

CHAPTER – III

SECTION – A

State – Municipal Relations in West Bengal: A Theoretical Concept

In conceptualizing Federal-State relationships, the theory of federalism is quite well developed. But central-local relationship is yet to produce a theory, which naturally renders the present analysis difficult. Discussions on local government and state-local relationships are often made on ad-hoc basis without going into the basic framework of relationship of the two levels of government. According to Mackenzie, “there is no theory of local government. There is no normative general theory from which we can deduce what local government ought to be; there is no positive general theory from which we can derive testable hypotheses about what it is. In fact, the subject is a very base one, if we measure it by academic standards; it has seldom been treated with elegance and precision, and if you scan the textbooks of political thought you will find no accounts or very shoddy accounts of theories about local government”.¹

Although, there is scarcity of general theory of local government, we shall try to find out the meaning and concept of local government for our purpose to find out state-local relationships from various academic instances in the field. According to Md. A.A. Khan, by local government is generally meant a system of territorial units with defined boundaries, a legal entity, institutional structure, powers and duties laid down in general and special statutes and a degree of financial and administrative autonomy. It is defined as the complex of elected authorities together with all the administrative machinery attached to it for the management of local affairs. Its institutions shall be under elective control. Hence, there can be no self-government without the principle of election. Thus, democracy and local government are linked together.²

Historically, there have been three contradictory views of how local government and democracy are related. The first view that of Toulmin Smith is a

cherished tradition in total opposition to elect democratic principles.³ The second view propounded by Longrod and Mouline is that the principles of democracy – majority rule, egalitarianism and uniform standards for all – cannot accommodate a claim of local government which is parochial, diverse, varied and potentially oligarchic. Longrod declared that, it was equally false to say that local government is an instrument for political education.⁴ The third view is that of John Stuart Mill's which holds that democracy and local self-government are necessarily related. He felt the need of local government on three grounds – (1) on the principle of division of labour; (2) local functions carry down the important political education to a much lower grade in society; and (3) those who have interest in common, may best manage their joint interest by themselves.⁵

The Indian tradition swings between both the extremes – democratic tradition of Liberals and centralized tradition of conservatives. This interplay of democratic tradition and centralism resulted in a *via media* theorization that local self-government is a must as no national democracy can be sound without local democracy. But at the same time, central control with extreme powers of supersession and dissolution is also necessary for the provision of better services.⁶

Thus, the character, quality, constitutional and legal status of local government are determined by a multiplicity of factors like national and local traditions, customary deference patterns, political pressures, party influences and discipline, economic resource controls and social organizations and beliefs.⁷

Political decentralization is the first step towards achievement of the fundamental objectives of decentralization. It provides a suitable structure of governance for the delivery of local public services. Economic decentralization defines the local functions and finances to match them in clear terms. It also prescribes the parameters of efficient production and delivery of local public goods and services. Institutional decentralization aims at an organizational framework with incentives and penalties to the providers of services to induce efficient performance. In the context of the above objective, the logical steps in

the municipal decentralization experiment in India ought to address both economic and institutional/organizational aspects. Autonomy, accountability and participation are some of the important issues should be analyzed first before grasping the State-Municipal relations in particular.

In the absence of ability to take decision independently, no municipal government can be expected to discharge its functions efficiently. The conditions for autonomy in local self-government include structural continuity, clarity in local functional responsibilities, elimination of uncertainties in municipal finances and independence from undue interferences from the higher levels of government in day to day decision making. In view of the steps taken by the conformity legislations for political decentralization, precise descriptions of various types of municipal functions and how each of them is to be financed are critically important. The circumstances for state intervention in municipal affairs also need to be spelt out as unambiguously as possible.⁸

Public accountability refers to holding individuals and organizations responsible for performance measured as objectively as possible. It ensures the congruence between public policy, public action and services and promotes the optimal use of scarce public resources. The effectiveness of accountability mechanisms depends on whether the influence of the concerned stakeholders is reflected in the incentive systems of the service providers. When the latter are seen to monitor performance consistent with the public policy and are motivated to pursue the attainment of public welfare, an effective public accountability system can be expected to emerge.⁹

The following arguments are given in favour of participatory local government – (i) participation in decision making regarding production and delivery of services by those who pay taxes and user charges and for whom the service is meant is likely to ensure efficiency and innovation in public service provisions; (ii) local self-government can cater to variations in tastes and preferences and needs of local residents as against provisions by central and state governments through a remote control system with little access to local information and (iii) closer to general public and influence groups is likely to

induce responsiveness to local problems, optimal use of local information, fiscal responsibility and accountability to people.¹⁰

The concepts of local autonomy on the one hand and state government control on the other are two contradictory aspects to be reconciled in the structure of the local governments particularly in their inter-governmental relationship. In fact, autonomy claimed and exercised by urban local bodies is not absolute, but relative in character. This is evident from the provisions of the basic statutes which set up the urban local bodies in various countries like England, France and to some extent in the USA.¹¹ Beyond the provisions of these statutes, it is relative to the demands of central economic management which are and were increasing in the present century under the requirement either of a Socialist state or of a Welfare state. Again, it depends upon the responsibilities and obligations to be discharged by the local authorities acting primarily as agents of the Central Government. All the above factors create tensions between demands of the Central Government upon urban bodies from an ample measure of congruence with the former on broad questions of national policy on one hand and the need for local independence for decision, on the other.¹²

The question of local autonomy vis-à-vis Central Government control is not a static issue. It has been made alive and dynamic by almost continuous debates to that effect. In USA, The Commission on Inter-Governmental Relations, rejected both the 19th century concept of inherent right of local bodies for self-government and Dillion – rule that local government is a creature of state and constitutes a convenient sub-division of the same.¹³ While rejecting these two extreme views, the Commission held that both the state and local government are partners for the welfare of the citizens.¹⁴ Ursula Hicks observed that, the relationship between the urban local government and the state government should be one of optional partnership between the two active and cooperative members, the state government all the same being definitely the senior partner.¹⁵ The Rural-Urban Relationship Committee states that, the interests of the local bodies and state governments are so closely related that a

high degree of coordination and cooperation is necessary between them. Due to increased mobility and speedy communications and change in the concept of governmental functions, many activities, which were formerly regarded as purely local, have now to be viewed in the national context. The State-Local Government relationship is, therefore, no longer to be considered from the antithetic angle of local autonomy versus state powers but rather form one of partnership and cooperation aiming to secure the best possible and most efficient service for the people.¹⁶ According to Maddick, the ultimate object of such 'partnership' should be establish an 'equal partnership'.¹⁷

To achieve a balanced State-local relationship, it is necessary for the state government to provide the right quantum as well as the right type of assistance to local authorities in order to invigorate and strengthen them. If the degree of control is too little, the control becomes ineffective and if it is too much, becomes oppressive. The golden mean between these two extremes suggests the ideal position.¹⁸ In this connection, the Rural-Urban Relationship Committee states that, to achieve the objectives of urban- local bodies, there must be a working relationship which implies on the part of the State Government an increased emphasis on guidance, research, advisory and consultative services, technical assistance and training programmes; and on the local governments' side a genuine concern for improving their processes and procedures to the end that decisions can be made and implemented speedily and efficiently. Since the local government has a direct and profound effect on the working of the democratic system, the State Government has to provide the right quantum as well as the right type of assistance to the local authorities to invigorate and strengthen them.¹⁹

However, while controlling the urban local bodies, the following factors have to be strictly adhered to:

- (i) municipal bodies are democratic institutions consisting of elected representatives of the local community. In controlling them, this democratic process should not be subjected to the autocratic whim of the State Government; and

- (ii) the autonomy of the local bodies should not be tempered with. Too much interference will affect their autonomy and frustrate the basic purpose of having a system of local government.²⁰

Therefore, the State Government's control and supervision can be oriented towards the building of a healthy and sound municipal administration. Only then control turn out to be a constructive and useful factor in providing necessary stability and efficiency to urban bodies. The Taxation Enquiry Committee set up by the Government of India viewed the question of state control over the local bodies in the context of the Parliamentary Democratic System of India. It observed that, the State Government as constituting the representative institutions has a vital role to play in ensuring the proper functioning of local bodies. It is their responsibility to see that the local bodies are efficiently organized, that they perform their functions properly and they take adequate part in the development of the country.²¹ The Zakaria Committee (1963) insisted on better utilization of existing resources coupled with shared revenue of certain taxes and some state grants-in-aid scheme. The approach advocated by Rural-Urban Relationship Committee (1966) was novel. In the first place, it suggested an exclusive list of local taxes to be exploited by the municipalities; second, it suggested a rationale scheme for grants-in-aid keeping in view the 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 expenditure of the country, i.e., it sought to integrate local finance with state finance and ultimately with national finance.

State Control over Urban Local Bodies in India:

In the Constitution of India, while the Directive Principles of State Policy refer, albeit glancingly, to village panchayats, the reference to urban local self-government was confined to an implicit mention in entry five of the State List. While Article 40 of the Constitution casts a mandate on the state to ensure the working of the village panchayats, there was no corresponding mandate

regarding urban local bodies. This had led to an anomaly in that one category of local government was fortunate enough to acquire the status of local self-governing unit constitutionally, while the other had been deprived of that opportunity.

The Constitution of India had no doubt bracketed the Central, State and local government as 'State' in Article 12 of the Constitution. But they could be distinguished from one another in respect of the receipt of popular mandate. The Central and State government received mandate from the Constitution and constitute the locus of legal sovereignty, while the local government enjoyed authority under statutory law. The former exercised original authority, while the later exercised delegated authority. But the later also received popular mandate from its local electorate. Thus, the responsibility of local government was both upwards and downwards, perhaps, more significantly downward because of the popular mandate that provided it a fresh lease of life.²² It is the State legislature which has had the authority to create and regulate the self-government. Additionally, the Constitution of India did not prescribe the powers, functions, duties and responsibilities of the local bodies and they were merely treated as creatures of state government, with the result that the state government could take away their lives as it breathes life into it.²³ The Rural-Urban Relationship Committee also stated that, the State Government's supervision and control was mainly directed towards securing the proper performance of the functions entrusted to local authorities without any conscious effort to make local government institutions grow.²⁴

The state control over local bodies assumed three forms i.e., legislative, judicial and administrative. The legislature and the courts however, came into the picture occasionally, the former when the law had to be enacted or changed and the latter when any action of the Government or the local authority was challenged on legal grounds. The law often gave wide powers of administrative and financial control to the state government. This was the most important basis of the state government's authority to control the local bodies through the following mechanisms.

The techniques of supervision and control as exercised in the States was handed down by the colonial rule. Some of them were indirect and less rigorous such as giving directions, calling for information and reports, review of local action, conditional grants-in-aid etc. Others were more drastic and took the form of the annulment of local decisions, prior approval of local actions, action in default, suspension and removal of elected members and dissolution and supersession of the Council. The latter types of control were negative and their frequent exercise had adverse effect, undermining the confidence of people in the system of local government. By and large, the techniques of supervision and control in India – specially in the urban areas had remained rather static, unimaginative and negative.²⁵ It was found that, in most urban areas, municipal bodies were either non-existent or had been superseded, or had been in existence for long periods without elections being held. In the middle of 1981, it was found that as many as 1700 municipalities out of 2000 all over India had no elected boards. Also as many as 47 out of total 66 municipal corporations remained superseded till the end of 1983.²⁶

Thus, from the above analysis and instances, we are in a position to say that, the state laws which was governing the civic bodies had been drafted decades ago were inadequate to fulfil the needs of a growing population. At the same time, the laws and statutes governing the local bodies and above all the political will of the party in power in the state government did not give the opportunity to the urban local bodies to grow as a unit of local self-government in India. As a result, the urban local bodies born and grown up as a retarded child of the Indian federation till the enactment of the 74th Constitution Amendment Act 1992.

Urban Local Self-Government and the 74th Constitution Amendment Act 1992:

The 74th Constitution Amendment Act 1992, is a landmark initiative of the Government of India to strengthen local self-government in cities and towns. It is built upon the premise that all 'power' in a democracy rightfully

belongs to 'the people'. It prescribes that the elected municipal representatives must have a decisive role in the planning, provision and delivery of civic infrastructure and services. Accordingly, the Act stipulates that if a Municipality is dissolved by the State Government, election to the same must be held within a period of six months. Moreover, the conduct of municipal elections is entrusted to statutory State Election Commission, rather than being left to executive authorities. The mandate of the municipalities is to undertake the tasks of planning for 'economic development and social justice' and implement city/town development plans. This role is much larger than what is traditionally perceived of them as providers of services. The 74th Constitution Amendment Act possess many challenges, however, it also opens up many opportunities for reforms in the urban sector.

The above mentioned Act aims at a transformation in the structure of urban service delivery. The starting point for the same is municipal governance. The Act envisages three types of municipalities: Municipal Corporations for larger cities, Municipal Councils for smaller cities and towns and Nagar Panchayats for areas in transition from rural to urban. To ensure that the municipalities are sensitive enough to the problems of weaker sections and women, the 74th Amendment provides for reservations for Scheduled Castes, Scheduled Tribes and women in municipal councils. The seats reserved for SCs and STs are to be in proportion to their population in the respective cities and towns. A minimum of 33, 1/3rd percent of the seats are reserved for women. The objective behind the reservation is to provide voice to those who were neglected in the past.²⁷

In addition to a representative municipal government, a number of other important conditions are essential for improving urban service delivery. Firstly, the municipalities should be in a position to gather knowledge on the problems faced by various localities and residents and prioritize them. They must be close to the electorate and familiar with the tastes and preferences of population segments and their tax-paying capacities. Secondly, the functional domain of the municipalities must be clearly defined vis-à-vis other levels of government. Only

when there is no overlapping in the functional responsibilities of the municipal and higher levels of government will it be possible to fix accountability on part of the municipal councils and officials for their acts of commission and omission. Thirdly, the municipalities' should be endowed with sources of revenue commensurate with their obligatory duties. Functions and finances must go together as unfunded mandate strike at the very root of autonomy and efficiency. The system of service delivery must be transparent and responsive; the service providers need to be accountable to the elected councils and the public. They should face appropriate checks and balances as well as incentives and disincentives.²⁸

The 74th Constitution Amendment Act 1992, approaches some of the above issues as follows:

- (i) The constitution of Ward Committee for group of wards is mandatorily prescribed for cities with more than 3 lakhs population with no bar for the constitution of such committees in cities/towns with lesser population with a view to take municipal governance closer to the people.
- (ii) An illustrative list of legitimate municipal functions is provided in the 12th Schedule for guiding the State Governments in the assignment of responsibilities to the urban local bodies.
- (iii) The constitution of District and Metropolitan Planning Committees for the preparation of District and Metropolitan Development plans is mandatory.
- (iv) The State Governments are required to specify the sources of municipal finance 'by law'. It is mandatory for them to constitute State Finance Commissions once in every five years which would recommend the devolution of taxes, charges, fees, tolls, duties, shared revenues and inter-governmental transfers to municipalities.
- (v) The Act envisages a systematic change in municipal governance in the country. It prescribes an institutional framework for the

efficient delivery of urban services. The framework consists of a number of statutory institutions which include:

- (a) Municipalities (Article 243 Q);
- (b) Wards Committees and Special Committees (Article 243 R);
- (c) State Election Commission (Art. 243 K of 73rd Amendment);
- (d) District Planning Committee (Article 243 ZD).

