BLOCK 2

STATE AND DISTRICT ADMINISTRATION

ignou
THE PEOPLE'S
UNIVERSITY

UNIT 2 CONSTITUTIONAL PROFILE OF STATE ADMINISTRATION*

Structure

2.0 OBJECTIVES

After studying this Unit, you should be able to:

- Understand the Constitutional provisions regarding the functioning of the state Government;
- Explain the role of Governor in state administration;
- Describe the powers and the functions of the Chief Minister in relation with bureaucracy and Council of Ministers; and
- Examine the working of State Legislature, and its control over administration.

2.1 INTRODUCTION

The very first Article of our Constitution says, "India, that is, Bharat, shall be a Union of states." The word "Union" has been used to mean "Federation" in the Constitution of the United States (US) of America. In our Constitution, however, the Union is not a Federation of the type setup by the US Constitution. The Indian Constitution has several features of a Federation like the dual government, distribution of powers between the union and state governments, supremacy of the Constitution and final authority of courts to interpret the Constitution. On the other hand, there are several unitary features like a unified judicial system; integrated machinery for election; accounts and audit; power of superintendence of union government over state government in emergencies, and to

* Adapted from BPAE-102, Indian Administration, Block-3, Unit-12.

some extent even in normal times; single citizenship, etc. Due to these features, our Constitution lays down a quasi-federal polity. Granville Austin has called our Federation a "Cooperative Federalism" due to the need for close cooperation between the Union government and state governments. The purpose here is not to discuss in detail the nature of Indian Federation, but to put the study of state administration in proper context. It is, therefore, enough for us to know that we have governance – at the Union or Central level, State level and Local level. The powers and functions of the government are specified in the Constitution. The Union and the state governments, function independently in their own spheres. Of course, there is an area of overlapping responsibility, and certain powers of superintendence vested in the Union government.

In this Unit, we propose to study the functions assigned to the state government in the Constitution and the way in which the state administration is organised to perform these functions.

2.2 POWERS OF THE STATE GOVERNMENT

As already mentioned, the Union government and state government derive their powers, directly from the Constitution. The Constitution has adopted a three-fold distribution of legislative powers between the Union and states (Article 246). Schedule VII of the Constitution enumerates the subjects into three lists. List I or the Union List consists of the items over which the Union has exclusive powers of legislation. Similarly, List II or the State List comprises items over which the state has exclusive powers of legislation. There is yet another List (List III) known as the Concurrent List that comprises subjects over which both the Union and states have powers to legislate. The residual powers are vested in the Union. We would now briefly discuss List II and List III, which enumerate the subjects over which the states have jurisdiction either exclusively or concurrently with the Union.

i) **State List**

The State List contains 59 items (originally 66 items in the Schedule VII) over which states have exclusive jurisdiction. Some of the important ones are- Public Order, Police, Agriculture, Public Health and Sanitation, Local Government, etc. These are subjects of maximum concern to the people, which can be better dealt with at the state level. These subjects are generally under the exclusive jurisdiction of the states, but under the following circumstances, the Parliament can legislate on these matters.

a) In national interest, Council of States by a resolution of 2/3rd of its members present and voting may authorise the Parliament to legislate on a state subject. Such authorisation may be for one year at a time, but can be renewed by a fresh resolution;

b) Under a proclamation of emergency, the Parliament may legislate on a state subject;

c) With the consent of two or more states, the Parliament may legislate on a state subject with respect to the consenting states;

d) Parliament has powers to legislate with reference to any subject (including a state subject) for the purpose of implementing treaties or international agreements and conventions; and

e) When a proclamation is issued by the President on the failure of Constitutional machinery in any state, s/he may declare that the powers of the state legislature shall be exercised by or under the authority of Parliament.

ii) **Concurrent List**

The Concurrent List, which originally comprises 52 items (though the last item is numbered 47) over which the Union and state legislatures have concurrent jurisdiction. The important ones are- Criminal Law, Criminal Procedure, Marriage, Education, Civil Procedure, Insurance, Economic and Social Planning etc.

While the Union and states can legislate on any of the subjects in the Concurrent List, predominance is given to the Union Legislature. It means that in case of repugnancy between the Union and a state law relating to the same subject, the former prevails. If, however, the state law was reserved for the assent of the President and has received such assent, the state law may prevail notwithstanding such repugnancy, but it would still be competent for the Parliament to override such state law by subsequent legislation.

Any dispute about the interpretation of the entries in the three lists is to be decided by the Courts. Following principles have been followed in such interpretation:

a) In case of overlapping of a subject between the three lists, predominance is to be given to the Union Legislature;

b) Each entry is given the widest importance that its words are capable of, without rendering another entry nugatory; and

c) In order to determine whether a particular enactment falls under one entry or another, it's "pith and substance" is considered.

2.3 ROLE OF THE GOVERNOR

Our Constitution provides for the Parliamentary form of government at the Union as well as the state levels. The Governor is the Constitutional head of the state and acts on the advice of the Council of Ministers headed by the Chief Minister. She/he (S/he) is appointed by the President for a term of five years and holds office during her/his pleasure. S/he can be reappointed after her/his tenure as Governor of the same state or of another state.

According to the Constitution, the Governor has many executive, legislative, judicial and emergency powers. For example, the Governor appoints the Chief Minister and on her/his advice the Council of Ministers. S/he makes many other appointments like those of Chairman and Members of the State Public Service Commission, Advocate General, State Election Commissioner, etc. In fact, the entire executive work of the state is carried on in her/his name.

The Governor is a part of the State Legislature. S/he has a right of addressing and sending messages to and of summoning, proroguing the State Legislature and dissolving the Lower House. All the bills passed by the Legislature have to be assented by her/him before becoming the law. S/he can withhold her/his assent to the Bill passed by the Legislature and sends it back for reconsideration. If it is again passed with or without modification, the Governor has to give her/his assent. S/he may also reserve any Bill passed by the State Legislature for the assent of the President. The Governor may also issue an Ordinance when the legislature is not in session.

The Governor even has the power to grant pardon, reprieve, respite, and remission of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law related to a matter to which the executive power of the state extends. As far as the emergency powers of the Governor are concerned,

whenever the Governor is satisfied that a situation has arisen in her/his state whereby the administration of the state cannot be carried on in accordance with the provisions of the Constitution, s/he can report the fact to the President. On receipt of such a report, the President may assume to herself/himself the powers of the state government and may reserve for the Parliament the powers of the State Legislature (Article 356).

Exercise of Discretion by the Governor

It has already been pointed out that the Governor has to exercise her/his powers on the advice of the Council of Ministers. S/he does not, therefore, have much discretion in the exercise of her/his powers as long as a stable Ministry enjoying the confidence of the Assembly is in office. However, this is not always the case. The Governor may then be called upon to exercise her/his discretion. It is this exercise of discretion that has made the Governor's office the most controversial Constitutional office of the country. Major controversies have arisen in the following types of cases in the past.

i) **Appointment of Chief Minister**

The Governor appoints the Chief Minister and on her/his advice the Council of Ministers. When a party with absolute majority elects a leader, the Governor has no choice but to appoint her/him the Chief Minister and invite to form the government. Problems arise when no political party has an absolute majority in the legislature. Here the discretion of the Governor comes into play.

ii) **Dismissal of a Ministry**

A Chief Minister and her/his Ministry hold office during the pleasure of the Governor, which is not subject to any scrutiny. However, the Governor has to exercise her/his discretion judiciously.

iii) **Dissolution of the Assembly**

In British Parliamentary Democracy, the king is guided by the advice of the Prime Minister in the matter of dissolution of the House of Commons. Likewise, the Governor should be guided by the advice of the Chief Minister in the matter of dissolution of the Assembly.

iv) **Use of Emergency Powers**

It has also been alleged that the Governors have not used their discretion judiciously in advising the President for using her/his emergency powers under Article 356 of the Constitution.

2.4 STATE LEGISLATURE

Legislation provides the framework for policy formulation, and arms the government with powers to implement the policies. At the state level, the function of providing the necessary legislative framework is performed by State Legislature. There is no uniformity in the organisation of State Legislatures in India. In this regard, a sizable number of states have unicameral system and remaining like Andhra Pradesh, Bihar, Maharashtra, Karnataka etc. have bicameral system, that is, both Legislative Assembly and Legislative Council. Our Constitution provides that every state shall have at least one house, viz., the Legislative Assembly comprising 60 to 500 members (except Sikkim, Goa, Mizoram etc.) chosen by direct election on the basis of universal adult franchise from territorial

constituencies. In addition, any state can create a second house, viz., Legislative Council if it so desires. This can be done by a resolution of the Assembly passed by a special majority (i.e., a majority of total membership of the Assembly not being less than two-thirds of the members actually present and voting) followed by an Act of Parliament. By the same process, an existing Legislative Council can be abolished also.

The members of Legislative Council are indirectly elected. The election is to be in accordance with the principle of proportional representation by means of the single transferable vote. Duration of the Assembly is five years unless dissolved earlier by the Governor. Its term may be extended by Parliament during an Emergency up to a period of six months beyond the expiry of the proclamation of an Emergency by the President.

2.4.1 Legislative Procedure

i) **Regarding A Money Bill**

a) A Money Bill can originate only in the Legislative Assembly and not in the Council.

b) The Council cannot reject or modify this Bill passed by the Assembly. It can only make recommendations, which may or may not be accepted by the Assembly. The Bill as passed by the Assembly with or without modification is presented to the Governor for assent. If the Council does not return the Bill within 14 days, it can straightaway be presented to the Governor for her/his assent. Thus, the will of the Assembly ultimately prevails. The Council can at best delay its passage.

ii) **Regarding any Bill other than a Money Bill**

a) Such a Bill can originate in either House.

b) If a Bill is passed by the Assembly, the Council may reject the Bill, modify it or may not pass it for three months. If the Bill is again passed by the Assembly with or without modification, the Council, on its second journey, may only delay it by one month.

c) If a Bill originates in the Council and is rejected by the Assembly, the matter ends.

d) Thus, in every way, the supremacy of the Assembly is established; more so, in case of Money Bills. The dispute between two houses is always resolved according to the will of the Assembly. This is in contrast to the Union Legislature where a dispute between the two Houses is resolved by a joint sitting. This is probably in recognition of the fact that the Upper House in Union Legislature is representative of the states.

iii) **Governor's Veto**

When a Bill, passed by State Legislature, is presented to the Governor for her/his assent:

a) The Governor may assent to the Bill, in which case it would become law.

b) S/he may withhold assent, in which case it does not become law.

c) S/he may, in case of a Bill other than a Money Bill, return the Bill with a message.

d) The Governor may reserve a Bill for the consideration of the President.

iv) **Governor's Power to Issue Ordinances**

When the Legislature is not in session, the Governor can issue Ordinances, which have the force of law. Any Ordinance so issued by the Governor has to be placed before the Legislature whenever it is convened and ceases to have an effect at the expiration of six weeks from the date of reassembly unless disapproved earlier. The Governor's Ordinance - making power is co-extensive with the legislative powers of the State Legislature and is subject to the same limitations pertaining to obtaining previous sanction from the President.

