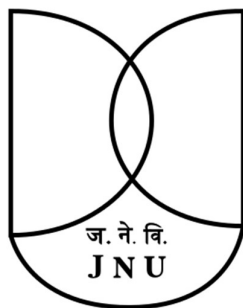


**MUNICIPAL FINANCE AND ITS IMPLICATIONS FOR PUBLIC AMENITIES IN THE
POST SEVENTY-FOURTH CONSTITUTION AMENDMENT PERIOD : A CASE
STUDY OF HOWRAH MUNICIPAL CORPORATION**

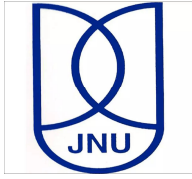
*Thesis submitted to Jawaharlal Nehru University
in partial fulfilment of the requirements
for the award of the degree of*

DOCTOR OF PHILOSOPHY

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CERTIFICATE

This is to certify that the thesis titled "**Municipal Finance and its Implications for Public Amenities in the Post Seventy-fourth Constitution Amendment Period : A Case Study of Howrah Municipal Corporation**" submitted by me is in partial fulfilment of the requirements for the award of the degree of Doctor of Philosophy (Ph.D.) of Jawaharlal Nehru University. This thesis is my original work and has not been previously submitted, in part or full, for the award of any other degree of this University or any other University.

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Sanjay Kumar Pandey

We recommend that this thesis be placed before the examiners for evaluation for the award of the degree of Ph.D.

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**Prof. Rajib Dasgupta
(Supervisor)**

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Sanjay Kumar Pandey

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List of Acronyms and Abbreviations

AMRUT	Atal Mission for Rejuvenation and Urban Transformation
ASCI	Administrative Staff College of India
ATR	Action Taken Report
BOC	Board of Councillors
BPL	Below Poverty Line
CAGR	Compound Annual Growth Rate
CDS	Community Development Societies
CFC	Central Finance Commission
CMDA	Calcutta Metropolitan Development Authority
CSS	Central Sector Schemes
DA	Dearness Allowance
DPC	District Planning Committee
DPC	District Planning Committee
GDP	Gross Domestic Product
GST	Goods and Service Tax
HCC	Heritage Conservation Committee
HMC	Howrah Municipal Corporation
HMC	Howrah Municipal Corporation
HPEC	High Powered Expert Committee
ICDS	Integrated Child Development Services
ICRIER	Indian Council for Research on International Economic Relations
IIPA	Indian Institute of Public Administration
IMFR	Indian Municipal Finance Report
JNNURM	Jawaharlal Nehru National Urban Renewal Mission
KMA	Kolkata Metropolitan Area
KMC	Kolkata Municipal Corporation
LBT	Local Body Tax
LFEC	Local Finance Enquiry Committee
LGs	Local Governments
MDM	Mid Day Meal
MLALAD	Members of Legislative Assembly Local Area Development
NHM	National Health Mission
NIPFP	National Institute of Public Finance and Policy
NNM	National Nutrition Mission
NRHM	National Rural Health Mission
NSDP	Net State Domestic Product
NUHM	National Urban Health Mission

NUPF	National Urban Policy Framework
OECD	Organisation for Economic Co-operation and Development
PAC	Poverty Alleviation Cell
PRIs	Panchayati Raj Institutions
RAY	Rajiv Aawas Yojana
SFC	State Finance Commission
SHG	Self-Help Groups
SSA	Sarva Shiksha Abhiyan
TEC	Taxation Enquiry Committee
UEE	Universal Elementary Education
ULB	Urban Local Bodies
WBMFC	West Bengal Municipal Finance Commission

Chapter – One

Introduction

1.1 Introduction

We were raised to believe that India is largely a rural country. This concept is confirmed by the fact that more than two-thirds of India's population still lives in rural regions (“70% *Indians Live in Rural Areas: Census*,” 2013). In India, the fate of the governing class is greatly determined by political outcomes in rural India. As a result, from the commencement of our country's planned development, the emphasis has been on rural development through the implementation of community development and a range of other rural development projects. Aside from the rural population, there is an urban population, which was relatively tiny at the time of independence but has since expanded to account for roughly one-third of the country's population. The relevance of this one-third urban population arises from its large contribution to the country's GDP and intellectual base. The urban economy is also crucial for the country's macroeconomy because of its multiple links. The performance of the urban economy has an impact on macroeconomic performance as well. Three linkages – financial, fiscal, and real sector – have a considerable impact on the macroeconomic level. Because of the weak status of the financial sector in most developing nations, notably the challenges in mobilising private capital, the public sector has financed the large bulk of urban expansion. The fiscal link between the urban economy and the macroeconomy is equally essential; poor local government revenue performance contributes to the national consolidated budget deficit. In the real sector, city-level productivity restrictions such as infrastructural shortages impact business and household productivity, and consequently the economy's aggregate productivity. Aside from its ties to the macroeconomy, urban hubs play a significant role in the formation of institutions of local self-government in democratic nations such as India. Urban local self-governments are

institutions that give genuine experience with democratic administration at the local level, and their functioning entails decentralisation of governing authority. In the Indian framework of a federal polity, adequate authority should be given up to villages and urban regions, where Gram Panchayats and municipal administrations function as the primary unit of local self-government. As a result, for these institutions to function successfully under a decentralised system of local administration, financial and functional power need be assigned to them. There are various justifications in favour of decentralisation of administrative authority, such as responsibility in administration, internalisation of administrative expenditures and benefits, better attention to local and different problems, and so on. However, there are unique reasons to resist decentralisation, such as the difficulty of coordination, greater financial burden, conflict between different levels of authority, and so on. When assessing the grounds for and against decentralisation of administrative bodies in the Indian setting, the arguments in support of decentralisation triumph. Municipal bodies, as institutions of local self-government, have been entrusted with the responsibility of providing civic and other facilities to the urban population; however, the functional and financial powers required to carry out these responsibilities have not been devolved to them sufficiently. Some ad hoc attempts, such as the devolution of some financial resources and functional functions, were conducted under the pretext of municipal reforms. There were no serious initiatives to create these institutions as institutions of local self-government. Municipal bodies should be given with functional as well as financial resources in order to survive as viable urban institutions of local self-government. The Constitution Amendment Bills of 1989 were a genuine attempt in this direction. However, for various reasons, these measures were unable to take on the form of Acts. However, these constitutional amendment suggestions made it evident that the subject of devolution of functional and financial authority to institutions of local self-government could not be evaded for long, and the Seventy-fourth Constitution Amendment Act, 1992, was finally adopted. This

act seeks constitutional protection for the interests of urban local governments, allowing them to function as viable democratic and self-governing entities at the grassroots level. It provides these entities shape and imposes constitutional form. The aims of this amendment was to decentralise authority and foster citizen involvement in the design, management, and delivery of municipal services. It substantially enhances the organisation of local governance. For starters, it demands that anytime a local government is disbanded, it be re-established through elections within six months. This is done to assure the continuity of directly elected representatives of the people in local governments and civic activities. Second, the Twelfth Schedule of the Constitution offers a framework for delegating government tasks to urban local governments. Third, states must form a Finance Commission to give recommendations to their legislature on state-local income sharing and strengthening the resources and functioning of local governments. Finally, the organisation of Metropolitan and District Planning Committees is crucial, with elected representatives of the people playing an important part in the design and monitoring of development plans. This legislation required states and union territories to establish new laws or change existing ones in order to comply with the constitutional requirements of their respective states and union territories. The process of adopting conformity laws has been finished. These conformance legislations have largely focused on the transmission of functional powers to municipal governments. States have appointed their own State Finance Commissions to grant financial powers which is necessary for enhancing local governments' resource base. This is viewed as an important step as it set realistic norms for money devolution to states and, to a certain extent, provided financial autonomy to municipal organisations in order to fund their local functional duties. This subject must be explored further in terms of how much the financial devolution approach suggested by State Finance Commissions and implemented by various state governments has impacted the resource base of local organisations.

1.2 Conceptual Framework

One of the most basic trends in human history has been urbanisation. Due to the obvious emergence of capitalism and technical innovation, metropolitan regions have become a centre of economic growth and job creator. These circumstances prompted millions of individuals to relocate from rural regions to metropolitan centres in quest of a better life. According to the United Nations, the world population exceeded seven billion on October 31, 2011, and reached around 7.4 billion in 2016, with urban population accounting for 54.3 percent of this total. (*“World's Population Increasingly Urban With More Than Half Living in Urban Areas”* | UN DESA | United Nations Department of Economic and Social Affairs, 2014)

The absence of quick growth in developing nations resulted in a shortage of employment possibilities, health care, and other facilities in rural areas, and as a result of this deprivation, people are compelled to migrate to cities in quest of better livelihood prospects. Most Indian metropolitan zones are also undergoing tremendous population increase, resulting in serious shortages of housing, public utilities, and urban services such as water supply, sanitation, drainage, sewage, and transportation, as well as sufficient education and welfare facilities. These constraints have a detrimental influence on the quality of life in cities.

Large populations dwell in urban zones, which have distinct qualities such as economic strength, livelihood, lifestyle, organisation, land use, and institutions. Furthermore, as indicated in the introductory section, the performance of the urban economy is influenced by the macro-economy due to its various linkages with the larger macro-economy. As a result, the growth of urban centres demands detail planning on the part of lawmakers. In the Indian setting, numerous tiers of Urban Local Bodies often manage urban centres. However, in order to provide for urban infrastructure and services, a large amount of resources is essential, which is

beyond the competence of that specific urban local authority. Following the Seventy-fourth Constitution Amendment to the Indian Constitution, all three levels of government, namely the Union, State, and Local, must work together to address the financial demands of Urban Local Bodies. While the Union Government generally establishes policy frameworks and occasionally offers financial support to local authorities based on recommendations from different Central Finance Commissions, State Governments must provide the appropriate legal basis through devolution of functional powers and financial foundation through devolution of financial resources and powers based on State Finance Commission recommendations. Several studies have determined that previous to the adoption of the Seventy-fourth Constitution Amendment Act, urban local governments relied substantially on transfers and grants-in-aids from state governments and that these financial resources from state governments were ad hoc in character. As a result, there was no stability or predictability in the revenue flow of urban local bodies, which impacted the maintenance of various types of municipal services.

Against this conceptual context, the major subjects for study are the extent to which the recommendations-based devolution of financial resources to urban local governments has streamlined their financial resource foundation. This research focuses on Howrah Municipal Corporation in the state of West Bengal. To acquire a complete knowledge of the influence of State Finance Commission-based devolution on municipal finance and services in the post-Seventy-fourth Constitution Amendment period. Howrah Municipal Corporation, like Kolkata Municipal Corporation, has a separate cabinet-style of government under its Mayor-in-Council. Howrah Municipality was formed in 1862, and the distribution of filtered water to people began in 1896. (BANNERJI & MUKHOPADHYAY, 2018, 5) Bally Municipality was created in 1882-83, splitting it from Howrah Municipality. However, in 2015, the Bally municipality territory, which had sixteen wards, was incorporated into the Howrah Municipal Corporation. However, in November 2021, the West Bengal Legislative Assembly voted a law reinstating

Bally Municipality's status as an independent municipality. The Howrah Municipal Corporation Act of 1980 formed Howrah as a municipal corporation in 1984. For convenience of operation, the corporation territory is split into 66 wards, which are shared among seven Borough offices.

1.3 Area of Research

Howrah (22o-35'-30" North Latitude, 88o-21'-0" East Longitude) is a riparian city that stretches 14 kilometres along the west bank of the Hooghly (Ganges) and has an average width of 6 kilometres. In both the Kolkata Metropolitan Area (KMA) and the state of West Bengal, Howrah is the second largest city of the West Bengal. The Hooghly river serves as a physical barrier between Howrah and Kolkata, which have traditionally been regarded as a sister cities. Howrah has a far longer history than Kolkata. The city of Howrah has a five-hundred-year history, according to historical sources, Bengali literature, and early European explorers. Ceasare Federici, a Venetian adventurer, recorded a location called Buttor in his journal in AD 1578, which is identical to the modern-day 'Bator' in Howrah City. In Bipradas Piplai's 1495 poetry 'Manasamangal,' the town of Bator was also mentioned. On Emperor Farrukshiyar's accession to the throne of Delhi in AD 1713, the Bengal Council of the East India Company despatched a delegation to him, requesting that the villages of 'Salica' (Salkia), 'Harirah' (Howrah), 'Cassundeah' (Kasundia), and 'Ramkrishnopoore' (Ramkrish) should be settled to the East India Company. The Hooghly district, which covered the entire modern district of Howrah, was formed by the East India Company in 1787. (HMC, n.d.) Howrah was established as a separate district in 1843. In 1854, the Howrah Railway Station was established. Following it, the region began to make true industrial growth. The railway line was critical in transporting raw materials from all across the country to the Howrah's industries. The flour mills first opened their doors in 1855. Jute mills quickly followed suit, with the first being inaugurated in

1870. The Howrah railway station was surrounded by up to five mills. The new Shalimar terminal was completed in 1883. In the same year, the Howrah-Shalimar railway started its operation. New enterprises sprang up along the railway route.

1.4 Review of Literature

Provision of municipal services for a growing urban population has become a crucial challenge for urban planners and politicians all over the world. Every resident of urban centres needs cost-effective clean energy, safe drinking water, sanitary amenities, a pollution-free environment, an ecologically friendly efficient transportation system, and sophisticated telecommunication networks. As a result, large financial resources are essential to improve the quality of life of urban inhabitants through the provision of infrastructure and key municipal services.

The study of municipal finance and municipal service delivery in the post-74th Constitution Amendment period examines a variety of subjects of municipal finance in the context of India's fiscal federal system. As a result, the literature reviewed in this topic contains a wide array of themes relating to municipal finance. There is a multitude of literature on the structure and issues of municipal finance in general, as well as their many consequences for municipal service delivery in particular. Prior to the formation of municipal institutions for local administration, the British set up committees and expert groups, gathered data, and conducted research to better understand the nature and extent of fiscal difficulties, as well as the impact of various government policies. Between the enactment of Lord Mayo's Resolution on local governments in 1870 and Rippon's Reforms in 1882 and the execution of the Government of India Act in 1935, there had been extensive decentralisation of administrative authorities. In the case of budgetary authorisation, however, decentralisation was not as required. The bulk of studies done during that time period, beginning with that of Strachy and

Strachy (1882), indicated the inadequacy of financial resources available to local authorities, mostly from income and grants, to pay even their routine costs for required duties. Local administrations were not appropriately leveraging their income base, according to many investigations (Wacha, 2008), Report of the Indian Taxation Enquiry Committee (TEC, 1925), and so on. However, of the few advises offered in these studies were adopted to help local governments refill their resources.

Following independence, the government created committees and conducted conferences, as well as studies undertaken by experts both inside and outside the government, to assess local budget difficulties and provide ideas for change. Among the important committees and conferences are the following:

- Local Finance Enquiry Committee (Wattal, n.d.), 1951
- Taxation Enquiry Committee (Matthai, n.d.), 1953
- Augmentation of Financial Resources of Local Bodies : Report of the Committee of Ministers Constituted by the Central Council of Local Self Government (Zakaria, n.d.)1963
- Rural-Urban Relationship Committee, 1966 (*Report of the Rural-Urban Relationship Committee*, n.d.)
- Study Group on Constitution, Power and Law of Urban Local Bodies, 1983 (Trevelyan,1983.)
- Task Force on Housing and Urban Development, 1983 (Menezes, 1983)
- National Commission on Urbanisation, 1987 (*Report of the National Commission on Urbanisation, 1988*)
- Nagar Palika Sammelan, 1989
- Several Conferences of Housing Ministers and All India Conferences of Mayors

- High Powered Expert Committee (HPEC), 2011 (*Report on Indian Urban Infrastructure and Services*, 2011)
- Municipal Finance Matters : Indian Municipal Finance Report (IMFR), NIPFP, New Delhi, 2011 (*Untitled*, 2011)
- Report of Sub-Committee (High Level Committee on Financing Infrastructure) on Financing Urban Infrastructure in the 12th Plan, 2012 (Sridhar, 2012)
- National Urban Policy Framework – NUPF (Ministry of Housing & Urban Affairs), 2018 (*National Urban Policy Framework 2018 | Smartnet*, 2018)
- State of Municipal Finances India : A Study Prepared for the Fifteenth Finance Commission, ICRIER, New Delhi, 2019 (*State of Municipal Finances in India*, 2020)
- Report of the NITI Aayog Constituted Advisory Committee on ‘Reforms in Urban Planning Capacity in India’, 2021 (*REFORMS IN URBAN PLANNING CAPACITY IN INDIA*, 2021)

Individual scholars have also done a lot of case studies to look into these matters of municipal finance. Studies on municipal finance of Calcutta Metropolitan District by Ranney & Dutta (Datta & Ranney, 1964), municipalities of North Canara district (Karnataka) by Rajgopala Rao (1968), five municipalities namely Ajmer, Alwar, Bikaner, Jaipur and Kota by Bhambri (Bhambri, 1969), Bangalore by Rama Rao (Rao, 1979), Delhi Municipal Corporation by Jai Bhagwan (Bhagwan, 1983), cities and towns of Karnataka by Nageshwar Rao (Rao, 2000), Varanasi by Kedia (Kedia, 1986), and several others can be mentioned in this context. Some scholars specifically considered difficulties in mobilisation of tax and non-tax revenues by municipal bodies and recommended larger transfers of federal and state funds similar to that made by TEC, 1953; Venkataraman (1965), Gadkari (1978), Singh (1978), Thavraj (Thavraj, 2003) and Rama Rao (Rao, 1979).

Roy and Nath (*PUBLIC EXPENDITURE DECENTRALISATION IN DEVELOPING COUNTRIES ROY BAH L AND SHYAM NATH No. 21 SEPTEMBER 1986 S NATIONAL*, 1986), while researching public expenditure on urban infrastructure, claimed that developing countries' ability to maintain and expand their stock of urban infrastructure in response to population growth is dependent on the administrative, financial, and management skills of their administrators.

Bahl and Linn (1983) (*Urban Growth and Local Taxes in Less Developed Countries*, 1983) established a technique for finding revenue streams that are acceptable for funding spending. He also felt that borrowing was a smart method to pay capital expenditures on infrastructure, specifically public utilities and roads.

Pierre asserted that, although the numerous forms of local urban management, state-specific variables have a key effect in creating the structure and style of urban administration. (Pierre, 1999).

Three reasons in favour of fiscal decentralisation were offered by Johannes and Deborah (Johannes & Deborah, 1994). The first is that if city leaders rather than country leaders decide on spending and tax rates, local needs and preferences will be better satisfied, local services will improve, and local citizens will be more content with government service delivery. The second argument in support of fiscal decentralisation is that stronger local governments would assist to develop democratic institutions because people can identify and link themselves more directly with local governments than with the federal government. The third argument is that local revenue mobilisation will expand because local governments have a better grasp of their tax base and can tax more effectively than national governments.

According to Mohan and Dasgupta (Dasgupta & Mohan, 2005), it is not essential to raise tax rates to boost income for urban local governments; instead, increased tax administration and compliance will go a long way toward expanding resources for urban infrastructure investment. They also proposed modifying user fees, which account only a small fraction of overall income in impoverished nations.

According to Kim the great wealth created by urbanisation is not being sufficiently utilised to finance shelter and urban infrastructure development, as well as service delivery, in order to increase economic growth and improve the quality of life of urban people. (Kim, 1997)

A group of ministers known as the Zakaria Committee was founded in 1962 (Central Council of Local Self-Government, 1963) to advise the central government on augmentation of resources for local institutions, especially through devolution of money, and reported its conclusions the following year. This committee looked at inter-state and size-class variation in municipal corporation, municipality, and other local body revenue, spending, and surplus, which was a step forward from the LFEC and TEC studies, which only looked at municipal corporations and municipalities. The Zakaria Committee attempted to determine the causes of sluggish income growth and degradation in the supply of public services. The National Council of Applied Economic Research's review of municipal resources is likewise a comprehensive effort along the lines of the Zakaria Committee. The Ministry of Works and Housing (now urban development) delegated a study project to the Town and Country Planning Organization, based on the recommendations of the Seventh Finance Commission, to identify resource deficiencies at the local level (*Commission, Ministry of Finance, Govt. of India, 1978*). Following that, the National Institute of Urban Affairs was entrusted with conducting research to aid the Eighth Finance Commission in devising a framework for devolution of federal resources (*8th Finance Commission Report, 1983*). Using five distinct approaches, this study

demonstrated major variations in per capita income and spending between big and small towns, developed and undeveloped states, and resource gaps at the town and state level. This research was assessed by the Finance Commission, but its conclusions were not used to formulate an operational plan or to allocate funding.

The Rural-Urban Relationship Committee recommended the establishment of a State Municipal Finance Enquiry Commission as early as 1968 to examine the pattern of revenue and expenditures of local bodies and to devise systems for the division of certain tasks between the state government and these bodies. State governments were also recommended to form such commissions by the Central Council of Local Self-Government and the All India Council of Mayors in 1972. By the 1980s, most states received findings from these commissions, including Andhra Pradesh (1972), Maharashtra, Orissa, Karnataka, Kerala, Tamil Nadu, and West Bengal. Municipal budgets were likewise separated into functional and economic divisions by state governments.

Over the years, the research and policy perspectives on urban finance have shifted dramatically. Since Lord Rippon's time, or maybe before, scepticism about the political and economic viability of developing resources through local authorities has faded to some extent. Decentralisation of financial authorities and duties is becoming a hot issue among academics and administrators. Municipal governments have been chastised for their unwillingness to take advantage of local tax and non-tax resources. The discussion over whether to employ federal or state financing has been consigned to the sidelines. The Planning Commission's Task Force on Urban Development Financing (1983) advised merging development and maintenance requirements, as well as the creation of resources by local governments, to meet most of the expenditure commitments (*8th Finance Commission Report*, 1983). It also recommended better municipal tax administration, devolution of state money tied to local governments' resource-

raising operations, and infrastructure funding through institutional (banking) funds, among other things. Several additional studies have revealed that the state governments' gap-filling approach of disbursing cash inhibits municipal governments from receiving funds. Major recommendations being made to achieve decentralisation include the restoration of all mandatory and optional functions to municipalities, raising of local tax rates, better collections, municipalities' access to the capital market, and so on (Ministry of Work and Housing, 1980), (Dutta, 1983), (Shyam Nath, 1984), (Rao, 1987), (most of papers presented in the seminar on *'Financing Urban Development'* organised by IIPA, 1986 (*Theme Paper Ver 13*, 1986). J. Raja Chelliah (1986), a member of the Planning Commission at the time, argued that local governments should obtain a percentage of the central corporate income tax, state sales tax, profession tax, and entertainment tax.

The World Bank has shown a keen interest in the resources and paying capacity of local bodies in its studies, and has conducted studies on some of the country's cities, finding that some cities have a relatively strong tax and non-tax base, which, if properly utilised, can cover their expenditure on infrastructure and civic amenities.

Property tax and octroi are two of the most carefully researched levies when it comes to municipal taxation reform. Scholars believe that property tax's potential has not been completely used, and that its competent administration may assist most local governments to overcome their current financial limitations. Undervaluation of urban property, lax assessment, an erroneous value base as a result of statutory rent limitations, and other causes have been highlighted as contributing to the limited amount collected by property tax in most states. Better management, regularity in assessment, personnel training, the repeal of rent control acts, and other measures were suggested as possible remedies (Sinha, 1968), (Dutta, 1970), (Nanjundayia, 1972), (Krishnan, 1972), (Ammakutty, 1975), (Ramkrishna, 1980), (National

Institute of Public Finance and Policy, 1981), (Shyam Nath & Schroder, 1984), (Bhargava & Sukha,

Octroi used to be one of the important local tax in Indian cities. It was the most important source of municipal revenue in octroi-levying states. It has been suggested that local governments find it easier to generate income this way since liability falls on a smaller number of people. The majority of scholars have called for its repeal owing to delays, corruption, management issues, and the indirect impact of supporting industry consolidation. Many have advocated replacing it with entry tax, turnover tax, business property tax, and other measures (Wadhwa, 1972), (Singh, 1978), (Sarkar, 1982), and so on (Wadhwa, 1972), (Singh, 1978), (Sarkar, 1982) and so on (Shyam Nath, 1984). (Shyam Nath, 1984). However, due to its tremendous income-earning ability for local governments and the federal government's refusal to reimburse the states 'adequately' for the ensuing revenue loss, a few scholars and commissioners had advocated for its continuation in some modified form (Thimmaiah, 1988). (Thimmaiah, 1988). As a result of these study on the octroi, all governments have either repealed it or replaced it with another state-level tax.

In growing nations, Bahl and Linn (1992) called for adjustments to the property tax and octroi arrangements. Various organisations and people have performed multiple studies in the post-74th Constitution Amendment Act years to offer some points to State Finance Commissions, one of whose mandates is to increase the resource base of municipal authorities (Gulati, 1994), (NIPFP Working Groups, 1995), and so on. Some studies have also argued that permitting private provision of some services, such as water supply and solid waste disposal, would save municipal costs.

According to Oommen (2010), the State Finance Commission, like the Union Finance Commission, had to assist local governments in planning for economic development and

delivering social justice and public services at the local level, but they missed a great opportunity to contribute to the process of building a more inclusive, participatory, and environmentally friendly fiscal federalism by promoting decentralised governance.

Mathur (2011) and his colleagues produced the 'Municipal Finance Matters' Indian Municipal Finance Report (IMFR), for which they surveyed thirty-one municipalities with varying populations across India. This investigation revealed the dismal status of their finances, attributing it in part to municipalities' internal management of fiscal resources and in part to respective state governments' policies toward them. Municipal fiscal performance was investigated in this research against economy-wide income and urbanisation trends, inter-state variance in financial and fiscal power allocation, and the level of efficiency and effectiveness in the exercise of fiscal powers by assessed municipalities.

In his book 'Financing Cities in India - Municipal Reforms, Fiscal Accountability, and Urban Infrastructure,' Mohanty (2016) goes into great length regarding the state of municipal finance in India and compared it to other countries. By presenting figures for municipal expenditure, municipal revenues, municipal tax revenues, municipal property tax revenues, municipal non-tax revenues, and municipal transfer revenues as a percentage of GDP in India versus OECD countries, it has been demonstrated that the size or dimension of municipal finance in India is small, with a mismatch between functions and finance that has grown over time. The steady decline in the percentage of municipal 'own revenues,' notably taxes, in overall municipal revenues is one of the key forces driving the rising function-finance mismatch in the Indian municipal realm. India is exceptional in that, despite rising urbanisation and increased contribution of urban districts to GDP, the tax power of urban local bodies (ULB) has diminished over time. Apart from statutory access to local taxes, shared taxes, user charges, benefit charges, city bonds, and so on, this study argues that the new Goods and Service Tax

(GST) regime should fully compensate ULBs for the loss of octroi and other local taxes that have been abolished or appropriated by state governments in the past, or that have been subsumed under the GST. Given the present limits of Indian fiscal federalism, it implies that a distinct statutory city GST rate inside the state GST rate or a formula-based city share in state GST might be explored as a possibility. This study also recommended that the Indian Constitution be amended to include a 'municipal finance list' corresponding to the 12th Schedule, which could include property tax, land value tax, land use conversion tax, profession tax, payroll tax, business licencing tax, advertisement tax, entertainment tax, utility user taxes, carbon tax, a statutory share in motor vehicles tax, motor fuel tax, transfer of property tax/stamp duty and mining royalties, city GST, or a statutory stipend for mining royalties.

In his work titled 'Metropolitan Finances in India: The Case of Mumbai City Corporation,' Rao (2019) analysed the public services offered by Mumbai City Corporation as well as its revenue sources. A variety of challenges relating to the delivery of public services and municipal finances in Mumbai have been reviewed in this article. He has argued that the delivery of public services in Mumbai is impeded by faulty policies, the legal and regulatory framework, as well as money, and that these limits must be addressed through a multi-faceted approach for an effective public service delivery system in Mumbai.

1.5 Objectives and Research Questions

Objectives and research questions of this study are as follow:

- To look at the provisions relating to revenues and expenditure of Howrah Municipal Corporation and to find out whether revenues was sufficient to meet its expenditure responsibilities or not.
- To examine whether revenues or resource base of Howrah Municipal Corporation has increased or decreased in State Finance Commission recommended devolution

system after 74th Constitution Amendment Act.

- To examine implications for public amenities delivery system as a result of change in the revenues or resource base of Howrah Municipal Corporation.

1.6 Data Base and Methodologies

The research is based on secondary information. Because the study will incorporate data analysis for a period of time, a qualitative assessment would be applied. The focus would be on studying data to determine trends and their effects. Studies from secondary sources have been reviewed for theoretical features of municipal finance. To ascertain precise facts, interviews with top authorities and state level staff were undertaken. Urbanisation and fiscal decentralisation are putting significant demand on the financial status of urban local bodies (ULBs) in order to provide municipal infrastructure facilities and services, and the Howrah Municipal Corporation (HMC) is no exception. Based on a review of the existing literature, such as SFC reports, budget documents for relevant periods, and available secondary data in this regard, the study examined to what extent State Finance Commission (SFC) recommendations for fund devolution have eased the fiscal pressure of Howrah Municipal Corporation.

Budget papers for the period 1991-92 to 2000-01 have been studied to describe HMC's resource situation, and reports of the first and second SFCs covering the period of devolution from 1996-97 to 2006-07 have been reviewed to discuss HMC's fund entitlement on the basis of SFCs recommendations (1996-97 to 2000-2001 for 1st SFC and 2001-02 to 2006-07 for 2nd SFC). Since 1996-97, the SFC has recommended that money be made available to local governments in West Bengal. In 2005, India launched two major national flagship programmes: The National Health Mission (NHM), which was later split into the National Rural Health Mission (NRHM) and the National Urban Health Mission (NUHM), and the

Jawaharlal Nehru National Urban Renewal Mission (JNNURM), both of which have significant financial implications for urban local governments. Under these two schemes, many critical municipal operations began to be executed. As a result, judging local services based on available municipal finances or municipal expenditure would be erroneous following the execution of these two flagship schemes. These two projects invest a substantial amount of money on urban services and infrastructure. In addition to these two national flagship programmes, the Sarva Shiksha Abhiyan (SSA), a national flagship programme for Universal Elementary Education (UEE) that was launched in 2001, is also involved in delivering one of the core municipal functions, namely education, for which the State and Central governments spend significant amounts of money.

The data utilised in this study, however, has major limitations. Howrah Municipal Corporation's budget records, like those of other urban local bodies, are not standardised, consequently many of the items are categorised differently when compared to those of other municipal corporations. As a result, the scant data supplied in the Howrah Municipal Corporation's budget materials lacks consistency and comparability to some extent.

Aside from the data homogeneity, the study features a few further issues. First, because local governments are not permitted to have budget deficits by law, their resource inadequacies cannot be identified from budget data. That is, even if funds are little, they cannot afford to plan their budget beyond what is available. They must squeeze their expenditure and accept lack without making any arrangements for it. They are living within their means as a result of this legislative requirement, rather than relying on deficit funding as employed by state and federal governments. Borrowing options are not widely available to local authorities in order to solve their budget shortfalls. The basic legal foundation for municipal borrowing in India is provided by the 'Loan Authorities Act of 1914.' All market borrowings require state government's permission, and in many instances, state guarantees are necessary, which limits

local authorities' capacity to utilise this source of money. As a result, unlike the state and federal governments, their fiscal restrictions are not obvious in budget papers. Deficits and debts are not the issues that influence the finances of urban municipal administrations. The largest challenge they confront is a lack of resources to supply the essential urban services and infrastructure. This isn't shown in their financial records. As a result, the data from municipal budgets may only be employed to determine patterns in revenue and spending, as well as their composition. Second, the benchmark applied in the study (the Zakaria Committee norm) for measuring the resource gap for urban local governments is quite ancient (established in 1960-61). (developed in 1960-61). The benchmark adopted in the study may no longer be applicable owing to technical developments and changes in the sort of services expected by the urban population.

The majority of secondary data for this study comes from Howrah Municipal Corporation budget records, West Bengal State Finance Commission reports, and other government and research institution papers and publications.

1.7 Scheme of the Study

Chapter One – Introduction

This chapter deals with the conceptual framework, study area, aims, research questions, data base and techniques of the study. It also contains reviews of literature.

Chapter Two – Municipal Bodies as an Institution of Urban Local Self-Government : Theoretical and Conceptual Issues

This chapter addresses several conceptual and theoretical components of the municipal administration system.

Chapter Three – Indian Municipal Financial System : Before and after Seventy-fourth Constitution Amendment Act.

This chapter will cover several issues of municipal financing prior to the passage of the Seventy-fourth Constitution Amendment Act. The consequences of the Seventy-fourth Constitution Amendment Act for municipal financing are also discussed in this chapter.

Chapter Four – A Case Study of Howrah Municipal Corporation

This chapter focuses on the city of Howrah in general, as well as the Howrah Municipal Corporation in particular. This chapter examines the evolution of Howrah Municipal Corporation as a municipal services provider as well as its financial situation. This chapter discusses the revenue basis and fiscal status of the Howrah Municipal Corporation before to and after the Seventy-fourth Constitution Amendment Act.

Chapter Five – Post Seventy-fourth Constitution Amendment Act : Revenue Scenario of Howrah Municipal Corporation and its Implication for Public Amenities.

This chapter examines whether the revenue position of the Howrah Municipal Corporation has altered as a result of the State Finance Commission's recommendation-based devolution, and if so, what are the consequences for municipal service provision.

Chapter Six – Summary and Conclusions

In this chapter, concluding summary of the study have been drawn from this research work. And some tentative suggestions as ‘A Way Ahead’ has been discussed.

Chapter – Two

Municipal Bodies as an Institution of Urban Local Self-Government : Theoretical and Conceptual Issues

2.1 First Look

Since the genesis of human civilization, metropolitan areas have played essential roles in all elements of human existence, whether governance, economy, politics, culture or society. These urban entities have been power centers of mankind's political and economic activity, resulting in a corpus of literature on varied theoretical and conceptual issues of political and economic management over them. The idea of municipal administration originated as a result of the governance of urban centers, and its history and development in the Indian environment will be explored in the next chapter. The role of urban centers in a country's overall economic structure, as well as theoretical issues of administration of these cities from an economic position within the greater framework of fiscal federalism, have been studied in this chapter.

Many economists believe that the urban economy promotes regional and national economic growth. The concentration of people and economic activity in one area is regarded to be crucial to maximise the advantage of distinct external economies that create a basis for greater production efficiency, technical breakthroughs, and ingress into global markets (Kundu, 2006). According to urban economics studies, urbanisation has a beneficial impact on economic growth. During the days of rapid urbanisation, cities played an essential role in the establishment of developed-world's national economies. The National Commission on Urbanisation Report (1988) of India emphasized the importance of cities as engines of economic progress, reserves of capital and skill, hubs for knowledge and innovation, springs of formal and informal sector employment, creators of public financial resources for development, and hope for millions of rural migrants. Cities have become the favoured places

for foreign investment and business process outsourcing as a result of globalisation and deregulation.

2.2 Urbanisation's Importance for Economic Growth

In general, urbanisation advances at the same rate as economic growth. Many elements effect urbanisation, including: (a) economies of scale in production, particularly manufacturing; (b) the existence of information externalities; (c) technological advances, notably in building and transportation; and (d) capital swap for land facilitated by technology. According to (Jane, 1984), economic life advances via innovation and extends through import substitution. He emphasizes the contribution of 'import-replacement' in the rise of cities as a result of the 'five major factors' of bigger city markets, increasing numbers and types of employment, higher relocation of city work into non-urban places, new applications of technology, and ultimately growth of city capital. Cities capitalize on the benefits of agglomeration economies, which are facilitated by the clustering of varied activities, resulting in scale and networking effects. Larger size plants become required as economies of scale in manufacturing begin to take effect. This leads to the need for more suppliers and more densely inhabited consumer settlements. The services required by the rising collection of people result in a rise in the number of people living together (Mohan, 2006)

Localisation and urbanisation are two kinds of agglomeration economies, according to economists. Localisation economies are formed by the co-location of firms in the same industry or the local concentration of a single activity, such as a transit terminus, a seat of government power, or a huge electronic industrial-park. They are extrinsic to enterprises yet intrinsic to the industry. The increasing scale of the entire metropolitan region results in urbanisation economics. They exist outside of corporations and industries.

Backward and forward connections between economic activities result in localisation

economies in cities. When the scope of an activity develops, the formation of numerous intermediary services, such as financial, legal, consultancy, repairs and parts, logistics, advertising, and so on, that feed off of it, becomes lucrative. Banking and insurance are famous for their economies of scale. The reduction in transport and communication expenses arising out of geographical proximity is an obvious advantage of agglomeration. Many other key economies are tied to localisation. For example, the accumulation of persons with a range of specialised abilities may result in labour market efficiency for firms by cutting recruiting and training expenditures. Similarly, when varied types of persons work and live together, the costs of information collection and delivery may be considerably lowered. Cities are hubs of technological invention, incubation, and diffusion thanks to the collected availability of capital, talent, and expertise, ease of communication, and the spillover of information between firms, organisation, and individuals.

Urbanisation economies occur as a result of population spatial concentration, which results in the benefits of bigger, closer, and more variegated markets, availability, diversity, and division of labour, and sharing of common infrastructure. These benefits are available to all organisation established in a city and are not restricted to any one group. A significant concentration of enterprises and people resulted in lower transaction costs and the advantages of face-to-face communication. It also supports risk-sharing and access to a greater range of choices for producers, consumers, and dealers. Bigger urban areas provide jobs more suited to individual talents while making job search expenditures lesser. Water supply, sewerage, storm drainage, solid waste management, and transportation all necessitate economies of scale, and these systems become financially feasible only when the tax-paying population crosses a specified threshold level.

The presence of agglomerated economies, particularly in big cities, illustrates how cities are not only centres of productivity and economic success, but also of human growth,

development, and current life. At the same time, large cities confront the "tragedy of the commons" and "diseconomies of congestion," which demand acceptable solutions through competent urban administration. Size cannot be regarded a negative aspect as long as the advantages of agglomeration outweigh the costs of crowding.

The enormous contribution of cities to the finances of state and central governments is a crucial aspect that has not been adequately addressed in empirical inquiry. Cities act as reservoirs for public resources such as income tax, corporation tax, customs duty, stamp duty on property registration, entertainment tax, professional tax, motor vehicle tax, and other indirect taxes such as GST in India. They are also the sites where user payments for the public services delivered are collected.

Urban regions create funds for state and national development, including those necessary for rural development. Because of the direct relationship between urbanisation and economic growth, urbanisation is anticipated to improve the buoyancy of significant financial resources of state and central governments.

Municipalities supervise metropolitan areas, and their financial status has an influence on the budget of both the state and federal governments. A municipal body's comfortable financial situation, particularly in capital account, essentially translates into good quality civic amenities, which are critical to the well-being of a city's residents and economy, as well as their contribution to National and State Domestic Products and the government exchequer.

2.3 Municipal Governance in the Context of Fiscal Federalism

The two most crucial aspects of any municipal government are - (i) the responsibilities allocated to municipal bodies by law, and (ii) the fund given or income generating capacity and ability of these municipal authorities to pay their expenditures for delivery of assigned services

to them. This section explores the literature on municipal bodies' duties, functions, operations, and finances. The key themes of contention are fiscal decentralisation, local body organization, local body resources, revenue imbalances and liabilities allocated, fiscal transfers, role in economic growth, and so on.

2.3.1 Decentralisation of Fiscal Power

Municipal finances become crucial in the context of urbanisation and fiscal decentralisation. As a result, it is vital to begin by analysing the theoretical parts of fiscal decentralisation in order to establish the role and relevance of stable municipal finances. According to (Oates, 1972) 'Decentralisation Theorem,'

“For a public good – the consumption of which is defined over geographical subsets of the total population, and for which the costs of providing each level of output of the good in each jurisdiction are the same for the central or for the respective local government – it will always be more efficient (or at least as efficient) for local governments to provide the Pareto-efficient levels of output for their respective jurisdictions than for the central government to provide any specified and uniform level of output across all jurisdictions”.

According to the notion, a public benefit should be delivered by the territorial jurisdiction that internalises its provision and should include exactly the set of individuals who consume it:

“each public service should be provided by the jurisdiction having control over the minimum geographic area that would internalise benefits and costs of such provision”. (Oates, 1972).

The previous principle, known as 'subsidiarity' in fiscal federalism theory, is based on the best assignment of public resources to match public demand for services. Access to local knowledge, resource alignment to services, local financial autonomy in planning and providing

services, scope for obtaining cost-effective delivery of the services, and performance accountability in the provision of services all contribute. According to the theory, welfare is increased manifolds if each local government delivers the Pareto-efficient output for its constituency.

Apart from the transfer of responsibilities from higher to lower levels of government in a political-administrative, financial, and geographical hierarchy, fiscal decentralisation is a significant component of decentralisation [(R. & J, 1998), (Agrawal & Ribot, 1999)]. The transfer of formal power from higher levels to lower levels of the government can take three different forms. First, administrative decentralisation happens when official power is passed from higher to lower government offices or to other local authorities that are responsible to the higher government. Second, in democratic decentralisation, authority is given to representative and accountable actors in declining hierarchy, as in elected governments at lower levels. Third, under fiscal decentralisation, administrative machinery and representative governments at lower levels are granted the capacity to mobilize or accumulate financial resources at their own level and spend them depending on their needs and priorities. In a fiscal decentralisation situation, concentrated powers to tax and generate revenues in the hands of higher levels of government or authorities are distributed to lower levels of government or authorities in the hierarchy, for example, local governments are given the authority to raise and retain certain taxes and charges in order to fulfil their responsibilities.

The following are two key factors in favour of decentralisation that have been highlighted in the literature:

- (i) While the central government is primarily engaged with macroeconomic objectives such as economic Stabilisation, income distribution, and resource allocation, it usually misses operations relating to the provision of core services.

The bulk of union governments are engaged with administering macroeconomic policies and maintaining political stability at the national level. They are typically not so focused on delivering municipal services, unless if large-scale capital-intensive developments are involved (Rondinelli, 1990).

- (ii) Decentralisation of political, financial, and administrative authority to lower levels of government enhances their capacity to provide various services due to the lower levels of government's restricted jurisdiction and concentrated attention.

The literature differentiates three forms of decentralisation [e.g., (Davey, 1996) and (Rondinelli & Cheema, 2002)]:

Delegation of authority to field offices, lower echelons, and so on, i.e. to officials within the same organisational structure. Several writers have used language like – to imply deconcentration.

- * *"The process by which central government control agents are shifted and geographically spread"* (Sayer et al., n.d.).
- * *"Administrative decentralisation, i.e. a transfer to lower-level central government authorities or other local authorities who are responsible to the central government on an upward scale"* (Ribot, 2002).
- * *"the transferring of administrative responsibility for particular functions to lower levels of the central government bureaucracy, generally on a geographical basis"* (Ferguson & Chandrasekharan, n.d.)
- * *"One of administrative decentralisation, which redistributes decision-making authority as well as financial and management duties among levels of central government, there*

is no actual transfer of authority across levels of government in this situation." It may simply be a shift of responsibilities from federal forest service workers in the capital city to those stationed in provinces, districts, and so on." (Gregersen et al., 2004)

Delegation to various legal persons, but ultimately under the same political direction, as described by numerous thinkers, such as -

- * *"the transfer of administrative responsibility for some functions to other public organisation beyond the usual authority of the central government, whether provincial or local government or parastatal agency"* (Ferguson & Chandrasekharan, n.d.)
- * *"A sort of administrative decentralisation in which functions and power are allocated to semi-autonomous entities that report to the central government but are not totally controlled by it." This sort of decentralisation is represented by public forestry firms and, in certain situations, implementation units of Specialised forestry projects, which are commonly supported by donors.*" (Gregersen et al., 2004,)

Devolution to a representative entity, such as a provincial government or local government, with autonomous political accountability. Many individuals see devolution as –

- * *"The transfer of 'natural resource management to local persons and organisation placed inside and outside of government' (Edmunds et al. 2003:1), however other people only use the term 'devolution' in respect to direct community transfers."* (Larson, 2005)
- * *"The delegation of rights and assets from the central government to local governments or communities."* All of these operations take place within the context of national regulations that determine the bounds of any decentralised or devolved forest management" (Sayer et al., n.d.).

* *"the outsourcing of governance responsibility for particular responsibilities to subnational levels, whether publicly or privately held, that are generally beyond the direct control of the central government."* (Ferguson & Chandrasekharan, n.d.)

"A type of administrative decentralisation in which specific decision-making powers are transferred from one level of government to another (which could be from a lower level to a higher level of government in the case of federations, or government transfers decision-making powers to civil society entities. Regional or provincial administrations, for example, become semi-autonomous and administer forest resources based on their own priorities and within well-defined geographical bounds. The bulk of political Decentralisation is connected to devolution" (Gregersen et al., 2004). In this respect, it is worth mentioning that fiscal decentralisation is a subset of decentralisation. Fiscal decentralisation is characterized as "the transfer of taxing and spending authority to lower levels of government" (Kiichiro & Jr, 1999). Fiscal decentralisation, in more specific words, relates to the principles and methods controlling functional or spending tasks, revenue allocation, and the repair of vertical and horizontal imbalances. Budgetary decentralisation, in a general sense, is the budgetary empowerment of lower levels of government.

The theoretical literature on fiscal decentralisation has attempted to answer the fundamental question of "who should do what" in order to ensure the most efficient and equitable allocation and distribution of resources consistent with people's needs and preferences [(Oates, 1972), (King, 1984), (Bird, 2000), (Shah, 1994) (Jennie et al., 1998), and (Bahl & Linn, 1992,)]. The purpose of efficient and fair resource allocation and distribution is to achieve fiscal balance across all levels and components of government. This fiscal balance aim is especially crucial in a vast country like India, where there are substantial regional variations in resource endowment, level of income, stage of development, fiscal infirmities, and even social and cultural traditions. In an administrative system with numerous levels of

government, fiscal decentralisation is crucial to creating fiscal balance or fiscal stability. Fiscal decentralisation in the context of government or the public sector is one of the subjects covered by public finance theory.

Traditionally, public finance theory [(Musgrave, 1959) and (Musgrave & Musgrave, n.d.))] outlines three roles for the public sector:

- * Stabilisation of the macroeconomy;
- * Redistribution of income; and
- * Allocation of Resources

According to the theory, while the national government is responsible for stability and redistribution, sub-national governments play a vital role in resource allocation. The main assumption of fiscal federalism theory [(Oates, 1972)] is that decentralisation will result in a better match of supply and demand for local public goods in a democracy. Local governments, as they are closest to the people, may more rapidly detect their requirements and deliver the correct type and degree of public services (Rondinelli et al., 1989, 57-87)]. The above distinction is largely valid, but there may be substantial overlap and inter-governmental coordination essential for all of these operations. The national government has a dominating role in achieving successful income redistribution and poverty reduction [(Hirsch, 1970), (Oates, 1999),] although local governments must play a vital role in effective implementation.

In order to reach certain national goals and egalitarian ends, the central government may need to construct a range of incentives and disincentives into inter-governmental fiscal connections. Again, if more money and resources are transferred to local governments, the national government will be unable to execute the stabilizing function adequately. It is vital to establish some degree of relationship between the advantages gained from public services in a

certain jurisdiction and the income potential as it develops responsibility [(Litvack et al (1998), Bird (2000)].

In terms of pricing, the research shows that a watertight assignment of diverse services and tasks would be hard. This is especially true when the proper legislative and regulatory framework, as well as much of the financing, emanate from higher levels of government, but practical service delivery happens at a lower institutional level (Bird, 2000). The demand for openness in spending assignment creates the equally crucial issue of matching functions and money, as well as the channels of accountability. Bird (2000) suggests three key criteria in the context of local government accountability:

- (i) When possible, sub-national governments should charge for the services they offer.
- (ii) (Where charging is impossible, sub-national governments should finance such services by taxes paid by local populations, unless the federal government is ready to pay for them through transfers for whatever reason; and
- (iii) Where the central government pays, sub-national governments should, at the very least, be responsible to the central government. In the Indian context, the term "sub-national governments" refers to both provincial and municipal administrations. It should be emphasised that in the framework of decentralised democratic administration, accountability implies considerably more than 'answerability.' Actually, democratic decentralisation is designed to address not merely the distortions produced by public institutions' misuse of power (the accountability component), but also to make them more responsive, participative, and transparent. Transparency stimulates engagement, and participation allows a public organization to be actually responsive to the needs of its citizens.

2.3.2 Municipal or Local Bodies within Multi-tiered Governments

Cross-country experience reveals that multi-tier systems explain governments and governance in the majority of nations. Aside from the national government, countries generally have two sub-national governments: provincial (or regional) and local. Table 2.1 depicts the arrangement of sub-national administrations in selected nations as reported by (Fjeldstad, 2001)

Table 2.1: Structure of Sub-national Governments in Selected Countries

Country	Intermediate Level	Local Level
Argentina	23 provinces	1617 minicipios
Brazil	27 states	4974 municipios
Colombia	32 departments	1068 municipalities
Ethiopia	9 region, plus 2 city administration, 66 zones	550 woredas
France	22 regions, 96 departments	36772 communes
India	25 states,7 union territories	3586 urban local bodies, 234078 rural local bodies
Italy	22 regions, 93 provinces	8100 municipalities
Kenya	39 country councils	52 municipal, town and urban councils
Malaysia	13 states	143 city, municipal and district councils
Mozambique	10 provinces	33 municipalities
Philippines	76 provinces	850 local authorities
Tanzania	21 regions (incl. Zanzibar)	92 district councils, 18 municipal and town councils, 1 city council (Dar es Salaam)
Uganda	45 districts, 13 municipalities	950 sub-counties 39 municipal divisions 52 town councils
United Kingdom	Counties	540 rural districts, metropolitan districts and London boroughs.
United States	50 States	39000 counties and municipalities 44000 special-purpose local authorities

Source: Reroduced from Mohanty, P.K; Misra, B.M; Goyal, Ranjan; and Jeromi, P.D (2007) '*Municipal Finance in India : An Assessment*', Department of Economic Analysis and Policy, Reserve Bank of India, Mumbai. – from (Fjeldstad, 2001)

The data in the preceding tables are not up to date, but they convey a broad image or sense of the scope of governments at various levels. According to official site figures, India has 28 states, 8 union territories, and 283541 local bodies, illustrating the growth of multi-tier government.

2.3.3 Municipal Bodies' Resources

One of the key challenges of fiscal decentralisation for effective and equitable resource allocation is 'who should do what,' as explained before in this chapter. Another key difficulty in fiscal decentralisation is 'who should tax, where, and what?' (Musgrave, 1983). Several writers have advanced the basic concepts of revenue assignment. They cover from broad notions to particular tax thinking [(Oates, 1972, (Musgrave, 1983), (Jr & Charles, n.d.), (Bird & Wallich, 1993), (Stein, 1998), (Oates, 1999), (Bird, 2000), and (Bahl, 2001)]. The writers believe that the federal government should levy taxes dealing with redistribution or stability, taxes on mobility factors, and taxes needing national level information and involving large economies of scale in tax administration. To foster "fiscal discipline," income instruments allocated to a tier of government should meet spending needs as precisely as practical [(Ter-Minassian, 1997)]. However, the mismatch of tasks and funding is the core challenge in fiscal decentralisation and one of the primary debating points in critical studies of fiscal federalism.

The literature on public finance explores the appropriateness of various systems of taxes at various levels of government. Though there is no ideal tax allocation between national and sub-national governments, the standard theory of fiscal federalism contains a set of tax-assignment criteria. These principles are congruent with national and sub-national governments' unique duties. Thus, taxes on international transactions (customs charges) as well

as a large share of income and inter-state trade taxes should be transferred to the national government. It is proper for the national government to collect corporate, income, and wealth taxes in order to perform the job of income redistribution. Local administrations require reasonably predictable financial streams.

Six principles of tax assignment in a federation, according to (Musgrave, 1983), are:

- (i) The national government should impose appropriate economic Stabilisation levies.
- (ii) The national government should be tasked with progressive re-distributive taxes.
- (iii) Personal taxes with progressive rates should be levied by jurisdictions that are best capable of implementing a tax with a worldwide base.
- (iv) Sub-national governments should tax revenue bases that have minimal mobility among jurisdictions.
- (v) Tax bases that are considerably disparately spread among jurisdictions should be integrated; and
- (vi) Benefit taxes and user fees can be imposed appropriately at all levels.

Broadway et al (2000) evaluated the application of various taxes and levies that can be collected by various levels of government for tax assignment, as indicated in Table 2.2.

According to the experts, in order to become financially secure and fully complete the range of given responsibilities, urban local governments must have a considerable number of local taxes. A local tax is one in which the local government (a) sets the tax income by selecting the tax rate and/or defining the tax base, and (b) maintains the revenue obtained for its own purpose [Bailey (1999) and Bird (2000)]. (Oates, 1972,) recommends the following key principles for the design of municipal taxation systems:

- * In terms of their impact on economic behaviour, municipal taxes should be as neutral

as practical.

- * The advantages and expenses of municipal taxes should be obvious to those who will get services and those who will be taxed.
- * The incidence pattern of municipal taxes should meet fundamental equity criteria; and
- * Avoiding the assignment of difficult taxes to local governments should minimize administrative and compliance expenditures.

Table 2.2 : Tax Assignment: Who should tax what ?

Tax Type	Determination of		Collection and Administration	Comments
	Tax Base	Tax Rate		
Customs	N	N	N	International trade taxes
Corporate Income	N	N	N	Mobile factor
Personal Income	N	N, P, L	N	Redistributive, mobility, Stabilisation
Wealth taxes (incl. capital, inheritances)	N	N, P	N	Redistributive
Payroll	N, P	N, P	N, P	Social programme
Value Added Tax	N	N	N	Admin, Costs, Stabilisation
Resource Taxes:				
Rent (profit) Tax	N			Unequally distributed
Royalties/fees	P, L	P, L	P, L	Environmental preservation
Alcohol, tobacco	N, P	N, P	N, P	Health care shares
Gambling, betting	P, L	P, L	P, L	Province and local responsibility
Lotteries	P, L	P, L	P, L	Province and local responsibility
Taxation of 'bads':				
Carbon	N	N	N	Global/national pollution
Motor Fuels	N, P, L	N, P, L	N, P, L	Tolls on road use

Congestion tolls	N, P, L	N, P, L	N, P, L	Tolls on road use
Parking Fees	L	L	L	Local congestion
Motor Vehicles:				
Registration	P	P	P	Provincial revenue source
Driver's license	P	P	P	Provincial revenue source
Business Taxes	P	P	P	Benefit tax
Excises	P	P	P	Immobile tax base
Property Tax	P	P	P	Benefit tax, immobile tax base
Land Tax	P	P	P	Benefit tax, immobile tax base
User Charges	N, P, L	N, P, L	N, P, L	Payment for services

N refers for National (or Central); P is for Provincial (or State); and L stands for Local.

Source: From Mohanty, P.K; Misra, B.M; Goyal, Ranjan; and Jeromi, P.D (2007) *'Municipal Finance in India : An Assessment'*, Department of Economic Analysis and Policy, Reserve Bank of India, Mumbai. – from (Boadway & Shah, 2000).

2.3.4 Imbalance in Municipal Bodies' Assigned Functions and Resources

The structure and arrangement of functions and finances under a federal setup are more or less equivalent across a wide variety of countries. National governments assign so many duties to sub-national governments that their expenditures regularly surpass their revenue sources. The same is true for provincial governments, which outsource more duty to their local governments than they have money to meet the costs of executing these tasks. As a result, there is a mismatch between functions and the resources available to carry them out, which is referred to as "vertical imbalance" in fiscal federalism literature. As a result, sub-national or local governments are often reliant on transfers from higher levels of government. The resources raised by sub-national governments are insufficient to cover the expenditure responsibilities, resulting in the fiscal deficit. The existence of a budget gap at the lower government level is the basic underpinning for the system of inter-governmental fiscal transfers from higher levels of government.

It should be stressed that the word "sub-national" embraces both provincial and municipal governments. Some nations (for example, India and the United States) have two-tier

sub-national governments, but others have only one, namely local government (e.g. United Kingdom).

2.3.5 Fiscal Transfers Between Governments

The demand for inter-governmental fiscal transfers derives largely from vertical misalignments between functions and finance, as well as compulsions imposed by horizontal disparities between various authorities. Horizontal inequalities among jurisdictions are referred to as "horizontal imbalance" in fiscal federalism research. It emerges when sub-national governments lack the same capacity and capacities in terms of generating income through taxes and other charges to carry out obligations entrusted to them. Cost and benefit spill overs between jurisdictions also justify transfers. A higher-level government may also wish to compensate local governments for budgetary disadvantages such as a small tax base and limited taxable capacity. It might also be because the national government, in the national interest, imposes its preferences on sub-national governments (e.g. eliminating poverty, guaranteeing a national minimum of public services of standard quality such as health and education, minimizing regional inequities etc). (e.g. eradicating poverty, ensuring a national minimum of public services of standard quality such as health and education, reducing regional disparities etc.). Local governments are regularly required to undertake national government-sponsored and funded activities.

Based on the prevailing practices across nations, there is a broad typology of grants. Grants are categorised as conditional or particular or unconditional or broad. The conditional categories are categorised as matching or non-matching, with the latter further classified as close-ended or open-ended. There are additional equalization awards that are largely decided by horizontal equity considerations. Which of them, or what combination of them, should be employed is a policy option that is significantly impacted by the aims of the individual

governments [Bahl and Linn (1992)]. Transfer design is vital because whether a transfer is excellent or terrible is decided by the aims to be reached and the technique in which it is made.

Other conditions being equal, intergovernmental funds increase local government service provision and may even lead to tax savings. Grants, in principle, operate by enhancing local persons' actual income (the so-called income effects) and/or decreasing the relative price of the services in question (substitution effects) (substitution effects). The behaviour of local populations to handouts is governed by their various income and price elasticities of demand. Where the income impact exceeds the substitution effect, there is the potential for higher demand for goods and services. Grants also give the possibility to lower local taxation. It is an empirical question whether contributions will have a more good influence, lower local income, or provide other advantages.

While open-ended matching funds have a higher stimulating effect on grant-receiving institutions due to both income and substitution effects, empirical study demonstrate that closed-ended awards stimulate more expenditure than open-ended grants [(Gramlich, 1977), (Shah, 1979), and (Shah, 1989)]. The primary drawback of these payments is that they may bias local objectives while also expanding geographical imbalances because richer governments may get more funds, particularly in an open-ended award scheme. This has enormous repercussions for nations like India, where eliminating geographical disparities is one of the government's stated development priorities.

The design of inter-governmental transfers in a rational, equitable, and accountable manner is crucial to the success of fiscal decentralisation. Given the different institutional structures and socioeconomic conditions that govern countries, the transfer system must be country-specific and open to constant change in response to changing demands. India has constructed constitutional provisions for assessing and approving inter-governmental transfers

on a regular basis, with various mechanisms for union-state and state-local transfers.

From the large literature on inter-governmental transfers, the following themes are believed to be significant for a federal system like India's:

- (i) Sub-national governments must be integrated into revenue mobilization in line to their tasks.
- (ii) Subnational budgeting can integrate objectivity, transparency, and predictability.
- (iii) Transfers should not be utilized to plug gaps as much as practical. Any transfer from a higher to a lesser government will contribute in closing the fiscal deficit, and the objectives to be reached will thus take precedence. Needs, rights, and incentives are essential issues in intergovernmental transfers. A simple distribution formula that provides enough weight to needs, rights to minimal basic services, performance incentives, inter-jurisdictional equality, and so on is vital.
- (iv) A medium-term spending and income structure may be constructed.
- (v) Efficiency and inter-jurisdictional equity must be assured. To be efficient, those in charge of any service must have suitable resources (assuming that the best alternative is to produce their own money) and sufficient flexibility to make decisions while being held accountable for results. The full efficiency advantages of decentralisation are unlikely to be reached until larger transfers are matched by a local contribution, however tiny that contribution may be in the poorest places.
- (vi) Transfers should not be used to bail out ineffective and irresponsible subnational administrations. Budgetary constraints should be established, and soft alternatives should be avoided.
- (vii) Fiscal autonomy cannot be realized under a grant system; instead, sub-national

governments would have to rely more on tax initiatives and imaginative revenue collection, such as project-tied loans, public contributions, and so on.

- (viii) Subnational governments should have stated tasks, including expenditure and performance constraints, as well as accountability.

Chapter – Three
Indian Municipal Financial System : Before and After 74th Constitution
Amendment Act

3.1 Introduction

The municipal government, a structural division of urban local government, was envisioned as an elected political institution entrusted to deal with concerns of local civic services. It encourages power distribution and improves common people's awareness of how government works in practise. Every state government in India is obligated by law to form municipal bodies. These organisations are viewed as an extension of the state government, with jurisdiction and resources. Municipal governance now has constitutional legitimacy according to the 74th Constitutional Amendment. The 74th Constitution Amendment is characterised by the interconnectedness of three levels of government: municipal, state, and federal.

Analysis and comprehension of the Indian municipal financial system should be suitable and acceptable if done within the framework of the history and development of local self-government in India. This chapter discusses the history of local self-government in general, and urban government in particular, in relation to the Indian municipal financial system in the context of the 74th Constitution Amendment.

Local government has always come before national government. Humans originally evolved local government, and even after the development and expansion of national government, local government continued to exist with increasing relevance over time.

3.2 Evolution of Local Self-Government in India

Periodic evolution and study of local self-government in India can be organised in following time periods.

- (i) Pre 1882
- (ii) 1882 -1919
- (iii) 1920 -1937
- (iv) 1937- 1949
- (v) 1950 – 1992
- (vi) After 1992

(i) Pre 1882

Section 158 of the Charter Act of 1793, which established municipal administration in the three presidential towns of Madras, Calcutta, and Bombay and mandated the appointment of Justices of the Peace with authority to levy assessments on homes and estates and provide for scavenging, watching, and repairing of the streets, is the earliest formal enactment dealing with municipal administration in India. The municipal government was extended to the district towns in Bengal in 1842 when the Bengal Act was established, which authorised the setting up of a town committee for sanitary reasons upon petitions filed by two-thirds of households in a town.

The municipal Act of 1850 was made applicable to the whole of British India. Unlike the preceding regulations, it provided for indirect taxation to which people had been accustomed since times immemorial. Lord Mayo's Resolution in 1870 made the first systematic attempt to make provincial governments responsible for the creation of local self-government through strategy of decentralisation for the control of their own local budgets and functions.

(ii) 1882-1919

In 1881, the influence of Lord Mayo's programme on local self-government was examined in terms of the number and function of municipalities. Lord Ripon's Government

published its momentous resolution on May 18, 1882. The expansion of knowledge and the desire of educated Indians to be engaged in administration, according to Lord Ripon, necessitated the inclusion of educated Indians in the administrative process. People were given every option to engage in the administration of their own affairs and were trained to do so.

The following ideals were enunciated in Lord Ripon's resolution, which became one of the guiding principles for municipal administration in India:

- The majority of non-governmental members and the chairman of local bodies should be elected.
- Control of local bodies by the state should be indirect rather than direct.
- To carry out their functions, these bodies must be endowed with sufficient financial resources. To this objective, local governments should be permitted access to certain sources of local revenue, as well as reasonable grants from the provincial budget.
- Personnel from the local government were expected to work under the administrative authority of local entities. Government staff delegated to local governments shall be treated as local government employees and subject to their authority.
- The provincial governments should interpret the 1882 judgement in light of the local conditions in their respective jurisdictions.

In 1906, the Royal Commission on decentralisation was created. The release of the report in 1909 was a watershed moment in the history of municipal government.

(iii) 1920 -1937

The Governance of India Act, 1919, established the role of local self-governance in the diarchy form of administration. The reform period is defined by the provincial legislature's greater participation in the sphere of local self-government, with the objective of developing

sustainable self-governing entities.

Up to 1925, eleven official legislations and six non-official bills dealing with both rural and urban local bodies were introduced in Madras. For the same period in Bombay, the number was sixteen and thirteen, respectively. Between 1924 and 1926, the provincial legislature of Bengal saw the presentation of four government proposals and fifteen non-official legislations. Other regions shared the same zeal; for example, in Madhya Pradesh, between 1921 and 1927, two hundred and eleven questions were posed and eleven resolutions were enacted on local body concerns.

However, they consistently failed to collect tax arrears. Some large misappropriations were recorded as a result of a lack of oversight. This became a common fault, and significant improvements in the process of local self-government, notably in the relationship between the provincial government and local associations, were plainly necessary. This investigation led to the establishment of the next model of local self-government between 1937 to 1949.

(iv) 1937 - 1949

Although initiatives to improve the system began far earlier, the establishment of set-up for local government control did not begin until 1937. Special committees were formed in Bombay and the United Provinces to rebuild the whole apparatus.

With the rising power of the national movement and the establishment of provincial autonomy through the Government of India Act 1935, Indian nationalist leaders' interest in provincial assembly politics gained centre stage, while their interest in local government politics faded.

The country's independence in 1947 marked the beginning of a new era in the history

of local administration in India. After the British handed over control to the Indians, there was self-government at all levels - central, provincial, and municipal. As a result, the local administration was able to function within the larger framework of nationalist provincial and national governments at higher levels.