The said Amendment Act also declares that, the municipalities to function as “institution of self-government” – prepare “plans for economic development and social justice”, perform functions and implement schemes as may be entrusted to them by the State Governments including those related to the 12th Schedule [(Article – 243W) (a)].²⁹

The 74th Constitution Amendment Act 1992, envisaged the State Governments and Union Territories to take initiative to enact new legislations or amend the existing laws by 31st May 1994 to bring them in conformity with the Constitutional provisions. As a sequel of the 74th CAA, the Government of West Bengal, on 21st July 1993, passed a Bill, known as “West Bengal Municipal Act 1993”. The urban local bodies in West Bengal at present are functioning under the umbrella of the West Bengal Municipal Act 1993. Now we shall try to find out what kind of State-Municipal relation prevailing in West Bengal under the said Act and how far the municipalities been able to achieved the status of ‘Self-Government’. In course of our analysis, our emphasis will be concentrated only on three perspectives – State-Municipal functional relations, administrative relations and financial relations.

SECTION – B

State-Municipal Functional Relations in West Bengal

The Twelfth Schedule of the 74th Constitution Amendment Act 1992, provides the basis for state legislature to assign functions to the municipalities in

the respective states. The Twelfth Schedule includes 18 items and provides an illustrative list of functions. The state governments were accordingly expected to review the functions entrusted to municipalities and formulate a new set of municipal functions while amending or enacting conformity legislations. Accordingly, the Government of West Bengal passed a Bill in conformity with the 74th Amendment Act, known as the West Bengal Municipal Act 1993. The said Act contained a large list of municipal functions under two heads – obligatory and discretionary functions.

The Section 63 of the West Bengal Municipal Act declares that, “it shall be the obligatory duty of every Municipality to make reasonable and adequate provision for the following matters within the territorial limits of municipal area and the financial means at its disposal”.³⁰ The obligatory functions have been categorized under four broad titles and each category contains a large list of functions as follows.

- (i) Functions related to Public Works. This category contains total 10 functions like water supply, construction and maintenance of drains and sewers, sanitation, roads, street lighting, markets etc.
- (ii) Functions related to Public health and sanitation. This group contains 13 functions connected with garbage collection, solid waste management, supply of drinking water, abatement of nuisances, preventing and checking the spread of dangerous diseases etc.
- (iii) Functions related to town planning and development. This category contains total 12 number of functions, relating to town planning and development, improvement of slums, implementation of Building Rules and construction, maintenance of parks, play grounds, town beautification etc.
- (iv) Functions related to administrations, and this group contains 15 number of functions in connection with Survey of Buildings and lands, removal of unauthorized encroachment, securing or removal of dangerous buildings and places, registration of births and deaths, preparation of Annual Administration Report etc.

Thus, the West Bengal Municipal Act 1993, has an elaborate listing of 50 obligatory functions under Section 63 of the said Act.³¹

Section 64 of the WBM Act, contains a large list of municipal discretionary functions. The Section, states that, a municipality may, at its discretion, provide either wholly or partly, out of the municipal property and fund, for the matters connected with – (i) Public works; (ii) education; (iii) public health and sanitation; (iv) administration and (iv) development, within the limits of the municipal area.³² Thus, additionally, the Act also lists 40 functions, which the municipality may provide at its discretion. This Section again, states that, “generally, taking all measures not specified in the foregoing provisions of this section, which are likely to promote public safety, health, convenience, education or welfare of the community”.³³

From the above analysis it reveals that, the West Bengal Municipal Act 1993, under its Sections 63 and 64 has devolved much more functions to the municipalities than contains in the Twelfth Schedule of the 74th Constitution Amendment Act 1992.

Section 65 of the West Bengal Municipal Act 1993, contains the matters relating to transfer of functions of State Government to the Municipalities. The Section states that, “(i) notwithstanding anything contained in this Act or any other law for the time being in force, the State Government may, subject to such conditions as it may think fit to impose, transfer, by an order, published in the Official Gazette, to a municipality any such functions and duties relating to Government under any law which the State Legislature is competent to enact, or which is otherwise within the executive power of the state, and appear to relate to matters arising within a municipal area being of an administrative character, and shall, on such transfer, allot to the municipality such fund and personnel as may be necessary to enable the municipality to discharge the functions and duties so transferred”.³⁴ This Section includes 17 items which the State Government may transfer to the municipalities on condition that,

- (a) the order of transfer must be published in the Official Gazette;
- (b) the functions and duties must relate to Government under any law;

- (c) the said law must be such as the State Government is competent to enact or will be exclusively a State Subject as provided in List 11 of the Seventh Schedule of the Constitution;
- (d) the functions and duties sought to be transferred must appear to relate to matters arising within the municipal area; and
- (e) the functions and duties must be of an administrative character.

Section 66 of the WBM Act 1993, empowers a municipality to transfer any function of a Municipality to any organization. This Section declares that, “notwithstanding anything contained in this Act or in any other law for the time being in force, the Municipality may, if it is of opinion that it is necessary so to do in the public interest, transfer, with the prior approval of the State Government, any function or functions of the municipality under this Act to any organization, including a Government organization, in such manner, and on such terms and conditions, as may be prescribed, provided that such transfer of function or functions of the Municipality to such organization shall not absolve the Municipality from the responsibility of carrying out and the provisions of this Act in relation to the function or functions so transferred”.³⁵

Section 66 reserves the power of the Municipality to transfer any function of the Municipality to an organization Government or Private. For this transfer two conditions are – (a) Municipality must form an opinion that it is necessary to do so in public interest and (b) such transfer must be preceded by the approval of the Government. These guidelines control the transference of function.

As far as the Municipalities are concerned, the 12th Schedule indicates a list of 18 Municipal functions. However, a comparison of the conformity legislations of States (Kerala developed 11 additional functions with 98 sub functions, Tamilnadu 15 additional obligatory functions, West Bengal 50 obligatory functions) reveal that there exist wide variations in the perceptions of the state Governments regarding the assignment of non-traditional municipal functions such as – (a) Protection of the environment and promotion of ecological aspects; (b) safeguarding the interests of Weaker Sections of society, including the physically handicapped and the mentally retarded; (c) Slum

improvement and upgradation; (d) urban poverty alleviation and promotion of cultural and aesthetic aspects. Moreover, the WBM Act has provided for 'obligatory' and 'discretionary' municipal functions and functions 'as may be assigned' by the State Government from time to time. There is a need for removing ambiguities and clarifying the assignment of functions to the municipalities. The assignment of municipal finances and enforcement of managerial accountability can not be meaningful without this clarity. Where every one is responsible, no one is accountable as no one may really accept 'ownership' of the functions.³⁶

The 12th Schedule lists out in all 18 functions many of which have traditionally been local functions though some of them are unconventional and even ambitious in nature for the municipal authorities. Urban planning, regulation of land use construction of buildings, roads and bridges, water supply and slum improvement form part of the 12th Schedule and hence it suggests that the era of constituting specific purpose authorities by withdrawing such functions from the municipal arena will come to an end with the enactment of the 74th CAA and conformity state legislations. It also gives an impression that henceforth the gradual state encroachment on municipal functional domain will stop altogether as these have been specified in the new Schedule of functions.

However, a closer look at the enabling provisions does not make it look like so. This is primarily because of the discretion, which the Constitutional Amendment has again given to the State Government. Left to the State Governments, the devolution of functions is not supposed to be complete and all pervasive. Drawing from the experience of indifferent attitude of the State Governments in the past, the CA should not have left the actual devolving of functions on the will of the State Governments who are required to push through new enactments providing for local functions according to the new Schedule.³⁷ For incorporation of the new spirit of the CAA, in the new Legislation is almost a patchwork rather than all together a new enactment. This being a patchwork, the functional domain continues to be what it has been in the past. Parastatal organizations and specific purpose authorities like the Slum

Clearance and Improvement Board, Water Authorities, Public Health Engineering, Urban Development Authorities and the like still thrive in the state and the traditional municipal functions as fragmented as before.³⁸ It is worth recapitulating that all such functions are listed in the 12th Schedule are to be devolved to the municipal authorities what was therefore required was to provide for a local list of functions in the Constitution in unambiguous terms, the 12th Schedule ought to have been made mandatory, not discretionary.³⁹

Another area of doubt relating to the devolution of functions pertains to the nature of some of the functions, which seem to be quite ambitious and even redundant and irrelevant for the municipal authorities. Planning for economic and social development, protection of the environment and promotion of ecological aspects, urban poverty alleviation are functions, which belong to this category. It is not that these are not important functions. Performance of such functions requires a much strong financial capability and human resources, which the municipal bodies are lacking miserably. With the existing funds they are not in a position to discharge even the basic functions. Even the provisions relating to strengthening of their financial base are not like to achieve this objective in the near future as discussed subsequently. To expect them to discharge these functions efficiently and effectively, therefore seems to be a tall order indeed.⁴⁰

A comparison between the newly enacted Bengal Municipal Act 1993 and the Calcutta Municipal Corporation Act 1981, with regard to municipal functions reveals interesting differences. While the WBMA has added a large list of functional jurisdiction, the Calcutta Bill adopted a somewhat limited range of municipal functions. The issues that need considerations are – (a) whether the municipal functional jurisdictions should be wide-ranging or limited and precisely indicated; and (b) whether there is any advantage in distinguishing between the obligatory and discretionary municipal functions? What is important in a discussion of municipal functional domain is not so much the permissive range of municipal discretion, but the actual operative municipal jurisdiction. Judging from this angle, it is easy to point out that the operational part of

municipal functional responsibility is severely constrained by inadequacy of resources.⁴¹

Another source of confusion in the State-Municipal functional jurisdiction arises from the division of a specific function in terms of its development and maintenance components. The state agency being entrusted with the development responsibilities, while the municipal authorities are supposed to look after its maintenance. Since this is not a functional division, but a process separation, it is extremely difficult to maintain a judicious balance between the separated activities under dual control. The municipal functional domain gets distorted due to this type of process separation, leading to conflicts at the time of handing over the capital assets to the municipalities for operation and maintenance.⁴²

The State Finance Commission in West Bengal 1995, evaluated the provisions regarding municipal functional domain and state-municipal functional relations as envisaged in the WBMA-1993 as follows.⁴³

Firstly, the 74th Amendment listed 18 items of Municipalities. The lists are fairly exhaustive. Yet, if a view is taken that priorities of what are to be done should be chosen by the local governments themselves, then these lists do not quite fit in. Even exhaustive lists are a kind of directive handed down from above as to what to do and run counter to the idea of giving freedom to local governments to decide their own priorities in regard to their own areas. The Commission suggests that, local governments in West Bengal should regard these illustrative lists and go beyond them and do whatever is necessary to improve the life and living in their respective communities. Since they will be functioning with limited resources, priorities have to be chosen and they are the most suitable agencies to choose those priorities. They may sometimes make mistakes but then mistakes are made in higher levels of Governments also.

Secondly, the District Planning Committee (DPC), as provided in the legislation following the 74th CAA, has been given a constitutional status, which no planning body at any Government level now enjoys. Its task will be to integrate the plans prepared by the Panchayats and Municipalities into a

consolidated district plan. Despite the status, its function is limited to planning and monitoring only and the point as to who will implement the plan remains to be answered. The 73rd and 74th CAA deals with rural and urban areas separately and no provision has been made for an overarching administrative structure. In such a situation, the commission recommends not for a singular agency for plan implementation but all Panchayats and Municipalities and development departments will be implementing the programme under the over all supervision of the DPC.

Thirdly, the Commission recommends that the planning process within a district needs reorientation. At present, in the preparation of district plans, a parallel process of planning is followed. On the one hand, the three tiers of panchayats and municipalities in a district prepare a plan based on funds provided directly to them by poverty alleviation and similar programmes; on the other, departmental plans are handed down to district officials from above. The two are added up at the DPC level and called a district plan. The dichotomy endures. The departmental plans are implemented independently by related officials and lower tiers of Panchayats, in particular have no say in the matter unless they are requested to lend a helping hand. At the Panchayat Samiti level, the dissociation is nearly complete and departmental officials follow their own ways with Panchayat Samities having virtually no voice. This is a consequence of the traditional vertical line of functioning. The district plan as it stands today is really a splintered plan. The amount of money spent in developmental plans in a district is much more than that handled by panchayats and municipalities. The operational part of district planning process continues to be dominated by officials rather than peoples' representatives.

Fourthly, the planning process should start from lowest units. But the another gray area of the CAA as well as WBMA pertains to the functions to be performed by the Ward Committees. It simply talks of devolving to them such functions by the State Governments, which may be necessary to enable them to carry out responsibilities, conferred upon them. Thus the second tier of local government has been created without specifying the functions to be performed by it.

Fifthly, it is not only a question of aggregation but also of taking decisions on priorities, which will be the concern of the DPC. In this process, adequate respect should be paid to the priorities suggested by local bodies, based on their appreciation of the local needs. Plan targets have to be balanced against available resources.

Sixthly, the Commission feels that there should be a clear demarcation between the works under the State Plan Sector and the District Plan Sector and there should be list of works entrusted to these sectors set forth in a Government notification, in a manner somewhat similar to the division of powers between the centre and the state governments in the Seventh Schedule of the Indian Constitution. Funds for the State Plan Sector and the District Plan Sector may be disaggregated according to these lists. Unless this is done, the local self-government units will not be able to function effectively as a 'third tier' of the Government.

Seventhly, the Rural-Urban Relationship Committee 1966, made a study of the expenditure pattern of 100 local bodies with a view to forming an idea of the adequacy or otherwise of municipal services provided by them. The study revealed the gross inadequacy of municipal services in all classes of towns, except in a few cities. It was evident that the essential obligatory duties were not being performed properly by even bigger urban local bodies. The position in small urban local bodies was worse.⁴⁴ This experience reveals that enactment or amendment of statute and providing with large lists of functions to urban local bodies cannot be the guarantee of sure success in the performance of municipal governments. It is a means, not an end of the local bodies to ascertain the local autonomy.