2.4.2 Legislative Control over Administration

Apart from providing necessary legislative support to the executive, the Legislature also acts as an instrument of popular control over administration. In a Parliamentary democracy like ours, this control is exercised in following forms:

i) **Assembly Questions**

The members of the Assembly have a right to ask questions from the government. They can also ask supplementary questions. This device keeps the government on its toes. Whenever weaknesses are noticed, the government is compelled to promise and take corrective action.

ii) **Discussions**

Apart from asking questions, the members may ask for discussions over important matters. They may also bring forward Call Attention Motions and Adjournment Motions on important public matters. Even if such motions are not allowed, a lot of information has to be supplied by the government and some discussion does take place. Here again the government is kept on a tight leash and has to answer the representatives of the people.

iii) **Financial Control by Budget**

No money can be raised and no expenditure can be incurred without a vote by the Legislature. By controlling the purse strings, the Legislature controls the programmes and activities of the government. It is true that by virtue of its majority in the Legislature, the government may ultimately get the money it wants, but during the process a lot of discussion takes place. This keeps the government in touch with the needs of the people. The discussion also highlights the weaknesses of the administration in the implementation of the voted programmes.

iv) **Post-expenditure Control**

The State Legislature also scrutinises the expenditure incurred by the government through the device of audit. Our Constitution provides for an integrated accounts and audit system. The Comptroller and Auditor General of India (CAG) gets the account of the state government audited and sends her/his report to the Assembly through the Governor. The Public Accounts Committee of the State Legislature goes through this report, examines and finally reports to the Legislature. Any instances of unauthorised, improper, or imprudent expenditure are, thus, discussed in detail and brought to the notice of the Legislature, which can then keep a vigilant eye on the government.

v) **Control through Legislative Committees**

Apart from the Public Accounts Committee mentioned earlier, there are several other

committees, viz., Estimates Committee, Committee on Public Undertakings, Committee on Government Assurances, etc. These committees examine the various aspects of the working of the government and make useful suggestions. They also criticise the government for its failures and bring these failures to the notice of the Legislature and the people. This is a good device of exercising control over the government, as the Assembly is too unwieldy a body to examine the working of the government in detail.

vi) **Ministerial Responsibility**

The most potent function of the Legislature is to enforce the ministerial responsibility. In a parliamentary form of government, the political executive is a part of the Legislature and is responsible to it all the time. The government can be thrown out at any time by a vote of no-confidence or even on being rejected on its budget or any of the substantive legislative measures. As the political executive is always responsible to the legislature, therefore the administrators become indirectly responsible to it through the ministers.

In spite of these controls, it is often felt that the administration is not responsive enough. On the other hand, it is argued that the legislative control, especially the one through audit is too tight and takes away the initiative of the administrators.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Explain the three-fold distribution of powers between the Union and states.

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2) Discuss the emergency powers of the Governor.

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3) Describe the legislative procedure regarding the passing of a Money Bill.

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4) What are the various ways through which the Legislature exercises its control over the administration?

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2.5 STATE COUNCIL OF MINISTERS

As already mentioned, the executive power of the state is exercised in the name of the Governor, who is the Constitutional Head of the state. But, the Governor has to have a Council of Ministers with the Chief Minister as its Head to aid and advise her/him. However, for a few discretionary functions, the Governor has to act on the advice of the Council of Ministers. It means that the real executive power is exercised by the Council of Ministers.

The Council of Ministers is appointed by the Governor on the advice of the Chief Minister and hold Office during her/his pleasure. It means that a Minister can also be dismissed by the Governor on the advice of the Chief Minister.

On the pattern of the Union government, ministers in the state governments are of the following categories:

i) Cabinet Ministers

ii) Ministers of State

iii) Deputy Ministers

In a State, total number of Ministers, including the Chief Minister, in the council shall not exceed fifteen percent of the total number of members of the Legislative Assembly of that State. The system of Cabinet Committees is not so popular in the state governments as in the Central government.

i) Powers and Functions of the Council of Ministers

The Council of Ministers is the highest policy-making body of the state government. It lays down policy in respect to all matters within the legislative and administrative competence of the state government. The Council also reviews the implementation of the policy laid down by it and can revise any policy in view of the feedback received during implementation. Since the Governor has to exercise her/his executive powers on the advice of the Council of Ministers and all the executive power is exercised in the name of the Governor, there is no limitation on the powers of the Council except the following:

a) The limits imposed by the Constitution and the laws passed by the Union and State Legislature.

b) Self-imposed limits to exclude consideration of less important matters.

ii) **Division of Work into Departments at the State Level**

According to the doctrine of Ministerial Responsibility, the Council of Ministers is collectively responsible to the State Assembly. It is, however, impossible for the Council to take all the decisions collectively. During the early British period, the administration of the state was carried on by the Governor-in-Council. At that time, most of the decisions were taken collectively, because the number of decisions to be taken was not very large. With the passage of time, the scope of governmental activity increased and the matters that came up for the decision of the Council also proliferated. This led to the development of "portfolio system" in which the Councillors were placed in charge of certain specified subjects leaving only a few important matters to be placed before the whole Council. The same system has continued after Independence. Under our Constitution, the Governor has to make rules for the efficient conduct of business [Article 166(3)]. The state governments have framed "Allocation of Business Rules", according to which the work is divided among different ministers. This division of work can be done on the basis of functions, or on the basis of clientele, or on geographical basis or on the basis of the combination of these factors. Very often, the division of work is decided on personal considerations rather than rational criteria. Most of the work in respect of subjects allotted to a Minister is disposed of by the Minister. However, according to the rules of business, some matters have to be reserved by the Minister for:

a) **Consideration of the Chief Minister**

These are called coordination cases, in these cases the Minister in charge of a portfolio record her/his recommendations and submit the file to the Chief Minister for her/his orders. Rules of business give a list of such cases. The Chief Minister may also reserve some cases or classes of cases for her/his orders.

b) **Presentation before the Cabinet**

These are important policy matters, which have wide repercussions. Important cases of disagreement between two or more ministers are also brought before the Cabinet for its decision. A list of such cases is given in the rules of business. In addition, the Chief Minister may require any particular case of any department to be placed before the Cabinet. A few of the typical Cabinet cases are given below:

– Annual Financial Statement to be laid before the Legislature, and demands for supplementary grants.

– Proposals affecting state finance, not approved by the Finance Minister.

– Exemption of important matters from the purview of State Public Service Commission.

– Proposals for imposition of new taxes, etc.

The size and composition of the Council of Ministers is important for effective public administration. The Ministry and Cabinet come into existence for running the administration efficiently and impartially. In view of above, it needs to be compact and homogenous, its size being determined by administrative needs. It will depend on various factors such as the area of state, its population, level of economic development and specific problems. However, the present size of Council of Ministers in the states especially in larger ones appears to be disproportionate. In this context, an attempt was made by the 91st Constitutional Amendment introduced with effect from 1st January

2004 by restricting the size of Council of Ministers to a maximum of 15 per cent of the strength of the respective State Legislative Assembly, but the problem still persists. In bigger states of India (for example, U.P. where the Assembly has a strength of 404 legislators), even this restriction has not prevented formation of jumbo sized Ministries. Hence, there is growing realisation that there is an urgent need to reduce the size of Council of Ministers in the states. The SARC has recommended that the maximum size of the Council of Ministers may be fixed in a range of 10% to 15% of the strength of their Legislative Assemblies (Second Administrative Reforms Commission, 2009, pp. 22-23 https://www.darpg.gov.in/sites/default/files/sdadmin15.pdf).

2.6 ROLE OF THE CHIEF MINISTER

The Chief Minister performs the same functions in respect of the state government as the Prime Minister does in respect of the Union Government. Although the real executive power of the state government vests in the Council of Ministers, but the Chief Minister has acquired a very special role in the exercise of this executive power. S/he is not the first among equals, but is the prime mover of the executive government of the state.

The Chief Minister is appointed by the Governor and holds Office during her/his pleasure. However, when a single political party has an absolute majority in the Assembly, the Governor has only a ceremonial role in these matters. S/he has to invite the leader of the majority party to form the government and cannot dismiss her/him so long as s/he enjoys the confidence of the Assembly. The only exception probably may occur when the majority party changes its leader in the Assembly. Of course, the Governor does have some discretion in these matters during periods of instability when no single party can claim an absolute majority in the Assembly.

i) Powers of the Chief Minister in Relation to the Council of Ministers

The Chief Minister is the leader of the Council of Ministers. S/he has to assign portfolios among her/his Ministers and can change such portfolios when s/he likes. S/he plays a coordinating role in the functioning of her/his Council of Ministers. S/he has to see that the decisions of the various departments are coherent. S/he has to lead and defend her/his Council of Ministers in the Assembly. In short, s/he has to ensure the collective responsibility of the Council of Ministers to the State Assembly. The Chief Minister sets the agenda for the Cabinet and greatly influences its decisions. S/he takes decisions on important matters of coordination even though these are allotted to individual ministers. Moreover, the Governor appoints the Council of Ministers on the advice of the Chief Minister, and the ministers hold Office during the pleasure of the Governor. As a result of these provisions, the Minister, in fact, holds Office during the pleasure of the Chief Minister. This power of dismissing the ministers at will and the power to change their portfolios has greatly strengthened the power of the Chief Minister in relation to her/his Ministers and ultimately the Council of Ministers.

