spread tokenism that exists within gender-reserved seats, where wives of councillors have stepped into the shoes of husbands who have found themselves blocked by gender reservation. Husbands continue to control the wards as elected wives work as proxies for their husbands.

Trivedi (2016) in the book “Decentralization and Local Governance” argues that the institutions of urban local self government need to be strengthened and empowered for improving the quality life in urban settlements. Urban India is economically so productive that it contributes largest to the national wealth. So, it demands for inclusive empowerment, strengthening and modernization of urban governance for making the cities and towns live able and for attracting investments for generation of employment and income.
Sharma (2015) in the article “Creating Spaces for Women: Inclusion through Reservation in Urban Local Governance” published in “Journal of Politics & Governance, Vol. 5, No. 1” mentions that the 74th Constitutional Amendment Act (CAA) provides several measures to ensure decentralization and empowerment of urban local-governments in the country. With the passage of this amendment, constitutional status was conferred on urban local bodies in India for the first time. In the new dispensation, municipalities are the institutions of self-government, with regularly elected bodies, devolution of additional powers and functions, planning responsibilities and new system of fiscal transfers.

Ram (2012) in the book “Reservations for Women in Rural and Urban Local Bodies in India” mentions that the constitutional mandate of reservation policy for women in local self-government is not only to improve the self-respect of Indian women but also to ensure the political empowerment of one-half of the Indian society.

Objectives of the Study:

1. To study the changes introduce by 74th CAA for municipal governments.
2. To study the effects of 74th CAA in the governance of Guwahati Municipal Corporation.

Research Question:

1. What is the effect of 74th CAA in the set up of municipal governments?

Significance of the Study:

The proposed study intends to highlight the changes in the establishment and administrative set up of municipal governments after the 74th Amendment Act. More importantly this act had enabled many women to participate in politics who had never been in power. The present study is significant as it will throw light on the importance of 74th CAA and its effects in the urban local governance and it will also explored the inclusion of women in politics at local level, which is regarded as training ground for making a space in larger political arena.

Research Methodology:

This paper is based on both primary and secondary sources. Primary data are collected through official report and election records. For collection of secondary data various books, journals, newspapers, research articles as well as internet sources are consulted to collect detail information.

Changes made by Seventy-fourth CAA:

The 74th CAA introduced significant changes for municipal governments which are wide ranging and proved very important for the smooth set up of the urban local governments. Some of the changes made by 74th CAA are discussed below:

It Improved the Relationship Between State and Municipal Governments:
The 74th CAA made clear picture in the relationship between state and municipal governments. Prior to the amendment, there was no formal recognition of how the state and municipal governments would operate with respect to each other. The state governments had their municipal acts but there was no constitutional mandate to actually follow them. Further, without the amendment, there was no way of ensuring that the state municipal acts would give at least some minimal autonomy to the municipal governments.

Before the amendment there was no mechanism like the State Finance Commission (SFCs) in place for local governments. Without SFCs, the municipal governments were entirely dependent on the discretion of state governments for financial aid. The Act defined the relationship by recommending clear division of functions and increased fiscal autonomy for municipalities. This was to make sure that there was minimal or no overlapping roles of the two governments, and that the dependency of the municipal government on the state government could be reduced. The Act established a clear structure in the functioning of the municipal bodies and state governments. However, the respective state governments enjoyed discretionary powers to devolve the functions of the municipal governments, as they deemed fit.

**Ensuring Regular Elections:**

The 74th CAA extended the responsibility for the preparation of electoral rolls and undertaking of municipal elections to State Election Commissions (SECs). They not only conducted elections regularly but also ensured that the rules laid out in the respective state’s municipal elections laws were followed. This provided for a body that was not under the direct control of the state governments to conduct municipal elections to guard against political interference. But it does not mean that elections at the local level are taking place regularly, without disruption.

**Ensuring Representation of Weaker Sections and Localized Concerns:**

The enactment of 74th CAA, 1992 play a very important role in the emergence and participation of weaker sections of the society particularly, the women in urban local institutions. The ACT provided one-third reservation for women in urban local bodies and also extended the same principle of reservation to women in the categories like Schedule Caste, Schedule tribe apart from general category. It had provided opportunities for women to participate in the urban local bodies with an aim to secure their active involvement and support in socio-economic development. The Act has made revolutionary changes in the Indian societal arrangement in bringing the powerless and habitually the withdrawn fragments of the society to the frontage of power - both politically and administratively leading to elevated ranks of democracy at the local, regional and the national level.