Eighthly, whether it was necessary to make any distinction between obligatory and discretionary functions. On the other hand, enumeration of a large number of functions and their detailed breaking up into obligatory and discretionary, does not in any way help in their proper performance. The RURC also viewed the division of municipal functions in the same way and stated that, it was not unusual that obligatory functions remain unattended to while the

funds were diverted to discretionary activities. The Committee felt that, if the statute makes some duties obligatory, the State Government can always call the local bodies to account for their failure to perform such tasks, but in respect of discretionary functions or in the event of no specific mention of obligatory functions, the State Government will not have the power to take action against the defaulting municipal body. Thus, it reveals that, the statute should set out the essential duties that must be performed by every municipality. The municipal bodies should also be given the option to undertake such desirable functions or services, as may promote development and generally help in the improvement of community amenities and civic facilities.⁴⁵

Lastly, there are large number of functions of local bodies are the same as those of the State Government. The working of the State Government differs from that of local bodies not so much in content, as in degree and extent e.g., education, health, housing etc. It should be the policy of the State Government to utilize local bodies, to the maximum extent, for the performance of the local tasks, retaining to themselves the tasks of planning and provision of technical guidance and help and execution of works covering large areas and regions.⁴⁶

However, the WBMA 1993, baring few limitations is undoubtedly a great step towards the strengthening of urban local bodies by providing a large list of municipal functions. Municipal bodies have traditionally enjoyed necessary powers for improvements in water supply, conservancy, drainage, lighting, streets, public buildings, markets and slaughterhouses etc. Regulation of building activities according to approved building rule is also an established municipal function. The WBMA 1993, delegates such powers to Municipal bodies in a wider range of functions. Apart from their regulatory jurisdictions over streets and building activities and civic services such as water supply, drainage and sewerage, conservancy, solid waste management, markets, slaughterhouses, burning ghats and burial grounds. The Municipalities also have to look after community health and public safety issues. They are also empowered to register births and deaths and maintain vital statistics.

Secondly, specific powers have also been vested in Municipal bodies for area development and slum improvement works. Municipalities may also be

authorized to prepare master plans for land use and regulation of other activities in terms of the Town and Country (Planning and Development) Act 1979. Such master plans may, with the approval of the State Government, also cover adjacent areas outside the Municipalities and, for such areas Urban Development Committees may be set up.

Thirdly, Section 75 of the WBM 1993, vests in the Municipalities all vested public lands, all public tanks, well etc; all public streets, pavements, sewers and drains; all public markets, paths and gardens, ghats etc. However, considerable confusion prevails over this provision and the State Government is yet to clarify the issue to the satisfaction of the municipalities.

Lastly, the powers and functions of Municipalities include obligatory and discretionary functions, apart from transferred functions of the State Government rather like the functions of Panchayat bodies in the West Bengal Panchayat Act 1993. The 1993 legislation has brought the transferred function inline with 74th CAA. However, unlike panchayats, very few Government programmes have been actually entrusted to the municipalities for implementation.⁴⁷

SECTION – C

State-Municipal Administrative Relations in West Bengal

The Rural-Urban Relationship Committee, viewed that, one of the main weaknesses of municipal government in India had been the absence of a well-organized and effective system of personnel administration. The essential ingredients of an effective local service, as indeed of any other service, are integrity, competence, impartiality, contentment and devotion to duty. These ingredients were generally absent in the services of local bodies.⁴⁸ State Finance Commission, West Bengal 1995, views that, when giving more powers to

municipalities is the aim, devolution only of funds will not be enough; the question of availability of staff to utilize the funds to desired ends also has to be settled. The two issues of funds and staff are intertwined.⁴⁹ The Commission also states that, municipalities grew up largely on their own with no major staff support or even no approved staffing pattern. The West Bengal Municipal Act 1993, provides for officers such as Executive Officer, Municipal Secretary, Engineer etc. but allows the State Government to determine the posts in respect of municipalities. The Act also provides for the State Government framing norms regulating the size of the municipal establishment for each group of Municipalities. Therefore, we shall try to deduce state municipal administrative relations in West Bengal from the above mentioned WBMA-1993.

Section 12 of the WBMA, in connection with the Municipal authorities, states that, “the municipal authorities charged with the responsibility of carrying out the provisions of this Act, for each municipal area, be as follows – (a) the Municipality, (b) the Chairman-in-Council and (c) the Chairman”.⁵⁰

Section 13 states that, “the Municipality established for a town shall mean the Board of Councillors charged with authority of municipal government of the town”.

Section 15 of the WBMA states that,

- (i) there shall be a Chairman-in-Council consisting of the Chairman, the Vice-Chairman and other members not exceeding, in the case of a municipal area included in Group-A -- five, Group-B – four, Group-C – three, Group-D – two and Group-E – one;
- (ii) the Vice-Chairman and other members referred to in sub-section 1 shall be nominated by the Chairman from amongst the Councillors of the Municipality as soon as possible after he enters into office;
- (iii) all executive powers of the Municipality shall vest in the Chairman- in-Council;
- (iv) the manner of transaction of business of the Chairman-in-Council shall be such as may be prescribed; and

- (v) the Chairman-in-Council shall be collectively responsible to the Municipality.⁵¹

Section 16 declares that, (i) the Chairman shall be the executive head of the Municipality, and the municipal administration shall be under his control. (ii) The Chairman shall allocate the business among the members of the Chairman-in-Council as well as the Board of Councillors. (iii) The Chairman shall preside over the meetings of the Chairman-in-Council as well as the Board of Councillors. (iv) The Chairman may transact any business or make any order authorized by any law for the time being in force, unless it is otherwise expressly provided in such law: provided that the Chairman shall not act in opposition to or in contravention of any decision of the Board of Councillors.

Section 53 of the WBMA in connection with municipal establishment states that -- (i) save as otherwise provided in this Act, a Municipality may have the following officers -- (a) an Executive officer; (b) a Health officer; (c) an Engineer; (d) a Finance officer; (e) a Medical officer; (f) a Secretary; (g) an office Superintendent; (h) one or more Sub-Assistant Engineer; (i) one or more Sanitary Inspector; (j) a Head Clerk; (k) a Head Assistant; (l) an Accountant; (m) a Surveyor; (n) a Draftsman; and (o) such other officers as may be designated by the *State Government in this behalf*. Provided that the State Government may reduce the number of posts of officers as aforesaid for any municipality. Provided further that the State Government may by order redesignate any of the posts of the officers as aforesaid in respect of any Municipality.⁵²

(ii) Until the cadre of common municipal service for the state is constituted under sub-Section (1) of Section 54, and subject to the provisions of Sub-Section of this Section, the Board of Councillors may, at a meeting, determine which of the officers referred to in Sub-Section (1) of this Section are necessary for a municipality, and, *with the prior sanction of the State Government*, create posts of such officers and fix the salaries and allowances to be paid and granted to such officers.

(iii) The Board of Councillors at a meeting may, subject to the norms regulating the size of the municipal establishment for each municipality and the

categories and designations of officers and other employees of each municipality with their scales of pay as *may be fixed by the State Government from time to time, determine what officers and other employees, other than the officers mentioned in Sub-Section (1), are necessary for a municipality, create posts of such officers and other employees, and fix the salaries and allowances to be paid and granted to such officers and other employees.*

(iv) Subject to the norms regulating the size of a municipal establishment as may be fixed by the State Government under Sub-Section (3), no post of an officer or other employee shall be created under Sub-Section (3), by the Board of Councillors of a Municipality without the prior sanction of the State Government, if the number of posts to be so created in a year for a Municipality is more than one percent of the total number of sanctioned posts of officers and employees in existence in the year immediately preceding, provided that the number of posts so admissible for creation in a year without the prior sanction of the State Government after the commencement of this Act, if not created in that year, may be carried forward to the next year, subject to a minimum of one and a maximum of ten.

(v) Notwithstanding anything contained in Sub-Section (1), (2) (3) or (4), the Board of Councillors of a Municipality may, with the prior sanction of the State Government, create, if it considers necessary so to do for due discharge of municipal functions, a post of an officer or other employee which is not included in the norm as may be fixed by the State Government under Sub-Section (3), and fix the salaries and allowances to be paid and granted to such officer or other employee.

(vi) Until norms are fixed under Sub-Section (3), no post of any officer or other employee shall be created by the Board of Councillors of any Municipality without the prior sanction of the State Government.⁵³

Section 54 of the WBMA, states that, (1) The State Government may constitute a cadre of common municipal service for the state in respect of such officers of the municipal establishment referred to in Sub-Section (1) of Section 53 as may be determined by it from time to time.

(2) The Director of Local Bodies shall be the appointing authority of all officers and employees borne in the cadre of common municipal service. The Director of Local Bodies shall be the authority to transfer the officers and employees of the cadre of common municipal service from one municipal area to another.

(3) The appointment of all other officers and employees shall be made by the municipality provided that the State Government may determine the category and the scale of pay of a post to which no appointment shall be made by the municipality without the prior sanction of the State Government even though the creation of such post is within the limit of one percent of the total number of sanctioned posts of officers and other employees in existence in the year immediately preceding.

The recruitment to the posts of officers and other employees not required to be made through the Municipal Service Commission constituted under Sub-Section (1) of Section 55, shall be made through the local employment exchange or through such other method as the State Government may determine from time to time.

(4) Save as otherwise provided in the WBMA, the State Government may by rules provide for the qualifications for appointment, conditions of service and other allied matters relating to the officers and employees of Municipalities.⁵⁴

Section 55, of the WBMA states that, the State Government may constitute a Municipal Service Commission consisting of a Chairman and two other members for selection of such personnel of municipal officers and employees as may be prescribed.⁵⁵

Section 59 of the WBMA has provided the power to the municipalities to declare essential service in municipalities. The Board of Councillors of a municipality may, with the sanction of the State Government, declare any cadre or class of municipal employees to be in essential service and upon such declaration, no employee of such cadre or class shall withdraw from his duties

without the permission of the Chairman and, in no case, without giving prior notice of clear thirty days to the Chairman of his intention so to do.⁵⁶

Section 60 of the WBMA, declares that, the State Government may appoint an officer of that Government possessing such qualifications as may be determined by it for a Municipality or a group of Municipalities as Executive Officer, Health Officer, Engineer or Finance Officer referred to in Sub-Section (1) of Section 53 or with such designation as the State Government may consider necessary, in such manner, and on such terms and conditions of service, as may be determined by the State Government in this behalf. The expenditure on account of salaries and allowances of any such officer shall be borne by the State Government.

This Section also states that, the officer so appointed shall be under the administration control of the Board of Councillors of the Municipality and may be withdrawn by the State Government *Suo motu* or if a resolution to that effect is passed by the Councillors at a meeting called for this purpose by a majority of the total number of members holding office for the time being and, in case of group of municipalities, if such resolution is so passed by the Councillors of the majority of such group of Municipalities.

Section 60A has provided the powers and functions of the Executive Officer and Finance Officer by declaring that –

- (1) The Executive Officer shall be the principal executive officer of the Municipality and all officers and employees of the Municipality shall be subordinate to him. He may be required to be present at a meeting of the Councillors or of any Committee by the Chairman to make statement or to explain facts, but he shall not vote for or against, or make, any proposition at such meeting.
- (2) Subject to the supervision and control of the Chairman, the Executive Officer and the Finance Officer shall exercise such powers and perform such functions as may be notified by the State Government from time to time.⁵⁷

Section 61 of the WBMA, states about the classification, control and appeal of the municipal officers and other employees of a municipal administration as follows:

- (1) The Chairman shall be the executive head of the municipal administration and shall exercise control over all officers and employees in the matter of discipline.
- (2) The Chairman may delegate his power to any other member of the Chairman-in-Council or an officer of the Municipality in such manner as he may specify by an order.
- (3) The punishment for breach of discipline may include dismissal from service, reduction in rank, withholding of increment, suspension including suspension pending proceedings, fine and censor.
- (4) In all disciplinary matters involving dismissal from service and reduction in rank, an appeal shall lie before the Board of Councillors, which shall be the appellate authority.
- (5) No disciplinary action shall be taken by a Municipality against any officer borne in cadre of Common Municipal Service for the State constituted under Sub-Section (1) of Section 54 or any officer of the State Government appointed for a Municipality or group of Municipalities under Section 60.
- (6) The State Government may by rules provide for the norms of conduct of the officers and employees of the Municipalities and such other matters regarding discipline and control as it may think fit.⁵⁸

Municipal reforms are not ends in themselves, they are means to certain ends – ends being responsible, responsive, transparent and accountable municipal government. The operational efficiency became the concern of the Government of West Bengal, as it got engaged in improving municipal administration. It became evident that the urban local bodies were incapable of implementing new urban policy. Such a situation called for two kinds of steps – improving the working of the existing institutions and creating new ones.⁵⁹

New Institutions:

Central Valuation Board (CVB):

The need for having a professionally competent valuation agency untarnished by local politics was long felt in post-colonial India. The Local Finance Enquiry Committee (1951), the Taxation Enquiry Commission (1953-54), the Committee on Augmentation of Financial Resources of Urban Local Bodies (1963), the Rural-Urban Relationship Committee (1966) and the Committee on Service Conditions of Municipal Employees (1958) have all recommended the creation of a centralized agency for the purpose of guiding and controlling the work of assessment and valuation of municipal properties.

The idea of centralized assessment and valuation of properties for tax purposes in West Bengal was mooted by the World Bank during the first phase of the Bank assisted Calcutta Urban Development Project (CUDP-I) in 1975. But it was opposed by a number of municipalities as they felt that it was a kind of an encroachment of their functions. The then Government has however decided to set up the Central Valuation Board (CVB) through an ordinance which was allowed to lapse.

The matter was taken up by the Left Front Government in the latter half of 1977 and the CVB was constituted on 1st August 1979. While introducing the Bill, the Minister stated that, "with a view to obtaining uniformity in valuation, objectivity in assessment and securing higher level of municipal revenue throughout the State, the government considered it necessary to set up a statutory centralized authority styled as the Central Valuation Board for the purpose of valuation of, and assessment on, properties both in Calcutta and in municipalities".⁶⁰

The CVB is an autonomous body and consisted with a Chairman and two other members to be chosen from judicial service with at least seven years experience and the other having expertise in civil engineering knowledge and experience in the work of valuation and assessment. But it can not work *Suo-moto*. It can make valuation and assessment of lands and buildings only in those areas, which the State Government would specify, by notification. Under the

CVB ACT, a municipal body is required to adopt a resolution for entrusting the valuation and assessment to the CVB work in that municipal area. On receiving such a resolution the CVB moves the State Government for a notification regarding valuation work. The amended CVB Act entrusts the review power to the municipal bodies. The review committee is constituted by the respective municipal body, and of the four members of the review committee, three shall be from elected Councillors.