ii) Powers of the Chief Minister in Relation to the Governor

The powers of Chief Minister in relation to the Governor have not been mentioned anywhere in the Constitution. A convention was sought to be established whereby the Chief Minister could be consulted regarding the appointment of the Governor in her/his state. Even this has not been followed by the Union government in many cases. The only other power, which can be indirectly inferred from the Constitution, that is, the power to exercise executive power of the state in the name of the Governor. All the public appearances of the Governor and speeches delivered by her/him on such occasions

have to be in accordance with policy laid down by the Council of Ministers headed by the Chief Minister. Similarly, the speeches of the Governor on ceremonial occasions and the annual speech before the Assembly have to be approved by the Cabinet.

iii) Powers of the Chief Minister in Relation to the Legislature

The Chief Minister is also the leader of the House. Apart from this formal position, the Chief Minister provides real legislative leadership to the House in the sense that s/he sets the legislative agenda. The legislative measures are brought before the Assembly after the approval of the Council of Ministers headed by the Chief Minister. It is true that private members may also bring a Bill before the Assembly. But, that has a limited chance of success. Apart from the fact that it hasn't a backing of the majority party, the private members do not have the wealth of information, that is, available to the government. Apart from setting up the legislative agenda, the Chief Minister has to keep the Assembly informed about the various activities of the government by answering questions, making statements, intervening in the debates, etc.

iv) Powers of the Chief Minister in relation to the Personnel

By virtue of being the head of the political executive, the Chief Minister controls the entire bureaucracy of the state. In this function, s/he is assisted by the Secretariat headed by the Chief Secretary. S/he approves all senior appointments like those of Secretaries, Additional/Joint/Deputy Secretaries, Heads of the Departments, Chairpersons and Managing Directors of Public Sector Undertakings, etc. Through her/his Cabinet, s/he controls their service conditions and disciplinary matters. S/he provides them leadership to ensure good performance and good morale. At the same time, s/he has to keep a watch on their performance through administrative channels as well as through her/his own sources like party workers, complaints from aggrieved persons and actual observation during tours etc.

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) What are the powers and functions of the Council of Ministers?

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2) Explain the powers of Chief Minister in relation to the Council of Ministers.

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2.7 CONCLUSION

Our Constitution has been variously described as federal, federal with a unitary bias or unitary with a federal bias. Without going into these descriptions, it can be stated that our Constitution provides for a division of functions between the Union government and the state governments with a substantial area where their functions overlap. The State Legislature has exclusive jurisdiction over items given in the State List (Schedule VII of the Constitution) while Union government has exclusive jurisdiction over items given in the Union List. Both can legislate on items in the Concurrent List with predominance for Union Law in case of repugnancy. In general, the distribution of executive powers between the Union and state governments follows the distribution of legislative powers as given in the Union and State List. However, with some exceptions, the executive power in respect of Concurrent List vests in the State government. In the parliamentary form of government adopted by us at the Union as well as state levels, the Governor is the Constitutional Head of the state, while the real executive power is exercised in her/his name by the Council of Ministers headed by the Chief Minister.

Thus, in this Unit, we have discussed the Constitutional framework of the state administration. Powers of the state governments with respect to the State List and Concurrent List have been made clear. We have also discussed the role of the Governor and State Council of Ministers. Powers of the Chief Minister, who is the real executive at the state level, have been clearly dealt with. The Unit has also described the role of the State Legislature; and brought out the emerging trends in the relationship between the Union and states.

2.8 GLOSSARY

Convention : An accepted rule.

Remission : Reduction of the amount of sentence without changing its character, e.g., a sentence of imprisonment for one year may be remitted to six months.

Reprieve : Pardon or postponement of the punishment.

Repugnancy : Contradiction.

Respite : A temporary stay of execution.

2.9 REFERENCES

Arora, R.K. & Goyal, R. (2013). *Indian Public Administration: Institutions and Issues.* New Delhi, India: New Age International Publishers.

Basu, D.D. (2019). *Introduction to the Constitution of India* (24th ed.). New Delhi, India: Lexis Nexis.

Government of India. (2009). *Second Administrative Reforms Commission (15th Report), State and District Administration.* Retrieved from https://www.darpg.gov.in/sites/default/files/sdadmin15.pdf

Maheshwari, S.R. (2000). *State Governments in India*. New Delhi, India: The Macmillan Company of India Limited.

Pandey, L.B. (1984). *The State Executives*. Delhi, India: Amar Prakashan.

Pylee, M.V. (2016). *India's Constitution*. New Delhi, India: S Chand & Company.

The Constitution of India. Retrieved from https://www.india.gov.in/my government/ constitution-india/constitution-india-full-text

2.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:

- The distribution of powers between the Union and the states under the Union List, State List and Concurrent List.

2) Your answer should include the following points:

- Governor is satisfied that a situation has arisen in her/his state whereby the administration of the state cannot be carried on according to the Constitution.
- S/he can report the state of affairs to the President.
- On receipt of such a Report, the President may assume to herself/himself the powers of the state government.
- S/he may reserve to the Parliament the powers of the State Legislature.

3) Your answer should include the following points:

- Money Bill can originate only in the Legislative Assembly and not in the Council.
- The Council cannot reject or modify a Bill passed by the Assembly. .
- It can only make recommendations, which may or may not be accepted by the Assembly.
- The Bill as passed by the Assembly, with or without modification, is presented to the Governor for assent.
- The will of the Assembly ultimately prevails.
- The Council can at best delay its passage.

4) Your answer should include the following points:

- Assembly Questions
- Discussions
- Financial Control by Budget
- Post-expenditure Control
- Control through Legislative Committees
- Ministerial Responsibility

Check Your Progress 2

1) Your answer should include the following points:

- The Council of Ministers is the highest policy making body of the state government.
- It lays down policy in respect to all matters within the legislative and administrative competence of the state government.
- It reviews the implementation of the policy laid down by it and can revise any policy in view of the feedback received during implementation.
- There are no limitations on the powers of the Council except the following:

  i) The limit imposed by the Constitution and the laws passed by the Union and State Legislatures.

  ii) Self-imposed limits to exclude consideration of less important matters.

2) Your answer should include the following points:

- Refer Section 2.6

UNIT 3 STATE SECRETARIAT: ORGANISATION AND FUNCTIONS*

Structure

3.0 OBJECTIVES

After studying this Unit, you should be able to:

- Understand the meaning, significance and role of the State Secretariat;
- Explain the vertical structure of a typical Secretariat Department and the pattern of departmentalisation in the State Secretariat;
- Describe the distinction between the Secretariat Department and Executive Department as well as their mutual relationship; and
- Examine the significance and role of the Chief Secretary in the State Secretariat system.

3.1 INTRODUCTION

The functioning of the government is made effective with the help of task-oriented Ministries. No Ministry can run smoothly without the support of a Secretariat at the Union as well as State levels. The Secretariat helps the government in policy-making and execution of legislative functions. This Unit discusses the organisation and functions of the State Secretariat. It explains the pattern of departmentalisation in the Secretariat;

* Adapted from BPAE-102, Indian Administration, Block-3, Unit-13.

and brings out the distinction between the Secretariat Department and Executive Department. In addition, position and functions of the Chief Secretary in the state administration are also discussed.

3.2 MEANING OF SECRETARIAT

The three components of government at the state level are: (i) the Minister; (ii) the Secretary; and (iii) the Executive Head (last one in most cases is called the Director, although other nomenclatures are also used to refer to the executive head). The Minister and the Secretary together constitute the Secretariat, whereas the office of the Executive Head is designated as the Directorate.

Literally, the term "Secretariat" means the Secretary's office. It originated at a time when what we had in India was really a government run by the Secretaries. After Independence, the power of governance passed into the hands of the popularly elected Ministers and thus the Ministry became the seat of authority. In the changed political situation, the term Secretariat has become a synonym for the Minister's office. As the Secretary is the principal adviser to the Minister, therefore s/he needs to be in the physical vicinity of the Minister. In effect, therefore, Secretariat refers to the complex of building that houses the office of Ministers and Secretaries. The expression Secretariat, it has been observed, is used to refer to the complex of departments whose heads politically are Ministers; and administratively are the Secretaries.

3.3 POSITION AND ROLE OF STATE SECRETARIAT

The following extract from the Administrative Reforms Commission's Report on State Administration gives a succinct expression to the position and role of the State Secretariat:

The State Secretariat, as the top layer of the state administration, is primarily meant to assist the state government in policy-making and in discharging its legislative functions. The main functions of the State Secretariat are as follows:

i) Assisting the ministers in policy-making, modifying policies from time to time and discharging their legislative responsibilities;

ii) Framing draft legislation, and rules and regulations;

iii) Coordinating policies and programmes, supervising and controlling their execution, and reviewing of the results;

iv) Budgeting and control of expenditure;

v) Maintaining contact with the Government of India and other state governments; and

vi) Overseeing the smooth and efficient running of the administrative machinery, and initiating measures to develop greater personnel and organisational competence.

The administrative philosophy to which the secretariat system owes its existence is that policy-making must be kept separate from policy execution. Several advantages claimed in favour of such an arrangement are:

i) Freedom from operational involvement makes the policy-making apparatus forward looking and allows it to think in terms of overall goals of government rather than narrow, sectional interests of individual departments.

ii) Policy-making receives the time and attention it deserves, if different set of persons are charged with the functions of policy-making as well as its execution. This is because, policy-making is a serious exercise in drawing up what would be a future course of action. It should not be treated as less urgent than policy execution, which involves routine, day-to-day administration.

iii) Secretariat serves as a disinterested adviser to the Minister. It is important to remember that the Secretary is the Secretary to the government and not to the Minister concerned, which ensures objective examination of the proposals coming from the Executive Department. It enables a more balanced scrutiny of proposals.

iv) Policy-making must be separated from current administration; and day-to-day implementation should be left to a different agency with executive freedom, which ensures delegation of authority.

It should be in order at this stage to portray the broad dimensions of the Secretariat's role in some detail. The foremost of these is the Secretariat's role in policy-making. It assists the ministers in the formulation of government policies. This has many aspects. *First*, the Secretary supplies to the Minister all the data and information needed for policy formulation. *Second*, the secretaries sometimes provide the programmes, with content by working out their details, on whose strength ministers are voted to power. *Third*, the Secretariat assists ministers in their legislative work. Drafts of legislations to be introduced in the legislature by ministers are prepared by the secretaries. Besides, to answer questions in the Legislature, the Minister needs relevant information; and the Secretary supplies this information to the Minister. In addition, the Secretary also collects information required with respect to the legislative committees.