(V) 1950 -1992

In the year 1950, the local governments embarked into a new era. The Constitution addressed the subject matter of local governments and announced its state policy: "*The State shall take measures to construct village panchayats and invest them with such powers and authority as may be needed to enable them to act as units of self-government.*"

As compared to the massive changes in rural local government, the expansion of urban local government was gradual. It is only of late that the urban local government gained the attention of the government. The Third Five Year Plan took note of the significance of urban local government and declared regarding development of towns and cities in the next phase of planning, to create circumstances of a better life for residents living in urban areas.

Many state governments set up committees to study the operation of local government bodies and to suggest remedial actions. The Central government also organised committees to this end. The Panchayti Raj was, indeed, approved by a committee put up by the national government. In addition to the Balwant Rai Mehta Committee (1957), the Central Government set up the Ashoka Mehta Committee on Panchayti Raj Institutions (1978) and the GVK Rao Committee to assess the present administrative processes for rural development and poverty alleviation programmes (1985). Rural set-ups dominate India, so during its development process problems connected to rural regions were accorded more emphasis. In addition to this, the central government has established up numerous committees to investigate into concerns

of urban local administration, some of these significant committees are:

- Local Finance Enquiry committee, 1951.
- Committee on the Training of Municipal Employees, 1963.
- Committee of Ministers on Augmentation of Financial Resources of Urban Local Bodies, 1963. (*Zakaria Committee*).
- Rural-Urban Relationship Committee, 1966.
- Committee on the Service Conditions of Municipal Employees, 1968.
- Committee on Budgetary Reforms in Municipal Administration, 1974.
- Study Group on constitution, Powers and Laws of Urban Local Bodies and Municipal Corporations, 1982.
- Study Group on Constitution, Power and Law of Urban Local Bodies, 1983.
- Task Force on Housing and Urban Development, 1983.
- National Commission on Urbanisation, 1987.
- The High Powered Expert Committee (HPEC) for Estimating the Investment Requirements for Urban Infrastructure Services; 2011.
- Municipal Finance Matters : Indian Municipal Finance Report (IMFR), NIPFP, New Delhi, 2011.
- National Urban Policy Framework – NUPF (Ministry of Housing & Urban Affairs),

2018.

- State of Municipal Finances India : A Study Prepared for the Fifteenth Finance Commission, ICRIER, New Delhi, 2019.
- Report of the NITI Aayog Constituted Advisory Committee on 'Reforms in Urban Planning Capacity in India', 2021.

Aforementioned development trajectory of municipal finance throughout previous century, is testimony to the enormous attention it has garnered. Numerous studies by committees and commissions have sought to enhance the urban municipal functioning. Since independence, Local Finance Enquiry Committee (1951), Taxation, Enquiry Commission (1953-54), Zakaria Committee Reports (1963) and Rural-Urban Relationship Committee (1966) highlight the idea. However, the methodologies of Committees and Commissions differ. A debate on the methods would be in order.

The Local Financing Enquiry Committee (1951) advocated allocated revenue model to boost Local finance. But Zakaria Committee (1963) advocated for greater usage of existing resources along with shared income of some levies and certain state grants-in-aid programme. Taxation Enquiry Commission (1953), identified a variety of revenue sources to be solely used by local entities. The Commission did not endorse shared revenue of taxes but acknowledged the necessity for establishment of a logical grants-in-aid mechanism. The strategy adopted by Rural-Urban Relationship Committee (1966) was new. Firstly, it suggested an exclusive list of local taxes to be exploited by the municipalities; secondly, it suggested a rational scheme for grants-in-aid keeping in view needs of municipal bodies and local autonomy; third, the committee for the first time recommended that the finances of local bodies should be considered as a part of the overall public expenditure of the country, i.e. it sought to integrate

local finance with state finance and ultimately with national finance.

In plan of enhancing local finance, it is vital that they be appropriate resources should be put at the disposal of municipal organisations. For this they should not be exclusive state transfers leading to deterioration of local authority. The Zakaria Committee (1963), appropriately emphasised on the necessity for greater exploitation of the available resources, at the hands of the urban local governments. The Rural-Urban Relationship Committee (1966) also deemed it reasonable to suggest even general purposes grants with strings attached (at least partly) (at least partially). In spite of all this it has been found that the municipal bodies have grown lazy in so far as exploitation of the available resources; this has made them reliant on the State transfer which naturally led to inroad into local autonomy.

Following the recommendations of the Local Finance Enquiry Committee (1951), the West Bengal Municipal Finance Commission (1982) recommended a 'gap filling' policy to local body resource development. The Commission researched municipal finance in depth and assessed the projected state transfer under the recommended method. Notably, it did not argue for a grant-in-aid framework for metropolitan municipal administrations. The state government, on the other hand, devised the Revised Grants Structure (RGS) in 1986 in order to offer financial support to local authorities for the preservation of a predetermined standard of service or the introduction of a new service.

Throughout the twentieth century, the number of municipal corporations increased across the country. Another notable alteration was the administrative split of the rural and urban municipal governments. To deal with rural self-government, the departments of Community Development and Panchayati Raj were established both at the state and national levels. Similarly, in the States or at the Center, the departments of Local Self-Government or Urban Development and Housing are primarily concerned with urban local government, urban

housing, and urban transportation.

Local government is typically defined as a system of territorial organisations with defined borders, a legal body, institutional structure, power and obligations created by general and individual laws, and a degree of financial and administrative autonomy. It is described as the complex of elected authorities, as well as any administrative infrastructure involved with the administration of local affairs. Its institutions must be run by elected representatives. As a result, there can be no self-government without the concept of election. Thus, democracy and local governance are linked (Khan 1984).

Local government is the third layer of government, and it is regulated by the states. However, thus far, state governments' approach to local governments has not been encouraging. Despite the governments' apathetic attitude regarding local self-governments as their equivalents, various exogenous and endogenous conditions prompted the Government of India and policymakers to place enough emphasis on the problems and policies of local self-governments. As a result, for the first time in 1985, the '*National Commission on Urbanisation*' was established to investigate the problems and inter-alia of urban governance in India. The Commission recommended the following policies in its report after first determining the urban development strategy:

- (i) The decay and degradation of services and the increasing pauperization of the existing urban centres should be immediately reversed.
- (ii) According to the Commission, by the year 2001 anything between 14-15 crore extra people will have to be accommodated in urban areas. Of these at least 6 crores will accrue to the existing towns by way of natural growth. The capacity of the present urban settlements to absorb the natural growth has to be built up on a high priority basis.

- (iii) Of the 600 towns, which are growing rapidly in terms of population, 329 have shown signs of fast economic-growth or have a potential for such growth in the future. The Commission recommends giving highest priority to these towns in future development.
- (iv) The logic of developing more towns in urbanized districts is that, if economic activity gravitates to these towns, there would be a breakaway from the British system of concentrating wealth in just a few metropolitan cities. Similarly, the development of towns in highly rural districts, which are densely populated, would create new non-agricultural employment opportunities and encourage the siphoning off of the idle surplus labour of the rural areas into productive urban employment. This would localize migration within the region and by relieving pressure on an overloaded agricultural system it would bring wealth to the villages.
- (v) The development of state capitals and other administrative centres, especially those in backward areas, would diversify employment from just government service into industry, trade and commerce and other services. This would generate a growth - momentum in the backward regions.
- (vi) The development of towns in agriculturally rich areas, investment in improving rural linkages of resource-specific towns, located in the midst of industrial towns, in backward area which have been developed in the recent past, would strengthen the rural -urban continuum and pass on prosperity from relatively wealthy urban areas to the countryside which services them.
- (vii) The Commission unequivocally recommends the abandonment of the policy of locating new industries in backward areas and its replacement by a policy of developing the towns identified on the basis of the criteria mentioned above. Instead of forcibly inducing investment in areas which are backward and have little infrastructure and in which the concessions are likely to be misused, the Commission recommends the

development of the identified existing urban centres at intermediate and small-town level so that entrepreneurial decisions may be taken in favour of these towns in preference to the overloaded large cities. Because the selected towns are located in 49 closely interrelated regions, their development would benefit the backward areas in a much better fashion than the mere development of a hundred totally new growth centres.

(viii) The Commission recommends that the share of urban development in the plan outlays should increase from the present level of about four per cent of the total outlay to eight percent with half coming from the central sector.¹

The above recommendations of the National Commission on urbanisation was also one of the motivating elements for enactment of 74th constitutional amendment. While looking at over all framework of urban local government across the country, it is seen that there are some obvious discrepancies in nomenclature, structure of local government and its operation in various states. Yet, there is an extraordinarily high degree of homogeneity in the structure of municipal government in the country. This is so, because, historically, local government in India is a product of a centralised administrative system and after independence it has been fashioned within the framework of centralised planning.

(vi) After 1992

In this era 73rd and 74th Constitution Amendment Acts granted constitutional standing to municipal governments in India. After these two constitutional amendment acts, two schedules (Eleventh & Twelfth Schedules) were added to Indian constitution which provides powers, authority and duty of urban and rural local administrations. Now, local governments are an integral part of the national government structure, this level of governments are closest

¹ Report of the National Commission on Urbanisation. Vol.- II, PP. 36-37, Government of India. New Delhi, August, 1988.

to the citizens and they are in the best position to involve them in the decision-making process of improving their living conditions and to make use of their knowledge and capabilities in the promotion of all round development. There are two forms of local government: urban local government and rural local government. Until recently, urban local government was reflected in Municipal Corporations, Municipal Councils, Town Area Committees and Notified Area Committees. However, the Seventy-fourth Constitution Amendment Act notified in 1992 had advised to establish a common structure of Municipal Corporations, Municipal Councils and Nagar Panchayats in transitional zones. Rural local government works through Zila Panchayats (Parishads), Taluka (Block) Panchayats and Village Panchayats.

The tables below illustrate some financial aspects of municipal sector in India. It gives an overview of Indian municipal finance in present context. Financial aspect or situation is very important for delivery of services in any domain of governance and municipal domain is no exception to this.

Table 3.1 : Trends in Municipal Revenues in India by Source : 2007-08 to 2012-13

Sl. No.	Sources of Revenue	2007-08		2012-13	
		Total (Rs. Crore)	% of Total Municipal Revenue (%)	Total (Rs. Crore)	% of Total Municipal Revenue (%)
A – Own Sources					
1	Total Taxes	18366	37.20	30912	32.00
	Property Tax	8159	16.53	15110	15.64
	Other Taxes	10207	20.68	15801	16.35
2	Non-taxes	9134	18.50	19002	19.70
	Total Own Source Revenues	27501	55.70	49913	51.60

B – Other Sources					
1	Government of India Transfers	3515	7.10	5387	5.60
2	Central Finance Commission Transfers	986	2.00	3760	3.90
3	State Assignment/Devolution	9342	18.90	18537	19.20
4	State Grant-in-aid	6653	13.50	14809	15.30
5	Others	1355	2.70	4234	4.40
	Total Other Source Revenues	21851	44.30	46727	48.40
C – Total Revenues		49351	100.00	96640	100.00
	Gross Domestic Product at Factor Cost in Current Prices (GDP)	4582086		9388876	
	Property Tax as % of GDP		0.18		0.16
	Own Tax as % of GDP		0.40		0.33
	Own Revenues as % of GDP		0.60		0.53
	Government of India/Central Finance Commission Transfers as % of GDP		0.10		0.10
	State Government/State Finance Commission Transfers as % of GDP		0.35		0.36
	Municipal Revenue as a % of GDP		1.08		1.03

Source: Administrative Staff College of India (2014). Based on data furnished by state governments to the 14th Finance Commission of India, Indian Public Finance Statistics 2013-14.

The above Table (3.1) presents data on revenues of municipalities by source in India in 2007-08 and 2012-13. In 2002-03, 'Own revenues' accounted for 63% of total municipal revenues in India. The share declined to 55.7% in 2007-08 and 51.6% in 2012-13. The share of tax revenues declined from 37.2% to 32% between 2007-08 to 2012-13. Non-tax revenues accounted for 18.5% in 2007-08 and 19.7% in 2012-13. The share of central transfers increased

marginally from 9.1% to 9.5%. That from state government sources went up from 32.4% to 34.5% between the two years. All the key municipal fiscal autonomy ratios, own revenues-GDP, own taxes-GDP, and property tax-GDP, had declined between 2007-08 and 2012-13.

India is far behind developed and comparable developing countries in expenditure and revenue decentralisation to local bodies. Municipal expenditure-GDP ratio in India is estimated at 1.0 per cent in 2012-13.² In contrast, local expenditure-GDP ratios in select Organization for Economic Cooperation and Development (OECD) countries in 2010 were as follows: Belgium (7.0), Germany (7.9), Austria (8.2), France (11.8) United Kingdom (14.0), Italy (15.9), Finland (22.6), Sweden (25.1) and Denmark (37.3; OECD 2012). The ratio of municipal revenue to GDP in India is estimated at 1.03 per cent for 2012-13,³ compared to Poland (4.5), South Africa (6.0), Germany (7.3), Brazil (7.4), Austria (7.8), United Kingdom (13.9), Norway (14.2), Italy (15.3), Finland (22.4) and Denmark (37.1).⁴ Table 3.2 presents the ratios of local government revenues GDP, taxes and user fees to local spending and local revenues by category to total local government revenues in OECD countries.

Table 3.2 : Distribution of Local Government Revenues : Select OECD Countries, 2010

Country	Local Government Revenues as % of GDP	Taxes and User Fee as % of Local Spending	As % of Total Local Government Revenues			
			Taxes	User Fees	Transfers	Other Revenues
Austria	7.8	68.7	62.0	10.2	18.7	9.1
Czech Republic	11.6	55.3	40.7	16.1	41.7	1.5

² Based on data submitted by state governments to the 14th Finance Commission of India, Administrative Staff College of India (ASCI)-2014 and Indian Public Finance Statics 2013-14.

³ Based on data submitted by state governments to the 14th Finance Commission of India, Administrative Staff College of India (ASCI)-2014.

⁴ Mentioned in Mohanty, Prasanna K (2016), 'Financing of Cities in India : Municipal Reforms, Fiscal Accountability and Urban Infrastructure', Sage Publications India Pvt. Ltd, New Delhi, pp. 21.

Denmark	37.1	39.1	34.3	4.9	57.5	3.2
Estonia	10.4	54.6	44.6	9.0	44.6	1.8
Finland	22.4	66.9	46.2	21.4	29.6	2.8
Germany	7.3	51.3	40.0	15.5	40.6	3.9
Hungary	11.5	28.6	21.2	10.2	67.1	1.5
Ireland	6.7	23.7	13.4	9.2	67.2	10.1
Italy	15.3	45.3	40.1	7.0	50.9	2.0
Luxembourg	5.2	49.2	31.2	18.1	49.2	1.5
Norway	14.2	50.1	41.1	12.7	42.2	4.0
Portugal	6.3	40.7	34.3	12.6	43.2	9.9
Slovenia	9.9	51.3	42.0	11.4	45.3	1.3
Spain	6.4	47.5	45.1	8.9	44.4	1.6
United Kingdom	13.9	25.4	12.7	12.9	71.8	2.6

Source: OECD (2012)

**Table 3.3 : Distribution of Municipal Revenues by Category of Urban Local Body :
2007-08 and 2012-13 (%)**

Sl. No.	Sources of Revenue	Municipal Corporations		Municipalities		Nagar Panchayats	
		2007-08	2012-13	2007-08	2012-13	2007-08	2012-13
A – Own Sources							
1	Total Taxes	45.5	40.9	18.6	14.7	10.9	8.2
2	Non-taxes	22.2	23.9	9.3	10.5	11.3	11.8
	Total Own Source Revenues	67.6	64.8	27.9	25.2	22.1	20.1
B – Other Sources							
1	Government of India	7.0	4.6	8.4	7.3	3.0	2.2

	Transfers						
2	Central Finance Commission Transfers	0.8	2.1	5.3	8.8	2.8	8.8
3	State Assignment/Devolution	11.4	12.6	31.2	29.0	63.1	49.9
4	State Grant-in-aid	10.4	12.2	24.2	23.8	6.9	14.0
5	Others	2.7	3.8	3.0	5.8	2.1	5.2
	Total Other Source Revenues	32.4	35.2	72.1	74.8	77.9	79.9
C – Total Revenues		100	100	100	100	100	100

Source: Administrative Staff College of India (2014). Based on data furnished by state governments to the 14th Finance Commission of India, Indian Public Finance Statistics 2013-14.

Table 3.3 presents the distribution of municipal revenues by category of ULBs in India. Between 2007-08 and 2012-13 the ratio of own revenues to total revenues declined in all groups of ULBs, that is, municipal corporations (tier I), municipalities (tier II) and nagar panchayat (tier III), indicating an erosion in municipal fiscal autonomy across the country. The smaller the size of ULBs, the greater is the dependency on intergovernmental transfers of finance civic services and facilities.

Table 3.4 : Distribution of Municipal Revenues by Sources in India (%) : 2012-13

Sl. No.	State	Taxes	Non-taxes	Central Transfers#	State Transfers##	Others
1	Andhra Pradesh	33.5	24.3	7.5	34.7	-
2	Assam	14.9	14.7	11.9	23.3	35.2
3	Bihar	13.2	5.2	28.4	52.5	0.8
4	Gujrat	18.8	12.1	5.4	57.1	6.5
5	Haryana	18.5	24.3	14.9	37.6	4.9
6	Himachal Pradesh	-	-	55.8	44.2	-

7	Jammu & Kashmir	6.1	5.5	31.5	56.9	-
8	Karnataka	20.2	8.8	17.8	53.2	-
9	Kerala	9.8	5.9	39.1	45.1	-
10	Madhya Pradesh	10.0	8.6	8.8	69.2	3.4
11	Maharashtra	53.2	29.9	3.8	9.8	3.4
12	Odisha	10.2	9.2	41.4	33.7	5.5
13	Punjab	69.2	16.8	8.9	2.8	2.3
14	Rajasthan	7.0	32.1	12.0	47.7	1.3
15	Tamil Nadu	21.6	12.0	6.6	56.6	3.2
16	Uttar Pradesh	10.8	5.6	10.4	54.7	18.6
17	Uttarakhand	5.9	3.4	7.6	69.3	13.8
18	West Bengal	20.1	19.1	13.7	46.2	0.8
	All India	32.0	19.7	9.5	34.5	4.4

Source: Administrative Staff College of India (2014). Based on data furnished by state governments to the 14th Finance Commission of India, Indian Public Finance Statistics 2013-14.

Government of India Transfers + Central Finance Commission Transfers.

Assigned Revenues from State Governments + Devolution through State Finance Commission + State Government grant-in-aid

Table 3.4 presents the distribution of municipal revenues by source in 18 states of India in 2012-13. Except Maharashtra and Punjab, the dependency of ULBS on intergovernmental transfers is very substantial, exceeding 70 per cent in the cases of Himachal Pradesh, Jammu and Kashmir, Kerala, Bihar, Madhya Pradesh, Uttarakhand, Odisha and Karnataka. The Maharashtra case is explained by the presence of octroi in Mumbai and local body tax (LBT) in other municipal bodies; in Punjab, the municipalities have access to excise revenues. In Mumbai octroi was removed in 2017 by LBT with a promise to state to compensate the civic body for the next five years, considering the last year's total revenue collection and with an

annual 8 per cent increase on it.⁵

3.3 Historical Background of Municipal Governance in India

While looking at the urban institutional structure within the political arrangements of governance, one may detect a clear relationship between constitutional development and the emergence of municipal institutions in India. Madras received its municipal charter as early as 1687 and municipal institutions outside the Presidency cities were created from 1842 onward; it was only after the mutiny of 1857 that the British began seriously to think about the large-scale municipalization of the country — partly to relieve the imperial exchequer — so that by 1870 there were about 200 municipalities throughout British India (Tinker 1954). (Tinker 1954). (Tinker 1954).

However, Indian enthusiasm in this area was limited, in spite of the famous Ripon Resolution of 1882 that stressed political education even at the price of efficiency in local government. From the nationalists' point of view, local self-government was meaningless without political participation at the higher levels of governance; whereas the British officials in India, to maintain their decisive say in administration at ground level, resisted all attempts to free the local authorities from the direct or indirect control of district administration.

After the Montagu-Chelmsford Report, under the Government of India Act, 1919, municipal institutions were totally emancipated from the oversight of the district level authorities and the Indian political leadership became more interested about municipal affairs.

However, with the advent of provincial autonomy under the Government of India Act, 1935, the interest of Indian nationalists in municipal concerns declined, and political activity

⁵ <https://indianexpress.com/article/cities/mumbai/octroi-abolished-govt-gives-compensation-of-rs-647-3-crore-to-bmc-4737759/>

in the provincial legislatures became the center-stage of Indian politics. A similar change of political emphasis at the national level took transpired following Indian independence in 1947, having severe repercussions for both federalism and local administration in India. Politically, therefore, municipal institutions were important for a brief duration of around sixteen years from 1919 and 1935. Their political importance revived with the passing of Seventy-fourth Constitution Amendment Act in 1992 by the Indian parliament, which granted constitutional standing to municipal governments under a liberalised economic framework.

3.4 Ideology, Governance and Institutions

The concept of municipal government and its development as an institution of local self-government is not arbitrary or spontaneous, it is based on the governance ideologies and objectives of respective times in which these institutions existed.

3.4.1 Political Objectives

The political grounding of urban institutions in India was built in English 'utilitarianism', represented largely in the works of John Stuart Mill on 'local representative bodies' (Mill 1861). According to Mill, one of the basic motivations for founding local government was 'public instruction of the citizens'. The similar notion is clear in the Ripon Resolution of 1882, which envisioned 'the small beginnings of the autonomous political life' via the adoption of local government to replace 'the more dictatorial system'— the district administration.

Later, the Decentralisation Commission (1909) suggested the removal of government power over local bodies. This was bolstered by the Montagu-Chelmsford Report (1918), which focused attention on the educational idea, and extended franchise and popular control in local councils. It agreed that the formation of district administration in India was an imitation of the

'quasi-military' organisation of the mogul empire and as such was incompatible with the British idea of local government.

The analogous idea was developed by the Simon Commission, which contrasted the British with the French styles of local government. In the former, governance is decentralised and local governments construct a separate system where they are guided by a single will of the State. In the latter, governance is deconcentrated and local governments are related to the central government through its field administration where local government has a will of its own.

Prior to the 1919 reforms, local self-government in India generally belonged to the deconcentrated variant. After the reforms, only city government in India was divided from the district administration while rural local government remained to function on the French style of local administration. The existing confusion concerning the purpose of local government in India originates from a lack of clarity surrounding the idea of local government so carefully stated during the colonial era (Bhattacharya 1972).

Recently, revival of interest in local government mirrors a change in the political ideology of the country, in the aftermath of economic liberalisation began in 1991. Efforts to establish a constitutional standing to local government begun in 1989. It was subsequently formalised by the Seventy-third and Seventy-fourth Constitution Amendments in 1992 — one for rural local administration (panchayat) and the other for municipal governance. Both the modifications are identical in idea, design and overall substance. The important aspects of the Seventy-fourth Constitution Amendment are: (a) regular conduct of elections and limited period of supersession, (b) political representation and reservation of seats for the weaker sections, (c) proposed devolution of functions, and (d) arrangements for adequacy of finance through fiscal review, assignment of revenue authorities, and fiscal transfers through State

Finance Commissions. The measure also demonstrated the moribund condition of municipal affairs as follows: *“In many States local bodies have grown weak and useless on account of a number of issues, including the incapacity to hold regular elections, lengthy supersessions and inadequate devolution of authority and tasks. As a result, Urban Local Bodies are not able to operate effectively as lively democratic units of self-government.”*

3.4.2 Institutional Reality

The structural reality of urban administration in India stands in sharp contrast to the elevated idealism of utilitarian philosophy. Colonial urban policy, as defined by Oldenburg, was meant to safeguard the security and salubrity of the ruling class via an elaborate structure of political control of all urban public institutions (Oldenburg, 1984). The colonial authoritarian structure of municipal authority was being perpetuated even in the post-independence period. Such a type of administration is intolerant of any political challenge to the rule that is largely urban-based. Consequently, political power-sharing among scattered urban organisations is rejected in an allegedly multi-level democracy. Even in the present, when stakeholders of urban local governments have grown politically more vociferous, in most of the urban regions district and state authorities dominate in questions of development of a number of urban infrastructures. As it will be discussed in the next chapter, one of the exceptions to the situation seems to be the management system of Kolkata and Howrah municipal corporations with their cabinet type municipal executives in the town halls and multi-party borough committees at the zonal level (Mukhopadhyay, 1984).

3.5 Structures and Performance of Municipal Bodies

Structures of municipal bodies have evolved over time and these structures are also one of the important factors in performance of municipal bodies.

3.5.1 Structure

Municipal institutions are established up in designated urban areas as defined by the census and also in areas of exceptional importance as decided by competent government authorities. The census requirements for an urban area covers: (i) a minimum population size of 5000, (ii) at least 75 percent of the male, major working population should be involved in non-agricultural pursuit, and (iii) a density of population of at least 400 individuals per sq. km. However, some state governments demand a sufficient amount of potential income in the municipal authority to be constituted and also define a greater threshold of population size.

On the other side, there are no criteria to designate places with substantial urban features such as temple towns, pilgrimage and tourist hubs, fast industrialising districts and military posts. The tiny towns are covered under the discretionary criteria of urban settlement until they achieve the requisite population level of roughly 10000 for municipalization with fully elected councils. Again, when a municipal region reaches roughly 300000 people, it is typically regarded appropriate for being awarded municipal corporation status. The contrast between a municipal council and a municipal corporation principally depends in their differing executive structure and also in terms of their functional areas, tax powers and type of governmental oversight.

The Seventy-fourth Constitution Amendment now stipulates and restricts the category to three: (a) transitional urban areas have town councils (nagar panchayat), (b) smaller urban areas have municipal councils, and (c) bigger urban areas are administered by municipal corporations. The State governments establish the requirements for different sorts of local entities. In addition, they are open to create industrial townships outside these three categories which need not be elected organisations. The position of the cantonments is left unchanged by the Seventy-fourth Constitutional Amendment.

Apart from municipal institutions, the Indian urban scene is cluttered up with a host of para-statal and departmental agencies dealing with urban services, in addition to the general regulatory activities through the police and district administration, so much so, that the substance of urban governance really lies with the State government, rather than in the municipal institutions. Rodney W. Jones discusses this phenomenon from his case study of Indore city politics:

“The bulk of the critical choices impacting the city's political future are made externally, at higher levels of politics. In reality, the governance of the city is largely by the State Government.” (Jones, 1974)

There are various specific authorities in India's metro-areas which provide many services including water & sewerage, bus transportation, suburban railroads, power, town planning, region development, housing, slum redevelopment, etc. However, these metropolitan locations are fairly unusual in the urban institutional environment. In the smaller cities and medium-sized towns the municipal institutions are responsible for a much wider range of urban services, but for existence of improvement trusts and the functioning of state-wide para-statal, the smaller towns are covered by the district-centred para-statal and state functional directorates operating through the district administration. These techniques in urban governance, introduce two major difficulties in this context: (a) depoliticisation of urban development, and (b) enlargement of state functional realm.

The colonial difference between local development and maintenance, that gave birth to the urban improvement trusts and municipal statutory functional committees was impelled by an altruistic bureaucratic conviction in depoliticised urban development. After independence, this ideology acquired additional backing from the ruling politicians at the state and national levels through the continuation of non-representative development and functional authorities

on grounds of their constitutional right. This is what is characterised by the political scientist Robert Norman as the 'sovereignty trap' in defining the Indian urban political landscape (Norman, 1976).

However, this notion of political orientation and inappropriate functioning of urban municipal governments was questioned by many. The argument that the local government organisations are political institutions, and thus, unable to be depended upon could have been acceptable in the heyday of development trusts before independence but stinks of folly in the contemporary environment. (Datta, 1974) It was also pointed out that avoidance of local politics would simply overburden state politics where the concerns may not be important. Even if municipal politics is avoided by forming special purpose entities the new organisations will quickly get involved in another style or degree of politics. The main difficulty in a huge metropolitan population is not to avoid politics, but to establish an organisation of administration through which political energies find meaningful expression. (Bhattacharya, 1978).

Growth of functional para-statal and departmental agencies for urban services is also due to the desire of the state functional departments to create their exclusive domain, which is insulated from general government control by patron-client relations between the parent department and its dependent agencies. The concept that these authorities are not constrained in by bureaucratic procedures would produce extra functional resources, enabling induction of 'experts' and be 'independent' in taking decisions, are all illusions of public - institutional growth. The real purpose seems to be to widen the power domain of special functional interests at the cost of general government at the state and field administration levels, thus creating subsequent problems of resource allocation, personal management and institutional co-ordination (Datta and Chakravarty 1981).

3.5.1.1 Governance Structure in Big Territorial Urban Areas

Big city administration in India has two forms of areal problems: (a) decentralisation of city services, and (b) fulfilment of metropolitan tasks. In both these regards the Seventy-fourth Constitution Amendment seems to have touched new ground. The Seventy-fourth Constitution Amendment's reaction to the areal issues of big cities is in its admission to link these to the existing local representative municipal councils and other rising metropolitan entities to tackle metropolitan duties.

3.5.1.1.1 Decentralisation in Big Cities

The difficulty of decentralisation of main municipal services stems from the varying access and distribution of community services within the local authority. In a manner, this is an extension of such differentials between the urban and semi-urban districts outside the formal city limits. Within Indian cities, the centre or core regions and the government enclaves (i.e. the civil lines) have historically been favoured by the affluent, and municipal services are mostly focused to these areas responding to elite desires. As a result, the rest of the city is left with sub-standard quantity and quality of civic services. (Mishra and Sharma 1979).

The additional difficulty of incorporation of large rural property within a predetermined city area is commonly encountered when a municipal council is upgraded to a municipal corporation level. To extend and enhance the municipal services to respectable urban standards in the rural regions, the city corporation needs to pay considerable sums, both in investments and maintenance for which it is not compensated after a brief initial period. The presence of rural interests inside the municipal corporation also causes anomalies in city management.

Various measures have been initiated by the main cities in India towards decentralisation of urban services (Abhijit Datta & Bappaditya Chakravarty 1981). By and

large, these actions are oriented towards bureaucratic deconcentration, rather than towards political decentralisation. Only in Delhi and Madras, attempts were made for enlisting ward councillors in the zonal or circle committees, but due to lengthy durations of supersessions of Delhi and prolonged supersession of Madras corporations, these experiments could not be worked out. The single example today of considerable city decentralisation comes from Kolkata and Howrah during the 1980s. The Seventy-fourth Constitution Amendment has broken new grounds in this respect by pushing for formation of elected ward committees and zonal committees in the bigger cities (with a population of 300000 and more) and representing their chairpersons in the city councils. In doing so, the elected ward councillors are given priority in area-level decision making. This may be the sole alternative to settle the uneven area interests inside the major cities between the main city and its suburbs, and also between its urban and rural interests.

3.5.1.1.2 Management of Large Urban Areas and Concept of Metropolitan Authority

Even before independence, Indian interest in metropolitan expansion actually started in greater Kolkata when the city declined to extend its bounds to cover the riparian towns on both sides of the Hooghly River.

The same problem engaged the attention of the urban planners in the mid-sixties when the Basic Development Plan for metropolitan Kolkata suggested that as many as eleven special-purpose bodies be created for planning, water and sanitation, traffic and transportation, housing, slum improvement, area development in three locations, new bridges, parks and recreation and education (West Bengal 1966). The propensity for such an array of special authorities was partially to the State functional interests, and partly to the predisposition of the foreign consultants. How these authorities would keep themselves on the narrow urban income base, in conflict with the existing multifunctional municipal units, did not restrain the planners.

Also, the political issues of resource allocation and inter-institutional co-ordination have emerged in following years whenever such an apolitical approach to municipal tasks was attempted through bureaucratic bodies.

In the fields of urban development, creation of the metro-authorities does raise the expectation of a break from the colonial legacy, here too one could point out a number of strands that are the logical culmination of colonial experimentations and practises but almost invariably justified on grounds of national integration, expediency and constitutionalism. (Datta and Chakravarty 1981)

At this point it is necessary to consider the provisions of the Seventy-fourth Constitution Amendment on urban planning and development. It has been established that all metropolitan districts with a population of one million and more will have a metropolitan planning committee to present a drafting development plan, which needs to be authorised by the appropriate state government. The makeup of this committee needs at least three-fourth of its members to be recruited from the municipal authorities and panchayats in proportion to their population size, and the rest to include of representatives of the State and Central governments. The authority to act on the approved plan, however, rests in the local municipal authorities and panchayats. The approval procedure is a minimal sign of the commitment of development funds for the plan by the State and Central governments.

Therefore, metropolitan development and its subsequent maintenance will henceforth be locally directed, and the existing single-purpose, multipurpose, and district centred development organisation may suffer a transformation. At the same time, the capabilities of the local institutions will have to be enhanced before they are able to displace the existing state financed, special-purpose institutional architecture. Meanwhile, one might predict the future emergence of joint authorities of the local bodies in a metropolis to substitute the existing

development and other functional authorities; some of these might like to act as such joint bodies in future, but their accountability would have to be local rather than trans local.

3.5.2 Institutional Accountability

The degree of institutional autonomy of municipal administrations may be gauged by the level of their accountability to the local people. From this viewpoint, the official centred executive in the municipal corporations denies local responsibility and, consequently, institutional autonomy.

Since municipal administration structure was essentially untouched by the Seventy-fourth Constitution Amendment, it is difficult to explain how simple democratisation of the municipal councils and maintaining regularity of their elections could offer local political responsibility. As would be discussed in the chapter five of this study, strengthening of municipal finance through the finance commission mechanism may theoretically boost municipal efficacy in the supply of urban services, but this would not insure sensitivity to electorates' demands.

An alternative to local political responsibility is to permit market forces to work in the delivery of municipal services so that the consumers may secure market accountability in terms of their stated preferences (Paul, 1991). However, such a market option is practicable only in respect of wholly private commodities given by the local government - an extraordinarily constrained alternative in India. Most of the municipal services are either public or merit goods where only the delivery method could be altered through agreements with non-governmental entities or the private business sector. But if the major obligation for the delivery of urban services lies outside the municipal area then privatisation of essential urban services must also commence at the state level. Recent experience suggests that apart from solid wastes

management and city bus services, other municipal services are not adequately appropriate for such competitive efforts.

3.5.3 Municipal Functions

Similar to the British tradition, municipal entities retain legally allotted specific authorities and functions under the principle of ultra- vires (*Dillon's Rule*) constraining local choice and variation. The German principle of 'general competence', on the other hand, empowers local authorities to do any activity that is not explicitly designated for the higher levels of government under legislative or constitutional limits. The earlier municipal legislations contain a residuary clause allowing them to promote the state health, sanitation, education, culture, welfare or convenience of the inhabitants of the municipality (e.g. Bengal Municipal Act, 1932, Section 108) that virtually covered the entire range of state list functions enumerated in the Constitution (Datta 1982).

However, in a constitutional sense, all municipal functions are concurrent in nature, the process of formal delegation was expected to generate an autonomous local government. In fact, this has not happened in India, not even when functions are officially assigned to the municipal administration. The State governments invade into the local realm through parallel legislations or executive decisions to operate in the same functional area ('sovereignty trap'). Only with regard to minor obligations, such as disposal of the dead, or care of cattle pounds, the states have not showed any active interest (Datta 1984). This shows that although the system of functional delegation ostensibly follows the British pattern, the unrestricted incursion into the municipal domain by the states is like the Soviet system (Datta 1984).

In spite of the large number of tasks listed in the municipal legislations, the principal functions that the municipal authorities actually manage are: (i) public health and sanitation,

(ii) water supply and drainage, (iii) public works and roads, (iv) elementary education, and (v) health clinics and maternity homes. Other duties are often small or auxiliary to these fundamental responsibilities. However, in recent years, some of these primary obligations like education and health are taken care of the flagship initiatives of the Central government i. e. ‘*Sarva Shiksha Abhiyan*’ and ‘National Urban Health Mission’. The standard strategy is to separate the state obligations into many sub-functions and transfer part of them to the municipalities, sometimes preserving their development component and assigning merely the operation and maintenance chores. It is also a frequent practise to break municipal functions into necessary and voluntary ones. In actuality this has only an accounting significance for maintaining an active list of the essential actions, since it is difficult to write down objective criteria of performance of the municipal regulatory, house-keeping and civic responsibilities (Datta 1992).

The constitutional design and operative aspects of state-municipal functional allocation is given in detail in the Table 3.5. From this table, it can be seen that the municipal bodies derive their functions not only from the State list (list II), but also from the concurrent list (list III) of the Indian Constitution (7th Schedule). The 12th Schedule of the Indian Constitution introduced after the Seventy-fourth Constitution Amendment seeks to widen the municipal operative sphere into three new areas: (i) economic and social planning, (ii) care of the weaker sections, and (iii) poverty alleviation. Municipal functions enumerated in 12th Schedule of the Indian constitution can be classified as ‘essentially municipal’, ‘agency’, and ‘shared’ or ‘concurrent’ on the basis of typology as given in Table 3.6. On the basis of functions assigned after this Seventy-fourth Constitution Amendment it can be said that municipalities are not being encouraged to widen their human development activities, especially in primary health care, nutrition, elementary and primary education and personal social services. The main thrust of the 12th Schedule seems to be to re-orient the municipalities from their earlier preoccupations

with public health and sanitation to water supply, roads, physical planning, environmental control and shelter-related activities. One of the main reasons for this reorientation may be that Central Ministries are themselves looking after these human development activities through their different Flagship Programmes like ‘National Health Mission’, ‘*Sarva Shiksha Abhiyan*’, several nutrition supplementation programmes (ICDS, MDM, NNM etc.), various types of government’s social insurance schemes, etc.

Table 3.5 : State – Municipal Functional Allocation

Constitutional Entries (Schedule 7)		Actual Functions	Functional Allocation	
			Schedule 7	Schedule 12
II/1	Public Order	Fire Services	m S	7 M
II/6	Public Health and Sanitation : Hospitals & Dispensaries	Public health, sanitation, conservancy & solid wastes management	M s	6 m
		Regulation of slaughter houses & tanneries	M s	18 M
		Dispensaries, primary health centres	M s	-
II/10	Burials and burial grounds : cremations & cremation grounds	Burials & burial grounds, cremations & cremation grounds	M	14 M
II/11	Education	Primary Education	M s	-
II/13	Communications	Road & bridges	M s	4 M
		City transport	m S	-
II/16	Ponds & prevention of cattle trespass	Cattle pounds	M	15 M
II/17	Water, that is, to say, water	Water supply for	M s	5 M

	supply, irrigation & canals, drainage & embankments, water storage & water power	domestic, industrial and commercial purposes		
II/28	Markets and fairs	Markets & fairs	M s	-
II/30	Vital statistics, including registration of births & deaths	Vital statistics, including registration of births & deaths	M s	16 M
II/33	Theatres and dramatic performances, entertainments, & amusements	Promotion of cultural, educational & aesthetic aspects	m S	13 M
II/35	Works, land & buildings vested or in the possession of the State	Property vested or in the possession of the municipalities	M s	-
III/17	Prevention of cruelty to animals	Prevention of cruelty to animals	S	-
III/17A	Forests	Urban forestry, protection of the environment and promotion of ecological aspects	S	8 M
III/20	Economic and Social Planning	Planning for economic & social development	S	3 M
III/23	Social security and social insurance, employment and unemployment	Safeguarding the interests of the weaker sections of society, including the handicapped & mentally retarded	S	9 M
		Poverty alleviation programmes	S	11 M

M – Municipal; S – State

Capital letter indicates major responsibility; minor letter indicates minor involvement.

Source: Produced in Datta, Abhijit (1999), 'Institutional Aspects of Urban Governance' (Chapter 3), in Om Prakash Mathur (ed.), India: The Challenge of Urban Governance. New Delhi: National Institute of Public Finance and Policy in collaboration with Centre for Urban and Community Studies, University of Toronto. – from Datta (1992a).

Table 3.6 : Typology of 12th Schedule Municipal Functions

Function Group	Functions
Essentially Municipal Functions	Urban planning including town planning; public health, sanitation, conservancy and solid waste management; provision of urban amenities and facilities such as parks, gardens and playgrounds; public amenities including street lighting, parking lots, bus stops and public conveniences; regulation of land use and construction of buildings; burials and burial grounds, cremations, cremation ghats/grounds and electric crematoria; cattle pounds, prevention of cruelty to animals; vital statistics including registration of births and deaths; regulation of slaughter houses and tanneries.
Agency Functions	Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded; slum improvement and upgradation; urban poverty alleviation.
Shared or Concurrent Functions	Planning for economic and social development; roads and bridges; water supply for domestic, industrial and commercial purposes; fire services; promotion of cultural, educational and aesthetic aspects; urban forestry, protection of the environment and promotion of ecological aspects.

Source: Mohanty, Prasanna K (2016), 'Financing of Cities in India : Municipal Reforms, Fiscal Accountability and Urban Infrastructure', Sage Publications India Pvt. Ltd, New Delhi, pp. 33

Chapter – Four

A Case Study of Howrah Municipal Corporation

4.1 Introduction

As noted in chapter one, Howrah Municipality became a Municipal Corporation in 1984 by Howrah Municipal Corporation Act of 1980, earlier having fifty wards and with incorporation of Bally Municipality territory in 2015, currently it has sixty-six wards. Howrah Municipal Corporation along with Kolkata Municipal Corporation has a distinctive legislative feature of being guided by their separate municipal acts i.e. Howrah Municipal Corporation Act, 1980 (West Bengal Act L IX of 1980) and Kolkata Municipal Corporation Act, 1980 (West Bengal Act L VII of 1980). (West Bengal Act L VII of 1980). (West Bengal Act L VII of 1980). Except these two municipal corporations, every other municipal organisation of West Bengal is being regulated by West Bengal Municipal Act, 1993 and West Bengal Municipal Corporation Act, 2006, as amended from time to time. However, Howrah Municipal Corporation has its own act but its structure, functioning, and overall vision has imprint of the broader framework of municipal institutions in West Bengal. This is so, because before attaining status of Municipal Corporation in 1984 by a separate legislation, Howrah Municipality had founded and evolved in same broad framework as were available for other municipal bodies of West Bengal. Hence, before commencing to explore features of Howrah Municipal Corporation, it is appropriate to look at the broader profile of municipal organisations of West Bengal for a clear and full understanding of Howrah Municipal Corporation.

4.2 Urban Set-up and Municipal Organisation in West Bengal

Statistics on urbanisation and municipal organisations in the state of West Bengal are presented in the tables that follow. The urban area of West Bengal covers 2062 square

kilometres out of a total area of 88075 square kilometres. According to the 2011 Census, West Bengal's total population is 91347736, with 29134060 people living in cities.

Table 4.1 : Urban Set-up in West Bengal

West Bengal	Census 2001	Census 2011
Total Area	88752 sq km	88752 sq km
Total Population	80176197	91276115
Total Literate Population	47196401	69607165
Population (Urban Area)	22427251	29093002
Literate Urban Population	18222141	24665047
Total Number of Urban Local Bodies	127	127
Population Density (West Bengal)	903 per sq km	1028 per sq km

Source: 1. Census of India 2001 and 2011;

2. https://www.sudawb.org/wbdma_oldversion/HTM/MUNI_urban_wb.htm

3. https://censusindia.gov.in/2011census/censusinfodashboard/stock/profiles/en/IND019_West%20Bengal.pdf

Statistics on urbanisation and municipal organisations in the state of West Bengal are presented in the tables that follow. The urban area of West Bengal covers 2062 square kilometres out of a total area of 88075 square kilometres. According to the 2011 Census, West Bengal's total population is 91347736, with 29134060 people living in cities.

Table 4.2 : Urban Local Bodies in West Bengal

Classification of Urban Local Bodies	West Bengal		
	1991	2001	2011
Municipal Corporation	3	6	6
Municipal Council	-	-	-

Municipal Committee	-	-	-
Municipal Board	-	-	-
Municipality	117	117	117
Town Committee	-	1	1
Town Nagar Panchayat	-	-	-
Notified Area	3	3	3
Total	123	127	127

Source: Census of India 1991, 2001 and 2011

Table 4.3 : District wise Urban Local Bodies in West Bengal

District	Number of Municipal Corporation	Number of Municipality	Number of Notified Area	Number of Industrial Township
Bankura		3		
Bardhaman	2	9		1
Birbhum		6		
Cooch Behar		6		
Dakshin Dinajpur		2		
Darjeeling	1	3	1	
Hooghli	1	11		
Howrah	1	1		
Jalpaiguri		4		
Kolkata	1			
Malda		2		
Murshidabad		7		
Nadia		8	2	

North 24 Paraganas	1	26		2
Paschim Medinipur		7		
Purba Medinipur		6		
Purulia		3		
South 24 Paraganas		7		
Uttar Dinajpur		4		
Total	7	115	3	3

Source: Official website of Department of Urban Development and Municipal Affairs, Government of West Bengal (<https://www.wburbanservices.gov.in/>).

4.3 Municipal Organisation and their Structure in West Bengal

As per provisions of West Bengal Municipal Act, 1993, states about the constitution of the municipal area. According to it, town, together with, or exclusive of, any railway station, village, land or building in the vicinity of any such town with a population of not less than 30000 inhabitants, with density of population not less than 750 inhabitants per square kilometre, where occupational pattern is more urban in nature. More than half of the adult population is mainly engaged in activities other than agriculture, and the government is satisfied that if municipal corporation is constituted in such a town, the municipal income from taxation and other sources will be adequate for the discharge of the municipal function. Under this Act, the governor may, by notification, declare his intention to constitute such town a municipal area.

For doing so (Section 4 of the aforementioned Act stipulates that) the notification for creation of a municipal area shall be published in the official gazette and in at least two important periodicals. A copy of this notification shall also be pasted in a conspicuous and accessible position in the office premise of the district magistrate.

4.3.1 Classification of Municipalities in West Bengal

On the basis of the population, the municipal areas are classified into the following five groups in West Bengal as per Section 7 of West Bengal Municipal Act, 1993.

- (i) Group A - municipal areas having a population above 215000.
- (ii) Group B - municipal areas having a population above 170000 but not exceeding 215000.
- (iii) Group C - municipal areas having a population above 85000 but not exceeding 170000.
- (iv) Group D - municipal areas having a population above 35000 but not exceeding 85000.
- (v) Group E - municipal area having a population not exceeding 35000.

Wards are the subdivisions of a municipal territory. Section 8 of the West Bengal Municipal Act, 1993 states that the State Government may designate the number of wards in any municipal area by notification based on population, housing pattern, topographical condition, and economic backgrounds. Aside from that, the State Government has the authority to withdraw any municipal area from operation, include an adjoining local area within a municipal area, exclude any local area from the municipal area, divide or unite municipal areas, and revise municipal boundaries through the publication of a notification. Provided, however, that the minimum number of wards is nine and does not exceed, in the case of an additional ward, municipal area is included in, for different category of municipal area is -

Group A – Thirty-five

Group B – Thirty

Group C – Twenty-five

Group D – Twenty

Group E - Fifteen

4.3.2 Municipal Authority in West Bengal

Municipal authorities that discharge the responsibilities are -

(i) The Municipality

A municipality is an administrative official body in a city or town that governs the local administration and is led by a municipal chairperson, such as a city council or municipal council, mayor or chairperson, etc. A municipality is a political unit formed for the purpose of local self-government. It is a group of officials who are elected to govern the activities of the local political unit as well as local issues. In summary, the municipality can be expressed by taking into account the following characteristics:

- An administrative body within a clearly defined territory in a city or town.
- A city or town governed by a mayor or chairman.
- A body of officials appointed to manage the affairs of a local political unit.
- A smallest administrative subdivision to have its own democratically elected representative leadership to run its local self-government.

After the Seventy-fourth Constitution Amendment Act, 1992, according to article 243Q of the Constitution, municipality means an institution of self-government. There shall be in every

State -

- A Nagar Panchayat for a transitional area, that is to say, an area in transition from a rural area to an urban area.
- A Municipal Council for a smaller urban area, and
- A Municipal Corporation for a larger urban area.

The councillors make up the Board of Councillors (BOC). The elected members are the representatives of the municipal areas i.e. wards. Board of Councillors charged with the authority of the towns municipal government constitute the municipality, established in a town.

(ii) The Chairman-in-Council

All the executive powers of a municipality are vested in the Chairman-in-Council. The Chairman-in-Council shall be responsible to the Municipality. The Chairman-in-Council consists of the Chairman, Vice-Chairman and extra members nominated by the chairman from amongst the councillors of the municipality, not exceeding, 5 in the municipality of Group A, 4 in Group B, 3 in Group C. In case of municipal territories contained in Group D and Group E all the authorities and functions bestowed with the Chairman-in-Council should be examined and performed by the Chairman of the concerned municipality as per provision of West Bengal Municipal Act, 1993.

(iii) The Chairman

The Board of Councillors, in its first meeting elects one of its members as a chairman of the municipality. If the Board of Councillors fails to elect a chairman in the manner prescribed, the State Government may pick by name one of the councillors to be the chairman. The chairman is the executive head of the municipality and municipal administration acts under his guidance. The chairman presides over the meeting of the Chairman-in-Council as well as

Board of Councillors. The Chairman exercises the authority and functions as bestowed on him under section 26 of the Act.

4.3.3 Statutory Committees

As per the provisions of the West Bengal Municipal Act, 1993 (amended from time to time) there are several committees for execution of functions of the municipal bodies. These committees, however, are compulsory in each type of Municipality in West Bengal and are discussed below.

(i) Borough Committee

According to West Bengal Municipal Act, 1993 (amended from time to time) rules that municipalities having a population of three lakhs or above, have to group their wards into five Boroughs so that each Borough consists of not less than six contiguous wards, and constitutes a Borough Committee for each Borough. As the population grows there can be more than minimum 6 wards contiguous per Boroughs, in a municipality of three lakhs or above. Each Borough Committee shall consist of councillors elected from the wards constituting the borough. The members of the Borough Committee elect one member as its chairperson from amongst them, who is not a member of the Chairman-in-Council.

(ii) Ward Committee

As per provision of Section 23 of the above said Act, ward committees are constituted for each ward within the territorial area of a municipality. The councillors elected from different wards used to be the Chairpersons of their respective ward committees.

(iii) Standing Committee

The Board of Councillors of every municipality constitutes the following Standing

Committees -

- Finance and Resource Mobilization Standing Committee.
- Solid Waste Management Standing Committee.
- Water Supply Standing Committee.
- Public Works Standing Committee.
- Health, Education and Urban poverty Alleviation Standing Committee.

Each Standing Committee consist of not more than nine or fewer than three from the Board of Councillors. A councillor can be a member of maximum two Standing Committees and the Chairperson and Vice- Chairperson of the municipality cannot be a member of the Standing Committee. But the Chairperson nominates the President and the Vice-President of the Standing Committee. The President or in his absence, the Vice-President presides over the proceedings of the associated Standing Committee. Power, responsibilities and duties of the Standing Committees are established in the Section 23B of the aforementioned Act.

(iv) Other Committees and Cells

Apart from the above-mentioned committees of municipality, there are other committees and cells for performing different functions. Some of these are -

- **Heritage Conservation Committee**

The Board of Councillors constitutes Heritage Conservation Committee (HCC) headed by the Chairman of the municipality and an officer as its convener. The seven other members of the committee are: - a nominee of District Magistrate, a nominee of the Director of the Department of Archaeology, an eminent architect, an artist, an environmentalist, an historian and an executive engineer.

- **Special Committee**

The Board of councillors may form a Special Committee time to time to perform the specific functions of the municipality.

- **Joint Committee**

The State Government may constitute a Joint Committee for more than one municipality or for one or more municipalities with other local authorities for any purpose of joint interest. The Joint Committee consists of two nominees of each municipalities or local authority, one nominee of the State Government, one nominee as the expert of the state government and the directorate of local bodies.

- **Community Development Society**

Women members of Below Poverty Line (BPL) families constitute Self-Help Groups (SHG) and Community Development Societies (CDS) within the municipal area. Section 25A of the said Act had prescribed, the composition, manner of the constitution and functions of the Self-Help Groups and the Community Development Societies.

- **Poverty Alleviation Cell**

Under Section 25B of the said Act, the Board of councillors constitutes a Poverty Alleviation Cell (PAC) for the municipality. The composition, manner of the constitution and function of the Poverty Alleviation Cell is such as the State Government may, by order, determine.

Figure 4.1 : Bureaucratic Structure of Municipal Organisation in West Bengal

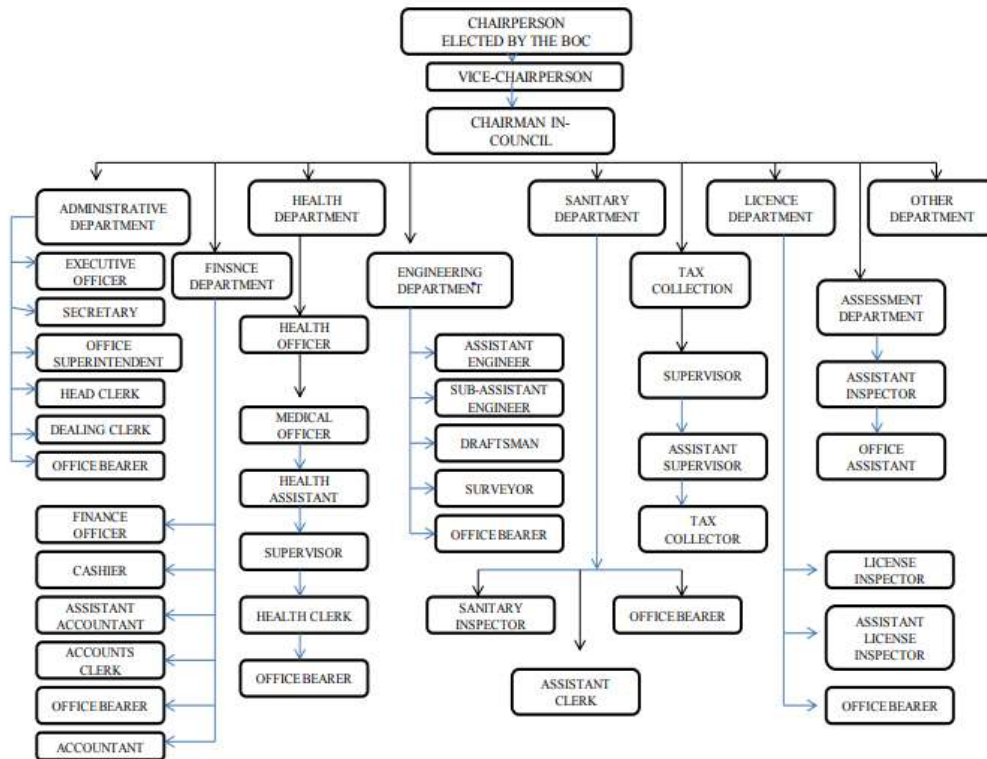
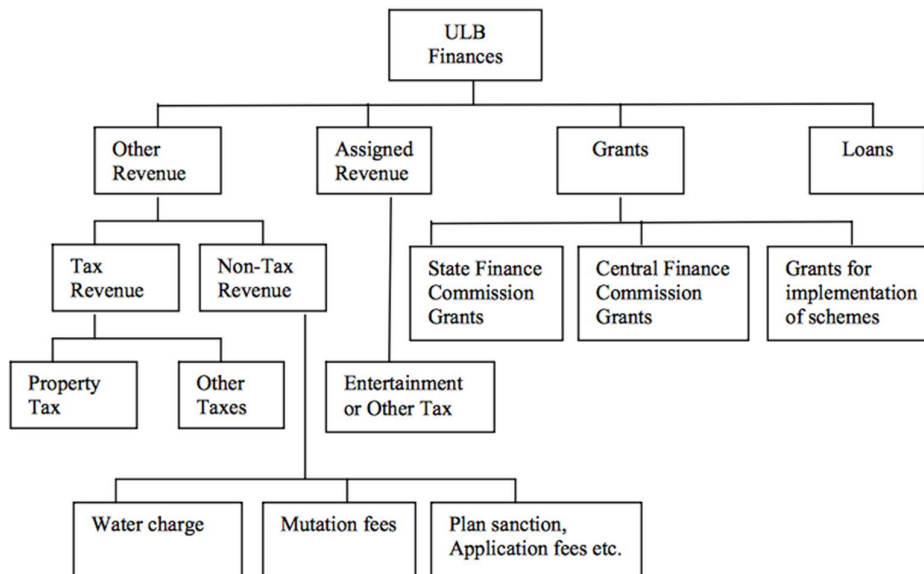


Figure 4.2 Source of Finance of Urban Local Bodies



4.4 Howrah Municipal Corporation (HMC)

As mentioned earlier, HMC came into existence in 1984 by the provisions of Howrah Municipal Corporation Act, 1980 (amended from time to time). HMC before being established as a municipal corporation in 1984 was a municipality and was being governed and guided by the West Bengal Municipality Act, 1932 which was applicable for other municipalities of West Bengal also. So, there are many similarities in HMC and other municipalities of West Bengal in terms of organisational structure, power and functions, flow of funds, etc. Organisational structure of municipalities of West Bengal discussed in the earlier section of this chapter gives a broader outline about the structure and functioning of HMC also.

4.4.1 Organisational Structure of Howrah Municipal Corporation

Department of Municipal Affairs, Government of West Bengal has the responsibility of providing legal and administrative support to the HMC and help implement some of their development programmes, through the Department of Municipal Affairs. Urban development planning and infrastructural development are looked into by the Department of Urban Development and Municipal Government of Government of West Bengal, through its various development authorities or agencies which have been created under their respective Acts. The State Secretariat supervises the various functions of the Directorate and other organisation which are related to the Department.

Mayor, elected by the majority of Councillors, is the executive head of the HMC and presides over the meetings of the Mayor-in-Council. They are responsible for governance of HMC. The executive power of HMC is exercised by the Mayor-in-Council. They have powers determined by the Corporation regulation and it is collectively responsible to the Corporation.

Howrah Municipal Corporation is divided into seven boroughs. Each borough constitutes at least six contiguous wards and a Borough Committee has been constituted for each borough. The Councillors of respective wards are the members of their respective Borough Committee and elect the Chairman (who should be a non-member of Mayor-in-Council) from among themselves. The Borough Committee discharges functions assigned by the HMC. At ward level, the HMC has constituted Ward Committees under the chairmanship of respective Ward Councillors.

A Borough Committee, subject to the general supervision and control of the Mayor-in-Council, discharges within the local limit of the borough, the functions of the Corporation related to collection and removal of garbage, giving connection of water supply and sewerage to houses, removal of accumulated water, due to rain or any other causes, on streets and public places, health immunization services, improvement of slums (bustees) and such other functions as the Corporation may require to discharge or as may be specified by the regulations, officers and employees of the Corporation working within the local limits of the Borough. It carries out the directions of the Borough Committee given in this behalf.

The organisational structure of governing body of HMC is as below –

**Corporation
(Board of Councillors)**



Mayor



Mayor-in-Council



**Boroughs
&
Borough Committees**



**Wards
&
Ward Committees**

A Commissioner heads establishment of HMC. Other officers are also appointed to discharge specific functions of respective nature. Commissioner, subject to the supervision and control of the Mayor, functions as the principal executive of the HMC. Commissioner exercises such powers and performs such functions as are notified by the state government from time to time.

4.4.2 Powers and Functions of Howrah Municipal Corporation

HMC exercise its powers and functions in accordance with the provisions of Article 243W of the Constitution and provisions of Howrah Municipal Corporation Act, 1980 (amended from time to time). HMC also exercises such powers and performs such functions as are notified by the state government from time to time. Main functions of HMC are as given in the following sections of this study.

4.4.2.1 Obligatory Functions of HMC

There are some obligatory functions performed by the HMC in the sphere of public works, public health and sanitation, town planning and development, administration. These functions of HMC are prescribed in the Part V of Howrah Municipal Corporation Act, 1980 (amended from time to time) with the heading ‘Civic Services’.

(i) Public Works

- Providing by itself or by an agency, mean for supply of water for public and private purposes.
- Construction, maintenance and cleansing of sewer and drains, sewerage and drainage works public latrines, urinals.
- Construction, maintenance, alteration and improvement of public streets, bridge and culvert, flyovers, subways.
- Naming of streets and naming of premises, lighting of public street and other public places.
- Planning and care of trees on road side and elsewhere.
- Construction and maintenance of municipal markets and slaughter and their regulation.

(ii) Public Health and Sanitation

- Collection, removal and disposal of solid wastes including filth, rubbish and other obnoxious or polluted matters.
- Regulation and abating offensive and dangerous trades or practices.
- Cleansing of public streets and other public places.
- Ensuring the wholesomeness of water supplied for drinking and domestic purpose.
- Provide for places for the disposal of the dead and the regulation and maintenance of such places.
- Measure for preventing and checking the spread of dangerous diseases.
- Immunization including public vaccination and inoculation.
- Removal and disposal of the unclaimed dead bodies and carcasses of all dead bodies.
- Abatement of nuisances from birds and animals, including dog menace.
- Conversion of all service privies into sanitary latrines and providing adequate facilities for sanitation so that open defecation may be completely done away.

(iii) Town Planning and Development

- Devising town planning within the limits of the corporation area in accordance with the laws relating to town planning for the time being in force.
- Planned development of the borders of the corporation area in accordance with the laws applicable for the purpose.
- Improvement of shanties, controls of regular lines of streets.
- Control of all building operation and regulation of building uses.
- Co-operation of all over ground rights enjoyed by service agencies.
- Co-ordination of activities of agencies relating to laying and maintenance of underground pipelines, tube cables.
- Laying out and maintenance of public parks, squares, gardens or recreation areas.

- Redevelopment of congested areas for providing better living conditions
- Planned development of new areas of human settlement.
- Presentation of monuments and places of historical, artistic and other importance.
- Measures of beautification of township by setting up fountains and statues, providing recreational areas, improving river banks, landscaping.

(iv) Administrative

- Survey of buildings and lands and preparation and maintenance from time to time of survey map.
- Removal of unauthorized encroachment on, or obstruction and projections in or upon, street bridges and other public places.
- Securing or removal of dangerous buildings and places.
- Registration of births and deaths.
- Providing boundary marks in the municipal area.
- Drawing up an Annual Administrative report on the activities and performance of the corporation and submit it to the State Government.
- Compilation and maintenance of records and statistics relating to the administrative function of the corporation
- Checking the construction of unauthorised buildings and pulling down unlawful construction.
- Protecting the public properties in general and civic properties in particular.
- Abatement of pollutions of all kinds.
- Ensuring the stoppage of wastage of water supply and other civic facilities.
- Maintenance and development of all properties vested in or entrusted with the management of the corporation.
- Providing for adequate training facilities for the corporation employees.

- Observance of occasions of national importance.

4.4.2.2 Discretionary Functions of HMC

Howrah Municipal Corporation performs some discretionary functions in the sphere of public works, education, public health and sanitation, administration, development and others, which are as follows:

(i) Public Works

- Giving relief to, and establishing and maintaining relief works for destitute persons within the corporation areas during any type of calamity.
- Construction or maintenance of, or providing or giving aid for passenger shades, libraries, museums, community hall, offices, godowns, shops, markets, dharmashalas, rest house, sports complex, swimming pools, bathing places, etc.
- Construction and maintenance of old age homes and orphanage domiciliary care.
- Construction and maintenance of hospitals, dispensaries, asylums, rescue homes, maternity houses and child welfare centers.
- Construction, purchase, maintenance, extension and management of the transport facilities for the public.
- Construction, maintenance, repair and purchase for supply of electrical energy and gas.
- Construction of dwellings for the inhabitants of socially backward class citizens.
- Providing accommodation for all classes of employees of the corporation.

(ii) Education

- Establishing and maintaining per-primary school such as crèches.
- Promotion of civic education, adult education, social education, non-formal education and the like.
- Promotion of cultural activities including music, physical education, sports and theatre.

- Advancement of science and technology in the way of life.
- Advancement of civic consciousness of public health and general welfare by organising discourse, seminar and conference.
- Publication of municipal journals, periodical and souvenirs, purchase of books and subscriptions of journals, magazines and newspapers.

(iii) Public Health and Sanitation

- Construction and maintenance of cattle pounds.
- Provision for unfiltered water-supply for non-domestic uses.
- Promotion of the use of biogas and other non-conventional energy sources.
- Provision for sewage treatment and preparation of compost, manures from sewage and other refuse.
- Abatement of smoke nuisances.
- Setting up of milk dairies or farms for supply, distribution and processing of milk and milk product for the people.
- Ambulance service for carrying patients.

(iv) Administrative

- Civic reception to persons of distinction and paying homage on death to person of repute.
- Installation of statutes, portraits and picture in appropriate manner.
- Organization and management of fairs and exhibitions.
- Organization establishment and maintenance of art galleries and botanical or zoological collections.
- Construction and maintenance of garages and sheds and stands for vehicles.
- Measures for eradication of addiction of all kinds like liquors and drugs.
- Organizing and coordinating the activities for community welfare.

(v) Development

- Encouraging the formation of co-operative societies and in particular, housing cooperative societies, and assistance to such co-operative societies in construction of buildings.
- Providing shelter for the homeless.
- Reclamation of waste lands, and promotion of social forestry.
- Establishing and maintaining nurseries for plants and vegetables.
- Organization of flower-shows and promotion of flower-growing as a civic culture.
- Promotion of agriculture, pisciculture, horticulture, poultry and improvement of cattle breed.
- Assistance of small-scale and cottage and craft industry.
- Programmes for liberation and rehabilitation of scavengers and their families.
- Income-generating activities, particularly for the women belonging to the socially backward classes of citizens.
- Collection of statistics and data significant to the community.
- Integration of the development plans and schemes of the town in the district or regional development plan.

