

**STATUS REPORT ON CONFORMING LEGISLATIONS AND ACTION
TAKEN IN WEST BENGAL FOLLOWING THE CONSTITUTION (74TH)
AMENDMENT ACT, 1992.**

Mandate of the Constitution	Action taken
<p>Article 243Q envisages three types of Municipalities: Municipal Corporations for large cities, Municipal Councils for smaller cities and towns and Nagar Panchayats for areas in transition from 'rural' to 'urban'</p>	<p>Long before the 74th CAA came into force the Urban Local Bodies (ULBs) of West Bengal were categorised into three types i.e. Corporations for large cities, Municipalities for smaller cities and towns and Notified Area Authorities for transitional areas. Criteria for constitution of such three types ULBs were provided in the State Municipal laws. After the introduction of 74th CAA, the State Govt. by issue of Notification dt. 12.1.95 has, however, classified its ULBs into three categories as envisaged in the Constitution. Presently there are six Municipal Corporations, One hundred and sixteen Municipal Councils (Municipalities) and three Notified Areas (for transitional areas) in the State.</p>
<p>Article 243R provides for filling up of all seats in the Municipal Councils mandatorily by direct election. Apart from this, there are provisions for representation in the municipal Council of Members of Loksabha/Legislative Assembly (with voting rights) representing wholly or partially constituencies in municipal area and also of persons (without voting rights) having specialized knowledge or experience in municipal administration.</p>	<p>Since 1981 i.e. well before the 74th CAA was brought into force, general elections to the ULBs are being held at regular interval and at present 122 ULBs of the State are run by the representatives directly elected by the people. General Elections are going to be held in six ULBs, including three newly created municipalities, shortly and thus all the 125 urban bodies of this State will have elected bodies by July, 2002. Municipal laws have been amended to provide representation of persons having specialised knowledge or experience in municipal administration. No provisions have, however, been made for representation in the ULBs of the Members of the House of People and the Members of the Legislative assembly of the State on the ground that representation of Members of the Lok Sabha or State Assembly with voting rights may lead to confusion.</p>
<p>Article 243 S prescribes constitution of Wards Committees for groups of wards mandatorily for cities with population more than 3 lakh.</p>	<p>In keeping with the spirit of this Article, the State Govt. has made provisions in municipal laws for constitution of Borough Committees consisting of not less than six contiguous wards mandatorily for municipal corporations and also for municipalities having population 3 lakh or more and Ward Committee for each ward of each ULB irrespective of its population size. Manner of Constitution and functions of Borough Committee and Ward Committees have been prescribed by rules.</p>

<p>Article 243 T provides for reservation of seats (municipal Constituencies) for Scheduled Castes(SC), Scheduled Tribes (ST) and Women in municipal councils. The seats reserved for SCs & STs are to be in proportion to their population in the respective ULBs. Not less than 1/3 of the seats are to be reserved for women. This Article also provides for reservations in the office of Chairpersons for SC, ST, Women and other backward classes of citizens.</p>	<p>The State Government has made provisions for reservation of seats in ULBs in accordance with the Constitutional stipulation through the following enactments:</p> <ol style="list-style-type: none"> 1. The West Bengal Municipal Elections Act, 1994. 2. The West Bengal Municipal Elections (Reservation of Seats) Rules, 1994. <p>Legislature of the State, has, made provision in the Municipal Laws for reservation in the Office of the Chairperson.</p>
<p>Article 243U stipulates that the term of office of the Municipal Council will be five years from the date appointed for its first meeting and no longer. Moreover if a municipality is dissolved by the State Government, election to the same must be held within a period of six months.</p>	<p>Required provisions have been made in the Municipal Laws of the State. General Elections to the ULBs in this State are being held at regular interval since 1981 i.e. much before introduction of the 74th CAA. No ULB in this State was dissolved after the 74th CAA came into force and therefore holding elections to the dissolved ULB did not arise.</p>
<p>Article 243V deals with disqualification for being a member of a Municipality and prescribes minimum age (21 years) for being elected as a member of a Municipality.</p>	<p>Well before introduction of the 74th CAA, the State Legislature prescribed 21 years as minimum age for contesting municipal elections. Even the age of voters in municipal elections was reduced from 21 to 18 in the year 1978 before general elections to the ULBs in the year 1981. Necessary provisions have, however, been made in the Municipal Laws giving due regards to the Constitutional provisions.</p>
<p>Article 243 W It is the mandate of the Constitution that the municipality as institution of local self government will prepare plans for economic development and social justice and perform such functions and implement such schemes as may be entrusted to them by the State Government including those in relation to the matters listed in the 12th Schedule of the Constitution.</p>	<p>Long before the 74th CAA came into force almost all of the functions as specified in the 12th Schedule were incorporated in the municipal laws of this State. A very few necessary amendments were, however, incorporated in Municipal Acts as per amendments of the Constitution. Powers and functions of the municipalities have, however, been categorised into two types i.e. (1) Obligatory and (2) Discretionary. Presently the ULBs are performing almost all the functions except that relates to fire fighting.</p>
<p>Article 243X Article 243X deals with devolution of financial power to the ULBs by the State Government through (i) empowering the ULBs to impose tax, (ii) assigning to a</p>	<p>Well before introduction of the 74th CAA the State Government empowered the ULBs through enactment for imposition and collection of taxes and non-tax levies by the ULBs. the West Bengal Central Valuation Board was also set up with a view to attaining conformity and objectivity in valuations</p>