Fourth, the Secretariat functions as an institutionalised memory. This means that the emerging problems require an examination in the light of precedents. Records and files maintained in the Secretariat serve as an institutional memory, and ensure continuity and consistency in the disposal of cases. *Fifth*, the Secretariat is a channel of communication between one government and another, and between the government and such agencies as the Finance Commission. *Finally*, the Secretariat evaluates and keeps track of execution of policies by the field agencies.

3.4 STRUCTURE OF A TYPICAL SECRETARIAT DEPARTMENT

Vertically, a typical Secretariat Department has two hierarchical formations that of the officers and, what is described as the office.

Officers

Conventionally, the officers' hierarchy had three levels. Under this, a typical administrative department is headed by a Secretary who will have a complement of Deputy Secretaries and Under/Assistant Secretaries. But with growth in the functions of various secretariat departments, the number of levels in the officers' hierarchy has been on the increase. As a result, between the Secretary and the Deputy Secretary, in some states, positions of Additional and/or Joint Secretaries have also been created.

Office

A unique feature of the Secretariat system in India has been the distinction between its two component parts – "the transitory cadre of a few superior officers" and "the permanent office". The officers in each department, because they hold tenure posts, come and go. It is the office, which is manned by permanent functionaries, which provides the much needed element of continuity to the Secretariat department. Unlike officers, the office constitutes the permanent element in the Secretariat system. The office component is comprised of superintendents (or section officers), assistants, clerks, computer operators etc. The office performs the spadework on the basis of which the officers consider cases and make decisions. Office supplies officers with materials, which constitute the basis for decision-making.

The structure of a typical Department can be depicted as follows:

Department	-	Secretary
Wing	-	Additional/Joint Secretary
Division	-	Deputy Secretary
Branch	-	Under Secretary
Section	-	Section Officer

The Section is the lowest organisational unit and it is under the charge of a Section Officer. Other functionaries in a section are assistants, clerks, computer operators, etc. A Section is referred to as the office. Two Sections constitute the Branch, which is under the charge of an Under Secretary. Two branches ordinarily form a Division, which is headed by a Deputy Secretary. When the volume of work of a department is more than a Deputy Secretary can manage, one or more Wings are established with a Joint Secretary in charge of each Wing. At the top of the organisational hierarchy is the Secretary who is in charge of the Department.

3.5 PATTERN OF DEPARTMENTALISATION IN STATE SECRETARIAT

Each Secretary is normally in charge of more than one Department. The number of Secretariat departments would therefore be larger than the number of secretaries. The number of secretariat departments, quite naturally, varies from state to state. The number of departments in a particular state is not necessarily related to its size in terms of population. For instance, in 2020, a small state like Mizoram had as many as 48 Secretariat Departments, the corresponding figure for Gujarat (which is a much larger state) had 25 Departments. There are 53 departments in Haryana (Government of Haryana, Departments, https://haryana.gov.in/departments/). In this regard, following is a typical example of the pattern of departmentalisation of selected departments in Haryana:

- Home Department
- Department of Agriculture and Welfare, Haryana
- Department of Higher Education, Haryana
- Electronics & Information Technology Department
- Finance Department, Haryana

- Food, Civil Supplies & Consumer Affairs Department, Haryana
- Haryana Police Department
- Public Works Department
- Department of Town & Country Planning
- Women and Child Development Department
- Development & Panchayats Department, Haryana
- Department of Economic and Statistical Analysis, Haryana
- Food & Drug Administration Haryana
- Haryana State Legal Services Authority.

Large number of departments, in most of the states is created on the basis of factors such as volume of work, importance attached to certain items, political expediency etc. Partly, such increase in the number of departments may arise from the peculiar problems a particular state may face. In this context, the Second Administrative Reforms Commission observed that a small and compact Secretariat in which all activities and functions are kept together in one department with more responsibilities devolved on local governments and executive work, which is not related to policy-making and monitoring, hived off to executive agencies is necessary for good governance at all levels of administration. Thus, there is an urgent need to rationalise the number of Secretariat Departments in the State Governments (Second Administrative Reforms Commission, 2009, p. 28 https://www.darpg.gov.in/sites/default/files/sdadmin15.pdf).

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) In what way has the significance of the word "Secretariat" changed in the post-Independence period from that in the pre-Independence period?

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2) What is the legislative role of a Secretariat?

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3) Discuss the typical pattern of departmentalisation in the State Secretariat.

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3.6 DISTINCTION BETWEEN SECRETARIAT AND EXECUTIVE DEPARTMENT: DISCRETE PROCESSES OR A CONTINUUM

The Secretariat Department must be distinguished from the Executive Department. The Secretariat has the function of aiding, assisting and advising the Political Executive in arriving at policy choices. The heads of Executive Departments – who are in the main known as Director (although other nomenclature is also used to refer) – have the responsibility of implementing policies formulated by the Political Executive. Thus the Secretaries assist in policy formulation, whereas the Directors' role lies in executing policy.

Each Secretariat Department is in charge of a number of Executive Departments. This number varies over a wide range with some departments taking charge of a much larger number of executive heads than others. There is an average of 6 to 7 executive departments in relation to one Secretariat Department. However, it must be carefully noted that not all secretariat departments have executive departments attached to them. Some of the Secretariat departments are engaged in advisory and controlling functions and therefore do not have executive departments reporting to them. Examples are Departments of Law, Finance etc. The Secretariat and Executive departments organisationally express the policy formulation and policy execution processes involved in the functioning of the government; the two may be looked upon as extensions of the personality of the Council of Ministers.

The Secretariat Department is normally headed by a generalist civil servant (drawn from the IAS), and the Executive Department by a specialist. The specialist (the head of the Executive Department) functions under the supervision of the generalist (the Secretary or the Head of the Secretariat Department). This can be illustrated with some examples, Director of Agriculture, who is a specialist, is trained in and holds a formal degree in agricultural sciences, would function under the supervision of the Secretary, Agriculture (a generalist, an IAS). The latter represents Agriculture Department at the Secretariat level, whereas the Director of Agriculture represents Agriculture Department at the Executive level. The Director is the Executive Head of the Agriculture Department- the Directorate of Agriculture. Likewise, the Home Department in the Secretariat has the Director-General of Police as its Executive Head of the Department. Similar correlation obtains between Education Secretary and Education Director, Industries Secretary and Industries Director, Social Welfare Secretary and Social Welfare Director, and so on.

We have emphasised the distinctness of the roles of the Secretariat and the Directorate by saying that, while the former is concerned with policy formulation, the latter is concerned with policy execution (or with administering policy or to put it yet more simply, the administration). The question which may, therefore, be asked is whether

policy and administration are discrete processes. The answer is that at a conceptual level, the two are distinct and it is possible to identify and define them as two clearly distinguishable phenomena. But at a 'practical plane, the two are inextricably interlinked, even tend to become indistinguishable and, therefore, it is difficult to say where the policy ends and administration begins.

Policy is concerned with political choices and involves questions of broader values, whereas administration is concerned with implementing programmes emanating from particular policy decisions. Administration, therefore, involves such details of execution as framing organisational structures, staffing of organisations, coordinating activities, directing, controlling, and motivating the personnel and so on. That the two are dichotomous is the traditional view, which owes its origin to Woodrow Wilson's essay of 1887, "The Study of Administration". Politics, he said, is the proper activity of Legislature and other policy-making groups (e.g., political parties, cabinet, etc.). Administration is the sphere of administrators who carry out the policies stated in the laws. The context of the dichotomy was the civil service reform movement of the 1880s in the United States, which aimed to eliminate political interference in civil service. It was argued that civil service recruitment should, in the interest of administrative efficiency, be based on considerations of merit and fitness rather than partisan politics. In other words, politics should be kept out of administration. Max Weber further justified separation of policy from administration by arguing that the attributes of politicians are exactly the opposite of those of the civil servants. The essence of politics is to take a stand, to take personal responsibility for the policies decided on, and to admit the transitory nature of the political role. The essence of administration is to execute conscientiously the order of the political authority, even if it appears wrong to the administrator. The administrator is politically neutral. S/he simply does what s/he is asked to do and assumes no personal responsibility.

However, the complexities of governmental operations have increasingly required administrators to become involved in policy-making or political decisions. As a result of this, it is in practice found to be difficult to draw a clear boundary separating policy and administration, or to say where policy ends and administration begins. This would be clear from the following description.

Sources of Administrative Expertise

There are several sources from which the modern day administrators have obtained a kind of "expertise", which the politicians need to use when formulating policies. The administrators stay in office longer (they are career civil servants) than the politicians, who come and go with elections, the former have opportunities of giving sustained attention to problems. From this, they gain an invaluable kind of practical knowledge that comes from the experience of handling these problems day in and day out. This knowledge is conserved in records and transmitted to new generations of civil servants through training programmes. This monopoly of experience and practical knowledge coupled with continuity in office gives them a decisive edge over politicians in framing policies. The administrators are in possession of facts, figures, information and intelligence regarding the specific areas in which policies are to be framed. Politicians would need these data and statistics in formulating policies. Administrative expertise also comes pre-eminently from the fact that the governments of today employ a large variety of professionals (doctors, engineers, scientists, economists, etc.). They possess technical knowledge, which forms a vital input in policy-making. The advent of merit system has also helped to build up administrative expertise by attracting better talent in civil service and loosening the grip of politicians on civil service.

Administrators' Role in Policy-Making

The increase in civil service expertise, together with growth in the functions of government and growing complexity of administration, has resulted in an increasing dependence of politicians on administrators in the task of policy-making. This is reflected in the following:

i) Policy-making exercise is done on the basis of facts, figures, information and data, which are supplied by the bureaucracy. In other words, politicians, in order to enhance the credibility of the policies they frame, depend on the administrators' data support to their policies.

ii) Civil servants based on their long administrative experience, tender advice to the politicians on the administrative, technical and financial feasibility of the various policy options under consideration.

iii) Civil servants prepare the draft legislations (bills), which after ministerial approval are placed before the legislature for its consideration. In other words, administrators initiate the process of public policy formulation, which in its final form assumes the shape of an Act passed by the Legislature.

iv) Administrators formulate policy through the exercise of administrative discretion. When an administrator is required to choose between alternative courses of action within a policy frame, s/he is said to exercise discretion. In this sense, administrators are described as supplementary lawmakers. Here, the actual content of policy becomes entirely a matter for bureaucratic determination. The administrators actually decide how the power of the State shall be used in specific cases. In modern times, there has been an increase in administrative discretion by virtue of an incessant increase in the volume of legislation to be enacted. Legislature is under the circumstances, compelled to confine itself to indicating broad framework of law, leaving details to be filled up by the administrative agencies.

