

Urban Governance in Decentralized Political System- A paradox

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Abstract

For the last several decades across the developing countries, there has been acceptance of the need for decentralized governance to democratically elected and locally accountable governments. In India, this process has started after 1990's and to strengthen the decentralized urban governance in a more organised manner, the Government of India took a vibrant initiative through the enactment of the Seventy Fourth constitutional Amendment Act(1992). The amendment brought several changes in the urban governance scenario. But it is observed that despite the amendment, the devolution of powers and functions is not satisfactorily implemented. The municipalities are facing wide ranging problems, which in turn is hampering the spirit of decentralization. Paradoxically decentralization has not led to better governance of urban areas. The present study analyzes the governance of the municipal town (Silchar) in context with the compliance of the Seventy Fourth Constitutional Amendment Act. This paper argues that lack of attention to institutional factors and neglect of proper design consideration are the prime causes of poor decentralized urban governance.

KEYWORDS: Seventy-Forth Constitutional Amendment Act, Decentralization of powers, Governance, Urban Development, Municipalities.

Introduction-

For the last several decades across the developing countries, there has been an acceptance of the need for decentralized governance to democratically elected and locally accountable governments.ⁱ At the same time, the world has witnessed a rapid increase in urbanization mainly due to influx of rural population in to the urban areas. As urbanization is a continuous process, and this process in India has picked up momentum after independence. The economic reforms and liberalization in the 1990s, again accelerated the momentum. This rapid growth is going to pressure on the urban managers to deliver on basic needs and infrastructure whether it is water supply, sanitation, sewerage, solid waste management etc. Again, the local governments are also under increasing pressure to introduce a number of measures to ensure a citizen caring and citizen centric government free from corruption and engaged in a hassle free provision of services to the people. These goals are achieved by the municipalities through decentralized power, which has been implemented by the different states in different ways.

'Decentralized Political System' is a system of governance where a 'people centred/ centric' approach to resolving urban local problems is followed to ensure political, economic and social justice. The entire process is for locating people at the centre of power so that they become the basic engine of the development process and not, merely its beneficiaries.ⁱⁱ This is not confined to government only, rather it includes variety of urban community and civil society by which people organize to act collectively, which in turn is the basis of real empowerment. True empowerment enhances the opportunities and capabilities to make and express choices into desired actions and outcomes. Again the immediate representation of people in governance process makes it fruitful.ⁱⁱⁱ It is also believed that Governance at

the local level is decentralized because it understands the concern of local residents, eliminates the confusion of jurisdiction and makes the decision making responsive to people for whom services are intended.^{iv}

It is a fact that India's urban areas contributing about two-thirds of nation's GDP, yet there is a wide gap of infrastructure which affecting the urban quality of life. India's urban population with 377 million in 2011^v constituting 31.16 per cent of total population and is projected to be about 600 millions by 2030. The United Nations project that it would cross 50 per cent by 2050.^{vi} It is also now widely recognised that urbanisation contributes significantly to the economic development goals of our country. However, the pace of urbanisation is posing challenges related to service delivery and infrastructure, poverty, housing, environment, traffic and transportation, etc. With haphazard planning and weak governance, cities are becoming places for public health threat.^{vii} The municipalities are facing wide ranging problems, which in turn is hampering the spirit of decentralization. Paradoxically decentralization has not led to better governance of urban areas. As the 12th Plan also noted that "if the urban challenges are not tackled appropriately, not only Indian cities get increasingly chaotic and choked, rural poverty will be converted into urban poverty with no gains to improvement of livelihoods of India's burgeoning population".^{viii} Naturally, the question arises why the urban administration is not performing well in spite of legal assurance of decentralization of powers? This paper argues that lack of attention to institutional factors and neglect of proper design considerations are the prime causes for poor decentralized urban governance in India.