Earlier, the review committee was to consist of the President, who would be a nominee of the Government and a member (being the elected member of the municipal ward concerned). The restoration of this power to the municipality is a right step forward as it is based on the autonomy of the local self-government, which has gained greater currency and more significance following the 74th Constitution Amendment Act 1992.

Since the inception of the CVB in the year 1980, it has published 119 valuation lists in respect of 92 Urban Local Bodies of the State till March 2000. Out of these, 27 publications were for the second time. As per notification issued by the State Government, the valuation lists were given effect to by the said Urban Local Bodies in different quarters of the respective financial years. The total demand on account of property tax of the concerned urban Local Bodies has been enhanced from Rs. 32.85 crores to Rs. 125.81 crores. The increase in demand amounts to an increase of 382.98%.⁶¹

During the financial year of 1999-2000, the CVB has published valuation lists of 8 Urban Local Bodies. The CVB is, at present, engaged in field survey work and the processing of valuation data from 22 Urban Local Bodies out of which the valuations lists of approximately 20 ULBs are expected to be finalized during the financial year 1999-2000. The CVB also will include in its programme of action for 2000-2001, the valuation work in 14 ULBs where the valuation lists are due for publication during the year 2000-2001.⁶²

Directorate of Local Bodies:

The increased responsibilities and new role of the municipal bodies need to be coupled with the role of the State Government as a guide, friend and

philosopher. It was also felt that the ULBs could not be left absolutely to themselves. The institution building initiatives for the strengthening of ULBs in West Bengal were guided by all these considerations.

The idea of inspection of local bodies was first developed in 1944-45 by the Rowlands Committee, which stressed the need for creating a separate Inspectorate of local bodies. But nothing came out of it until the Bengal Municipal Act (1932) was amended in 1995, which provided for a Director of Local Bodies. The amendment did not bear fruit. The Rural-Urban Relationship Committee (1966) had also referred to it, but West Bengal continued with the tradition of an Inspectorate system for routine inspection of the administrative and accounting activities of the municipality.

Soon after the installation of the LFG, the decision was taken to create the Directorate of Local Bodies in 1978. The Directorate was designed, "to oversee the performance of the local bodies, co-ordinate the activities among the different local bodies as and when necessary, analyse budgets of the urban local bodies, assess the requirement of fund of such local bodies, evaluate the progress of schemes from time to time and aid and advice the urban local bodies as and when required."⁶³

The Directorate now consists of a Central Office, and in addition, there are divisional offices at Kolkata, Chinsura and Siliguri. The office of the Presidency Division is now located at the headquarters. The normal pattern is to have a Deputy Director and an Assistant Director at the divisional level. At the headquarter besides the Director who is an I.A.S. officer, there are three Deputy Directors and three Assistant Directors.

The DLBs headquarters office and the divisional units perform two different kinds of functions. It is the duty of the divisional units to remain in constant touch with the ULBs. They have to see to it that the ULBs do not overstep the bounds of law, regulation and rules. They have also to look after the financial and administrative health of the ULBs. The headquarters, as the Second Municipal Finance Commission Report observes, "has to make proper use of the Divisional offices through a well-designed reporting system and meeting and discussions".⁶⁴

The West Bengal Municipal Finance Commission (1987) suggested an expanded role for the DLBs. It recommended the all resource transfers from the State Government to the ULBs should be routed through the DLB. The State Government had accepted the idea while announcing the revised structure of grants payable to municipal bodies.⁶⁵

The Second Municipal Finance Commission recommended for the creation of a legal cell within the DLB with a view to assist the ULBs to fight court cases. The cell will act as the nodal agency for tendering legal advice if and when necessary and more specifically, should extend all help in the matter of drawing of statement of facts or affidavit in opposition. The Government has not yet constituted any such separate cell.⁶⁶

Municipal Engineering Directorate (MED):

The need for having an engineering wing for municipal development administration was felt in 1978. This led to the transfer of engineering wing of Calcutta Metropolitan Planning Organization named Municipal planning stream to the then Local Government and Urban Development Department in 1978. After the formation of DLB in 1980, it was decided that MED would function as the engineering cell of the DLB for planning of drinking water supply in urban areas, drainage, sewerage and other engineering works.

The cell took the shape of a Directorate in March 1981 and came to be known as the Municipal Engineering Directorate (MED). It was argued that the municipalities were facing difficulty in planning and executing their developmental schemes and activities due to acute scarcity of technical personnel. Another argument was related to the assumption of larger financial responsibilities by the Government in the field of municipal and urban development which called for the creation of a new set up to plan and execute a range of developmental activities in the field of public health, water supply, public works etc.

The MED is today a big organization spreading over seven divisions located at Jalpaiguri, Burdwan, Bankura, Midnapore, Malda, Krishnanagar and

Salt Lake. The idea is to serve the needs of a cluster of municipalities placed within the jurisdiction of each division headed by an Executive Engineer. At the headquarters level, there are two circles – the Work circle and the Planning circle, each of which is headed by a Superintending Engineer. The Directorate is headed by the Chief Engineer.

At the time of transfer from the Development and Planning Department, the M.E. stream had a sanctioned strength of 300 posts of all categories. The present strength after the gradual acceleration has reached nearly 1000 mark. The MED performs a large number of functions as follows:

- a) to prepare plans and schemes for water supply, sewerage and drainage in municipal towns outside CMDA;
- b) to formulate, execute, supervise developmental schemes that might be sponsored either by the State Government or by the ULBs or jointly by the Government and ULBs;
- c) to vet the plans and estimates of the development schemes of the municipalities financed by the State Government;
- d) to act as 'Town Planners' of the municipal bodies and the new urban growth centres.

Besides, the MED is in charge of implementation of Integrated Development of Small and Medium Towns (IDSMT) launched during the Sixth Plan period. The MED executes the programme in close collaboration with the municipal bodies in the selected locations.⁶⁷

Institute of Local Government and Urban Studies (ILGUS):

The Institute was set up in 1982 under the administrative control of the erstwhile Local Government and Urban development Department (presently Municipal Affairs Department) to impart training to the elected representatives and personnel of the urban local bodies. Apart from it, it was also intended that the Institute would cater to the needs of Research on urban areas and municipal administration and for publication of monograph, journal etc. and also of an urban information system.

Till the end of December 1999, the Institute had conducted 41 training workshops and orientation programmes primarily meant for elected municipal functionaries, officials of municipal bodies and functionaries associated with Poverty Alleviation Programme.⁶⁸

ILGUS in association with Ramkrishna Mission Loksiksha Parishad, Narendrapur, which has been identified by the State Government as the Field Training Institute for implementation of Swarna Jayanti Sahari Rojgar Yojana (SJSRY), is organising a state-wide training network for the purpose of developing continuous training process for a large number of Resident Community Volunteers. Besides, ILGUS in association with State Urban Development Agency has built up a group of resource persons for imparting training to the Resident Community Volunteers throughout the state.⁶⁹

The institute has also been imparting training to the senior and middle level officers, elected members of the urban local bodies in the North-Eastern States including Sikkim. During the period from April 1999 to December 1999, ILGUS has organized four such training programmes. ILGUS has also been approached by the National Institute of Urban Affairs, New Delhi, for conducting training programmes under Financial Institutional Research and Expansion programme launched by USAID for the senior and middle level officers of Bihar, Assam, Orissa and West Bengal and the Memorandum of Understanding (MoU) in this regard is yet to be signed.⁷⁰

ILGUS has been entrusted with the job of conducting survey on the status of water supply, sanitation and solid waste management in selected urban areas of West Bengal, Assam, Orissa, Sikkim and other North-Eastern states (sponsored by the Ministry of Urban Development, Government of India).

At present, the ILGUS has three regular publications, namely – *Urban West Bengal*, *Urban Management* and *Poura Diganta* (in Bengali) as a mouthpiece of the Department of Municipal Affairs is published thrice in a year. The Institute has a library which has acquired 5087 Titles upto 31st December 1999.⁷¹

State Urban Development Agency (SUDA):

The idea of SUDA forms part of Swarna Jayanti Sahari Rojgar Yojana (SJSRY), which is a centrally sponsored anti-poverty programme in urban areas. The SUDA was set up in 1991, to work as the state level body for monitoring implementation of anti-poverty programme in urban areas.

It is a society registered under the West Bengal Society Registration Act, with the Secretary, Municipal Affairs Department, as the Chairman. It operates under the general guidelines framed by the Central Government. Its general functions include, inter alia:

- (a) developing State urban poverty programme and policy within the overall state urban strategy;
- (b) providing technical support to districts/towns to achieve convergence targets and participatory scheme;
- (c) monitoring and assessing the performance in respect of implementation of SJSRY.
- (d) mobilising resources and determine allocations based on the need and performance; and
- (e) guiding and supervising programme implementation through visits to the districts.⁷²

District Urban Development Agency (DUDA):

There are District Urban Development Agencies at the district level, each of which is a registered society. Some of the important objectives of such a society are:

- (a) to promote and assist the local bodies in the implementation of anti-poverty and human development programmes;
- (b) to implement or cause to be implemented anti-poverty programmes in such a manner as to offer special incentives to the Scheduled Castes and Scheduled Tribes and women to encourage them to participate and benefit from the programme;
- (c) to arrange and cause to be arranged by local bodies and other agencies skill training programmes for the urban poor labour force;

(d) to promote and cause to be created within the local bodies infrastructural facilities in response to the needs of the beneficiaries of the income and employment generation programmes.⁷³

The DUDAs seem to have failed to live up to the expectations. There is no exclusive project officer for DUDAs, as a result of which the agency is yet to make its presence strongly felt to the ULBs. It is high time to seriously consider strengthening DUDAs. What appears to be urgently necessary is the posting of an officer exclusively in charge of DUDA.

There is no formal linkage between SUDA and DUDAs. They operate independently of each other because of their status as separate registered societies. The Municipal Affairs Department unlike the Department of Panchayats and Rural Development does not have any officer at the district level who can work on behalf of the State Government and get in continuous touch with the municipalities in matters of poverty alleviation schemes. This underscores the need for strengthening DUDAs. True, it is that the DUDAs being registered societies, can work autonomously but the fact remains that the project officer being an officer of the State Government, is accountable to the Government through the District Magistrate.

The DUDAs have no representation in the SUDA's governing body. It is difficult to ensure representation of all DUDAs. It may be considered whether provision can be made for DUDAs representation on the governing body of SUDA on a rotational basis. It would facilitate linkage and interaction between two agencies and may help promote and monitor implementation of SJSRY programmes.

The DUDAs can also advise the Community development society (CDS) and arrange interaction among the CDS members by organizing annual meeting of the delegates of the CDSs at the district level. In this way DUDAs can act as the district level catalyst and facilitator in this regard.⁷⁴

District Planning Committee (DPC):

The 74th Amendment of the Constitution induces the State legislature to make such laws as would lead to devolution of power and responsibility to the

municipalities in respect of preparation of plans for economic development and social justice. It is also laid down: "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".⁷⁵

Each municipality is required to prepare its development plan, which will get integrated in the district development plan. The West Bengal District Planning Committee Bill was passed in 1994. It provides for the constitution of District Planning Committees at the district level for consolidation of plans prepared by the Panchayats and municipalities in the district and preparation of the draft development plan for the district as a whole.

It is a body chaired by the Sabhadhipati (Chairperson) of the Zilla Parishad. The municipality has representation in the Committee. The State Government has been given power to determine the total number of members of the committee. One fifth of the total number of members is appointed by the State Government and the rest of the members are elected from Panchayat and Municipal bodies. Elections of the members to the committee have been held in almost all the districts.⁷⁶

The District Planning Committee Act and Rules made there under provide for the constitution of urban development sub-committee. The sub-committee is required to:

- (a) examine, co-relate and integrate plans as drawn up by the different municipalities of the district;
- (b) deliberate upon the issues relating to peripheral areas and resolution of conflicts;
- (c) draw up guidelines for planning, building controls and aesthetics relating to municipalities;
- (d) draw up plans for improvement of slums especially in the area of sanitation and environment;
- (e) consider measures for environmental improvement with special emphasis on control of water and air pollution;

- (f) consider issues relating to sources of water supply, sites of disposal of sewage, solid waste and other disposable wastes.

The sub-committee has been authorized to call for any record or data from any municipality or from any Panchayat within its jurisdiction. The recommendations of the sub-committee are considered by the District Planning Committee for inclusion in the draft development plan for the district.⁷⁷

There is again a district planning and coordination sub-committee with wide ranging functional responsibility. For example, it is required to prepare the development plan of the district having regard to the matters of common interest between the panchayat and the municipalities. Two other important functions include social planning for the Scheduled Caste and Scheduled Tribes and women, mobilizing resources available in urban and rural areas, indication of priorities to be assigned to works in the draft development plan and the phasing out of the programme of development as such.

At the district level, there is a District Planning and Coordination Council (DPCC) in each district. The Chairperson of the Council is a Minister. The Council has representation from the municipalities in the district and urban development sub-committee. The DPC is required to consult the DPCC in preparing the draft development plan.

The planning structures as described above are still to work. The elections to the District Planning Committee have been held. It is hoped that the planning structures will start working shortly. Incidentally, there is a feeling that the municipalities are not properly represented on the planning bodies.⁷⁸

In order to strengthen the participatory planning process, the Government of West Bengal has taken a few decisions in the year 1999, which have far reaching implications.⁷⁹ It has been decided that the planning process in the municipalities would start from the Wards. The State Government has transferred subjects under the twelfth schedule of the Constitution of India to the municipalities. The DPC will integrate and consolidate plans prepared by the Panchayats and municipalities.

The State Government has identified the district sector schemes, which have been transferred to the panchayats and municipalities. In order to enable them to discharge the new functions, order has been issued for making the services of the line department officials available to the panchayats and municipalities. The panchayats and municipalities have been empowered to assign the line department officials whose services have been placed for specific functions, jobs and responsibilities in connection with the preparation of plans and implementation of schemes.