The growing variety and complexity of laws to be enacted has further circumscribed the Legislature's competence. The legislators do not have the technical know-how and training to venture into the details of particular legislation. This further necessitates exercise of administrative discretion. At any rate, if the Legislature delves into the details of each law, this would be at the cost of other important duties and functions of the legislators and therefore an undesirable thing to happen. This coupled with the assurance that it has the necessary means available to hold administration accountable to itself, which encouraged the Legislature in its attitude of not delving too deeply into the details of the enactment it formulates. Ultimately, the policy is to be executed in the field where an administrator must necessarily face a bewildering variety of situations as s/he sets herself/himself to the task of policy execution. For the law making agency, it is clearly not possible to visualise, at the point of legislation, the different variety of situations that may arise in the field. For this reason, once again, the policy-makers must do no more than to provide only broad guidelines in the legislations they frame.

3.7 CHIEF SECRETARY

Every state has a Chief Secretary. This functionary is the kingpin of the State Secretariat, her/his control extending to all secretariat departments.

3.7.1 Position of Chief Secretary

S/he is not simply first among equal, s/he is, in fact, the chief of the Secretaries. The Chief Secretary's pre-eminent position is clearly reflected in the varied roles s/he assumes in the state administrative set-up.

The Chief Secretary is the chief advisor to the Chief Minister and Secretary to the State Cabinet. S/he is the head of the General Administration department whose political head is the Chief Minister herself/himself. The Chief Secretary is also Head of the Civil Services in the State. S/he is the main channel of communication between the State Government and the Central and other State governments. The Chief Secretary is the Chief Spokesman and Public Relations Officer of the State Government, and is looked upon to provide leadership to the state's administrative system.

The office of the Chief Secretary is an institution unique to the states; it is without a parallel in the administrative landscape of the entire country. The Chief Secretary's office has, for instance, no parallel in the Central Government. The work s/he performs in relation to the State Government is, at the Union level, shared by three high-ranking functionaries of more or less an equal status, i.e., Cabinet Secretary, Home Secretary and Finance Secretary, This is a vivid reflection on the wide scope of the duties and powers of the Chief Secretary.

Yet another significant reflection on the position of the Chief Secretary's office is the fact that it has been excluded from the operation of the tenure system. The Chief Secretary would normally retire as the Chief Secretary or else s/he would, from this position, move to the Union Government to take up a more important position.

In considering the position of the Chief Secretary, another fact needs to be taken note of that the incumbent of this office is not necessarily the senior most civil servant of the State. This was at any rate the situation till 1973 when, for instance, in Uttar Pradesh, the Chief Secretary was junior in rank and seniority to the members of the Board of Revenue. Since 1973, however, the office of the Chief Secretary has been standardised; and its incumbent since then has begun to hold the rank of the Secretary to the Government of India, and receives emoluments admissible to the latter.

How does the clamping of the Presidents' rule on a state affect the Chief Secretary's Office? Where the Centre does not appoint advisers during the President's rule, the Chief Secretary becomes clothed with the powers belonging to the Chief Minister. When, however, central advisers are appointed, it tends to inhibit the Chief Secretary in her/his administrative capacity because the former are drawn from the ranks of senior civil servants (senior to the state's Chief Secretary). As a result, a hierarchical relationship becomes operative.

3.7.2 Chief Secretary's Functions

The principal functions of the Chief Secretary are listed below:

- S/he is the principal adviser to the Chief Minister in which capacity s/he, inter-alia, works out the detailed administrative implications of the proposals made by the Minister and coordinates them into a cohesive plan of action.
- The Chief Secretary is the Secretary to the Cabinet. S/he prepares the agenda for Cabinet meetings, arranges them, maintains records of these meetings, ensures follow-up action on Cabinet decisions, and provides assistance to the Cabinet Committees.
- The Chief Secretary is the Head of the Civil Services of the State. In that capacity, s/he decides on the postings and transfers of civil servants.
- By virtue of the unique position s/he holds as the head of the official machinery and

adviser to the Council of Ministers, the Chief Secretary is the coordinator-in-chief of the Secretariat departments. S/he takes steps to secure inter-departmental cooperation and coordination. For this purpose, s/he convenes and attends a large number of meetings at the Secretariat and other levels. Meetings serve as a powerful tool of effective coordination and securing cooperation of different agencies.

- As the Chief of the secretaries, the Chief Secretary also presides over a large number of committees and holds membership of many others. Besides, s/he looks after all matters not falling within the jurisdiction of other Secretaries. In this sense, the Chief Secretary is a residual legatee.
- The Chief Secretary is the Vice-Chairman, by rotation, of the Zonal Council, of which the particular state is a member.
- S/he exercises administrative control over the Secretariat buildings, including matters connected with space allocation. S/he also controls the Central Record Branch, the Secretariat Library, and the conservancy and watch and ward staff. The Chief Secretary also controls the staff attached to the Ministers.
- In situations of crisis, the Chief Secretary acts as the nerve centre of the State, providing lead and guidance to the concerned agencies in order to expedite relief operations. It would be no exaggeration to say that in times of drought, flood, communal disturbances, etc., s/he virtually represents the government for all the functionaries and agencies concerned to provide relief.

In conclusion, it may be noted that a host of personnel matters and many other minute and unimportant administrative details consume a sizeable chunk of the Chief Secretary's time. The Administrative Reforms Commission is constrained to agree with the following observations of the Maharashtra Reorganisation Commission (1962-68) on the manner in which the Chief Secretary has become burdened with trivial details, "… it seems unfortunate that the highest official in the state has to sign gazette notifications of appointments, promotions, transfers, leave, etc., that s/he has to spend time on minutiae of protocol, passports, etc.". To rectify this situation, the ARC has recommended that this functionary be relieved of the work of routine nature as well as be provided with appropriate staff assistance. That alone will ensure speedy implementation of decisions and effective coordination of policies and programmes of the state government.

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Explain the major differences between the Secretariat and Executive departments.

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2) Discuss the policy-making role of the administrators.

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3) What are the main functions of the Chief Secretary?

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3.8 CONCLUSION

The term Secretariat refers to the complex of departments, which at political level, are headed by Ministers and, at an administrative level, by Secretaries. The Secretaries assist Ministers in the task of policy formulation, and in their legislative duties. Organisationally and functionally, the heads of the executive departments constitute separate and distinct administrative units, which are hierarchically subordinate to the Secretariat departments. In most cases, executive departments are designated as Directorates because their heads are, in most cases known as Directors. The Directorates execute policy. Each Secretariat Department is usually in charge of a number of Directorates.

Policy and administration, though conceptually distinct categories are at a practical plane, inextricably interlinked. They form a continuum, it is difficult to say where the policy ends and administration begins. This is because the administrators work as supplementary policy-makers, and have, besides, a large policy-making role to perform.

The Chief Secretary, as the head of the administrative set-up of the state, performs important leadership and coordination functions. This functionary is the nerve centre of the State Secretariat. This Unit has highlighted all these aspects of state administration.

3.9 GLOSSARY

Chief Secretary as a Residual Legatee : The matter, which does not fall within the jurisdiction of other secretaries is passed on to the Chief Secretary.

Line and Staff : This refers to the division between those agencies and individuals engaged mainly in implementing policy, and those concerned primarily with providing advice and assistance to the Chief Executive. Whereas, the staff agencies are charged with aiding the Chief Executive, line officials are engaged in developing and

implementing policies. Broadly Speaking, the Directorate is a line agency and Secretariat is a staff agency.

Department : Literally, the word department means a part or portion of a larger whole. Sometimes, it is used to denote parts of things other than the administrative structure, however, in the present context; the term department refers to the biggest blocks or compartments, immediately below the Chief Executive, into which the entire work of government is divided. It is thus, the highest and the biggest organisational formation below the Chief Executive.

3.10 REFERENCES

Arora, R.K. & Goyal, R. (2013). *Indian Public Administration: Institutions and Issues.* New Delhi, India: New Age International Publishers.

Avasthi, A. (1980). *Central Administration*. New Delhi, India: McGraw Hill.

Government of Haryana. *Departments*. Retrieved from https://haryana.gov.in/departments/

Government of India. (2009). *Second Administrative Reforms Commission (15th Report), State and District Administration.* Retrieved from https://www.darpg.gov.in/sites/default/files/sdadmin15.pdf

Maheshwari, S.R. (1979). *State Governments in India*. Delhi, India: Macmillan.

Maheshwari, S.R. (2001). *Indian Administration*. New Delhi, India: Orient Blackswan Private Limited.

The Constitution of India. Retrieved from https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text

3.11 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:

- Origin of the term Secretariat in India during pre-Independence era, when it was referred to as Secretary's Office.
- Ministry became the seat of authority after independence and importance has been given to the popularly elected ministers.
- In the changed political situation, the Secretary is the principal advisor to the Minister and both work together, and the Secretariat is referred to as conglomeration of departments whose political heads are ministers and administrative heads are the secretaries.

2) Your answer should include the following points:

- The Secretariat assists the ministers in preparing drafts of legislations to be introduced in the Legislature.
- Provides necessary information for answering questions in the Legislature.
- Collects information required with respect to the Legislative Committees.

3) Your answer should include the following points:

- Refer Section 3.5.

Check Your Progress 2

1) Your answer should include the following points:

- Policy formulation is function of the Secretariat Department, while the function of the Executive Department is that of policy execution.
- The Secretariat Department headed by a generalist and the executive department by a specialist.
- Functioning of the specialist or the head of the Executive Department under the supervision of the head of the Secretariat Department.

2) Your answer should include the following points:

- Administrators draft legislation.
- They provide data support.
- They tender advice to politicians.
- They formulate policy through exercise of administrative discretion.

3) Your answer should include the following points:

- Refer Section 3.7 (3.7.2).