<p>municipality such taxes, duties tolls and fees levied and collected by the State Government and (iii) granting Grants-in-aid.</p>	<p>of lands and buildings in municipal areas. Apart from it, State Government shares the taxes levied and collected by it with the ULBs on the basis of the population size of the ULBs and other relevant criteria and also provides for Grants-in-aid under various plan and non-plan heads. Since the existing Municipal Laws contain such provisions, question of further amendment did not arise. State Government has, however, taken necessary steps for devolution of funds to the ULBs on the basis of the recommendations of the Tenth/Eleventh Finance Commission and the State Finance Commission.</p>
<p><u>Article 243 Y</u> prescribed that the State Government are mandatorily required to constitute State Finance Commission in every five year which would recommend the devolution of taxes, charges, fees, tolls, duties shared revenues and inter-governmental transfer to municipalities.</p>	<p>The State Government constituted the First State Finance Commission by a Notification dated 30th May, 1994 and the said Commission submitted its recommendations in 1995, relating to devolution of State Taxes, grants-in-aid and other matters and the State Government took action on the said recommendations. The Second State Finance Commission was constituted on 14.7.2000 and it submitted its recommendations to the State Government on 6.2.2002. The recommendations are now under examination of the Finance Department.</p>
<p><u>Article 243 Z</u> prescribes maintenance of accounts by the municipalities and audit of such accounts.</p>	<p>Long before introduction of the 74th CAA, provisions had been there in the relevant Municipal Laws for maintenance of accounts and audit of the same by the Examiner of Local Accounts, which is a wing of the Accountant General of West Bengal. Apart from it, provisions were there in the prevailing laws for constitution of Accounts Committee and internal audit of municipal accounts to keep checks and balance on municipal accounts. Further amendment in the existing Municipal Laws, therefore, was not called for.</p>
<p><u>Article 243 ZA</u> Under this Article the State Governments are mandatorily required to constitute State Election Commission for superintendence, direction and control of preparation of electoral rolls for an the conduct of elections to the municipalities.</p>	<p>In accordance with the stipulation of the 74th CAA, the State Election Commission was constituted under the West Bengal State Election Commission Act, 1994 by issue of a Notification. Preparation of electoral rolls and conduct of elections in respect of all the 125 ULBs of this State are undertaken under the superintendence, direction and control of the aforesaid Commission. The West Bengal Municipal Elections Act, 1994 was enacted for this purpose and the Rules (i.e. the West Bengal Municipal Elections (Registration of Electors) Rules, 1995 and the West Bengal Municipalities (Conduct of Election) Rules, 1995) were framed thereunder.</p>
<p><u>Article 243ZB</u> This Article is applicable to Union Territories.</p>	<p>Not applicable to this State</p>

Article 243ZC Saving provision for certain areas including Darjeeling Hill Council.	Necessary provisions have been made in the Municipal Act.
Article 243ZD This Article provides for constitution of District Planning Committee (DPC) for consolidating the plans prepared by the panchayats and municipalities in the district and for preparation of draft development plan for the district as a whole.	The West Bengal District Planning Committee Act, 1994 has been enacted by the State Government wherein provisions have been made for composition of the DPC, its term of office, powers, functions, etc. The State Government has also prescribed rules for carrying out the purpose of the Act. The District Planning Committees are in position and functioning in all the districts.
Article 243 ZE Under this Article the State Governments are mandatorily required to constitute a Metropolitan Planning Committee to prepare a draft development plan for the metropolitan area as a whole.	The State Government has enacted the West Bengal Metropolitan Planning Committee Act in 1994 and framed Rules thereunder. The West Bengal Metropolitan Planning Committee has been constituted and functioning.