'Decentralization' in Indian context-

The urban institutions in India have a history of over 300 years. However, the Constitution did not make local self-government in urban areas a clear-cut constitutional obligation. As a consequence of inadequate Constitutional provision for Local Self Government, democracy in municipal governance was not stable. As a result, many urban local bodies became weak and were not able to perform effectively. For the first time Zakaria Committee (1963) laid physical and expenditure norms for five services, viz. water supply, sewerage, storm water drains, roads and street lighting. This was followed by Town and Country Planning Organization (1974), Planning Commission (1983 and 1999), etc.^{ix} The appointment of National Commission on Urbanization in 1983 was a major step in reviewing the urban situation with a positive outlook about the role of the cities in the process of country's economic development. The voluminous Report of the commission submitted to the government of India in 1988 provided basic guide lines for the formulation of goals of National Urban Policy in the context of emerging socio-economic imperatives of development.^x

In this context, Seventy Fourth Constitutional Amendment Act came into force in June, 1993 which tried to strengthen urban governance. The main provisions of the Act include- constitution and composition of municipalities; constitution of wards committees; reservation of seats; devolution of powers and authority; appointment of State Finance Commission and State Election Commission; assurance to political existence of urban local bodies; District and Metropolitan Planning Committees; etc. The Act, expects that Urban Local Bodies will assume responsibilities for urban planning, water supply, social and economic planning, slum upgradation, public health, etc. The Seventy Fourth Amendment Act is considered a watershed development in urban polity in India and it is a fact that for the first time in the history of urban governance, the municipal bodies are provided the constitutional

status and with this amendment India has moved towards, what has been described as 'multilevel federalism' and more significantly, it has widened the democratic base of Indian polity.^{xi} The main aim of this constitutional amendment was clearly to revitalize the urban local government.

A paradoxical Framework-

It is believed that the Seventy Fourth Constitutional Amendment Act is a milestone to strengthen the decentralized urban governance, but it is observed that many states have not transferred functions, funds and functionaries to the local bodies. It is very important to mention here that local level institution is a subject under state law (Entry 5 of State Lists under 7th Schedule of the Constitution). Thus, for instance, governance of urban areas was directly within the jurisdiction of the state government. Implementation of Seventy Fourth Constitutional Amendment Act needs strengthening. Despite the initiative, the devolution of powers and functions is not satisfactorily implemented. The current scene however, shows that devolution has made little progress with multiplicity of issues plaguing decentralized urban governance. These include - lack of clarity between state and local functional domains leading to overlapping of functions; encroachment of local functional domain by para-statal structures; limited fiscal domains and autonomy at local level due to state control over local revenue sources and rates; lack of technical capacity and orientation at the local level towards developmental works; ineffective devolution of welfare and planning functions; and last but not the least, weak role of municipal elected bodies in municipal management.

Unlike the functional jurisdiction of the states, which follows a Constitutional delimitation; the functional domain of local bodies in India are derived all the responsibilities, which are delegated by the states to the municipalities through State Legislature. Article 243W of the Constitution states that Legislatures of States have been conferred the power to confer on the Municipalities all such powers and authority as may be necessary to enable them to function as institutions of self-government. It has specifically been mentioned that they may be given the responsibility of (a) preparation of plans for economic development and social justice, (b) implementation of schemes as may be entrusted to them, and (c) in regard to matters listed in the 12th schedule. The important issues raised by the Seventy Fourth Amendment Act are the spirit and willingness of the states to implement the Act with clear identification of functional jurisdiction of institutions and the capacity of urban local bodies to carry out the responsibilities with sound financial, managerial and technical skill.^{xii} But the provisions of the Article are not mandatory and the state Legislature decides as to which powers and authority it may devolve to the municipality.

From this view point, a paradoxical situation is emerging in the paradigm of urban development management. The Seventy Fourth Constitutional Amendment Act envisaged creation of vibrant urban local bodies empowered with funds, functions and functionaries, where as in the present context urban governance is characterized by fragmentation of responsibility, incomplete devolution of functions and funds, unwillingness to render municipal autonomy, adherence to outmoded methods of property tax and reluctance to levy user charges.^{xiii} Far from strengthening the constitutional role of the elected Urban Local Bodies, such developments only reinforce the perception that ULBs are subordinate entities under the day-to-day control of the state governments, beholden to them not only for the development of the cities but often for their very survival. There appears to be a lack of confidence

that many of the Urban Local Bodies are capable of meeting their obligations as institutions of local self governance. Seventy Fourth Constitutional Amendment Act can be realized only through the implementation of various institutional, financial and administrative reforms which will pave the way for enhancing service. Besides, there are many parastatal bodies exist that providing civic functions along with local representative body. But these are not accountable to the people, rather accountable to the State Government. This existing system creates a “paradox of multi-accountability”. It is quite contrary to the spirit of the constitutional provisions of the local governance which suggest that institutions of local governance should be accountable to the people.