UNIT 4 PATTERNS OF RELATIONSHIP BETWEEN THE SECRETARIAT AND DIRECTORATES*

Structure

4.0 OBJECTIVES

After studying this Unit, you should be able to:

- Discuss the meaning, significance and role of Directorates;
- Explain the significance of Directorates at the state as well as sub-statal levels;
- Highlight the position and significance of the Board of Revenue as a state level revenue agency;
- Describe the factors shaping the Secretariat-Directorate relationship, and identify their strong and weak points; and
- Examine the possible approaches, which might be invoked to generate alternative models of the Secretariat-Directorate relationship.

* Adapted from BPAE-102, Indian Administration, Block-3, Unit-14.

4.1 INTRODUCTION

This Unit discusses a diverse range of agencies at the state level. Two state level agencies (i.e., Directorates and the Board of Revenue) are discussed here, and Directorate-Secretariat relationship is also brought out. The Unit essentially highlights the following terms/concepts/institutions/ factors at the regional level:

Directorates

Directorates are the executive arm of the state government. They translate into action the policies that are framed by the State Secretariat. Even though the terms "Directorates" and "Executive Agencies" are often used interchangeably, Directorates are but one type of executive agency. This point is pursued later in the Unit. Directorates, as we shall see, are classified into two categories — Attached Offices and Subordinate Offices. This classification facilitates academic comprehension of the roles, which the two types perform in policy execution.

Regional Administration

As the Directorates are concerned with policy execution, and the execution of policy must necessarily take place in the field (i.e., at the district, block and village levels), therefore the need arises for them (Directorates) to create intermediate level administrative agencies to coordinate and supervise the field operations. This intermediate level administrative setup between the state headquarters (Directorate) and the district is referred to as "regional administration". A generic term, which is used to refer to regional level agencies (and those at district and lower levels) could be called sub-statal agencies, because they exist at levels below the state headquarters. Each region comprises a certain number of districts. Thus, a region is a real unit below the state level and above the district level. As a rule, though not always, all executive departments at the state headquarters have regional organisations; names which these regional agencies carry vary from department to department.

Divisional Commissioners

Divisional Commissioners, referred to above, are regional agencies in respect of the states' revenue function. Work of revenue administration at the state headquarters, in some states, is entrusted not to a government department, but to an autonomous agency called the Board of Revenue. Therefore, Divisional Commissioners are but the regional level representatives of the Board of Revenue.

Board of Revenue

Board of Revenue is an administrative innovation of a great significance. This institution was created way back in 1786 to relieve state governments of the detailed work in the field of revenue administration. Since then, a large number of states in India have created Boards of Revenue. The equivalents of the Board of Revenue in states, which have not created the boards, are Finance Commissioners or Revenue Tribunals such as Gujarat Revenue Tribunal.

As you have already read, the Secretariat, as the policy-making body and Directorate, as the policy implementing agency, constitute the two wheels of the governmental machinery; unless they achieve a certain measure of coordination and cooperation, the ability of the machinery to deliver goods will be hampered.

At a theoretical plane, the two have well-defined powers, jurisdiction and roles but, in practice, various factors blur the demarcations leading to estrangement and mutual acrimony between the two wings, ultimately affecting the performance of the government.

The question of relationship between the Secretariat and Directorate is important per se. It, however, assumes added significance in a situation where this relationship has deflected from its original course, as has happened in India, and as would, in fact, happen in any dynamic situation. Why has the relationship between the two tended towards some kind of estrangement? Can some alternative models be suggested to reformulate the relationship between Secretariat and Non-Secretariat organisations? In this Unit, these questions are being explained.

4.2 DIRECTORATES: MEANING AND ORGANISATION

Meaning and Nomenclature

As has been explained in the last Unit, the Secretariat is concerned with the setting of the broader policies and goals of the state government, while the responsibility for achieving those goals and executing those policies rests with the Heads of the Executive departments. The executive agencies are as a rule located outside the Secretariat and constitute distinct organisational entities. A popular label to identify an executive agency is "Directorate". In a large number of cases, the heads of the Executive Agencies are known as Directors. Many examples of this could be cited: Director of Agriculture, Director of Animal Husbandry, Director of Education, Director of Social Welfare, Director of Public Health, Director of Town Planning, and so on.

However, other nomenclatures are also used to refer to the heads of the Executive departments. Thus, the executive head of the Department of Police is known as the Inspector/Director General of Police; that of the Jail Department, the Inspector-General of Prisons; that of the Cooperative Department, the Registrar of Cooperative Societies; that of the Irrigation Department, the Chief Engineer (Irrigation); that of the Printing and Stationery Department, the Controller and so forth. In other words, although in a large number of cases, the Heads of the Executive departments are called Directors, they are also known by other names.

Organisation of Directorates at the State and Sub-Statal Levels

Apart from the state level, the executive agencies also function at the sub-statal levels. This is quite natural because, while the policy is formulated at one centre (the state headquarters: the state headquarters is signified by Secretariat and Directorates), its execution takes place in the field. Therefore, the Directorates must make a conscious effort at achieving a vertical penetration down to the grassroots level. When this is done, lesser Directorates emerge at the regional level. The State level Executive Department establishes offices in the regions. A region is simply a territorial unit below the state but above the district level. When this process progresses further down the line, the district, block and village level field agencies of a Directorate emerge.

At the state level, the headship would normally be with a "full" Director who would be assisted by a group of lesser Directors: Additional Directors, Senior Joint Directors, Joint Directors, Deputy Directors, Assistant Directors, and other functionaries. Of course, as would be understood, depending upon the workload of a department, the number of levels of hierarchy at the headquarters could be larger or smaller. The regional level setup of an Executive Department, would usually be headed by an officer of a lower rank, a senior Joint Director in this case. It could indeed even be a person of simply a Joint Director or even lower level that would again depend on the workload and other factors. Many district level offices of the Executive Departments are headed by Deputy

or even Assistant Directors. Again, many factors will combine to determine the rank of the officer who may head the district level setup.

At the level immediately below the District (Block level), each development department is represented by an Extension Officer who is a part of the extension team, functioning under the Block Development Officer. Thus, to take an example, there would be an Agriculture Extension Officer in each Block, representing the state level Directorate of Agriculture. At the village level, as is well-known, there exist the multi-purpose extension functionaries known as the Village Level Workers (VLWs).

4.3 TYPES OF EXECUTIVE AGENCIES

With a steady increase in the functions of government, the executive agencies have grown in number as well as variety. The two most familiarly known executive agencies are the attached offices and the subordinate offices. What needs to be remembered is that with the growing governmental functions, a variety of organisational patterns have been evolved to suit the requirements of the varied range of functions, which the government is increasingly taking on.

Role of Attached and Subordinate Offices

Let us now briefly see what are Attached and Subordinate Offices, which, as we have above stated, are the two most important forms of executive agencies. The Manual of office Procedure describe these as:

"Where the execution of policies of government requires decentralisation of executive direction and the establishment of field agencies, a Ministry has under its domain, the subsidiary offices, which are Attached and Subordinate Offices. The Attached Offices are responsible for providing executive direction required for the implementation of the policies laid down by the Ministry to which they are attached. They also serve as repository of technical information and advice to the Ministry on technical aspects of the questions dealt with by them. The Subordinate Offices function as field establishments or as the agencies responsible for the detailed execution of the decisions of government. They generally function under the direction of an Attached Office..."

Thus, the Attached Offices have in essence a two-fold function. First, they furnish technical data and advice to the Ministry to which they are attached. (Ministry is the policy-making body, but this policy-making exercise must be based on technical information and advice. It is the Attached Office, which supplies this assistance to the Ministry). The second function of the Attached Office is to provide executive directions to the agencies, which are responsible for implementing the policies of the Government.

As a contrast with the Attached Office, a Subordinate Office functions as the field establishment or as an agency responsible for detailed execution of policies and programmes of the Government. As a rule, it functions under an Attached Office.

4.4 BOARD OF REVENUE

The Board of Revenue, as the name itself suggests, is an agency, at the state level, concerned with revenue administration in the state. Although, it exists at the state level, it is not a part and parcel of the state government machinery. The preceding statement is intended to underline and emphasise the fact that unlike the government departments – which are a part and parcel of the governmental machinery- the Board of Revenue is an autonomous agency created under a statute. By virtue of this fact, the Board has an existence, distinct and separate from the Government. The Board of

Revenue in Uttar Pradesh composed of a Chairman and two Members on administrative side and seven Members on the judicial side. "It is responsible for supervision and control of all Land Records, Settlement and Revenue matters, administrative and Judicial, in the State. According to the provisions of section 5 of the U.P Land Revenue Act, the control of all non-Judicial matters connected with land revenue, other than matters, connected with settlement, is vested in the state Govt. and control of all judicial matters and of all matters connected with settlement is vested in the Board." The U P Government has delegated many powers to the Board to control non-judicial matters, which are related to the land revenue also (Board of Revenue, https://bareilly.nic.in/board-of-revenus/).

The Board as a Supra-district Level Agency

The principal justification for the creation of Board of Revenue lies in that it relieves the state government of the detailed work in the field of revenue administration. The fact that it exists at the state level should not be allowed to blur the truth that the Board of Revenue is an agency, separate from the Central or State Government as such (since it is a statutory body, it is endowed with a distinct legal identity of its own). The major administrative functions of the Board include supervision, direction and control of the work of Divisional Commissioners, Collectors, Sub-Divisional Officers and Tahsildars. It also performs inspection of the work of Tahsildars, Collectors and Commissioners; and submits annual remarks to the Government about their work and conduct. This, coupled with the fact that it discharges supervisory functions in relation to the District Collector's lends justification to its classification as a supra-district level agency.

The Pattern of Revenue Administration at the Supra-district Level

There is no uniformity in the pattern of revenue administration at the supra-district level in the country. In this connection, two points need to be particularly remembered. *First*, there are some states in which there are two administrative agencies (one at the state headquarters level and another at the regional level) between the district and the state government; and there are others in which there is only one administrative agency. *Second*, all states do not have a Board of Revenue; some have, in place of the Board, a Financial Commissioner or Department of Revenue**.** In these terms, following five distinct patterns of revenue administration at the supra-district level can be identified:

Pattern One

Under this, there is only one intermediate level, i.e., the Board of Revenue, with no regional/divisional level revenue setup (known as the Divisional Commissioner).