The reorganization of district-planning calls for creation of a planning committee at the level of municipalities. This committee should consist of elected councillors, engineers, town planners and social scientists. It should be an innovative exercise because planning for economic development and social justice has a normative dimension. It is not town planning as the municipalities done earlier. Planning of this kind is expected to bring about social transformation. This transformative dimension has to be carefully considered while doing planning exercise. On the other hand, the Ward Committee has an important role to play in the planning process, because a ward committee is a kind of peoples' council. The ward committee has to be developed as a forum for meaningful deliberation and effective communication between the municipality and the people. It is a challenging job and requires active political will and serious governmental attention.

OBSERVATIONS: SUGGESTIONS:

Firstly, the 74th Constitution Amendment in the Twelfth Schedule listed 18 items to indicate responsibilities for municipalities. The lists are fairly exhaustive. Yet, if a view is taken that priorities of what are to be done should be chosen by the local Governments themselves, then these lists do not quite fit in. Even exhaustive lists are a kind of directive handed down from above as what to do and run counter to the idea of giving freedom to local Governments to decide their own priorities in regard to their own areas.

Secondly, the District Planning Committee (DPC) as provided in the legislation following the 74th Constitution Amendment has been given a

constitutional status, which no planning body at any Government level now enjoys. Its task will be to integrate the plans prepared by the Panchayats and Municipalities into a consolidated district plan. Despite the status, its function is limited to planning and monitoring only and the point as to who will implement the plan remains to be answered.

Thirdly, the 73rd and 74th Constitution Amendments deal with rural and urban areas separately and no provision has been made for an overarching administrative structure.

Fourthly, both the amendments provide for constitution of a fund by appropriate state law for crediting all money received and withdrawal of such money there from for panchayats and municipalities vide Articles – 243H(d) and 243X(d). Constitution of a single fund, a District Fund, can serve the purpose. Adequate staff will be necessary to operate the fund.

Fifthly, the State Finance Commission in West Bengal 1995⁸⁰, observed that, the planning process within a district needs reorientation. At present, in the preparation of district plans, a parallel process of planning is followed. On the one hand, the three tiers of Panchayats and Municipalities in a district prepare a plan based on funds provided directly to them by poverty alleviation and similar programmes, on the other hand, departmental plans are handed down to district official from above. The two are added up at the DPC level and called a district plan. The dichotomy endures. The departmental plans are implemented independently by related officials and lower tiers of panchayats, in particular have no say in the matter unless they are requested to lend a helping hand. At the Panchayat Samiti level the dissociation is nearly complete and departmental official follow their own ways with Panchayat Samiti having virtually no voice. This is a consequence of the traditional vertical line of functioning. The district plan as it stands today is really a splintered plan. The amount of money spent in departmental plans in a district is much more than that handled by Panchayats and Municipalities. The operational part of district planning process continues to be dominated by officials rather than peoples' representatives.

Sixthly, the planning process should start from the lowest units. Selection of schemes will start from Gram panchayats, (GP) and go to Panchayat Samiti (PS) for consolidation and scrutiny. For trans GP schemes it is logical that the PS takes the responsibility for implementation with the concerned GPs sharing the expenses. These, along with the PS's own proposals including departmental schemes, will go to the ZP for consolidation and scrutiny. Total of schemes of PS's and trans-PS schemes and proposals from municipalities together with ZP's own schemes including proposals by departments will be discussed in the DPC and after discussions, a consolidated district plan will emerge. It is not only a question of aggregation but also of taking decisions on priorities, which will be the concern of the DPC. In this process, adequate respect should be paid to the priorities suggested by local bodies, based on their appreciation of the local bodies. Plan targets have to be balanced against available resources.

Seventhly, the State Finance Commission in West Bengal 1995, viewed that, in the proposed set up, where local self-governing bodies will have considerable freedom to choose their priorities, their views should prevail, and departmental heads within a district will prepare their plans by taking note of these views. In such a process, the risk of fluctuation of burden of work of a department from year to year arises, and here the importance of coordination between different departments within a district comes in. This implies a certain amount of flexibility in deployment of development staff at the district level. These adjustments should not throw different district departments into jeopardy if mutual discussions are undertaken at block and district levels well before the formulation of plans.

Eighthly, regarding the devolution of development functions, the State Finance Commission in West Bengal 1995, viewed that, barring various trans-district activities, all developmental functions should, after the 73rd and 74th Constitution Amendments, come under the purview of district local Government. The Commission viewed that, in view of the competence already generated in the district level, it should not be necessary to reserve activities beyond power projects, Major Irrigation Projects etc for the state plan sector.

The proposed district planning and implementation machinery should very well be capable of handling all other development projects. A refashioning of the existing vertical line administration will be necessary. The Commission also felt that, there should be a clear demarcation between the works under the state plan sector and the district plan sector and there should be lists of works entrusted to these sectors set forth in a Government notification, in a manner somewhat similar to the division of powers between the Central and State Governments in the Seventh Schedule of the Indian Constitution. Funds for the state plan sector and the district plan sector may be disaggregated according to these lists. Unless this is done, the local Self-Government units will not be able to function effectively as a third tier of the Government.

Ninthly, The West Bengal Municipal Act 1993, provides for officers such as Executive Officer, Municipal Secretary, Engineer/Architect, Sub-Assistant Engineer, Surveyor, Health Officer, Sanitary Inspector, Finance Officer and Assessor but allows the State Government to determine the posts in respect of Municipalities and groups of the Municipalities. The Act also provides for the State Government framing norms regulating the size of the municipal establishment for each group of municipalities.

In spite of the attempts at regulation, there was considerable confusion about the necessary staff strength for municipalities. Most municipalities felt that fixing staff strength norms based on grouping of municipalities according to population was unrealistic, as it did not take account of the local needs. Particularly, Municipalities which were newly set up or had large added areas had special problems which required additional staffing and grants in flow. In any case, many municipalities had quite a sizeable number of unapproved and casual staffs who were demanding regularization. The Second Municipal Finance Commission, West Bengal (1993) attempted to address the issue in its own way and made some recommendations to tackle the problem but the State Government is yet to take a final view in the matter. The Municipal staff issue impinges on the Municipal revenue in five ways: (a) a large contingent of unapproved/casual staff implies a steady drain of municipal resources with no

subvention coming from the State Government; (b) unlike the Panchayat bodies, the State Government only releases subvention grants covering 80 percent of DA (Dearness Allowance) entitlements for the approved staff component, leaving the balance DA requirement and the rest of the salary bill to be raised by the Municipality by itself; (c) at the instance of the state government, the Municipalities had to introduce staff benefit measures such as pension, gratuity, bonus, medical benefits etc which have to be met entirely from municipal resources; (d) pay revision of 1981 and 1990 have considerably enhanced the salary bills of the municipalities and (e) a number of municipalities run free primary schools but do not receive any grants-in-aid from the Education Department to meet the salaries of the teachers.⁸¹

Keeping in view the expanding grant of municipal functions, the State had to set up certain institutions like DLB, MED, ILGUS, CVB, SUDA and DUDA to support the functioning of municipalities.

It needs to be emphasized that, institutional reforms are not ends in themselves, they are means to one or more ends. The basic purpose of reforms has been to increase functional efficiency of the municipalities, empower the elected representatives to play their roles in an effective way, to ensure peoples' participation and transparency in urban governance and democratic decentralization of powers. Incidentally, the State Government has increased staff strength of the municipalities for the purpose of enhancing operational efficiency. It has been noticed that most of the executive officers are drawn from the pool of retired government officials. This practice should be done away with the larger interest of the municipalities particularly in view of the new role of the municipalities following the amendment of the Constitution.

Tenthly, peoples' participation in municipal governance through Ward Committees is not satisfactory. The Ward Committees have been formed in almost all-urban local bodies, but the meetings are not regularly held. Even when the meetings are held, participation of the people is poor. The main reasons of its poor performance are – (a) lack of citizen's awareness about this body; (b) lack of Councillor's initiative in organizing campaigns before the general

meetings due to be held within June every year; (c) lack of scope of the members present to express their opinion freely, etc.⁸²

Eleventhly, attempt has been made to ensure that there takes place decentralization of powers and functions within the municipality. This is a very important matter. The successful implementation of the new concept of municipal governance calls for a change of outlook on the part of the Chairperson of the urban local bodies particularly because of the fact that power, no matter who yields it, has, in general a centralizing tendency. The members of the Chairman-in-Council have to prove that they are capable of independently handling their work. The demand for decentralization of powers has to be generated from the bottom.

Twelfthly, there appears to be a contradiction between the scheme-based institutional instrumentalities and the constitutionally ordained structure like the Ward Committee. The 74th Constitution Amendment is based on the conceptualization of urban local bodies as units of self-government endowed with autonomy within the framework of our Constitutional system. As the Central Government has economic clout, it is still carrying on the practice of formulating development schemes and their guidelines, which apply to all the urban local bodies in the country. This kind of approach is detrimental to the healthy growth of urban local bodies as units of self-government.

Thirteenthly, the State Finance Commission, West Bengal 1995, suggested to eradicate the scarcity of developmental staff and functionaries in a district as well as in the municipalities by viewing that, the departments will share control with district self-governing bodies. The size of the staff of each government coming under this shared control will be the same as the existing size of staff working in the district now. Later, on the basis of experience, adjustments between the state and the districts may be necessary. The district authority will supervise the day to day work of the staff, coordinate work of the staff of different departments located in the district to get optimum utilization, keep service records of performance, grant leaves and pay salaries to these employees. A State Department, on the other hand, will lay down its general policy, pass on know how and monitor the work, employees working in districts

will continue to be the staff of the department and when desired, an employee may be transferred from a district. Existing service conditions of the employees will remain unchanged. It is as if they are placed at the disposal of district authorities.

The Commission viewed that, unless the departmental staff located in the districts are mobilized for coordinated work in districts, additional local employees may have to be recruited to handle the increased burden of work of panchayats and municipalities. And that will be a waste. Because if the Zilla Parishad can coordinate the work of the existing departmental staff and tighten the slack, they can easily cope with the expanding work-load for a few years to come.⁸³

Fourteenthly, the West Bengal Municipal Act 1993, provides that the Board of Councillors is directly elected and the Councillors elect the Chairman who is the executive head of the Municipality. The Chairman is assisted by the Chairman-in-Council and the Municipal administration is entrusted to an Executive Officer and other functionaries appointed by the State Government, subject to the overall guidance of the Chairman and Chairman-in-Council. Further, it provides for the constitution of Ward Committees to identify the problems of Ward, fixation of priority, execution of development works etc. These steps have certainly enhanced the scope of popular participation in civic activities but such participation has not reached the levels reached in the Panchayats.⁸⁴

Lastly, provisions for state control over municipalities have been considerably toned down in the West Bengal Municipal Act 1993 and the amendment of 1994. The State Government still retains audit control, powers of inspection, powers of issuing directions and powers of suspending resolutions but civic bodies can be suspended only for gross neglect or serious irregularity after giving them an opportunity of being heard and, in each case of supersession, re-election has to be held within six months. Thus, the spectre of a number of civic bodies superseded and placed under administrators can no longer haunt the civic bodies.

SECTION – D

State-Municipal Financial Relations in West Bengal

The assignment of functions is only the first steps towards building of a good municipal government system. The second step is to ensure that the assigned functions are matched by adequate sources of finance. Because, urbanization is both cause and effect of economic development. Contribution of Urban Sectors to India's GDP that was only 29 percent in 1950-51 increased to 47 percent in 1980-81 and is likely to rise to 60 percent by the beginning of the 21st century. Higher productivity of urban areas is, however, contingent upon availability of adequate quantity and appropriate quality of infrastructure. Ironically, intensification of urbanization has been accompanied by the reduction in allocation of resources for urban development in the foregoing successive plans. This plan outlay has further reduced to 1.27 percent in Eighth Plan.

Table-1
Share of Urban Development in Plan Funds

Five Years Plan	Share of urban Development out of the total Plan in percent
Third	14.00
Fourth	7.68
Fifth	3.5
Sixth	2.5
Seventh	N.A.
Eighth	1.27

Source: *Monoj Atolia – Urban Infrastructure: Resource Needs and Policy Options. op. cit.*

Present scenario of infrastructure is very alarming; a fact admitted in the Eighth Five-Year Plan document. Despite the fact that safe drinking water and basic sanitation are vital human needs for health and efficiency, we are still very far from the goal of 100% coverage in these basic needs. The goal of supplying safe drinking water to all by the first decade of 21st century itself will require substantial capital investment let alone the extension of sanitation facilities, which had a coverage of only 47.90 percent in 1992. The positive role of urbanization is often overshadowed by this evident deterioration in the physical environment and quality of life in the urban areas caused by the widening gap between demand and supply of essential services and infrastructure. As shown in

Table-2, below the investment requirement from 1991-2001 has been estimated at Rs. 40,000 crore, if the deficiencies in the existing level of services are to be eliminated and all the sections of the urban population have to be provided an access to a core of basic services. Further, a sum of Rs. 1,241 crore will be required annually in order to maintain and operate these services at the barest minimum level.⁸⁵

Table-2

Estimated Financial needs for upgrading Basic Urban Services in Urban India (at 1990-91 prices) for 1991-2001

City Size (Population Base)	Investment Requirements 2001	O & D Requirements 2001	Average per annum	
			Investment	O & D
Million +	18,429	5,294	1,843	529
1,00,000-1 Million	11,020	3,566	1,102	357
50,000-1,00,000	3,760	1,217	376	122
20,000-50,000	4,388	1,438	439	144
Less than 20,000	2,354	889	235	89
Total	39,951	12,406	3,995	1,241

Source: M.P. Mathur – *Financing Urban Services: Strategic Options.*

The above mentioned conditions were also prevailing in the Urban Local Bodies in West Bengal. Under such circumstances the Left Front Government came into power in 1977 in the state, which felt the need for reviewing the urban planning and development approach being hitherto followed and accordingly set up the West Bengal Urban Development Strategy Committee in 1980. The Committee realized that many of the shortcomings, particularly that of local needs and priorities and that of sustainability, could be overcome if a decentralized approach to urban planning and development was adopted throughout the State. It was believed that the approach would ensure efficient and socially desirable use of scarce resources. In the 1970's and over the last 20 years more than one Committee appointed by the Government of India and also the Central Council Local Self-Government and All India Council of Mayor's urge the State Governments to appoint Municipal Finance Commission. The proposal was also under the consideration of Government of West Bengal for several years and ultimately in December 1979, the First West Bengal Municipal Finance Commission was constituted with the following terms of Reference.