(vi) Other Functions

Apart from the aforesaid functions, which are not, specified corporation may take all the measures to promote public safety, health, convenience, education or welfare of the community.

4.4.2.3 Functions Assigned to HMC by the State Government

The functions and duties relating to Government on the matter arising within the corporation area, the State Government may transfer such functions and duties to the corporation as are otherwise to be performed by the departments of the State Government on

any of the following matters:

- Town and country planning.
- Urban development.
- Water supply and sanitation.
- Transport system, including regulation of traffic terminus.
- Employment schemes and programmes.
- Health and family welfare.
- Relief and social welfare, including social security schemes and programmes.
- Public works, including road construction and housing.
- Cottage and small-scale industries, business and services including computerization for skill development.
- Education including primary education, adult education, vocational education, social education, formal education, audio-visual education and library service.
- Food and civil supply, including rationing and distribution.
- Civil Defense.
- Fire protection and firefighting.
- Sports and youth services.
- Welfare of the Scheduled Castes and Scheduled Tribes.
- Environmental safety and improvement.
- Social forestry and plantation programmes.

4.4.3 Fund Flow Arrangement of Howrah Municipal Corporation

HMC fund comprises receipts from its own source, grants and assistance from Government and loans obtained from public financial institutions or nationalised banks or such

other institutions as the State Government may approve. All funds received by HMC are first credited to the Municipal Fund and only after budgetary provisions (barring few exemptions) any amount can be disbursed from this.

As per Section 55(1) of the Howrah Municipal Corporation Act, 1980, (amended from time to time) – “There shall be a Municipal Fund held by the Corporation in trust for the purposes of this Act and all moneys realized or realizable under this Act and all moneys otherwise received by the Corporation shall be credited to this fund.”

Section 58 of the above said Act tells that payment not to be made out of the Municipal Fund unless covered by a budget grant. As per provision of the Act – *“No payment of any sum out of the Municipal Fund shall be made unless the expenditure is covered by a current budget grant and a sufficient balance of such budget grant is available notwithstanding any reduction or transfer thereof under the provisions of this Act:*

Provided that this section shall not apply to payments in the following cases -

- (a) refund of taxes and other moneys which are authorized by this Act,*
- (b) repayment of moneys belonging to contractors or other persons and held in deposit and all moneys collected or credited to the Municipal Fund by mistake,*
- (c) temporary payments for works urgently required by the State Government in the public interest,*
- (d) sums payable as compensation under this Act or the rules or the regulations made thereunder,*

(e) expenses incurred by the Corporation on special measures on the outbreak of dangerous diseases,

(f) sums payable -

(i) under orders of the State Government on failure of the Corporation to take any action required by the State Government, or

(ii) under any other enactment in force for the time being, or

(iii) under the decree or order of a civil or criminal court against the Corporation, or

(iv) under a compromise of any claim, suit or other legal proceedings, or –

(v) on account of the cost incurred in taking immediate action by any of the municipal authorities referred to in section 3 to avert a sudden threat or danger to the property of the Corporation or to human life,

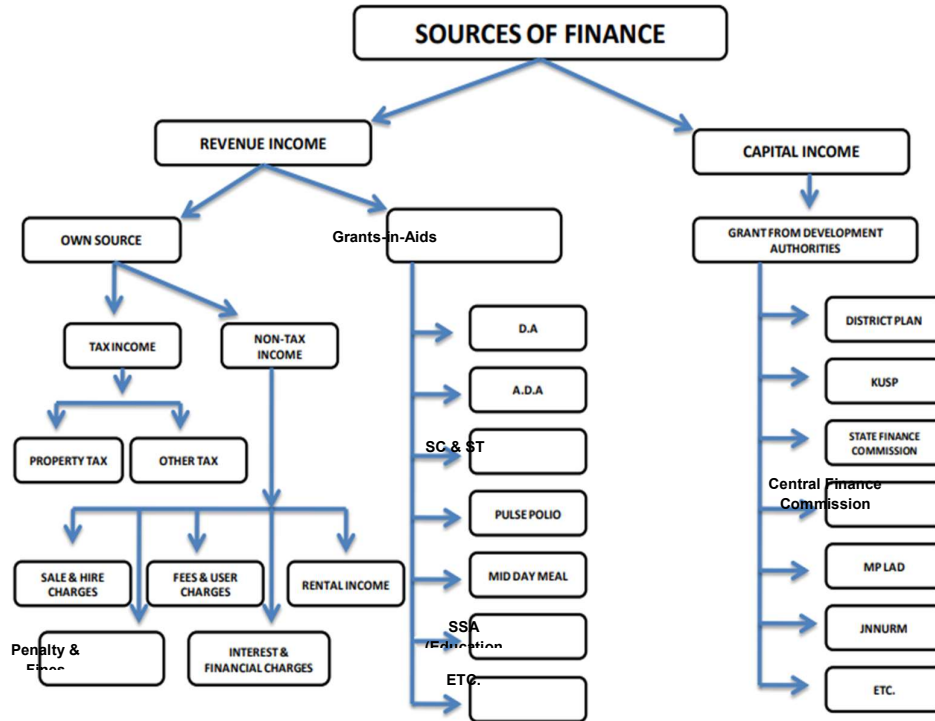
(g) such other cases as may be prescribed.”

Property tax on land and building is the principal source of tax revenue of HMC. Non-tax revenue of HMC includes plan-sanction fees, mutation fees and water charges. All collections as permissible under the statute in force, such as tax and non-tax revenue, are meant to be utilized for administration and provision of services to the taxpayers.

The State Government releases administrative grants HMC to finance their revenue expenditure. Grants and assistance released by the State Government and the Central Government are utilized for developmental activities as specified in the respective guidelines of schemes or projects.

Loans raised from different sources with prior approval of the state government are utilized for execution of various projects or schemes. Flow diagram of sources of finance for HMC is given below –

Figure 4.3 : Source of Finance to Howrah Municipal Corporation



Composition of municipal revenues and expenditure in terms of head and sub-heads also explains the priority and orientation of development objectives of the municipal bodies. Tables 4.4 and 4.5 shows Budgetary and Municipal Fund Account head and sub-heads from HMC 2019-20 Budget. From these tables, one can find that now many functions like education, etc. are not in municipal domain because now these are delivered by state and national flagship programmes.

Table 4.4 : Budgetary Heads/Sub-heads/Entry Heads of HMC Budget

Head	Sub-head	Entry Head
Revenue Receipts	Tax Revenues	Property Tax
		License Fee
	Non-Tax Revenues	Building/Plan Sanction Fee
		Water Charges
		Advertisement Fee
		Others/ Rents/Etc.
		PPP Initiatives
	Revenue Grants	Grants-in-aid
		Tied Revenue Grant
Untied Revenue Grant		
Revenue Expenditure	Establishment Related Expenditure	Salary and Wages
		Pension and Gratuity
	Others (excluding capital expenditure)	Engineering Related Revenue Expenses
		Others (Finance & Miscellaneous)
		Revenue Expenditure for DDP#/ADP##
Capital Receipt	Capital Grants	Tied Funds
		Untied Funds
Capital Expenditure	Committed Capital Expenditure	
	Additional Capital Expenditure for DDP/ADP	

Source: Howrah Municipal Corporation website

(https://www.myhmc.in/wp-content/uploads/2020/03/Budget_19-20.pdf)

District Development Plan

Annual Development Plan

Table 4.5 : HMC Municipal Fund Account Heads/Sub-heads

Expenditure		Income	
A	Water Supply and Drainage Sewerage	A	Water Supply and Drainage Sewerage
	Water Supply		Water Supply
	Drainage Sewerage		Drainage Sewerage
			Transfer from General Fund A/C
B	Road Development & Maintenance	B	Road Development & Maintenance
	Roads		Roads
			Transfer from General Fund A/C
C	Bustee Service	C	Bustee Service
	Bustee Service		Bustee Service
			Transfer from General Fund A/C
D	General Revenue Fund	D	General Revenue Fund
	Municipal Council		Tax Income
	General Administration		Non-tax Income
	Accounts Department		Grants & Contribution –
	Law Department		1. Revenue Grant
	Establishment Department		• Grant-in -aid
	Assessment Department		• Tied Revenue Grant
	Collection Department		• Untied Revenue Grant
	Public Safety		2. Capital Grant
	Medical Services		• Tied Capital Grant
	Conservancy		• Untied Capital Grant
	Vaccination		
	Burning Ghats and Burial Grounds		
	Registration of Births & Deaths		
	Public Works		
	Public Instruction		
	Municipal Properties		
	License Department		
	Transfer to –		
	1. Water Supply and Drainage Sewerage		
	2. Road Development & Maintenance		
	3. Bustee Service		

Source: Howrah Municipal Corporation website (https://www.myhmc.in/wp-content/uploads/2020/03/Budget_19-20.pdf)

Chapter – Five

Post Seventy-fourth Constitution Amendment Act : Revenue Scenario and its Implication for Public Amenities

5.1 Introduction

One of the most commonly addressed difficulties in municipal finance is the large gap between the amount of financial resources required to perform the functional tasks of municipal organisations and the resources available for this purpose. Previously, in India, municipal authorities' own resources (revenue from local taxation and other levies such as fines and fees) constituted about two-thirds of their overall resources. As a result, local authorities were substantially reliant on grants-in-aid from the state and central governments, and these grants-in-aid from the top tier of governments were not systematic in terms of amount and timeframe. As a result, municipal authorities had a difficult time carrying out their functional tasks in the face of uncertainty about resource availability, and the ultimate victim in this situation was the coverage and quality of municipal services. Municipal bodies' financial constraints are tightened by a section of the statute that specifies that they cannot have a budget deficit. Municipal bodies can, with the permission of their respective state governments, obtain loans from public institutions and the open market through certain financial instruments such as municipal bonds, etc., but given the poor fiscal position of the majority of municipal bodies, this is not an easy option for them.

The role of intergovernmental transfer is crucial in a federal organisation like India, where the government structure is multi-tiered. Ad hoc intergovernmental transfer causes ambiguity and ad hoc service delivery on the side of public bodies. Apart from alternative modes of fund transfer, the Indian constitutional framework includes provisions for a Central

Finance Commission (under Article 280) and other Central Sector Schemes (CSS) to facilitate intergovernmental transfer between the central and state governments. There was no regular and well-defined system of financial transfer between state and local governments previous to the 73rd and 74th Constitutional Amendments, just as there was no regular and well-defined mechanism of intergovernmental transfer between the central and state administrations. Before analysing the new structure of financial transfer between state and local organisations, the role of intergovernmental transfers and the position of transfer to municipal administrations in India are addressed below.

5.2 Role of Intergovernmental Transfers

Intergovernmental transfers to municipalities are critical in both developed and developing countries for supporting local services and infrastructure. They include the sharing of the tax base, tax yield, and higher-level government revenues with local governments. The main arguments for intergovernmental transfers are that they correct vertical and horizontal imbalances, compensate municipalities for inter-jurisdictional spillovers of benefits and costs of public services, fund national priorities such as merit goods and core infrastructure facilities, and improve tax collection efficiency (Bahl & Roy, 2000), (Bahl & Linn, 1992), (Broadway & Flatters, 1982) (Broadway & Shah, 2007) and (Buchanan, 1950). Vertical imbalance occurs when a jurisdiction's revenues are insufficient to pay its allotted tasks. This is based on the constitutional framework for allocating spending and revenues to different levels of government. Horizontal imbalance emerges as a result of unequal tax bases in relation to government service duties. 'Equalization' transfers are intended to compensate ULBS for fiscal impairments caused by low taxable capacity or disproportionately high spending demands, such as a large number of destitute individuals. They seek to ensure that different local governments provide comparable public services at comparable tax rates. Externalities that

cause cost and benefit spill overs between jurisdictions can justify fiscal transfers. Furthermore, higher levels of government provide grants to local entities in order to encourage them to meet national service criteria. Researchers suggest that if consumption decisions are left to citizens or lower levels of government, they will underprovide merit goods such as education and health, as well as vital physical facilities for sustainable urbanisation such as public transportation. Intergovernmental transfers are also justified when substantial tax collection is shifted to the national or state government in order to leverage scale economies in tax administration. Economists present a compelling case for budgetary transfers to local governments to carry out redistributive responsibilities. Income taxes are effective tools for funding poverty alleviation and social assistance programmes. Transfers are vital to address the problems of poverty, inequality, and slums when towns do not have access to booming taxes such as income tax. Central and state governments also establish policy priorities in the greater public interest, such as promoting human development, providing basic services to citizens, reducing regional disparities, and so on. As a result, they fund operations, but local governments carry them out due to their proximity to target groups. The JNNURM, launched by the Government of India in 2005, is one example of such a strategy. JNNURM aims to provide the urban poor with reform-linked infrastructure and critical services like as land tenure, affordable housing, water, sanitation, education, health, and social security. Another example is the Rajiv Aawas Yojana (RAY), which was launched by the Indian government in 2011 with the goal of building slum-free cities. The Indian government has recently launched numerous new programmes, including the Smart Cities Mission, the Atal Mission for Rejuvenation and Urban Transformation (AMRUT), and Housing for All. They are committed to creating cities that are competitive, sustainable, egalitarian, and inclusive. The support of the central government is anticipated to push cities to leverage resources, adopt smart solutions, execute reforms, and provide high-quality services to residents.

5.3 State of Transfers to Municipalities in India

In India, intergovernmental transfers to municipalities were artificially divided into plan and non-plan categories. Plan grants comprised centrally financed initiatives, dispensations from the Planning Commission, and state plan programmes. Non-plan grants included: (a) state government assigned income and compensation, (b) state government grants based on SFC recommendations, and (c) central government funds based on CFC recommendations. However, the transfer methods do not adhere to sound public-finance principles. Importantly, as compared to international benchmarks, the size of intergovernmental transfers to municipalities in India is quite small. In 2012-13, transfer income accounted for around 0.46 percent of India's GDP, with 0.36 percent coming from state sources and 0.10 percent coming from government sources. Transfers to local governments in Denmark were 21.3 percent of GDP, 9.9 percent in the United Kingdom, 7.8 percent in Italy, and 6% in Norway. In contrast to the modest payments to ULBS through state and federal channels, central-state transfers in India were 4.62 percent of GDP in 2012-13. Article 243X of the Constitution (74th Amendment) Act 1992 delegates to state governments the determination of assigned revenues, compensations, and grants-in-aid to municipalities, in addition to taxes, tolls, charges, and fees. The SFC is mandated by Article 243Y to recommend principles of (i) devolution of state revenues to municipalities, (ii) determination of revenue sources to be assigned to or appropriated by municipalities, (iii) provision of grants-in-aid to municipalities, and (iv) "measures" required to improve municipal finances. Furthermore, a change to Article 280 of the Constitution requires the CFC to recommend "measures" to augment the finances of a state in order to complement the resources of municipalities based on recommendations made by the state Finance Commission. Despite these constitutional guarantees, municipal finances in India, particularly intergovernmental payments, remain precarious.

Table 5.1 : Major Sources of Shared Revenues and Compensations in Municipal Corporations of India

Name of the State	Name of Municipal Corporation	Shared Municipal Taxes/Compensations in lieu of Taxes
Gujrat	Ahmedabad	Entertainment tax and octroi compensation
Karnataka	Bengaluru	Entertainment tax, surcharge on stamp duty, octroi compensation and motor vehicle tax compensation
Maharashtra	Greater Mumbai	Non-agricultural assessment tax and entertainment tax.
Odisha	Bhubaneswar	Duty on transfer of property, entertainment tax and assignment from state tax revenues
Punjab	Ludhiana	Excise auction amount and excise tax on alcohol
Tamil Nadu	Chennai	Duty on transfer of property, entertainment tax and assignment from state tax revenues
Telangana	Hyderabad	Surcharge on stamp duty, profession tax, entertainment tax, octroi compensation, property tax compensation and motor vehicles tax compensation
West Bengal	Kolkata	Motor vehicles tax and entertainment tax
West Bengal	Howrah	Motor vehicles tax and entertainment tax

Source: Budgets of Municipal Corporations

Table 5.2 : Major Sources of General and Specific Transfers in Municipal Corporations of India

Name of the State	Name of Municipal Corporation	General/Specific-purpose Transfers
Gujrat	Ahmedabad	Education grant, family planning grant and small savings grant
Karnataka	Bengaluru	Family planning scheme grant
Maharashtra	Greater Mumbai	Primary education grant and secondary education grant
Odisha	Bhubaneswar	Salary and dearness allowance grant, primary education grant and secondary education grant
Tamil Nadu	Chennai	Health grant, family welfare grant and flood grant
Telangana	Hyderabad	Per capita grant and road grant
Uttar Pradesh	Kanpur	Salary grant, education grant, medical grant and road grant
West Bengal	Kolkata	Grant for increased cost of pay, dearness allowance grant, grant for

		payment of dues to Calcutta Electricity Supply Corporation and pension relief
West Bengal	Howrah	Grant for increased cost of pay, dearness allowance grant, grant for payment of dues to Calcutta Electricity Supply Corporation and pension relief

Source: Budgets of Municipal Corporations

Table 5.1 shows the major sources of assigned revenues and compensations and Table 5.2, general and specific-purpose transfers to municipal corporations in India. As the tables show, there are significant inter-state differences in the patterns of inter-governmental transfers. These have evolved over time in an ad hoc manner.

A study of ten cities reveals that per capita non-plan grants varied widely between cities (NIUA, 2011). The share of such grants, which are often discretionary, ranged from five per cent of municipal revenues in Ahmedabad in 2006-07 to 42.3 per cent in Chennai, 60.8 per cent in Bhopal and 68.5 per cent in Bhubaneswar in 2007-08. The ratio of non-plan transfers to state own revenue in 2007-08 was 9.3 per cent in Madhya Pradesh, 2.8 per cent in Odisha, 3.7 per cent in Tamil Nadu and 0.7 per cent in Assam. SFC grant-state own revenue ratio in 2007-08 was: 0.7 per cent for Madhya Pradesh, 2.8 per cent for Odisha and 2.6 per cent for Tamil Nadu. The corresponding ratio for Gujrat was 0.6 percent in 2006-07. The relative magnitudes of CFC grants to cities have been much smaller (as shown in Table 5.3 below).

Table 5.3 : Major Sources of General and Specific Transfers in Some Selected Municipal Corporations of India

Component	Madhya Pradesh (2007-08)	Odisha (2007-08)	Tamil Nadu (2007-08)	Gujrat (2006-07)	Assam (2007-08)
Per Capita Non-plan Transfer (Rs.)					
Assigned Revenue	62.0	-	100.3	-	13
Compensation in lieu of taxes	420.9	-	5.9	128.7	-
Specific-purpose Transfers	151.0	2.1	32.9	124.3	86.7
SFC Grants	52.5	340.8	329.1	56.4	-
CFC Grants	37.6	63.3	32.7	48.0	1.2
Total Non-plan Transfers	724.1	406.2	500.9	357.4	100.9
Ratio of Transfers to State Own Revenue (%)					
Non-plan Transfers to Municipalities as percentage of State Own Revenue	9.3	2.8	3.7	3.1	0.7
SFC Grants to Municipalities as percentage of State Own Revenue	0.7	2.8	2.6	0.6	-

Source: National Institute of Urban Affairs (2011)

This chapter investigates the impact of SFC on the fiscal position of Howrah Municipal Corporation. The report of West Bengal's first State Finance Commission (established under the provisions of the 74th Constitution Act) was issued in 1995; thus, the period preceding and following 1995 has been studied for this analysis. For discussing the resource position of the HMC, budget documents from 1991-92 to 2000-01 were examined, and for fund entitlement

of the HMC based on SFC recommendations, reports from the first and second SFCs covering the period of devolution from 1996-97 to 2006-07 were examined (1996-97 to 2000-2001 for the first SFC and 2001-02 to 2006-07 for the second SFC) (1996-97 to 2000-2001 for 1st SFC and 2001-02 to 2006-07 for 2nd SFC). However, the State government did not provide subsidies from the United Plan Fund to local self-government for the seasons 1996-97 to 1998-99 and 2003-04 to 2004-05. Before delving into the fiscal situation of HMC and its implications for civic amenities, this chapter provides a broad review of municipal finance and the State Finance Commission for a better understanding and analysis of the subject.

5.4 Macro Overview of Municipal Finance in India

Numerical figures in tables given below will give an overall view of the municipal fiscal position in India and case of HMC is not different from this over all situation.

Table 5.4 : Trends in Municipal Finances in India : Key Ratios, 2007-08 and 2012-13

Ratio	As Percentage of			
	GDP at Factor Cost (Current Prices)		GDP at Market Prices (Current Prices)	
	2007-08	2012-13	2007-08	2012-13
Municipal Revenues	1.08	1.03	0.99	0.96
Municipal Own Revenues	0.60	0.53	0.55	0.49
Municipal Taxes	0.40	0.33	0.37	0.31
Municipal Property Tax	0.18	0.16	0.16	0.15
Central Transfers for Municipalities	0.10	0.10	0.10	0.10
State Transfers to Municipalities	0.33	0.36	0.32	0.33
Total Transfers to Municipalities	0.43	0.46	0.42	0.43
State Taxes			5.60	6.80
Central Taxes			11.90	10.30
Combined (Central + State) Taxes			17.50	17.10

Source: Administrative Staff College of India (2014), Indian Public Finance Statics 2013-14, 14th Finance Commission (2015)

India's municipalities are not only financially weak, but they are also susceptible to a

steady erosion in budgetary autonomy. In 2002-03, 'own revenues' accounted for 63 per cent of municipal revenues in India. This percentage has reduced to 55.7 per cent in 2007-08 and 51.6 per cent in 2012-13. The ratio of local taxes to central taxes dropped from 4.49 per cent in 2007-08 to 2.98 per cent in 2012-13. The ratio of local taxes to state taxes declined from 6.63 per cent to 3.10 per cent over the two years. Municipal taxes as a percentage of GDP at market pricing likewise fell from 0.37 per cent in 2007-08 to 0.31 per cent in 2012-13. This ratio is quite minor compared to the overall (central + state) tax-GDP ratio of more 17 per cent in both 2007-08 and 2012-13 as indicated in Table 5.4 (Mohanty, 2016). (Mohanty, 2016).

Table 5.5 : Share of Tax Revenues in the Country's Total Tax Revenues (in %)

Year	Center	States	Municipal Bodies	Panchayats
2002-2003	44.1	53.2	2.5	0.2
2007-2008	50.0	48.1	1.7	0.2

Source: Reproduced from '*Municipal Finance Matters – Indian Municipal Finance Report*' (IMFR), National Institute of Public Finance and Policy, New Delhi, August, 2011, pp. 8.

Table 5.6 : Finances of Municipal Bodies for All States

Finances	2002-03		2007-08		CAGR %
	Amount Rs. crore	Per Capita Rs	Amount Rs. crore	Per Capita Rs	
Revenue Income					
Own tax revenue	8,838.13	311	15,277.72	492	11.57
Own non-tax revenue	4,441.84	156	8,243.66	265	13.16
Total own revenue	13,279.97	466	23,521.38	757	12.11
Assignment and devolution	3,657.06	128	9,171.11	295	20.19
Grants-in-aid	2,259.76	79	5,676.25	183	20.23
Others	1,137.52	40	2,818.32	91	19.90
Transfers from the Central Government	308.86	11	2,372.97	76	50.35
Finance Commission Transfers	276.53	10	869.02	28	25.74
Total revenue income	20,919.69	733	44,429.05	1430	16.26
Expenditure					
Revenue expenditure	15,691.46	550	28,431.45	915	12.62
Capital expenditure	5,938.28	208	18,594.08	598	25.64
Total expenditure	21,629.74	758	47,025.53	1,513	16.80
Gross domestic product (GDP) (India) ⁴⁵	22,61,415	21,415	43,20,892	37,969	13.83
Own tax as % of GDP	0.39		0.35		
Own revenue as a % of GDP	0.59		0.54		
Municipal expenditure as % of GDP	0.96		1.09		

CAGR – Compound Annual Growth Rate; Data Base – 3667 municipal bodies from 28 states. (as considered in Thirteenth Finance Commission Report – 109 municipal corporations, 1498 municipalities and 2060 Nagar Panchayats)

Source: Reproduced from - *Municipal Finance Matters* – Indian Municipal Finance Report (IMFR), National Institute of Public Finance and Policy, New Delhi, August, 2011.

According to table 5.6, in 2007-08, the total municipal revenue income amounted to Rs. 44,429 crore and total municipal expenditure to Rs. 47,026 crores. In per capita terms, the revenue income was placed at Rs. 1430 and expenditure at Rs. 1513. Own revenues formed 53 percent of the total revenue, and the balance was accounted for by assignment, devolution and grants-in-aid from states (33.4 percent), central government grants (5.3 percent), and grants from the finance commissions (2.0 percent). Revenue expenditure formed 60.5 percent of the total expenditure. The table further shows that own revenues formed 0.54 percent of the gross domestic product (GDP), while this proportion was 1.09 percent for municipal expenditure. There was a revenue account surplus of approximately 37 percent over expenditure and a deficit of about 6 percent if capital expenditure was accounted for. However, surplus of municipal

revenue over expenditure should be read with caution because revenue income, according to the classification in which the finance data are compiled includes central government transfers which are meant for asset creation and secondly, most state governments require municipalities to maintain either a balance budget or post a budget surplus.

In the Table 5.6, per capita total expenditure of municipal bodies in the year 2007-8 was Rs. 1513 and compound annual growth rate of this expenditure has been derived at 16.80% and based on these figures the estimated per capita total expenditure for municipal bodies would be Rs. 3288.91 for the year 2012-13. Comparing this per capita estimated expenditure on municipal services with the expenditure estimates for core urban sectors for 2012-13 by High Powered Expert Committee on Urban Infrastructure (HPEC, 2011) which is given below in the Table 5.7, a huge gap is found between per capita actual and desired expenditure on core urban sector services.

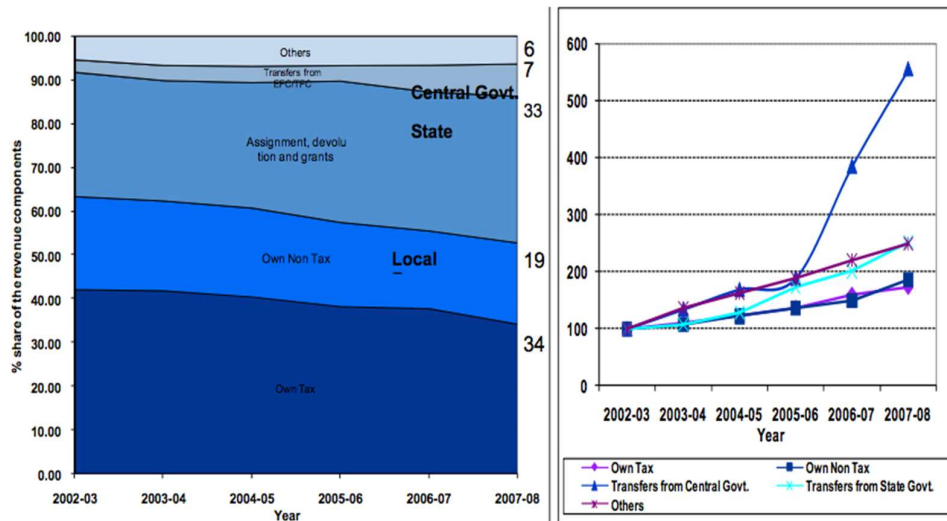
Table 5.7 : Expenditure Estimates for Core Urban Sectors 2012-13 (at 2009-10 Prices)

Sector	Total Capital Expenditure (Rs. Crore)	Total O & M Expenditure (Rs. Crore)	Average Per Capita Investment Cost (Rs.)	Average Per Capita O & M Cost (Annual in Rs.)
Water Supply	320908	546095	5099	501
Sewerage	242688	236964	4704	286
Solid Waste Management	48582	273906	391	155
Urban Roads	1728941	375267	22974	397
Storm Water Drains	191031	34612	3526	53
Urban Transport	449426	304386	5380	371
Traffic Support	97985	36690	945	34
Infrastructure Street Lighting	18580	4717	366	8
Total (Core Sectors)	3098141	1812637	43385	1806

Source: High Powered Expert Committee on Urban Infrastructure Report (2011, 69-84).

The structure of municipal finance in terms of relative share of different component in total municipal revenues has changed over time which has been discussed for the period between 2002-03 to 2007-08 below.

Graph 5.1 : Changes in Structure of Municipal Revenue (indexed to 100 in the Base Year)



Source: Reproduced from - *Municipal Finance Matters* – Indian Municipal Finance Report (IMFR), National Institute of Public Finance and Policy, New Delhi, August, 2011.

As demonstrated in Graph 5.1, considerable changes have taken place in the structure of revenues and patterns of expenditure. Firstly, the share of own tax receipts in total revenues has consistently declined from 42 percent to 34 percent between 2002-03 and 2007-08. Own tax revenues have risen at rates that are lower relative to the other components of revenue income. Although a part of the decline is connected to octroi removal and a part to the dilution of property tax regime in such states as Haryana, Punjab and Rajasthan, it is a big trend.

Second, the share of non-tax income too has declined from 21.2 percent in 2002-03 to 18.5 percent in 2007-08, putting the municipal revenue-raising effort at slightly under 53 percent of municipal body total revenues. The balance of the municipal income has accrued

from the central and state governments.

Third, as a share of total municipal tax income, fiscal transfers have grown from 36.5 percent in 2002-03 to 47.1 percent in 2007-08. This surge in the share of fiscal transfers is driven in part by an increase in the share of assignment, devolution, and grants from the state governments, and in part by the central government payments. Municipal bodies, it should be recalled, are receivers of intergovernmental payments from the Central and state governments, the latter targeting both the vertical and horizontal inequalities. At the state level, grants-in-aid awarded to local entities are used to address imbalances in budgetary capability. Municipal entities also have access to assignment and devolution grants which consist of cash from state tax income shared with municipal authorities and revenue from local taxes earned by the states. Transfers from the central government come in the form of grants tied to reforms, intended expressly for asset creation and capital works. Intervention by the central government in the local sector has, within a short length of time, changed the intergovernmental budgetary framework. The Central Finance Commission makes grants-in-aid at five-year intervals that are granted through the states to municipal groups. Finance commission grants are used to fill the revenue account gaps at local levels and are allocated according to a mix of weighted criteria that considers factors such as urban population, geographic area, level of development, local revenue effort, an index of decentralisation, an index of deprivation, and the level of conformity with the Seventy-fourth Constitutional Amendment.

Fourth, this decade has undergone an extremely enormous surge in transfers from the central government; as the Table 5.6 demonstrates, central government's transfers rose to Rs. 2372 crore in 2007-08 compared to a low Rs. 308 crore in 2002-03. Over this period, these payments grew at an annual compound rate of over 50 percent, from a per capita of Rs. 11 in 2002-03 to Rs. 76 in 2007-08 in the form of grants from the Central government largely under

the Jawaharlal Nehru National Urban Renewal Mission (JNNURM). Although these grants are meant for asset creation, they are shown as a component of the revenue income.

Fifth, overall municipal expenditure rose at a compound annual rate of 16.8 percent between the 2002-03 to 2007-08, rising in the aggregate from Rs. 21,629 crore, to Rs. 47,026 crore. Data in Table 5.6 indicate that the municipal sector is presently on path to raise the levels of capital spending. Capital spending comprised of the transfers from the Central and state governments, and budgetary surpluses have climbed at twice the rate of revenue expenditure throughout the six years period. What is noticeable is that despite a fall in own source revenue as a proportion of GDP, overall expenditure registered a growth from 0.96 percent of GDP in 2002-03 to 1.09 percent of GDP in 2007-08. Here, the role of the JNNURM in financing municipal services needs to be highlighted. Since its inception in 2005, it has directly incorporated the state governments and local authorities in matching the Central government funding; moreover the approach so established is predicted to have a long term influence in leveraging market funds for municipal projects.

This overview of the finances of municipalities underscores the fact that over the 2002-03 and 2007-08 period, the own revenue component of municipal revenues witnessed no sign of buoyancy or vitality; in fact, as a proportion of the gross domestic product (GDP); own tax yields dipped from 0.39 percent in 2002-03 to 0.35 percent in 2007-08 and own revenue component from 0.59 percent in 2002-03 to 0.54 percent during the same period. Although the decline is attributable in part, to the abolition of octroi which was an important source of revenue for municipal bodies and in part to state policies towards property taxation in states such as Haryana, Punjab, and Rajasthan, the fact that this component of municipal revenues has not registered any change cannot be obscured. It also means that unlike the reform of the central and state taxes undertaken in India in mid-1990s (and still continuing), municipal taxes

have been outside of any comprehensive reform attempt.

The Overview also shows an increase in fiscal transfers to municipalities from 0.37 percent in 2002-03 to 0.55 percent in 2007-08.

Table 5.8 : Central Government Grants to Municipalities

Year	Amount (Rs. Crore)
2002-03	308.9
2003-04	406.8
2004-05	545.3
2005-06	336.9
2006-07	1221.9
2007-08	2372.9
CAGR %	50.35

Source: Thirteen Finance Commission

Table 5.9 : Grants to Local Governments by Various Central Finance Commissions (CFCs)

Central Finance Commission	Urban Local Bodies (Rs Crore)	Rural Local Bodies (Rs Crore)	As % of Divisible Pool of Central Finance Commissions (Rs Crore)
Tenth	1000	4381	1.38
Eleventh	2000	8000	0.78
Twelfth	5000	20000	1.24
Thirteenth	23111	64407.6	1.93
Fourteenth	87144	200292	3.06

Source: Fifteenth Central Finance Commission, pp. 198

Table 5.10: State-level Structure of Municipal Revenues and Expenditures, 2007-08

States	Per capita own revenue (Rs.)	CAGR of own revenue 2002-07	% share in total revenue	Per capita revenue expenditure (Rs.)	CAGR of revenue expenditure 2002-07
Andhra Pradesh	748	13.0	58.5	1060	18.5
Assam	143	4.8	38.2	205	10.8
Bihar	105	4.8	14.6	711	48.8
Chattisgarh	376	11.6	14.1	1449	34.1
Goa	282	3.9	57.8	400	8.2
Gujarat	1079	7.7	61.5	1135	10.2
Haryana	281	3.6	33.5	328	2.9
Himachal Pradesh*	595	14.9	47.8	--	--
Jammu & Kashmir	90	21.2	9.9	452	20.1
Jharkhand	86	12.6	20.2	134	15.5
Karnataka	545	6.4	34.2	750	10.5
Kerala	329	3.6	39.5	517	14.4
Madhya Pradesh	121	6.8	11.6	998	16.9
Maharashtra	2600	11.7	76.1	2237	13.8
Orissa	38	14.7	4.5	405	17.6
Punjab	1049	7.2	89.1	925	10.6
Rajasthan	387	16.6	39.5	447	11.0
Tamil Nadu	396	7.4	38.4	665	8.1
Uttar Pradesh	94	2.1	14.8	245	2.1
Uttarakhand	116	0.6	21.8	330	8.6
West Bengal	394	10.4	51.7	574	6.3

Source: Reproduced from - *Municipal Finance Matters* – Indian Municipal Finance Report (IMFR), National Institute of Public Finance and Policy, New Delhi, August, 2011.

Table 5.11: Ratio of Tax to Non-Tax Revenue

(A)					(B)				
States where ratio has risen			% CAGR of		States where ratio has fallen			% CAGR of	
States	2002	2007-08	Tax revenue	Non-tax revenue	States	2002	2007	Tax revenue	Non-tax revenue
	-03		nue	revenue		-03	-08	nue	revenue
Bihar	0.15	0.61	-1.0	25.4	Andhra Pradesh	0.87	0.64	15.5	9.8
Chattisgarh	0.56	0.79	9.0	15.7	Assam	2.02	0.86	13.6	-1.5
Goa	1.18	1.35	2.5	5.0	Madhya Pradesh	1.09	0.79	9.6	3.9
Gujarat	0.20	0.31	6.2	14.1	Maharashtra	0.47	0.46	11.9	11.1
Haryana	1.55	1.80	2.0	4.5	Orissa	0.42	0.39	15.1	13.6
Jammu & Kashmir	2.75	7.37	6.0	24.9	Uttar Pradesh	0.66	0.62	2.5	1.5
Karnataka	0.60	0.85	3.9	10.0	Uttarakhand	1.85	1.44	3.3	-1.0
Kerala	0.44	0.67	1.1	8.4					
Punjab	0.28	0.29	7.1	7.5					
Rajasthan	8.33	24.63	-1.5	18.0					
Tamil Nadu	0.50	0.53	7.0	8.0					
West Bengal	0.78	1.20	6.5	146					

Source: TFC data

Source: TFC data

Source: Reproduced from - *Municipal Finance Matters* – Indian Municipal Finance Report (IMFR), National Institute of Public Finance and Policy, New Delhi, August, 2011.

Table 5.11 illustrates that the tax to non-tax revenue ratio has decreased in seven states

while increasing in the other twelve. Municipalities in category (B) have been able to moderately enhance their tax efforts in comparison to charges and fees, but municipalities in category (A) have been able to significantly change the non-tax component in comparison to taxes. The second and third columns provide corroborating data: higher CAGR for tax revenues in category B states and higher CAGR for non-tax revenues in category A states.

Except for two states, Maharashtra and Punjab, municipal income is insufficient to cover revenue expenses. There is a significant structural imbalance concern. The situation is particularly acute in areas such as Bihar, Madhya Pradesh, and Orissa, where personal income may only pay about one-fifth of ongoing expenses. It should also be noted that the level of inadequacy shown in the table refers to ongoing expenditures rather than those required to offer an acceptable level of infrastructure services. If own revenues are considered as a metric of decentralisation, as the international literature implies, India has regressed in executing the goals outlined in the Seventy-fourth Constitution Amendment Act, 1992, as indicated in Table 5.12. Apart from the extremely low proportions of state income to gross domestic product, i.e., less than 1% of total state output (except in Maharashtra, where it is 1.49%), the point to note is the drop in these proportions over the five-year study period. Local revenues have grown slower than the GDP; municipal organisations have not been able to capture the claimed growth over time. Even the annual growth in the real estate business, which averaged 15% between 2002 and 2007, did not translate into municipal income through property taxation.

Table 5.12 : Measuring Decentralisation

States	Own Tax Revenues as a % of GSDP		Municipal Expenditure as a % of GSDP	
	2002-03	2007-08	2002-03	2007-08
Andhra Pradesh	0.26	0.32	0.88	1.18
Assam	0.03	0.05	0.14	0.26
Bihar	0.10	0.06	0.20	0.61
Chattisgarh	0.20	0.14	1.21	1.76
Goa	0.13	0.07	0.39	0.30
Gujarat	0.91	0.60	1.45	1.40
Haryana	0.10	0.05	0.33	0.40
Himachal Pradesh	0.12	0.14	0.28	0.29
Jammu & Kashmir	0.01	0.01	0.33	0.61
Jharkhand	0.08	0.09	0.36	0.43
Karnataka	0.40	0.26	1.04	1.49
Kerala	0.18	0.10	0.46	0.46
Madhya Pradesh	0.08	0.09	1.21	1.72
Maharashtra	1.48	1.49	2.52	2.94
Orissa	0.02	0.01	0.34	0.46
Punjab	0.65	0.56	0.83	0.76
Rajasthan	0.03	0.01	0.80	0.71
Tamil Nadu	0.37	0.29	1.42	1.29
Uttar Pradesh	0.10	0.07	0.82	0.54
Uttarakhand	0.06	0.04	0.35	0.29
West Bengal	0.18	0.14	0.67	0.76

Source: Reproduced from - Municipal Finance Matters – Indian Municipal Finance Report (IMFR), National Institute of Public Finance and Policy, New Delhi, August, 2011.

5.5 State Finance Commissions post 74th Constitution Amendment Act

Articles 243I and 243Y of the Indian Constitution spell out the tasks of the SFC. They are to review the financial position of panchayats and Urban Local Bodies (ULBS) and to make recommendations to the governor as to (a) the principles which should govern the distribution between the state and the local governments (panchayats and ULBs) of the net proceeds of taxes, duties, tolls and fees levied by the state and the inter se allocation between different Panchayati Raj Institutions (PRIs) and ULBs, (ii) the determination of taxes, duties, tolls and fees which may be assigned to or appropriated by the local governments (iii) the grants-in-aid

from the consolidated fund of the state to local governments (LGs) (b) the activities needed to better the financial condition of PRIs and ULBs; (c) any other item submitted to the commission by the governor in the interests of sound finance of PRIs and ULBs. These functions are carefully mirrored on the Central Finance Commission (CFC) as provided for in the Article 280 of the Indian Constitution. Following the Seventy-third and Seventy-fourth Constitution Amendments, two sub-clauses were added to Article 280(3) which require the CFC to recommend measures needed to augment the consolidated fund of a state to supplement the resources of the PRIs and ULBs in the state on the basis of the recommendations made by the Finance Commission of the State. It is on the basis of the recommendations of the SFCs that not only the state governments make financial allocations to the local bodies, rural and urban, but also the national level finance commission have to take efforts to supplement the finances of the state government.

5.5.1 State Finance Commissions

At the time of introduction of Seventy-fourth Constitution Amendment, concept of State Finance Commission was not new to the State of West Bengal. However, SFCs of West Bengal, before to Seventy-fourth Constitutional Amendment Act didn't have constitutional mandate like modern ones yet these earlier SFCs initiated some exceptional revolution in the municipal finance of West Bengal.

The West Bengal Municipal Finance Commission was set up in 1979. It investigated in depth the municipal budgets in the state. Its key report came out in 1982 featured recommendations for boosting municipal income, enhancing operational efficiencies and accounting, and correcting organisational and management systems, etc. The West Bengal Municipal Finance Commission was an important landmark in the municipal reform movement in the state as follows -

The West Bengal Municipal Finance Commission (WBMFC) 1982, suggested an extensive restructuring of property tax and advised imposition of a tax analogous to the property tax with a varying rate structure for different zones, or an increase in licence fees on property used for non-residential or commercial purposes. It suggested implementation of the 'straight-line' concept for property tax structure to all municipalities in the state. The WBMFC clearly specified that the service charge and holding rate should be extended to both central and state government properties, which were typically free from property taxes.

The WBMFC recommended imposition of a state-wise entry tax payable on products entering any municipal jurisdiction, to be collected by the state government and dispersed among local authorities according to a pre-determined formula.

The WBMFC suggested decrease of subsidies from the state and stressed that tax sharing and grants-in-aid should be tied to the financial performance of a municipal body. Capital aid from the state to the local governments would depend on their capacity to maintain and run created the assets.

The process of financial reforms in urban local bodies, which was initiated in the early 1980's, went up to the Second West Bengal Municipal Finance Commission that was set up in 1988 and came out with its recommendations in 1992. The following Commission also suggested wide-ranging measures for enhancing the financial position of urban local governments.

After implementation of Seventy-fourth Constitution Amendment, first State Finance Commission of West Bengal under Article 243Y of Indian constitution was created up in May, 1994 which gave its recommendations in 1995. This SFC recommended the entitlement for the period 1996-97 to 2000-01. However, out of these five years, the State government allocated the funding to the local bodies of the State for just two years (1999-2000 & 2000-2001) on the

basis of the recommendations of SFC.

Second State Finance Commission was set up in July, 2000 and its report was delivered to West Bengal government in February, 2002. On the basis of recommendations of 2nd SFC, the State government allocated untied plan fund to local bodies for the years 2001-02, 2002-03, 2005-06, and 2006-07. As shown in next sections, there is no remarkable change in resource position of HMC on account of entitlement of fund by the State government on the basis of SFCs constituted under provisions of Article 243I & 243Y (one can call it new generation of SFCs), this is so because, first, even before new generation of SFCs which recommends entitlement out of a part of district plan fund as untied plan fund to urban local self-governments in general and HMC in particular, HMC used to get grants on the basis of old generation of West Bengal State Finance Commissions' recommendations (one of the item in HMC Budget under 'Miscellaneous Receipts from Government' section of revenue side with subheading - 'Grants from District Plan Fund' having Budget Main Code No. 8000 & Budget Sub-Code No. 299), and second, total plan fund transferred to local self-governments as entitlement on the basis of recommendations of SFCs is not big enough to bring remarkable change in the financial position of local self-governments. This is abundantly noted in second chapter of the report of 1st SFC –“As will be seen later, the entitlements presented here do not depend on accretion of more money but are only a realignment of funds which are now being spent for the districts already. For a long time to come, there will be shortages in relations to need and additional money either from the Centre or from the State will constantly improve this arrangement of decentralisation.” (1st SFC Report, 1995)

5.5.1.1 Major Recommendations of the 1st State Finance Commission Report and Action Taken On

Recommendations -

- (i) Surcharge on Sales Tax, which was introduced in place of Entry Tax, should be distributed to the Urban Local Bodies.
- (ii) State Grants in lieu of collection of Profession Tax and as assignment of part of Motor Vehicles Tax to Local Self Governments (LSGs) may be discontinued.
- (iii) In lieu of sharing individual taxes, 16% of net tax revenue collected by the State in a year, which was estimated to be Rs.598 crore according to 1995-96 Budget Estimates, should be transferred to local bodies as untied funds.
- (iv) Taxes on entertainments collected by the State should be handed over to the local bodies.
- (v) Urban Land Tax and Multi-Storied-Building Tax should be handed over to Kolkata Municipal Corporation (KMC).
- (vi) Works under the State plan sector and District plan sector should be clearly listed by the State Government.
- (vii) Departmental maintenance budget should be disaggregated district wise and communicated to the districts. District Planning Committee (DPC) should be involved in supervising maintenance works.

Action Taken On -

- (i) State Government accepted the recommendations of the First SFC regarding the principle that entitlements of local bodies should be financed by sharing of taxes subject to clear listing of the works under the State Plan Sector and District Plan Sector and district wise disaggregation of departmental maintenance budget for which detailed

exercise was sought to be done in consultation with Administrative Departments.

- (ii) Unfortunately, State Plan Sector and District Plan Sector Schemes have not been worked out in reality. Nothing has also been done for disaggregating district-wise departmental maintenance budget.
- (iii) The First SFC recommended that after-tax transfers, of the total net proceeds of taxes collected by the State in a year, 16 percent should be transferred to districts as entitlements. It was estimated that 16% of the total net proceeds of State Taxes, according to 1995-96 Budget Estimates, was Rs.598 crore. In fact, actual collection during the year 1995-96 was Rs.4132.86 crore and assuming that 3% of gross revenue is the cost of collection, 16% of net proceeds would have come to Rs.641.4199 crore for local self-governments. As per formula of the First SFC, the amount to be devolved to the urban local bodies with effect from 1996-97 to 2000-01 was Rs.617.9740 crore, i.e. Rs.123.5948 crore per annum. The State Government implemented the First SFC recommendations with effect from the year 1999-2000 and the total amount transferred to urban local bodies during the years 1999-2000 & 2000-01 was Rs.134.5372 crore only.
- (iv) State Government did not accept the recommendation of distribution of the amount collected as surcharge on Sales Tax, but accepted the suggestion that State grants on parts of collection of Profession Tax and Motor Vehicles Tax to local self-governments be discontinued.
- (v) First SFC recommended that taxes on entertainments should be handed over to local bodies. Instead of transferring, State Government decided to share 90% of the collected amount to the urban local bodies and the Panchayati Raj Institutions (PRIs) in the ratio of 80:20.

(vi) State Government accepted the recommendation that Urban Land Tax and Multi-Storeyed-Building Tax should be handed over to Kolkata Municipal Corporation (KMC).

Inter-district Devolution of Entitlement Fund -

For inter-district devolution of entitlement fund as untied plan fund to districts, 1st SFC established a combination index combining numbers of population, non-literates, backward population, area, and rural population and population per Rs. one lakh of bank & cooperative deposit as its components. District wise weightage in percentage terms were employed to arrive at the portions of the districts out of entitlement fund. District wise weightage of composite index in percentage terms was as indicated in the Table 5.13.

Table 5.13 : Inter-district Devolution of Entitlement Fund : Combined Index in %

Sl. No.	District	Weightage of Combined Index in %	Sl. No.	District	Weightage of Combined Index in %
1	Coochbehar	4.264	10	South 24 Parganas	8.769
2	Jalpaiguri	4.912	11	Howrah	4.326
3	Darjeeling	2.010	12	Hooghly	5.519
4	Uttar Dinajpur	3.882	13	Burdwan	8.012
5	Dakshin Dinajpur	2.930	14	Birbhum	4.366
6	Malda	4.723	15	Bankura	4.854
7	Murshidabad	7.638	16	Purulia	4.055
8	Nadia	5.588	17	Midnapur	11.616
9	North 24 Parganas	8.648	18	Kolkata	3.888
				Total	100

Source: First State Finance Commission Report (West Bengal)

Intra-district Devolution of Entitlement Fund for Howrah District –

Out of entitlement based untied plan money of a given district, two percent was held aside for funding an incentive system for tax collecting activities. The other 98 percent was separated into three sections – Municipal, Panchayat, and non-Panchayat (special region) allocation entirely on the basis of population accounted for by each sector.

Table 5.14 : Intra-district Devolution of Entitlement Fund in Howrah District

Share in State Entitlement	4.326%
Intra-district Devolution	
Incentive Fund	2.00%
District Municipal Fund	34.51%
District Panchayat Fund	63.49%
District Special Area Fund	-
Total	100%

Source: First State Finance Commission Report (West Bengal)

Table 5.15 : Disaggregation of District Municipal Fund for Howrah

Municipal Body	Entitlement as % of District Untied Plan Fund
Howrah Municipal Corporation	20.817
Bally	5.342
Ulberia	8.351
Total	34.51

Source: First State Finance Commission Report (West Bengal)

From Tables 5.13, 5.14, and 5.15, HMC's share of untied plan grant out of SFC recommended entitlement grant was derived at 0.9005%.

5.5.1.2 Major Recommendations of the 2nd State Finance Commission Report and Action Taken On

Recommendations –

1. The Second State Finance Commission (Second SFC) accepted the main framework of First SFC allocation structure including the recommendation of 16 percent of net State Taxes as entitlement fund. It was specified that a minimum amount of Rs.700 crore should be granted for devolution to local self-governments (LSGs) as untied entitlement.

2. State Government should continue to collect Entertainment Tax and share it with LSGs.
3. Urban local bodies (ULBs) should be empowered by legislation to collect Urban Land Tax and Multi-Storied-Building Tax.
4. State Government should ensure that recommendations of the Central Valuation Board (formerly termed 'West Bengal Valuation Board') are implemented in all ULBs.
5. Different rates and fees applied by ULBs should be evaluated.
6. User charges and Service charges should be assessed by all ULBs.
7. State Government should pursue with Government of India the Eleventh Finance Commission's (EFC) suggestion for implementation of Service charge on Central Government properties.
8. State Government should consider making aggregated payments directly to the ULBs through Municipal Affairs Department on account of municipal tax on State Government properties.

Action Taken On –

1. In the Action Taken Report placed before the Legislative Assembly on July 15, 2005, State Government stated that an amount of Rs.350 crore would be provided in 2005-06 Budget as untied entitlement of the rural and Urban Local Bodies and every effort would be made to ensure that the devolution of fund to the local bodies is maintained at least at this level.
2. As per principles of distribution set by the Second SFC, total amount of devolution to the ULBs should have been Rs.139.8509 crore per annum (on the basis that total amount for devolution to LSGs is Rs. 700 crore annually) (on the presumption that total amount for devolution to LSGs is Rs. 700 crore annually). In fact, this amount would have been larger, had the Second SFC's suggestion that devolution of untied entitlement be on the

basis of 16 percent of actual net tax revenue per year been given effect to. As the State Government pledged to grant Rs.350 crore per year to the LSGs , the share of the ULBs should have been Rs.69.9255 crore per year. But, indeed, a sum of Rs.135.71.97 crore was received by ULBs in 2001-02, Rs.66.64 lakh in 2002-03, Rs.70.8630 crore in 2005-06, Rs.57.95 crore in 2006-07. Unfortunately, no fund was released during the year 2003-04 and 2004-05.

3. State Government approved the advice about collection of Entertainment Tax by the State Government and sharing with the LSGs, but did not accept the recommendation to empower the LSGs to collect taxes on urban land. The State Government did not contemplate any special tax on multi-storied-buildings to be collected by the ULBs.
4. State Government further maintained that the imposition of service fee on Central Government properties was being pursued and the recommendation to make consolidated payments directly to the ULBs on account of municipal tax on State Government properties was under review.

5.5.1.3 State Government Grants to HMC and Revenue & Expenditure of HMC for Public Services

The budget of HMC like budgets of other urban local authorities has numerous heads and sub-heads on revenue and spending side. This study is focused on SFC suggested decentralisation and its influence on public service delivery of HMC. Hence, out of several budget heads on revenue side of HMC, the ‘Grants & Contribution’ with code 8000 is of significant relevance for this study because SFC suggested grants are credited in this head of HMC budget. For public services delivery, on non-tax revenue receipt side of budget entries like shopping centre (code 4100), public baths & latrines (code 4320), community hall (code 4400), slaughter house (code 4600), square gardens (code 4700), stadium & hut complex (code 4710), Belilious park (code 4720), water supply (code 5300), sewerage and drainages (code

5400), road and footpath (code 5500), solid waste service (code 5600), health services (code 6000) and education services (code 7200); and on expenditure side of budget entries like community services (code 4000), engineering services (code 5000), health services (code 6000) and education services (code 7000) have been considered in this study. Revenue revenues and expenditure of HMC on other heads also effects public service delivery in indirect way but to prevent complexity of income-expenditure interlinkage, entries of above listed head or sub-head have been considered. SFC proposed devolution of funds to municipal authorities are expected to affect the composition of receipts to these entities because SFCs also recommend on transfer, merger, sharing, and assignment of taxes between the State and urban local governments. HMC obtained its first SFC recommended funds for the year 1999-2000 during the study period of 1991-92 to 2000-01. Looking at the HMC budget entry heads of ‘Grants & Contribution’ receipt and expenditure for public services for year 1991-92, 1999-2000, and 2000-01 would aid in analysing the impact of SFC suggested devolution.

Table 5.16 : HMC Budget Receipt Estimate for the Head ‘Grants & Contribution’

(figures in bracket are Revise Estimate for preceding year; Amounts are in Rs. lakhs)

1991-92		1999-2000		2000-01	
Particulars	Amount	Particulars	Amount	Particulars	Amount
291-State Govt. grants for D.A. Subvention	580 (298.47)	291-State Govt. grants for D.A. Subvention	2239 (1591.85)	291-State Govt. grants for D.A. Subvention	3280 (2181)
292-State Govt. grants for taking over licensing of Motor Vehicles	9 (8.15)	292-State Govt. grants for taking over licensing of Motor Vehicles	1 (0.80)	292-State Govt. grants for taking over licensing of Motor Vehicles	1.50 (1)
293-State Govt. grants for Road, Maintenance	-	293-State Govt. Grants for Development & Maintenance	500 (400)	293-State Govt. Grants for Development & Maintenance	400 (450)
294-State Govt. grants for	200 (-)	294-State Govt. grants for	100 (60)	294-C.M.D.A Grants for Road Maintenance	100 (100)

C.M.D.A Assets		C.M.D.A Assets			
295-Contribution from Govt. for Education (Including grants for Non-Formal Mass Education)	1.80 (1.18)	295-Contribution from Govt. for Education (Grants for Non-Formal Mass Education)	0.50 (0.20)	295-Contribution from Govt. for Education (Grants for Non-Formal Mass Education)	0.50 (0.50)
297-Sale of land and other Municipal properties	-	297-Sale of land and other Municipal properties	-	297-Sale of land and other Municipal properties	-
298- Contribution from Public Including Contribution for construction of – (a) Haraganj Market Complex (b) Howrah Hut Complex at Telkal Ghat	550.2 5 (-)	298- Contribution from Public Including Contribution for – (a) Haraganj Market Complex (b) Howrah Hut Complex at Telkal Ghat	275 (55.50)	298- Contribution from Public Including Contribution for – (a) Haraganj Market Complex (b) Howrah Hut Complex at Telkal Ghat	20 (50)
299-Misc. receipts for Government (Grants for Trade License Revenue)	380 (240)	299-Misc. receipts for Government		299-Misc. receipts for Government	
		Grants for Trade License Revenue	100 (100)	Grants for Trade License Revenue	100 (42)
		Grants from District Plan Fund	400 (380)	Grants from District Plan Fund	200 (300)
		Share of Small Savings	5 (5)	Share of Small Savings	-
		Padmapukur Water Work Stabilisation & Maintenance	80.50 (-)	Padmapukur Water Work Stabilisation & Maintenance	25 (30)
		NSDP Account	100 (150)	NSDP Account	50 (60)
		Basic Minimum Service	150 (17.50)	Basic Minimum Service	150 (149)
		10th Finance Commission	60 (69.40)	10th Finance Commission	48 (50)
		MLALAD	-	MLALAD	25

			(8.25)		(20)
		Road from Howrah Improvement Trust to Kona Express	80 (25)	Road from Howrah Improvement Trust to Kona Express	75 (50)
		Sub-Total	975.5 0 (755.1 5)	Sub-Total	673 (701)
290-Misc. receipts from other source Including Carriage lifting charge Including Grants of Sarat Sadhan and Hadco Loan from State & Central	70 (34.44)	290-Misc. receipts from other source		290-Misc. receipts from other source	
		Carriage lifting charge Sport	5 (1)	Carriage lifting charge Sport	7 (2)
		Sports Complex at Doomurjala	80 (70)	Sports Complex at Doomurjala	70 (60)
		Entertainment Tax	100 (91)	Entertainment Tax	50 (-)
		Ways & Means Advances for Payment of Arrear Pay	70 (-)	Ways & Means Advances for Payment of Arrear Pay	210 (-)
		Stadium at Dalmia Park	5 (3)	Stadium at Dalmia Park	150 (5)
				Fixed Deposit with Bank - 582 (1999-2000)	
		Sub-Total	260 (165)	Sub-Total	487 (649)
290A Grants for Slum clearance	200 (600)			296-Grants-in-Aid from Govt. for Relief to Pensioners	560 (280)
Total	1991. 05 (1182. 24)	Total	4441 (3098. 50)	Total	5522 (4412. 50)

Source: Budget Documents of HMC from 1991-92, 1999-2000 and 2000-01.

Entry 'miscellaneous. receipts for government' (No. 299, Under Municipal Budget Code 8000) includes 'Grants from District Plan Fund' which is recommended by the SFC as

untied fund and from the above table it is clearly visible that this SFC recommended fund is not substantial addition to the municipal fund of HMC to bring any distinctive change in the service delivery of HMC. Whatever additional sum is available to municipalities through this SFC mechanism, its positive influence on municipal fund of HMC was mitigated to a significant part due to replacement of entry tax by surcharge on sale tax by the West Bengal government. Before 1996-97, HMC used to get share of entry tax which was replaced by the surcharge on sale tax and despite advice of 1st SFC, the West Bengal government declined to share earnings of this surcharge with local authorities. So, from 1996-97 local authorities in West Bengal are being deprived of a vital source of revenue i.e. portion of entry tax. Even before SFC suggested funding from district plan money, HMC used to get fund from state government for implementation of various schemes and projects under district and state sector and majority of this was tied type of fund. Now, the whole district plan fund may be divided into two parts; the first as grant and second as entitlement going to districts. The formation of SFC included two significant components in money transfer to local governments, first, transfer of untied fund and second, a specified method for evaluating entitlement of local governments. These two modifications have decreased uncertainty regarding the amount of finance available from state government to HMC and have expanded the flexibility in the use of this fund by HMC. However, still there remains an element of uncertainty about cash availability which can be observed between HMC budget statistics of provision (budget estimate) and actual expenditure (updated estimate) under different heads.

Table 5.17 : HMC Budget Estimates for Some Tax & Non-Tax Revenue

(figures in bracket are Revise Estimate for preceding year; Amounts are in Rs. lakhs)

Year	Share of Entry Tax	State Govt. Grants from Taking Over of Motor Vehicle Tax	Misc. Receipt from State Government (1995-96 onwards figures are only for Grants from District Plan Fund)
1991-92	300 (292.41)	9 (8.15)	380 (240)
1992-93	400 (361.11)	9 (-)	200 (100)
1993-94	300 (185.42)	50 (43)	250 (115)
1994-95	330 (242.25)	3 (2.89)	135 (100)
1995-96	380 (300)	3.5 (2.88)	100 (-)
1996-97	- (3.2)	3 (3)	55 (45)
1997-98	-	4 (3.8)	5 (-)
1998-99	-	4 (3.5)	250 (252)
1999-2000	-	1 (0.8)	400 (380)
2000-01	-	1.5 (1)	200 (300)

Source: Budget Documents of HMC from 1991-92 to 2000-01

To indicate resource availability of HMC in the context of fund devolution on the basis of the recommendations of 1st SFC, three non-tax revenue streams of HMC have been shown in Table 5.17. Recommendations of SFCs were meant to have impact on these three revenue sources — (i) After abolition of Entry Tax, A share of surcharge on State Sales Tax was meant to be transferred to HMC to repair the loss on account of abolition of this entry tax, however as noted previously the State Government didn't accept this suggestion of SFCs. As it is indicated in the abovementioned table, resources of HMC was severely reduced due to this repeal of entry tax after 1996-97 which is coincidentally the same year from which grants on the basis of recommendations of 1st SFC was meant to be transferred to HMC. (ii) SFCs advised cessation of the transfer of State Government Grants from taking over of Motor Vehicle Tax to local bodies and the State government accepted this suggestion. However, considering the

limited size of this fund, there is no big influence on resource position of HMC. (iii) Resource under heading ‘Miscellaneous Receipt from State Government’ of HMC budget generally consists of grants for ‘Trade License Revenue’ and grants from ‘District Plan Fund’. Entitlement grant to local bodies on the basis of SFCs recommendations is concerned with this component of grant to local bodies. Figures reported for the period 1995-96 onwards in the following table is of grants to HMC from District Plan Fund. Here it is demonstrated that SFCs recommendation-based transfer has to some extent recovered the loss on account of repeal of Entry Tax but not to the amount to create some significant change in resource position of HMC.

Table 5.18 : Non-Tax Revenue of HMC : Fee & User Charges from Public Services*
(Amounts are in Rs. lakhs)

Year	Budget Estimate	Revised Estimate for Preceding Year
1991-92	94.31	42.42
1992-93	213.76	81.31
1993-94	248.09	60.49
1994-95	553.46	337.62
1995-96	577.19	316.13
1996-97	327.19	326.3
1997-98	267.3	109
1998-99	300.05	183.78
1999-2000	380.53	139.94
2000-01	407.8	169.85

Source: Budget Documents of HMC from 1991-92 to 2000-01

* Income on account of fee & user charges from shopping centres, public bath & latrines, community halls, slaughter houses, squares & gardens including stadium & hut complex, water supply, sewerage & drainages, roads & footpath, solid waste services, health services, and education services.

Table 5.19 : HMC Expenditure on Public Services *

(Amounts are in Rs. lakhs)

Year	Budget Estimate	Revised Estimate for Preceding Year
1991-92	2173.67	1829.21
1992-93	2115.13	2197.57
1993-94	3023.26	1932.24
1994-95	2865.46	2182.31
1995-96	2831.15	1713.17
1996-97	2936.69	2041.91
1997-98	3588.87	2456.49
1998-99	37932.96	2985.55
1999-2000	5094.46	3236.1
2000-01	5559.35	4270.25

Source: Budget Documents of HMC from 1991-92 to 2000-01

* Expenditure on account of community services, engineering services, health services, and educational services.

Chapter – Six

Summary and Conclusions

The urban sector has numerous economic, political, social and cultural implications for each society, and India is no different. Historically, India has a rich legacy of urban life, and even in ancient times, many cities in India were notable on a global scale for their well-organised city planning, dynamic cultural and political life, and vibrant economy. However, while economic dominance of cities has grown in recent years, many cities are still known around the world for their rich cultural and political life and traditions.

Cities' economic relevance stems from their agglomeration externalities, which result in rising returns at the business, industry, local, urban, and regional levels. Cities establish and grow to realise agglomeration economies. These are returns to density and geographical contiguity as a result of firm, household, and institution co-location. They appear in economies of scale, scope, localisation, and urbanisation, facilitating production, transaction, and distribution operations. Specialisation, diversity, and rivalry are encouraged in cities. They provide market size advantages, backward and forward linkages, learning, matching, sharing, and networking. They lead to networks that boost productivity in the economic, social, political, technological, knowledge, and infrastructure sectors. The performance of the urban economy also has an impact on macroeconomic performance via three linkages: financial, fiscal, and real sector, all of which have a substantial impact at the macroeconomic level.

The success of the urban sector is heavily reliant on city management, and governance is one of the most essential aspects of city administration. Cities in India were totally managed under the framework of federal and provincial administrations during the previous colonial

period, and the element of representation was completely lacking in this form of city governance, which was dominated by officials. The socio-political classes demanded representation in municipal governance in order to meet the desires of local inhabitants, which were not adequately fulfilled in the city administration managed by officials. This Indian goal for representative local city governance was partially satisfied in 1882, when Lord Ripon's government issued a landmark resolution allowing citizens to participate in the administration of their own affairs. However, the earliest official action concerning urban government was referenced in section 158 of the Charter Act of 1793, which established municipal governance in three presidency towns of colonial India: Madras, Calcutta, and Bombay. Local governments were permitted under colonial administration, and these governments were autonomous of district administration in certain areas of citizen concern. These municipal governments in cities were given specific functions and sources of revenue to carry out their responsibilities. Municipal governments provided two benefits to the colonial government: first, the financial burden on the colonial exchequer was reduced to some extent due to the offloading of certain functions such as sanitation, basic education, public health, and so on to municipal governments; and second, municipal governments provided an opportunity for the local political class to participate in political activity at the local level and vent out their political ambitions that had previously been suppressed.