Conclusion-

The new phase of decentralized democracy in India hence begins with a paradox. A very centralized instrument – ‘a constitutional amendment’ is used to empower a decentralized activity – ‘Urban Governance’. Here, the state government plays the mediator in the matter of decentralization of power; the Constitution does not directly empower the Local bodies. Again the Seventh schedule of our Constitution includes only Union and State Lists along with Concurrent Lists. There is no place for Local Lists.^{xiv} With the passage of the Constitutional Amendment Act, the states passed their own conformity legislation. At its passage, especially now after 23 years of its working, some critical concerns have been raised which need to be noted and assessed:-

(i) Recognizing that there is often a shadow between precept and practice, the first significant observation concerns that legal language of ‘shall’ and ‘may’ in the Constitutional Amendment Act. These operative words result in some provisions being mandatory on the states, when they frame their conformity acts, and some being non-obligatory. The situation remains unclear, having democracy but not decentralization.

(ii) Looking at the issues that have emerged consequent to the Seventy Fourth Constitutional Amendment, and to the observation it can be said that now there is political decentralization, but there are insufficient administrative and fiscal decentralization. By creating a third tier of government, by giving it constitutional status, by requiring states to pass their own conformity legislation within a year, by reserving seats for SC/ST and women, by creating an SFC, and an SEC, and by prohibiting supersession and suspension, the said Constitutional Amendment Act has created new political ‘spaces’ only.

(iii) The effective devolution cannot be achieved by merely making provisions on paper but its impact must be visible on the ground and should benefit the institutions and citizens as well. Perhaps amendments of the existing acts and other rules and regulations with regard to the issues therein are necessary as starter. Following are some recommendations based on the ground realities observed during this study on decentralization:-

- (a) Experience shows that functional autonomy becomes a reality only when it is accompanied by financial independence. State governments, therefore, need to strengthen the autonomous functioning of the Urban Local Bodies through positive measures, and in particular, has to ensure their financial self-reliance.
- (b) The roles of ULBs and parastatals, such as PHE, PWD, Development Authorities, different departments and their relationships need to be defined unambiguously.

(c) Again, the elected representatives are often ignorant about their legitimate rights. There is a need for capacity building of elected representatives on devolution of functions as per the Seventy Fourth Constitutional Amendment Act in order to make them aware and to generate demand from below. The elected representatives should be given some powers over para-statal and state agencies working within the local area as well. They should have legitimate right to raise question about the acts of these agencies and to press for better service provision.

(d) There is a need to define a clear role for the citizen groups or civil societies in the monitoring of municipal affairs in addition to participation through elected representatives in these local bodies.

As it is true that local government is a creature of the state government, State Government enacts statutes for local government. It is found that the urban local bodies are unable to perform their legitimate role though many municipal functions are withheld from them to be administered and performed by proliferating parastatal bodies which are non-constitutional in nature. They function within city limits and beyond but are not answerable to the local bodies. The mushrooming of these organisations create dichotomy in urban management. The rules for local governance are framed by the state government. Even the state governments are empowered to dissolve a faulty municipality at least for six months.^{xv} It is true that consequent upon the Seventy Fourth Amendment, there has been considerable progress in empowerment of municipalities. By and large, such empowerment remains confined to setting up of State Election Commission to conduct regular elections to Urban Local Bodies, constituting State Finance Commission for periodically devolution of funds as per award of Central Finance Commission and State Finance Commission. But little had been done so far to augment the capacity building of Urban Local Bodies and to upgrade their weak administrative setup.

The paper argues that Seventy Fourth Amendment Act is though a very important and forward step in the process of decentralization in urban areas, still it would remain an inadequate tool of urban local government unless these are entrusted with adequate funds, functions and functionaries. The implication of the paper is that the provision of decentralization is too little to produce any revolutionary and transformatory results without executing further reforms.

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^{xiv} All the 18 subjects of Twelfth Schedule of our Constitution, which are the responsibilities of the Municipalities, falling under the jurisdiction of either the State Lists or the Concurrent Lists of Seventh Schedule.

^{xv} The state Government may, by notification in Gazette, dissolve the Urban Local Bodies if the Government is of the opinion that the local body exceeds or abuses its power or is not competent to perform duties. The State Government may by an order in writing suspend and prohibit an order or a resolution of urban Local Bodies if the resolution is improper, cause or likely to injury or annoyance to the public or lead to a breach of peace.