- a) Determination of the projected gap between revenue receipts and revenue expenditure of municipal bodies in the State.
- b) Measures which may be taken by the Municipalities themselves to bridge or reduce the projected revenue gap indicated in (a) above and the extent to which the revenue gap can be bridged or reduced by such measures.
- c) In the context of measures vide (b) above, the quantum of financial assistance from the State Government to the ULBs needed to bridge or reduce the residual revenue gap.
- d) The manner, principles and procedures of extending financial assistance from the State Government to Municipal bodies including – (i) grants-in-aid; (ii) tax sharing and (iii) vesting of new-tax/non-tax revenue sources.
- e) Measures needed to tackle the debt problems of Municipal bodies and ensure the proper administration of the capital account.
- f) The desirable dimensions, patterns, principles and procedures of developmental/plan assistance from the State Government to the Municipal bodies.
- g) Changes if any needed in the fiscal relationship between the municipal bodies, improvement trusts, development authorities in such areas and the desirable scheme of these relationship.⁸⁶

The WBMFC while undertaking the Survey of Municipal fiscal situations in the state realized that, there was no overall principle or set of principles in regard to municipal finance in the state and it appeared that levels of service, administrative performance, resource mobilization and financial management did not show any clear pattern and could not be related to any single criterion as the size of the municipality either in terms of population or area. The dependence on property tax was evident in all cases, but no serious attempt was made at any level to improve the assessment and collection procedures. The sources of income other than property tax had not been exploited adequately. The result was increasing dependence on transfers from the State Government. These

transfers were in the form of shares of Entry tax and of the motor vehicles tax and also of various types of grants. These grants varied from year to year and there was no rational explanation of the variations in the relative sizes of the various grants.⁸⁷ According to the Commission, if the principle of local self-government be accepted as politically sound, the local bodies should themselves be made alive to their own needs and given sufficient resources for the purpose of raising the levels of their services through planned investment. Keeping the above principles in view, the Commission before going to make any recommendation decided the following postulates regarding the role, functions, responsibilities and obligations of the urban local bodies in the State as follows:

Firstly, it was socially desirable to assign to the local authorities all services and other functions which were clearly identifiable as local and then to provide those authorities with adequate powers and assistance – financial, technical and administrative, for the proper performance of these functions.

Secondly, as long as the local bodies discharge their functions adequately and efficiently, they should be given the necessary measure of autonomy. This would mean substantial freedom to decide on the best manner in which development activities could be carried out, in so far as these activities relate only to the areas concerned. This would also mean freedom to raise revenue as permitted by the laws governing their functioning.

Thirdly, the Government had to play an active role where there were such municipal services as could be efficiently performed only when more than one municipal body taken as the area of operation.

Fourthly, activities undertaken by the municipality under the direct sponsorship of the state government.

Finally, activities of special infra-municipal improvement agencies like the Improvement Trusts in Calcutta and Howrah.⁸⁸

In regard to finance, the Commission had laid down a few fundamental principles of policy as below:

Firstly, the municipal bodies “must themselves utilize as fully as practicable all the financial powers given to them” including taxation, licensing and the raising of non-tax revenues.

Secondly, when the function to be discharged by the municipal bodies could not be fully financed by their own sources, despite their best efforts, the government had to come in. The Commission had outlined two main responsibilities for the government, the financial assistance necessary must not only be forthcoming, but it should be assured and the state government had a special responsibility for raising the levels of services in the municipalities which had not been able to reach a desirable standard.

Thirdly, regarding the 'deficits', the Centre-State Finance Commissions had generally adopted a gap filling approach in determining the amounts of transfers to the states. The non-plan gaps are estimated after careful scrutiny and application of trend rates, and then the shares of the divisible taxes are allocated. If there is any deficit remaining unfilled, equivalent grants are awarded under Article 275 of the Constitution. The State-Municipal financial problems are more complex because of the very large number of bodies with widely divergent financial requirements and also because it was not easy to devise any common formula for grants-in-aid which would be satisfactory to the majority of the units. The Commission, therefore, decided to approach the problem indirectly by assuming certain standard rates of growth for both revenue and expenditure before estimating the deficits. The Commission recommended that, every such case would be presented to the state government for special grants and that such additional grants would be made only if the government was satisfied. In effect, the municipal bodies would be under notice that they must attain the prescribed floor rates for revenue yields and not exceed the ceiling rates for expenditure.

Lastly, the increases in expenditure caused by inflationary pressures, the Commission recommended that, all further dearness allowances should be financed by the state government in the form of additional subventions.

There were many other miscellaneous recommendations on the revenue side, relating to government property, slums, vacant lands, etc., and also regarding assessment administration, including provision for self-assessment in the case of high valued properties and new constructions. Taking all the facts and practicable changes together, it was recognized by the commission that

substantial changes in the schemes and operation of revenue sources would take time and would not be effective within the period covered by the Commission's recommendations. It was, therefore, proceeded on the assumption that the own 'revenues of the municipal bodies would grow at the rate of 10 percent per year, subsuming within the above rate of increase as well as increases on account of improvement in assessment and collection at the existing tax rates and of feasible changes in the rates and coverage. On the expenditure side, the revenue-budget expenditure was assumed to increase annually by 5 percent for salaries and wages and 10 percent for all other items.

According to the Commission, this could be done by extending the rate of tax sharing and/or by increased grants. The Commission viewed that, the complex variety of grants should be replaced by a few major ones and that the dependence on ad-hoc grants should be reduced, if not eliminated. Grants give the State Government greater supervisory control but that was exactly the reason why they should be reduced, if local government is to be made meaningful. Grants also involve a large element of discretion and there was complaints of unequal treatment of equally needy municipalities. Besides, expenditure might increase in some municipalities simply because the authorities felt certain about reimbursement through grants. Tax shares on the other hand, would make the municipalities independent of any necessity for lobbying, would provide some buoyancy to the revenues and would also make the municipalities actively interested in the state government's taxation policy. While some grants would be unavoidable, the Commission tried to minimize them. Thus, the next question was about the taxes to be shared.

The Commission recommended the adoption of the wide Madhya Pradesh type of entry tax, chargeable on goods entering any municipal area, but on grounds of efficient administration, collected by the State Government. The laws should be the same for all local areas, but there should not be any legal bar to prescribing different rates for different areas or cluster of municipal bodies. The Commission felt that, once the State Government adopts clear rules for tax sharing and for special grants, the expenditure involved would become its committed non-plan expenditure and would be eligible for inclusion in the

estimate of requirements placed by the Government before the Finance Commission appointed under Article 280 of the Constitution. As the Federal Finance Commission has to take full account of all the expenditures that stands committed on the non-plan side and also allow for an appropriate annual growth rate, the additional burden, if any, on the State Government will be covered by the Finance Commission Awards.⁸⁹

Even after all the above considerations the Commission realized that, substantial increase in tax sharing would be necessary if the grant element was to be reduced. The Commission examined many alternatives like a surcharge on sales tax, or on the electricity duty or on the state excises. They would all be administratively easy to collect but it was feared that there would be large-scale avoidance of tax if the surcharges were imposed on urban sales only. And if there was a general surcharge, there would be the necessity of making the receipts available to all local bodies, urban and rural.⁹⁰

The full results of the recommendations made by the WBMFC may be shown in the following table for 1982-83 and for 1985-86.

Table No.- 3
Results of Proposed Scheme of Revenue Account Transfer
(Rs. Crore)

	Calcutta	Other CMD	Non CMD	Total
1982-83				
1. Revenue Account Gap	-22.08	-12.99	-6.30	-41.37
2. Proposed transfer from State Government				
(i) Share of Entry Tax – 1972	+12.00	+8.00	----	+20.00
(ii) Share of Entry Tax -- 1955	----	----	+5.00	+5.00
(iii) Share of M.V. Tax	+2.00	+1.00	+1.00	+4.00
(iv) Share of Entertainment Tax	+3.00	+4.50	+2.50	+10.00
(v) Total Transfer of shared taxes	+17.00	+13.50	+8.50	+39.00
3. Financial Revenue A/C				
(i) Gap	-5.08	-3.76	-1.27	-10.11
(ii) Surplus	----	+4.27	+3.47	+7.74
4. Grants-in-aid on Revenue A/C	+5.08	+3.76	+1.27	+10.11
5. Total Transfer [2(V)+4]	+22.08	+17.26	+9.77	+49.11
1985-86				
1. Revenue Account Gap	-23.09	-15.09	-7.33	-45.51
2. Transfer from State Government – all items together (derived from 2 above)	+22.61	+17.96	+11.31	+51.88
3. Final				
(i) Gap	-1.32	-4.02	-1.29	-6.63
(ii) Surplus	----	+6.91	+5.26	+12.17
4. Grants-in-aid on Revenue Account	+1.32	+4.02	+1.29	+6.63
5. Total Transfer (2+4)	+23.93	+21.98	+12.60	+58.51

Source: Report of the West Bengal Municipal Finance Commission – 1982

The Commission also recommended that, every municipal body should frame a plan budget every year, forming part of its own Five-Year Plan, which would have to be an integral part of the State Five-Year Plan. The municipal plans would be financed by their surpluses from the current revenues and special plane assistance from the state government including both plan grants and loans. It was also suggested that, the grant element should be larger in the case of small municipalities and also in cases where the plan projects were essential but not likely to yield adequate returns.

Again, the Commission viewed that, if a municipal body could raise its own revenue above the assumed rate of growth of 10 percent per year, the excess would be available for the concerned municipality in its plan budget together with a matching grant from the State Government. Loans from the term-financing institutions should be encouraged by the government, which should stand as guarantor in the case of remunerative projects.

The West Bengal Municipal Finance Commission 1982, worked hard and presented a monumental report on municipal finance and show a new direction of state-municipal fiscal relations. The Commission had the confident expectation that the adoption of the recommendations would put the municipal finances in the state on a sounder footing than they were earlier without increasing too many burdens on the state government. On the other hand, municipal bodies would be able to stand on its own footing by achieving financial right and sufficiency. But unfortunately, the situations did not change in a big manner, which can be realized from the discussions and recommendations made by the Second Municipal Finance Commission in West Bengal 1993.

According to the Commission, "as seen earlier, in the very nature of fiscal relation between the state and the Urban Local Bodies (ULBs), on an average, half of the municipal revenue budget is balanced by revenue transfers from the state and the capital budget is almost fully supported by state assistance, West Bengal is not an exception in this regard".⁹¹ Though revenue transfer is largely used for closing the budgetary gaps of the ULBs, it has gained an importance in recent times for a variety of purposes. Some countries use transfers as a tool for

equalization of fiscal capacity of different urban local bodies with varying economic bases, while some others use it to stimulate local fiscal effort. Furthermore, transfer is also perceived as a means for influencing the pattern of municipal spending to bring about its conformity with the priorities of the higher level governments.⁹² In India, the term transfer is used in a broad sense to cover all varieties of transfers like general and special purpose revenue grant, share and assigned taxes etc. While national average of revenue transfers is between 30-35 percent of the municipal revenue budgets, it varies widely among the states. In Bihar and West Bengal, this proportion is very large, while in Kerala, Gujarat and Maharashtra, it is relatively small.

Notwithstanding the pivotal position of the state transfers in the ULBs finances in India, it was a reality that these, to a significant extent, continued to be ad-hoc, and were often made without a proper systematic assessment of the ULBs financial needs, priorities, service levels and of course, their own resources.⁹³ The Local Finance Enquiry Committee 1950, long back stated that, "the state should assist the local bodies by way of adequate grants, wherever they were unable to achieve the minimum national standard of efficiency from their own resources". The Committee further recommended that, "assignment of certain source of revenue should be preferred over grants and where grants have to be given this could be given on some definite and understandable principles".⁹⁴ On the other hand, the Rural-Urban Relationship Committee 1966 recommended that, "in making any kind of transfers, it should first be ensured that local bodies have exploited their own sources to the maximum and, secondly, transfers should be linked to the standards of minimum services which must be maintained by each class of municipal bodies".⁹⁵ The first Municipal Finance Commission in West Bengal 1982 viewed quite in line with the RURC. But the situation did not change altogether.

States revenue transfers to the ULBs were generally determined by two factors, viz., (i) the municipal functional domain as laid down in the statute or assigned by the state from time to time; and (ii) the revenue that they were empowered to mobilize or were able to mobilize under the Municipal Act. Any

change in the functional domain of the ULBs, or in their powers in respect of mobilization of local resources, would naturally have impact on the volume of state transfers to the ULBs. This fiscal and statutory link between the state and the ULBs was crucial as it determined the functional and financial responsibilities of both the ULBs and the state. The State Legislature was and is constitutionally empowered to create both urban and rural local authorities and to determine their functional domain and responsibilities as also to decide on the taxes, duties and other sources of revenue to match the functional domain and responsibilities devolved upon them. Thus, at least conceptually, it is the state that enjoys absolute power in respect of creating ULBs, in devolving functions and to decide on the financial and physical powers to be passed on the ULBs and the extent to which revenue from the state exchequer needs to be transferred to the ULBs for losing their budgetary gaps.

Although, the municipal legislations made clear distinction between obligatory and discretionary functions, the ULBs were not able to perform the obligatory functions even at the minimum level of delivery standards due mainly to scarcity of resources. It was ironical that whereas most ULBs perpetually lived a hand to mouth existence, they had not been assigned any major tax base except the property tax. The tax on profession, trade and calling, which was traditionally being collected by the ULBs was also been taken out of their domain by the state. The source of municipal revenue other than property tax, shared revenue and grants were insignificant in terms of their contribution to the municipal revenue budget. Non-tax revenue has had a very good possibility of mobilizing revenue from non-tax sources like pricing of some services, the ULBs of West Bengal, due to some socio-political reasons, were and are far removed from the culture of pricing of services.⁹⁶

To eradicate the above mentioned financial constraints of the ULBs in West Bengal and to achieve a healthy state-municipal financial relation the second Municipal Finance Commission 1993, made a broad list of recommendations. The most important of them are as follows:

- (i) The ad-hoc-ism in state's revenue transfer to ULBs should not continue. The practice of giving DA subvention, which had various implications including municipal personnel managements needed to be reviewed.
- (ii) The Commission favoured to introduce Revised Grants Structure (RGS) like the CMA for all ULBs in the State.
- (iii) The Commission advocated that the ULBs put up better fiscal performance than projected should be rewarded. Conversely those ULBs could not achieved the norms should be liable to some panel action in the form of with-holding of capital assistance.
- (iv) Capital assistance that the State allocated to the ULBs, from its Plan Budget in the form of 'block grant' should related to a rationally developed mechanism to ensure inter-municipal balanced development of urban services.
- (v) 80 percent of the plan fund earmarked for municipal development may be allocated to the ULBs on the basis of their respective eligibility in conformity with the composite index. The rest 20 percent may be used for giving incentive to better performing ULBs.
- (vi) In view of the alarming mismanagement of capital finance by ULBs, there is urgent need for system improvement to bring about strict financial discipline in the ULBs in respect of management of capital finance in particular and overall finance in general.
- (vii) To bring about discipline in financial management particularly debt management in the ULBs, some institutional readjustment was imperative.
- (viii) At least 20 percent of the proceeds of the motor vehicle tax should be earmarked for the ULBs.