The concept of urban public finance or municipal finance was introduced with the rise of urban or municipal government. Public finance is the most important aspect for the concerned government's service delivery, and similarly, urban public finance is the most critical factor for the performance of urban local governments. The significance of urban public finance stems from cities' function as not only places to live and work, but also as economic growth engines. The working efficiency and productivity of households and businesses are improved by city and regional infrastructure. They generate "broader economic benefits" through externalities.

For the development of such infrastructure and the supply of public services, urban public finance is crucial. Furthermore, in India, local government finance is an essential component of state government financing. In light of the fiscal federalism system established by the Indian Constitution, the latter is inextricably linked to central government financing. With cities contributing more to GDP, urban public finance will become more significant in the country's public finance system.

Cities provide public funds for economic development. Externalities of cities, in particular, generate 'agglomeration rents' to both immobile and mobile sources of production. Agglomeration economies contribute to all levels of government's tax bases. Cities thus play an important role in mobilising income tax, corporation tax, service tax, company tax, commercial tax, excise tax, stamp duty, motor vehicle tax, entertainment tax, land value tax, property tax, profession tax, entertainment tax, and so on. Cities serve as a resource base for various sorts of transfer payments to the poor and socially marginalised classes under the government's numerous welfare systems.

The 'rich city-poor municipal government' syndrome plagues Indian cities. Municipal administrations in many jurisdictions rely on state government funds for everything from salaries to basic services. There is a significant misalignment between the obligations assigned and the resources available to meet these responsibilities. This is the outcome of policymakers and administrators' protracted disregard of urban public finance. The situation is dire since the contribution of cities to GDP cannot be sustained without significant investments in infrastructure required by enterprises and households in cities and their surrounding regions. The future livability and environmental sustainability of cities will also be determined by the policies and programmes implemented now to handle the "backlog," "current," and "growth"

needs of urbanisation. India's cities' haphazard growth reflects the haphazard way they are financed.

In terms of budgetary capacity and autonomy, Indian municipalities are among the lowest in the world. Their revenue source is limited, rigid, and unyielding. Surprisingly, the ratio of municipal revenues to total central and state revenues has decreased over time. The ratio of local taxes to total central and state taxes has similarly decreased over time. These trends are not encouraging, as urbanisation and the significance of cities to GDP are increasing. In terms of expenditure and revenue devolution to local governments, India lags substantially behind developed and comparable developing countries.

Municipal bodies, as institutions of local self-government, have been entrusted with the responsibility of providing civic and other facilities to the urban population; however, the functional and financial powers required to carry out these responsibilities have not been devolved to them sufficiently. Some ad hoc measures, such as the devolution of certain financial resources and functional authorities, were implemented in the name of municipal reforms. There were no genuine attempts to build these institutions as institutions of local self-government. Municipal governments should be provided functional as well as financial powers in order to emerge as successful urban organisations of local self-government. The Sixty-fourth Constitution Amendment Bill of 1989 was a real attempt in this regard. However, for a variety of reasons, this bill was unable to become an Act. Finally, in 1992, the Seventy-fourth Constitution Amendment Act was enacted. This legislation seeks constitutional protection for the interests of urban local governments, allowing them to function as effective democratic and self-governing organisations at the grassroots level. It gives these bodies' structure and mandate constitutional form. The goals of this amendment include power decentralisation and ensuring popular participation in civic service design, management, and delivery. It makes several major

modifications to the local governing structure. For starters, it requires that whenever a municipal government is abolished, it be recreated through elections within six months. This is to assure the continuance of directly elected representatives of the people in municipal governments and civic activities. Second, the Twelfth Schedule of the Constitution establishes a framework for allocating government tasks to urban local governments. Third, states must establish a Finance Commission to make recommendations to their legislatures on state-local income sharing and strengthening the resources and functioning of local governments. Finally, the formation of Metropolitan and District Planning Committees (DPCs) is required, with elected representatives of the people playing a significant role in the drafting and monitoring of development plans. The 74th Amendment Act, under article 243Y, provided that the SFC established under article 243I shall also assess the financial status of municipal governments and offer suggestions for cash flow to these governments in order to improve and enhance their resources. This is seen as a significant milestone since it established objective criteria for fund devolution to states and, to a large extent, offered financial autonomy to municipal entities in order to meet their local functional obligations. However, an examination of this fact in the instance of Howrah Municipal Corporation (HMC) reveals that the State Finance Commission's recommended devolution has not resulted in a significant shift in the resource position of local self-governments.

To assess the impact of SFC-recommended devolution on HMC's resource base, budget papers from 1991-92 to 2000-01 were examined. This period includes the years preceding the SFC recommendation as well as the time period for entitlement based on the recommendations of the first SFC. Following the passage of the Seventy-fourth Constitution Amendment, the first State Finance Commission of West Bengal was established in May 1994 under Article 243 I of the Indian Constitution, and it issued its recommendations in 1995. This SFC proposed that the entitlement be extended from 1996-97 to 2000-01. However, out of these five years, the

state government only awarded the funding to the State's local governments for two years (1999-2000 & 2000-2001) based on SFC recommendations. However, prior to the establishment of the first SFC under Article 243I of the Indian Constitution, the West Bengal Municipal Finance Commission (WBMFC) was established in 1982 to reform and restructure certain municipal levies and advise means to deliver cash to West Bengal's urban local authorities. As a result of the 74th Constitution Amendment Act, the establishment of the SFC in West Bengal is the second generation of state finance commissions.

Looking at the fund flow to HMC through HMC budget documents from 1991-92 to 2000-01 and the report of the 1st SFC, the scenario for fund availability to HMC is not very positive. First, the SFC attempted to collect data from all state departments to determine how much of their plan budget is spent on districts, but the SFC was unable to locate adequate data on which to depend. As a result, in this situation, SFC took note of statements made by West Bengal's Chief Minister and Finance Minister on various forums indicating that 50-55 percent of the state's plan budget has been distributed to districts. To begin, the first SFC assessed the amount of funds to be given to local governments based on its recommendations and divided the overall district plan budget into two divisions, the first as grants and the second as entitlements to districts. The first SFC believed that granting untied cash to local bodies would address both locally felt needs and the issue of fund flow uncertainty from above. Aside from plan grants, districts receive bigger amounts of non-plan grants to cover committed expenditures that exceed SFC's terms of reference.

The entitlements proposed by the first SFC did not rely on the accumulation of fresh revenues, but rather on the realignment of funds that were already being spent for the districts. The first SFC advocated that 16 percent of the entire net proceeds of taxes collected by the State in a year be given to districts as entitlements. The SFC established a complex system to

distribute this entitlement fund among several rural and urban local governments in West Bengal. Based on SFC's formula for determining entitlement of each local government in the state, HMC's share of untied plan grant out of SFC recommended entitlement grant was calculated at 0.9005 percent for the first SFC period, and as we have seen in previous chapters, this entitled amount is insufficient to make a significant difference in HMC's resource position.

The West Bengal Government revoked the Entry Tax, which used to go to the urban local governments, including HMC, in 1995, with the assurance that the funds earned through the surcharge on Sale Tax would fully compensate the urban local governments. However, despite the recommendation of the First SFC, the government's pledge was not kept. So, from 1995-96, the flow of funds to HMC due to shared entry tax was withdrawn, and it was not a little amount, as indicated in Chapter 5 of this study. As stated in Table 5.17 in Chapter 5, 'grants from district plan money' to HMC grew beginning in 1999-2000, and this was the first year in which HMC received its entitled fund based on 1st SFC recommendations. So, based on the numbers, it can be argued that the SFC-recommended entitled fund to HMC compensated the loss sustained as a result of the withdrawal of shared entry tax to some extent. As a result, the expectation that SFC's recommendation-based fund devolution would improve HMC's resource situation from 1991-92 to 2000-01 is erroneous.

Looking at HMC's expenditure on delivery of public services, which includes expenditure on account of community services, engineering services, health services, and educational services (shown in Table 5.19 of Chapter 5) reveals that growth in the expenditure on account of public services is moderate, implying that there will be no quantitative or qualitative change in HMC's provision of public services. So, the other premise that SFCs recommendation-based money devolution will result in quantitative and qualitative changes in HMC public service delivery is found false during the research period 1991-92 to 2000-01.

The constitutional mandate under article 243Y to devolve funds to local governments based on an objective criterion devised by respective State Finance Commissions is ineffective in practise for a variety of reasons, including state resource constraints, adhocism in the formation and operation of SFCs, and so on. Initially, governments were not very active in appointing SFCs, which resulted in significant delays in the formation of these institutions. Many states did not form them on time and did not place enough emphasis on this constitutional institution. SFCs confront a number of challenges, including insufficient administrative assistance, insufficient resources for seamless operation, and delayed presentation of action taken reports (ATR) to state legislatures.

Different SFCs throughout states have not employed comparable procedures to examine municipal finances in order to provide recommendations for the devolution of state funds, and there are substantial disparities in how SFCs allocate cash among municipal governments. While population is a widely used factor, there is little consistency in the application of other criteria. In general, SFCs have not placed a premium on municipal budget improvements, such as transfers from state and federal governments. The SFCs' proposals are mostly ad hoc and not founded on basic public finance concepts. Most SFCs have been conservative in their recommendations for financial devolution to municipal governments, recommending a nominal share of the divisible pool for municipal governments. West Bengal's revenue sharing between state and local governments is low, and almost all payments from the state government are in the form of grants-in-aid.

Way Ahead

Based on the experience thus far, it can be said that SFCs have missed the mark, as well as a golden opportunity to contribute to the process of building a more inclusive, participatory, and environmentally friendly fiscal federalism in the country by promoting decentralised

governance, and responsibility for this must be shared and borne by the union, state, and local governments. So, what is the next step in reforming municipal finance in order to increase the municipal government's ability to serve as a local autonomous government for urban areas? To move in this path, municipal governments firstly, must first increase their revenue share of total resources available to them. Municipal governments' own revenue share can be increased by making good use of user fees and general taxes as financial instruments for supporting urban public services and infrastructure. Table 6.1 provides a fundamental framework for these instruments as a revenue source and the services from which they might be used.

Instruments of Financing Urban Public Services and Infrastructure: User Charges to General Taxes

Instrument	Characteristic Features	Example
User Charges	Analogous to market prices for private goods and services, benefit to readily identified individuals and payment depends on consumption.	Water supply charges, park entrance fees, road tolls and charges for public transportation services.
Benefit Charges	Charges linked to consumption of collective services through a surrogate method due to benefits arising from joint effects of many services or being subject to measurement problems and payment depends on parameters of access to services and cannot be excessive.	Sewerage and storm drainage charges hooked onto water charges; access or connectivity charges to water, sewerage, drainage and road networks; charges for roads, street lighting, solid waste management, fire and other services linked to property characteristics such as plinth area or unit area value, road frontage, road width, etc.; surcharge on electricity consumption to meet street lighting costs; development charges; impact fees and betterment charges.
Special Assessments	Compulsory levies on real property in a well-defined or demarcated development area, for example, special assessment district or business improvement district to recoup costs of specific investments in infrastructure.	Taxes levied on residents of designated areas to finance costs of internal and external infrastructure and services, covering facilities such as roads, public transit, street lighting, water supply, sewerage, drainage, fire protection and affordable housing and betterment taxes, etc.
Administrative	Payments towards cost of	Trade licensing fee, including enforcement

and Regulatory Charges or Fees for Services	administrative and regulatory services, akin to prices or benefit charges.	charges; building permit fee, including administrative charges; layout and sub-division approval charges; advertising fee; polluters pay, exacerbates pay and congesters pay charges.
General Benefit Taxes	Taxes on activities or purchases which are generally, but often indirectly related to the use of public facilities.	General property tax, land value tax, vacant land tax, utility user taxes, profession tax, payroll tax, entertainment tax, advertisement tax, etc.
General Taxes	Compulsory levies towards financing government and tax payments are not linked, directly or indirectly to public service consumption.	Local option (piggyback) taxes, revenue-shared income tax, business tax, excise tax, sales tax, value service added tax, goods and services tax, etc.

Source: Mohanty, P.K, *'Financing Cities in India : Municipal Reforms, Fiscal Accountability and Urban Infrastructure'*, Sage Publications India Pvt. Ltd., 2016.

Secondly, as it is clear that SFCs have not been effective to assign buoyant source of revenues like different taxes and user charges & fees to municipal governments, as suggested by some economist, the Constitution of India may be amended to include a 'municipal finance list' corresponding to the 12th Schedule. This may include: property tax, profession tax, business licensing tax, advertisement tax, entertainment tax, a statutory share in motor vehicles tax, motor fuel tax, transfer of property tax/stamp duty and mining royalties, city GST or a statutory share of municipalities in state GST, user charges, benefit charges including, betterment charges, development charges, impact fees, etc.

Thirdly, there must be proper mechanism of fiscal transfer to municipal governments from central and state governments to correct vertical and horizontal imbalances and inter-jurisdictional spill overs.

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**THE CONSTITUTION
SEVENTY-FOURTH AMENDMENT
ACT 1992
ON MUNICIPALITIES**



**MINISTRY OF URBAN DEVELOPMENT
GOVERNMENT OF INDIA
NEW DELHI**

THE CONSTITUTION (SEVENTY-FOURTH AMENDMENT)
ACT, 1992

AN ACT

further to amend the Constitution of India

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Seventy-fourth Amendment) Act, 1992.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After Part IX of the Constitution, the following Part shall be inserted, namely:—

Insertion of new Part IXA.

'PART IXA

THE MUNICIPALITIES

243P. In this Part, unless the context otherwise requires,—

Definitions.

(a) "Committee" means a Committee constituted under article 243S;

(b) "district" means a district in a State;

(c) "Metropolitan area" means an area having a population of ten lakhs or more comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;

(d) "Municipal area" means the territorial area of a Municipality as is notified by the Governor;

(e) "Municipality" means an institution of self-government constituted under article 243Q;

(f) "Panchayat" means a Panchayat constituted under article 243B;

(g) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published.

243Q. (1) There shall be constituted in every State,—

Constitution of Municipalities.

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area,

in accordance with the provisions of this Part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial established in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, "a transitional area" "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

**Composition of
Municipalities.**

243R. (1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

(2) The Legislature of a State may, by law, provide,—

(a) for the representation in a Municipality of—

(i) persons having special knowledge or experience in Municipal administration;

(ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

(iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;

(iv) the Chairpersons of the Committees constituted under clause (5) of article 243S:

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

(b) the manner of election of the Chairperson of a Municipality.

243S. (1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

Constitution and composition of Wards Committees, etc.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition and the territorial area of a Wards Committee;

(b) the manner in which the seats in a Wards Committee shall be filled.

(3) A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.

(4) Where a Wards Committee consists of—

(a) one ward, the member representing that ward in the Municipality; or

(b) two or more wards, one of the members representing such wards in the Municipality elected by the Members of the Wards Committee,

shall be the Chairperson of that Committee.

(5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

243T. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

Reservation of seats.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(4) The office of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide

(5) The reservation of seats under clauses (1) and (2) and the reservation of office of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or office of Chairpersons in the Municipalities in favour of backward class of citizens.

Duration of
Municipalities,
etc.

243U. (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Municipality shall be completed,—

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months for the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

Disqualification
for member-
ship.

243V. (1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality—

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243W. Subject to the provisions of this Constitution, the Legislature of State may, by law, endow—

Powers authority and responsibilities of Municipalities, etc.

(a) The Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provision for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to—

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matter listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

243X. The Legislature of a State may, by law—

Power to impose taxes by, and Funds of, the Municipalities.

(a) authorise a Municipality to levy, collect and appropriate such taxes, duties tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

Finance
Commission.

243Y. (1) The Finance Commission constituted under article 243I shall also review the financial position of the Municipalities and make recommendations to the Governor as to—

(a) the principles which should govern—

(i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

Audit of
accounts of
Municipalities.

243Z. The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the audit of such accounts.

Elections
to the
Municipalities.

243ZA. (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K.

(2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to or in connection with, elections to the Municipalities.

Application
to Union
Territories.

243ZB. The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were

references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly.

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243ZC. (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

Part not to apply to certain areas.

(2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

(3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243ZD. (1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

Committee for district planning.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the District Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

(c) the functions relating to district planning which may be assigned to such Committees;

(d) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

Committee for
Metropolitan
planning.

243ZE. (1) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the Metropolitan Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

(c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out of functions assigned to such Committees;

(d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;

(e) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area,

(ii) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation,

(iii) the overall objectives and priorities set by the Government of India and the Government of the State;

(iv) the extent and nature of investments likely to be made in Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZF. Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Continuance of existing laws and Municipalities.

Provided that all the Municipalities existing immediately such commencement shall continue till the expiration of ^{before} duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243ZG. Notwithstanding anything in this Constitution.—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State;

Bar to interference by courts in electoral matters.

Amendment of
article 280.

3. In clause (3) of article 280 of the Constitution, sub-clause (c) shall be lettered as sub-clause (d) and before sub-clause (d) as so relettered, the following sub-clause shall be inserted, namely:—

"(c) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;"

Addition of
Twelfth
Schedule.

4. After the Eleventh Schedule to the Constitution, the following Schedule shall be added, namely:—

"TWELFTH SCHEDULE

(Article 243W)

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries."

EXTRACT OF ARTICLE 243 I & 243 K FROM CLAUSE 2 OF
THE CONSTITUTION (73RD AMENDMENT) ACT, 1992
WHICH ARE REFERRED TO IN THE CONSTITUTION
(74TH AMENDMENT) ACT, 1992

243 I (1) The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to—

Constitution of
Finance Com-
mission to re-
view financial
position.

(a) the principles which should govern—

(i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;

(iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Panchayats;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

(2) The Legislature of a State may, by law, provide for the composition of the Commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

(3) The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.

(4) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243K (1) The Superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.

Elections to
the Pan-
chayats.

(2) Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

(3) The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by Clause (1).

(4) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with elections to the Panchayats.

¹[PART IXA
THE MUNICIPALITIES

243P. Definitions.—In this Part, unless the context otherwise requires,—

(a) “Committee” means a Committee constituted under article 243S;

(b) “district” means a district in a State;

(c) “Metropolitan area” means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purposes of this Part;

(d) “Municipal area” means the territorial area of a Municipality as is notified by the Governor;

(e) “Municipality” means an institution of self-government constituted under article 243Q;

(f) “Panchayat” means a Panchayat constituted under article 243B;

(g) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

243Q. Constitution of Municipalities.—(1) There shall be constituted in every State,—

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area,

in accordance with the provisions of this Part:

1. Ins. by the Constitution (Seventy-fourth Amendment) Act, 1992, s. 2 (w.e.f. 1-6-1993).

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, “a transitional area”, “a smaller urban area” or “a larger urban area” means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

243R. Composition of Municipalities.—(1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

(2) The Legislature of a State may, by law, provide—

(a) for the representation in a Municipality of—

(i) persons having special knowledge or experience in Municipal administration;

(ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

(iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;

(iv) the Chairpersons of the Committees constituted under clause (5) of article 243S:

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

(b) the manner of election of the Chairperson of a Municipality.

243S. Constitution and composition of Wards Committees, etc.—(1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition and the territorial area of a Wards Committee;

(b) the manner in which the seats in a Wards Committee shall be filled.

(3) A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.

(4) Where a Wards Committee consists of—

(a) one ward, the member representing that ward in the Municipality;
or

(b) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee,

shall be the Chairperson of that Committee.

(5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

243T. Reservation of seats.—(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

243U. Duration of Municipalities, etc.—(1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Municipality shall be completed,—

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

243V. Disqualifications for membership.—(1) A person shall be disqualified for being chosen as, and for being, a member of a Municipality—

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243W. Powers, authority and responsibilities of Municipalities, etc.—Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to—

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

243X. Power to impose taxes by, and Funds of, the Municipalities.—The Legislature of a State may, by law,—

(a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;

(c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom,

as may be specified in the law.

243Y. Finance Commission.—(1) The Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to—

(a) the principles which should govern—

(i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities;

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243Z. Audit of accounts of Municipalities.—The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

243ZA. Elections to the Municipalities.—(1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in the State Election Commission referred to in article 243K.

(2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

243ZB. Application to Union territories.—The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under article 239 and references to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

243ZC. Part not to apply to certain areas.—(1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2) of article 244.

(2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

(3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243ZD. Committee for district planning.—(1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the District Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

(c) the functions relating to district planning which may be assigned to such Committees;

(d) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZE. Committee for Metropolitan planning.—(1) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the Metropolitan Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

(c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;

(d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;

(e) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and the Panchayats, including coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the Government of the State;

(iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZF. Continuance of existing laws and Municipalities.— Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

243ZG. Bar to interference by courts in electoral matters.— Notwithstanding anything in this Constitution,—

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.]

SEVENTH SCHEDULE

(Article 246)

List I—Union List

1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation.

2. Naval, military and air forces; any other armed forces of the Union.

¹[2A. Deployment of any armed force of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil power; powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment.]

3. Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such areas.

4. Naval, military and air force works.

5. Arms, firearms, ammunition and explosives.

6. Atomic energy and mineral resources necessary for its production.

7. Industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war.

8. Central Bureau of Intelligence and Investigation.

9. Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India; persons subjected to such detention.

10. Foreign affairs; all matters which bring the Union into relation with any foreign country.

11. Diplomatic, consular and trade representation.

12. United Nations Organisation.

13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries.

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

15. War and peace.
16. Foreign jurisdiction.
17. Citizenship, naturalisation and aliens.
18. Extradition.
19. Admission into, and emigration and expulsion from, India; passports and visas.
20. Pilgrimages to places outside India.
21. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.
22. Railways.
23. Highways declared by or under law made by Parliament to be national highways.
24. Shipping and navigation on inland waterways, declared by Parliament by law to be national waterways, as regards mechanically propelled vessels; the rule of the road on such waterways.
25. Maritime shipping and navigation, including shipping and navigation on tidal waters; provision of education and training for the mercantile marine and regulation of such education and training provided by States and other agencies.
26. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.
27. Ports declared by or under law made by Parliament or existing law to be major ports, including their delimitation, and the constitution and powers of port authorities therein.
28. Port quarantine, including hospitals connected therewith; seamen's and marine hospitals.
29. Airways; aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by States and other agencies.
30. Carriage of passengers and goods by railway, sea or air, or by national waterways in mechanically propelled vessels.

31. Posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication.

32. Property of the Union and the revenue therefrom, but as regards property situated in a State^{1***} subject to legislation by the State, save in so far as Parliament by law otherwise provides.

²[33* * * * *]

34. Courts of wards for the estates of Rulers of Indian States.

35. Public debt of the Union.

36. Currency, coinage and legal tender; foreign exchange.

37. Foreign loans.

38. Reserve Bank of India.

39. Post Office Savings Bank.

40. Lotteries organised by the Government of India or the Government of a State.

41. Trade and commerce with foreign countries; import and export across customs frontiers; definition of customs frontiers.

42. Inter-State trade and commerce.

43. Incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations, but not including co-operative societies.

44. Incorporation, regulation and winding up of corporations, whether trading or not, with objects not confined to one State, but not including universities.

45. Banking.

46. Bills of exchange, cheques, promissory notes and other like instruments.

47. Insurance.

48. Stock exchanges and futures markets.

49. Patents, inventions and designs; copyright; trade-marks and merchandise marks.

1. The words and letters "specified in Part A or Part B of the First Schedule" omitted by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. (w.e.f. 1-11-1956).

2. Entry 33 omitted by s. 26, *ibid.* (w.e.f. 1-11-1956).

50. Establishment of standards of weight and measure.
51. Establishment of standards of quality for goods to be exported out of India or transported from one State to another.
52. Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest.
53. Regulation and development of oilfields and mineral oil resources; petroleum and petroleum products; other liquids and substances declared by Parliament by law to be dangerously inflammable.
54. Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
55. Regulation of labour and safety in mines and oilfields.
56. Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
57. Fishing and fisheries beyond territorial waters.
58. Manufacture, supply and distribution of salt by Union agencies; regulation and control of manufacture, supply and distribution of salt by other agencies.
59. Cultivation, manufacture, and sale for export, of opium.
60. Sanctioning of cinematograph films for exhibition.
61. Industrial disputes concerning Union employees.
62. The institutions known at the commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial and the Indian War Memorial, and any other like institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.
63. The institutions known at the commencement of this Constitution as the Benares Hindu University, the Aligarh Muslim University and the ¹ [Delhi University; the University established in pursuance of article 371E;] any other institution declared by Parliament by law to be an institution of national importance.

1. Subs. by the Constitution (Thirty-second Amendment) Act, 1973, s. 4, for "Delhi University and" (w.e.f. 1-7-1974).

64. Institutions for scientific or technical education financed by the Government of India wholly or in part and declared by Parliament by law to be institutions of national importance.

65. Union agencies and institutions for—

(a) professional, vocational or technical training, including the training of police officers; or

(b) the promotion of special studies or research; or

(c) scientific or technical assistance in the investigation or detection of crime.

66. Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.

67. Ancient and historical monuments and records, and archaeological sites and remains, ¹[declared by or under law made by Parliament] to be of national importance.

68. The Survey of India, the Geological, Botanical, Zoological and Anthropological Surveys of India; Meteorological organisations.

69. Census.

70. Union Public Service; All-India Services; Union Public Service Commission.

71. Union pensions, that is to say, pensions payable by the Government of India or out of the Consolidated Fund of India.

72. Elections to Parliament, to the Legislatures of States and to the offices of President and Vice-President; the Election Commission.

73. Salaries and allowances of members of Parliament, the Chairman and Deputy Chairman of the Council of States and the Speaker and Deputy Speaker of the House of the People.

74. Powers, privileges and immunities of each House of Parliament and of the members and the Committees of each House; enforcement of attendance of persons for giving evidence or producing documents before committees of Parliament or commissions appointed by Parliament.

75. Emoluments, allowances, privileges, and rights in respect of leave of absence, of the President and Governors; salaries and allowances of the Ministers for the Union; the salaries, allowances, and rights in respect of leave of absence and other conditions of service of the Comptroller and Auditor-General of India.

¹. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).

76. Audit of the accounts of the Union and of the States.

77. Constitution, organisation, jurisdiction and powers of the Supreme Court (including contempt of such Court), and the fees taken therein; persons entitled to practise before the Supreme Court.

78. Constitution and organisation ¹ [(including vacations)] of the High Courts except provisions as to officers and servants of High Courts; persons entitled to practise before the High Courts.

²[79. Extension of the jurisdiction of a High Court to, and exclusion of the jurisdiction of a High Court from, any Union territory.]

80. Extension of the powers and jurisdiction of members of a police force belonging to any State to any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated; extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State.

81. Inter-State migration; inter-State quarantine.

82. Taxes on income other than agricultural income.

83. Duties of customs including export duties.

³[84. Duties of excise on the following goods manufactured or produced in India, namely:—

- (a) petroleum crude;
- (b) high speed diesel;
- (c) motor spirit (commonly known as petrol);
- (d) natural gas;
- (e) aviation turbine fuel; and
- (f) tobacco and tobacco products.]

85. Corporation tax.

1. Ins. by the Constitution (Fifteenth Amendment) Act, 1963, s. 12 (with retrospective effect).

2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 29 and Sch. for entry 79 (w.e.f. 1-11-1956).

3. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(a)(i) for entry 84 (w.e.f. 16-9-2016).

86. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

87. Estate duty in respect of property other than agricultural land.

88. Duties in respect of succession to property other than agricultural land.

89. Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights.

90. Taxes other than stamp duties on transactions in stock exchanges and futures markets.

91. Rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts.

¹[92. * * * * *]

²[92A. Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.]

³[92B. Taxes on the consignments of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.]

⁴[92C. * * * * *]

93. Offences against laws with respect to any of the matters in this List.

94. Inquires, surveys and statistics for the purpose of any of the matters in this List.

95. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List; admiralty jurisdiction.

96. Fees in respect of any of the matters in this List, but not including fees taken in any court.

97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.

1. Entry 92 omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(a)(ii) (w.e.f. 16-9-2016).

2. Ins. by the Constitution (Sixth Amendment) Act, 1956, s. 2 (w.e.f. 11-9-1956).

3. Ins. by the Constitution (Forty-sixth Amendment) Act, 1982, s. 5 (w.e.f. 2-2-1983).

4. Entry 92C was ins. by the Constitution (Eighty-eighth Amendment) Act, 2003, s. 4 (which was not enforced) and omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(a)(ii) (w.e.f. 16-9-2016).

List II—State List

1. Public order (but not including ¹[the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof] in aid of the civil power).

²[2. Police (including railway and village police) subject to the provisions of entry 2A of List I.]

3. ^{3***} Officers and servants of the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court.

4. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other States for the use of prisons and other institutions.

5. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, districts boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.

6. Public health and sanitation; hospitals and dispensaries.

7. Pilgrimages, other than pilgrimages to places outside India.

8. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors.

9. Relief of the disabled and unemployable.

10. Burials and burial grounds; cremations and cremation grounds.

⁴[11* * * * *]

12. Libraries, museums and other similar institutions controlled or financed by the State; ancient and historical monuments and records other than those ⁵[declared by or under law made by Parliament] to be of national importance.

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 57, for certain words (w.e.f. 3-1-1977).

2. Subs. by s. 57, for entry 2, *ibid.* (w.e.f. 3-1-1977).

3. Certain words omitted by s. 57, *ibid.* (w.e.f. 3-1-1977).

4. Entry 11 omitted by s. 57, *ibid.* (w.e.f. 3-1-1977).

5. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).

13. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such waterways; vehicles other than mechanically propelled vehicles.

14. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases.

15. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice.

16. Pounds and the prevention of cattle trespass.

17. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of entry 56 of List I.

18. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization.

¹[19* * * * *
20* * * * *]

21. Fisheries.

22. Courts of wards subject to the provisions of entry 34 of List I; encumbered and attached estates.

23. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union.

24. Industries subject to the provisions of ²[entries 7 and 52] of List I.

25. Gas and gas-works.

26. Trade and commerce within the State subject to the provisions of entry 33 of List III.

1. Entries 19 and 20 omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 28 for entry 52 (w.e.f. 1-11-1956).

27. Production, supply and distribution of goods subject to the provisions of entry 33 of List III.

28. Markets and fairs.

¹[29* * * * *]

30. Money-lending and money-lenders; relief of agricultural indebtedness.

31. Inns and inn-keepers.

32. Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies.

33. Theatres and dramatic performances; cinemas subject to the provisions of entry 60 of List I; sports, entertainments and amusements.

34. Betting and gambling.

35. Works, lands and buildings vested in or in the possession of the State.

²[36* * * * *]

37. Elections to the Legislature of the State subject to the provisions of any law made by Parliament.

38. Salaries and allowances of members of the Legislature of the State, of the Speaker and Deputy Speaker of the Legislative Assembly and, if there is a Legislative Council, of the Chairman and Deputy Chairman thereof.

39. Powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof, and, if there is a Legislative Council, of that Council and of the members and the committees thereof; enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of the State.

40. Salaries and allowances of Ministers for the State.

41. State public services; State Public Service Commission.

42. State pensions, that is to say, pensions payable by the State or out of the Consolidated Fund of the State.

43. Public debt of the State.

44. Treasure trove.

1. Entry 29 omitted by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

2. Entry 36 omitted by the Constitution (Seventh Amendment) Act, 1956, s. 26 (w.e.f. 1-11-1956).

45. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues.

46. Taxes on agricultural income.

47. Duties in respect of succession to agricultural land.

48. Estate duty in respect of agricultural land.

49. Taxes on lands and buildings.

50. Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development.

51. Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:—

(a) alcoholic liquors for human consumption;

(b) opium, Indian hemp and other narcotic drugs and narcotics,

but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.

¹[52. * * * * *]

53. Taxes on the consumption or sale of electricity.

²[54. Taxes on the sale of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.]

³[55. * * * * *]

56. Taxes on goods and passengers carried by road or on inland waterways.

1. Entry 52 omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(i) (w.e.f. 16-9-2016).
2. Subs. by the Constitution (Sixth Amendment) Act, 1956, s. 2 (w.e.f. 11-9-1956) and further subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(ii) (w.e.f. 16-9-2016).
3. Omitted by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b)(iii) (w.e.f. 16-9-2016).

57. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads, including tramcars subject to the provisions of entry 35 of List III.

58. Taxes on animals and boats.

59. Tolls.

60. Taxes on professions, trades, callings and employments.

61. Capitation taxes.

¹[62. Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.]

63. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.

64. Offences against laws with respect to any of the matters in this List.

65. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.

66. Fees in respect of any of the matters in this List, but not including fees taken in any court.

List III—Concurrent List

1. Criminal law, including all matters included in the Indian Penal Code at the commencement of this Constitution but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of naval, military or air forces or any other armed forces of the Union in aid of the civil power.

2. Criminal procedure, including all matters included in the Code of Criminal Procedure at the commencement of this Constitution.

3. Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.

4. Removal from one State to another State of prisoners, accused persons and persons subjected to preventive detention for reasons specified in entry 3 of this List.

1. Subs. by the Constitution (One Hundred and First Amendment) Act, 2016, s. 17(b) (iv), for entry 62 (w.e.f. 16-9-2016).

5. Marriage and divorce; infants and minors; adoption; wills, intestacy and succession; joint family and partition; all matters in respect of which parties in judicial proceedings were immediately before the commencement of this Constitution subject to their personal law.

6. Transfer of property other than agricultural land; registration of deeds and documents.

7. Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts, but not including contracts relating to agricultural land.

8. Actionable wrongs.

9. Bankruptcy and insolvency.

10. Trust and Trustees.

11. Administrators-general and official trustees.

¹[11A. Administration of Justice; constitution and organisation of all courts, except the Supreme Court and the High Courts.]

12. Evidence and oaths; recognition of laws, public acts and records, and judicial proceedings.

13. Civil procedure, including all matters included in the Code of Civil Procedure at the commencement of this Constitution, limitation and arbitration.

14. Contempt of court, but not including contempt of the Supreme Court.

15. Vagrancy; nomadic and migratory tribes.

16. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.

17. Prevention of cruelty to animals.

¹[17A. Forests.

17B. Protection of wild animals and birds.]

18. Adulteration of foodstuffs and other goods.

19. Drugs and poisons, subject to the provisions of entry 59 of List I with respect to opium.

20. Economic and social planning.

¹[20A. Population control and family planning.]

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

21. Commercial and industrial monopolies, combines and trusts.
22. Trade unions; industrial and labour disputes.
23. Social security and social insurance; employment and unemployment.
24. Welfare of labour including conditions of work, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits.

¹[25. Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.]

26. Legal, medical and other professions.

27. Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan.

28. Charities and charitable institutions, charitable and religious endowments and religious institutions.

29. Prevention of the extension from one State to another of infectious or contagious diseases or pests affecting men, animals or plants.

30. Vital statistics including registration of births and deaths.

31. Ports other than those declared by or under law made by Parliament or existing law to be major ports.

32. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways, and the carriage of passengers and goods on inland waterways subject to the provisions of List I with respect to national waterways.

²[33. Trade and commerce in, and the production, supply and distribution of,—

(a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products;

(b) foodstuffs, including edible oilseeds and oils;

(c) cattle fodder, including oilcakes and other concentrates;

(d) raw cotton, whether ginned or unginned, and cotton seed; and

(e) raw jute.]

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).

2. Subs. by the Constitution (Third Amendment) Act, 1954, s. 2 for entry 33 (w.e.f. 22-2-1955).

¹[33A. Weights and measures except establishment of standards.]

34. Price control.

35. Mechanically propelled vehicles including the principles on which taxes on such vehicles are to be levied.

36. Factories

37. Boilers.

38. Electricity.

39. Newspapers, books and printing presses.

40. Archaeological sites and remains other than those ²[declared by or under law made by Parliament] to be of national importance.

41. Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property.

³[42. Acquisition and requisitioning of property.]

43. Recovery in a State of claims in respect of taxes and other public demands, including arrears of land-revenue and sums recoverable as such arrears, arising outside that State.

44. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.

45. Inquiries and statistics for the purposes of any of the matters specified in List II or List III.

46. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List.

47. Fees in respect of any of the matters in this List, but not including fees taken in any court.

1. Ins. by the Constitution (Forty-second Amendment) Act, 1976, s. 57 (w.e.f. 3-1-1977).
2. Subs. by the Constitution (Seventh Amendment) Act, 1956, s. 27, for "declared by Parliament by law" (w.e.f. 1-11-1956).
3. Subs. by s. 26, *ibid.* (w.e.f. 1-11-1956).

¹[TWELFTH SCHEDULE

(Article 243W)

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds; and electric crematoriums.
15. Cattle pounds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.]

1. Added by the Constitution (Seventy-fourth Amendment) Act, 1992, s. 4 (w.e.f. 1-6-1993).

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West Bengal Act LVIII of 1980
THE HOWRAH MUNICIPAL CORPORATION
ACT, 1980.

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-

West Bengal Act LVIII of 1980¹

THE HOWRAH MUNICIPAL CORPORATION ACT, 1980.

AMENDED

West Ben. Act XXIX of 1983.
West Ben. Act VIII of 1989.
West Ben. Act II of 1990.
West Ben. Act XXIX of 1990.
West Ben. Act X of 1992.
West Ben. Act XXXVI of 1994.
West Ben. Act XL of 1994.
West Ben. Act LII of 1994.
West Ben. Act XVII of 1995.
West Ben. Act XI of 1999.
West Ben. Act V of 2000.
West Ben. Act VI of 2001.
West Ben. Act XVIII of 2001.

[30th November, 1981.]

An Act to provide for better administration of the municipal affairs of Howrah by the establishment of a Municipal Corporation.

WHEREAS it is expedient to provide for better administration of the municipal affairs of Howrah by the establishment of a Municipal Corporation;

It is hereby enacted in the Thirty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

PART I

CHAPTER I

Preliminary

1. (1) This Act may be called the Howrah Municipal Corporation Act, 1980.

(2) It shall apply to Howrah as defined in this Act.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

Short title,
application
and
commence-
ment.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IV of the 30th April, 1980, pages 1153, 1154; for the report of the Select Committee, see the report of that Committee presented before the Assembly on the 3rd September, 1980; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of that Assembly held on the 6th May, 1980, 3rd September, 1980 and 4th September, 1980.

(Part I.—Chapter I.—Preliminary.—Section 2.)

Definitions.

2. In this Act, unless the context otherwise requires,—

¹(1) an article shall be deemed to be “adulterated”—

- (a) in the case of drugs, if its strength, quality or purity falls below the professed standard under which it is sold or exposed for sale;
- (b) in the case of confectionery, if it contains any mineral substance or poisonous colouring or flavouring matter or other ingredients deleterious or detrimental to health; and
- (c) in the case of food,—
 - (i) if any substance has been mixed or packed with it so as to reduce or lower or harmfully affect its quality or strength, or
 - (ii) if any substance has been substituted wholly or in part for the article, or
 - (iii) if any normal constituent of the article has been wholly or in part abstracted, or
 - (iv) if it is mixed, coloured, powdered, coated or stained in a manner whereby deterioration or inferiority is concealed, or
 - (v) if it does not comply with the standard prescribed therefor by or under this Act or under any other law for the time being in force, or
 - (vi) if it contains or is mixed or diluted with any substance in any quantity to the prejudice of the purchaser or consumer or in any proportion which diminishes in any manner its food value or nutritive properties as compared with the same in a pure or normal state and in an undeteriorated and sound condition, or
 - (vii) if it contains any added poisonous or other added deleterious ingredient which may render such article injurious to health, or
 - (viii) if it is not of the nature, substance or quality which it purports or is represented to be;

¹(1A) “Annual Development Plan” means the Annual Development Plan prepared under section 231;

¹Original clause (1) was renumbered as clause (1A) and before clause (1A) as so renumbered, clause (1) was inserted by s. 2(2)(a) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995). Thereafter, clause (1A) was renumbered as clause (1B) and before clause (1B) as so renumbered, clause (1A) was inserted by s. 2(1) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

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(Part I.—Chapter I.—Preliminary.—Section 2.)

- ¹(1B) "building" includes a house, outhouse, stable, privy, urinals, shed, hut, walls (other than a boundary wall not exceeding three metres in height) and any other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatsoever, but does not include a *hogla* or other similar kind of temporary shed erected on ceremonial or festive occasions;
- (2) "building line" means the line which is in rear of the street alignment and up to which the main wall of a building of a land abutting on a street or projected public street may lawfully extend;
- (3) "bustee" means an area containing land not less than seven hundred square metres in area occupied by or for the purposes of any collection of huts or other structures used or intended to be used for human habitation;

Explanation.—If any question arises as to whether particular area is or is not a *bustee*, the Corporation shall decide the question and its decision shall be final;

- (4) "by-law" means a by-law made by the Corporation under this Act;
- ¹(4A) "carriage" means any wheeled vehicle, with springs or other appliances acting as springs, which is ordinarily used for the conveyance of human beings, and includes a jinrickshaw, cycle-rickshaw, bicycle or tricycle, but does not include a perambulator or other form of vehicle designed for the conveyance of children;
- ²(4B) "cart" means any cart, hackney or wheeled vehicle with or without spring, which is not a carriage as defined in this section, and includes a hand-cart, but does not include any wheeled vehicle which is propelled by mechanical power or its trailer;
- (5) ³[property tax] includes the surcharge levied on the ³[property tax] under this Act;
- ⁴(5A) "corporate sector" means a financial institution.

Explanation.—"Financial institution" shall mean—

- (a) a bank to which the provisions of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, do not apply,

¹See foot-note 1 on page 394, *ante*.

²Clauses (4A) and (4B) were inserted by s. 2(1) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

³The words within the square brackets were substituted for the words "consolidated rate" by s. 2(1) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

⁴Clause (5A) was inserted by s. 2(2) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

(Part I.—Chapter I.—Preliminary.—Section 2.)

- (b) a financial institution which is not maintained or managed by the Central Government or the State Government,
- (c) a private company, or a limited company (being a public company), as defined in the Companies Act, 1956, not being a public financial institution within the meaning of section 4A of that Act, or
- (d) a co-operative society, by whatever name called, registered or deemed to have been registered under the West Bengal Co-operative Societies Act, 1983;
- (6) "Corporation" means the Howrah Municipal Corporation established under this Act;
- (7) "corrupt practice" means any act deemed to be a corrupt practice under rules to be made by the State Government in this behalf;
- ¹(7A) "dairy" includes any farm, cattle-shed, cow-house, milk-store, milk-shop or other place—
- (a) from which milk is supplied on or for sale, or
- (b) in which milk is kept for purposes of sale or used for manufacture or preparation for sale of—
- (i) butter, or
- (ii) *ghee*, or
- (iii) cheese, or
- (iv) curd, or
- (v) dried, sterilized, condensed or toned milk, but does not include—
- (a) a shop or other place in which milk is sold for consumption on the premises only, or
- (b) a shop or other place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or other place;
- ¹(7B) "dairyman" includes any occupier of a dairy, any cow-keeper who trades in milk, or any wholesale or retail seller of milk.
- (8) "dangerous disease" means—
- (a) cholera, plague, small-pox, cerebrospinal meningitis, diphtheria, tuberculosis, leprosy and syphilis, and

¹Clauses (7A) and (7B) were inserted by s. 2(2) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

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(Part I.—Chapter I.—Preliminary.—Section 2.)

(b) any other epidemic, endemic, or infectious disease which the State Government may, by notification, declare to be a dangerous disease for the purposes of this Act;

¹(8A) “depot” means a place where articles are stored, whether for sale or for any other purpose, but not for domestic consumption or use, in quantities exceeding two thousand kilogrammes;

²(8AA) “District Planning Committee” means the District Planning Committee constituted under sub-section (1) of section 3 of the West Bengal District Planning Committee Act, 1994, and includes the Siliguri Sub-Division Planning Committee;

²(8AAA) “Draft Development Plan” means the Draft Development Plan prepared under section 228;

¹(8B) “domestic building” includes a dwelling house and any other masonry building which is neither a building of the warehouse class nor a public building as defined in this section nor a place exclusively used for private worship;

(9) “drain” includes a sewer, a house drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying off sullage, sewage, offensive matter, polluted water, rain water or sub-soil water;

(10) “drug” means any substance used as medicine or in the composition or preparation of medicine, whether for internal or external use, but does not include a drug within the meaning of clause (b) of section 3 of the Drugs and Cosmetics Act, 1940;

³(10A) “dwelling house” means a masonry building constructed, used or adapted to be used wholly or principally for human habitation;

⁴(10B) “edible fat” means *ghree* or vegetable fat like *vanaspatti*, and includes beef fat or suet, mutton fat, goat fat, lard, cocoa butter ⁵[refined salsced fat, kukum fat, mango kernel fat, dhupa fat, phulwara fat, or any other fat which the Central Government may, by notification, declare to be an edible fat under the provisions of the Prevention of Food Adulteration Act, 1954, or the rules made thereunder;]

West Ben.
Act XX of
1994.

23 of 1940.

34 of 1954.

¹Clauses (8A) and (8B) were inserted by s. 2(3) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

²Clauses (8AA) and (8AAA) were inserted by s. 2(3) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

³Clauses (10A), (10B) and (10C) were inserted by s. 2(4) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

⁴Clause (10B) was substituted for the original by s. 2(1) of the Howrah Municipal Corporation (Second Amendment) Act, 1994 (West Ben. Act LII of 1994).

⁵The words and figures within the square brackets were substituted for the words “or refined salsced fat” by s. 2(4) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

(Part I.—Chapter I.—Preliminary.—Section 2.)

¹(10C) “edible oil” means coconut oil, cottonseed oil, groundnut oil, linseed oil, mahua oil, rapeseed oil, olive oil, poppyseed oil, safflower seed oil, taramira oil, *til* oil, niger seed oil, sayabeen oil, maize (corn) oil, refined vegetable oil, almond oil, watermelon seed oil, imported rapeseed oil, palm oil, palmolein, palm kernel oil, sun-flower seed oil, rice bran oil, or mustard oil, in pure state, imported sealed oil labelled as such, any vegetable oil, prepared by hardening process such as hydrogenation and labelled as such and bearing in the label in English and Bengali the names of the oils entering into its composition, ²[blended edible oil, partially hydrogenated and winterized soyabeen oil, or any other oil which the Central Government may, by notification, declare to be an edible oil under the provisions of the Prevention of Food Adulteration Act, 1954, or the rules made thereunder;]

34 of 1954.

³(11) “elected member” means an elected Councillor;

* * * * *

(13) “erection of a building” or “to erect a building” means—

(a) to erect a new building on any site, whether previously built upon or not,

(b) to re-erect—

(i) any building of which more than one-half of the cubical contents above the level of plinth and within the external surface of its walls and roofs have been pulled down, burnt or destroyed, or

(ii) any building of which more than one-half of the superficial area of the external walls above the level of plinth has been pulled down, or

(iii) any frame-building of which more than half of the number of posts or beams in the external walls have been pulled down; or

(c) to make any addition to a building including roofing or covering an open space between walls or buildings,

¹Clause (10C) was substituted for the original by s. 2(2) of the Howrah Municipal Corporation (Second Amendment) Act, 1994 (West Ben. Act LII of 1994).

²The words and figures within the square brackets were substituted for the words “or any other oil which the State Government may, by notification, declare to be an edible oil for the purposes of this Act;” by s. 2(5) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

³Clause (11) was substituted for the original by s. 3(1)(a) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

⁴Clause (12) was omitted by s. 2(6) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

LVIII of 1980.]

(Part I.—Chapter I.—Preliminary.—Section 2.)

or closing permanently any door or window in any external wall, or removing or reconstructing the principal stair-case, or

- (d) to make such conversion, including conversion from one occupancy or use group to another, as may be determined by the Corporation by regulation;
- (14) "food" includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes confectionary, flavouring and colouring matters, spices and condiments;
- ¹(14A) "habitable room" means a room constructed or adapted for human habitation;
- ²(14B) "heritage building" means any building of one or more premisses, or any part thereof, which requires preservation and conservation for historical, architectural, environmental or ecological purpose, and includes such portion of the land adjoining such building or any part thereof as may be required for fencing or covering or otherwise preserving such building, and also includes the areas and buildings requiring preservation and conservation for the purpose as aforesaid under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979;
- ³(14C) "Heritage Conservation Committee" means the Heritage Conservation Committee constituted under sub-section (1) of section 183D;
- ³(14D) "holding" means land held under one title or agreement and surrounded by one set of boundaries:

Provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling

West Ben.
Act XIII of
1979.

¹Clauses (14A), (14B) and (14C) were inserted by s. 2(5) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990). Thereafter clauses (14B) and (14C) were renumbered as clauses (14E) and (14F) respectively and after clauses (14E) and (14F) as so renumbered, clause (14G) was inserted by s. 2(8) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

²Clause (14A) which was inserted by s. 2(2)(b) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995) was renumbered as clause (14D) and before clause (14D) as so numbered clauses (14B) and (14C) were inserted by s. 2(7) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999)

(Part I.—Chapter I.—Preliminary.—Section 2.)

house, manufactory, warehouse or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act.

Explanation.—Holdings separated by a street or other means of communication shall be deemed to be adjoining holdings within the meaning of this clause;

'(14E) "house drain" means any drain of one or more premises used for the drainage of such premises;

'(14F) "house-gully" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as a drain or affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter to municipal employees or to persons employed in the cleaning thereof or in the removal of such matter therefrom, and includes the air-space above such passage or land;

'(14G) "household sector" includes—

(a) a rural household or urban household.

Explanation I.—"Rural household" shall mean a household within a rural area as defined in the West Bengal District Planning Committee Act, 1994.

West Ben.
Act XX of
1994.

Explanation II.—"Urban household" shall mean a household within an urban area as defined in the West Bengal District Planning Committee Act, 1994,

(b) a business undertaking, whether proprietorship or partnership, not being a body corporate as defined in the Companies Act, 1956, or

1 of 1956.

(c) a trust for a public purpose of a charitable nature within the meaning of the Charitable and Religious Trusts Act, 1920;

14 of 1920.

(15) "Howrah" means the area described in Schedule I;

(16) "hut" means any building, no substantial part of which excluding the walls up to a height of fifty centimetres above the floor or floor level is constructed of masonry, reinforced concrete, steel, iron or other metal;

¹See foot note 1 on page 399. *ante.*

LVIII of 1980.]

(Part I.—Chapter I.—Preliminary.—Section 2.)

- ¹(16A) "infectious disease" or "communicable disease" means an illness due to a specific infectious agent or its toxic products capable of being directly or indirectly transmitted from man to man or from animal to animal or from environment (through air, dust, soil, water, or food) to man or animal, and declared as such by the State Government by notification;
- ¹(16B) "inhabited room" means a room in which some person passes the night or which is used as a living room, and includes a room with respect to which there is a reasonable presumption (until the contrary is shown) that some person passes the night therein or that it is used as a living room;
- (17) "land or building" includes a *bustee*;
- ²(17A) "Leader of the Opposition" means that Councillor who is, for the time being, the Leader in the Corporation of—
- (i) any recognised political party, or
 - (ii) any group of recognised political parties or Councillors elected as independent candidates,
- in opposition to the recognised political party, or group of recognised political parties or Councillors elected as independent candidates, having the greatest numerical strength, and recognised as such by the Mayor;
- (18) "market" shall be deemed to be synonymous with the expression "*bazar*" and shall mean—
- (a) a place where persons assemble for the sale of meat, fish, fruit, vegetables, livestock, or any other article of food of a perishable nature, whether or not there is any collection of shops or warehouses or stalls for the sale of other articles in such place, or
 - (b) any place of trade, other than a place referred to in sub-clause (a), where there is a collection of shops or warehouses or stalls exceeding such number as the Corporation may determine.
- declared and licensed by the Corporation as a market;

¹Clauses (16A) and (16B) were inserted by s.2(6) of the Howrah Municipal Corporation (Amendment) Act, 1990 (West Ben. Act XXIX of 1990). Thereafter, clause (16A) was substituted by s. 2(3) of the Howrah Municipal Corporation (Second Amendment) Act, 1994 (West Ben. Act LII of 1994).

²Clause (17A) was inserted by s. 2(9) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

(Part I.—Chapter I.—Preliminary.—Section 2.)

- ¹(18A) "masonry building" means any building other than a hut, and includes any structure, a substantial part of which is made of masonry, reinforced concrete, steel or iron or other metal;
- ²(18B) "member" means an elected Councillor, and includes a person nominated by the State Government under clause (b) of sub-section (1) of section 5;
- ¹(18C) "Metropolitan Planning Committee" means the Metropolitan Planning Committee constituted under sub-section (1) of section 3 of the West Bengal Metropolitan Planning Committee Act, 1994;
- ¹(18D) "milk" means the secretion derived from complete milking of healthy milch animals, free from colostrum, and includes buffalo milk, cow milk, goat or sheep milk, mixed milk, standardized milk, recombined milk, toned milk, double-toned milk, or skimmed milk—raw, pasteurized, boiled, flavoured, or sterilized;
- (19) "misbranded" includes all drugs or articles of food which enter into the composition of food, the package or mark or label of which bears any statement, design or device regarding such drugs or articles of food or the ingredients or substances contained therein as may be false or may mislead in any particular, and a drug or an article of food shall also be deemed to be misbranded if it is offered for sale under the name of another drug article of food;
- ³(19A) "Municipal Assessment Book" means the municipal assessment book for entering the annual value of lands and buildings as determined under this Act, and includes any book subsidiary thereto;
- ³(19B) "municipal drain" means a drain vested in the Corporation;
- ³(19C) "municipal market" means a market belonging to or maintained by the Corporation;

West Ben.
Act XXV of
1994.

¹Clauses (18A) and (18B) were inserted by s. 2(7) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990). Thereafter, clause (18B) was substituted by s. 2(4) of the Howrah Municipal Corporation (Second Amendment) Act, 1994 (West Ben. Act LII of 1994). Finally, the same clause was renumbered as clause (18D) and before clause (18D) as so renumbered, clause (18C) was inserted by s. 2(11) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

²Clause (18A) which was inserted by s. 3(1)(b) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994) was renumbered as clause (18B) by s. 2(10) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

³Clauses (19A), (19B) and (19C) were inserted by s. 2(8) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

LVIII of 1980.]

(Part I.—Chapter I.—Preliminary.—Section 2.)

- (20) “new building” means and includes—
- (a) any building constructed or in the process of construction after the commencement of this Act,
 - (b) any building which, having collapsed or having been demolished or burnt down for more than one-half of its cubical extent of the space contained within the external surface of its walls and roof and the upper surface of the floor of its lowest or only storey, is reconstructed wholly or partially after the commencement of this Act, whether the dimensions of the reconstructed building are the same as those of the original building or not,
 - (c) any building not originally constructed for human habitation which is converted into a place for human habitation after the commencement of this Act.

Explanation.—Sub-clause (b) applies whether more than one-half of the cubical extent of any building has collapsed or been demolished or burnt down at the same time or at different times:

- (21) “notification” means a notification published in the *Official Gazette*:

- ¹(21A) “nuisance” includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep, or which is or may be dangerous to life or injurious to health or property;

- (22) “occupier” includes any person for the time being paying or liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which the word is used or for damages on account of the occupation of such land or building, and also a rent-free tenant:

Provided that an owner living in or otherwise using his own land or building shall be deemed to be the occupier thereof;

- ²(22A) “office-bearer” means the Mayor, the Deputy Mayor, the Chairman, or a member of the Mayor-in-Council;

¹Clause (21A) was inserted by s. 2(9) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

²Clause (22A) was first inserted by s. 2(10), *ibid.* Then, clause (22A) was renumbered as clause (22B) and before clause (22B) as so renumbered, clause (22A) was inserted by s. 2 of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

(Part I.—Chapter I.—Preliminary.—Section 2.)

- ¹(22B) "owner" includes the person for the time being receiving any rent of any land or building or part of any land or building, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose or as a receiver who would receive such rent if the land or building or any part of the land or building were let to a tenant;
- (23) "prescribed" with its grammatical variations means prescribed by rules made under this Act;
- (24) "private street" means any street, road, lane, gully, alley, passage or square which is not a public street, and includes any passage securing access to four or more premises belonging to the same or different owners, but does not include a passage provided in effecting a partition of any masonry building amongst joint owners where such passage is less than two metres and fifty centimetres wide;
- ²(24A) "public building" means a masonry building constructed, used or adapted to be used—
- (a) as a place of public worship or as a school, college or other place of instruction (not being a dwelling house so used) or as a hospital, workhouse, public theatre, public cinema, public hall, public concert-room, public ball-room, public lecture room, public library or public exhibition room or as a public place of assembly, or
 - (b) for any other public purpose, or
 - (c) as a hotel, lodging-house, home, refuge or shelter, where the building exceeds, in cubical extent, seven thousand cubic metres or has sleeping accommodation for more than one hundred persons;
- (25) "public street" means any street, road, lane, gully, alley, passage, pathway, square or court, whether a thoroughfare or not, over which the public have a right of way and includes—
- (a) the roadway over any public bridge or causeway,
 - (b) the footway attached to any such street, public bridge or causeway, and

¹ See foot-note 2 on page 403. *ante*.

² Clause (24A) was inserted by s. 2(11) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

LVIII of 1980.]

(Part I.—Chapter I.—Preliminary.—Section 2.)

(c) the drains attached to any such street, public bridge or causeway,

and, where there is no drain attached to any such street, shall, unless the contrary is shown, be deemed to include all lands up to the outer wall of the premises abutting on the street, or, where a street alignment has been fixed and the area within such alignment has been acquired by the Corporation and the alignment has been demarcated or is capable of being demarcated, up to such alignment;

¹(25A) "rate-payer" means a person liable to pay any rate, tax or licence-fee under this Act;

²(25AA) "recognised political party" means a National party or a State party recognised as such by the Election Commission of India by notification for the time being in force;

(26) "regulation" means a regulation made by the Corporation under this Act;

³(26A) "rubbish" means any dust, ashes, broken bricks, mortar, broken glass or refuse of any kind which is not an offensive matter;

(27) "rules" means rules made by the State Government under this Act;

⁴(27A) "service privy" means a fixed privy which is cleansed by hand, but does not include a movable commode;

⁴(27B) "service urinal" means a fixed urinal which is cleansed by hand;

(28) "slaughter-house" means any place used for the slaughter of cattle, sheep, goats, kids or pigs for the purpose of selling the flesh thereof as meat;

⁵(28A) "State Election Commission" means the West Bengal State Election Commission referred to in sub-section (1) of section 3 of the West Bengal State Election Commission Act, 1994;

¹Clause (25A) was inserted by s. 2(12) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

²Clause (25AA) was inserted by s. 2(12) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

³Clause (26A) was inserted by s. 2(13) of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

⁴Clauses (27A) and (27B) were inserted by s. 2(14), *ibid.*

⁵Clause (28A) was inserted by s. 3(1)(c) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

(Part II.—Constitution and Government.—Chapter II.—The Municipal Authorities.—Sections 3, 4.)

- (29) "street alignment" means the line dividing the land comprised in and forming part of a street from the adjoining land;
- ¹(29A) "Urban Development Sub-Committee" means the Urban Development Sub-Committee constituted under sub-section (4) of section 10 of the West Bengal District Planning Committee Act, 1994;
- (30) "year" means a financial year beginning on the first day of April.

West Ben.
Act XX of
1994.

PART II

Constitution and Government

CHAPTER II

The Municipal Authorities

The
municipal
authorities.

3. The following shall be the municipal authorities for the purposes of carrying out the provisions of the Act, namely:—

- (a) the Corporation.
- (b) the Mayor-in-Council, and
- (c) the Mayor.

The
Corporation.

4. (1) With effect from such date as the State Government may, by notification, appoint, there shall be a Corporation charged with the municipal government of Howrah, to be known as the Howrah Municipal Corporation.

(2) The Corporation shall be a body corporate with perpetual succession and a common seal, and may by its name sue and be sued.

(3) All properties, along with all rights therein of whatever nature, used, enjoyed or possessed by the Commissioners of the Howrah Municipality constituted under the Bengal Municipal Act, 1932, or by any Gram Panchayat or Panchayat Samiti constituted under the West Bengal *Panchayat* Act, 1973, as the case may be, included within Howrah immediately before the date of constitution of the Corporation, shall, on and from that date vest in the Corporation.

Ben. Act XV
of 1932.
West Ben.
Act XLI of
1973.

¹Clause (29A) was inserted by s. 2(13) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

LVIII of 1980.]

(Part II.—Constitution and Government.—Chapter II.—The Municipal Authorities.—Sections 5, 5A.)

(4) All rights, liabilities and obligations of the Commissioners and the Gram Panchayats or Panchayat Samitis referred to in sub-section (3) subsisting immediately before the date of constitution of the Corporation, in relation to any matter provided for in this Act, shall be enforceable by or against the Corporation.

(5) Subject to the provisions of this Act, the Corporation shall be entitled to acquire, hold and dispose of property.

5. ¹(1) The Corporation shall consist of the following members, namely:—

Constitution of the Corporation.

- (a) fifty elected Councillors, and
- (b) such persons having special knowledge or experience in municipal administration as the State Government may nominate from time to time:

Provided that such persons shall not have the right to vote in the meetings of the Corporation.

(2) The fifty Councillors referred to in clause (a) of sub-section (1) shall be elected by the constituencies, each constituency electing one Councillor, and for this purpose each ward of the Corporation described in Schedule II shall constitute a constituency.

* * * * *

10 of 1873.

²5A. (1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected to be a Councillor shall, before taking his seat, make and subscribe before an officer appointed by the State Government an oath or affirmation of his allegiance to the Constitution of India in the following form:—

Oath of allegiance to be taken by Councillors.

"I, A.B., having been elected a Councillor of the Corporation, do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter."

(2) Any person who, having been elected a Councillor fails to make and subscribe, within three months of the date on which his term of office commences, the oath or affirmation under sub-section (1), shall cease to hold his office and his seat shall be deemed to have become vacant:

¹Sub-section (1) was substituted for the original by s. 3(2)(a) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994). Prior to this substitution sub-clause (ii) of clause (b) of original sub-section (1) was substituted by s. 2 of the Howrah Municipal Corporation (Amendment) Act, 1992 (West Ben. Act X of 1992).

²Sub-section (3) was omitted by s. 3(2)(b) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

³Section 5A was inserted by s. 3 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999)

(Part II.—Constitution and Government.—Chapter II.—The
Municipal Authorities.—Section 6.)

Provided that the State Government may, for reasons to be recorded in writing, extend in each case or class of cases the above period of three months by such period as it thinks fit.

(3) Any Councillor nominated by the Mayor as the Deputy Mayor or a member of the Mayor-in-Council under sub-section (2) of section 6, shall assume office forthwith after taking the oath of secrecy before the Mayor in the following form:—

"I, A.B., do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Deputy Mayor/a Member of the Mayor-in-Council except as may be required for the due discharge of my duties as such Deputy Mayor/Member of the Mayor-in-Council."

Constitution
of Mayor-in-
Council.

6. (1) There shall be a Mayor-in-Council consisting of the Mayor, the Deputy Mayor and such number of other elected members of the Corporation, not exceeding five, as the State Government may from time to time determine.

(2) The Deputy Mayor and other elected members referred to in sub-section (1) shall be nominated by the Mayor ¹[within a period of thirty days from the date of his entering into office:]

²Provided that the State Government may, on an application by the Mayor and for reasons to be recorded in writing, extend the period as aforesaid not exceeding thirty days, as the State Government may think fit.

(3) Any causal vacancy in the office of the Deputy Mayor or other member referred to in sub-section (1) by reason of death, resignation, removal or otherwise shall be filled up by the Mayor:

Provided that no act or proceedings of the Mayor-in-Council shall be called in question or shall become invalid merely by reason of any vacancy in the office of the Deputy Mayor or other members referred to in sub-section (1).

(4) The manner of transaction of business of the Mayor-in-Council shall be such as may be determined by the Corporation by regulation.

(5) The Mayor-in-Council shall be collectively responsible to the Corporation.

¹The words within the square brackets were substituted for the words "as soon as possible after he assumes office," by s. 3(1) of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

²Proviso was added by s. 3(2), *ibid.*

LVIII of 1980.]

(Part II.—Constitution and Government.—Chapter II.—The
Municipal Authorities.—Sections 7-9.)

7. A member of the Mayor-in-Council other than the Mayor shall hold office from the date of his nomination to the Mayor-in-Council until—

Term of office of the member of the Mayor-in-Council.

- (a) he ceases to be a member of the Corporation, or
- (b) he resigns his office by writing under his hand addressed to the Mayor in which case the resignation shall take effect from the date of its acceptance, or
- (c) he is removed from office by a written order of the Mayor, or
- ¹(d) a newly elected Mayor enters upon his office in the case of any casual vacancy in the office of the Mayor caused by death, resignation, removal or otherwise.

2* * * * *

8. The elected members of the Corporation shall elect from amongst themselves,—

Election of Mayor and Chairman.