**Seventy-fourth CAA and Guwahati Municipal Corporation (GMC):**
The 74th CAA has played an important role in the functioning of GMC, which is the only municipal corporation in Assam. The Assam Legislative Assembly Act of 1969 lays down the provisions for the composition of GMC. The GMC started its functioning with effect from the 15th February, 1974. Being a constitutional recognized urban local body, GMC is responsible for arranging, developing and managing the area within its jurisdiction. Since the inception of the GMC, women have been contesting in the GMC elections, but no women candidates were able to win any seats. It was only after the enactment of the 74th CAA which provides reservation for women in local bodies, women were seen as key actors in the process of development and elected women members in GMC have sensed a positive change in their attitude and have become more confident and independent.

**Table 1: Distribution of Elected Men and Women in GMC Elections**

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Year of Elections</th>
<th>Nos. of Wards</th>
<th>Nos. of Elected Men</th>
<th>Nos. of Elected Women</th>
<th>Reservation of Seats for women</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1974</td>
<td>34</td>
<td>34</td>
<td>0</td>
<td>No</td>
</tr>
<tr>
<td>2</td>
<td>1979</td>
<td>34</td>
<td>34</td>
<td>0</td>
<td>No</td>
</tr>
<tr>
<td>3</td>
<td>1995</td>
<td>60</td>
<td>41</td>
<td>18</td>
<td>Yes</td>
</tr>
<tr>
<td>4</td>
<td>2003</td>
<td>60</td>
<td>41</td>
<td>18</td>
<td>Yes</td>
</tr>
<tr>
<td>5</td>
<td>2013</td>
<td>31</td>
<td>21</td>
<td>10</td>
<td>Yes</td>
</tr>
</tbody>
</table>


From the table 1, it has been found that since the inception of GMC, till date 5 elections were conducted. It has been revealed that no women were elected in the first two elections held in 1974 and 1979 respectively. As the third, fourth and fifth election of GMC was conducted after the enactment of the 74th Amendment Act 1992 which provides reservation of seats of women, a total of 46 women were elected in the last three elections held on 1995, 2003 and 2013 respectively. From the above facts, it can be argued undeniably that the 74th CAA has created spaces for women in urban local governance through its reservation policy. Governance should be transparent and accountable. It should be based on the principle of equal participation. So, the passing of 74th CAA, can be regarded as the greatest event for women’s empowerment as the seats were now reserved for women in local bodies like municipalities.

**Conclusion:**

The enactment of the 74th CAA have provided constitutional status to the municipal governments and established a clear structure in the relationship between the state
governments and municipal governments. The Act also ensured for holding regular municipal elections as per the provision of the 74th Act. But it has been observed that municipal elections are not regularly conducted for instance, the third GMC election was held after a long gap of sixteen years and also the fifth GMC election was held after a gap of five years. This clearly reveals that municipal elections are not regularly conducted which is a violation of the provisions of the 74th CAA.

The Act also provided the ways and means towards the role, constitutional status, participation and decision making of the elected women representatives of urban bodies for delivering good governance in contemporary India. The Act has provided 33 percent reservation of seats for women to be filled by direct election in every urban local institution. This is also inclusive of the reservation provided for women belonging to the SCs and STs based on the proportion of population of SCs and STs respectively in each urban local body. But, it has been observed that the level of women’s representation in local bodies in India does not reflect their equitable participation, most of them are proxy elected members of their husbands, and also the discrimination in sharing political and financial power against women members is more noticeable and severe in India.

However, it cannot be denied that the 74th CAA had presented a totally separate picture in terms of setting up of municipal governments which is regarded as the training ground for larger political scenario. This Act also created spaces for women in the municipal governments and also enhanced their socio-economic conditions, political and administrative affairs as well as their interest to participate actively in municipal functionings. Thus, the enactment of reservation policy for women has motivates and facilitates women to participate in political life and thereby enabling them to acquire power, which further leads to greater empowerment.

References:


11. https://www.nagrika.org/nagrikaarticles/74th caa-changes

12. https://www.nagrika.org/nagrikaarticles/74th caa-need