Pattern Two

Under this pattern, there are two intermediate agencies, viz., Board of Revenue and Divisional Commissioners.

Pattern Three

Under this pattern also, there are two intermediate agencies. But here there is no Board of Revenue; the Board's equivalent under this pattern is Financial Commissioner. So, under this pattern, there is a Financial Commissioner at the headquarters level and Divisional Commissioner at the regional level.

Pattern Four

Under this pattern, again, there are two intermediate agencies. But, as is the case with the Pattern three, here also there is no Board of Revenue. The Board's equivalent,

under this pattern, is the Revenue Tribunal. The two intermediate links here, therefore, consist of (i) revenue tribunal, and (ii) Divisional Commissioner. This pattern is prevailing in Maharashtra and Gujarat.

Pattern Five

This pattern is prevalent in Andhra Pradesh (now the state is bifurcated into Andhra Pradesh and Telangana), where the Board of Revenue was abolished in 1977 and since then its functions are being discharged by independent Heads of Departments called Commissioners. "The Chief Commissioner of Land Administration (CCLA) is the chief controlling authority for the revenue administration consisting of Revenue, Survey, Settlement & Land Records and Urban Land Ceiling Departments. CCLA exercises statutory functions and general superintendence over all the functionaries of Revenue Department." The CCLA is a link between the Government and the Revenue administration; and monitors and guides the District Collectors and advises the State Government in policy matters (Chief Commissioner of Land Administration).

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Highlight the different types of executive agencies.

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2) Why should the Directorates have sub-statal formations?

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3) Discuss the status and position of Board of Revenue.

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4.5 FACTORS SHAPING THE SECRETARIAT-DIRECTORATE RELATIONSHIP

The Secretariat and Directorate constitute two wheels of the governmental machinery. Unless they achieve a certain measure of coordination and cooperation, the ability of the machinery to deliver goods is hampered. Two sets of factors have played a dominant role in shaping the Secretariat-Directorate Relationship at the state level. Of these, *one* concerns the functioning of the Secretariat at a practical plane. The *second* is concerned with the expansion that has lately come about in the Secretariat- its role, personnel, number of administrative units of which it is comprised, and so on. Of course, the two factors are closely inter-related; it is to facilitate academic understanding of the matter that these are being dealt with separately here. It may be noted, it is these very factors which – as they work themselves out – generate situations, which tend to build up tension in the Secretariat-Directorate relationship.

Different Aspects of the Functioning of Secretariat

The institution of Secretariat has attracted considerable criticism. One cannot perhaps find fault with the Secretariat as a concept, for at a conceptual plane, it is meant to encourage division of labour (between policy-making and policy executing agencies) and specialisation, which results from such compartmentalisation of work. Again, at a conceptual level, the idea of Secretariat is meant to promote delegation of authority from policy-making to policy execution level. By implication, it discourages centralisation and concentration.

However, in practice, these advantages of the Secretariat system have failed to fully materialise. There is a large divergence between what is held to be valid in theory and what is achieved in practice. The manner of functioning of the Secretariat and its overbearing attitude have generated tensions in the Secretariat-Directorate relationship and adversely affected the advantages commonly ascribed to the Secretariat system.

The substantive points of criticism against the Secretariat, which have a bearing on its relationship with the Executive departments, are placed below:

i) The Secretariat has an expansionist attitude, meaning it has arrogated to itself functions, which do not belong to it. It does not confine itself to policy-making, instead the Secretariat freely engages in matters of executive nature. This encroachment has materially weakened the authority of the executive agencies.

ii) The Secretariat hesitates to delegate adequately to the Executive Agencies. As a result of this, the execution of policies is delayed. Besides, the initiatives of the Executive Agencies are cramped through the need for repeated consultations with, and approvals from, the Secretariat.

iii) Scrutiny, in the Secretariat, of proposals submitted by the heads of the Executive Departments begins at the clerical level. This procedure is dilatory. Besides, it undermines the authority of the heads. As is well- known, proposals of the heads of the departments are based on proposals received from the district and regional level officers; and are submitted to the Secretariat after a detailed scrutiny in the Attached Offices. If, therefore, these proposals are to be subjected to further scrutiny, it leads to unnecessary duplication and delay.

iv) More substantively, the very idea of the generalist administrators (who staff the Secretariat) overseeing, superintending and evaluating the work of specialists and technocrats (who staff the Executive Agencies) is out of place in the modern

technological age. It is all the more untenable that the Secretariat should scrutinise the proposals and schemes emanating from the attached offices, the argument being that the lay generalists have possibly nothing to contribute in such an exercise.

The above noted situations, coupled with the fact that Secretariat has come to be identified with the real power structure in the governmental system (it is, in fact, considered "the government") have unduly inflated the influence and authority of the Secretariat and aggravated tensions between the Secretariat and Executive Departments. The importance of Secretariat has got further enhanced since, as previously noted, it delves into the questions not only of policy (which constitute its legitimate sphere) but also those of execution. It has thus expanded its functional area through encroachments in the executive sphere. This is, quite obviously, at the expense of the executive offices and only further adds to tension between the Secretariat and Executive Agencies. Another situation, which must be noted in this regard, is the easy access, which Secretariat officers enjoy with the political executive. There is no gain saying the fact that this, in its own way, contributes to the existing tensions between the Secretariat and Attached offices. We shall be discussing the factors that have been responsible for bringing about expansion in the role of the Secretariat; and an increase in its personnel and the number of administrative units of which it is comprised. After all, it is partly this expansion, which is at the root of the Secretariat-Directorate tensions. These factors are set out below.

Factors Responsible for Expansion in the Secretariat

The foremost of these is the parliamentary system of government. The principle of legislative accountability- under which the Minister is, inter alia, supposed to answer questions, concerning her/his department, on the floor of the house – has brought about centralisation of functions in the Secretariat. Also, easy access of ministers to their constituents generates pressures on ministers in regard to matters such as appointments, promotions, transfers, and so forth. Now, clearly, these are matters of executive nature. The ministerial desire to nurture her/his constituency (and therefore, respond to demands for appointments, etc.) results in the Minister's involvement in executive matters. This is how the Secretariat, a policy-making body, becomes involved in the matters of policy execution.

The second factor, which has been responsible for a steady and substantial increase in the volume of work in the Secretariat, is the governmental policy to develop the economy through planning; and state intervention and a whole host of welfare functions which the government has assumed. Every effort at directing and administering the economy leads to increased volume of work in the government. Secretariat, in particular, has gained in stature and influence from this situation. The reason for this is that more important work as well as decisions commanding wide impact has devolved on the Secretariat.

Two factors account for this. *First,* the generalist secretaries are thought to possess a breadth of vision and a well-rounded experience, which comes from the varied job placements that an IAS officer is typically exposed to in the course of her/his career. In contrast, the Head of the Department is considered narrow in vision and too theoretical in approach. *Secondly,* the ministerial staff in the Secretariat is considered to be of a higher calibre as compared to that in the Attached Offices. The result is that the Secretariat attracts more business. *Thirdly,* as noted above, not an insignificant portion of growth in the Secretariat is due to its taking over numerous executive functions and multifarious unimportant tasks, which do not properly belong to it. *Finally,* some expansion is also due to the tendency of the bureaucracy to proliferate in any situation. The Secretariat is, thus, encumbered with non-essential work; and has become unwieldy and overstaffed.

4.6 BASIS OF ADVOCACY OF SECRETARIAT AND DIRECTORATES

The foregoing discussion provided us the perspective in which the question of relationship between the Secretariat and Directorates may be considered. The issues in this relationship will emerge more clearly, if the arguments in favour of Secretariat and those in favour of Directorates are summed up.

Arguments in Favour of Secretariat

- The Secretariat is an essential administrative institution. The Secretariat system of work, with all its deficiencies, has lent balance, consistency and continuity to the administration and has served as a nucleus of the total machinery of a Ministry. It has facilitated inter-ministry coordination and accountability to the Parliament at the ministerial level.
- The Secretariat system helps to separate policy-making from policy execution. This is a welcome thing to happen with the Secretariat concentrating on the long-term policy issues, and the executive agencies being given the freedom to implement policies. It has encouraged division of work, specialisation, and above all, delegation of authority.
- Since the Secretariat is required to concentrate on policy-making alone, it is able to achieve freedom from involvement in matters of detailed, day-to-day administration. This helps the Secretariat to remain forward-looking and plan in terms of the overall, aggregative national objectives.
- The generalist secretary, who is the kingpin of the system, is uniquely suited to advise the Minister, who is a layperson. The Secretary is, on the one hand, able to keep the exalted fervour of the specialist head of the Department in check and on the other, tender objective advice to the Minister, examining proposals submitted by the Head from a larger viewpoint of the government as a whole.
- The existence of Secretariat ensures objective evaluation of programme implementation in the field. This task cannot be left to the Executive agencies, which actually implement policies. In this regard, they should not be asked to judge their own performance. The Secretariat is best suited to do this job.
- Overall, the Secretariat is an institution of proven merit. It has stood the test of time and successfully delivered goods. The combination of "tenure system" and a permanent "office", which has been evolved as a part of the system has given it strength, vitality and dynamism. There is no viable substitute in sight for the Secretariat System.

Arguments in Favour of Directorates

- Unlike the Secretariat, the Directorates are staffed by specialists who have achieved excellence in their respective specialisations. These specialists have, moreover, over the years, been able to gather an intimate knowledge of the field conditions. By virtue of these facts, the Director or the Head of the Department, it is argued, is comfortably placed to discharge the role of tendering policy advice to the Minister. This will permit fuller projection of the Director's experience in the policy-making process.
- As the specialists rise in the functional hierarchy, they are able to acquire a valuable administrative experience. This coupled with the fact that they are, by virtue of their training, well-versed in the technical aspects of the policy issues and could

provide the Head of the Department a superior equipment — as compared with the generalist Secretaries — to tender advice on policy matters. The argument, in other words, is that the heads combine with administrative experience and the valuable technical know-how, which the Secretaries lack.

- As science and technology makes rapid advances, the volume and complexity of governmental activity of a technical and scientific character has been on the increase. With this, specialised areas of administrative activity have emerged in the government. The specialist Heads of Departments are uniquely suited to respond to this situation.