- (a) at the first meeting of the Corporation after a general election,—(i) one member to be the Mayor, and (ii) one member to be the Chairman, and
- (b) so often as a vacancy in the office of the Mayor or the Chairman, as the case may be, occurs by reason of death, resignation, removal or otherwise and within one month of the occurrence of such vacancy, one member to be the Mayor or the Chairman, as the case may be,

who shall assume office forthwith after taking such oath of secrecy as may be prescribed.

9. (1) A Mayor or a Chairman, as the case may be,—

Term of office of Mayor or Chairman.

- (a) shall cease to hold office as such forthwith if he ceases to be a member of the Corporation;
- (b) may, at any time, by giving notice in writing to the Corporation, resign his office and such resignation shall take effect from such date as may be specified in the notice or, if no such date is specified, from the date of its receipt by the Corporation;
- (c) may be removed from office by a resolution carried by a majority of the total number of elected members of the Corporation at a special meeting of the Corporation called for this purpose upon a requisition made in writing by not less than one-third of the elected members of the Corporation:

¹Clause (d) was substituted for the original by s. 4(1) of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

²Clause (c) was omitted by s. 4(2), *ibid.*

*(Part II.—Constitution and Government.—Chapter II.—The
Municipal Authorities.—Section 10.)*

Provided that no such resolution shall be moved before the expiry of six months from the date of assumption of office by a Mayor or a Chairman, as the case may be:

Provided further that if such resolution is not carried by a majority of the total number of elected members of the Corporation, no further resolution for the removal of the Mayor or the Chairman, as the case may be, shall be moved before the expiry of a period of six months from the date on which the former resolution was moved.

* * * * *

Municipal
Accounts
Committee.

10. (1) The Corporation shall, at its first meeting in each year or ²[in its next meeting which shall be held within a period of thirty days from the date of its first meeting in that year,] constitute a Municipal Accounts Committee:

³Provided that the State Government may, on an application by the Mayor and for reasons to be recorded in writing, extend the period as aforesaid by such period not exceeding thirty days as the State Government may think fit.

(2) The Municipal Accounts Committee shall consist of—

- (a) such number of persons, not being less than three and more than five, as the Corporation may determine, to be elected by the members of the Corporation from amongst themselves in accordance with the system of proportional representation by means of the single transferable vote by secret ballot, the members of the Mayor-in-Council not being eligible for election; and
- (b) such number of persons, not being more than two and not being members or officers or other employees of the Corporation, having knowledge and experience in financial matters, as may be nominated by the Mayor-in-Council.

(3) The members of the Municipal Accounts Committee shall elect from amongst themselves one member to be its Chairman.

(4) Subject to the other provisions of this Act, the members of the Municipal Accounts Committee shall hold office till a new committee is constituted.

¹Sub-section (2) was omitted by s. 5 of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

²The words within the square brackets were substituted for the words "as soon as may be at any meeting subsequent thereto," by s. 6(1). *ibid.*

³Proviso was added by s. 6(2), *ibid.*

LVIII of 1980.]

*(Part II.—Constitution and Government.—Chapter II.—The
Municipal Authorities.—Section 11.)*

(5) Subject to the provisions of this Act and the rules and the regulations made thereunder, it shall be the duty of the Municipal Accounts Committee—

- (a) to examine the accounts of the Corporation showing the appropriation of sums granted by the Corporation for its expenditure and the annual financial accounts of the Corporation;
- (b) to examine and scrutinise the report on the accounts of the Corporation by the auditors appointed under section 77 and to satisfy itself that the monies shown in the accounts as having been disbursed were available for, and applicable to, the services or purposes to which they have been applied and that the expenditure was incurred in accordance with the authority governing the same;
- (c) to submit a report to the Corporation every year and from time to time on such examination and scrutiny;
- (d) to consider the report of the auditor in cases where the Corporation requires him to conduct a special audit of any receipt or expenditure of the Corporation or to examine the accounts of stores and stocks of the Corporation; and
- (e) to discharge such other functions as may be prescribed.

(6) The Municipal Accounts Committee may call for any book or document relating to the accounts of the Corporation under examination and may send for such officers of the Corporation as it may consider necessary for explaining any matter in connection with such examination.

(7) The manner of transaction of business of the Municipal Accounts Committee shall be such as may be determined by the Corporation by regulations:

Provided that the persons nominated under clause (b) of sub-section (2) shall have no right of voting at the meeting of the Municipal Accounts Committee.

11. (1) The Corporation shall, at its first meeting after the election of members thereto or as soon as may be thereafter, group the wards of the Corporation mentioned in Schedule II into five boroughs so that each borough consists of ten contiguous wards, and constitute a Borough Committee for each borough.

Borough
Committee.

(2) Each Borough Committee shall consist of the Councillors * * * * *
* * * * * elected from the wards constituting the borough.

¹The words "other than the members of the Mayor-in-Council," were omitted by s. 3(4)(a) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

(Part II.—Constitution and Government.—Chapter II.—The Municipal Authorities.—Sections 11A, 12.)

(3) A member of the Borough Committee representing a constituent ward shall hold office till he ceases to be the Councillor representing such ward.

(4) The members of each Borough Committee shall elect from amongst themselves one member to be its Chairman ¹[who shall not be a member of the Mayor-in-Council or the Chairman of the Corporation].

(5) The Chairman may at any time resign his office by giving notice in writing to the Mayor and the resignation shall take effect from the date of its acceptance by the Mayor.

(6) A Borough Committee shall, subject to the general supervision and control of the Mayor-in-Council, discharge, within the local limits of the borough, the functions of the Corporation relating to collection and removal of garbage, house connections for water supply and sewerage, removal of accumulated water on streets and public places due to rain or any other causes, health immunization services, improvement of *bustee* and such other functions as the Corporation may require it to discharge or as may be specified by regulations, and the officers and employees of the Corporation working within the local limits of the borough shall carry out the directions of the Borough Committee given in this behalf.

(7) The manner of transaction of business of the Borough Committee shall be such as may be determined by the Corporation by regulations.

²11A. (1) Each ward of the Corporation shall have a Ward Committee.

(2) The composition and functions of the Wards Committee shall be such as ³[may be prescribed.]

(3) The Councillor elected from a ward shall be the Chairperson of the Ward Committee for that ward.

12. The Mayor, the Chairman, the Deputy Mayor, the members of the Mayor-in-Council ⁴[, the Leader of the Opposition] and the members of the Committee constituted in accordance with the provisions of this Chapter ⁵[, except the Ward Committee constituted under section 11A,] shall be given such remuneration and facilities as may be prescribed.

¹The words within the square brackets were inserted by s. 3(4)(b) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

²Section 11A was inserted by s. 3(5), *ibid.*

³The words within the square brackets were substituted for the words "the State Government may by notification determine." by s. 7 of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

⁴The words within the square brackets were inserted by s. 4(1) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

⁵The words within the square brackets were inserted by s. 4(2), *ibid.*

⁶The words, figures and letter within the square brackets were inserted by s. 4(3), *ibid.*

Ward
Committee.

Remunera-
tion and
facilities of
Mayor,
Chairman,
Deputy
Mayor,
members of
the Mayor-
in-Council
[, Leader
of the
Opposition]
and
members of
Committees.

LVIII of 1980.]

(Part II.—Constitution and Government.—Chapter III.—A. Officers and other employees of the Corporation.—Section 13.)

CHAPTER III

A. Officers and other employees of the Corporation

13. (1) The Corporation shall have the following officers, namely:— Officers of
the
Corporation.
- (a) the Commissioner,
 - (b) the Controller of Finances,
 - (c) the Chief Auditor,
 - (d) the Chief Engineer,
 - (e) the Chief Architect,
 - (f) the Health Officer, and
 - (g) the Secretary.
- (2) The Commissioner, the Controller of Finances and the Chief Auditor shall be appointed—
- (a) by the State Government in consultation with the Mayor-in-Council, by notification, from amongst persons who are or have been in the service of the Government, or
 - (b) if so directed by the State Government, by the Mayor-in-Council in consultation with the State Public Service Commission:
- Provided that the appointment of officers under clause (a) shall be on such terms and conditions and for such period, not exceeding five years in the first instance, as the State Government may determine:
- Provided further that the State Government may, in consultation with the Mayor-in-Council, extend the period from time to time, so, however, that the total period of extension does not exceed five years.
- (3) The other officers referred to in clauses (d), (e), (f) and (g) of sub-section (1) shall be appointed by the Mayor-in-Council in consultation with the State Public Service Commission.
- (4) The method of, and the qualifications required for, recruitment, and the terms and conditions of service including discipline, control and conduct, of the officers appointed by the Mayor-in-Council shall be such as may be prescribed.
- (5) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, at any time in the case of any officer appointed under clause (a) of sub-section (2) as the Commissioner or as the Controller of Finances or as the Chief Auditor, terminate his appointment as such:

(Part II.—Constitution and Government.—Chapter III.—A. Officers and other employees of the Corporation.—Section 14.)

Provided that if, in the case of any such officer, the Mayor-in-Council so decides, the State Government shall terminate the appointment of such officer.

Salary and other conditions of service of Commissioner and other officers appointed by the State Government.

14. (1) The Commissioner, the Controller of Finances and the Chief Auditor shall be paid out of the Municipal Fund such salaries and allowances as may, from time to time, be determined by the State Government:

¹Provided that if any officer referred to in this sub-section is an officer in the service of the State Government, the Corporation shall make such contribution towards his salaries and allowances as may be required by or under the conditions of his service under the State Government:

¹Provided further that the Mayor-in-Council may, with the prior approval of the State Government, sanction remuneration to any officer referred to in this sub-section in addition to the salaries and allowances referred to in this sub-section.

(2) If any of the officers referred to in sub-section (1) is in the service of Government, the Corporation shall make such contribution towards his passages, leave allowances, pension and provident fund as may be required by or under the conditions of his service under Government or the terms and conditions of his service under the Corporation, as the case may be, to be paid by or for him.

(3) If any of the officers referred to in sub-section (1) is not an officer in the service of Government, his leave allowances, retirement benefits and contribution to provident fund shall be such as may be prescribed:

Provided that—

- (a) the amount of leave and leave allowances or retirement benefits shall in no case, except with the special sanction of the State Government, exceed the amount admissible to Government servants of equivalent rank; and
- (b) the conditions of grant of such leave and the conditions or retirement shall in no case, except with the special sanction of the State Government, be more favourable than those for the time being applicable to such Government servants.

¹Provisos were added by s. 5 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

LVIII of 1980.]

(Part II.—Constitution and Government.—Chapter III.—A. Officers and other employees of the Corporation.—Sections 15-17.)

15. If any vacancy occurs in the office of any of the officers referred to in clause (a) of sub-section (2) of section 13 by reason of death, resignation, removal or otherwise, the State Government may appoint another person to officiate in his place for a period not exceeding six months.

Casual vacancies in the office of Commissioner, Controller of Finances and Chief Auditor.

16. (1) The posts of officers and employees of the Corporation, other than those referred to in clauses (a) to (g) of sub-section (1) of section 13, shall constitute the establishment of the Corporation.

Establishment of the Corporation.

(2) The Corporation shall, by regulation, classify the posts of officers and employees constituting the establishment of the Corporation into such categories as it may consider necessary and shall maintain a schedule of posts indicating the designation, grade and number of sanctioned posts within such category.

(3) The Mayor-in-Council shall consider any proposal for revision in the schedule of posts and place the same with its recommendation, if any, before the Corporation for approval before the presentation of the budget estimate to the Corporation by the Mayor:

Provided that no upward revision of the size of the establishment of the Corporation shall be made without the prior sanction of the State Government if the number of posts to be created in a year is more than one *per cent.* of the total number of posts comprised in the establishment:

Provided further that no post carrying a monthly salary of more than one thousand rupees or a salary rising by periodical increments to more than one thousand rupees shall be created without the sanction of the State Government.

(4) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, and subject to the provisions of sub-section (2), the Corporation may, by resolution, decide to engage, on contract basis with the prior approval of the State Government, officers and other employees of the Corporation against such posts of officers and other employees as may be created under this section:

Provided that the remuneration for, and the other terms and conditions of, such engagement shall be such as the State Government may approve.

17. (1) The method of, and the qualifications required for, recruitment to posts of different categories constituting the establishment of the Corporation shall be such as may be prescribed.

Appointment.

¹Sub-section (4) was inserted by s. 8 of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

*(Part II.—Constitution and Government.—Chapter III.—
A.—Officers and other employees of the Corporation.—Sections 17A,
18.—B.—Municipal Service Commission.—Section 19.)*

(2) Subject to provisions of this Act, appointment to all the posts of officers and employees constituting the establishment of the Corporation shall be made by the Commissioner with the approval of the Mayor-in-Council.

Compulsory retirement of officers and employees of Corporation.

17A. (1) Notwithstanding anything contained in this chapter or elsewhere in this Act or the rules made thereunder, an officer or other employee of the Corporation shall retire from service compulsorily with effect from the afternoon of the last day of the month in which he attains the age of sixty years.

(2) No officer or other employee of the Corporation shall be re-employed after retirement in any post of the Corporation without the prior sanction of the State Government.

Terms and conditions of service of officers and employees.

18. The Corporation may, by regulation, provide for the terms and conditions of service including discipline, control and conduct of officers and other employees constituting the establishment of the Corporation.

B. Municipal Service Commission

Constitution of Municipal Service Commission.

19. (1) The Corporation ²[may] constitute a Municipal Service Commission to be known as the Howrah Municipal Service Commission consisting of—

- (a) a Chairman, and
- (b) two other members.

(2) The Chairman and one of the other members shall be nominated by the Mayor-in-Council and one member shall be nominated by the State Government.

(3) The Municipal Service Commission shall perform such duties and in such manner as may be prescribed.

(4) The State Government shall also prescribe—

- (a) the term of office, salaries, allowances (if any) and conditions of service, of the Chairman and other members of the Municipal Service Commission,
- (b) the number of officers and other employees of the Municipal Service Commission and their salaries and allowances, and

¹Section 17A was inserted by s. 2 (3) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

²The word within the square brackets was substituted for the words "shall, as soon as may be after the commencement of this Act," by s. 2 (a) of the Howrah Municipal Corporation (Amendment) Act, 1989 (West Ben. Act VIII of 1989).

LVIII of 1980.]

(Part II.—Constitution and Government.—Chapter III.—

B. Municipal Service Commission.—Section 20.—

C. Powers and functions of the Municipal authorities and the Officers of the Corporation.—Sections 21-23.)

(c) the terms and conditions of service including discipline, control and conduct of officers and other employees of the Municipal Service Commission.

¹(5) Notwithstanding the foregoing provisions of this section, the Municipal Service Commission constituted under sub-section (1) of section 26 of the ²[Kolkata] Municipal Corporation Act, 1980, shall, by virtue of sub-section (5A) of section 26 of the said Act, select such personnel for the Corporation as may be determined by the State Government by notification under sub-section (5A) of section 26 of the said Act and it shall be binding on the Corporation to appoint the personnel selected by the said Commission.

West Ben. Act LIX of 1980.

20. The salaries and allowances, if any, of the Chairman and other members of the Municipal Service Commission and the officers, and other employees thereof shall be paid from the Municipal Fund:

Payment of salaries and allowances of the Chairman and other members, officers and employees of the Municipal Service Commission.

³Provided that any amount of contribution payable by the Corporation under sub-section (2) of section 27 of the ²[Kolkata] Municipal Corporation Act, 1980, shall, in accordance with the provisions of sub-section (2) of the said section, be credited by the Corporation to the Municipal Fund of the ²[Kolkata] Municipal Corporation.

C. Powers and functions of the Municipal authorities and the Officers of the Corporation

21. Subject to the provisions of this Act and the rules and the regulations made thereunder, the municipal government of Howrah shall vest in the Corporation.

Powers of the Corporation.

22. (1) Subject to the provisions of this Act and the rules and the regulations made thereunder, the executive power of the Corporation shall be exercised by the Mayor-in-Council.

Powers and functions of the Mayor-in-Council.

(2) All executive actions of the Mayor-in-Council shall be expressed to be taken in the name of the Corporation.

23. (1) The Mayor shall exercise such powers and discharge such functions as are conferred on him by or under this Act.

Powers and functions of the Mayor.

(2) The Mayor shall preside over a meeting of the Mayor-in-Council which shall meet at such place and at such time as the Mayor may direct.

¹Sub-section (5) was inserted by s. 2(b) of the Howrah Municipal Corporation (Amendment) Act, 1989 (West Ben. Act VIII of 1989).

²The word within the square brackets was substituted for the word "Calcutta" by s. 5 of the West Bengal Capital City (Change of Name) Act, 2001 (West Ben. Act XVIII of 2001), w.e.f. the 1st January, 2001.

³Proviso added by s. 3 of the Howrah Municipal Corporation (Amendment) Act, 1989 (West Ben. Act VIII of 1989).

(Part II.—Constitution and Government.—Chapter III.—C. Powers and functions of the Municipal authorities and the Officers of the Corporation.—Sections 24, 25.)

(3) The matters to be discussed at a meeting of the Mayor-in-Council shall be prepared under the direction of the Mayor and shall be circulated to the members' of the Mayor-in-Council in such manner as the Mayor may determine.

(4) The Mayor shall allot among the members of the Mayor-in-Council such business of the Corporation and in such manner as he thinks fit.

(5) The Mayor may, if he is of opinion that immediate execution of any work (which ordinarily requires the approval of the Corporation or the Mayor-in-Council) is necessary, direct the execution of such work:

Provided that the Mayor shall report forthwith to the Corporation or the Mayor-in-Council, as the case may be, the action taken under this sub-section and the reason therefor.

¹The Deputy Mayor to act as Mayor or Chairman or to discharge the functions of Mayor or Chairman during casual vacancy in the office, or during the absence, of Mayor or Chairman.

¹24. (1) In the events of the occurrence of any vacancy in the office of the Mayor and/or the Chairman, as the case may be, by reason of his death, resignation, removal or otherwise, the Deputy Mayor shall act as the Mayor and/or the Chairman, as the case may be, until the date on which a new Mayor and/or a Chairman, as the case may be, elected in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Mayor and/or the Chairman, as the case may be, is unable to discharge the functions of the Mayor and/or the Chairman, as the case may be, owing to absence, illness or any other cause, the Deputy Mayor shall discharge his functions until the date on which the Mayor and/or the Chairman, as the case may be, resumes his duties.

(3) Subject to the other provisions of this Act, the Deputy Mayor shall, while acting as, or discharging the functions of, the Mayor and/or the Chairman under this section, have all the powers of the Mayor and/or the Chairman, as the case may be.

Powers and functions of the Commissioner.

25. ²(1) The Commissioner shall be the principal executive officer of the Corporation and shall, subject to the supervision and control of the Mayor,—

- (a) exercise the powers and perform the functions specifically conferred or imposed on him by or under this Act or by any other law for the time being in force;

¹Section 24 was substituted for the original by s. 9 of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

²Section 25 was renumbered as sub-section (1) of that section by s. 2(4) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

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(Part II.—Constitution and Government.—Chapter III.—C. Powers and functions of the Municipal authorities and the Officers of the Corporation.—Sections 26-28.)

- (b) assign the duties, and exercise supervision and control over the acts and proceedings, of all officers and employees of the Corporation * * *;
- (c) shall be responsible for the custody of all records other than papers and documents connected with the proceedings of the Corporation and the Mayor-in-Council and the Accounts Committee and shall preserve the same in such manner and for such period as may be determined by regulations;
- (d) shall be responsible for the preparation of the annual report on the working of the Corporation and such report shall be prepared as soon as may be after the first day of April each year and not later than such date as may be fixed by the State Government and shall be placed before the Corporation for consideration before the same is forwarded to the State Government.

²(2) All officers and employees of the Corporation shall be subordinate to the Commissioner.

26. (1) The Secretary shall be Secretary to the Corporation and the Accounts Committee and shall exercise such powers and discharge such functions as are conferred on him by or under this Act or as may be assigned to him by the Commissioner.

Powers and functions of the Secretary.

(2) The Secretary shall be responsible for the custody of all papers and documents connected with the proceedings of the Corporation and the Accounts Committee and shall preserve the same in such manner and for such period as may be determined by regulations.

27. The financial powers of the Corporation or the Mayor-in-Council or the Commissioner shall be such as may be prescribed.

Financial powers of the Corporation, Mayor-in-Council and Commissioner.

28. (1) The Corporation may by resolution delegate, subject to such conditions as may be specified in the resolution, any of its powers or functions to the Mayor-in-Council.

Delegation of powers and functions.

(2) The Mayor-in-Council may by order delegate, subject to such conditions as may be specified in the order, any of its powers or functions to the Mayor or to the Commissioner.

¹The words "other than the Chief Auditor" was omitted by s. 2(4)(i) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

²Sub-section (2) was inserted by s. 2(4)(ii). *ibid.*

(Part II.—Constitution and Government.—Chapter III.—C. Powers and functions of the Municipal authorities and the Officers of the Corporation.—Section 29.—Chapter IV.—Election of Councillors.—Section 30.)

(3) Subject to such standing orders as may be made by the Mayor-in-Council in this behalf,—

- (a) the Mayor may by order delegate, subject to such conditions as may be specified in the order, any of his powers or functions to the Deputy Mayor or to the Commissioner;
- (b) the Commissioner may by order delegate, subject to such conditions as may be specified in the order, any of his powers or functions to any other officer or any employee of the Corporation; and
- (c) any officer of the Corporation other than the Commissioner may by order delegate, subject to such conditions as may be specified in the order, any of his powers or functions to any other officer subordinate to him.

(4) Notwithstanding anything contained in this section, the Mayor-in-Council, the Mayor, the Commissioner, or the other Officer referred to in clause (c) of sub-section (3) shall not delegate—

- (a) any of its or his powers or functions delegated to it or him under this section, or
- (b) such of its or his powers or functions as may be prescribed.

Doubts as to powers or functions of municipal authorities.

29. If any doubt arises as to whether any particular power or function appertains to any municipal authority or the Commissioner, the Mayor shall refer the matter to the State Government and the decision thereon of the State Government shall be final.

CHAPTER IV

Election of Councillors * * *

Election to Corporation.

30. The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Corporation shall vest in the State Election Commission.

¹The words "and Aldermen". in the heading, were omitted by s. 3(6)(a) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

²Section 30 was substituted for the original by s. 3(6)(b), *ibid.* Prior to this substitution a proviso was added to original section 30 by s. 3 of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

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*(Part II.—Constitution and Government.—Chapter IV.—
Election of Councillors.—Sections 31-39.)*

31. *[Disqualification for registration in electoral roll.—Omitted by s. 3(6)(c) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).]*

32. *[Bar of registration for more than once.—Omitted by s. 3(6)(c) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).]*

33. *[Authority for preparation and revision of electoral roll.—Omitted by s. 3(6)(c) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).]*

34. *[Conditions for registrations.—Omitted by s. 3(6)(c) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).]*

35. *[Meaning of ordinarily resident.—Omitted by s. 3(6)(c) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).]*

36. *[Preparation, revision and correction of electoral roll.—Omitted by s. 3(6)(c) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).]*

37. *[Appeal.—Omitted by s. 3(6)(c) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).]*

38. *[Bar to jurisdiction of civil courts.—Omitted by s. 3(6)(c) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).]*

39. *[General disqualifications for being elected Councillor or Alderman.—Omitted by s. 3(6)(c) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).]*

(Part II.—Constitution and Government.—Chapter IV.
Election of Councillors.—Section 40.)Term of
office of
Councillors.

40. A Councillor shall hold office for a period of five years from the date of the first meeting of the Corporation under section 45 or for the period for which the new Board referred to in the second proviso to sub-section (2) of section 53 shall continue thereunder or for the period for which a member chosen to fill a casual vacancy shall be chosen to serve under sub-section (2) of section 83 of the West Bengal Municipal Elections Act, 1994, unless—

- (a) the Board is dissolved earlier, or
- (b) he resigns his office by writing under his hand addressed to the Chairman and the resignation is accepted by the Board at a meeting in which case the resignation shall take effect from the date of its acceptance, or
- (c) his election is void under sub-section (1) of section 31 of the West Bengal Municipal Elections Act, 1994, or
- (d) the entire area of the ward from which he has been elected is withdrawn from the operation of this Act or is included in an existing *Gram Panchayat*, or is constituted one or more *Gram Panchayats*, under sub-section (1) of section 6A of the West Bengal Panchayat Act, 1973, or
- (e) he is declared under section 40A to be disqualified for being a Councillor.

West Ben.
Act XXXIV
of 1994.West Ben.
Act XLI of
1973.

Section 40 was substituted for the original by s. 10 of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001). Prior to this substitution there occurred the following changes, namely:—

- (i) the words "and Alderman" were omitted by s. 3(6)(d)(i) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994),
- (ii) the words "or an Alderman" were omitted by s. 3(6)(d)(ii)(A), *ibid.*,
- (iii) the words and figures "Subject to the provisions of section 83 of the West Bengal Municipal Elections Act, 1994, a Councillor shall" were substituted for the words "A Councillor shall" by s. 2(5) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995),
- (iv) the words, figures and letter "and section 40A of this Act" were inserted after the words and figures "section 83 of the West Bengal Municipal Elections Act, 1994" by s. 6 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999),
- (v) the words "from the date appointed for the first meeting of the Corporation and no longer;" were substituted for the words "from the date of his election as Councillor or Alderman, as the case may be;" by s. 3(6)(d)(ii)(B) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994),
- (vi) the words "or an Alderman" in the proviso were omitted by s. 3(6)(d)(ii)(C)(1), *ibid.*,
- (vii) the words "or an Alderman, as the case may be," in the proviso were omitted by s. 3(6)(d)(ii)(C)(2), *ibid.*, and
- (viii) the words "or an Alderman" in sub-section (2) were omitted by s. 3(6)(d)(iii), *ibid.*

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(Part II.—Constitution and Government.—Chapter IV.—
Election of Councillors.—Section 40A.)

¹40A. (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, such competent authority for the Corporation as may be appointed by the State Government by notification in this behalf (hereinafter referred to in this section as the competent authority), may, subject to the other provisions of this section, declare, for reasons to be recorded in writing, a Councillor to be disqualified for being a Councillor thereof, if—

Disqualifica-
tion for
being a
Councillor
on change of
political
party by the
Councillor.

- (a) he is an elected Councillor set up by a recognised political party and has—
 - (i) voluntarily given up his membership of such recognised political party, or
 - ²(iA) joined another recognised political party, or
 - (ii) exercised the voting right contrary to the manner of voting of the majority of the Councillors who are the members of such recognised political party in the Corporation, or
- (b) ³He is an elected Councillor not set up by a recognised political party] and he has joined a recognised political party on the expiry of six months from the date of election:

Provided that the competent authority shall not declare any Councillor to be disqualified under this section without giving to such Councillor a reasonable opportunity to represent his case and, to be heard in person:

Provided further that an elected Councillor ⁴[referred to in sub-clause (iA), or sub-clause (ii), of clause (a)] shall not, on the competent authority being satisfied in this behalf, be declared to be disqualified, if—

- (a) the action of such Councillor was taken on obtaining prior permission of, or was condoned by, such recognised political party, or
- (b) such Councillor claims that he and any other Councillor, who are the members, of such recognised political party, constitute in the Corporation a group representing a faction consisting of not less than one-third of the

¹Section 40A was inserted by s. 7 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

²Sub-clause (iA) was inserted by s. 11(1)(a) of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

³The words within the square brackets were substituted for the words "he is an elected Councillor set up by a recognised political party" by s. 11(1)(b)(i), *ibid.*

⁴The words, figures, letters and brackets within the square brackets were substituted for the words, figures, letter and brackets "referred to in sub-clause (ii) of clause (a)" by s. 11(1)(b)(ii), *ibid.*

*(Part II.—Constitution and Government.—Chapter IV.—
Election of Councillors.—Section 40A.)*

total number of Councillors set up by such recognised political party in the Corporation and that all the Councillors constituting such group have voluntarily given up their membership of such recognised political party, or

- (c) the former recognised political party of the Councillor merges with another recognised political party, and he claims that he and the other members of his former recognised political party—
- (i) have become members of such other recognised political party of a new recognised political party formed out of merger, as the case may be, or
 - (ii) have not accepted the merger, and from the time of such merger, he and such other Councillors constituting not less than one-third of the total number of Councillors set up by the former recognised political party in the Corporation, have opted to remain members of the former recognised political party or have formed a new recognised political party.

(2) On being declared to be disqualified under sub-section (1), a Councillor shall, subject to the provisions of sub-section (12), stand removed from the Corporation from the date of such declaration.

(3) As soon as may be within one month from the date of the first meeting of the Corporation or within one month from the date on which this section comes into force, as the case may be, the elected Councillors set up by the recognised political parties shall, by adopting a resolution, select one Councillor from amongst themselves to be the Leader and such Leader shall, within fifteen days from the date of such selection, furnish to the competent authority referred to in sub-section (1)—

- (i) a copy of the resolution,
- (ii) a signed statement containing the names, addresses and constituencies of himself and other Councillors set up by such recognised political party, and
- (iii) a copy of a set of rules and regulations, if any, by whatever name called, of such recognised political party:

Provided that an office-bearer may also hold the office of the Leader:

Provided further that the competent authority shall not refuse to accept, or to rely on, the documents furnished by the Leader merely on the ground that the resolution selecting the Leader was not adopted within one month from the date of the first meeting of the Corporation or within one month

LVIII of 1980.]

*(Part II.—Constitution and Government.—Chapter IV.—
Election of Councillors.—Section 40A.)*

from the date on which this section comes into force, as the case may be, or that the documents as aforesaid were not furnished to him within fifteen days from the date of such selection.

(4) Where there is only one elected Councillor set up by a recognised political party in the Corporation, he shall furnish the documents referred to in sub-section (3) in relation to himself:

Provided that in the event of any increase in the number of Councillors who are the members of such recognised political party, the provisions of sub-section (3) shall apply as if the first meeting of the Corporation was held or this section came into force, as the case may be, on the date on which such increase took place.

(5) A Councillor not belonging to any recognised political party shall furnish a statement to that effect to the competent authority within one month from the date of the first meeting of the Corporation.

(6) In the event of any change of the information furnished under sub-section (3), sub-section (4) or sub-section (5); the leader or the Councillor, as the case may be, shall, as soon as may be within fifteen days from the date of such change, furnish in writing such change of information to the competent authority.

(7) The Leader referred to in sub-section (3), who is a member of a recognised political party, may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, the Secretary, of the district unit of such recognised political party to the competent authority, stating that—

- (a) one or more Councillors who are the members of such recognised political party have—
 - (i) voluntarily given up his or their membership of such recognised political party, or
 - (iA) joined another recognised political party, or
 - (ii) have exercised the voting right contrary to the manner of voting of the majority of the Councillors set up by such recognised political party in the Corporation, or
- (b) the Councillor referred to in sub-section (4) has voluntarily given up his membership of the recognised political party that set him up, or

¹Sub-clause (iA) was inserted by s. 11(2) of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

*(Part II.—Constitution and Government.—Chapter IV.—
Election of Councillors.—Section 40A.)*

- (c) the Councillor referred to in sub-section (5) has joined a recognised political party on the expiry of six months from the date of election, and that such Councillor or Councillors should be declared to be disqualified under sub-section (1) and should be removed from the Corporation.

(8) Every petition referred to in sub-section (7)—

- (a) shall contain a concise statement of the material facts on which the petitioner relies, and
- (b) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and, where the petitioner relies on any information furnished to him by any person or persons, a statement containing the names and addresses of such person or persons and the gist of such information as furnished by such person or each of such persons.

(9) On receipt of the petition referred to in sub-section (7), the competent authority shall, as soon as possible within six weeks from the date of the receipt of such petition, proceed to make an enquiry to satisfy himself, among others, as to—

- (a) the common decision in regard to the manner of voting to be exercised by the majority of the Councillors set up by the recognised political party, and
- (b) whether the Councillor or Councillors, against whom such petition is filed, exercised the voting right in a meeting of the Corporation contrary to such manner of voting.

(10) For the purpose of enquiry under sub-section (9), the competent authority may summon such members of the recognised political party or other persons, and may require such signed statement from, and production of such documents and records by, the members or other persons as aforesaid, as he may deem necessary.

(11) As soon as possible within eight weeks from the date of receipt of the petition referred to in sub-section (7), the competent authority shall, in consideration of the statements, documents and records before it,—

- (a) reject the petition, or
- (b) admit the petition wholly or in part and declare any member or members of such recognised political party to be disqualified under sub-section (1) for being Councillor or Councillors of the Corporation.

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*(Part II.—Constitution and Government.—Chapter IV.—
Election of Councillors.—Sections 41, 42.—
Chapter V.—Conduct of Business.—Section 43.)*

(12) Any Councillor declared disqualified under sub-section (1) or the Leader of the recognised political party referred to in sub-section (7), if aggrieved by the decision of the competent authority, may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the competent authority, and after giving the appellant and the opposite parties an opportunity of being heard, set aside or confirm the order or declare any Councillor or Councillors to be disqualified under, and in accordance with the provisions of, sub-section (1) and, upon such declaration, the Councillor or Councillors shall stand removed from the Corporation.

(13) The order passed by the authority referred to in sub-section (12) on the appeal shall be final.

(14) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no court shall have any jurisdiction in respect of any matter arising out of a Councillor being declared to be disqualified under sub-section (1) for being a Councillor.

Explanation.—For the purposes of this section, an elected Councillor shall be deemed to be set up by a recognised political party if he has contested election with the symbol reserve for such recognised political party or if he has contested election with a free symbol and joins a recognised political party and furnishes a declaration to that effect to the competent authority before the expiry of six months from the date of election.

41. [*Bar to election as Alderman.—Omitted by s. 3(6)(e) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).*]

42. [*Procedure for holding elections.—Omitted by s. 3(6)(e) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).*]

CHAPTER V

Conduct of Business

43. (1) The Chairman shall at the beginning of each calendar year nominate from amongst the elected members of the Corporation a panel of not more than three presiding officers and specify a sequence in which any one of them may preside over the meetings of the Corporation in the absence of the Chairman.

Nomination
of a panel of
presiding
officers.

(Part II.—Constitution and Government.—Chapter V.—
Conduct of Business.—Sections 44-46.)

(2) A member nominated under sub-section (1) shall hold office until a new panel of presiding officers is nominated.

Meetings.

44. (1) The Corporation shall meet not less than once in every month for the transaction of business.

(2) The Chairman may, whenever he thinks fit, and shall, upon a requisition in writing by not less than ten elected members of the Corporation, convene a meeting of the Corporation.

(3) Any meeting may be adjourned until the next or any subsequent date, and an adjourned meeting may be further adjourned in the like manner.

First meeting of the Corporation after general election.

45. (1) The first meeting of the Corporation after a general election shall be held as early as possible after the publication of the results [thereof] and shall be convened by the Secretary.

(2) Notwithstanding anything contained in this Act the first meeting of the Corporation for the election of the Mayor and the Chairman shall be presided over by a member to be nominated by the State Government in this behalf:

Provided that such member shall not himself be a candidate for such election.

(3) In the case of equality of votes obtained by the candidates for election as Mayor or Chairman, the election shall be made by lot to be drawn in presence of the candidates in such manner as Presiding Officer may determine.

(4) The Presiding Officer shall report to the State Government the names of the persons elected as Mayor or Chairman and the State Government shall publish such names in the *Official Gazette*.

Notice of meeting and list of business.

46. A list of the business to be transacted at every meeting of the Corporation except at an adjourned meeting shall be sent by the Secretary to the registered address of each member of the Corporation at least seventy-two hours before the time fixed for such meeting; and no business shall be brought before, or transacted at, any meeting other than the business of which notice has been so given:

¹The word within the square brackets was substituted for the words "of the election of Aldermen under the rules made under this Act" by s. 3(7) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

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(Part II.—Constitution and Government.—Chapter V.—
Conduct of Business.—Sections 47, 48.)

Provided that any member of the Corporation may send or deliver to the Secretary notice of any resolution so as to reach him at least ¹[forty-eight] hours before the time fixed for the meeting and the Secretary shall with all possible despatch take steps to circulate such resolution to every member of the Corporation in such manner as he may think fit.

Explanation.—In this section, "registered address" means the address for the time being entered in the register of addresses of members of the Corporation to be maintained by the Secretary.

47. (1) The quorum necessary for the transaction of business at a meeting of the Corporation shall be one-fourth of the total number of members of the Corporation.

Quorum.

(2) If at any time during a meeting of the Corporation there is no quorum it shall be the duty of the Chairman or the person presiding over such meeting either to adjourn the meeting or to suspend it till there is a quorum.

(3) Where a meeting has been adjourned under sub-section (2), the business which would have been brought before such meeting if there had been a quorum, shall be brought before and may be transacted at an adjourned meeting, whether there is a quorum or not.

(4) All matters required to be decided by the Corporation at a meeting shall, save as otherwise provided in this Act, be determined by a majority of the members of the Corporation present and voting at such meeting.

48. (1) The Chairman or, in his absence, a member of the panel of Presiding Officers nominated under section 43 shall preside at every meeting of the Corporation:

Presiding officer of a meeting of the Corporation.

Provided that when a meeting is held to consider a motion for the removal of the Chairman, the Chairman shall not preside at such meeting.

(2) In the absence of the Chairman and all members of the panel of the Presiding Officers as aforesaid from a meeting of the Corporation, the elected members present shall choose from amongst themselves one member to preside over the meeting.

(3) The Chairman or the person presiding over a meeting of the Corporation shall have and exercise only a casting vote in all cases of equality of votes.

¹The word within the square brackets was substituted for the word "seventy-two" by s. 2(6) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

(Part II.—Constitution and Government.—Chapter V.—
Conduct of Business.—Sections 49-52.)

Discussion
on urgent
public
matters.

49. (1) Any Councillor ¹* * * may give notice of raising discussion on a matter of urgent public importance to the Secretary specifying the matter to be raised.

(2) Such notice supported by the signature of at least two other elected members shall reach the Secretary at least ²[forty-eight] hours before the date on which such discussion is sought and the Secretary shall promptly place it before the Chairman or, in his absence, any member of the panel of Presiding Officers and circulate the same among the members in such manner as he may think fit.

Questions on
matters
relating to
administra-
tion.

50. A Councillor ³* * * may, in such manner as may be prescribed, ask the Mayor-in-Council questions on any matter relating to the administration of the Corporation on the municipal government of Howrah and all such questions shall be answered by the Mayor or any other member of Mayor-in-Council.

Statements
on matters
relating to
administra-
tion.

51. (1) Any Councillor ⁴* * * may ask for a statement from the Mayor-in-Council on an urgent matter relating to the administration of the Corporation on the municipal government of Howrah by giving a notice to the Secretary at least one hour before the commencement of the sitting on any day.

(2) The Mayor or a member of the Mayor-in-Council may accordingly make a brief statement on the same day or fix a date for the same.

Circulation
of minutes
and
inspection
of minutes
and reports
of proceed-
ings.

52. Minutes of the proceedings of each meeting of the Corporation shall be circulated to all the members of the Corporation and shall at all reasonable times be available at the office of the Corporation for inspection by any member of the Corporation, free of cost, and by any other persons on payment of such fee as the Corporation may determine.

¹The words "or Alderman" were omitted by s. 3(8) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

²The word within the square brackets was substituted for the word "seventy-two" by s. 2(7) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

³The words "or an Alderman" were omitted by s. 3(9) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

⁴The words "or Alderman" were omitted by s. 3(10), *ibid.*

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(Part II.—Constitution and Government.—Chapter VI.—
Control.—Section 53.)

CHAPTER VI

Control

53. (1) If in the opinion of the State Government, the Corporation has shown its incompetence, or has persistently made default, in the performance of the duties or in the exercise of the functions imposed on it by or under this Act or any other law, or has exceeded or abused its powers, the State Government may, by an order published, with the reasons for making it, in the *Official Gazette*, declare the Corporation to be incompetent, or in default, or to have exceeded or abused its powers, as the case may be, ²[and dissolve it for such period, not exceeding six months,] as may be specified in the order:

Power of the
State
Government
to
[dissolve]
the
Corporation.

Provided that no such order shall be made by the State Government unless—

- (a) a notice has been given to the Corporation specifying therein a period within which the Corporation may submit representation, if any, against the proposed order; and
- (b) such representation has been considered by the State Government ³[after giving the corporation a reasonable opportunity of being heard].

⁴(2) Where the Corporation has been dissolved under sub-section (1), an election to constitute the Corporation shall be completed before the expiry of six months from the date of its dissolution:

Provided that where the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary to hold any election to constitute the Corporation for such period:

Provided further that the Corporation constituted upon the dissolution thereof before the expiration of the term of office under section 40 shall continue only for the remainder of the period for which the dissolved Corporation would have continued had it not been so dissolved.

¹The word within the square brackets was substituted for the word "supersede" by s. 3(11)(a) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

²The words within the square brackets were substituted for the words "and supersede it, either entirely or in respect of such functions as may be specified in the order, for such period not exceeding twelve months," by s. 3(11)(b)(i), *ibid.*

³The words within the square brackets were inserted by s. 3(11)(b)(ii), *ibid.*

⁴Sub-section (2) was substituted for the original by s. 3(11)(c), *ibid.*

(Part II.—Constitution and Government.—Chapter VI.—
Control.—Sections 54, 54A.)Conse-
quences of
[dissolu-
tion.]

54. (1) With effect from the date of an order made under section 53,—

- (a) all members of the Corporation, the Mayor-in-Council and any Committee of the Corporation constituted under this Act shall vacate their respective offices, ²* * * and
- (b) all the powers and the duties, which under the provisions of this Act or any rule, regulation or by-law made thereunder may be exercised or performed by the Corporation or the Mayor-in-Council or any Committee of the Corporation or the Mayor or such other powers and duties as may be specified in the order, shall be exercised or performed, subject to the direction issued by the State Government, by such person or persons as the State Government may appoint in this behalf:

Provided that when the State Government appoint more than one person to exercise any powers and perform any duties, it may, by order, allocate such powers and duties among the persons so appointed in such manner as it thinks fit:

Provided further that the State Government shall fix the remuneration of such person or persons and may direct that such remuneration shall in each case be paid out of the Municipal Fund.

(2) For the avoidance of doubts it is hereby declared that an order of ³[dissolution] made under section 53 shall not effect or imply in any way the dissolution of the Corporation as a body corporate.

Special
provisions in
the case of
prohibitory
order from
court.

⁴54A. Where, by reason of any order of a court of competent jurisdiction, the Corporation is unable to exercise such powers, or to perform such duties, or to discharge such functions, as conferred or imposed on it by or under any of the provisions of this Act or the rules or regulations made thereunder, the State Government may appoint any authority, or any person or persons, to exercise the powers, or perform the duties, or discharge the functions, as the case may be, during the period of such inability, in such manner, and on such conditions, as the State Government may, by order, direct.

¹The word within the square brackets was substituted for the word "supersession" by s. 3(12)(a) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXVI of 1994).

²The words "except in a case where the supersession is partial," were omitted by s. 3(12)(b), *ibid.*

³The word within the square brackets was substituted for the word "supersession" by s. 3(12)(c), *ibid.*

⁴Sections 54A-54C were inserted by s. 12 of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

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(Part II.—Constitution and Government.—Chapter VI.—
Control.—Sections 54B, 54C.—Part III.—Finance.—
Chapter VII.—The Municipal Fund, Budget, Loans,
Accounts and Audit.—Section 55.)

45 of 1860. 54B. All the members, officers and other employees of the Corporation shall, while acting, or purporting to act, in pursuance of, or in exercise of any power conferred by or under, any of the provisions of this Act or the rules or the regulations made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code.

Member, officers and employees to be public servants.

54C. (1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force,—

- (a) upon the issue of any direction to the Corporation to exercise any power or to perform any function or to discharge any duty, or
- (b) upon the transfer to the Corporation of any function, or control and management of any property,

State Government to place officers and employees at the disposal of the Corporation.

under any of the provisions of this Act, the State Government shall, subject to such conditions as it may deem fit to impose, place at the disposal of the Corporation the services of such officers and other employees as may be necessary to enable it to exercise such power or perform such function or discharge such duty, as the case may be.

(2) The officers and other employees, whose services are so placed at the disposal of the Corporation, shall continue to be the officers and other employees of the State Government and their salary, allowances and other benefits shall be met from the Consolidated Fund of the State:

Provided that where any disciplinary or other action is required to be taken against any such officer or other employee, the Corporation shall make a reference to the State Government for appropriate action.

(3) Where any power or function or duty as conferred or imposed on the Corporation by or under any other law for the time being in force, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.

PART III

FINANCE

CHAPTER VII

The Municipal Fund, Budget, Loans, Accounts and Audit

55. (1) There shall be a Municipal Fund held by the Corporation in trust for the purposes of this Act and all moneys realised or realisable under this Act and all moneys otherwise received by the Corporation shall be credited to this fund.

Municipal Fund.

¹See foot-note 4 on page 432. *cont.*

(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Sections 56, 56A, 57 & 57A.)

* * * * *

²(3) All moneys received on account of the Municipal Fund shall forthwith be paid into a Government Treasury or into the State Bank of India or any other nationalised bank or the State Co-operative Bank to the credit of one or more accounts, and each such account shall be called the account of the Corporation to which the money belongs:

Provided that the Mayor-in-Council may invest money, not required for immediate use, either in Government securities or in any other form of security which may be approved by the State Government, or in fixed deposit in the State Bank of India or in any other nationalised bank or the State Co-operative Bank or in any other form as the State Government may direct.

Explanation.—“State Co-operative Bank” shall mean the West Bengal State Co-operative Bank Limited, and shall include any co-operative bank affiliated to the West Bengal State Co-operative Bank Limited.

Application
of Municipal
Fund.

56. Subject to the provisions of section 55, the moneys credited from time to time to the Municipal Fund shall be applied for payment of all sums, charges and costs necessary for carrying out the purposes of this Act and the rules and the regulations made thereunder or for payment of all sums payable out of the Municipal Fund under any other enactment for the time being in force.

Expenditure
on physical
assets
outside
Howrah.

³56A. Expenditure on physical assets outside Howrah may, for carrying out the purposes of this Act, be made if a resolution to that effect is carried out by not less than one-half of the total number of elected members of the Corporation.

Operation of
bank
accounts.

57. Subject to the other provisions of this Act, payment from the Municipal Fund shall be made in such manner as may be determined by regulations, and the accounts referred to in section 55 shall be operated by such officers of the Corporation as may be authorised by the Corporation by regulations.

Approval of
State
Government
in respect of
work etc.
estimated to
cost more
than rupees
twenty-five
lakhs.

⁴57A. No expenditure for any work or for purchase of any material as may be necessary for the purposes of this Act shall be made without the approval of the Corporation at a meeting, if the estimated cost of such work or purchase exceeds rupees five thousand but does not exceed rupees twenty-five lakhs:

¹Sub-section (2) was omitted by s. 2(8)(a) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

²Sub-section (3) was substituted for the original by s. 2(8)(b), *ibid.*

³Section 56A was inserted by s. 2(9) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

⁴Section 57A was inserted by s. 8 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

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(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Section 58.)

Provided that where the estimated cost of such work or purchase exceeds rupees twenty-five lakhs, approval of the State Government shall be obtained.

58. No payment of any sum out of the Municipal Fund shall be made unless the expenditure is covered by a current budget grant and a sufficient balance of such budget grant is available notwithstanding any reduction or transfer thereof under the provisions of this Act:

Payment not to be made out of the Municipal Fund unless covered by a budget grant.

¹Provided that this section shall not apply to payments in the following cases:—

- (a) refund of taxes and other moneys which are authorised by this Act;
- (b) repayment of moneys belonging to contractors or other persons and held in deposit and all moneys collected or credited to the Municipal Fund by mistake;
- (c) temporary payments for works urgently required by the State Government in the public interest;
- (d) sums payable as compensation under this Act or the rules or the regulations made thereunder;
- (e) expenses incurred by the Corporation on special measures on the outbreak of dangerous diseases;
- (f) sums payable—
 - (i) under orders of the State Government on failure of the Corporation to take any action required by the State Government; or
 - (ii) under any other enactment in force for the time being; or
 - (iii) under the decree or order of a civil or criminal court against the Corporation; or
 - (iv) under a compromise of any claim, suit or other legal proceedings; or
 - (v) on account of the cost incurred in taking immediate action by any of the municipal authorities referred to in section 3 to avert a sudden threat or danger to the property of the Corporation or to human life;
- (g) such other cases as may be prescribed.

¹Proviso was added by s. 2(10) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Sections 58A, 59, 60 & 60A.)

Procedure when money not covered by a budget grant, is paid.

⁵58A. Whenever any sum is paid in any of the cases referred to in the proviso to section 58, the Commissioner shall forthwith communicate the circumstances of such payment to the Mayor-in-Council, and thereupon the Mayor-in-Council may take, or recommend to the Corporation to take, such action under the provisions of this Act as may appear to it to be feasible and expedient for covering the amount of such payments.

59. [Investment of surplus moneys.—Omitted by s. 2(12) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).]

Annual Budget.

60. (1) The Corporation shall, on or before the ²{31st} day of March in each year, adopt for the ensuing year a budget estimate of the income and the expenditure of the Corporation to be received and incurred on account of the municipal government of Howrah.

* * * * *

(3) The budget estimate shall state the rates at which various taxes, cesses and fees shall be levied by the Corporation in the year next following.

(4) The budget estimate shall state the amount of money to be raised by the Corporation as loan during the year next following.

(5) The Mayor shall present the budget estimate to the Corporation on the 15th day of February in each year or as soon as possible thereafter.

(6) The budget estimate shall be prepared, presented and adopted in such form and in such manner, and shall provide for such matters, as may be ⁴[prescribed.]

⁵(7) The Corporation shall prepare the revised budget estimate for a year along with the budget estimate for the next year in such manner as may be prescribed.

Financial assistance by State Government.

⁶60A. (1) The Government may, from time to time, give grants or financial assistance to the Corporation with or without direction as to the manner of application of such grants or financial assistance.

¹Section 58A was inserted by s. 2(11) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

²The figures and letters within the square brackets were substituted for the figure and letters "2nd" by s. 2(13)(a), *ibid.*

³Sub-section (2) was omitted by s. 2(13)(b), *ibid.*

⁴The word within the square brackets was substituted for the words "determined by regulations" by s. 2(13)(c), *ibid.*

⁵Sub-section (7) was substituted for the original by s. 2(13)(d), *ibid.*

⁶Section 60A was inserted by s. 9 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

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(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Sections 61, 62.)

(2) The State Government may also lay down the pattern of distribution of such grants or financial assistance and the conditions of release of the grants for the purpose of such distribution.

(3) The State Government shall give grants to the Corporation for implementation in full or in part of any scheme included in the Annual Development Plan.

61. The Corporation may, by a resolution passed at a meeting, from time to time raise a loan, by the issue of debentures or otherwise on the security of the [property tax] or of all or any of the taxes, fees and dues under this Act, or on the guarantee by the State Government, of any sum of money which may be required—

Power of the Corporation to raise loan.

- (a) for the construction of works under this Act, or
- (b) for the acquisition of land or building for the purposes of this Act, or
- (c) to pay off any debt due to the State Government, or
- (d) to repay a loan raised under this Act, or
- (e) for the acquisition of a public utility concern which renders such services as the Corporation is authorised to render under this Act, or
- (f) for the purchase of vehicles, locomotive engines, boilers, plants and machineries necessary for carrying out the purposes of this Act, or
- (g) for any other purpose for which the Corporation is authorised to borrow by or under this Act or any other law in force for the time being:

Provided that no loan shall be raised without the previous sanction of the State Government and that terms and conditions (including the period) of repayment of the loan shall be subject to the approval of the State Government.

62. Notwithstanding anything hereinbefore contained, the power of the Corporation to raise a loan shall be so limited that the sums payable under this Act during any year for interest and for the maintenance of Sinking Funds established under this Act shall not exceed fifteen *per cent.* of the annual value of land and buildings as determined under this Act.

Limit to the power to raise loan.

¹See foot-note 3 on page 395, *ante*.

*(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Sections 63-66.)*

Power of the Corporation to open a credit account with a bank.

63. Notwithstanding anything contained in section 61, whenever the raising of any loan has been sanctioned by the State Government under that section the Corporation may, instead of raising such loan or any part thereof from the public, take credit, on such terms as may be approved by the State Government, from any bank on a cash account to be kept in the name of the Howrah Municipal Corporation Cash Account to the extent of such loan or any part thereof and, with the sanction of State Government, may grant mortgages of all or any of the properties vested in the Corporation by way of securing the repayment of the amount of such credit or of the sum advanced from time to time on such cash account with interest.

Repayment of loan.

64. Every loan raised by the Corporation under section 61 shall be repaid within the period approved under that section and by such of the following methods as may be approved by the State Government, namely:—

- (a) from a Sinking Fund established under section 66 in respect of such loan, or
- (b) partly from such Sinking Fund and partly from the loan raised for the purpose under section 61.

Form and effect of debentures.

65. All debentures issued under this Chapter shall be in such form, and shall be transferable in such manner, as the Corporation may by regulation determine, and the right to sue in respect of the moneys secured by any of such debentures shall vest in the holders thereof for the time being without any preference by reason of some such debentures being prior in date to others.

Sinking Funds.

66. (1) The Corporation shall establish a separate Sinking Fund in respect of each loan raised under section 61 and shall pay into such fund every six months a sum so calculated that if regularly paid such sum together with the compound interest accrued thereon would be sufficient, after payment of all expenses, to pay off the loan within the period approved by the State Government under the proviso to section 61.

(2) The rate of interest at which the sum referred to in subsection (1) shall be calculated shall be such as may be prescribed.

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(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Sections 67-69.)

67. (1) All moneys paid into a Sinking Fund shall as soon as possible be invested by the Corporation in—

Investment
of the
amount of
the Sinking
Fund.

- (a) Government securities, or
- (b) securities guaranteed by the Central or any State Government, or
- (c) debentures issued by the Corporation, or
- (d) debentures issued by the Trustees for the Improvement of Howrah, or
- (e) any public securities approved by the State Government and shall be held by the Corporation for the purpose of repaying from time to time the loans raised by it by the issue of debentures or otherwise.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible, be paid into the appropriate Sinking Fund and invested in the manner laid down in sub-section (1).

(3) Moneys paid into two or more Sinking Funds may, at the discretion of the Corporation, be invested together as a common fund and it shall not be necessary for the Corporation to allocate the securities held in such investments among the several Sinking Funds.

(4) Any investment made under this section may from time to time, subject to the provisions of sub-section (1), be varied or transposed.

68. Until any loan is wholly repaid, the Corporation shall not apply any Sinking Fund established under this Act in respect of such loan for any purpose other than the purpose of repayment of such loan.

Application
of the
Sinking
Funds.

69. (1) The Commissioner shall, at the end of each year, prepare a statement showing—

Statement of
investments.

- (a) the amount which has been invested during the year under section 67,
- (b) the date of the last investment made during the year,
- (c) the aggregate amount of securities then in the hands of the Corporation, and
- (d) the aggregate amount which has, up to the date of the statement, been applied for the purpose of repayment of loan under section 68.

(2) Every such statement shall be laid before a meeting of the Corporation and shall be published in the *Official Gazette*.

*(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Sections 70, 71.)*

Annual
examination
of Sinking
Funds.

70. (1) All Sinking Funds established under this Act shall be subject to annual examination by the auditors appointed under section 77, who shall ascertain whether the cash and the value of the securities belonging thereto are equal to the amount which should be at the credit of such funds had investments under section 67 been regularly made and had the interest accruing on account of such investments been regularly obtained.

(2) The amount which should be at the credit of a Sinking Fund shall be calculated on the basis of the sums credited to such fund under sub-section (1) of section 67.

(3) The value of securities belonging to a Sinking Fund shall be their current value, unless such securities become due for redemption at par with or above their face value before maturity in which case their current value shall be taken as their redemption value, except in the case of debentures issued by the Corporation which shall always be valued at par with their face value, provided that the Corporation shall make good immediately any loss owing to the sale of such debentures for repayment of the loan raised under section 61.

(4) The Corporation shall forthwith pay into any Sinking Fund such amount as the auditors appointed under section 77 may certify to be deficit unless the State Government specially sanctions a gradual readjustment of such deficit in respect of such fund.

(5) If the cash and the value of the securities at the credit of any Sinking Fund are in excess of the amount which should be at its credit, the auditors appointed under section 77 shall certify the amount of such excess sum and the Corporation may thereupon transfer the excess sum to the Municipal Fund in the General Account.

(6) If any dispute arises as to the accuracy of any deficit or excess referred to in the certificate under sub-section (4) or sub-section (5), the Corporation may, after payment of such deficit or after transfer of such excess, as the case may be, refer the matter to the State Government whose decision thereon shall be final.

Power of the
Corporation
to borrow
money from
the State
Government.

71. (1) The Corporation may borrow money from the State Government for carrying out of the purposes of this Act, other than those referred to in section 61, on such terms and conditions as the State Government may determine.

(2) If any money borrowed by the Corporation from the State Government before the commencement of this Act or under sub-section (1) is not repaid, or any interest due in respect thereof is not paid, according to the terms and conditions of such borrowing, the State Government may attach the Municipal Fund or any portion thereof.

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(Part III.—Finance.—Chapter VII.—The Municipal Fund, Budget, Loans, Accounts and Audit.—Sections 72-75.)

(3) After such attachment no person other than an officer appointed in this behalf by the State Government shall in any way deal with the attached Fund or portion thereof. Such officer may do all acts in respect thereof which any municipal authority or an officer or employee of the Corporation might have done under this Act if such attachment had not taken place, and may apply such fund or portion thereof for payment of the arrear and the interest due in respect of such borrowing and of all expenses on account of the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the fund attached was previously charged under any law in force for the time being and all such prior charges shall be paid out of the fund before any part thereof is applied for repayment of the borrowing under sub-section (1) and payment of interest accruing thereon.

72. If the Corporation fails to make any payment or to transfer any sum under sub-section (4) or sub-section (5) of section 70, the State Government may attach the Municipal Fund or any portion thereof and thereupon the provisions of section 71 shall, with all necessary modifications, apply.

Attachment of Municipal Fund for securing payment into Sinking Fund.

73. The accounts of all receipts and expenditure of the Corporation shall be kept in such manner and in such form as the State Government may from time to time prescribe.

Accounts.

74. (1) The Chief Auditor shall conduct a monthly internal audit of the accounts of the Corporation and shall report thereon to the Mayor-in-Council who shall cause an abstract of the receipts and expenditure of the month last preceding to be published.

Audit of accounts by the Chief Auditor.

(2) The Chief Auditor shall also conduct from time to time such other audit of the accounts of the Corporation as the Mayor-in-Council may direct.

(3) For the purpose of audit of the accounts of the Corporation the Chief Auditor shall have access to all accounts of the Corporation and records and correspondences relating thereto * * *.

75. (1) The Chief Auditor shall—

Report by the Chief Auditor.

(a) report to the Mayor-in-Council any material impropriety or irregularity which he may at any time observe in the expenditure or in the recovery of moneys due to the Corporation or in the accounts of the Corporation;

¹The words “, and the Commissioner shall forthwith furnish to the Chief Auditor such explanation concerning any receipt or expenditure as he may call for” were omitted by s. 2(14) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995)

*(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Sections 76, 77.)*

(b) furnish to the Mayor-in-Council such information as it may from time to time require concerning the progress of the audit.

(2) The Mayor-in-Council shall cause to be laid before the Corporation every report made to it by the Chief Auditor together with a statement of orders passed thereon by the Mayor-in-Council and thereupon the Corporation may take such action as it may deem fit.

(3) As soon as may be after the commencement of each financial year the Chief Auditor shall deliver to the Mayor-in-Council a report on the entire accounts of the Corporation for the preceding year.

(4) The Secretary shall cause such report to be printed and circulated among the Councillors * * * * *

(5) The Commissioner shall forward to the State Government as many copies of such report as may be required by the State Government together with a brief statement of action taken or proposed to be taken thereon.

Power of the
Chief
Auditor to
call for
vouchers,
etc.

76. The Chief Auditor shall audit the accounts of the Corporation with the assistance of officers and other employees subordinate to him and, for the purpose, may call for such vouchers, statements, returns and explanations in relation to such accounts as he may think fit, and shall be competent to frame standing orders and to give directions on all matters relating to audit and particularly in respect of the method and the extent of audit and the raising and pursuing of objections.

Appoint-
ment of
Auditors.

77. (1) The accounts of the Corporation shall be audited from time to time by auditors appointed in that behalf by the State Government.

(2) The Commissioner shall submit accounts to the auditors as required by them:

Provided that the Commissioner shall not be bound to submit accounts of expenditure in connection with any anti-corruption work but shall, if so required by the auditors, furnish certificate under his signature of all such expenditure.

(3) The auditors so appointed may,—

(a) by written summons, require the production before them or before any officer subordinate to them of any document which they may consider necessary for the proper conduct of audit;

¹The words "and the Aldermen" were omitted by s. 2(15) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

LVIII of 1980.]

*(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Sections 78, 79.)*

- (b) by written summons, require any person accountable for or having the custody or control of, any such document to appear in person before them or before any officer subordinate to them; and
- (c) require any person so appearing before them or before any officer subordinate to them to make or sign a declaration with respect to such document or to answer any question or to prepare and submit any statement.

(4) The provisions of sub-section (3) shall not apply to the accounts of expenditure incurred in connection with any anti-corruption work.

78. The auditors appointed under section 77 shall,—

- (a) report to the Mayor-in-Council any material impropriety or irregularity which they may observe in the expenditure, or in the recovery of moneys due to the Corporation, or in the accounts of the Corporation;
- (b) report to the Mayor-in-Council any loss or waste of money or other property owned by or vested in the Corporation which has been caused by neglect or misconduct and may, if they think fit, report the names of the persons who in their opinion are directly or indirectly responsible for such loss or waste;
- (c) furnish to the Mayor-in-Council such information as the Mayor-in-Council may from time to time require regarding the progress of audit;
- (d) as soon as may be after the completion of audit, deliver to the Mayor-in-Council a report upon the accounts of the Corporation and submit a duplicate copy thereof to the Corporation;
- (e) conduct a special audit, when so directed by the State Government or the Corporation, on any receipt or expenditure of the Corporation or examine any accounts of stores and stocks and submit a report upon the same to the Mayor-in-Council and the Corporation;
- (f) submit to the State Government copies of all reports referred to in clauses (a), (b), (d) and (e).

Report and information to be furnished by auditors.

79. The Mayor-in-Council shall forthwith remedy any defects or irregularities that may be pointed out by the auditors and shall report to the Corporation and the State Government the action taken by it:

Mayor-in-Council to remedy defects and report to the State

*(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Sections 80, 81.)*

Provided that if there is a difference of opinion between the Mayor-in-Council and the auditors the Mayor-in-Council, or if the Mayor-in-Council does not remedy any defect or irregularity within a reasonable period the auditors shall refer the matter to the State Government within such time and in such manner, as may be prescribed, and it shall be within the competence of the State Government to pass such orders thereon as it thinks fit.

Reference of reports to Municipal Accounts Committee.

80. (1) The Corporation shall refer all reports received under section 78 to the Municipal Accounts Committee for their examination and report under section 10.

(2) The report of the Municipal Accounts Committee shall be discussed at a meeting of the Corporation for such decision as the Corporation may think fit:

Provided that if no report is received from the Municipal Accounts Committee, the Corporation shall be competent to discuss the auditors' reports under section 78 for such decision as it thinks fit.

(3) The Corporation shall publish the auditors' reports referred to in section 78 together with the reports of the Municipal Accounts Committee, if any, and the decision of the Corporation thereon in accordance with such rules as may be prescribed.

Powers of the auditors to disallow, surcharge and charge.

81. (1) The auditors shall, after giving the person concerned an opportunity to submit an explanation and after considering such explanation, if any, disallow every item of accounts contrary to the provisions of this Act, and surcharge the amount of any illegal payment on the person making or authorising the making of such payment, and charge against any person responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of such person or any amount which ought to have been, but is not brought into account by such person, and shall in every such case certify the amount due from such person.

(2) The auditors shall record the reasons for every disallowance, surcharge or charge under sub-section (1) and shall serve in the manner prescribed a certificate of the amount due under that sub-section, and a copy of such reasons, on the person against whom the certificate is made, and shall incorporate such cases of disallowance, surcharge or charge in their report to the Mayor-in-Council, the Corporation and the State Government under section 78

LVIII of 1980.]

*(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Sections 82-85.)*

82. Any person from whom any sum has been certified by the auditors under section 81 to be due may, within one month after he has received or has been served with the certificate, either—

Rights of appeal to a Civil Court or to the State Government.

- (a) apply to a Civil Court of competent jurisdiction to set aside or modify such disallowance, surcharge or charge and upon such application the Court may, after taking such evidence as it considers necessary, confirm, set aside or modify the disallowance, surcharge or charge, and the certificate with such order as to costs as it may think proper, or
- (b) appeal to the State Government and the State Government shall pass such orders as it thinks fit. The decisions of the State Government on such appeal shall be final.

83. Where an amount is certified under sub-section (1) of section 81 to be due from any person, such amount, or where such person proceeds under section 82, such amount as the Court or the State Government, as the case may be, may decide to be due from such person, shall be paid within three months from the date of certificate under sub-section (1) of section 81, or as the case may be, within such period not less than three months from the date of such decision as the Court or the State Government, as the case may be, may allow and in the case of default of payment, the amount shall be recoverable by the Commissioner as an amount decreed by the Court of the District Judge, Howrah.