Besides the above-mentioned recommendations, the Commission also recommended for the augmentation of municipal resources through non-tax local revenue as far as possible.

When the Second Municipal Finance Commission in West Bengal was making recommendations for the augmentation of municipal resources, coincidentally the 74th Constitution Amendment came into force in 1992. This Amendment is a landmark initiative of the Government of India to strengthen local self-government in cities and towns. It is built upon the premise that all power in a democracy rightfully belongs to the people. It prescribes that the elected municipal representatives must have a decisive role in the planning, provision and delivery to civic infrastructure and services. The said Act provides that, the municipalities should be endowed with sources of revenue commensurate with their obligatory duties. Functions and finances must go together as unfunded mandates strike at the very root of autonomy and efficiency. The system of service delivery must be transparent and responsive; the service providers need to be accountable to the elected councils and the public. They should face appropriate checks and balances as well incentives and distinctives.⁹⁷

Under the above Constitutional provisions, the West Bengal Municipal Act 1993, came into force replacing the Bengal Municipal Act 1932. Now we shall try to find out the State-Municipal financial relations in West Bengal from the WBMA-1993 in the following:

Section 71 of the WBMA 1993 regarding the financial assistance from the State Government to a municipality states that,

- (1) The State Government, may, from time to time, give grants or financial assistance to a municipality with or without direction as to the manner in which the sum shall be applied.
- (2) The State Government may also lay down a pattern for distribution of such grants or assistance, which may include the conditions of release of grants and classification of municipalities for the purpose.
- (3) The State Government shall give grants to a Municipality or Notified Area Authority for implementation in full or in part of any scheme included in the Annual Development Plan.

Section 72 of the said Act states about the borrowing of loans by a Municipality from any public financial institution or any nationalized bank.

- (1) Subject to the provisions of the Local Authorities Loans Act 1914, the Municipality may, with the prior permission of the State Government, obtain loan from any public financial institution or any nationalized bank or such other lending institution as the State Government may approve in this behalf, and the State Government may, if it considers so necessary, stand as the guarantor for payment.
- (2) The State Government may advance from the public funds or stand as guarantor for funds from any financial institution on the security of the Municipal Fund and, in the case of a joint scheme, on the security of the Municipal Fund and the fund of other local authorities, if any, to provide for the cost of installation or maintenance relating to any project or scheme for civic services and such advance shall be recoverable under the Local Authorities Loans Act 1914 and the rules made thereunder.
- (3) The State Government may require the Municipality to observe such financial discipline in the matter of debt servicing, including creation of a sinking fund, as the State Government may think fit and proper and, in doing so, the State Government may prescribe different sets of rules for observance by different groups of Municipalities.

Section 73 states that, notwithstanding anything contained elsewhere in the Act, the Board of Councillors may, with the approval of the State Government, authorize expenditure to be incurred beyond the limits of a municipal area for creation of physical assets outside the limits of such municipal area as well as for maintenance thereof for carrying out the purpose of this Act.

Section 73A claims that, 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 Board of Councillors at a meeting, if the estimated cost of such work or purchase exceeds rupees five thousands but does not exceed rupees five lakhs. Provided that where the estimated cost of such work or

purchase exceeds rupees five lakhs, approval of the State Government shall be obtained.

Regarding the Municipal taxes the Act provides in Section 93(1), the Board of Councillors shall, for the purpose of the WBMA-1993 have the power to levy the following taxes – (a) a property tax on lands and buildings; (b) a tax on advertisements, other than advertisements published in the news papers; (c) a tax on cart; (d) a tax on carriage; and (e) a toll on ferries and bridges.

Besides the above mentioned taxes, a Municipality may imposed few other minor taxes in the form of fee on pilgrimage, fair, festival, circus [S-94 (1)]; services. [S-95]; surcharge on property tax for those holdings used as commercial purposes [S-97]; fees for certificate of trade and calling [S-118]; registration fees for cart and carriage [S-128]; pay toilets and wash houses [S-338 (1)].

Matters relating to the Municipal Budget, Accounts and Audit, the WBMA 1993, provides in Section 82 of the said Act by stating that,

- (i) The budget estimate of a Municipality for a year shall be prepared in the prescribed form and presented before the Board of Councillors at a meeting specially convened for the purpose, not later than tenth day of March every year, provided that no deficit shall be shown in the budget estimate so prepared.
- (ii) A copy of the budget estimate shall be sent to the Director of Local Bodies for information.
- (iii) A revised budget estimate may be made during the middle of the year.

Section 83 empowered the Board of Councillors to alter the budget estimates of a financial year.

For the proper financial discipline and fiscal management of a municipality, Section 84 provides for annual financial statement by a Municipality in the prescribed form and manner and a copy of the statement shall be given to the Director of Local Bodies within three months by the close of a financial year.

Section 86 empowers the State Government to appoint an auditor to examine the inter-alia of the Municipal income and expenditures.

Section 89 provides that, if any order made by the State Government is not complied with, it shall be lawful for the State Government to take such step as it thinks fit to secure the compliance of the order and direct that all expenses therefore shall be defrayed from the Municipal Fund.

Again, there are provisions for special Audit (S-90), Internal Audit (S-91) and Municipal Accounts Committee (S-92) for better and transparent financial management in the Municipal administration in West Bengal.¹⁰¹

SECTION – E

Global Change and New Strategy for Municipal Governance

The preceding discussion reveals that the uninterrupted functioning of regularly elected Municipalities in West Bengal since 1978 has produced few satisfactory local level managerial capabilities. On the other hand, the 74th Constitution Amendment Act 1992, have elevated local bodies to local self-governments, this accumulated experience should be fully made use of for strengthening local governments. With the change in the global scenario and emerging trend of globalization and privatization, there has also been changed in the concept of 'Governance' in all the tiers of Government. Urban local bodies as an essential tier must have the following features to prove herself as a part of 'Good Governance'.

- (a) **Participation:** All men and women should have a voice in decision-making, either directly or through legitimate intermediate institutions that represent their interests.
- (b) **Rule of Law:** Legal framework should be fair and enforced impartially, particularly the laws on human rights.
- (c) **Transparency:** Transparency is built on the free flow of information, processes, institutions and information are directly accessible to those concerned with them, and enough information is provided to understand and monitor them.

- (d) Responsiveness:** Institutions and processes try to serve all stakeholders.
- (e) Consensus Orientation:** Good governance mediates differing interests to reach a broad consensus on what is in the best interests of the group and where possible, on policies and procedures.
- (f) Equity:** All men and women have opportunities to improve or maintain their well being.
- (g) Effectiveness and Efficiency:** Processes and institutions produce results that meet needs while making the best use of resources.
- (h) Accountability:** Decision-makers in government, the private sector and civil society organizations are accountable to the public, as well as to institutional stakeholders. This accountability differs depending on the organizations and whether the decision is internal or external to an organization.
- (i) Strategic Vision:** Leaders and the public have a broad and long term perspective on good governance and human development, along with a sense of what is needed for such development. There is also an understanding of the historical, cultural and social complexities in which that perspective is grounded.⁹⁸

From the above-mentioned yard stick of good governance few observations and suggestions can be made for the Municipalities in West Bengal under the changed global scenario.

Indeed, a Government at any level should have adequate resources to discharge its responsibilities properly. But raising adequate resources is a big question. The gap between what is spent and what it so far has been able to raise has been very wide, so funds came from the State Government to keep the municipalities going. The Union Government's proposals for augmenting of the consolidated fund of West Bengal to supplement devolution of funds to municipalities seem to be quite inadequate for effective functioning of the decentralized planning machinery. Transfer of funds to local bodies will have to come mainly from the State. If it is agreed that a few hundred crores of rupees

are to be transferred to district levels, then departmental plan budgets will necessarily have to be reduced.⁹⁹

The State Finance Commission in West Bengal in 1995, points out the major weaknesses of Municipal finance in the State as well as suggests the measures should be taken to eradicate the problems as follows:¹⁰⁰

- (a) Increasing own resources of Municipalities is an area, which should be looked into closely. A wider-spread of taxes is being utilized by other major states as compared with West Bengal, as revealed from the study undertaken by the National Institute of Public Finance Policy (NIPFP).
- (b) The Municipal tax base in West Bengal is very narrow and Municipalities largely depend on the property tax, which is supplemented by other minor taxes and non-tax revenues but resource mobilization efforts have obviously been inadequate. Some amendments will have to be made to make the Municipalities less dependent on State grants.
- (c) Property tax receipts are low because of under assessment and poor collection efforts. Although, after the introduction of CVB, some uniformity in assessment methods amongst all urban bodies so far covered has generally been accepted by the public. CVB should be adequately strengthened. Through the CVB assessments at periodic intervals should be mandatory for the ULBs. And for this reason, the CVB assessments and better collection efforts will improve income from property tax.
- (d) Many Municipalities losses due to low service charges paid by the Railways and other Central Government offices in respect of properties owned by them. The State Government should take up the matter with the Central Ministries to provide some relief to the concerned local bodies.
- (e) Entertainment tax should be returned to local bodies rather than sharing a small part with them, because the State has not use this

revenue source much over the past years. Without fixing the rates of Entertainment Tax, the State may lay down some general guidelines giving some discretionary powers to local bodies.

- (f) Since, the taxes on Professions, Callings and Employment have increased a faster growth after the State has taken over the collection and this arrangement may continue. On the other hand, since all State tax proceeds will now form part of the kitty from which devolution to LSGs will be made, the present scheme of releasing State grants on parts of the Profession Tax and Motor Vehicle Tax to LSGs may now be discontinued. However, municipal bodies continue to grant annually provisional certificates of enlistment for persons engaged in professions, trades and callings at a nominal fee. This amount now collected as fee is too low even to cover field expenses and is a positive disincentive. It is rather possible to empower Municipalities to issue trade licenses with fees at a much higher level. Local bodies would then be encouraged to exert themselves and stop the current large-scale evasions.
- (g) Sharing of Entry Tax proceeds with the Municipal bodies in the forms of grants was historically essential for them to meet their resource gap. The State Government had committed to the Municipal Bodies that Entry Tax, though abolished from 1995-96, would be replaced by a surcharge on sales tax from which Municipalities would continue to receive grants on the same basis as before. This commitment should be honoured and grants on the basis of actual 1994-95 Entry Tax collections should flow to the Municipal Bodies and be distributed amongst them in the same proportion as was statutorily operational till now.
- (h) Municipalities may profitably utilize certain other sources of income, if so authorized by the State Government. Municipalities may make tolls productive by fixing higher rates for heavy trucks and buses for use Municipal roads. In towns, which draw a large tourist influx, there is scope for levying specific imposts on tourists/pilgrims.

Municipalities may also be empowered to levy a surcharge on duties on transfer of property like the provisions in Panchayat Act in the State.

- (i) Water rates may be considered for introduction in a graded manner, protecting ordinary user while taxing large users and commercial and industrial undertakings.
- (j) The Second Municipal Finance Commission has also recommended a special conservancy charge for commercial and industrial establishments because more than half the solid wastes are generated by these sources. The State Finance Commission also supports these recommendations.¹⁰¹
- (k) Regarding the scope and possibilities of non-tax revenues of Municipalities in the State, the State Finance Commission observes that, rents of municipal lands and buildings, sale proceeds of municipal lands and buildings, license fees, market fees and revenue from slaughter houses, income from commercial or remunerative enterprises and income from other sources may opened up a new direction towards this end.
- (l) Salaries and allowances to the staff is the major item of expenditure of Municipalities, usually comprising 70 to 80 percent of the total revenue expenditure. The State is exploring means to restrict subsidized staff expansion by granting DA subventions for a part of the staff strength only. This exploration may continue but because of continuing inflation hurts the Municipal employees as much as the State employees and strains municipal resources, so the DA subvention grants should cover the whole DA liability in respect of the approved staff and not 80 percent only, as at present. On the other hand, when the Municipalities had to introduce various staff benefits like pensions, gratuity, medical benefits, bonus etc. at the instance of the State Government, it is only logical that the State should provide these funds as grants to come to the aid of these beleaguered Municipalities.
- (m) In the present context, Municipal deficits are large and can only be met by pooling State grants and sharing State taxes. When the sources

of plan and non-plan revenues are enlarged, the problem may be more manageable but the State grants and share of tax proceeds would continue to be essential in coping with the deficits. These, along with entitlements and some plan grants, should make the municipalities more self-reliant and will ensure that plan grants are properly utilized for local development and not largely diverted. Diversion of plan grants to meet revenue deficits deprives the local population and should be actively discouraged by the State Government through penal measures.

- (n) In Municipalities, property Taxes, other taxes and non-tax receipts make up their total own revenue incomes. Expenditure usually exceeds incomes every year and the deficits are met by the State Government. The fact may be shown in the following table by taking few of the major ULBs in the State.