Payment of certified amount.

84. (1) Any cost allowed by the Court under clause (a) of section 82 shall be paid out of the Municipal Fund within such period as the State Government may fix in this behalf.

Costs payable out of Municipal Fund.

(2) If the Corporation fails to pay such cost within the period fixed by the State Government under sub-section (1), the State Government may attach the Municipal Fund or any portion thereof and the provisions of sub-section (2) of section 71 shall, with all necessary modifications, be deemed to apply in respect of such attachment.

85. Where a person from whom an amount is certified to be due under sub-section (1) of section 81 is a member of the Corporation or of a committee thereof or is an officer or employee of the Corporation and where such person has not paid such amount within three months from the date of such certificate, or where an amount declared to be due from such person under clause (a) or clause (b) of section 82 has not been paid by such person within such period not less than three months from the date of such declaration as may be allowed to him under section 83, such person shall be deemed to have vacated his seat or to have been

Effect of non-payment of certified amount.

(Part III.—Finance.—Chapter VII.—The Municipal Fund,
Budget, Loans, Accounts and Audit.—Section 86.—
Part IV.—Taxation and application fee for enlistment.—
Chapter VIII.—A. Levy of Taxes and Fees.—Section 87.)

dismissed from the service of the Corporation, as the case may be, with effect from the date of an order to be made by the State Government in this behalf and shall not be eligible for re-election or re-appointment, as the case may be, until the amount as aforesaid has been paid by him.

Power of the
State
Government
to make
rules.

86. (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:—

- (a) the manner and the forms in which the accounts of the Corporation shall be kept under section 73;
- (b) the time within which, and the manner in which, the matter referred to in the proviso to section 79 shall be referred to the State Government;
- (c) the publication of the auditors' reports together with the report of the Municipal Accounts Committee under subsection (3) of section 80;
- (d) any other matter which may be or is required to be prescribed under the provisions of this Chapter.

PART IV

[TAXATION AND APPLICATION FEE FOR ENLISTMENT]

CHAPTER VIII

A. Levy of Taxes and Fees

Taxes and
fees to be
levied by the
Corporation.

87. (1) The Corporation shall, for the purposes of this Act, have the power to levy the following taxes and fees:—

- (a) a ²[property tax] on lands and buildings,
* * * *
- (c) a tax on advertisements other than advertisements published in newspapers.
- (d) a tax on carriages and animals,

¹The heading within the square brackets was substituted for the heading "Taxation" by s. 3(a) of the Howrah Municipal Corporation (Amendment) Act, 1992 (West Ben. Act X of 1992).

²See foot-note 3 on page 395. *ante*.

³Clause (b) was omitted by s. 3(b) of the Howrah Municipal Corporation (Amendment) Act, 1992 (West Ben. Act X of 1992).

LVIII of 1980.]

(Part IV.—¹[Taxation and application fee for enlistment.]—Chapter VIII.—A. Levy of Taxes and Fees.—Section 87A.—B. ⁶{Property tax} on lands and buildings and surcharge.—Section 88.)

²(e) toll on—

(i) ferry,

(ii) bridge, and

(iii) heavy truck which shall be a heavy goods vehicle, and bus which shall be a heavy passenger motor vehicle, within the meaning of the Motor Vehicles Act, 1988, plying on a public street,

(f) a fee for grant of permission to erect a building,

(g) a fee on vessels moved within the limits of the Corporation at ghats or landing places constructed and maintained ³[by the Corporation,]

⁴(h) a special conservancy charge on commercial and industrial establishments.

(2) The levy, assessment and collection of taxes and fees mentioned in sub-section (1) shall be in accordance with the provisions of this Act and the rules and the regulations made thereunder.

⁵87A. (1) The Corporation may, from time to time, levy fee for licences issued or permissions granted under the provisions of this Act and also impose charges for any specific services rendered in pursuance of the provisions of this Act.

Levy of fees, charges, etc.

(2) The State Government may, from time to time, prescribe the scale at which such fees may be levied or charges imposed.

B. ⁶{Property tax} on lands and buildings and surcharge

⁷88. (1) For the purposes of this Act, property tax on the annual value of lands and buildings comprised in a holding, as determined under this Chapter, shall be imposed by the Corporation.

Imposition of property tax.

¹See foot-note 1 on page 446, *ante*.

²Clause (e) was substituted for the original by s. 10(1) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI) of 1999).

³The words within the square brackets were substituted for the words "by the Corporation," by s. 10(2), *ibid*.

⁴Clause (h) was inserted by s. 10(3), *ibid*.

⁵Section 87A was inserted by s. 2(16) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

⁶See foot-note 3 on page 395, *ante*.

⁷Section 88 was substituted for the original by s. 2(17) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

(Part IV.—¹[Taxation and application fee for enlistment.]—
Chapter VIII.—B. ²{Property tax} on lands and buildings
and surcharge.—Section 88.)

(2) Such property tax shall be determined as follows:—

(a) where the annual value of lands and buildings does not exceed nine hundred and ninety-nine rupees, the property tax shall be determined in accordance with the following formula:—

$(\frac{\text{annual value}}{100} + 10)$ per cent. of the annual value, or

(b) where the annual value of lands and buildings exceeds nine hundred and ninety-nine rupees, the property tax shall be determined in accordance with the following formula:—

$(\frac{\text{annual value}}{1000} + 22)$ per cent. of the annual value:

Provided that the property tax shall not exceed 40 per cent. of the annual value of lands and buildings:

Provided further that while calculating the percentage of property tax, the decimal figure below 0.5 shall be ignored and the decimal figure of 0.5 or above shall be rounded off to 1:

Provided also that the State Government may, from time to time, by notification, revise the formula referred to in clause (a) and clause (b) of this sub-section and upon such revision, this Act shall be deemed to have been amended accordingly:

Provided also that no such revision shall be made more than once in five years.

(3) A surcharge at such rate, not exceeding fifty per cent. of the property tax calculated under sub-section (2), as the Mayor-in-Council may, from time to time, determine at a meeting convened for the purpose, may be imposed on any land and building used wholly or partially for commercial, industrial or any other non-residential purpose.

(4) Notwithstanding anything contained in this Chapter, lands and buildings which are the properties of the Union shall be exempt from the property tax:

Provided that nothing in this sub-section shall prevent the Corporation from levying on such lands and buildings a property tax to which immediately before the commencement of this Act they were, or were treated as, liable:

Provided further that the Corporation may levy a service charge on such buildings on the basis of annual value, and at such rate, as may be determined by the Central Government from time to time.

¹See foot-note 1 on page 446, ante.

²See foot-note 3 on page 395, ante.

LVIII of 1980.]

(Part IV.—¹[Taxation and application fee for enlistment.]—
Chapter VIII.—B. ²[Property tax] on lands and buildings and
surcharge.—Sections 88A, 88B.— C. Determination of
Annual Valuation.—Section 89.)

³88A. Notwithstanding anything contained in the foregoing provisions of this chapter, the Corporation may, by a resolution, exempt 25 per cent of the property tax in respect of any holding belonging to an ex-serviceman, or family of a deceased soldier or ex-serviceman, who has no other land or building in any part of the State of West Bengal and who is residing in that holding.

Exemption of properties of ex-servicemen.

³88B. (1) The Corporation shall levy a surcharge on the transfer of immovable property situated within Howrah, in the form of additional stamp duty.

Levy of surcharge on transfer of lands.

(2) The rate of the surcharge, and the manner of—

- (a) collection of the surcharge.
- (b) payment of the surcharge to the Corporation, and
- (c) deduction of the expenses, if any, incurred by the State Government in course of collection of the surcharge.

shall be such as may be prescribed.

C. Determination of Annual Valuation

89. For the purpose of determination of the ⁴[property tax] on any land or building,

Determination of annual value.

- (a) the annual value of land, and the annual value of any building erected for letting purposes or ordinarily let, shall be deemed to be the gross annual rent at which the land or building might at the time of assessment be reasonably expected to be let from year to year, less, in the case of a building, an allowance of ten *per cent.* for the cost of repairs and for all other expenses necessary to maintain the building in a state to command such gross rent; and
- (b) the annual value of any building not erected for letting purposes and not ordinarily let, shall be deemed to be five *per cent.* on the sum obtained by adding the estimated present cost of erecting the building, less a reasonable amount to be deducted on account of depreciation (if any), to the estimated present value of the land valued with the building as part of the same premises:

¹See foot-note 1 on page 446, *ante.*

²See foot-note 3 on page 395, *ante.*

³Sections 88A and 88B were inserted by s. 11 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

(Part IV.—¹[Taxation and application fee for enlistment.]—Chapter VIII.—
C. Determination of Annual Valuation.—Section 90.)

Provided that—

- (i) the annual value of a hut in *bustee* shall be the gross annual rent at which the hut may reasonably be expected to let from year to year less ten *per cent.* of such annual rent to maintain the said hut in a state to command such gross rent; and the land upon which such huts in a *bustee* are erected together with the remaining land, excluding the land used for roads and other public uses, shall be assessed separately under the provisions of this Chapter;
- (ii) in calculating the value of any land or building under this section, the value of any machinery on such land or in such building shall be excluded, but all fixtures including lifts and electric and other fittings which add to the convenience of the building shall be valued, subject in the case of a lift to such deduction from the valuation, as the Commissioner may think proper, on account of the cost of repairs to, maintenance of, and attendance on, such lift;
- (iii) if in the case of a building valued under clause (b), the annual value of which does not exceed five hundred rupees, any exceptional circumstances exists which render a valuation of five *per cent.* on the cost of erecting the building less depreciation, excessive, a lower percentage may be taken;
- (iv) when any building has been valued at a special percentage taken under clause (iii) of this proviso, it may be re-valued at any time after the exceptional circumstances referred to in that clause have ceased to exist.

Municipal
Assessment
Code.

90. (1) The State Government may by rules provide for the detailed procedure for determination of the annual value of lands or buildings in Howrah and for other matters connected therewith and such rules together with any regulations made under this Act shall constitute the Municipal Assessment Code.

(2) Under the rules as aforesaid—

- (i) every building together with the site and the land appurtenant thereto shall be assessed as a single unit:

Provided that where portions of any building together with the site and the land appurtenant thereto are vertically divisible and are separately owned so as to be entirely

¹See foot-note 1 on page 446, *ante*.

LVIII of 1980.]

(Part IV.—¹Taxation and application fee for enlistment.)—Chapter VIII.—
C. Determination of Annual Valuation.—Section 90.)

dependent and capable of separate enjoyment notwithstanding the fact that access to such separate portions is made through common passage or a staircase, such separately owned portions may be assessed separately:

Provided further that the right of such access is protected by a registered deed of agreement;

- (ii) all lands or buildings, to the extent there are contiguous or are within the same curtilage or are on the same foundation and are owned by the same owner or co-owners as an undivided property, shall be treated as one unit for the purpose of assessment under this Act;
- (iii) each residential unit with its percentage of the undivided interest in the common areas and facilities constructed or purchased and owned by or under the control of any housing co-operative society registered under the West Bengal Co-operative Societies Act, 1973, shall be assessed separately;
- (iv) each apartment or its percentage of the undivided interest in the common areas and the facilities in a building within the meaning of the West Bengal Apartment Ownership Act, 1972, declaration in respect of which has been duly executed and registered under the provisions of this Act, shall be assessed separately;
- (v) every hut in a *bustee* shall be assessed separately.

(3) Notwithstanding the assessments made before the commencement of this Act, the Commissioner on his own motion may amalgamate or separate or continue to assess as such, as the case may be, lands or buildings or portions thereof so as to ensure conformity with the provisions of this section.

(4) If the ownership of any land or building or a portion thereof is sub-divided into separate shares or if more than one land or building or portions thereof by amalgamation come under one ownership, the Commissioner may on an application from the owners or co-owners, separate or amalgamate, as the case may be, such lands or buildings or portions thereof so as to ensure conformity with the provisions of this section.

(5) A newly constructed building shall become assessable from the date of its occupation.

(6) The Commissioner shall, upon an application made in this behalf by an owner, lessee or sub-lessee or occupier of any land or building and upon payment of such fees as may be determined by the Corporation by regulations, furnish information to such person regarding the

West Ben.
Act
XXXVIII of
1973.

West Ben.
Act XVI of
1972.

¹See foot-note 1 on page 446, *ante*.

(Part IV.—¹[Taxation and application fee for enlistment.]—Chapter VIII.—
D. Assessment.—Sections 91, 92.)

apportionment of the ²[property tax] of such land or building among the several occupiers within such land or building for the current period or the period immediately preceding:

Provided that nothing in this sub-section shall prevent the Corporation from recovering the dues from any such person.

D. Assessment

Periodical
assessment.

91. (1) The annual value of any land or building situated in any ward of the Corporation which has been determined before and in force on the date of commencement of this Act shall remain in force and shall be deemed to be the annual value for the purpose of assessment of ²[property tax] on such land or building under this Act, until a fresh annual valuation is enforced under this Act.

(2) The annual value and assessment under this Chapter,—

- (a) shall be made by the Commissioner or, if the State Government so directs, by the Central Valuation Board established under the West Bengal Central Valuation Board Act, 1978.
- (b) shall have effect from the beginning of the quarter of a year ending on the thirtieth June or thirtieth September or thirty-first December or thirty-first March, as the case may be, following that in which an assessment is made,
- (c) shall, subject to the other provisions of this Chapter, remain in force in respect of each ward of the Corporation for a period of six years and may be revised on the expiration of each such period.

West Ben.
Act LVII of
1978.

Municipal
Assessment
Book.

92. (1) The annual value of lands and buildings as determined under this Act shall be entered in the Municipal Assessment Book.

(2) The Municipal Assessment Book shall be maintained in such form and in such manner as may be prescribed.

(3) The Municipal Assessment Book duly authenticated in the manner prescribed shall be kept in the office of the Corporation and shall be open for inspection free of charge and extracts therefrom shall be made available on payment of such fee as may be prescribed.

(4) The Municipal Assessment Book may be printed and published for every ward of the Corporation and made available for sale to the public in such form and in such manner as may be prescribed.

¹See foot-note 1 on page 446, *ante*.

²See foot-note 3 on page 395, *ante*.

LVIII of 1980.]

(Part IV.—¹[Taxation and application fee for enlistment.]—Chapter VIII.—
D. Assessment.—Section 93.)

²93. (1) Any person who is dissatisfied with the assessment as appearing in the assessment list referred to in section 92 may prefer an application for review before the Corporation within a period of one month from the date of publication of such assessment list or service of written notice, as the case may be.

Application
for review.

(2) No such application for review shall be entertained unless the amount of property tax on the previous valuations of any land or building has been paid or deposited in the office of the Corporation before such application is filed and every such application shall stand rejected unless such amount of tax is continued to be paid or deposited in the office of the Corporation till such application is finally disposed of.

(3) Every application under sub-section (1) shall be heard and determined by a Review Committee as may be constituted by the Corporation:

Provided that no Councillor of the ward from which the application for review is made shall be a member of the Review Committee:

Provided further that no decision of the Review Committee shall be invalid or called in question merely by reason of any vacancy in the composition of the Committee or absence of any member, other than the presiding officer, from a meeting thereof.

³Provided also that where the Review Committee reduces the valuation of any land or building, such reduction shall not be more than twenty-five per centum of the annual valuation of such land or building, except in the case of gross arithmetical or technical mistake and the Review Committee shall, in every such case, record in writing the reasons for such reduction.

(4) The Review Committee shall give notice to the applicant of the time and place at which his application will be heard and the Committee shall dispose of the application in such manner as may be prescribed:

Provided that in the case of equality of votes, the person presiding shall have a second or casting vote:

Provided further that when the Corporation is dissolved, the State Government shall, by notification, appoint the Review Committee consisting of such number of member or members including its President, if any, as may be specified in the notification for the purpose of hearing application for review under sub-section (1):

Provided also that the member or members, including the President, if any, as aforesaid shall be appointed by the State Government from among the persons residing in the wards other than the wards to which the matter relates, and the Review Committee shall pass such orders in each case as it thinks fit.

¹See foot-note 1 on page 446, *ante*.

²Section 93 was substituted for the original by s. 2(18) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

³Proviso added by s. 13 of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

(Part IV.—¹Taxation and application fee for enlistment.)—Chapter VIII.—
D. Assessment.—Sections 94, 94A, 94B.)

(5) The decision of the Review Committee shall be final and no suit or proceedings shall lie in any civil court in respect of any matter which has been, or may be, referred to the Review Committee or has been decided by the Review Committee.

Revision of
assessment.

94. Notwithstanding anything contained in this Chapter, the Mayor-in-Council may cause revaluation of lands and buildings or valuation of new buildings in any ward of the Corporation during the period the annual valuation remains in force in such ward.

District
Registrar to
furnish
particulars
regarding
transfer of
immovable
properties.

²94A. On a written request by the Commissioner, the Registrar of the district of Howrah, appointed as such by the State Government under section 6 of the Registration Act, 1908, shall furnish such particulars regarding transfer of immovable properties in Howrah as the Commissioner may, from time to time, require.

16 of 1908.

Amendment
of Municipal
Assessment
Book by
Mayor-in-
Council.

³94B. Notwithstanding anything contained in this Chapter, the Mayor-in-Council may, at any time, amend the Municipal Assessment Book in the following manner:—

- (a) by inserting therein the name of any person whose name ought to be inserted; or
- (b) by deleting the name of the person whose name has been inserted erroneously or otherwise; or
- (c) by inserting therein the particulars of any land or building previously omitted together with the details of valuation and assessment thereof; or
- (d) by striking out the name of any person not liable for the payment of ³[property tax]; or
- (e) by altering the valuation and assessment of any land or building which has been erroneously valued, as may be palpably apparent, or assessed through fraud, mistake or misrepresentation, and such alteration shall take effect from the date of coming into force of such erroneous assessment or valuation.

¹See foot-note 1 on page 446, *ante*.

²Sections 94A and 94B were inserted by s. 7 of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

³See foot-note 3 on page 395, *ante*.

LVIII of 1980.]

(Part IV.—¹{Taxation and application fee for enlistment.}—Chapter VIII.—

E. Incidence and payment of ²{property tax} on lands and buildings.—Sections 95, 96.)

E. Incidence and payment of ²{property tax} on lands and buildings

95. (1) The ²{property tax} on lands and buildings shall be primarily leviable,—

Incidence of ²{property tax} on lands and buildings.

- (a) if the land or building is let, upon the lessor;
- (b) if the land or building is sublet, upon the superior lessor;
- (c) if the land or building is unlet, upon the person in whom the right to let such land or building vests;
- ³(d) if the holding comes within the purview of the ⁴{Kolkata} Thika Tenancy (Acquisition and Regulation) Act, 1981, upon the *thika* tenant or the tenant, as the case may be.

West Ben. Act XXXVII of 1981.

(2) The ²{property tax} on any land or building, which is the property of the Corporation and the possession of which has been delivered under any agreement or licensing arrangement, shall be leviable upon the transferee or the licensee, as the case may be.

(3) The liability of the several owners of any building constituting a single unit of assessment, which is or purports to be severally owned in parts or flats or rooms, for payment of ²{property tax} or any instalment thereof payable during the period of such ownership shall be joint and several:

Provided that the Commissioner may apportion the amount of ²{property tax} on such building among the co-owners.

96. (1) If the annual value of any land or building exceeds the amount of rent of such land or building payable to the person upon whom the ²{property tax} on such land or building is leviable under section 95, such person shall be entitled to receive from his tenant the difference between the amount of the ²{property tax} on such land or building and the amount which would be leviable if the ²{property tax} on such land or building were calculated on the basis of the rent payable to him.

Apportionment of liability for ²{property tax}.

(2) If the annual value of any land or building which is sublet exceeds the amount of rent of such land or building payable to the tenant by his sub-tenant or to the sub-tenant by the person holding under him, the tenant or the sub-tenant shall be entitled to receive from his sub-tenant or the person holding under him, as the case may be, the difference

¹See foot-note 1 on page 446, ante.

²See foot-note 3 on page 395, ante.

³Clause (d) was inserted by s. 8 of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

⁴See foot-note 2 on page 417, ante.

(Part IV.—¹[Taxation and application fee for enlistment.]—Chapter VIII.—
E. Incidence and payment of ²[property tax] on lands
and buildings.—Sections 97-99.)

between any sum recovered under this Act from such tenant or sub-tenant and the amount of ²[property tax] on such land or building which would be leviable if the annual valuation of such land or building were equal to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent he pays.

²[Property tax] on lands and buildings from occupiers.

97. (1) On the failure to recover any sum due on account of ²[property tax] on any land or building from the person primarily liable therefor under section 95, the Commissioner shall recover from the occupier of such land or building, by attachment of the rent payable by such occupier, a portion of the total sum due which bears, as nearly as may, be the same proportion to that sum as the rent annually payable by such occupier bears to the total amount of rent annually payable in respect of the whole of such land or building.

(2) An occupier, from whom any sum is recovered under sub-section (1), shall be entitled to be reimbursed by the person primarily liable for the payment of such sum, and may, in addition to having recourse to other remedies that may be open to him, deduct the amount so recovered from the amount of any rent becoming due from time to time from him to such person.

Payment of ²[property tax] in quarterly instalments.

98. Save as otherwise provided in this Act, the ²[property tax] on any land or building under this Chapter shall be paid by the person liable for the payment thereof in quarterly instalments.

²[Property tax] in a *bustee*.

99. (1) Notwithstanding anything contained elsewhere in this Act, the ²[property tax] on lands and buildings in a *bustee* shall, after deducting therefrom a sum equal to one-eighth of such rate, be paid by the owner of the land in the *bustee*.

(2) Whenever a ²[property tax] on land and building in a *bustee* is leviable, the owner of the land in such *bustee* may recover from the owner of each hut standing thereon—

- (i) half of the ²[property tax] on the land on which the hut stands; and
- (ii) the ²[property tax] on the hut standing on the land.

(3) The sum deducted under sub-section (1) shall be retained by the owner of the land in the *bustee*—

- (a) as a set-off against the expenses which may be incurred in collecting the portion of the ²[property tax] on lands and buildings recoverable under sub-section (2), and

¹See foot-note 1 on page 446, *ante*.

²See foot-note 3 on page 395, *ante*.

LVIII of 1980.]

(Part IV.—¹[Taxation and application fee for enlistment.]—Chapter VIII.—
E. Incidence and payment of²[property tax] on lands and buildings.—
Sections 100, 101.—F. Application fee for enlistment of professions,
trades and callings.—Section 102.)

(b) as a commutation of all refunds in respect of the huts which are vacant or which may be removed or destroyed during the period the ²[property tax] on lands and buildings remains in force.

100. If any surcharge is levied on the ²[property tax] on any land or building under sub-section (2) of section 88, the person liable to pay such surcharge, may recover the same from the occupier of such land or building who uses it for non-residential purpose:

Person liable to pay surcharge to recover it from the occupier.

Provided that if there is more than one such occupier, the amount of surcharge may be rateably apportioned among them by such person for the purpose of recovery under this section.

101. When a person liable for the payment of the ²[property tax] on lands and buildings or surcharge on the ²[property tax] defaults to pay the sum due within the prescribed period, a sum not exceeding twenty-five per cent. of the amount of the ²[property tax] or the surcharge, as may be determined by the Corporation by regulations, may be recovered from him by way of penalty, in addition to the amount of the ²[property tax] or the surcharge payable by him.

Penalty in case of default in payment of ²[property tax] or surcharge.

(2) The amount due as penalty under sub-section (1) shall be recoverable as an arrear of tax under this Act.

³[F. Application fee for enlistment of professions,
trades and callings.]

⁴102. (1) Every person engaged or intending to be engaged in any class of profession, trade or calling in Howrah, as specified in Schedule III, either by himself or by an agent or representative, shall obtain a certificate of enlistment from, or, as the case may be, get the same renewed annually by, the Commissioner upon presentation of an application together with such application fee, not exceeding rupees five hundred, as may be determined by the Corporation ⁵[by regulation]:

Certificate of enlistment for profession, trade and calling.

¹See foot-note 1 on page 446. *ante*.

²See foot-note 3 on page 395. *ante*.

³Sub-heading F. was substituted for the sub-heading "F. Tax on professions, trades and callings" by s. 3(c) of the Howrah Municipal Corporation (Amendment) Act, 1992 (West Ben. Act X of 1992).

⁴Section 102 was substituted by s. 2 of the Howrah Municipal Corporation (Amendment) Act, 2000 (West Ben. Act V of 2000). Prior to this substitution firstly, the same section was substituted by s. 3(c) of the Howrah Municipal Corporation (Amendment) Act, 1992 (West Ben. Act X of 1992). Secondly, sections 102, 102A and 102B were substituted by s. 12 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

⁵The words within the square brackets were inserted by s. 14 of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act III of 2001).

(Part IV.—¹[Taxation and application fee for enlistment.]—Chapter VIII.—
²[F. Application fee for enlistment of professions, trades and callings.]—
 Sections 102A, 102B.—G. Tax on advertisements.—Sections 103, 104.)

Provided that such enlistment or renewal thereof shall not absolve such person from any liability to take out any licence under this Act or any other law for the time being in force.

(2) The Commissioner shall, after making such enquiry as may be necessary and within thirty days of the receipt of the application, grant him such certificate if the application is in order, or shall reject the application if it is not in order.

102A. [Enlistment for payment of tax on profession, trade and calling.—Omitted by s. 3 of the Howrah Municipal Corporation (Amendment) Act, 2000 (West Ben. Act V of 2000).]

102B. [Fine for not paying tax under section 102.—Omitted by s. 4 of the Howrah Municipal Corporation (Amendment) Act, 2000 (West Ben. Act V of 2000).]

G. Tax on advertisements

Tax on, and
license for,
advertisements.

103. (1) Every person, who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding, frame, post, kiosk or structure on, upon, or in any vehicle any advertisement, or who displays any advertisement to public view in any manner whatsoever visible from a public street or other public place, shall pay for every advertisement which is so erected, exhibited, fixed, retained or displayed to public view, a tax at such rate not exceeding the rate mentioned in Schedule IV, as may be determined by the Corporation.

(2) When any person pays any tax for any advertisement under subsection (1), the Commissioner shall grant him a licence in respect of such advertisement specifying the period for which it is valid.

(3) The Corporation may by regulation determine the conditions for the grant of licence under this section and the time for, and the manner of, payment of the tax under this section.

Prohibition
of advertise-
ments
without
payment of
tax.

104. No advertisement for which tax is payable under section 103 shall be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or structure or shall be displayed to public view in any manner whatsoever in any place unless the tax is paid.

¹See foot-note 1 on page 446, *ante*.

²See foot-note 3 on page 457, *ante*.

LVIII of 1980.]

(Part IV.—¹[Taxation and application fee for enlistment.]—Chapter VIII.—
G. Tax on advertisements.—Sections 105-107.)

105. Where any advertisement has been erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or structure or within a public street or a public place in contravention of the provisions of this Act or any rules or regulations made thereunder, it shall be presumed that the contravention has been committed by the person or persons or their agents on whose behalf the advertisement purports to be so erected, exhibited, fixed or retained.

Presumption
in case of
contraven-
tion.

106. If any advertisement is erected, exhibited, fixed or retained in contravention of the provisions of this Act or any rules or regulations made thereunder, the Commissioner may require the owner or the occupier of the land, building, wall, hoarding or structure upon or over which the same is erected, exhibited, fixed or retained, to take down or remove such advertisement or may enter any building, land or property and have the advertisement dismantled, taken down or removed or spoiled, effaced or screened.

Power of
Commis-
sioner in
case of
contraven-
tion.

107. The provisions of sections 103 to 106 shall not apply to any advertisement which—

Exceptions.

- (a) relates to a public meeting or an election to the Parliament or the State Legislature or the Corporation or any candidature in respect of such election; or
- (b) is exhibited within the window of any building if the advertisement relates to any trade, profession or business carried on in such building; or
- (c) relates to any trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale entertainment or meeting to be held on or upon or in such land or building; or
- (d) relates to the name of any land or building upon or over which the advertisement is exhibited or to the name of the owner or the occupier of such land or building; or
- (e) relates to any railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration; or
- (f) relates to any activity of the Government or the Corporation; or
- (g) is not exhibited for the purpose of any trade and relates to any—
 - (i) public charitable institution, or
 - (ii) public educational institution, or

¹See foot-note 1 on page 426. *ante*.

(Part IV.—¹Taxation and application fee for enlistment.)—Chapter VIII.—
H. Tax on carriages and animals.—Sections 108-111.)

- (iii) public hospital, or
- (iv) free dispensary, or
- (v) place of worship, or
- (vi) information or direction given to the public for their convenience or guidance.

H. Tax on carriages and animals

Tax on
carriages
and animals.

108. A tax shall be imposed by the Corporation on all carriages and animals kept in Howrah, except—

- (a) carriage kept for sale by *bona fide* dealers in such carriages and not used for any other purpose;
- (b) carriages and animals maintained by any authority for the purpose of a fire brigade;
- (c) carriages and animals belonging to Government and maintained for police or military purposes; and
- (d) such other classes of carriages and animals as may be prescribed.

Explanation I.—The expression, carriages includes hackney-carriage, rickshaw, cycle-rickshaw, four-wheeled or two-wheeled carriage, jin-rickshaw, bicycle or tricycle, car drawn by animals, pushcart or *thela* but does not include children's perambulators or tricycles.

Explanation II.—The expression "animals" includes horse, donkey, mule, pony, cow, buffalo, goat, pig, sheep and dog.

Rate of tax.

109. The rate of tax on carriages and animals shall be such as may be determined by regulations and different rates may be fixed for different classes of carriages or animals:

Provided that the rate of such tax shall not exceed one hundred rupees annually in the case of a carriage or an animal.

Tax on
whom
leviable.

110. The tax on carriage and animals shall be leviable upon the owners or the persons having possession or control of the carriages or the animals:

Provided that in the case of an animal generally used or employed in drawing any carriage, the tax in respect of such animal shall be leviable upon the owner or the person having possession or control of such carriage, whether or not such animal is owned by such owner or such person.

Licence.

111. (1) When the owner or the person having possession or control of any carriage or animal pays to the Corporation the tax payable by him under this Act, the Commissioner shall grant him a licence.

¹See foot-note 1 on page 446 ante.

LVIII of 1980.]

(Part IV.—¹[Taxation and application fee for enlistment.]—Chapter VIII.—
H. Tax on carriages and animals.—Sections 112, 113.—I. Toll.—
Section 114.)

(2) The Commissioner may require the owner or the person having possession or control of any carriage or animal or the occupier of any land or building on or in which any animal is kept to furnish such statement in relation to such carriage or animal as may be prescribed.

(3) The Commissioner may, by a written notice, require any person who carries on trade or business of a livery stable-keeper to produce for inspection all books and accounts relating to such trade or business.

112. The Mayor-in-Council may compound, for any period not exceeding one year at a time, with any livery stable-keeper or other person keeping vehicles for hire or animals for sale or hire, for a lump sum to be paid by such livery stable-keeper or other person in respect of the vehicles or animals so kept in lieu of the taxes which such livery stable-keeper or other person would otherwise be liable to pay under this Act.

Power of Mayor-in-Council to compound for tax.

113. The Corporation may by regulations determine the manner of imposition, payment, refund and remission of tax on carriages and animals, the time for payment of such tax and the conditions under which a licence may be granted.

Power of Corporation to make regulations providing for manner of imposition, etc. of tax.

I. Toll

114. The Corporation may, with the sanction of the State Government—

Toll on roads.

- (i) establish a toll-bar on any public street (except a *kutchra* road), whether situated in or without Howrah, vested in the Corporation and constructed or reconstructed by or on behalf of the Corporation; and
- (ii) levy tolls at such toll-bar on persons, vehicles and animals passing over such street:

Provided that no toll-bar shall be established or tolls levied otherwise than for the purpose of recovering—

- (a) the expenses incurred by the Corporation in constructing or reconstructing such street,
- (b) interest on such expenses,
 - (i) at the rate of four *per cent. per annum*; or

¹See foot-note 1 on page 446, *ante*.

(Part IV.—¹[Taxation and application fee for enlistment].—Chapter VIII.—
 J. Special Conservancy Charge.—Section 114A.—Chapter IX.—
 A. Payment and recovery of taxes.—Sections 115, 116.)

(ii) when such expenses are defrayed wholly or in part from a loan, one and a half *per cent. per annum* above the rate of interest chargeable on such loan; and

(c) the capitalised value of the estimated cost of the Corporation for maintaining such street.

²J. Special Conservancy Charge

Levy of special conservancy charge.

³114A. (1) The Corporation may levy a special conservancy charge on the commercial and industrial establishments for providing municipal services in connection with removal of solid wastes.

(2) The charge for the purpose of sub-section (1) shall be such as may be determined by the Corporation from time to time.

(3) The Corporation may make regulations specifying the occasions on which such charge may be imposed as well as the rate of charge, the mode of collection and other matters incidental thereto.

CHAPTER IX

A. Payment and recovery of taxes

Manner of recovery of taxes under this Act.

115. Save as otherwise provided in this Act, any tax levied under this Act may be recovered in accordance with the following procedure and in such manner as may be prescribed—

- (a) by presenting a bill, or
- (b) by serving a notice of demand, or
- (c) by distraint and sale of a defaulter's movable property, or
- (d) by the attachment and sale of a defaulter's immovable property, or
- (e) in the case of ³[property tax] on lands and buildings, by the attachment of rent due in respect of the land or the building, or
- (f) by a certificate under the Bengal Public Demands Recovery Act, 1913.

Ben. Act III of 1913.

Time and manner of payment of taxes.

116. (1) Save as otherwise provided in this Act, any tax levied under this Act shall be payable on such dates, in such number of instalments and in such manner as may be prescribed.

¹See foot-note 1 on page 446, *ante*.

²Heading and section 114A were inserted by s. 13 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

³See foot-note 3 on page 395, *ante*.

LVIII of 1980.]

(Part IV.—¹[Taxation and application fee for enlistment].—Chapter IX.—
A. Payment and recovery of taxes.—Sections 117-119.)

(2) If any amount due is paid on or before the date determined under sub-section (1), a rebate of five per cent. of such amount shall be allowed.

117. (1) When any tax has become due, the Commissioner shall cause to be presented to the person liable for the payment thereof a bill for the amount due:

Presentation of bill.

Provided that no such bill shall be necessary in the case of—

* * * * *

- (b) a tax on advertisements;
- (c) a toll.

Explanation.—A bill shall be deemed to be presented under this section if it is sent by post under certificate of posting to the person liable for payment of the amount included in the bill, and in such case, the date borne on such certificate of posting shall be deemed to be the date of presentation of the bill to such person.

(2) Every such bill shall specify the particulars of the tax and the period for which charge is made.

118. (1) Save as otherwise provided in this Act, if the amount of the tax for which a bill has been presented under section 117, is not paid within thirty days from the presentation thereof or if the tax on professions, trades and callings or the tax on advertisements is not paid after it has become due, the Commissioner may cause to be served upon the person liable for the payment of the same notice of demand in such form as may be specified by the Corporation by regulations.

Notice of demand and notice fee.

(2) For every notice of demand which the Commissioner causes to be served on any person under this section, a fee of such amount, not exceeding twenty-five rupees, as the Corporation may determine by regulations shall be payable by the said person and shall be included in the cost of recovery.

119. (1) If the person liable for the payment of any tax does not, within thirty days of the service of the notice of demand under section 118, pay the sum due and if no appeal is preferred against such tax, he shall be deemed to be in default.

Penalty in case of default of payment of taxes.

(2) When the person liable for the payment of any tax is deemed to be in default under sub-section (1), such sum, not exceeding fifteen per cent. of the amount of tax, as may be determined by the Corporation by regulations, may be recovered from him by way of penalty, in addition to the amount of the tax, the notice fee payable under sub-section (2) of section 118, and simple interest in accordance with sub-section (3).

¹See foot-note 1 on page 446, ante.

²Clause (a) was omitted by s. 5 of the Howrah Municipal Corporation (Amendment) Act, 1997 (West Bengal Act X of 1997)

(Part IV.—¹[Taxation and application fee for enlistment].—Chapter IX.—
A. Payment and recovery of taxes.—Sections 120, 121.)

(3) Simple interest at such rate as may be determined by the State Government from time to time shall be payable on any amount of tax remaining unpaid with effect from the date from which the person referred to in sub-section (1) becomes a defaulter under that sub-section.

(4) The amount due as penalty or interest under this section shall be recoverable as an arrear of tax under this Act.

Recovery of
tax.

120. (1) If any person liable for payment of tax does not, within thirty days after the expiry of thirty days referred to in sub-section (1) of section 119, pay the amount due, such sum together with all costs, interest due and penalty may be recovered under a warrant, issued in such form as may be specified by the Corporation by regulations, by distress and sale of the movable property or the attachment and sale of the immovable property of the defaulter:

Provided that the Commissioner shall not recover any sum the liability of which has been remitted on appeal under the provisions of this Act.

(2) Every warrant issued under this section shall be signed by the Commissioner or any other officer authorised by him in this behalf.

Distress.

121. (1) It shall be lawful for any officer or other employee of the Corporation to whom a warrant issued under this Chapter is addressed to distrain, wherever it may be found in any place in Howrah, any movable property belonging to the person therein named as defaulter, subject to the following conditions, exceptions and exemptions, namely:—

- (a) the following property shall not be distrained:—
 - (i) the necessary wearing apparel and bedding of the defaulter, his wife and children and their cooking and eating utensils;
 - (ii) tools of artisans;
 - (iii) books of accounts;
- (b) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under warrant, and if any property has been distrained which, in the opinion of the Commissioner, should not have been distrained, it shall forthwith be released.

(2) The person charged with the execution of a warrant shall in the presence of two witnesses forthwith make an inventory of the property which he seizes under such warrant, and shall, at the same time, give a written notice in such form as may be specified by the Corporation by regulations to the person in possession thereof at the time of seizure that the said property will be sold as therein mentioned.

¹See foot-note 1 on page 446 *ante*.

LVIII of 1980.]

(Part IV.—[Taxation and application fee for enlistment].—Chapter IX.—
A. Payment and recovery of taxes.—Section 122.)

(3) If there is reason to believe that any property seized under a warrant of distress issued under section 118, if left in the place where it is found is likely to be removed by force, the officer executing the warrant may take it to the office of the Corporation or to any place appointed by the Commissioner.

122. (1) When the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is, when added to the amount to be recovered, likely to exceed its value, the Commissioner shall give notice to the person in whose possession the property was at the time of seizure that it will be sold at once, and he shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid.

Disposal of
distrained
property and
attachment
and sale of
immovable
property.

(2) If the warrant is not in the meantime suspended by the Commissioner or discharged, the property seized shall, after the expiry of the period mentioned in the notice served under sub-section (2) of section 121, be sold by public auction by order of the Commissioner.

(3) When a warrant is issued for the attachment and sale of immovable property, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and all persons from taking any benefit from such transfer or charge and declaring that such property will be sold unless the amount of tax due with all costs of recovery is paid into the Corporation office within fifteen days from the date of attachment.

(4) A copy of the order under sub-section (3) shall be affixed on a conspicuous part of the property and upon a conspicuous part of the Corporation office.

(5) Any transfer of or charge on the property attached or any interest therein made without written permission of the Commissioner shall be void as against all claims of the Corporation enforceable under the attachment.

(6) The surplus of the sale proceeds, if any, shall, immediately after the sale of the property, be credited to the General Account of the Municipal Fund, and notice of such credit shall be given at the same time to the person whose property has been sold or his legal representative, and if the same is claimed by written application to the Commissioner within one year from the date of the notice, a refund thereof shall be made to such person or representative.

(7) All sales of property under this section shall, so far as may be practicable, be regulated by the procedure in force for the time being in the Court of the District Judge, Howrah with respect to a sale after distress.

¹See foot-note 1 on page 446, *ante*.

(Part IV.—¹[Taxation and application fee for enlistment].—Chapter IX.—
A. Payment and recovery of taxes.—Sections 123 -125.)

(8) No officer or employee of the Corporation shall directly or indirectly purchase any property at any such sale.

(9) Any surplus not claimed within one year as aforesaid shall be the property of the Corporation.

(10) For every distraint and attachment made in accordance with the foregoing provisions, a fee of such amount not exceeding two and a half *per cent.* of the amount of the tax due as shall in each case be fixed by the Commissioner shall be charged and included in the costs of recovery.

Recovery
from a
person about
to leave
Howrah.

123. (1) If the Commissioner has reason to believe that any person from whom any sum is due or is about to become due on account of any tax is about to move from Howrah, he may direct the immediate payment by such person of the sum so due or about to become due and to cause a notice of demand for the same to be served on such person.

(2) If, on the service of such notice, such person does not forthwith pay the sum so due or about to become due, the amount shall be leviable by distress or attachment and sale in the manner hereinbefore provided, and the warrant of distress or attachment and sale may be issued and executed without any delay.

Recovery
under Ben.
Act III of
1913.

124. After a defaulter has been proceeded against unsuccessfully under the foregoing provisions of this Chapter or with partial success, any sum due or the balance of any sum due may be recovered by the Commissioner by certificate under the Bengal Public Demands Recovery Act, 1913, together with interest and cost of recovery.

Ben. Act III
of 1913.

Distraint not
unlawful for
want of
form.

125. No distraint under this Act shall be deemed to be unlawful nor shall any person making the same be deemed to be a trespasser on account of—

- (a) any defect or want of form in the notice, summons, notice of demand, warrant of distress, inventory or other proceeding relating thereto, or
- (b) any irregularity committed by such person:

Provided that any person aggrieved by such defect or irregularity may, by order of a court of competent jurisdiction, recover the full satisfaction of any special damage sustained by him.

¹See foot-note 1 on page 446, *ante*.

LVIII of 1980.]

(Part IV.—¹[Taxation and application fee for enlistment].—Chapter IX.—
A. Payment and recovery of taxes.—Sections 126, 127.)

126. (1) For the purposes of recovery of any [property tax] from any occupier under section 97, the Commissioner shall cause to be served on such occupier a notice requiring him to pay to the Corporation any rent due or falling due from him in respect of the land or building to the extent necessary to satisfy the portion of the sum due for which he is liable under the said section.

Occupiers may be required to pay rent towards satisfaction of ¹[property taxes].

(2) Such notice shall operate as an attachment of such rent unless the portion of the sum due shall have been paid and satisfied, and the occupier shall be entitled to credit in account with the person to whom such rent is due for any sum paid by him to the Corporation in pursuance of such notice:

Provided that if the person to whom such rent is due is not the person primarily liable for payment of the ¹[property tax], he shall be entitled to recover from the person primarily liable for the payment of such tax any amount for which credit is claimed as aforesaid.

(3) If any occupier fails to pay to the Corporation any rent due or falling due which he has been required to pay in pursuance of a notice served upon him as aforesaid, the amount of such rent may be recovered from him by the Corporation as an arrear of tax under this Act.

127. (1) If any money is due under this Act from the owner of any land or premises on account of ¹[property tax] on lands and buildings or any other tax, expenses or charges recoverable under this Act and if the owner of such land or premises is unknown or the ownership thereof is disputed, the Commissioner may publish twice, at an interval of not less than two months, a notification of such dues and of sale of such land or premises for realisation thereof and after the expiry of not less than one month from the date of last publication of such notification, unless the amount recoverable is paid, may sell such land or premises by public auction to the highest bidder, who shall deposit, at the time of sale, twenty-five *per cent.* of the purchase money, and the balance thereof within thirty days of the date of sale. Such notification shall be published in the *Official Gazette* and in local newspapers and by displaying on the land or the premises concerned.

Recovery of ¹[property tax] on lands and buildings or any other tax or charges when owner of land or premises is unknown or ownership is disputed.

(2) After deducting the amount due to the Corporation as aforesaid, the surplus sale proceeds, if any, shall be credited to the General Account of the Municipal Fund and may be paid, on demand, to any person who establishes his right thereto to the satisfaction of the Commissioner or a court of competent jurisdiction.

¹See foot-note 1 on page 446, *ante*.

²See foot-note 3 on page 395, *ante*.

(Part IV.—¹[Taxation and application fee for enlistment].—Chapter IX.—

A. Payment and recovery of taxes.—Sections 128, 129.—

B. Recovery of ²[property tax] by person primarily liable to pay to the Corporation.—Section 130.)

(3) Any person may pay the amount due at any time before the completion of the sale, whereupon the sale shall be abandoned. Such person may recover such amount by a suit in a court of competent jurisdiction from any person beneficially interested in such land or premises.

Taxes not
invalid for
defect of
form.

128. (1) No assessment and no charge or demand of the ²[property tax] on lands and buildings or of any other tax made under this Act shall be called in question or shall in any way be affected by reason of—

- (a) any clerical or arithmetical mistake arising from any accidental slip or omission—
 - (i) in the name, residence, place of business or occupation of any person liable to pay such tax, or
 - (ii) in the description of any property or thing liable to such tax, or
 - (iii) in the amount of assessment of such tax, or
- (b) (i) any clerical error, or
- (ii) any defect of form, not being of a substantial nature:

Provided that the Commissioner may, either of his own motion or on the application of any aggrieved person, correct any clerical or arithmetical mistake or clerical error or defect of form as aforesaid.

(2) It shall suffice for the purpose of levying any tax under this Act or of any assessment of value of any property under this Act, if the property taxed or assessed is so described as to be generally known, and it shall not be necessary to name the owner or the occupier thereof.

Cancellation
of
irrecover-
able dues.

129. The Corporation may by order strike off the books of the Corporation any sum due on account of the ²[property-tax] on lands and buildings or any other tax or on any other account, which may appear to it to be irrecoverable.

B. Recovery of ²[property tax] by person primarily liable to pay to the Corporation

Apportion-
ment of
²[property
tax] by the
person
primarily
liable to pay.

130. Save as otherwise provided in this Act, the person primarily liable to pay the ²[property tax] in respect of any land or building may recover—

¹See foot-note 1 on page 446, ante.

²See foot-note 3 on page 395, ante.

LVIII of 1980.]

(Part IV.—¹[Taxation and application fee for enlistment].—Chapter IX.—
B. Recovery of ²[property-tax] by person primarily liable
to pay to the Corporation.—Sections 131, 132.)

- (a) if there be but one occupier of the land or building, from such occupier half of the rate so paid, and may, if there be more than one occupier, recover from each occupier half of such sum as bears to the entire amount of rate so paid by the owner the same proportion as the value of the portion of the land or building in the occupation of such occupier bears to the entire value of such land or building;

Provided that if there be more than one occupier, such half of the amount may be apportioned and recovered from each occupier, in such proportion as the annual value of the portion occupied by him bears to the total annual value of such land or building;

- (b) the entire amount of the surcharge on the ²[property tax] on any land or building from the occupier of such land or building who uses it for commercial or non-residential purposes:

Provided that if there is more than one such occupier, the amount of surcharge on the ²[property tax] may be apportioned and recovered from each such occupier in such proportion as the annual value of the portion occupied by him bears to the total annual value of such land or building.

131. If any person is primarily liable to pay any ²[property tax] on any land or building and is entitled to recover any sum from an occupier of such land or building, he shall have, for recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to recover such sum.

Made of
recovery.

132. The ²[property tax] on lands and buildings due from any person shall, subject to the prior payment of land revenue (if any) due to the Government thereupon, be a first charge upon the land or the building belonging to such person and upon the movable property (if any) found within or upon such land or building.

The
²[property
tax] on lands
and
buildings to
be first
charge on
premises.

¹See foot-note 1 on page 446, *ante*.

²See foot-note 3 on page 395, *ante*.

(Part V.—Civic Services.—Chapter X.—Water Supply and Drainage.—A. Proprietary rights of the Corporation.—Sections 133-135.)

PART V

CIVIC SERVICES

CHAPTER X

Water Supply and Drainage

A. Proprietary rights of the Corporation

Public water-works etc. to vest in the Corporation.

133. All public tanks, reservoirs, cisterns, wells, tubewells, aqueducts, conduits, tunnels, pipes, taps and other water-works, whether made, laid or erected at the cost of the Municipal Fund or otherwise, and all bridges, buildings, engines, works, materials and things, connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank, which is situated in Howrah, shall vest in the Corporation:

Provided that the Corporation may, with the approval of the State Government, make over the water-works for development and maintenance to a separate and independent agency and it shall be lawful for such agency to construct or acquire new water-works.

Rights over sub-soil water resources.

134. (1) All rights over the sub-soil water resources in Howrah shall vest in the Corporation.

(2) No person shall sink a tubewell in Howrah except with the prior permission of the Commissioner.

(3) The Commissioner may grant such permission on such terms and conditions as may be determined by regulation.

Supply of filtered and unfiltered water.

135. (1) The Corporation shall, within the limits of its capacity, provide for the supply of—

- (a) filtered water in all parts of Howrah for domestic purposes, and
- (b) unfiltered water for the purpose of street-watering, flushing of municipal drains, public privies and urinals, gully pits and extinguishing fire.

(2) Notwithstanding the provisions of sub-section (1), the Corporation, may supply filtered water and unfiltered water for any other purpose on such terms and conditions as may be provided by regulation made by it in this behalf.

LVIII of 1980.]

(Part V.—Civic Services.—Chapter X.—Water Supply and
Drainage.—A. Proprietary rights of the Corporation.—
Sections 136-139, 139A.)

- 136.** Subject to such conditions as the Corporation may from time to time impose, the Commissioner may allow any person owning or occupying any premises to lay down service-pipes from the mains of the Corporation for the purpose of bringing into the premises a supply of filtered and unfiltered water for use therein under the provisions of this Act or the regulations made thereunder.
- 137.** All private connections to premises from the mains of the Corporation for the supply of water therein and all pipes, taps and other fittings used for such supply shall be made, maintained and regulated in accordance with such regulations as may be made in this behalf.
- 138.** No owner or occupier of any premises shall suffer water to be wasted. The Corporation may establish block meter for any area or cause meters to be attached to premises for recording the supply of filtered water for regulation of consumption of water and prevention of wastage of water in such manner and may impose fees at such rates for consumption beyond such limit, as may be determined by regulations.
- 139.** The Corporation may erect bathing platforms, urinals, latrines and public stand posts to be maintained in such manner as may be determined, and may levy such user fees for realisation of cost of maintenance thereof as may be specified, by regulations.
- 139A.** (1) Notwithstanding anything contained in this Chapter or elsewhere in this Act, the Mayor-in-Council may cut off the connection of water supply to any premises, or may turn off such supply, if—
- (a) the premises is unoccupied or prohibited for human habitation; or
 - (b) any taxes or rates or fees or charges in respect of the premises, are in arrear for payment for more than one year; or
 - (c) after receipt of a written notice from the Commissioner requiring him to refrain from so doing, the owner or the occupier of the premises continues to use the water, or permits the water to be used, in contravention of the provisions of this Act or the rules or the regulations made thereunder; or

Power of Commissioner to allow owner or occupier of premises to lay down service-pipes.

Private connections to premises.

Regulation of consumption of water and provision for meters.

Bathing platforms and public, urinals, latrines, stand post.

Power to cut off or turn off supply of water to premises.

¹Section 139A was inserted by s. 14 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

(Part V.—Civic Services.—Chapter X.—Water Supply and Drainage.—B. Drainage Sewerage.—Section 140.)

- (d) any pipe, tap, works or fittings connected with the supply of water to the premises be found, on examination by any officer of the Corporation duly authorised in this behalf, to be out of repairs to such extent as may cause so serious a waste or contamination of water that, in the opinion of the Commissioner, immediate prevention is necessary; or
- (e) there is any water-pipe situated within the premises to which no tap or other efficient means of turning the water off is attached; or
- (f) by reason of a leak in the service-pipe or the fittings, damage is caused to any public street, and immediate prevention is necessary:

Provided that no action under clause (a) or clause (b) shall be taken without giving a notice of not less than three days to the owner or the occupier, as the case may be, of the premises.

(2) The expenses of cutting off the connection, or turning off the water, under sub-section (1) and of restoring the same, as determined by the Mayor-in-Council, shall be paid by the owner or the occupier, as the case may be, of the premises.

(3) Nothing in this section shall exempt any person from any penalty or liability which he may otherwise have incurred under any other provision of this Act.

B. Drainage Sewerage

Public drains and drains in, alongside or under public streets, to vest in Corporation.

140. (1) All public drains, and all drains in, alongside or under any public street, whether made at the charge of the Municipal Fund or otherwise, and all work, materials and things appertaining thereto, which are situate at Howrah, shall vest in the Corporation:

Provided that the Corporation may, with the approval of the State Government, make over the trunk-sewers, sewage treatment plants, pumping stations and other utilities to a separate and independent agency for maintenance and development and it shall be lawful for such agency to construct new trunksewers, sewage treatment plants, pumping stations or other utilities.

(2) For the purposes of enlarging, deepening or otherwise repairing or maintaining any such drain so much of the sub-soil appertaining to the drain as may be necessary for the said purpose shall also be deemed to vest in the Corporation.

LVIII of 1980.]

(Part V.—Civic Services.—Chapter X.—Water Supply and Drainage.—B. Drainage Sewerage.—Sections 141, 142.—
C. Drainage of premises.—Section 143.)

141. All drains and ventilation-shaft, pipes and other appliances and fittings connected with drainage works constructed, erected or set up at the charge of the Municipal Fund in or upon premises not belonging to the Corporation whether for the use of the owner or the occupier of such premises or not shall, unless the Corporation otherwise determines, vest and be deemed always to have vested in the Corporation.

Drains, etc. constructed etc. at charge of Municipal Fund on private premises to vest in Corporation.

142. (1) Without the written permission of the Commissioner granted in accordance with such regulations as may be made by the Corporation in this behalf—

Private streets, etc. not to be constructed over municipal drain without permission.

- (a) no private street shall be constructed over any municipal drain, or
- (b) no wall or other structure shall be newly erected, over any municipal drain, or
- (c) no wall, fence or structure shall be erected on the bed, bank or embankment or any municipal sewage or storm-water channel, nor any portion thereof shall be interfered with, encroached upon, altered or occupied for fishery, agriculture or any other purpose.

(2) If any private street is constructed, or any wall or other structure is erected over any municipal drain, or if any wall, fence or structure is erected on the bed, bank or embankment of any municipal sewage or storm-water channel or if any portion thereof is interfered with, encroached upon, altered or occupied without the written permission of the Commissioner, the Commissioner may remove or otherwise deal with the same in such manner as he may think fit and the expenses incurred by the Corporation in so doing shall be paid by the owner of such private street, wall or other structure or by the person who interferes with or encroaches upon or alters or occupies, as the case may be.

C. Drainage of premises

143. The owner or the occupier of any premises shall be entitled to cause his house-drain to empty into a municipal drain, provided that, before so doing, he obtains the written permission of the Commissioner and complies with such conditions as the Commissioner may determine as to the mode in which, and the superintendence under which, communications between house-drains and municipal drains are to be made.

Right of owner or occupier of premises to empty his house-drain into municipal drain.

(Part V.—Civic Services.—Chapter X.—Water Supply and Drainage.—C. Drainage of premises.—Sections 144-148.)

Connection with municipal drain not to be made except in conformity with section 143.

144. (1) No person shall, without complying with the provisions of section 143, make or cause to be made, any connection of a house-drain with a municipal drain.

(2) The Commissioner may in accordance with such regulations as may be made by the Corporation in this behalf close, demolish, alter or remake any connection made in contravention of sub-section (1); and the expenses incurred in so doing shall be paid by the owner or the occupier of the premises for the benefit of which such connection was made or by the person who made or caused to be made such connection.

House-drain, closed cesspool, etc.

145. Where any premises is in the opinion of the Commissioner without sufficient means of effective drainage, the Commissioner may by written notice require the owner of the premises to construct a house-drain up to a point to be specified in the notice or to construct a closed cesspool and drains emptying into such cesspool in such manner as may be determined by regulation.

Grouping or combination of house-drains and enforcement of drainage to undrained premises.

146. The Corporation may, if it considers necessary, make regulations for grouping or combination of house-drains for economic or operational advantages and for enforcement of drainage of undrained premises and for any other matters in connection with drainage.

Municipal drains may communicate with public drains, etc.

147. Subject to the approval of the State Government, the Corporation may, if necessary, make the municipal drains communicate with, or empty into, any public drain, lake, canal or water course outside Howrah and may, in doing so, exercise throughout the line outside Howrah along which the municipal drains are to run all the powers exercisable by it under this Act if the said municipal drains were to run entirely in Howrah.

Certain matters not to be passed into municipal drains.

148. (1) No person shall throw, empty or otherwise discharge into any water source, channel or municipal drain within or outside Howrah any matter, refuse, trade effluent or waste so as to cause pollution, health hazard or nuisance prejudicial to environment.

(2) Subject to the provisions of any other law for the time being in force, the Corporation may by regulation provide for treatment standard to be maintained before discharge of any industrial waste or foul water or refuse into any river, water source, channel or municipal drainage and sewerage system.

LVIII of 1980.]

(Part V.—Civic Services.—Chapter X.—Water Supply and Drainage.—C. Drainage of premises.—Sections 149-151.—
D. Privies, urinals and bathing and washing places.—
Sections 152, 153.)

149. If it appears to the Mayor-in-Council that it is necessary to place or carry any pipe or drain over, under or across the immovable property of any person to maintain the only or the most convenient municipal water-supply to, and drainage of, any premises, the Mayor-in-Council may, after giving the owner of the immovable property an opportunity of being heard, authorise the owner or occupier of the premises to place or carry such pipe or drain over, under or across such immovable property in such manner as it may think fit to allow.

Placing or carrying any pipe, etc. over, under or across any immovable property.

150. The Corporation may place and maintain aqueducts, conduits and lines of mains or pipes or drains over, under or across any immovable property within or without the local limits of the Corporation without acquiring such property and may enter on any property for such purposes:

Placing and maintenance of aqueducts, etc. over, under or across any immovable property.

Provided that the Corporation shall not acquire any right other than the right of user in the property over, under or across which any aqueducts, conduits, lines of mains, pipes or drains are placed.

151. The Commissioner shall cause to be maintained complete survey maps, drawings and descriptions of all underground utilities in Howrah including water-supply mains, supply pipes, sewers and connections thereto in such form and in such manner as may be prescribed and shall ensure the secrecy of the same in conformity with the provisions of the Official Secrets Act, 1923.

Maps of underground utilities.

19 of 1923.

D. Privies, urinals and bathing and washing places

152. The Corporation shall—

- (a) provide and maintain, in proper and convenient situations, water closets and urinals for the use of the public, and
- (b) cause such water closets and urinals to be constructed and kept so as not to be a public nuisance or injurious to public health.

Power of Corporation to provide and maintain public privies and urinals.

153. (1) The Corporation may grant license to a private individual or organisation for maintenance and regulation of use of public toilets and urinals constructed by it and no such terms and conditions as may be determined by regulations.

Licence for public toilets and urinals.

(2) Such licensee shall be entitled to recover from the users such fee for the use of the public toilets and urinals as may be determined by regulations.

(Part V.—Civic Services.—Chapter X.—Water Supply and Drainage.—D. Privies, urinals and bathing and washing places.—Sections 154-156.)

(3) No person shall keep or maintain a toilet or urinal for public use without the specific permission of the Corporation and the Corporation may impose such conditions therefor as it may consider necessary.

Conversion of service privy into sanitary toilet etc.

154. (1) No person, either owner or occupier of any premises, shall be allowed to maintain service privy within the area of the Corporation.

(2) The Commissioner shall issue notice to the owner or the occupier of every premises having service privy, directing him to convert the service privy by connecting either with the sewerage system or into a sanitary toilet, as the case may be.

(3) The owner or the occupier of the premises, as the case may be, shall, on receipt of the notice, convert the service privy by connecting either with the sewerage system or into a sanitary toilet, as the case may be, within 90 days from the date of receipt of the notice under subsection (2).

(4) No person shall be allowed to discharge night-soil directly in the municipal drain.

Privy, urinal and other accommodation at premises for twenty or more labourers or workmen.

155. (1) There shall be provided in every new building at or in which not less than twenty labourers or workmen are likely to be employed such privy and urinal accommodation and such accommodation for bathing or washing of clothes and domestic utensils as the Corporation may decide.

(2) Where any premises at or in which not less than twenty labourers or workmen are employed are without privy, urinal, bathing or washing place accommodation or with inadequate accommodation, the Mayor-in-Council may by written notice require the owner of such premises to provide such privy, urinal or bathing or washing place accommodation as it may determine.

Provision for privy and urinal accommodation in premises intended for human habitation.

156. (1) If any premises, intended for human habitation, is without privy or urinal accommodation, or the existing accommodation is, in the opinion of the Mayor-in-Council, insufficient, inefficient or objectionable for sanitary reasons, the Mayor-in-Council may, by a written notice, direct the owner or the occupier, as the case may be, of such premises to make such structural or other alteration of the existing privy or urinal accommodation as may be specified in the notice within 90 days from the date of issue of the notice.

¹Section 154 was substituted for the original by s. 15 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

²Section 156 was substituted for the original by s. 16, *ibid*.

LVIII of 1980.]

(Part V.—Civic Services.—Chapter X.—Water Supply and Drainage.—E. Cesspools and other filth receptacles.— Sections 157-159, 159A.)

(2) If the owner or the occupier of the premises, as the case may be, fails to comply with the directions of the Mayor-in-Council within the time specified in sub-section (1), he shall be punished with fine in accordance with the provisions of section 220.

E. Cesspools and other filth receptacles

- 157. (1) No person shall construct a cesspool—
 - (a) beneath any part of any building or within fifteen metres of any tank, reservoir, water source or well; or
 - (b) upon any site or in any position in Howrah which has not been approved in writing by the Commissioner; or
 - (c) upon any site or in any position outside Howrah which has not been so approved and is situated within ninety metres of any reservoir used for storage of filtered water to be supplied to Howrah.

Position of cesspools.

(2) The Commissioner may at any time by a written notice require the owner of the premises in which any cesspool has been constructed in contravention of the provisions of sub-section (1) to remove such cesspool and to fill up the cesspool with such materials as may be approved by him.

158. All house-drains, within as well as without the premises to which they belong, and all cesspools, privies and urinals shall, as respects their site, construction, materials and dimension and arrangements for flushing the same, be under the survey and the control of the Corporation and subject to such regulations as the Corporation may make in this behalf.

House-drains, etc. to be subject to survey and control of the Corporation.

159. (1) The Corporation may, from time to time, grant to any person it thinks fit, a licence to act as a plumber for the purposes of this Act.

Power of Corporation to grant Licence to plumbers.

(2) Every such licence shall be granted in such manner and in such form and on such terms and conditions as may be determined by the Corporation by regulations.

159A. (1) If, in the opinion of the Mayor-in-Council, any pool, ditch, tank, well, pond, swamp, quarry, hole, drain, cesspool, watercourse, pit, cistern, desert or air-cooler, ground, or underground, or overhead tank or any collection of water, or any land on which water may, at any time, accumulate, is or likely to become a breeding place of mosquitoes or, in any other respect, becomes a nuisance, the Mayor-in-Council may by notice require the owner or the person having control thereof to take all or any of the following actions:—

Prevention of mosquito breeding.

- (a) to clean, or drain-off or remove water therefrom, or to provide cover thereto; or

¹Section 159A was inserted by s. 15 of the Howrah Municipal Corporation (Amendment) Act, 2001 (West Ben. Act VI of 2001).

*(Part V.—Civic Services.—Chapter X.—Water Supply and
Drainage.—E. Cesspools and other filth receptacles.—
Section 159A.)*

- (b) to have any courtyard, lane, passage or open space paved with such material, and in such manner, as may be directed by the Mayor-in-Council, to keep such paving in proper repair, or to raise the level of such courtyard, lane, passage, open space, etc; or
- (c) to fill up such unwholesome waterbody:

Provided that any wholesome waterbody can be filled up only after compliance of the provisions of section 4C of the West Bengal Land Reforms Act, 1955, by the owner or the person having control thereof.

West Ben.
Act X of
1956

(2) No person shall keep, or permitted to be kept or maintained, within any premises or land any collection of stagnant or flowing water which, in the opinion of the Mayor-in-Council, is, or is likely to be, breeding place for mosquitoes, unless such collection of water is treated in such manner as may effectively prevent the breeding of mosquitoes.

(3) All borrow pits dug in the course of construction and repairs of buildings, roads, or embankments, shall be deep and connected with each other in the formation of a drain directed towards the lowest level and properly sloped for discharge into a river, stream, channel, or drain, and no person shall create any isolated borrow pit which, is likely to cause accumulation of water which may again, in turn, may breed mosquito.

(4) The owner or occupier of any premises shall not keep therein any bottle, tyre (old or new), vessel, can, container or receptacle in such manner as may allow it to collect, and/or to retain, water which may breed mosquito, and shall clean and dry such bottle, tyre (old or new), vessel, can, container or receptacle at the interval of seven days.

(5) The owner or occupier of any premises shall wrap the openings of the ventpipes and the outlets of septic tanks with proper mosquito-proof nets and shall maintain covering slabs of septic tanks to prevent entry and exit of mosquitoes.

(6) The owner or occupier of any premises shall seal the overhead tanks, cisterns or water receptacles to prevent mosquito breeding, and shall provide safe ladder for making the overhead tanks or cisterns or water receptacles approachable in order to facilitate inspection of the water in the container by the authorities of the Corporation.

LVIII of 1980.]

(Part V.—Civic Services.—Chapter XI.—Streets and public places.—
Section 160.)

(7) For construction of permanent water collections such as swimming pools, artificial fountains, or water reservoirs, constructed for beautification.—

- (a) an application shall be submitted to the Corporation, stating therein the anti-larval measures, which shall be taken by the applicant to keep the water free of mosquito larvae;
- (b) the Corporation, after considering the application, shall issue a license to the applicant;
- (c) the applicant shall receive the said license on payment of such fee as may be determined by the Corporation, and the license shall be renewed annually.

(8) The owner or occupier of any private pond or water reservoir shall keep such pond or water reservoir free from water hyacinth or allied weeds to prevent mosquito breeding.

(9) If any person contravenes any of the provisions of this section or fails to comply with any requirement under this section, he shall be punished with fine which may extend to one thousand rupees, and a daily fine of fifty rupees in the case of continuance of such contravention commences from the day on which such contravention is brought to the notice of such person by the Corporation.

CHAPTER XI

Streets and public places

160. (1) All public streets, squares, parks and gardens (not being the property of, and kept under the control of, Government or the Board of Trustees for the Improvement of Howrah) including the soil, sub-soil and the side-drains, footways, pavements, trees, stones and other materials, implements and other things provided for such streets and other public places, which are situated in Howrah, shall vest in the Corporation.

Vesting of public streets in the Corporation.

(2) Whenever the Corporation proposes to determine the name by which any public street or public place is to be known or to change the name of any public street or public place, it shall refer the proposal to an Advisory Committee constituted under sub-section (3) for its consideration.

(3) The State Government shall, by notification, constitute an Advisory Committee for naming, or changing the name of, any public street or square in Howrah. The Advisory Committee shall consist of such number of persons, not exceeding eight but not less than five, as the State Government may think fit.

(Part V.—Civic Services.—Chapter XI.—Streets and public places.—
Sections 161-164.)

Functions of the Commissioner in respect of public streets.

161. The Corporation shall cause all public streets vested in it under section 160 to be maintained by the Commissioner who shall for this purpose do all things necessary for the public safety and convenience including the construction and maintenance of the bridges, causeways and culverts.

Power to make new public streets, etc.

162. The Corporation may lay out and make new public streets, construct bridges and sub-ways, classify public streets into different categories, turn or divert any existing public street, prescribe a regular line for streets or buildings on one or both sides of any public street and take steps in pursuance of a plan for improvement of streets and street alignments and may, by regulation, make provisions in this regard.

Power of Corporation to remove or alter verandah, etc. or fixtures attached to buildings which project, etc., over public street.

163. (1) No person shall except with the permission of the Commissioner ¹[and on payment of such fees as may be determined by regulations,] cause any obstruction to or encroachment upon or projection over or otherwise occupy any portion of any public street or other public place.

(2) When any verandah, platform, building or other structure or any fixture attached to a building so as to form part of the building (whether erected before or after the commencement of this Act) causes a projection, encroachment or obstruction over or on any public street or other public place vested in the Corporation, the Commissioner, in accordance with such regulations as may be made by the Corporation, may, by a written notice, require the owner or the occupier of the building to remove or alter such verandah, platform, building or other structure or fixture.

Power to move anything erected, deposited or hawked in contravention of this Act.

164. The Commissioner may, without notice, cause to be removed—

- (a) any wall, fence, rail, post, step, booth or other structure or fixture which may be erected or set up in or upon any street, footpath or upon or over any open channel, drain, well or tank contrary to the provisions of this Act;
- (b) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatsoever placed, deposited, projected, attached or suspended in, upon, from or to any place in contravention of the provisions of this Act;
- (c) any article whatsoever hawked or exposed for sale in any public place or in any public street or footpath in contravention of the provisions of this Act and any vehicle, package, box, board, shelf or any other thing in or on which such article is placed or kept for the purpose of sale, display, or otherwise.

¹The words within the square brackets were inserted by s. 9 of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

LVIII of 1980.]

(Part V.—Civic Services.—Chapter XI.—Streets and public places.—
Sections 165-167.)

165. (1) No person shall tether any animal or cause or permit any animal to be tethered or strayed in any public street or other public place.

Prohibition of tethering of animals and milking of cattle.

(2) No person shall milk or cause or permit to be milked any cow or buffalo or other animal in any street or other public place.

(3) Notwithstanding anything contained in any other law for the time being in force, the Commissioner may cause to be removed or impounded any animal tethered or being milked or found straying in any street or other public place.

166. (1) If the Corporation considers it expedient to prescribe a regular line for streets or buildings on one or both sides of any public street or portion thereof, it shall give a public notice of its intention to do so.

Power of Corporation to specify building-line and street-alignment.

(2) Every such notice shall specify the period within which objections will be received by the Corporation and a copy of the notice shall be sent by post to every owner of the premises abutting on such public street who is registered in respect of such premises in the books of the Corporation.

(3) The Corporation shall consider all objections received by it within the specified period and make an order specifying a building-line or a street-alignment or both for such public street. Every such order shall be published in the *Official Gazette* and shall take effect from the date of such publication.

(4) A register or book with plans attached shall be kept by the Corporation showing all public streets in respect of which a building-line or a street-alignment has been specified and such register shall contain such particulars as may appear to the Commissioner to be necessary and shall be open to inspection by the public on payment of prescribed fee.

(5) Whenever it is proposed to repair, re-build, remove, construct or re-construct any building or portion thereof abutting on a public street in respect of which a building-line or street-alignment has been specified by an order, the Commissioner may give direction for setting back or setting forward all such buildings or portions thereof in such manner as may be determined by regulation.

167. The Commissioner may authorise temporary construction on, or temporary closure of, any part of a public street on such occasions and on such conditions and for such period as the Corporation may provide by regulation made in this behalf.

Power of the Commissioner to authorise temporary construction or temporary closure of parts of public streets

*(Part V.—Civic Services.—Chapter XI.—Streets and public places.—
Sections 168-170.)*

Rights of
way for
under-
ground
utilities.

168. Subject to the provisions of any other law for the time being in force, the State Government may, by rules, provide for—

- (a) sanction by the Corporation of specific rights of way in the sub-soil of public and private streets in Howrah for different public utilities including electric supply, telephone and other tele-communication facilities, gas pipes, water-supply, sewerage and drainage, pedestrian sub-ways, shopping plazas, warehousing facilities and the apparatus and appurtenances related thereto provided by the State Government, any statutory body or any licensee under any law;
- (b) levy of any fee or charges permissible under law;
- (c) furnishing to the Corporation of maps, drawings and statements which shall enable it to compile and maintain the precise records of the placements of the underground utilities in Howrah.

Closure of
public street
for parking
purposes.

169. The Commissioner may, with the prior approval of the Mayor-in-Council, close any portion of a public street and declare it as a parking area and charge parking fees at different rates for different vehicles for different areas and for different periods in accordance with such regulation as may be made in this behalf.

Owner's
obligation to
make a
street where
dealing with
land as
building site.

170. (1) If the owner of any land utilizes, sells, leases or otherwise disposes of such land or any portion thereof as plots for the construction of buildings thereon, he shall lay down and make street or streets giving access to the plots into which the land may be divided and connecting such street or streets with any existing public street or private street.

(2) Before utilising, selling or otherwise disposing of any land under sub-section (1), the owner thereof shall send to the Commissioner a written application with a lay-out plan of the land showing the following particulars:—

- (a) the plots into which the land is proposed to be divided for the erection of buildings thereon and the purpose or purposes for which such buildings are to be used;
- (b) the reservation or allotment of any site for any street, open space, park, recreation ground, school, market or any other public purpose;
- (c) the intended level, direction and width of street or streets, including footpaths and drains;
- (d) the regular line of street or streets;

LVIII of 1980.]

(Part V.—Civic Services.—Chapter XI.—Streets and public places.—
Section 171.—Lighting.—Section 172.)

- (e) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining, conserving and lighting street or streets.

(3) No deed of transfer shall be registered under any law for the time being in force for any land governed by this section until the layout plans have been approved by the Commissioner and all infrastructural constructions completed up to a stage to the satisfaction of the Commissioner in accordance with such regulation as may be made in this behalf.

171. No person shall make any new street without the prior approval of the Mayor-in-Council.

Prohibition of making new streets.

Lighting

172. (1) The Corporation shall—

- (a) take measures for lighting, in a suitable manner, the public streets, squares and gardens, municipal markets and all buildings vested in the Corporation;
- (b) procure, erect and maintain such number of lamps, lamp-posts, other appurtenances as may be necessary for such lighting; and
- (c) cause such lamps to be lighted by means of oil, gas, electricity or such other means as the Corporation may from time to time determine.

Provision for lighting of public streets, squares, gardens, markets, and buildings.

(2) The Corporation may itself or in conjunction with any firm or company and in accordance with such regulations as may be made by the Corporation, erect plants and machineries for the generation of power and production of gas for the purpose of lighting.

(3) The Corporation may place and maintain—

- (i) electric wires or gas-pipes for the purpose of lighting such lamps under, over, along or across any immovable property, and
- (ii) posts, poles, standards, stays, struts, brackets, tunnels, culverts or any other contrivance for carrying, suspending or supporting such lamps, gas-pipes or electric wires in or upon any immovable property:

Provided that such pipes, wires, posts, poles, standards, stays, struts, brackets, tunnels, culverts or other contrivance shall be so placed as to occasion as little damage, detriment, inconvenience or nuisance to any person as the circumstances permit.

(Part V.—Civic Services.—¹[Chapter XIA.]—Fire prevention and fire safety.—Section 172A.—Chapter XII.—Buildings.—Sections 173-175.)

CHAPTER XIA

Fire prevention and fire safety

Arrange-
ment for fire
prevention
and fire
safety.

172A. On the coming into force of the West Bengal Fire Services Act, 1950, in any area within the jurisdiction of the Corporation, the Corporation shall, in consultation with the Director of Fire Services or any officer authorised by him in this behalf by general or special order, require the owner or the occupier of all or any of the premises in such area to make, or to carry, such arrangements as may be necessary for fire prevention and fire safety in such area, and issue a fire safety certificate on such conditions as the State Government may prescribe from time to time.

West Ben.
Act XVIII of
1950.

Explanation.—“Director of Fire Services” shall mean the Director of Fire Services referred to in clause (e) of section 2 of the West Bengal Fire Services Act, 1950.

CHAPTER XII

Buildings

Use of land
for erection
of new
building.

173. No person shall use any piece of land as a site for erection of a new building except in accordance with the provisions of this Act and of the rules and the regulations made under this Act in relation to such erection of building.

Application
for sanction
for erection
of building.

174. Every person who intends to erect a building shall apply for sanction by giving notice in writing of his intention to the Commissioner in such form and containing such information or document as may be prescribed.

Sanction or
provisional
sanction or
refusal of
erection of
building.

175. The Commissioner shall sanction the erection of building ordinarily within a period of sixty days unless any further information or document be called for or sanction be refused in the meantime on such grounds as may be prescribed:

Provided that a provisional sanction may be given for the erection of a building for the use of which a licence or permission is required from any department of Government or statutory body under any law for the time being in force in accordance with such procedure as may be prescribed:

¹Chapter XIA was inserted by s. 2(19) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

LVIII of 1980.]

(Part V.—Civic Services.—Chapter XII.—Buildings.—
Section 175A.)

Provided further that if it appears to the Commissioner that the site of the proposed building is likely to be affected by any scheme of acquisition of land for any public purpose or by any proposed regular line of public street or extension, improvement, widening or alteration of any street, the Commissioner may withhold sanction to the erection of the building for a period not exceeding eight months.

175A. (1) Notwithstanding anything contained in this Act or in any other law for the time being in force, with effect from the date of coming into force of the Howrah Municipal Corporation (Amendment) Act, 1990 (hereinafter referred to in this section as the said Act) and for a period of one year from such date (hereinafter referred to in this section as the said period), no person shall apply for sanction of any plan to erect a building exceeding thirteen and a half metres in height.

Bar to construction of building in certain cases for a limited period.

(2) Any application for sanction of any plan to erect a building exceeding thirteen and a half metres in height, submitted by any person—

- (a) before the coming into force of the said Act and lying pending for such sanction on the date of coming into force of the said Act, or
- (b) at any time during the said period, shall stand rejected forthwith.

(3) Any person, whose application for sanction of any plan to erect a building exceeding thirteen and a half metres in height stands rejected under sub-section (2), may apply afresh for such sanction in accordance with the provisions of this Act and the rules made thereunder on the expiry of the said period.

(4) Any fee paid by any person for sanction of any plan to erect a building exceeding thirteen and a half metres in height, the application for which stands rejected under sub-section (2), shall, at his option, be refunded to him or adjusted towards the fee payable by him for fresh application for such sanction under sub-section (3).

(5) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, if it considers necessary or expedient so to do in the public interest, by notification, exempt any application for sanction of any plan from the operation of the provisions of this section.

Explanation.—For the purposes of this section, the expression "to erect a building" shall have the same meaning as in sub-section (1) of section 390 of the [Kolkata] Municipal Corporation Act, 1980.

West Ben.
Act LIX of
1980.

¹Section 175A was inserted by s. 2 of the Howrah Municipal Corporation (Amendment) Act, 1990 (West Ben. Act II of 1990).

²See foot-note 2 on page 417. *ante*.

*(Part V.—Civic Services.—Chapter XII.—Buildings.—
Sections 176, 177 and 177A.)*

Period for
completion
of building.

176. After a building plan is sanctioned the person who has given the notice shall commence work and complete the same within such period or extended period as may be prescribed.

Order of
demolition
or stoppage
of buildings
and works.

177. (1) Where the erection of any building or the execution of any work in pursuance thereof has been commenced, or is being carried on, or has been completed without or contrary to the sanction or in contravention of any of the provisions of this Act or the rules and the regulations made thereunder, the Commissioner may in addition to any other action that may be taken under this Act, make an order directing that such erection or work shall be stopped or demolished or such addition or alteration thereto be made as the Commissioner considers necessary, by the person at whose instance the erection or the work has been commenced, or is being carried on, or has been completed:

Provided that no order under this provision shall be made unless such person has been given a reasonable opportunity of being heard in accordance with such procedure as may be prescribed.

(2) The Commissioner may make an order under sub-section (1), notwithstanding the fact that the assessment of such building has been made for the levy of the ¹[property tax] rate on lands and buildings.

(3) Any person aggrieved by an order of the Commissioner made under sub-section (1) may, within thirty days from the date of the order, prefer an appeal against the order to the Municipal Building Tribunal appointed under this Chapter.

(4) No court shall have jurisdiction in any matter for which provision is made under this Chapter for appeal to the Municipal Building Tribunal.

Construction
of building
in
contraven-
tion of the
provisions of
the Act or
the rules
made
thereunder.

²177A. (1) Notwithstanding anything contained in this Act or the rules made thereunder or in any other law for the time being in force, any person, who, being responsible by himself or by any other person on his behalf, so constructs or attempts to so construct or conspires to so construct any building or additional floor or floors of any building in contravention of the provisions of this Act or the rules made thereunder as endangers or is likely to endanger human life, or any property of the Corporation whereupon the water-supply, drainage or sewerage or the road traffic is disrupted or is likely to be disrupted, or is likely to cause a fire hazard, shall be punishable with imprisonment of either description for a term which may extend to five years and also with fine which may extend to fifty thousand rupees.

¹See foot-note 3 on page 395, *ante*.

²Section 177A was inserted by s. 2 of the Howrah Municipal Corporation (Amendment) Act, 1994 (West Ben. Act XL of 1994).

LVIII of 1980.]

(Part V.—Civic Services.—Chapter XII.—Buildings.—
Section 178.)

Explanation.—“Person” shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier, or a servant or agent of an owner, occupier, lessee, mortgagee, consultant, promoter or financier, who supervises or causes the construction of any building or additional floor or floors of any building as aforesaid.

2 of 1974.

(2) The offence under sub-section (1) shall be cognizable and non-bailable within the meaning of the Code of Criminal Procedure, 1973.

(3) Where an offence under sub-section (1) has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation.—(a) “Company” means a body corporate, and includes a firm or other association of individuals; and

(b) “Director”, in relation to a firm, means a partner in the firm.

(4) If a person fails to comply with a conclusive order of the Commissioner or the Tribunal, as the case may be, under this section, the Commissioner may himself cause the order to be carried out and recover the expenses thereof from such person as an arrear of tax under this Act.

(5) Notwithstanding anything contained in this Chapter, if the Mayor-in-Council is of the opinion that immediate action is called for in relation to a building or any work being carried on in contravention of the provisions of this Chapter, it may, for reasons to be recorded in writing, cause such building or work to be demolished forthwith.

178. No new building or a part of a new building shall be occupied for use until and unless a certificate of completion of the building or a part of it has been submitted to the Corporation.

Completion
certificate.

*(Part V.—Civic Services.—Chapter XII.—Buildings.—
Sections 179-181.)*

Prohibition
on change of
use of
building.

179. (1) No person shall without any written permission of the Commissioner change or allow the change of the use of any building for any purpose other than that specified in the sanction or convert or allow the conversion of a tenement under a particular occupancy or use group to be a tenement under another occupancy or use group.

(2) In case the Commissioner refuses to give such permission he shall give a reasonable opportunity of being heard to the person seeking permission.

(3) Any person aggrieved by an order of the Commissioner under sub-section (2) may, within thirty days from the date of the order, prefer an appeal before the Municipal Building Tribunal.

Power to
order
removal of
dangerous
buildings.

180. (1) If it appears to the Commissioner at any time that any building is in a ruinous condition or is in any way dangerous, the Commissioner may by an order require the owner or the occupier of such building to demolish, secure or repair such building.

(2) If it appears to the Commissioner that the danger from such building is imminent, he may, before making the order as aforesaid, take such steps as may be necessary to prevent the danger.

(3) If the owner or the occupier of the building does not comply with the order under this section, the Commissioner shall take such step in relation to the building as may be necessary to prevent any cause of danger therefrom.

(4) All expenses incurred by the Commissioner, in relation to any building, under this section shall be recoverable from the owner or the occupier thereof, as the case may be, as an arrear of tax under this Act.

Municipal
Building
Tribunal for
Howrah.

181. (1) The State Government shall appoint a Municipal Building Tribunal for Howrah to hear and decide appeals under this Chapter.

(2) The Tribunal shall consist of a Chairman and two Assessors.

(3) The Chairman shall be an officer of the West Bengal Higher Judicial Service having such experience as may be prescribed.

(4) One of the Assessors shall be appointed by the State Government and the other shall be appointed by the Corporation:

Provided that no Councillor, * * * * or officer or employee of the Corporation shall be appointed as an Assessor.

(5) The Chairman and the Assessors shall be appointed for such period and on such terms and conditions as the State Government may, by notification, specify.

¹The word "Alderman" was omitted by s. 2(20) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

LVIII of 1980.]

(Part V.—Civic Services.—Chapter XII.—Buildings.—
Sections 182, 183.—¹[Chapter XIII.A.]—Preservation and
Conservation of Heritage Buildings.—Section. 183A.)

(6) The Chairman of the Tribunal shall appoint and maintain such officers and employees in his establishment and on such terms and conditions of service as may be prescribed.

(7) The business of the Tribunal shall be conducted in such manner as the President of the Tribunal may, from time to time, with the previous approval of the State Government, determine.

(8) All expenses of the Tribunal shall be paid out of the Municipal Fund.

(9) Notwithstanding anything contained in this Chapter, the State Government may appoint for Howrah any other Municipal Building Tribunal under any other law in force for the time being and such Tribunal shall exercise powers of the Tribunal under this Chapter.

182. The Commissioner may, from time to time and in such manner as may be prescribed, grant licence to a person to act as a Licensed Building Architect or a Licensed Building Surveyor for the purpose of this Chapter.

Licensed Building Architect and Licensed Building Surveyor.

183. The State Government may make rules for—

- (a) regulation or restriction of the use of site of the building,
- (b) regulation of fire protection measures and structural and other safeties of the building,
- (c) regulation of conveniences and amenities in the building including quality of materials, plumbing services, workmanship and the like,
- (d) regulation of architectural designs of buildings, and
- (e) regulation of building uses for the purpose of residence, hospitals, nursing homes, factories, ware-houses, eating houses, theatres, cinemas, commercial institutions, educational buildings and the like.

Municipal Building Code.

CHAPTER XIII.A

Preservation and Conservation of Heritage Buildings

¹183A. Every owner or occupier of any heritage building declared as such by the Corporation shall maintain, preserve and conserve it and shall not change its use in contravention of the provisions of this Act or the rules or the regulations made thereunder for its maintenance, preservation or conservation.

Owner to maintain, preserve and conserve heritage building.

¹Chapter XIII.A containing sections 183A to 183P was inserted by s. 17 of the Howrah Municipal Corporation (Amendment) Act, 1990 (West Ben. Act XI of 1990).

(Part V.—Civic Services.—[Chapter XIII.]—Preservation and Conservation of Heritage Buildings.—Sections 183B-183D.)

Explanation I.—The word "maintain", with its grammatical variations and cognate expressions, shall include fencing, covering, repairing, restoring or cleansing, or doing of any act which may be necessary for the purpose of preserving or conserving, of, or securing convenient access to, a heritage building.

Explanation II.—"Owner" shall, notwithstanding anything contained elsewhere in this Act, include, for the purposes of this chapter,—

- (a) a joint owner of a heritage building vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in title of any such joint owner, or
- (b) a manager, or trustee, vested with the power of management of a heritage building, or successor-in-office of such manager or trustee.

Power of Corporation to declare a building as a heritage building.

183B. Where the Corporation, on the recommendation of the Heritage Conservation Committee and also of the Mayor-in-Council, is of the opinion that any building in Howrah should be preserved and conserved for historical, architectural, environmental or ecological purpose, it may declare such building as a heritage building:

Provided that during the period when any proposal for declaring a building as a heritage building is under consideration of the Heritage Conservation Committee or the Mayor-in-Council, no owner of such building, or no lessee or sub-lessee to whom such building has been leased out, shall transfer such building by way of sale, lease or mortgage without the prior approval of the Commissioner.

Gradation of heritage building.

183C. The gradation of a heritage building according to its historical, architectural, environmental or ecological purpose shall be such as may be prescribed.

Heritage Conservation Committee.

183D. (1) The Mayor-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Commissioner as its Chairman and an officer of the Corporation as its Convenor.

(2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom—

- (a) one shall be a nominee of the ³[Kolkata] Metropolitan Development Authority,
- (b) one shall be the Director of the Department of Archaeology, Government of West Bengal, or his nominee,
- (c) one shall be an eminent architect,

¹See foot-note 1 on page 489, *ante*.

²See foot-note 1 on page 489, *ante*.

³See foot-note 2 on page 417, *ante*.

LVIII of 1980.]

(Part V.—Civic Services.—¹[Chapter XIII.]—Preservation and Conservation of Heritage Buildings.—Sections 183E, 183F.)

- (d) one shall be an artist,
- (e) one shall be an environmentalist,
- (f) one shall be a historian, and
- (g) one shall be the Chief Valuer and Surveyor of the Corporation.

(3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department.

(4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building as a heritage building, and recommend to, and also advise, the Mayor-in-Council in respect of the preservation and conservation of such building as a heritage building.

(5) The Committee shall meet at such periodical interval as may be determined by the Mayor-in-Council.

(6) The Commissioner shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting.

183E. The Heritage Conservation Committee shall have the power to function independently for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building:

Powers and functions of Heritage Conservation Committee.

Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of Chapter XII of this Act and the rules made thereunder shall apply *mutatis mutandis*.

183F. Subject to the other provisions of this Act, the Corporation may acquire, purchase or take on lease any heritage building for the purpose of preservation and conservation thereof:

Power of Corporation to acquire, purchase or take on lease heritage building.

Provided that in the case of a heritage building declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken.

West Ben. Act XIII of 1979.

¹See foot-note 1 on page 489, *ante*.

(Part V.—Civic Services.—[Chapter XIII.]—Preservation and Conservation of Heritage Buildings.—Sections 183G-183K.)

Transfer of right of development for the purpose of acquisition by agreement.

183G. When the owner of any heritage building is not willing to preserve or conserve any heritage building, the Commissioner may, for the purpose of acquisition of such heritage building by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Mayor-in-Council, allow the transfer of right of development of such heritage building, which shall be heritable and transferable, to the owner of such heritage building in such manner, and subject to such conditions, as may be prescribed.

Explanation I.—“Development” shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979.

Explanation II.—“Right of development of such heritage building” shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land different from the land and building comprising the heritage building but in the same ward of the Corporation.

Right of access to heritage building acquired by Corporation.

183H. Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building acquired by the Corporation.

Sub-lease of heritage building.

183I. The Corporation shall have the right to allow the transfer of right of development to the lessee of a heritage building where the unexpired period of the term of lease is for 90 years, and to take the heritage building on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent.

Permission of concerned department of State Government before acquisition of heritage building.

183J. If the Corporation considers that it is necessary to acquire any building declared as a heritage building for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned department of the State Government shall be taken before such acquisition.

Power to exempt rates and taxes, etc. on heritage building.

183K. If the owner of a heritage building enters into an agreement with the Corporation to maintain, preserve and conserve such heritage building properly at his own expenses, the Corporation may, in such case, exempt wholly or partly the owner of such heritage building from payment of rates or taxes or fees for supply of water or any other charge in respect of such heritage building.

West Ben. Act XIII of 1979.

1 of 1894.

¹See foot-note 1 on page 489, ante.

LVIII of 1980.]

(Part V.—Civic Services.—[Chapter XIII.A.]—Preservation and Conservation of Heritage Buildings.—Sections 183L-183N.)

183L. (1) The Commissioner may, pending acquisition of a heritage building by the Corporation under this Act and with the approval of the Mayor-in-Council, propose to the owner of such heritage building to enter into an agreement with the Corporation for a specified period for the maintenance of such heritage building.

Agreement with owner of heritage building pending acquisition.

(2) The agreement as aforesaid may provide for all or any of the following matters:—

- (a) maintenance of the heritage building by the owner or by any other person willing to maintain the said heritage building;
- (b) custody of the heritage building and the duties of the person who may be employed to watch it;
- (c) the restrictions on the owner's right—
 - (i) to use the heritage building for any other purpose detrimental to its conservation,
 - (ii) to charge any fee for entry into, or inspection of, the heritage building, and
 - (iii) to build on or near the site of the heritage building.

183M. (1) The Commissioner may receive voluntary contributions towards the cost of maintaining any heritage building and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building.

Voluntary contribution and agreement with any voluntary organisation, person or company.

(2) Subject to the approval of the Mayor-in-Council, the Commissioner may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not, willing to preserve and conserve any heritage building on such terms and conditions as the Commissioner may determine.

183N. (1) If the Commissioner, on receipt of any information, is satisfied that the owner of a heritage building fails to preserve or conserve the heritage building, the Commissioner may, when the heritage building is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894.

Taking over management and control of heritage building.

1 of 1894.

(2) The Commissioner shall thereafter notify the heritage building for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building as rent less the cost on account of preservation and conservation of the heritage building.

¹See foot-note 1 on page 489. *unic.*

(Part V.—Civic Services.—[Chapter XIII.]—Preservation and
Conservation of Heritage Buildings.—Sections 183O, 183P.—
Chapter XIII.—Bustees.—Sections 184, 185.)

When²
heritage
building
ceases to be
heritage
building.

183O. If the Corporation decides that any heritage building has ceased to be of public interest or has lost its importance for any reason whatsoever, it may, with the approval of the State Government, declare that such heritage building has ceased to be a heritage building for the purposes of this Act.

Penalty.

183P. (1) Any person who destroys, removes, alters, defaces or misuses any heritage building or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and, in default, with further rigorous imprisonment for six months.

(2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention.

Explanation.—For the purposes of this section, "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building.

CHAPTER XIII

Bustees

Power of
Corporation
to define and
alter limit of
bustees.

184. The Corporation may define the external limits of any *bustee* and may from time to time alter such limits.

Power of
Corporation
to prepare
and execute
improvement
schemes of
bustees.

185. (1) The Corporation may, with the approval of the State Government, prepare and execute improvement scheme for the purpose of effecting environmental or general improvement of *bustees*. Such scheme may provide for water-supply, sanitation, pathways, lighting and the like.

(2) Notwithstanding anything contained hereinbefore the Commissioner may, for reasons of environmental sanitation, cause the following works to be executed in any *bustee*:—

- (a) Sinking of tubewells inside a *bustee* including laying of water-pipe lines, installation of overhead reservoirs and other appurtenances necessary to maintain flushing for privies and sewers.

¹See foot-note 1 on page 489, *ante*.

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(Part V.—Civic Services.—Chapter XIII.—Bustees.—Sections 186, 187.—
Chapter XIV.—Solid Wastes.—Section 188.)

- (b) Laying of drains and diversion of existing drains.
- (c) Conversion of service privies into connected privies or septic tank privies.
- (d) Removal of solid or liquid wastes from the *bustees* including removal of silt from sewers, sludge from septic tanks or cleansing of squatting platforms.
- (e) Repair work relating to any of the above activities.

186. If, at any time, it becomes necessary to acquire the right of user in any land in or around any *bustee* for the purpose of effecting improvement, the Corporation shall follow such procedure as may be prescribed:

Power of Corporation to acquire the right of user in land in or around a *bustee*.

Provided that the compensation payable to any person whose right of enjoyment in such land has been prejudicially effected by such acquisition shall be calculated at ten *per cent.* of the market value of such land on the date the Corporation declares its intention to acquire such right.

West Ben. Act II of 1949.

187. Subject to the provisions of the '[Kolkata] *Thika* Tenancy Act, 1949, the Corporation may sanction building plans submitted by a *thika* tenant for the purpose of permanent construction in the nature of renovations, additions and alterations to and conversion of the existing huts into pucca structures and also for construction of new structures under such building regulation and upon payment of such fees as may be determined by the Corporation by regulation:

Sanction of building plans submitted by *thika* tenants.

Provided that a lay-out plan of a *bustee* or such substantial unfragmented portion thereof as is in actual occupation of the *thika* tenant or a group of *thika* tenants occupying contiguous parcels of lands in terms of leave and licence granted by the landlord has been prepared and submitted to the Corporation to indicate the existing arrangements of huts, streets, pathways, drains and other common facilities along with the proposed alterations and modifications thereto.

CHAPTER XIV
Solid Wastes

188. (1) For the purpose of securing efficient scavenging and cleansing of all streets, public places and premises in Howrah, the Corporation shall undertake the function of collection, removal and disposal of solid wastes.

Collection, removal and disposal of solid wastes.

(2) All matters deposited in public receptacles, depots and places provided or appointed by the Corporation for collection of solid wastes shall be the property of the Corporation.

¹See foot-note 2 on page 417. *ante*.

(Part V.—Civic Services.—Chapter XV.—Inspection and regulation of premises and of factories, work-shops and places of public resort.—Section 189.)

(3) The Corporation may, by regulation, specify the duties of the owners or occupiers of the premises in the matter of collection of solid wastes and different provisions may be made for premises in different types of occupational uses.

(4) The Corporation shall provide vehicles or other suitable means for removal of solid wastes.

(5) The Corporation shall provide or appoint in proper and convenient situations public receptacles, depots and places for the temporary deposit of solid wastes including rubbish, carcasses and other offensive matters.

(6) The Corporation may dispose of the solid wastes in such manner as may be approved by the State Government and at such place within or outside Howrah as it considers suitable:

Provided that no place which has not been used before the commencement of this Act for the purpose of disposal of solid wastes shall be so used except in conformity with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979.

West Ben.
Act XIII of
1979.

(7) Notwithstanding anything to the contrary contained in any other law in force for the time being, no mether or other employee of the Corporation who is employed to remove or otherwise to deal with different kinds of solid wastes shall, without giving the Commissioner any notice of his intention so to do or without the permission of the Commissioner, withdraw from his duties.

CHAPTER XV

Inspection and regulation of premises and of factories, work-shops and places of public resort.

Procedure in cases of buildings deemed unfit for human habitation.

189. If, for any reason, any building or portion of a building, intended for, or used as, a dwelling place appears to the Commissioner to be unfit for human habitation, he may, if he considers that the building or the portion thereof can be altered to make it fit for human habitation, by an order in writing require the owner of such building to make such alterations in the building or the portion thereof as he thinks necessary within a period specified in the order, where the Commissioner considers that the building or the portion thereof cannot be so altered as to make it fit for human habitation or where the building or the portion thereof is not so altered as required by the Commissioner, the Commissioner shall take such steps as may be necessary to enforce such order.

LVIII of 1980.]

(Part V.—Civic Services.—Chapter XV.—Inspection and regulation of premises and of factories, work-shops and places of public resort.— Sections 190-192.)

190. (1) No person shall, without the previous permission of the Commissioner, ¹[and subject to the payment of such fees as may be determined by regulations, establish] or materially alter, enlarge or extend the use of any premises as a warehouse or godown or for running a goods transport business either by his own carriers or by arrangement with the owners of such carriers.

Warehouse godowns, etc. not to be established without permission.

(2) The Commissioner may refuse to give such permission or impose such condition as it thinks fit, if in his opinion such use would be objectionable due to traffic constraints in the vicinity of such premises or inadequacy of space for parking of vehicles or loading or unloading of goods; or would constitute a fire hazard or other nuisance.

191. (1) No person shall, without the previous written permission of the Commissioner ²[and subject to the payment of such fees as may be determined by regulations] establish in any premises, or materially alter, enlarge or extend, any factory or work-shop or work-place in which it is intended to employ steam, electricity, water or other mechanical power.

Factory, etc., not to be established, etc., without permission of the Commissioner.

(2) The Commissioner may, in accordance with such regulations as may be made by the Corporation, refuse to give permission under sub-section (1) if he is of opinion that the establishment, alteration, enlargement or extension of such factory, work-shop or work-place in the proposed position would be objectionable by reason of the density of the population in the neighbourhood thereof or would be nuisance to the inhabitants of the neighbourhood.

192. (1) No person shall, without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf, keep any eating-house, tea-shop, hotel, boarding house, bakery, aerated water factory, ice factory or other place where food is sold or prepared for sale.

Eating-houses, etc., not to be used without licence from Commissioner.

(2) The Commissioner may at any time cancel or suspend any licence granted under sub-section (1) if he is of opinion that the premises covered by it are not kept in conformity with the terms of such licence or the provisions of any rules and regulations, relating to such premises, whether the licence is prosecuted under this Act or not.

¹The words within the square brackets were substituted for the word "use" by s. 10 of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

²The words within the square brackets were inserted by s. 11. *ibid.*

(Part V.—Civic Services.—Chapter XV.—Inspection and regulation of premises and of factories, work-shops and places of public resort.—Sections 193, 194, 194A and 194B.)

Licensing and control of theatres, circuses and places of public amusement.

193. No person shall, without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf, keep open any theatre, circus, cinema-house, dancing hall or other similar place of public resort, recreation or amusement:

Provided that this section shall not apply to private performances in any such place.

Power of Commissioner to stop use of premises when used without or otherwise than in conformity with terms of licence.

194. If the Commissioner is of opinion that any eating house, tea-shop, hotel, boarding house, bakery, aerated water factory, ice factory or other place where food is sold or prepared for sale or any theatre, circus, cinema-house, dancing hall or similar other place of public resort, recreation or amusement as the case may be, is kept open without or otherwise than in conformity with the terms of a licence granted under section 193 he may by an order in writing stop the use of any such premises for any such purpose for such period as may be specified in the order after recording reasons or such opinion:

Provided that no such order shall be made until the licensee or other person keeping the premises so open has been given an opportunity of being heard.

Premises not to be used for keeping animals, birds, etc. without licence.

194A. No person shall use any land or premises for keeping horse, cattle or other quadruped animals or birds for transportation, sale or hire or for sale of the produce thereof without or otherwise than in conformity with the terms of a licence granted by the Commissioner on payment of such fees as may be determined by the Corporation by regulations:

Provided that the fees shall not exceed,—

- (a) in the case of any race horse, four hundred rupees annually;
- (b) in the case of any animal, other than a race horse, or bird, one hundred rupees annually.

Seizure of certain animals or birds.

194B. (1) If any horse, cattle or other four-footed animal or bird is kept on any land or premises in contravention of the provision of section 194A or is found roaming or tethered on any street or public place or on any land belonging to the Corporation, the Commissioner or any employee of the Corporation authorised by him in this behalf may seize such horse, cattle or four-footed animal or bird and cause it to be impounded or removed to, or maintained in, such place as may be

¹Sections 194A to 194E were inserted by s. 12 of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

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(Part V.—Civic Services.—Chapter XV.—Inspection and regulation of premises and of factories, work-shops and places of public resort.— Sections 194C, 194D.)

appointed by the State Government or the Corporation for this purpose; and the cost of such seizure and impounding or removing and maintenance as aforesaid shall be recoverable by sale of such horse, cattle or four-footed animal or bird by auction:

Provided that any person claiming such horse, cattle or four-footed animal or bird may within seven days of such seizure get it released on his paying all the expenses incurred by the Corporation in seizing, impounding or removing or maintaining such horse, cattle or four-footed animal or bird and on his producing such evidence in support of his claims as the Commissioner may think sufficient.

(2) The proceeds of sale of any horse, cattle or four-footed animal or bird by auction under sub-section (1) shall be applied in meeting the expenses incurred on account of seizure, impounding or removal, and maintenance of such horse, cattle or four-footed animal or bird and of holding such sale; and the surplus, if any, shall be held in deposit by the Commissioner and shall, if not claimed by the owner of such horse, cattle or four-footed animal or bird within a period of ninety days from the date of sale, be credited to the Municipal Fund.

194C. The Corporation may, by regulations made in this behalf,—

- (a) require the registration to be done of all dogs kept within Howrah;
- (b) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the Commissioner, and fix the fee payable for the issue thereof;
- (c) require that any dog which has not been registered or which is not wearing such token shall, if found in any public place, be detained at a place set apart for the purpose; and
- (d) fix the fee which shall be charged for such detention, and provide that any such dog shall be liable to be destroyed or otherwise disposed of unless it is claimed and the fee in respect thereof is paid within one week from the date of such claim.

Registration and control of dogs.

194D. The Commissioner may—

- (a) cause to be destroyed, or confined for such period as he may direct, any dog or other animal which is, or is suspected to be, suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies;

Power to destroy dog and other animals.

¹See foot-note 1 on page 498. *ante*.

(Part V.—Civic Services.—Chapter XV.—Inspection and regulation of premises and of factories, work-shops and places of public resort.—Section 194E.—Chapter XVI.—Markets and Slaughter-houses.—Section 195.)

- (b) by public notice direct that after such date as may be specified in the notice, any dog which is without a collar or without any mark distinguishing it as a private property and is found straying on the street or beyond the enclosure of the house of its own, if any, may be destroyed or caused to be destroyed accordingly.

Power to stop nuisance from animals.

194E. (1) Whenever the Commissioner is of opinion that the user of any premises for keeping any animal or bird therein is causing a nuisance and that such nuisance should immediately be stopped, the Commissioner may, by order, require the owner or the occupier of such premises to stop such nuisance within such period as may be specified in the order.

(2) If, at the end of such period, the nuisance is not stopped, the Commissioner or any other officer authorised by him in this behalf may cause such use of such premises to be stopped forthwith by posting police pickets or by such other means as he thinks fit at the cost of such owner or occupier.

(3) If such owner or occupier does not deposit the cost as aforesaid within such time as may be specified by the Commissioner or any officer authorised by him in this behalf or, if the nuisance is not abated, the nuisance shall be stopped by the Commissioner or by the officer authorised by him in this behalf and the cost may be realised by seizure and auction of the articles or the properties found in the premises.

CHAPTER XVI

Markets and Slaughter-houses

Power of Corporation to provide and maintain municipal markets, slaughter-houses and stock-yards.

195. (1) The Corporation may own, purchase or take on lease any land or building for the purpose of establishing municipal market or slaughter-house or stock-yard or improving any existing municipal market, slaughter-house or stock-yard and make provision for their maintenance.

(2) The Corporation may after giving general notice close any municipal market or slaughter-house or stock-yard or any portion thereof and the premises occupied for any municipal market, slaughter-house or stock-yard or any portion thereof so closed shall be vacated by the occupants in accordance with such notice.

¹See foot-note 1 on page 498, *ante*.

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(Part V.—Civic Services.—Chapter XVI.—Markets and Slaughter-houses.—Sections 196-200.)

196. No person shall, without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf, keep open any private market or wilfully or negligently permit any place to be used as a private market or use any place as a slaughter-house or stock-yard or for the slaughtering of any animal intended for human consumption.

Power of Commissioner to license private markets, etc.

197. No person shall, without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf,—

Licensing of butchers and of sale of meat, etc. outside market.

- (a) carry on within Howrah or at any municipal slaughter-house without Howrah the trade or business of a butcher, or
- (b) sell or expose or hawk about for sale any animal or any meat or fish intended for human consumption in any place other than a municipal market or a private market.

198. The Commissioner may, subject to the other terms and conditions as may be fixed,—

Levy of stallage, rent and fee.

- (a) charge such stallage, rent or fee as may, from time to time, be fixed by the Corporation in this behalf for the occupation or use of any stall, shop, stand, shed, pen or space in a municipal market or municipal slaughter-house;
- (b) farm the stallage, rent or fee chargeable as aforesaid or any portion thereof for such period as he may think fit, and
- (c) put up to public auction, or dispose of by private sale, the privilege of occupying or using any shop, stall, stand, shed, pen or space in a municipal market or municipal slaughter-house on such terms and conditions as he may think fit.

199. The Commissioner may, from time to time, subject to such directions as he may receive from the Mayor-in-Council on the advice of the State Government, open depots or shops for trading any essential commodities.

Depots for sale of essential commodities.

200. No person shall, without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf,—

Licence for hawking, etc.

- (a) hawk or expose for sale in any place any article whatsoever whether it be for human consumption or not; or
- (b) use in any place his skill in any handicraft or render services to the public for their convenience for the purpose of gain or making a living.

(Part V.—Civic Services.—Chapter XVI.—Markets and Slaughter-houses.—Section 201.—Food and drugs.—Sections 202-206.)

Licence for sale of fish, poultry or flesh.

201. No person shall, otherwise than in conformity with a licence from the Commissioner and other provisions as may be made by regulation by the Corporation in this behalf, carry on a trade of a butcher, fish monger, poulturer or importer of flesh intended for human food or use of any place for the sale of flesh, fish or poultry intended for human food.

Food and drugs

Prohibition of sale, etc. of adulterated or misbranded food or drug.

202. No person shall directly or indirectly, himself or by any other person on his behalf, sell, expose or hawk about for sale or manufacture or store for the preparation of any food or drug or for sale any food or drug which is adulterated or misbranded.

Registration of manufactory.

203. Every manufactory of mustard oil, edible oil or edible fat or *ghee* or butter within Howrah shall be registered by the owner or the person in charge thereof in the office of the Corporation in such manner as the Corporation may from time to time direct.

Prohibition of adulterants in place where butter, *ghee*, etc. are manufactured or stored.

204. No person shall keep in any shop or place in which milk is stored or in any manufactory, shop or place, in which butter, *ghee* or any other milk product or wheat, flour, mustard oil, tea, edible oil, edible fat, sugar or *gurr* is manufactured or stored, any substance intended to be used for the purpose of adulteration.

Place of manufacture, preparation, etc. for sale of any drug or food to be open to inspection.

205. (1) Every place used for the manufacture, preparation, storage or packing for sale of any article of food or drug shall be open at all time for inspection by the officers of the Corporation authorised in this behalf by the Commissioner and such officers shall have the right to enter into such places for such inspection at all time.

(2) In every place used for manufacture, preparation, storage or packing for sale of any article of food or drug, such article of food or drug or any receptacle and material used for such manufacture, preparation, storage or packing shall be protected from dust, flies and other insects by such measures as may be specified by the Corporation in this behalf.

Licensing of shops and places for retail sale of drugs.

206. (1) No person shall keep any shop or place for retail sale of drugs not being articles of ordinary domestic consumption without or otherwise than in conformity with the terms of a licence granted by the Commissioner.

LVIII of 1980.]

(Part V.—Civic Services.—Chapter XVI.—Markets and Slaughterhouses.—Food and drugs.—Sections 207-209.—Chapter XVII.—Restraint of Infection.—Sections 210, 211.)

(2) Every person to whom a licence is granted under sub-section (1) in respect of any shop or place shall display it in some conspicuous part of such shop or place.

207. If any manufactory or place of storage or sale of any article of food is kept in contravention of the provisions of this Chapter the Commissioner may cause the same to be closed.

Manufactory or place of storage or sale of food kept in contravention of provisions of this Chapter may be closed.

208. It shall be the duty of the Corporation to take such measures as are necessary for preventing or checking the spread of any dangerous disease in Howrah or of any epidemic disease among any animals therein.

Corporation to take measures for prevention and checking of dangerous diseases.

209. Any person being in charge of, or in attendance, whether as a medical practitioner or otherwise, upon, any person whom he knows or has reasons to believe to be suffering from a dangerous disease, shall forthwith give information respecting the existence of such disease to the Commissioner.

Obligation to give information of dangerous diseases.

CHAPTER XVII
Restraint of Infection

210. The Commissioner or any person authorised by him in this behalf may, at any time by day or by night without notice or after giving such notice as may in the circumstances appear to him to be reasonable, inspect any place in which any dangerous disease is reported or suspected to exist and take such measures as he may think fit to prevent the spread of such disease beyond such place and shall forthwith submit a report to the State Government.

Power of Commissioner to inspect places and take measures to prevent spread of dangerous diseases.

211. If the Commissioner or any person authorised by him in this behalf is of opinion that the cleaning or disinfecting of any building or any part of a building or any article therein which is likely to retain infection or of any tank, pool or well adjacent to a building is likely to prevent or check the spread of any dangerous disease, he may cleanse or disinfect such building or any part thereof, article, tank, pool or well and may by a written notice require the occupier of such building or any part thereof to vacate the same for such period as may be specified in

Power of Commissioner to disinfect building, tank, pool or well.

*(Part V.—Civic Services.—Chapter XVII.—Restraint of Infection.—
Section 212.—Chapter XVIII.—Registration of Births and Deaths
and disposal of the dead.—Sections 212A, 212B.)*

Measures to
prevent
spread of
dangerous
disease.

212. (1) If the Commissioner is of the opinion that the water in any well, tank or other place is likely, if used for drinking, to endanger or cause the spread of any disease, he may, by public notice, prohibit the removal of such water for drinking and by notice in writing require the owner or person having control of such well, tank or place to take such steps as he may consider expedient to prevent the public from having access to or from using such water.

(2) If Howrah or any part of it is visited or threatened by an outbreak of any dangerous disease, the Commissioner may, by public notice, restrict or prohibit the sale or preparation of any article of food or drink for human consumption.

CHAPTER XVIII

Registration of births and deaths and disposal of the dead

Registration
of births and
deaths.

212A. Subject to the provisions of the Registration of Births and Deaths Act, 1969, the Corporation shall cause registration of births and deaths taking place within the area of the Corporation, and extracts of information therefrom shall be supplied, on application, in such form of a certificate, and on payment of such fee, as may be determined by regulations.

18 of 1969.

Information
about birth.

212B. It shall be the duty of the father or the mother of every child born within the area of the Corporation or, in default of the father or the mother, of any relation of the child living in the same premises or, in default of such relation, of the person having charge of the child to give, to the best of his or her knowledge and belief, to the officer empowered in the area of the Corporation in this behalf, within twenty-one days from the date of birth of the child, information containing such particulars as are required under the Registration of Births and Deaths Act, 1969, or the rules made thereunder:

Provided that—

- (a) in the case of an illegitimate child, no person shall, as father of such child, be required to give any information under this Act containing the particulars of birth of such child, and the officer empowered under this section shall not enter in the register the name of any person as father of such child except at the joint request of the mother and of the person acknowledging himself to be the father of such child, and such person shall, in such case, sign the register together with the mother;

¹Sections 212A to 212G were inserted by s. 18 of the Howrah Municipal Corporation Act, 1980.

LVIII of 1980.]

(Part V.—Civic Services.—Chapter XVIII.—Registration of Births and Deaths and disposal of the dead.—Sections 212C, 212D.)

- (b) a person required to give information only in default of some other person shall not be bound to give such information if he believed and had reasonable grounds for believing that such information had been given;
- (c) when a child is born in a hospital or a nursing home or a maternity home, none but the officer-in-charge thereof shall be bound to forward forthwith to the officer empowered under this section a report of such birth in such time and in such form as may, from time to time, be specified by the State Government.

¹212C. In case any new-born child is found exposed, it shall be the duty of any person finding such child or of any person in whose charge such child may be placed to give, to the best of his knowledge and belief, to the officer empowered under section 212B, within twenty-one days from the date of finding of such child, such information containing the particulars of birth of such child as such person possesses.

Information respecting finding of new-born child.

¹212D. It shall be the duty of the nearest relation present at the time of the death or in attendance during the last illness of any person dying within the area of the Corporation and, in default of such relation, of any person present or in attendance at the time of the death and of the occupier of the premises in which, to his knowledge, the death took place and, in default of the person hereinbefore mentioned, of each inmate of such premises and of the undertaker or other person causing the corpse of the deceased person to be disposed of to give, to the best of his knowledge and belief, to the officer specially empowered in this behalf for the area within which the death took place, information containing such particulars as are required under the Registration of Births and Deaths Act, 1969, and the rules made thereunder, within twenty-one days from the date of its occurrence:

Information regarding death.

18 of 1969.

Provided that—

- (a) if the case of death is known to be a dangerous disease, the information as aforesaid shall be given within twelve hours of its occurrence;
- (b) if the death of any person occurs in a hospital or a nursing home or a maternity home, it shall be the duty of none but the medical officer or other officer-in-charge thereof to forward forthwith a report of such death in such form as may, from time to time, be specified by the State Government.

¹See foot-note 1 on page 504, *ante*.

(Part V.—Civic Services.—Chapter XVIII.—Registration of Births and Deaths and disposal of the dead.—Sections 212E-212G, 214.—Chapter XIX.—Rules, regulations and by-laws.—Section 215.)

Medical practitioner to certify cause of death.

212E. In the case of a person who had been attended in his last illness by a duly qualified medical practitioner, such practitioner shall, within three days of his becoming cognizant of the death of such person, sign and forward to the officer specially empowered in this behalf a certificate of the cause of death of such person in such form as may, from time to time, be specified by the State Government, and the cause of death as stated in such certificate shall be entered in the register together with the name of the certifying medical practitioner.

Duties of police in regard to unclaimed corpses.

212F. It shall be the duty of the police to convey every unclaimed corpse to a registered burial or burning ground or other place for disposal of the dead or to a duly appointed mortuary and to inform thereafter the officer specially empowered in this behalf within whose jurisdiction such corpse was found.

Sextons etc. not to bury etc. corpse.

212G. No sexton or keeper of a registered burial or burning ground or other place for disposal of the dead, whether situated within the area of the Corporation or not, shall bury, burn or otherwise dispose of or allow to be buried, burnt or otherwise disposed of any corpse, unless such corpse is accompanied by a certificate in such form as may be prescribed and signed by an officer specially empowered in this behalf or by a registered medical practitioner or any other medical practitioner authorised by the State Government in this behalf.

213. [Appointment of Registrars and Sub-Registrars of Births and Deaths.—Omitted by s. 13 of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990)].

214. [Registration of places for disposal of the dead.—Omitted by s. 14 of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990)].

CHAPTER XIX

Rules, regulations and by-laws

Power to make rules.

215. (1) The State Government may, after previous publication in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by rules.

¹See foot-note 1 on page 504, ante.

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(Part V.—Civic Services.—Chapter XIX.—Rules, regulations and by-laws.—Sections 216-218.)

(3) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid. Any modification of the said rules made by the State Legislature shall be published in the *Official Gazette*, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

216. (1) The Corporation may ^{1*} * * * make regulations not inconsistent with the provisions of this Act or the rules made thereunder for discharging its functions under this Act.

Power to make regulations.

(2) Such regulations may provide that any breach thereof shall be punishable with such fine as may be specified therein.

(3) Such regulations shall be published in the *Official Gazette*.

217. (1) The Corporation may ^{2*} * * * make by-laws not inconsistent with the provisions of this Act or the rules or the regulations made thereunder for discharging its functions under this Act.

Power to make by-laws.

(2) Such by-laws may provide that any breach thereof shall be punishable with such fine as may be specified therein.

(3) Such by-laws shall be published in the *Official Gazette* and in such local newspapers as the Corporation may determine.

218. (1) If the State Government is at any time of opinion that any regulation or by-law made by the Corporation should be cancelled or modified either wholly or in part, it shall cause the reasons for such opinion to be communicated to the Corporation, and shall appoint a reasonable period within which the Corporation may make any representation with regard thereto.

Power of State Government to cancel or modify regulations and by-laws.

(2) After expiry of such period and on consideration of the representation of the Corporation, if any, the State Government may at any time by notification cancel or modify such regulation or by-law either wholly or in part.

(3) Any notification under sub-section (2) shall be published in local newspapers.

¹The words "", with the previous sanction of the State Government," were omitted by s. 2(21) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995).

²The words "", with the previous sanction of the State Government," were omitted by s. 2(22), *ibid.*

(Part V.—Civic Services.—Chapter XIX.—Rules, regulations and by-laws.—Section 219.—Chapter XX.—Miscellaneous Provisions.—Sections 220, 221.)

Schedules.

219. The State Government may, on the recommendation of the Corporation, by notification add to, amend or alter any Schedule, to this Act except Schedule I:

¹Provided that when the Corporation has not been constituted under this Act, the State Government may, if it considers necessary or expedient so to do, by notification, add to, amend or alter any Schedule to this Act except Schedule I.

CHAPTER XX

Miscellaneous Provisions

Punishment for offences as given in Schedule V.

220. ¹(1) Whoever contravenes any provision of any of the sections, sub-sections, clauses, or provisos or any other provision of this Act mentioned in column 1 of Schedule V shall be punishable with fine which may extend to the amount, or with imprisonment for a term which may extend to the period, specified in that behalf in column 3 of the said Schedule or with both, and in the case of a continuing contravention or failure, with an additional fine which may extend to the amount specified in column 4 of the said Schedule for every day of such contravention or failure after conviction for the first such contravention or failure.

²(2) Notwithstanding anything contained in sub-section (1) of this section or in section 102 or elsewhere in this Act, within a period of six months from the date of coming into force of section 4 of the Howrah Municipal Corporation (Amendment) Act, 1992 (hereinafter in this sub-section referred to as the said date), every person engaged on the said date in any profession, trade or calling in Howrah as mentioned in Schedule III, either by himself or by an agent or representative, shall obtain the certificate of enlistment referred to in sub-section (1) of section 102 in respect of the period from the 1st April, 1990 till the date immediately before the said date in accordance with the provisions of section 102 and the rules, if any, made under section 215.

³(3) Whoever commits any offence by contravening the provisions of sub-section (2) shall be punished with fine in accordance with the provisions of this section.

Acquisition of property.

221. The Corporation shall, for the purpose of this Act, have the power to acquire and hold movable or immovable property or any interest therein, whether within or outside the limits of Howrah.

¹Proviso added by s. 2 of the Howrah Municipal Corporation (Amendment) Act, 1983 (West Ben. Act XXIX of 1983).

²Section 220 was renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, sub-sections (2) and (3) were inserted by s. 4 of the Howrah Municipal Corporation (Amendment) Act, 1992 (West Ben. Act X of 1992).

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(Part V.—Civic Services.—Chapter XX.—Miscellaneous Provisions.—Sections 222-226, 226A.)

222. The Commissioner shall maintain an inventory of the movable and immovable preoperties of the Corporation in such form and manner as may be determined by the Corporation by regulation.

Inventory of property.

223. The Corporation may dispose of, by sale or otherwise, any movable or immovable property belonging to the Corporation in such manner as may be prescribed.

Disposal of property.

224. (1) The Commissioner or any other officer or employee of the Corporation, authorised by the Commissioner or empowered under this Act in this behalf, may enter into or upon any land or building with or without assistance for the purpose of enquiry, inspection, execution of any work or discharge of any function authorised under this Act or the rules or the regulations made thereunder.

Entry and inspection.

(2) It shall be lawful for the Commissioner or any person authorised by him in this behalf to make forcible entry into any land or building or break open any door, gate or other barrier, if the same is considered necessary for carrying out the purposes of this Act, after calling upon two or more respectable inhabitants of the locality to witness such entry or opening.

225. It shall be the duty of every police officer in or outside Howrah to assist the Corporation, the Mayor-in-Council, the Commissioner or any other officer or employee of the Corporation in the discharge of any of the powers, duties and functions under this Act or any rule or regulation made thereunder as and when such assistance is called for.

Police Officers to assist the Corporation, Mayor-in-Council, Commissioner, etc.

226. Any suit or legal proceeding instituted or which, but for the passing of this Act, would have been instituted, by or against the Howrah Municipality may be continued or instituted by the Corporation or the Commissioner, as the case may be, constituted or appointed under this Act.

Saving as to certain suits and proceedings.

226A. Subject to the provisions of the Constitution of India, the Corporation may, in its discretion, provide for—

Responsibilities of Corporation.

- (a) the preparation of plans for economic development and social justice;
- (b) the performance of functions and the implementation of schemes as may be entrusted to it including those in relation to the matters specified below:—
 - (i) urban planning including town planning;

¹Sections 226A and 226B were inserted by s. 3(13) of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994 (West Ben. Act XXXV) of 1994).

(Part V.—Civic Services.—Chapter XX.—Miscellaneous Provisions.—Sections 226B.)

- (ii) regulation of land-use and construction of buildings;
- (iii) planning for economic and social development;
- (iv) roads and bridges;
- (v) water supply for domestic, industrial and commercial purposes;
- (vi) public health, sanitation, conservancy and solid waste management;
- (vii) urban forestry, protection of the environment and promotion of ecological aspects;
- (viii) safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded;
- (ix) slum improvement and upgradation;
- (x) urban poverty alleviation;
- (xi) provision of urban amenities and facilities such as parks, gardens and playgrounds;
- (xii) promotion of cultural, educational and aesthetic aspects;
- (xiii) burials and burial grounds; cremations, cremation grounds and electric crematoriums;
- (xiv) cattle pounds; prevention of cruelty to animals;
- (xv) vital statistics including registration of births and deaths;
- (xvi) public amenities including street lighting, parking lots, bus stops and public conveniences;
- (xvii) regulation of slaughter-houses and tanneries.

Saving as to holding of certain office.

226B. Notwithstanding anything contained in this Act or in any other law for the time being in force, any person elected to the Corporation as Alderman and holding office as such immediately before the commencement of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994, shall continue to hold such office till the expiration of his term of office in accordance with the provisions of this Act in force immediately before the commencement of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994.

Explanation.—“Alderman” shall mean a person elected to the Corporation as Alderman by the Councillors referred to in clause (3) of sub-section (1) of section 5 in accordance with the provisions of this Act, and the rules made thereunder, in force immediately before the commencement of the West Bengal Municipal Corporation Laws (Third Amendment) Act, 1994.

¹See foot-note 1 on page 509, ante.

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(Part V.—Civic Services.—Chapter XX.—Miscellaneous Provisions.—Sections 227-231.)

227. If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, as occasion may require, by order, do or cause to be done anything which may be necessary for removing the difficulty.

Removal of difficulty.

228. Where any notice, bill, order or requisition issued or made under this Act or the rules or the regulations made thereunder, requires anything to be done, for the doing of which no time is fixed in this Act or the rules or the regulations made thereunder, such notice, bill, order or requisition shall specify a reasonable time for doing the same.

Notices etc. to fix reasonable time.

229. (1) Every licence, written permission, notice, bill, summons or other document, which is required by this Act or the rules or the regulations made thereunder to bear the signature of the Commissioner or any other officer of the Corporation, shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or such officer, as the case may be, stamped thereupon.

Signature on notices etc. to be stamped.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Municipal Fund under section 57.

230. Every notice, bill, summons or other document required by this Act or the rules or the regulations made thereunder to be served upon, or issued to, any person shall be served or issued by an officer or other employee of the Corporation or by any person authorised by the Commissioner in that behalf.

Notices etc. by whom to be served or issued.

231. (1) Every notice, bill, summons, requisition or other document required or authorised by this Act or the rules or the regulations made thereunder to be served or issued by or on behalf of the Corporation or by any of the municipal authorities referred to in section 3 or any officer or employee of the Corporation shall, save as otherwise provided in this Act or the rules or the regulations made thereunder, be deemed to be duly served,—

Service of notices etc.

- (a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered or principal office or at its place of business and is either—
 - (i) sent by registered post, or
 - (ii) delivered at the registered principal office or at the place of business of the company;

¹Sections 228 to 238 were inserted by s. 15 of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

(Part V.—Civic Services.—Chapter XX.—Miscellaneous Provisions.—Section 231.)

- (b) where the person to be served is a partnership firm, if the document is addressed to the partnership at its principal place of business identifying it by the name or the style under which its business is carried on, and is either—
 - (i) sent by registered post, or
 - (ii) delivered at the place of business;
- (c) where the person to be served is a public body, corporation, society or any other body, if the document is addressed to the secretary, treasurer or other officer of such body, corporation or society at its principal office, and is either—
 - (i) sent by registered post, or
 - (ii) delivered at that office;
- (d) in any other case, if the document is addressed to the person to be served and—
 - (i) is given or tendered to him, or
 - (ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of resident or business, if within Howrah or [Kolkata], or is given or tendered to any adult member of his family or is affixed to some conspicuous part of the land or the building, if any, to which it relates, or
 - (iii) is sent by registered post to such person.

(2) Any document required or authorised to be served on the owner or the occupier of any land or building may be addressed to the owner or the occupier, as the case may be, of such land or building (naming such land or building) without further name or description and shall be deemed to be duly served,—

- (a) if the document so addressed is sent or delivered in accordance with clause (d) of sub-section (1); or
- (b) if the document or a copy thereof so addressed is delivered to some person on the land or the building or, where there is no such person to whom it can be delivered, is affixed to some conspicuous part of such land or building.

(3) Where a document is served on a partnership firm under this section, the document shall be deemed to have been duly served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any premises, the Commissioner may, by notice in writing, require the occupier of such premises to state the name and address of the owner thereof.

¹See foot-note 2 on page 417. *ante*.

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(Part V.—Civic Services.—Chapter XX.—Miscellaneous Provisions.—Sections 232-234.)

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) Nothing in section 229 and 230 and in this section shall apply to any summons issued under this Act by any court.

(7) A servant shall not be deemed to be a member of a family for the purposes of this section.

232. All offences under this Act or the rules or the regulations made thereunder, whether committed within or outside Howrah, shall be cognizable by any ²[Judicial Magistrate of the first class] having jurisdiction and such magistrate shall not be deemed to be incapable of taking cognizance of any such offence or any offence under any enactment repealed by this Act.

Cognizance of offences.

233. (1) No person shall be liable to any punishment for an offence under this Act or the rules or the regulations made thereunder unless a complaint of such offence is made before a ³[Judicial Magistrate of the first class] within six months from—

Limitation of time for prosecution.

- (a) the date of commission of such offence, or
- (b) the date on which the commission or the continuance of such offence is first brought to the notice of the Corporation or the Commissioner.

(2) For the avoidance of doubts, it is hereby declared that any failure to take out a licence under this Act or to pay tax under section 102 shall, for the purposes of sub-section (1), be deemed to be a continuing offence until the expiration of the period for which such licence is required to be taken.

234. A copy of any receipt, application, plan, notice, order or other document or any entry in a register in the possession of any municipal authority shall, if duly certified by the legal keeper thereof or other person authorised by the Commissioner in this behalf, be admissible in evidence of the existence of such document or entry.

Admissibility of documents or entry as evidence.

¹See foot-note 1 on page 511, *ante*.

²The words within the square brackets were substituted for the words "municipal magistrate" by s. 3 of the Howrah Municipal Corporation (Second Amendment) Act, 1994 (West Ben. Act LI) of 1994.

³The words within the square brackets were substituted for the words "municipal magistrate" by s. 4 *ibid*.

(Part V.—Civic Services.—Chapter XX.—Miscellaneous Provisions.—Sections 235-238.)

Councillors and officers and other employees of the Corporation to be public servants.

235. Every Councillor, every Alderman, the Commissioner and every other officer or employee of the Corporation shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code and, in the definition of legal remuneration in section 161 of that Code, the word "Government" shall, for the purpose of this section, be deemed to include the Corporation as well.

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Execution of work by occupier on failure of owner.

236. When the Commissioner requires the owner of any premises to carry out any work, he may, if he considers it desirable so to do, require the occupier of the said premises to carry out such work and the occupier shall be bound to comply with such requisition:

Provided that except in the case of any special arrangement to the contrary, such occupier may deduct the amount of the expenses incurred or paid by him in respect of such work from the rent payable to the owner or may recover the same from him in any court of competent jurisdiction.

Prohibition of nuisances.

237. No person shall,—

- (1) save with the written permission of the Commissioner and in such manner as he may authorise, store or use night-soil, cow-dung, manure, rubbish or any other substance emitting an offensive smell; or
- (2) use or permit to be used any premises for any purpose which is, in the opinion of the Commissioner, dangerous to life, health or property or is likely to create a nuisance on any land or building or workshop or workplace; the Commissioner or any officer empowered by him may, by notice in writing, require the person or persons by whose act, default or sufferance the nuisance arises or continues or the owner, lessee or occupier of the land, building, workshop or workplace to remove or abate the nuisance by taking such measure, in such manner and within such period as may be specified in the notice and, in default of compliance with the requisition or the notice, the offender may be prosecuted and may be imprisoned or fined to the extent of five hundred rupees, and a daily fine of fifty rupees for so long as the offence continues.