Table No.-4
Per Capita Own Source Revenue Income and Revenue
Expenditure of the Urban Local Bodies

Year	Name of the Municipality	Population in 1991 (thousand)	Own source revenue income (Rs in 000)	Per capita own source revenue income (Rs.)	Revenue expenditure (Rs. in 000)	Per capita Revenue expenditure (Rs.)
1995-96	Cooch Behar	71,000	8654000	121.88	20428000	287.72
96-97			13279000	187.03	23105000	325.42
97-98			13935000	196.00	27785000	391.00
95-96	Midnapore	125000	10240000	81.92	22388000	179.10
96-97			8774000	70.19	25276000	202.21
97-98			10660000	85.00	29479000	236.00
95-96	Baharampur	115000	6638000	57.72	24931000	216.79
96-97			11027000	95.88	31780000	276.34
97-98			12201000	106.00	28704000	250.00
95-96	English Bazar	139000	11229000	80.78	21793000	156.78
96-97			15869000	114.16	26354000	189.59
97-98			17105000	123.00	27563000	198.00
95-96	Raiganj	151000	3015000	19.96	11884000	78.70
96-97			2474000	16.38	10862000	55.73
97-98			3810000	25.00	16383000	108.00

Source: *Urban West Bengal 1996 to 1999.*

- (o) The State Finance Commission suggests that a Municipality will earn a bonus if it can increase its total own income by increasing returns from any of its own sources at least five percent in a financial year to earn a bonus of two thirds of the incremental part. How far the ULBs in West Bengal try to achieve the bonus may be shown in the Table No- 5 below:

Table No.- 5
Assessment and Collection of ULBs as on 31.3.97 to 31.3.98

Name of the ULBs	Date of last Assessment	Total number of taxable holdings	Demand (Rs.)			Collection (Rs. 000)			Total Collection as % of demand
			Arrear	Current	Total	Arrear	Current	Total	
Cooch Behar	1.8.1989	10533	1907000	4689000	6596000	1469000	2379000	3848000	58.33
	1.7.1997	12992	2745000	4686000	7431000	1705000	2399000	4104000	55.22
Medinipore	1.4.1989	22214	6780000	6146000	12926000	2864000	3832000	3818000	51.80
	1.4.1991	22214	6780000	6146000	12926000	2673000	6696000	6491000	50.22
Baharampur	1.10.1995	21731	4726000	12505000	17231000	3096000	7268000	7268000	80.87
	1.10.1995	30872	5336000	13905000	19441000	10364000	3096000	6831000	51.06
English Bazar	1.4.1992	20393	14877000	8219000	23096000	1924000	4319000	5038000	27.03
	1.4.1992	21646	16760000	8333000	25093000	2422000	2422000	7460000	29.73
Raiganj	1.4.1988	11760	8093000	2537000	10630000	786000	2272000	1486000	21.37
	1.4.1990	NA	NA	NA	NA	NA	NA	NA	NA

Source: *Compilation of Urban West Bengal, 1996-1999.*

Thus, evidence suggests that intergovernmental transfers including grants-in-aid, constitute the most important source of revenues for ULBs in the State. It is suggested that intergovernmental transfer system should be transparent with in-built incentives and the quantum of transfers should be predictable and predetermined.

Secondly, property tax is the most important source of revenue of the ULBs in West Bengal and it has been levied to finance urban development in general and provision of municipal services in particular. It consists of general tax and service charges accordingly. The revenues from this most important tax sources are affected adversely by unrealistic progression of rates and its structure, wide exemptions and poor collection levels. Tax administration could be made effective and efficient through regular revision or inflation adjustment, sharing of capital gains by Municipal bodies when property is sold and incentives to good taxpayers to shore up tax collections.

Thirdly, other option is to levy taxes on various levels like local, state or national. However, since the users of the services do not directly pay the cost inefficiency in use of resources occurs. The implementing agencies also have no motivation for economy and improvement of efficiency of services. The advantage of this choice that the government can plan at a macro level and arrange for cross-subsidization across regions, areas and sectors is increasingly coming under question and the disadvantages are becoming more and more apparent. Present approach, therefore, stresses gradual reduction of role of government as funding agency but the role will remain.

Fourthly, rising sources through issue of bonds directly from the capital market has been an accepted practice in developed countries. However, most Municipal legislation in India and WBMA 1993 in West Bengal restrict the ability of the ULBs to raise resources through loans not only from open market through issue of bonds but also from banks and financial institutions without the prior approval of the State Governments. The direct access to capital market is normally the least expensive form of credit due to absence of financial intermediary.

Fifthly, the scope of direct private investment is generally more in infrastructure other than those provided by local bodies, like telecommunication, power etc. However, in case of municipal bodies it is possible to take advantage of private initiative to some extent through exploitation of various institutional options. The municipal authorities should perceive themselves as responsible for ensuring availability of requisite infrastructure services in their areas of operation rather than their providers. This attitudinal change is necessary in view of the current inefficiencies in delivery of services which mainly occurs due to lack of competition and lack of availability of expensive technical expertise.

Lastly, where the direct competition is not possible efficiency can be increased by means of competition managed through contractual arrangements in the following manners:

- (a) **Contracting out Services:** It provides a flexibility and cost effective tool for increasing responsiveness to users and taps expertise too expensive to maintain permanently on public pay rolls. It also permits competition among multiple providers, each with short and specific contracts. The municipal body responsible for providing such services sets the performance criteria, evaluates bids from competitive tendering, supervises the performance and pays agreed fees for the services involved. The World Development Report 1994 recognized that, contracting out is more cost-effective than using public employees to handle maintenance jobs.¹⁰²
- (b) **Management Contracting:** It gives responsibility for a broad scope of operation and maintenance to the private sector usually for 3 to 5 years. It is effective when a contractor is granted significant autonomy in decision-making and compensation is based, at least in part on performance, management contracts with fees based on performance tend to be more successful than those with fixed fees – such as traditional management consulting assignments.
- (c) **Leases:** Under a lease, the local body supplies major investments for production facilities and a private contractor then pays for the right to

use the public facilities in providing services. A lease generally awards the contractor exclusive rights to the streams of revenues for a period of 6-10 years. The contractor bears most or all of the commercial risks, but not the financial risks associated with large investment.

(d) Concessions: Concessions incorporate all the features of a lease but give the contractor the added responsibility of investments such as specified extensions and expansions of capacity or the replacements of fixed assets.¹⁰³

Thus, we can say that, various avenues available to urban local bodies to finance their local needs including municipal development funds, institutional finance and direct recourse to market borrowing are not fully developed and there is an urgent need to provide more freedom to the ULBs to raise resource from such methods.

Notes and References

1. **Bhattacharjee Mohit:** '*State Municipal Relations: A Functional Analysis*'. The Indian Institute of Public Administration. New Delhi. March – 1972. P-1.
2. **Khan Mohd. Akbar Ali:** 'Constitutional Status of Municipal Governments'. *Nagarlok*. Vol.-XIV 1984.
3. For an Outline of Toulmines Theories See J. Redlich, and F.W. Hirst, *Local Government in England*. Vol.-1. London. Macmillan 1903. P-10.
4. **Longrod, Georges:** Local Government and Democracy. *Public Administration*. Vol.-31, 1953, PP- 26-31.
5. **Mill J.S.:** Considerations on Representative Government. *World Classics Edition*. Oxford University Press. 1912.
6. **Mohd. Khan A.A.:** Constitutional Status of Municipal Governments. op. cit.
7. **Duane Lockard:** 'Local Government' – *International Encyclopedia of Social Sciences*. Vol.-9. New York. Crowell Collier and Macmillan. INC-1972. PP- 451-459.
8. **Mohanty P.K.:** 'Municipal Decentralization and Governance Autonomy, Accountability and Participation'. Article in – *Decentralization and Local Politics*. Edited by – S.N. Jha and P.C. Mathur. Sage Publications. New Delhi. 1999. PP- 223-224.
9. **Ibid:** P-224-225.
10. **Ibid:** P-225.
11. **Mohunty I.N.P.:** State-Municipal Relations: An Analysis of Collaboration and Control in India. *Nagarlok*. Vol.- XXIX – 1990.
12. **Bowman M. and Hampton W.:** Ed. – '*Local Democracies*'. Melbourne, Longman Cheshire. 1983. P-14.
13. **Mohunty I.N.P.:** op. cit.
14. **Das R.B.:** State Supervision and Control. *Nagarlok*. Vol.-II, No.-4. 1970.

15. **Hicks W.:** *Development from Below: Local Government and Finance in the Developing Countries of Commonwealth.* Oxford. The Clarendon Press. 1962. P-28.
16. *Report of the Rural-Urban Relationship Committee.* Vol.- 1. Government of India. Ministry of Health and Family Planning. June 1966. P-116.
17. **Maddick H.:** *Democracy, Decentralization and Development.* Bombay, Asia Publishing House. 1986. PP- 203-204.
18. **Noted in Mohunty I.N.P.:** op. cit.
19. *Rural-Urban Relationship Committee (Report).* Op. cit. P-116.
20. Proceedings of the Seminar on “*State Machinery for Municipal Supervision*”, held on 7th and 8th May 1980 at IIPA. New Delhi. 1970.
21. *Report of the Taxation Enquiry Commission – Vol.-III.* Government of India. New Delhi. 1954. P-374.
22. **Muttalib M.A. and Khan A.A.:** *Theory of Local Government.* Sterling Publishers. New Delhi. 1982. PP- 10-11.
23. **Mohd. Khan A.A.:** op. cit. P-6.
24. *Report – Rural-Urban Relationship Committee.* Op. cit. P-116.
25. **Ibid:** P-117.
26. **Times of India.** October 16 1986.
27. *The Constitution (Seventy Fourth) Amendment Act, 1992 on Municipalities Power to the People: The Nagarpalika Act.* Ministry of Urban Development. Government of India. New Delhi. 1993.
28. **Mohunty P.K.:** Capacity Building Issues in the Context of 74th Constitution Amendment Act. *Local Government Journal.* Vol:- LXIX, Nos.-3-4, July-Dec. 1998. All India Institute of Local Self-Government. Sthanikraj Bhawan. C.D. Bariwala Marg. Andheri (W). Bombay – 400058 (India). PP- 199-200.
29. *74th Constitution Amendment Act – op. cit.*
30. *Hand-Book of the West Bengal Municipal Act 1993 (West Bengal Act XXII of 1993) –* By A.N. Saha. Venus Book Distributors. 6, Old Post Office Street, Calcutta – 700001. June 1999. P-65.

31. **Ibid:** PP-65-68.
32. **Ibid:** PP-68-70.
33. **Ibid:** P-78.
34. **Ibid:** P-71.
35. **Ibid:** P-74.
36. **Mohunty P.K.:** op. cit. PP-205-206.
37. **Jha Gangadhar:** The 74th Constitution Amendment Act and the Empowerment of Municipal Government: A Critique. *Urban India*. Vol.- XIII, No.-2, July-Dec. 1993. P-42.
38. **Ibid.**
39. **Ibid.**
40. **Ibid.**
41. *Report of the West Bengal Municipal Finance Commission.* Government of West Bengal. Department of Local Government and Urban Development. March 1982. P-11.
42. **Ibid:** P-10.
43. *Recommendations of State Finance Commission.* West Bengal 1995. Bikash Bhavan (3rd Floor), East Block. Salt Lake. Calcutta – 700091.
44. *Report of the Rural-Urban Relationship Committee.* Op. cit. P-18.
45. **Ibid:** P-18.
46. **Ibid:** P- 19.
47. *Recommendations of State Finance Commission in West Bengal 1995.* op. cit.
48. *Report – Rural-Urban Relationship Committee.* op. cit. P-73.
49. *Recommendations of State Finance Commission in West Bengal 1995.* op. cit. P-1.
50. *West Bengal Municipal Act 1993.* op. cit. P-34.
51. **Ibid:** PP- 36-37.
52. **Ibid:** P-57.
53. **Ibid:** PP-57-58.
54. **Ibid:** PP-58-59.
55. **Ibid:** P-59.

56. **Ibid:** P-59.
57. **Ibid:** PP-60-61.
58. **Ibid:** P-61.
59. **Dutta Prabhat:** 'Urban Governance in West Bengal: Evolution of Institutional Instrumentalities. *Urbanization and Urban Governance in West Bengal*. A Publication of Institute of Local Government and Urban Studies (ILGUS). Department of Municipal Affairs. Government of West Bengal. 1998. P-18.
60. Municipal Affairs Minister's Speech while Introducing the CVB Bill on Nov. 16 1978. *Gazette* – Nov. 16 1978.
61. *Brief of MIC*, Municipal Affairs and Urban Development Departments – for the year 2000-2001. Government of West Bengal. March 2000.
62. **Ibid.**
63. *Poura Diganta* (in Bengali), A mouth piece of the Department of Municipal Affairs, Government of West Bengal. Issue-I, No.-I, 1998 (ILGUS).
64. *Report of the Second Municipal Finance Commission*. Government of West Bengal. 1993.
65. *Report of the Municipal Finance Commission 1982*. op. cit.
66. *Report of the Second Municipal Finance Commission 1993*. op. cit.
67. **Dutta Prabhat:** Urban Governance in West Bengal: Evolution of Institutional Instrumentalities. *Urban Management*. 8th Issue (January 2000): A Journal of the Institute of Local Government and Urban Studies. Government of West Bengal.
68. *Brief of MIC*, Municipal Affairs and Urban Development Department. op. cit.
69. **Ibid.**
70. **Ibid.**
71. **Dutta Prabhat:** op. cit.
72. **Ibid.**
73. **Ibid.**

74. **Ibid.**
75. *The Constitution (Seventy Fourth) Amendment Act 1992.* op. cit.
76. **Dutta Prabhat:** Urban Governance in West Bengal: Evolution of Institutional Instrumentalities. op. cit.
77. **Ibid.**
78. **Ibid.**
79. *Government Order – Memo No.- 1415/P/2M – 6/99 Dated May 24 1999 and Memo No.- 2322 (57)/OP/P- 2M- 6/99 dated August 18, 1999.*
80. *Recommendations of the State Finance Commission 1995 West Bengal.* op. cit. P-6.
81. **Ibid.** P-27.
82. **Dutta Prabhat:** Urban Governance in West Bengal: Evolution of Institutional Instrumentalities. op. cit.
83. *Recommendations of the State Finance Commission 1995 West Bengal.* op. cit. P-8.
84. **Ibid.** P-23.
85. **Atolia Monoj:** Urban Infrastructure: Resource Needs and Policy Options. In *Urban Management.* 7th Issue. June 1999. ILGUS. Government of West Bengal. P-46.
86. *Report of the West Bengal Municipal Finance Commission 1982.* op. cit.
87. **Ibid.** P-111.
88. **Ibid.** P-112.
89. **Ibid.** P-131.
90. **Dutta Bhabotosh:** State Municipal Financial Relations in West Bengal. *Nagarlok.* Vol.- XIV, No.-4. June-July 1983.
91. *Report – Second WBMFC 1993.* P-91. op. cit.
92. **Ibid.**
93. **Ibid.** P-91.
94. *Report of the Local Finance Enquiry Committee 1951.* Government of India. Department of Urban Development and Family Planning. New Delhi.

95. *Report of the Rural-Urban Relationship Committee 1966.* op. cit.
96. *Report – Second WBMFC 1993.* P-94. op. cit.
97. **Mohunty P.K.:** Capacity Building Issues in the Context of 74th Constitution Amendment Act. *Local Government Journal.* op. cit.
98. *Report – Second WBMFC 1993.* op. cit.
99. UNDP (1997) Governance for Sustainable Human Development. *U.N. Development Programme.*
100. *Recommendations of the State Finance Commission, W.B.1995.* op. cit. P-7.
101. **Ibid.** P-9.
102. **Atolia Monoj:** Urban Infrastructure: Resource Needs and Policy options. op. cit. P-49.
103. **Ibid.** P-50.