Power to require buildings, walls, etc. to be rendered safe.

238. Where any building or wall or anything affixed thereto or any well, tank, reservoir, pool, depression or excavation or any bank or tree is, in the opinion of the Commissioner, dangerous to persons passing by or dwelling or working in the neighbourhood, the Commissioner may,

¹See foot-note 1 on page 511 *ante*

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(Part V.—Civic Services.—Chapter XXI.—Planning and
Development.—Section 239.)

by notice in writing, require the owner or the occupier thereof to remove the same or may require him to repair, protect, or enclose the same in such manner as he thinks necessary, and if the danger is, in the opinion of the Commissioner, imminent, he shall forthwith take such steps as he thinks necessary to avert the same, and on the failure of compliance with the notice for removal or abatement of such nuisance or danger, the offender may be prosecuted and sentenced to imprisonment or to pay a fine to the extent of five hundred rupees, and a daily fine of fifty rupees for so long as the offence continues.

CHAPTER XXI

Planning and Development

239. (1) The Corporation shall prepare a Draft Development Plan for Howrah in consultation with the District Planning Committee or the Metropolitan Planning Committee, as the case may be, for a period of five years, and shall submit to the Urban Development Sub-Committee or the Metropolitan Planning Committee, as the case may be, at least one year before completion of the term of the preceding Draft Development Plan:

Preparation
of Draft
Develop-
ment Plan.

Provided that the Corporation shall prepare the first Draft Development Plan in accordance with the directions of the District Planning Committee or the Metropolitan Planning Committee, as the case may be.

(2) The Draft Development Plan for Howrah shall be a written statement, and shall include—

- (a) the schemes of the Corporation for the development and other use of land or for any description of development or other use of such land including, in either case, such measures as the Corporation thinks fit for the improvement of the physical environment;
- (b) detailed and specific scheme of the Corporation for conducting development programmes on such point or points as the Corporation thinks fit;
- (c) such maps and diagrams as the Corporation thinks appropriate;
- (d) existing land use pattern in maps or documents;
- (e) the scheme for future land use control by way of—
 - (i) identification and preservation of open spaces;
 - (ii) prohibition of filling up of tanks or water courses;
 - (iii) filling up of insanitary water courses;

¹Chapter XXI containing sections 239 to 242 was inserted by s. 19 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

(Part V.—Civic Services.—Chapter XXI.—Planning and Development.—Section 240.)

- (iv) protection of land surface through which sub-soil water sources are re-charged;
- (v) provision for drainage network and outfalls;
- (vi) provision of dumping grounds for solid wastes disposal;
- (vii) street alignment;
- (viii) provision for burning and burial grounds;
- (ix) reclamation of waste lands; or
- (x) providing activities of similar nature;
- (f) regulation and restriction of sites for construction of buildings, huts or structures for the purposes of safety, disinfection, density control or pollution control;
- (g) scheme for environmental improvement by way of restriction on felling of trees, planting of new trees and flowering of plants in public places and adding of house greenery and the like;
- (h) scheme for control of pollution relating to water, soil, air, noise and odour;
- (i) scheme for acquisition of land for the purpose of ensuring that the benefits of development activities are reaped by public institutions for community—welfare and not for speculative gains by private individuals.

(3) If the preceding Draft Development Plan has not been fully implemented, a statement shall be annexed with the Draft Development Plan, showing the due quantum of work and the reasons for such non-completion.

Financial statement in regard to Draft Development Plan.

240. A financial statement shall be submitted with the Draft Development Plan containing—

- (a) detailed particulars about the quantum of finance available for conducting the development programme under the said Draft Development Plan from—
 - (i) own resources of the Corporation with sourcewise break-ups; and
 - (ii) corporate sector or household sector;
- (b) the following particulars in detail:—
 - (i) credit plan or the terms and conditions for availing of the finance from corporate sector or household sector;
 - (ii) sources of fund for repayment of credit, if taken from corporate sector or household sector and the manner of repayment.

¹See foot-note 1 on page 515, *ante*.

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(Part V.—Civic Services.—Chapter XXI.—Planning and Development.—Sections 241, 242.—Schedule I.)

¹241. The Corporation may, at any time but not more than once in every three years, propose to the District Planning Committee any revision or modification of the Draft Development Plan.

Modification of Draft Development Plan.

¹242. (1) The Corporation shall prepare an Annual Development Plan for a period of one financial year, covering only the relevant portion of the Draft Development Plan for the concerned period, in consultation with the District Planning Committee, and submit the same to the State Government within the last week of the month of October of the year preceding the period for which the Annual Development Plan shall be prepared.

Annual Development Plan.

(2) The Annual Development Plan shall be prepared in accordance with the provisions of sub-section (2) of section 239 and section 240, which shall apply *mutatis mutandis*.

(3) The State Government shall, on receipt of the Annual Development Plan, consider it on the basis of the availability of fund for the purpose and shall, thereafter, approve the Annual Development Plan with necessary modification, if any.

(4) The Corporation shall, within six months from the date of receipt of plan grant under sub-section (3) of section 60A, submit a report, stating the progress of work towards implementing the Annual Development Plan, either in full or in part, for which the said grant was sanctioned.

(5) The Corporation may, at any time but not more than once, revise or modify the Annual Development Plan with the approval of the State Government:

Provided that any modification or revision of the Annual Development Plan shall not contain anything which is not included in the Draft Development Plan for the period to which the Annual Development Plan relates.

SCHEDULE I

[See section 2(4).]

Boundaries of the Corporation

Starting from Mouza Baltikuri where it meets Howrah Municipal boundary, thence along eastward all along the southern boundary of Bally Municipality (up to river Hooghly) in the East from the water edge at lowest tide of river Hooghly and westward along its water edge at lowest tide of northern bank to the point where it meets the eastern boundary of Mouza Podda in Sankrail police station; thence northward along the western boundary of Mouza Goabaria and Mouza Thana

¹See foot-note 1 on page 515. *ante*.

(Schedule II.)

Makua; thence along the western boundary of Mouza Sultanpur and westward along the southern boundary of Unsani and Pailya; thence along the western and northern boundary of Pailya up to its meeting point with the western boundary of Mouza Unsani; thence northward along the western boundary of Mouza Unsani; thence eastward along the northern boundary of Mouza Unsani up to the Howrah Drainage Canal; thence crossing the canal along the northern boundary of Mouza Unsani up to its meeting point with Mouza Jagacha; thence northward along the western boundary of Mouza Jagacha and Mouza Dharsa up to its meeting point with Mouza Baltikuri; thence along the western boundary of Mouza Baltikuri and eastward along the northern boundary of Mouza Baltikuri up to the point where it meets Mouza Kona; thence towards the western boundary of Mouza Kona up to its meeting point with Chakpara; thence eastward along the northern boundary of Mouza Kona; thence southward along the eastern boundary of Mouza Kona to the point where it meets Mouza Baltikuri; thence eastward along the northern boundary of Mouza Baltikuri to the points where it meets Howrah Municipal boundary.

SCHEDULE II

Wards of the Corporation

[See section 5(2).]

Boundaries

Ward No. 1

Along northern boundary of Girish Ghosh Bye Lane, Joya Bibi Road, then towards north through Joya Bibi Lane and to the east along imaginary line through New Central Jute Mill in the north up to the river side, then on the east along the river side up to Banerjee Ghat Road, thence on the south along Banerjee Ghat Road up to J. N. Mukherjee Road, thence on the west along J. N. Mukherjee Road and along Girish Ghosh Lane up to Girish Ghosh Bye Lane.

Ward No. 2

Starting from the junction of G. T. Road (North) and Thakurdas Surekha Road (Guha Road), along northern boundary Thakurdas Surekha Road up to Girish Ghosh Lane, thence along the western side of Girish Ghosh Lane and J. N. Mukherjee Road up to the junction of Naskarpara Road, thence along Naskarpara Road up to G. T. Road (North), thence towards north along western boundary of G. T. Road (North) up to Thakurdas Surekha Road.

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(Schedule II.)

Ward No. 3

Starting from G. T. Road (North) and Naskarpara Road along the southern side of Naskarpara Road up to the junction of Nabin Ghosh Lane, thence along the western side of Nabin Ghosh Lane and Moti Chand Road up to its junction with Shiba Gopal Banerjee Lane; thence along the western side of Shiba Gopal Banerjee Lane up to its junction with Sreeram Dhang Road; thence along the northern side of Sreeram Dhang Road up to the junction of Rash Behari Ghosal Lane, thence along the eastern side of Rash Behari Ghosal Lane and Lal Behari Bose Lane up to the junction of G. T. Road (North), and thence along the eastern side of G. T. Road (North) up to the junction of Naskarpara Road.

Ward No. 4

Starting from the junction of Nabin Ghosh Lane and Naskarpara Road along the southern side of Naskarpara Road to its junction with J. N. Mukherjee Road; thence along the western side of J. N. Mukherjee Road up to its junction with Banerjee Ghat Road, thence along the southern side of Banerjee Ghat Road, up to river thence along the river in the east up to Kissenlal Burman Road; thence along the northern side of Kissenlal Burman Road and Sri Aurobindo Road up to its junction with Sambhu Halder Lane; thence along Sambhu Halder Lane to its junction with Bhairab Ghatak Lane; thence along the east side of Bhairab Ghatak Lane up to its junction with Sreeram Dhang Road; thence along Sreeram Dhang Road up to Shiba Gopal Banerjee Lane, thence along Shiba Gopal Banerjee Lane up to Moti Chand Road, thence along Moti Chand Road and Nabin Ghosh Lane up to its junction with Naskarpara Road.

Ward No. 5

Starting from the junction of Sri Aurobindo Road and G. T. Road (North), along eastern side of G. T. Road (North) up to its junction with Lal Behari Bose Lane; thence along the southern side of Lal Behari Bose Lane up to Rash Behari Ghosal Lane, thence along the eastern side of Rash Behari Ghosal Lane up to its junction with Sreeram Dhang Road, thence along southern side of Sreeram Dhang Road up to the junction of Bhairab Ghatak Lane; thence along the western side of Bhairab Ghatak Lane up to Sri Aurobindo Road, thence along Sri Aurobindo Road up to G. T. Road (North).

*(Schedule II.)***Ward No. 6**

Starting from the junction of G. T. Road (North) and Kali Mazumdar Road along Kali Mazumdar Road up to the Eastern Railway lines; thence along the Railway lines up to its meeting point with Municipal Drain; thence along the northern side of Municipal Drain up to its junction of Kaibartapara Lane and Mohinath Porel Lane; thence along the eastern side of Mohinath Porel Lane up to its junction with Ghosepara Lane; thence along the eastern side of Ghosepara Lane up to its junction with Beneras Road; thence along the northern side of Beneras Road up to the junction with G. T. Road (North); thence along the western side of G. T. Road up to its junction with Kali Mazumdar Road.

Ward No. 7

Starting from Eastern Railway lines at the north towards west along the Municipal boundary up to the Municipal Drain (Khal); thence along the eastern side of the drain up to its crossing with Beneras Road; thence along the northern side of Beneras Road up to Ghosepara Lane; thence along the western side of Ghosepara Lane up to its junction with Mohinath Porel Lane; thence along the western side of Mohinath Porel Lane up to its junction with Kaibartapara Lane and Municipal Drain; thence along the southern side of Municipal Drain up to its meeting point with Eastern Railway lines; thence along the Railway lines up to its meeting point with the Howrah Municipal boundary from where it starts.

Ward No. 8

Starting from the junction of Beneras Road and F. Road along the western side of F. Road up to the Howrah Municipal boundary at the north; thence along the Howrah Municipal boundary at the north and west up to its meeting point with T. Road and thence along the northern side of T. Road up to its junction with Q. Road along the eastern side of Q. Road up to its junction with S. Road; thence along the northern side of S. Road up to the junction of Natabar Paul Road; thence along the western side of Natabar Paul Road up to its junction with Beneras Road.

Ward No. 9

Starting from the junction of F. Road and Beneras Road along the eastern side of F. Road up to the Howrah Municipal boundary at the north; thence eastward along the northern boundary of the Corporation up to the Municipal Drain (Khal); thence along the western side of

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Municipal Drain (Khal) up to its crossing with Beneras Road; thence along the southern side of Beneras Road up to Eastern Railway lines; thence southward along the Eastern Railway lines to its meeting points with South-Eastern Railway lines; thence along the South-Eastern Railway lines up to the Howrah Municipal boundary; thence northward along the Howrah Municipal boundary to its meeting point with T. Road; thence along the southern side of T. Road up to its junction with Q. Road; thence along the western side of Q. Road up to its junction with S. Road; thence along the southern side of S. Road up to its junction with Natabar Paul Road; thence along the eastern side of Natabar Paul road up to the junction of Beneras Road.

Ward No. 10

Starting from the eastern side of Eastern Railway lines towards east along southern side of Beneras Road up to the junction of G. T. Road (North); thence along the western side of G. T. Road up to its junction with Bhairab Dutta Lane; thence along the northern side of Bhairab Dutta Lane up to its meeting points with Eastern Railway lines; thence northward along the Eastern Railway lines to Beneras Road.

Ward No. 11

From the river Hooghly and its meeting point with Chhatu Babu's Ghat Lane along northern side of Chhatu Babu's Ghat Lane to its junction with Kshetra Mitra Lane; thence along the northern side of Kshetra Mitra Lane to its junction with Madan Biswas Lane; thence the northern side of Madan Biswas Lane up to the junction of Sree Aurobindo Road; thence along the southern side of Sree Aurobindo Road to the southern side of Kishen Lal Burman road up to the river Hooghly.

Ward No. 12

Starting from the river Hooghly along the northern side of Dr. Abani Dutta Road up to its junction with Ramlal Mukherjee Lane, thence along eastern side of Ramlal Mukherjee Lane up to Jeliapara Lane, thence along the southern side of Jeliapara Lane up to its junction with Sailendra Nath Bose Road, thence along the western side of Sailendra Nath Bose Road up to G. T. Road (North), thence along eastern side of G. T. Road (North) up to Sri Aurobindo Road, thence along southern side of Sri Aurobindo Road, up to Madan Biswas Lane, thence along western side of Madan Biswas Lane up to Kshetra Mitra Lane, thence along southern side of Kshetra Mitra Lane and Chhatu Babu's Ghat Lane up to the river Hooghly, thence along the river Hooghly up to Dr. Abani Dutta Road.

*(Schedule II.)***Ward No. 13**

Starting from the junction of G. T. Road (North) and Dr. Abani Dutta Road along the southern side of Dr. Abani Dutta Road up to the junction to Banshi Dhar Jalan Road; thence along the western side of Banshi Dhar Jalan Road up to junction of Kings Road; thence along the northern side of Kings Road up to its junction with G. T. Road (North); thence along the eastern side of G. T. Road (North) up to the junction of Dr. Abani Dutta Road.

Ward No. 14

Starting from the junction of G. T. Road (North) and Hari Mohan Bose Road along the southern side of Hari Mohan Bose Road up to the junction of Abul Kalam Azad Road, thence along the eastern side of Abul Kalam Azad Road up to the junction of Kings Road; thence along the southern side of Kings Road up to its junction with Banshi Dhar Jalan Road; thence along the eastern side of Banshi Dhar Jalan Road up to its junction with Golabari Ghat Road; thence along the southern side of Golabari Ghat Road up to the river Hooghly; thence along the river Hooghly to its meeting point with Nityadhan Mukherjee Road; thence along the northern side of Nityadhan Mukherjee Road to its junction with Rishi Bankim Chandra Road; thence along the eastern side of Rishi Bankim Chandra Road up to its junction with Mahatma Gandhi Road; thence along the northern side of Mahatma Gandhi Road up to the junction of Church Road; thence along the eastern side of Church Road up to its junction with G. T. Road; thence along the eastern side of G. T. Road (South); thence to the eastern side of G. T. Road (North) up to the junction of Hari Mohan Bose Road.

Ward No. 15

Starting from the junction of Ramlal Mukherjee Lane and Dr. Abani Dutta Road, along the northern side of Dr. Abani Dutta Road up to its junction with G. T. Road (North); thence southwards along the western side of G. T. Road (North) up to its junction with Pilkhana 3rd Bye Lane; thence along northern side of Pilkhana 3rd Bye Lane up to its junction with Banwari Lal Roy Road; thence straight through Banwari Lal Roy Road and Fakir Bagan Lane up to Eastern Railway lines; thence northward along the Railway lines up to its meeting points with Bhairab Dutta Lane; thence along southern side and eastern side of Bhairab Dutta Lane up to G. T. Road (North), thence crossing G. T. Road (North) along Sailendra Nath Bose Road up to Jeliapara Lane, thence along Jeliapara Lane up to the junction with Ramlal Mukherjee Lane, thence along Ramlal Mukherjee Lane up to Dr. Abani Dutta Road.

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Ward No. 16

Starting from the junction of G. T. Road (North), and Pilkhana Third Lane along the southern side of Pilkhana Third Lane up to Banwari Lal Roy Road; thence along the southern side of Banwari Lal Roy Road up to its junction with Fakir Bagan Lane; thence along the southern side of Fakir Bagan Lane up to Eastern Railway Lines; thence southward along the Eastern Railway Lines to its crossing with G. T. Road (South); thence along the western side of G. T. Road (North) up to its junction with Hari Mohan Bose Road; thence along the northern side of Hari Mohan Bose Road up to its junction with Abul Kalam Azad Road; thence along the western side of Abul Kalam Azad Road up to its junction with King's Road; thence along the southern side of King's Road up to the junction of G. T. Road (North); thence northward along the western side of G. T. Road (North) up to its junction with Pilkhana Third Lane.

Ward No. 17

Starting from the junction of G. T. Road (South) along the northern side of Nityadhan Mukherjee Road up to Rishi Bankim Chandra Road; thence along the western side of Rishi Bankim Chandra Road up to its junction with Mahatma Gandhi Road; thence along the southern side of Mahatma Gandhi Road up to its junction with Biplabi Harendra Nath Ghosh Sarani (Church Road); thence along eastern and northern side of Biplabi Harendra Nath Ghosh Sarani up to the junction of G. T. Road (South), thence along western side of G. T. Road (South) to the Eastern Railway Lines; thence along a direct line parallel to Eastern Railway Lines up to the point from where Belilious Road proceeding westward from northward (just in front of the northern gate of the old Howrah Maidan Station); thence along the northern side of Belilious Road up to its junction with M. C. Ghosh Lane; thence along with the eastern side of M. C. Ghosh Lane up to the junction of Panchanantala Road; thence crossing the road along the eastern side of Sadar Buxi Lane up to Joynarayan Santra Lane; thence along Joynarayan Santra Lane to Ainuddin Ghat Majhi Lane; thence along the eastern side of Ainuddin Ghat Majhi Lane up to the junction of Chintamoni Dey Road; thence along the northern side of Chintamoni Dey Road up to its junction with G. T. Road (South).

Ward No. 18

Starting from the junction of Deshpran Sasmal Road and Kali Kundu Lane along the eastern side of Kali Kundu Lane up to its junction with Kali Banerjee Lane; thence along the northern side of Kali Banerjee Lane

(Schedule II.)

up to its junction with Girish Banerjee Lane, up to its junction with Krishna Kamal Bhattacharjee Lane; thence along the northern side of Krishna Kamal Bhattacharjee Lane up to its junction with Chintamani Dey Road; thence along the northern side of Chintamani Dey Road up to its junction with Ainuddin Ghat Majhi Lane; thence along the western side of Ainuddin Ghat Majhi Lane up to its junction with Joynarayan Santra Lane; thence along Joynarayan Santra Lane up to Sadar Buxi Lane; thence along eastern side of Sadar Buxi Lane up to Panchanantala Road; thence along southern side of Panchanantala Road and Deshpran Sasmal Road up to Kali Kundu Lane.

Ward No. 19

Starting from the junction of Belilious Road and I. R. Belilious Lane along the eastern side of I. R. Belilious Lane up to its junction with Panchanantala Road; thence along the northern side of Panchanantala Road up to its junction with M. C. Ghosh Lane; thence along the western side of M. C. Ghosh Lane up to its junction with Belilious Road; thence along the southern side of Belilious Road up to its junction with Basiruddin Munshi Lane; thence along the eastern and southern side of Basiruddin Munshi Lane up to Municipal Drain; thence crossing the culvert along the southern side of Jola Para Masjid Lane; thence along the western side of Jola Para Masjid Lane up to its junction with Belilious Road; thence along the southern side of Belilious Road up to its junction with I. R. Belilious Lane.

Ward No. 20

Starting from the junction of South-Eastern Railway Lines and Ashu Bose Lane along the southern side of South-Eastern Railway Lines up to its meeting point from where Belilious Road proceeding westward from northward (just in front of the gate of the old Howrah Maidan Martin Station); thence along the northern side of Belilious Road up to its junction with Basiruddin Munshi Lane; thence along the western and northern side of Basiruddin Munshi Lane up to the Municipal Drain; thence crossing the culverts along the northern side of Jola Para Masjid Lane; thence along the eastern side of Jola Para Masjid Lane up to its junction with Belilious Road; thence along the northern side of Belilious Road up to its junction with Ashu Bose Lane; thence along the eastern side of Ashu Bose Lane up to its junction with South-Eastern Railway Lines.

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Ward No. 21

Starting from the junction of Mahadeb Banerjee Lane and Deshpran Sasmal Road along the northern side of Deshpran Sasmal Road up to its junction with I. R. Belilious Lane; thence along the western side of I. R. Belilious Lane up to its junction with Belilious Road; thence along the southern side of Belilious Road up to its junction with Badan Roy Lane; thence along the eastern side of Badan Roy Lane up to its junction with Kaliprasad Banerjee Lane, thence along the eastern side of Kaliprasad Banerjee Lane up to its junction with Bisweswar Banerjee Lane, thence along the southern side of Bisweswar Banerjee Lane up to Mahadeb Banerjee Lane; thence along the eastern side of Mahadeb Banerjee Lane up to its junction with Deshpran Sasmal Road.

Ward No. 22

Starting from the junction of Belilious road and Ashu Bose Lane along the western side of Ashu Bose Lane up to the South-Eastern Railway Lines; thence westward along the South-Eastern Railway Lines up to the Howrah Municipal Boundary; thence along the southward and eastward along Howrah Municipal Boundary up to its meeting point with Howrah Drainage Canal; thence southward along the canal up to its meeting points with Makardah Road; thence along the northern side of Makardah Road up to its junction with Belilious Road; thence along the northern side of Belilious Road up to its junction with Ashu Bose Lane.

Ward No. 23

Starting from junction of Kalachand Nandy Lane and Brindaban Mullick Lane along the eastern side of Brindaban Mullick Lane up to its junction with Kantapukur Lane; thence along the eastern side of Kantapukur Lane up to its junction with Ichapur Road; thence along the northern side of Ichapur Road up to Drainage Canal (New H.I.T. Road); thence northwards along the H.I.T. Road up to its junction with Makardah Road; thence along the southern side of Makardah Road up to its junction with Belilious Road; and thence along Belilious Road up to Badan Roy Lane; thence along the western side of Badan Roy Lane up to the junction of Kaliprasad Banerjee Lane; thence along the western side of Kaliprasad Banerjee Lane up to its junction with Bisweswar Banerjee Lane; thence westward along the northern side of Bisweswar Banerjee Lane up to its junction with Mahadeb Banerjee Lane; thence southward along the western side of Mahadeb Banerjee Lane up to the junction of Deshpran Sasmal Road; thence along the northern side of Deshpran Sasmal Road up to its junction with Narasingha Dutta Road; thence

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along the western side of Narasingha Dutta Road up to its junction with Kalachand Nandy Lane; thence along the southern side of Kalachand Nandy Lane up to its junction with Brindaban Mullick Lane.

Ward No. 24

Starting from the junction of Netaji Subhas Road and Brindaban Mullick Lane along the eastern side of Brindaban Mullick Lane up to its junction with Kalachand Nandy Lane; thence along both the sides of Kalachand Nandy Lane up to its junction with Narasingha Dutta Road; thence along the eastern side of Narasingha Dutta Road up to the junction of Deshpran Sasmal Road; thence along the southern side of Deshpran Sasmal Road up to its junction with Kali Kundu Lane; thence along the western side of Kali Kundu Lane up to its junction with Netaji Subhas Road; thence along the northern side of Netaji Subhas Road up to its junction with Brindaban Mullick Lane.

Ward No. 25

Starting from the junction of Netaji Subhas Road and Priya Nath Ghosh Lane along the eastern side of Priya Nath Ghosh Lane up to its junction with Gadadhar Mistry Lane; thence along the eastern side of Gadadhar Mistry Lane up to its junction with Kasundia Road; thence along the eastern side of Kasundia Road up to its junction with Olabibitala Lane; thence along the eastern side of Olabibitala Lane up to its junction with Kaipukur First Lane; thence along the northern side of Kaipukur First Lane up to its junction with Kaipukur Lane; thence along the northern side of Kaipukur Lane up to its junction with Chandra Kumar Banerjee Lane; thence along the western side of Chandra Kumar Banerjee Lane up to its junction with Nabin Senapati Lane; thence along the western side of Nabin Senapati Lane up to its junction with Kasundia Road; thence along the northern side of Kasundia Road up to its junction with Bepin Behari Mukherjee Lane; thence along the western side of Bepin Behari Mukherjee Lane up to its junction with Netaji Subhas Road; thence along the southern side of Netaji Subhas Road up to its junction with Priya Nath Ghose Lane.

Ward No. 26

Starting from the junction of Raj Ballav Das Lane and Netaji Subhas Road along the Southern side of Netaji Subhas Road up to its junction with Nidhi Ram Majhi Lane; thence along the western side of Nidhi Ram Majhi Lane; thence along the western side of Gopal Banerjee Lane up to its junction with Ram Krishnapur Lane; thence along the western side

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of Ram Krishnapur Lane up to the junction of Nilratan Mukherjee Lane, thence along the northern side of Nilratan Mukherjee Lane up to its junction with Chandra Kumar Banerjee Lane; thence along the eastern side of Chandra Kumar Banerjee Lane up to its junction with Nabin Senapati Lane; thence along the eastern side of Nabin Senapati Lane up to its junction with Kasundia Road; thence along the southern side of Kasundia Road up to its junction with Raj Ballav Das Lane; thence along the eastern side of Raj Ballav Das Lane up to its junction with Netaji Subhas Road.

Ward No. 27

Starting from the junction of Kali Kundu Lane and Kali Banerjee Lane along the southern side of Kali Banerjee Lane up to its junction with Girish Banerjee Lane; thence along the southern side of Girish Banerjee Lane up to its junction with Krishnakamal Bhattacharjee Lane; thence along the southern side of Krishnakamal Bhattacharjee Lane up to its junction with Chintamani Dey Road; thence along the southern side of Chintamani Dey Road up to its junction with G.T. Road (South); thence along the western side of G.T. Road (South) up to its junction with Raj Ballav Saha Lane; thence along the northern side of Raj Ballav Saha Lane up to its junction with Sidheswaritola Lane; thence along the eastern side of Sidheswaritola Lane up to its junction with Netaji Subhas Road; thence along the northern side of Netaji Subhas Road up to its junction with Kali Kundu Lane; thence along the eastern side of Kali Kundu Lane up to its junction with Kali Banerjee Lane.

Ward No. 28

Starting from the junction of Raj Ballav Saha Lane and Gopal Banerjee Lane along the eastern side of Gopal Banerjee Lane up to its junction with Ramkrishnapur Lane; thence along the northern side of Ramkrishnapur Lane up to its junction with Charu Singha Lane; thence along the northern side of Charu Singha Lane up to its junction with G.T. Road (South); thence along the western side of G.T. Road (South) up to its junction with Raj Ballav Saha Lane; thence along the southern side of Raj Ballav Saha Lane up to its junction with Sidheswaritola Lane; thence along the western side of Sidheswaritola Lane up to its junction with Netaji Subhas Road; thence along the southern side of Netaji Subhas Road up to its junction with Nidhiram Majhi Lane; thence along the eastern side of Nidhiram Majhi Lane up to its junction with Gopal Banerjee Lane.

*(Schedule II.)***Ward No. 29**

Starting from the river Hooghly along the southern side of Nityadhan Mukherjee Road up to its junction with G.T. Road (South); thence along the eastern side of G.T. Road up to its junction with Bonbehari Bose Road; thence along the northern side of Bonbehari Bose Road up to the Foreshore Road (Upper); thence along a direct line up to the river Hooghly.

Ward No. 30

Starting from the junction of G.T. Road (South) and Charu Singha Lane along the southern side of Charu Singha Lane up to its junction with Ramkrishnapur Lane; thence along the southern and eastern side of Ramkrishnapur Lane up to its junction with Atindra Mukherjee Lane; thence along the northern side of Atindra Mukherjee Lane up to its junction with G.T. Road; thence along with western side of G.T. Road up to its junction with Dr. Gangadhar Mukherjee Road; thence along the northern side of Dr. Gangadhar Mukherjee Road up to the river Hooghly; thence along the river Hooghly towards north up to the boundary of Ward No. 29; thence along the southern boundary of Ward No. 29 up to Bonbehari Bose Road; thence along the southern side of Bonbehari Bose Road up to its junction with G.T. Road (South).

Ward No. 31

Starting from the junction of G.T. Road (South) and Baje Shibpur Road along the northern side of Baje Shibpur Road up to its junction with Ramkrishnapur Lane; thence along the eastern side of Ramkrishnapur Lane up to its junction with Atindra Mukherjee Lane; thence along the southern side of Atindra Mukherjee Lane up to its junction with G.T. Road (South); thence along the western side of G.T. Road up to the junction of Baje Shibpur Road.

Ward No. 32

Starting from the junction of Nilratan Mukherjee Road and Ram Krishnapur Lane along the western side of Ramkrishnapur Lane up to its junction with Baje Shibpur Road; thence along the southern side of Baje Shibpur Road up to its junction with Dharmatala Lane; thence along the western side of Dharmatala Lane up to its junction with Rammohan Mukherjee Lane; thence along the northern side of Rammohan Mukherjee Lane up to its junction with Shibpur Road; thence along the northern side of Shibpur Road up to its junction with Anrakash Mukherjee Lane;

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thence along the eastern side of Aprakash Mukherjee Lane up to its junction with Kaipukur Lane; thence along the southern and eastern side of Kaipukur Lane up to its junction with Chandra Kumar Banerjee Lane; thence along the eastern side of Chandra Kumar Banerjee Lane up to its junction with Nilratan Mukherjee Road; thence along the southern side of Nilratan Mukherjee Road up to its junction with Ramkrishnapur Lane.

Ward No. 33

Starting from the junction of Aprakash Mukherjee Lane and Kaipukur Lane along the western side of Aprakash Mukherjee Lane up to its junction with Sibpur Road; thence along southern side of Sibpur Road up to its junction with Kashinath Chatterjee Lane; thence along western and northern side of Kashinath Chatterjee Lane up to its junction with Madhab Dey Lane; thence along the western side of Madhab Dey Lane and Kshetra Banerjee Lane; thence eastward along southern side of Kshetra Banerjee Lane up to Dinoo Master Lane; thence along the western side of Dinoo Master Lane up to its junction of Dr. Sarat Chatterjee Road; thence along the northern side of Dr. Sarat Chatterjee Road up to its junction with Abinash Banerjee Lane; thence along the southern side of Abinash Banerjee Lane up to its junction with Musalman Para Lane; thence along the eastern side of Musalman Para Lane up to its junction with Olabibitala Lane; thence along southern side of Olabibitala Lane and Aprakash Mukherjee Lane up to the junction of Kaipukur Lane.

Ward No. 34

Starting from the junction of Baje Shibpur Road and G.T. Road (South) along the western side of G.T. Road (South) up to its junction with Shibpur Road; thence along the northern side of Shibpur Road up to its junction with Rammohan Mukherjee Lane; thence along the eastern side of Rammohan Mukherjee Lane up to its junction with Dharmatala Lane; thence along the eastern side of Dharmatala Lane up to its junction of Baje Shibpur Road; thence along the southern side of Baje Shibpur Road up to its junction with G.T. Road (South).

Ward No. 35

Starting from the river Hooghly along the southern side of the Road leading to Rajnarayan Roy Chowdhury Ghat Road and then along Rajnarayan Roy Chowdhury Ghat Road up to its junction with G.T. Road (South); thence along the eastern side of G.T. Road (South) up to its junction with Bharpara Road; thence along the eastern side of Bharpara Road up to its junction with Debendra Nath Ganuly Road (Duke Road).

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thence along the northern and western side of Debendra Nath Ganguly Road up to Jagat Banerjee Ghat Road, thence eastward through Jagat Banerjee Ghat Road and the Road leading to the river Hooghly; thence along the river Hooghly northwards up to the road leading to Rajnarayan Roy Chowdhury Ghat Road.

Ward No. 36

Starting from the river Hooghly along southern side of Grand Foreshore Road up to Dr. Gangadhar Mukherjee Road, then along Gangadhar Mukherjee Road up to its junction with G.T. Road (South), thence along the eastern side of G.T. Road (South) up to its junction with Rajnarayan Roy Chowdhury Ghat Road, thence along Rajnarayan Roy Chowdhury Ghat Road to the river Hooghly through Port Commissioners Road; thence towards north along the river Hooghly up to Grand Foreshore Road.

Ward No. 37

Starting from the junction of Shibpur Road and G.T. Road (South) along the western side of G.T. Road (South) up to its junction with Mollapara Lane; thence along the northern side of Mollapara Lane up to its junction with Dinoo Master Lane; thence along the eastern side of Dinoo Master Lane up to its junction with Kshetra Banerjee Lane; thence along the northern and eastern side of Kshetra Banerjee Lane up to its junction with Madhab Dey Lane; thence along the eastern side of Madhab Dey Lane up to its junction with Kashinath Chatterjee Lane; thence along the southern and eastern side of Kashinath Chatterjee Lane, up to Shibpur Road; thence along the southern side of Shibpur Road up to its junction with G.T. Road (South).

Ward No. 38

Starting from the junction of G.T. Road (South) and Onkarmall Jetia Road along the western side of Onkarmall Jetia Road up to its junction with Dr. Sarat Chatterjee Road; thence along the southern side of Dr. Sarat Chatterjee Road up to its junction with Gurrie Road; thence along the eastern side of Gurrie Road up to its junction with Andul Road; thence along the northern side of Andul Road up to its junction with College Ghat Road; thence along the western side of the College Ghat Road up to its junction with Botanical Garden Road; thence along the southern side of Botanical Garden Road up to its junction with College Road; thence along the northern side of College Road up to its junction with G.T. Road (South) and Onkarmall Jetia Road.

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Ward No. 39

Starting from South Eastern Railway Lines and College Road, eastward along southern portion of Railway Lines up to the River Hooghly, thence along the river Hooghly up to its meeting point with the boundary of Botanical Garden; thence northward along the boundary of Botanical Garden up to the junction of Botanical Garden Road; thence along Botanical Garden Road up to the junction of Botanical Garden Lane; then towards west along the southern side of Botanical Garden Lane up to the Howrah municipal limit; thence northward along the boundary limits of Howrah Municipality up to Andul Road; thence along the northern side of Andul Road up to the junction with College Ghat Road (Laxmi Narayantala Road) up to its junction with Botanical Garden Road; thence along southern side of Botanical Garden Road up to College Road; thence along the eastern side of College Road up to the South Eastern Railway Lines.

Ward No. 40

Starting from the junction of G.T. Road (South) and Mollapara Lane along the eastern side of G.T. Road (South) up to its junction with Bharpara Road, thence along the eastern side of Bharpara Road up to its junction with Debendra Nath Ganguly Road (Duke Road); thence along the southern and eastern side of Debendra Nath Ganguly Road up to its junction with Jagat Banerjee Ghat Road; thence eastward along Jagat Banerjee Ghat Road and Port Commissioners Road straight to the river Hooghly; then along the river Hooghly towards west up to the western portion of the South Eastern Railway Lines; then along the Railway Lines up to College Road; thence along College Road up to the junction of G.T. Road (South); thence along G.T. Road (South) to Onkarmall Jetia Road; thence along Onkarmall Jetia Road up to Dr. Sarat Chatterjee Road; thence along Dr. Sarat Chatterjee Road up to Dinoo Master Lane; thence along Dinoo Master Lane up to the junction of Mollapara Lane; thence along Mollapara Lane up to G.T. Road (South).

Ward No. 41

Starting from the junction of Dr. Sarat Chatterjee Road and Curry Road along the southern side of Dr. Sarat Chatterjee Road up to its junction with Kankrapara Lane; thence along the eastern side of Kankrapara Lane up to its junction with South Eastern Railway Lines; thence along the South Eastern Railway Lines up to Howrah Municipal boundary in the west; thence along the eastern side of Braja Nath Lahiri Lane; thence along the eastern side of Buzarah Village Road up to its junction with Andul Road; thence along the northern side of Andul Road up to its junction with Curry Road; thence along the western side of Curry Road up to its junction with Dr. Sarat Chatterjee Road

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From the junction of Mahendra Bhattacharjee Road and New H.I.T. Road along the western side of H.I.T. Road up to its junction with Puratan Shire Lane; thence along the northern side of Puratan Shire Lane up to its crossing with Nandalal Chatterjee Lane; thence along the northern side of Nandalal Chatterjee Lane up to its junction with Kazi Bagan Lane; thence along the northern side of Kazi Bagan Lane up to its junction with Nandalal Mukherjee Lane; thence along the eastern side of Nandalal Mukherjee Lane up to its junction with Abinash Banerjee Lane; thence along the northern side of Abinash Banerjee Lane up to its junction with Musalmanpara Lane; thence along the western side of Musalmanpara Lane up to its junction with Olabibitala Lane; thence along the western side of Olabibitala Lane up to its junction with Kasundia Road; thence along the northern side of Kasundia Road up to its junction with Gadadhar Mistry Lane; thence along the western side of Gadadhar Mistry Lane up to its junction with Tantipara Lane; thence along the western side of Tantipara Lane up to its junction with Priya Nath Ghosh Lane; thence along the western side of Priya Nath Ghosh Lane up to its junction with Mahendra Bhattacharjee Road; thence along the southern side of Mahendra Bhattacharjee Road up to its junction with H.I.T.

Ward No. 43

From the junction of Ichapur Road and municipal limits along the direct line demarcated by boundary marks westward to the junction of Ram Charan Sett Road; thence along the eastern side of Ram Charan Sett Road southwards to the crossing of Ram Charan Sett Road and Mahendra Bhattacharjee Road; thence along the northern side of Netaji Subhas Road up to its crossing with Brindabon Mullick Lane; thence along the western side of Brindabon Mullick Lane to its junction with Kantapukur Lane; thence along the western side of Kantapukur Lane up to its junction with Ichapur Road; thence along the southern side of Ichapur road up to its junction with western municipal limits.

Ward No. 44

Starting from the junction of H.I.T. Road and Mahendra Bhattacharjee Road along the northern side of Mahendra Bhattacharjee Road up to the junction of Ram Chandra Sett Road, thence along the eastern and northern side of Ram Chandra Sett Road up to the junction of Ambika Kundu Lane; thence along the western side of Ambika Kundu Lane and Brajanath Lahiri Lane along the limits of Howrah Municipal area up to South

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Eastern Railway Lines, thence along the South Eastern Railway Lines up to the southern meeting point with Howrah Drainage Canal; thence along the Drainage Canal up to the meeting point with Kankra Para Lane; thence along Kankra Para Lane up to the junction of Dr. Sarat Chatterjee Road (near the junction of Nandalal Chatterjee Lane); thence along Dr. Sarat Chatterjee Road up to the junction of Abinash Banerjee Lane; thence along Abinash Banerjee Lane up to Nandalal Mukherjee Lane; thence along Nandalal Mukherjee Lane up to its junction with Kazi Bagan Lane; thence along the southern side of Kazi Bagan Lane up to its meeting point with Nandalal Chatterjee Lane; thence along the northern side of Nandalal Chatterjee Lane up to its junction with Puratan Shire Lane; thence along the northern side of Puratan Shire Lane up to New H.I.T. Road; thence northward along the western side of H.I.T. Road up to Mahendra Battacharjee Road.

Ward No. 45

Along Botanical Garden Road from its meeting point with the river Hooghly northward up to its junction with Botanical Garden Lane; thence along northern and eastern boundary of Botanical Garden up to the point where it meets Andul Road; thence along the southern side of Andul Road up to the point where it meets the eastern boundary of Mouza Thana Makua; thence westward along the southern side of Andul Road up to its junction with Burah Village Road; thence northward all along the western side of Buxarah Village Road up to its junction with Brojanath Lahiri Lane; thence along the western side of Brojanath Lahiri Lane up to its meeting point with Purba Buxarah Gram Sava; thence along the northern boundary of Purba Buxarah Gram Sava the South Eastern Railway Lines; up to thence westward along the South Eastern Railway Lines up to its meeting point with Railway line connecting Raymond Engineering Works; thence southward along the Railway lines connecting Raymond Engineering Works up to its meeting point with C.M.D.A. pucca road; thence westward along the southern side of C.M.D.A.pucca road up to its junction with a pucca road between Dag No. 87 and No. 88 under Mouza Uttar Buxarah; thence southward along the eastern side of that pucca road up to its meeting point with Mouza Sultanpur; thence eastward along the southern boundary of Uttar Buxarah; thence along the western boundary of Northern Buxarah up to the Howrah Drainage Canal; thence crossing the canal westward along the northern boundary of Mouza Thana Makua and Gobaria up to the water edge at the lowest tide of the river Hooghly; thence along the water edge at lowest tide of the northern bank of the river Hooghly eastward up to the point where it meets the Botanical Garden Road.

*(Schedule II.)***Ward No. 46**

Starting from the point where meets the western boundary of Mouza Thana Makua with the southern boundary of Mouza Sultanpur; thence northward along the western boundary of Mouza Sultanpur up to the point where it meets the southern boundary of Mouza Unsani; thence westward along the southern boundary of Mouza Unsani up to the point where it meets Mouza Pulya; thence along the south-western and northern boundary of Mouza Pulya up to the point where it meets the western boundary of Mouza Unsani; thence northward along the western boundary of Mouza Unsani; thence eastward along the northern boundary of Mouza Unsani up to the point where it meets the western boundary of Mouza Jagacha; thence southward along the eastern boundary of Mouza Unsani up to its meeting point with South Eastern Railway lines; thence eastward along the South Eastern Railway lines up to its meeting point with the Railway lines connecting Raymond Engineering Works; thence southward along the Railway lines connecting Raymond Engineering Works up to its meeting point with the C.M.D.A. pucca road; thence westward along the northern side of the pucca road up to its meeting point with a pucca road proceeding southward between Dag No. 87 and No. 88 under Mouza Uttar Buxarah; thence southward along the western side of that pucca road up to its meeting point with the northern boundary of Mouza Sultanpur; thence along the north-eastern and southern boundary of Mouza Sultanpur up to the point where it meets the point from where it starts.

Ward No. 47

Starting from the northern boundary of Mouza Unsani and western boundary of Mouza Jagacha northward along the western boundary of Mouza Jagacha and Mouza Dharsa up to the point where it meets the northern boundary of Mallickpara Gram Sava; thence along the northern boundary of Mallickpara Gram Sava; thence eastern and southern boundary of Mallickpara Gram Sava up to the eastern boundary of Brahmanpara Gram Sava; thence southward along the eastern boundary of Brahmanpara Gram Sava up to its meeting point with the eastern boundary of Uttar Jagacha Gram Sava; thence along the eastern boundary of Uttar Jagacha Gram Sava up to its meeting point with the northern boundary of Jagacha Gram Sava; thence along the northern and eastern boundary of Jagacha Gram Sava up to its meeting point with the eastern boundary of Purba Jagacha Gram Sava; thence along the eastern and southern boundary of Purba Jagacha Gram Sava up to its meeting point with the South eastern Railway lines; thence along the northern side of South Eastern Railway lines up to its meeting point with the eastern boundary of Mouza Unsani; thence northward along the eastern boundary of Mouza Unsani up to the point from where its starts.

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(Schedule II.)

Ward No. 48

Starting from Ram Charan Sett Road along the western boundary of Ward No. 49 up to its junction with Howrah Amta Road; thence along the southern side of Howrah Amta Road up to its meeting point with the western boundary of Mouza Balitikuri; thence southward along the eastern side of Mouza Balitikuri up to its meeting point with north-eastern boundary of Ward No. 47 up to its meeting point with the northern boundary of Ward No. 45; thence eastward along the northern boundary of Ward No. 45 up to its meeting point with Ward No 44; thence northward along the boundary of Ward No. 44 up to the point from where it starts.

Ward No. 49

Along the northern boundary of Uttar Sahanpur Gram Sabha from its junction with the western boundary of Uttar Sahanpur Gram Sabha up to its meeting point with the northern boundary of Sibtala Gram Sabha; thence along the northern and eastern boundary of Sibtala Gram Sabha up to its meeting point with the eastern boundary of Dakshin Sahanpur Gram Sabha; thence along the eastern boundary of Dakshin Sahanpur Gram Sabha up to its meeting point with eastern boundary of Purba Ichapur Gram Sabha; thence along the eastern boundary of Purba Ichapur Gram Sabha up to its meeting point with southern boundary of Majherpara Gram Sabha; thence along the southern boundary of Majherpara Gram Sabha up to its meeting point with the eastern boundary of Dakshin Ichapur Gram Sabha; thence along the eastern, southern and western boundary of Dakshin Ichapur Gram Sabha up to its meeting point with the southern boundary of Ichapur Uttar-Paschimpara Gram Sabha; thence along southern and western boundary of Ichapur Uttar-Paschimpara Gram Sabha where it meets the northern boundary of Ichapur Uttar-Paschimpara Gram Sabha; thence along the northern boundary of Ichapur Uttar-Paschimpara Gram Sabha eastward up to its meeting point with the eastern boundary of Sealdanga Gram Sabha; thence along the western, southern and again western boundary of Sealdanga Gram Sabha up to its meeting point with the western boundary of Paschim Dasnagar Gram Sabha; thence along the western boundary of Paschim Dasnagar and Uttar Sahanpur Gram Sabhas up to its meeting point with the northern boundary of Uttar Sahanpur Gram Sabha.

Ward No. 50

Starting from the junction of Howrah Amta Road and the western boundary of Mouza Balitikuri northward along the western boundary of Mouza Balitikuri; thence eastward along the northern boundary of Mouza

(Schedule III.)

Balitikuri up to its meeting point with the western boundary of Mouza Kona; thence northward along the western boundary of Mouza Kona; thence eastward along the northern boundary and southward along the eastern boundary of Mouza Kona up to its meeting point with the northern boundary of Mouza Balitikuri at Belading; thence eastward along the northern boundary of Mouza Balitikuri up to the western boundary of Ward No. 8; thence southward along the western boundary of Ward No. 8 up to its meeting point with Ward No. 49; thence westward along the northern side of the boundary of Ward No. 49 up to its junction with Howrah Amta Road; thence westward along the northern side of Howrah Amta Road up to the point from where it starts.

SCHEDULE III**Class of profession, trade and calling**

[See section 102(1).]

Serial No.	Class of profession, trade and calling
(1)	(2)
1.	Company or association or body of individuals, engaged in any profession, trade or calling whatsoever for profit or as a benefit society, not being a registered co-operative society.
2.	Statutory corporation set up by the Government, or trading concern sponsored by the Government, and carrying on business for profit.
3.	Company, club, association or body of individuals, having no paid-up capital, engaged in any profession, trade or calling whatsoever for profit or as a benefit society (not being a registered co-operative society), merchant, banker (not being a registered co-operative society), money-lender, wholesale trader, owner or occupier of a market, bazar or theatre or place of public entertainment, broker or dalal in jute, cotton, precious stones, landed property, country produce, silk or other merchandise, retail trader or shop-keeper, boarding-house-keeper, hotel-keeper, lodging-house-keeper, tea-stall-keeper and eating-house-keeper.

¹Schedule III was substituted by s. 5 of the Howrah Municipal Corporation (Amendment) Act, 2000 (West Ben. Act V of 2000). Prior to this substitution, firstly, the original schedule was substituted by s. 2(23) of the West Bengal Municipal Corporation Laws (Amendment) Act, 1995 (West Ben. Act XVII of 1995). Secondly, the same schedule was further substituted by s. 20 of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

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(Schedule IV.)

(1)	(2)
4.	Commission agent, broker not included in serial number 3, architect, engineer, contractor, medical practitioner, dentist, barrister, and legal practitioner.
5.	Itinerant vendors hawking goods for sale.
6.	Any other trade, profession or calling not enumerated in serial numbers 1 to 5.

SCHEDULE IV

Tax on Advertisements

[See section 3.]

	Per month		Per year	
	Rs.	P.	Rs.	P.
1. Advertisements on hoardings, walls or posts or in the form of non-illuminated sky-signs—				
(a) for a space up to 1 square metre				12.00
(b) for a space over 1 square metre and up to 2.5 square metres				25.00
(c) for every additional 2.5 square metres or less				20.00
2. Advertisements on cloth hung across streets of footpaths—				
(a) in a street up to 6 metres wide	1.00			
			(per running 30 centimetres)*	
(b) in a street over 6 metres wide	1.50			
			(per running 30 centimetres)*	
3. (i) Advertisements which are fixed to or against the wall or outer face of a building and				
(1) no part of which projection on or over a street:				
(a) for a space up to 1 square metre				12.00
(b) for a space over 1 square metre and up to 2.5 square metres				25.00
(c) for every additional 2.5 square metres or less				20.00

*In addition to the usual amount on the basis of the surface area of the cloth, calculated at the rates as in item 1, reduced in terms of a month.

N.B.—If the advertisement board projects more than sixty centimetres over or across streets—Rs. 4 for every additional 30 centimetres in addition to the tax prescribed above.

N.B!—If the board exceeds 15 centimetres in thickness 2 per 30 centimetres of the thickness in addition to the tax above.

(West Ben. Act

(Schedule IV.)

	Per month		Per year	
	Rs.	P.	Rs.	P.
(2) which are placed in a position inclined to the vertical or otherwise project on or over a street:				
(a) for a space up to 1 square metre				12.00
(b) for a space over 1 square metre and up to 2.5 square metres				25.00
(c) for every additional 2.5 square metres or less				20.00
(ii) Advertisement suspended over or across street—				
(a) for a space up to 1 square metre				12.00
(b) for a space over 1 square metre and up to 2.5 square metres				25.00
(c) for every additional 2.5 square metres or less				20.00
4. Advertisement hoarding standing blank but bearing the name of the advertiser or with the announcement 'To be let' displayed thereon:				
(a) for a space up to 1 square metre		0.50		
(b) for a space over 1 square metre and up to 5 square metres		1.00		
(c) for every additional 2.5 square metres or less		1.00		
5. Advertisement board carried on vehicles (or advertisements displayed on the body of vehicles)—				
(a) for a space up to 1 square metre				20.00
(b) for a space over 1 square metre and up to 2.5 square metres				41.00
(c) for space over 2.5 square metres and up to 5 square metres				75.00
(d) for every additional 5 square metres or less				75.00
Provided that in the case of a person advertising in more than one vehicle at a time the total space advertised in all the vehicles taken together shall be taken into account for the purpose of determination of the tax.				
6. Illuminated advertisement boards carried on vehicles (or illuminated advertisements displayed on the body of vehicles)—				
(a) for a space up to 2.5 square metres				75.00
(b) for a space over 2.5 square metres and up to 5 square metres				150.00
(c) for every additional 5 square metres or less				150.00

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(Schedule IV.)

	Per month		Per year	
	Rs.	P.	Rs.	P.
7. Advertisement boards carried by sandwich boardmen—				
(a) for each board up to 1 square metre	..	1.25	..	
(b) for each board over 1 square metre and up to 2.5 square metres	..	2.50	..	
(c) for every additional 1 square metre or less	..	1.25	..	
8. Illuminated advertisement boards carried by sandwich boardmen—				
(a) for each board up to 1 square metre	..	2.50	..	
(b) for each board over 1 square metre and up to 2.5 square metres	..	5.00	..	
(c) for every additional 1 square metre or less	..	2.50	..	
9. Illuminated sky-signs and advertisements other than those referred to in items 6 and 8—				
(a) for a space over 2,000 square centimetres	..		16.00	
(b) for a space over 2,000 square centimetres and up to 5,000 square centimetres	..		32.00	
(c) for a space over 5,000 square centimetres and up to 2.5 square metres	..		40.00	
(d) for every additional 2.5 square metres or less	..		40.00	
<i>N.B.</i> —In the case of projected advertisements in addition to the tax prescribed above, the same rate will apply regarding projection and thickness, as given in item 3 above.				
10. Advertisements exhibited on screens by means of lantern slides or similar devices—				
(a) for a space up to 5,000 square centimetres	..		64.00	
(b) for a space over 5,000 square centimetres and up to 2.5 square metres	..		80.00	
(c) for every additional 2.5 square metres or less	..		80.00	
11. Posters on walls, boardings, frames, posts, kiosks, upon or in vehicles—				
(a) for a space not exceeding a single royal	..	0.25	..	
(b) for a space not exceeding double royal	..	0.50	..	
(c) for every additional 1 square metre	..	0.37	..	

(Schedule IV.)

Per month	Per year
Rs. P.	Rs. P.

If a poster for which tax has already been paid has to be replaced due to damage or otherwise before the expiry of the period for which the tax has been paid, a stamp may be affixed to the new poster to the effect that it is covered by the original receipt for payment, the number and date whereof should be specified on the body of the poster:

Provided that the previous approval of the Commissioner shall be taken before erecting such new posters.

12. Fly-posters or hand-posters—

(a) of a size up to 96 square centimetres	..	1 paise each.
(b) of a size over 96 square centimetres and up to 192 square centimetres	..	2 paise each.
(c) of a size over 192 square centimetres and up to 320 square centimetres	..	3 paise each.
(d) of a size over 320 square centimetres and up to 480 square centimetres	..	5 paise each.
(e) of every additional 96 square centimetres or less	..	1 paise each.

EXPLANATION

1. In calculating the space or area referred to above all the faces of the advertisement hoardings, boards, etc., utilised for purposes of display shall be taken into account:

Provided that in the case of a sky-sign, in addition to the above, the face surface of the supporting pillars or raised platforms, if any, below the actual displaying area shall also be taken into account.

2. An advertisement shall not be deemed to be an illuminated advertisement within the meaning of this Schedule if such advertisement is illuminated merely by light which, in the opinion of the Commissioner, is not more than what is necessary to make the same visible at night.

LVIII of 1980.]

(Schedule V.)

SCHEDULE V

Penalties

[See section 220.]

Section and sub-section, clause or proviso	Subject	Maximum fine or imprisonment that may be imposed	Maximum daily fine that may be imposed
(1)	(2)	(3)	(4)
Section 77, sub-section (3)	Requisition by auditors to produce documents, to appear in person or to make and sign declaration to answer question or to submit statement.	Two hundred rupees.	Fifty rupees.
[Section 102, sub-section (1)	Failure to take out certificate of enlistment.	One thousand rupees.]	
2* * * * *			
Section 104	Advertisement made without payment of taxes.	One thousand rupees.	One hundred rupees.
Section 111, sub-section (2) and (3)	Default in furnishing statement and production of books and accounts.	One hundred rupees.	Ten rupees.
Section 142	Construction of private streets, walls, fence, etc. on municipal drain, channel, etc. without permission.	One thousand rupees.	One hundred rupees.
Section 144, sub-section (1)	Unlawful connection of house drain with municipal drain.	One thousand rupees.	One hundred rupees.
Section 145	Requisition to owner to arrange for sufficient means of effectual drainage.	One thousand rupees.	One hundred rupees.
Section 148	Throwing, emptying or turning certain matters not to be passed through municipal drains.	One thousand rupees.	Fifty rupees.
Section 153, sub-section (3)	Keeping or maintaining toilet or urinal for public use without permission.	Five hundred rupees.	Fifty rupees.

¹The entries within the square brackets were inserted by s. 7 of the Howrah Municipal Corporation (Amendment) Act, 1992 (West Ben. Act X of 1992).

²The following entries in columns 1, 2 and 3—

"Section 102A, sub-section (5). Failure to apply for certificate of enlistment. Two hundred and fifty rupees."

were first inserted by s. 21(1) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999). Then the same entries were omitted by s. 6 of the Howrah Municipal Corporation (Amendment) Act, 2000 (West Ben. Act V of 2000).

(Schedule V.)

(1)	(2)	(3)	(4)
¹ [Section 154	Failure to convert service privy into sanitary toilet.	Five thousand rupees.	Five hundred rupees.]
Section 155, sub-section (2)	Failure to provide privy, urinal, bathing or washing place.	Five hundred rupees.	Fifty rupees.
Section 156	Failure to provide privy or make alteration or substitution of service privy by other system.	Five hundred rupees.	Fifty rupees.
Section 157, sub-section (1)	Construction of cesspool in violation of provision.	Five hundred rupees.	Twenty-five rupees.
Section 157, sub-section (2)	Requisition on owner to fill up or remove unlawful cesspool.	Five hundred rupees.	Twenty-five rupees.
Section 163	Failure to comply with a notice for removal or alteration of verandah, platform, building etc.	One thousand rupees.	Fifty rupees.
Section 164	Failure to remove wall, fence, rail, platform, etc.	Five thousand rupees.	Fifty rupees.
Section 165	Prohibition of tethering of animals and milking of cattle.	Two hundred rupees.	Ten rupees.
Section 166, sub-section (5)	Construction or reconstruction in violation of the regular line of a street or building line without proper permission.	One hundred rupees.	...
Section 170, sub-section (1)	Utilisation or sale of land for construction of buildings without provision for streets giving access to the site.	One thousand rupees.	...
Section 170, sub-section (2)	Utilisation or disposal of land without sending a written application with a lay out plan.	One thousand rupees.	...
Section 171	Prohibition of making new streets.	One thousand rupees.	...
Section 173	Unauthorised use of land as building site.	Two thousand and five hundred rupees or imprisonment for six months or both.	One hundred rupees per square metre.
Section 177, sub-section (1)	Unauthorised erection of a building.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.

¹The entries within the square brackets were inserted by s. 21(2) of the Howrah Municipal Corporation (Amendment) Act, 1999 (West Ben. Act XI of 1999).

LVIII of 1980.]

(Schedule V.)

(1)	(2)	(3)	(4)
Section 178	Occupation of a building without a completion certificate.	Five hundred rupees.	Twenty-five rupees.
Section 179, sub-section (1)	Change of the use of premises sanctioned for specified purposes.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 188, sub-section (3)	Failure to perform duties in the matter of collection of solid wastes.	Three hundred rupees.	Twenty-five rupees.
Section 190, sub-section (1)	Use, alteration, etc. of premises as godowns, warehouses, etc. without permission.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 191, sub-section (1)	Establishing a factory without permission or altering or extending the same otherwise than in conformity with the conditions.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 192, sub-section (1)	Keeping eating house, etc. without permission or otherwise than in conformity with a licence.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 193	Keeping open theatres, circuses, etc. without permission or otherwise than in conformity with a licence.	One thousand rupees.	One hundred rupees.
Section 196	Keeping open any private market, etc. otherwise than in conformity with a licence.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section clause (a)	197, Carrying on the trade of a butcher otherwise than in conformity with a licence.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred and fifty rupees.
Section clause (b)	197, Prohibition of selling of flesh, fish or animal without licence.	Five hundred rupees.	Twenty-five rupees.
Section 200	Prohibition of hawking, etc. otherwise than in terms of a licence.	Five hundred rupees.	Twenty-five rupees.
Section 201	Prohibition of carrying on trade of a butcher, fish monger, etc. otherwise than in conformity with a licence.	Five hundred rupees.	Twenty-five rupees.

[West Ben. Act LVIII of 1980.]

(Schedule V.)

(1)	(2)	(3)	(4)
Section 202	Prohibition of sale, etc. of adulterated or misbranded food or drug.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 203	Failure to register manufactory.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 204	Prohibition of keeping adulterants in a place where butter, ghee, etc. are manufactured or stored.	One thousand rupees.	Two hundred rupees.
Section 205, sub-section (2)	Failure to provide protection to articles of food drug, receptacle, etc.	Two hundred rupees.	Fifty rupees.
Section 206	Keeping of shops, etc. otherwise than in conformity with a licence or failure to display the licence.	One thousand rupees.	One hundred rupees.
Section 209	Failure to give information of dangerous diseases.	One hundred rupees.	
Section 212	Failure to take measures to prevent spread of dangerous diseases.	One hundred rupees.	
* * * * *			

The following entries in columns 1, 2 and 3—

Section 214, sub-section (1).	Non-registration of place for disposal of the dead and failure to deposit plan in municipal office.	One hundred rupees.
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were omitted by s. 16 of the Howrah Municipal Corporation (Second Amendment) Act, 1990 (West Ben. Act XXIX of 1990).

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GOVERNMENT OF WEST BENGAL

LAW DEPARTMENT

Legislative

West Bengal Act V of 2000

THE HOWRAH MUNICIPAL CORPORATION
(AMENDMENT) ACT, 2000.

[Passed by the West Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette, Extraordinary*, of the 31st March, 2000.]

[31st March, 2000.]

An Act to amend the Howrah Municipal Corporation Act, 1980.

West Ben.
Act LVIII of
1980.

WHEREAS it is expedient to amend the Howrah Municipal Corporation Act, 1980, for the purposes and in the manner hereinafter appearing;

It is hereby enacted in the Fifty-first Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the Howrah Municipal Corporation (Amendment) Act, 2000.

Short title
and
commence-
ment.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. For section 102 of the Howrah Municipal Corporation Act, 1980 (hereinafter referred to as the principal Act), the following section shall be substituted:—

Substitution
of new
section for
section 102
of West Ben.
Act LVIII of
1980.

102. (1) Every person engaged or intending to be engaged in any class of profession, trade or calling in Howrah, as specified in Schedule III, either by himself or by an agent or representative, shall obtain a certificate of enlistment from, or, as the case may be, get the same renewed annually by, the Commissioner upon presentation of an application together with such application fee, not exceeding rupees five hundred, as may be determined by the Corporation:

Provided that such enlistment or renewal thereof shall not absolve such person from any liability to take out any licence under this Act or any other law for the time being in force.

The Howrah Municipal Corporation (Amendment) Act, 2000.

[West Ben. Act

(Sections 3-5.)

(2) The Commissioner shall, after making such enquiry as may be necessary and within thirty days of the receipt of the application, grant him such certificate if the application is in order, or shall reject the application if it is not in order.”

Omission of section 102A.

3. Section 102A of the principal Act shall be omitted.

Omission of section 102B.

4. Section 102B of the principal Act shall be omitted.

Substitution of new Schedule for Schedule III.

5. For Schedule III of the principal Act, the following Schedule shall be substituted:—

“SCHEDULE III

Class of profession, trade and calling

[See section 102(1).]

Serial No.	Class of profession, trade and calling.
(1)	(2)
1.	Company or association or body of individuals, engaged in any profession, trade or calling whatsoever for profit or as a benefit society, not being a registered co-operative society.
2.	Statutory corporation set up by the Government, or trading concern sponsored by the Government, and carrying on business for profit.
3.	Company, club, association or body of individuals, having no paid-up capital, engaged in any profession, trade or calling whatsoever for profit or as a benefit society (not being a registered co-operative society), merchant, banker (not being a registered co-operative society), money-lender, wholesale trader, owner or occupier of a market, bazar or theatre or place of public entertainment, broker or dalal in jute, cotton, precious stones, landed property, country produce, silk or other merchandise, retail trader or shop-keeper, boarding-house-keeper, hotel-keeper, lodging-house-keeper, tea-stall-keeper and eating-house-keeper.

The Hawrah Municipal Corporation (Amendment) Act, 2000.

V of 2000.]

(Section 6.)

(1)	(2)
4. Commission agent, broker not included in serial number 3, architect, engineer, contractor, medical practitioner, dentist, barrister, and legal practitioner.	
5. Itinerant vendors hawking goods for sale.	
6. Any other trade, profession or calling not enumerated in serial numbers 1 to 5."	

6. In Schedule V of the principal Act, the entry "section 102A, sub-section (5)." in column 1 headed "Section and sub-section, clause or proviso", and the corresponding entries "Failure to apply for certificate of enlistment." in column 2 headed "Subject", and "Two hundred and fifty rupees." in column 3 headed "Maximum fine or imprisonment that may be imposed" shall be omitted.

Amendment
of Schedule
V.

THE WEST BENGAL MUNICIPAL ACT, 1993

(West Bengal Act XXII of 1993)

As amended by

- **The West Bengal Municipal (Third Amendment) Act, 2015** (West Ben. Act XIX of 2015) (w.e.f. 1.8.2015).
- **The West Bengal Municipal (Second Amendment) Act, 2015** (West Ben. Act XVIII of 2015) (w.e.f. 1.8.2015).
- **The West Bengal Municipal (Amendment) Act, 2015** (West Bengal Act XI of 2015) (w.e.f. 4.5.2015).
- **The West Bengal Municipal (Amendment) Act, 2013** (West Bengal Act VIII of 2013) (w.e.f. 15.5.2013).
- **The West Bengal Municipal (Second Amendment) Act, 2011** (West Bengal Act XVI of 2011) (w.e.f. 1.3.2012).
- **The West Bengal Municipal (Amendment) Act, 2011** (West Bengal Act VI of 2011) (w.e.f. 30.8.2011).

By : **L. N. Datta**, M.Com., LL.B. & Editorial Board

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