- The specialist heads of departments alone, rather than the generalist secretaries, are in tune with the modern trend of specialisation and professionalism in the government. There is virtually no professional area, it is argued, which is not represented in the government today. Pure sciences, medicine, veterinary science, engineering, agricultural science, architecture, and accountancy are some of the examples of this trend.

4.7 EMERGING PATTERNS OF RELATIONSHIP BETWEEN THE SECRETARIAT AND DIRECTORATES

What might be a suitable pattern of relationship between the Secretariat and non-Secretariat organisation? On the question of evolving a suitable pattern, broadly three schools of thought are discernible. Each adopts a different approach. Neither yields a conclusive answer for, as we shall see in the ensuing discussion, it is possible to list arguments for as well as against the arrangement each proposes. Based on their dominant thrust, the three schools of thought or approaches may be referred to as the Status-quo Approach, Bridging the gulf Approach, and De-amalgamation Approach.

4.7.1 The Status-quo Approach

The Status-quo Approach favours the traditional split system and holds that the Secretariat and the Directorates have well-defined roles in our administrative setup to which they should continue to stick. The approach is based on the traditional concept of staff-line dichotomy where the Secretariat performs the role of a Staff Agency and the Attached Office that of the Line Agency. The Status-quo Approach also accepts the traditional policy-administration dichotomy. The advocates of this approach believe that the relationship between the Secretariat and Directorates should be based on the following principles:

i) Policy-making should be the responsibility of the Secretariat, and Policy implementation that of the Directorates.

ii) Subject to the rules governing the conditions of service, the Head of Department should have fullest control over the personnel under him.

iii) The Secretariat Department should provide common services and undertake domestic housekeeping in respect of the Directorate(s) attached to it (for instance, the allocation of office accommodation).

4.7.2 The Bridging The Gulf Approach

As against the School advocating Status-quo Approach there is another, which advocates measures for bridging the gulf between the Secretariat and Non-Secretariat organisations.

Its protagonists suggest various devices for bridging the gulf. These include (i) the conferment of ex-officio Secretariat status on the heads of Executive Departments; (ii) the system under which a Secretary concurrently holds the office of the head of the Executive Department; (iii) the merger or amalgamation device under which an Executive Department is placed in a corresponding Secretariat Department; and (iv) a device, which is a variant of point (iii), involving, once again, merger or amalgamation, but under this device, the Secretariat Department is placed with the corresponding Head of the Department, rather than the other way around.

Amalgamation of Directorate with Secretariat

Terms like integration, merger and amalgamation have been interchangeably used to suggest an arrangement under which the distinction between the Secretariat and the Non-Secretariat Organisations is completely dissolved. Under this system, the office of the heads of the Executive Agencies is merged with the corresponding departments in the Secretariat.

The advocacy of amalgamation is based on the argument that the encroachment of the Secretariat into the Executive Functions is in any case, an established fact of the Indian administrative landscape. This is so because the political executive in India is unable to devote adequate attention to policy functions. Instead, it preoccupies itself rather quite excessively with matters of day-to-day nature (like appointments, promotion, and transfers). As a result, the Secretariat itself becomes involved in what are patently executive matters and which, therefore, should, in fact, fall in the domain of the Directorate, as ultimately the role of the Secretariat is governed by the role perceptions of the political executive. It is thus, argued that since the role of two agencies anyhow overlap, amalgamation would be both logical as well as desirable.

Arguments for Continued Amalgamation

Those who report favourably on the experience of amalgamation argue as follows:

i) Amalgamation has obviated the need for examination of proposals independently by the Directorate and Secretariat.

ii) It has cut down delays and ensured expeditious disposal of cases.

iii) It has affected economy in establishment expenditure.

4.7.3 The De-amalgamation Approach

Arguments for De-amalgamation

The officials who recommend de-amalgamation give the following arguments:

i) Although amalgamation permits much economy of time in that it does away with two parallel scrutinise of proposals, the experience has shown that, under the amalgamated setup, the quality of final proposals/schemes has declined, which frequently involves reconsideration. This, they point out, was not so when Directorate and Secretariat functioned separately.

ii) Amalgamation has resulted in gradual removal of distinction between the functions of the Heads of Departments and those of the Secretariat.

iii) Amalgamation has rendered objective examination of proposals and schemes at the Secretariat level difficult. The Secretaries have to write their notes on files in a guarded manner so as to avoid causing offence to the Head of Department. This

extra caution often prevents a frank examination of the cases by the Secretariat officers.

iv) Under the amalgamation schemes, the Head of Department remains stuck up in the Secretariat. S/he is not able to go on tours and inspections, which are her/his main obligations.

After studying the above stated approaches and recommendation of the second ARC, it can be stated that the Ministries/Departments should concentrate more on policy, planning and strategic decision-making; and implementation work should be given to adequately empowered Executive Agencies. The Second ARC has suggested, "… there can be no water-tight separation of the policy-making and implementation functions since Ministers are ultimately accountable to Parliament for the performance of their Ministries and departments in all respects." As per the Government of India (Transaction of Business) Rules, all business allocated to a Department in the Government of India has to be disposed of under the directions of the Minister in-charge. It has been observed that the Ministers can discharge their responsibilities more effectively by supervising the performance of operational agencies from time to time rather than by taking direct control of routine functions. In the states, a major part of implementation work is done by the executive agencies. They are structured as departments, statutory boards, commissions, departmental undertakings and other parastatals. The Commission has pointed out that these bodies do not function as real autonomous agencies due to the centralised controls, and inadequate delegation of authority. While the necessity of delegating increased powers to the executive agencies is getting recognised and some states have delegated more powers to these agencies, the overall approach has been one of caution and hesitancy (Second Administrative Reforms Commission, 2009, pp. 30-31 https://darpg.gov.in/sites/default/files/sdadmin15.pdf).

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Enumerate various factors shaping the Secretariat-Directorate relationship.

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2) Discuss various arguments in favour of Secretariat and Directorate.

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3) Explain the various approaches with regard to the relationship between Secretariat and Directorate.

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4.8 CONCLUSION

Directorate is an executive agency charged with the role of translating the policies framed at the Secretariat level into concrete action. The Directorates establish intermediate level administrative setup — between the headquarters and the districts — which coordinate and supervise field operations. This intermediate setup is called the regional administration. The Board of Revenue is an organisation at the headquarters to deal with the issues concerning the revenue administration of the State. It is an autonomous body with distinct existence and separate from most of the state government machinery.

In the possible patterns of relationship between Secretariat and Directorate, we have, in this Unit, highlighted only the more prominent ones. The two agencies remain locked in a process of constant interaction. In a quest for greater efficiency as the government forges ahead, administrative experiments ensue in its wake. This leads to modifications and alterations in particular patterns and abandonment of others, which is ongoing.

4.9 GLOSSARY

Board : A Board is a multi-headed extra- departmental organisation. It typically consists of a group of individuals, mainly specialists, who are collectively assigned the responsibility for carrying out a certain governmental function. A Board is preferred to a single head when quasi- legislative and quasi-judicial functions have to be performed. Under a Board type of organisation, it is possible to pool together the knowledge and experience of several individuals.

Amalgamation : This is one of the organisational devices to reduce the distance between Secretariat and Directorate. Under this arrangement, the distinction is completely dissolved by merging the office of the head with that of the Secretary.

De-amalgamation : This is the negation of the amalgamation device. It seeks to do away with the integrated or amalgamated setup. Thereby, it aims to restore the traditional split system.

4.10 REFERENCES

Administrative Reforms Commission (ARC) Study Team. (1967). *Report on Personnel Administration.* Delhi, India: The Manager of Publications.

ARC. (1968). *Report on the Machinery of Government of India and its Procedure of Work*. Delhi, India: The Manager of Publications.

ARC. (1969). *Report on State Administration*. Delhi, India: The Manager of Publications.

Arora, R.K. & Goyal, R. (2013). *Indian Public Administration: Institutions and Issues*. New Delhi, India: New Age International Publishers.

Avasthi, A. & Avasthi, A.P. (2017). *Indian Administration*. New Delhi, India: Laxmi Narain Agarwal Educational Publishers.

Board of Revenue. Retrieved from https://bareilly.nic.in/board-of-revenus/

Maheshwari, S.R. (1979). *State Governments in India*. New Delhi, India: The Macmillan India Limited.

Maheshwari, S.R. (2000). *Indian Administration*. New Delhi, India: Orient Blackswan.

Sapru, R. (2018). *Indian Administration: A Foundation of Governance*. New Delhi, India: Sage Publications.

Second Administrative Reforms Commission. (2009). *State and District Administration*. Retrieved from https://darpg.gov.in/sites/default/files/sdadmin15.pdf

The Constitution of India. Retrieved from https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text

4.11 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:
   - Attached Offices.
   - Subordinate Offices.

2) Your answer should include the following points:
   - Principle of legislative accountability that has led to centralisation of functions in the Secretariat.
   - The ministerial desire to nurture her/his constituency results in Minister's involvement in executive matters.
   - Increase in welfare functions of the government.
   - The ministerial staff in the Secretariat is considered to be of higher caliber.
   - Secretariat has become unwieldy and overstaffed.

3) Your answer should include the following points:
   - Refer Section 4.4

Check Your Progress 2

1) Your answer should include the following points:
   - Different aspects of the functioning of Secretariat.
   - Factors responsible for expansion in the Secretariat.

2) Your answer should include the following points:

- Refer Section 4.6.

3) Your answer should include the following points:

- The Status-quo Approach.
- The Bridging the gulf Approach.
- The De-amalgamation Approach.

UNIT 5 STATE SERVICES AND PUBLIC SERVICE COMMISSION*

Structure

5.0 OBJECTIVES

After studying this Unit, you should be able to:

- Understand the constituents of civil service at the state level, and the criteria and system of classification of state services;
- Explain the system of recruitment to state services; and
- Examine the role of State Public Service Commission, and identify factors that hinder its working.

5.1 INTRODUCTION

The phrase "State Services" refers to the civil service at the state level. The civil service refers to the civilians employed by a government; and distinguishes civilian pursuits in government from military. In addition, civil service is a career service. In this regard, elective officials and employees of semi-government bodies do not form part of the civil service. An essential ingredient of the civil service concept is merit system. The merit system means selection based on ability as adjudged by an open competitive examination for civil service jobs. An independent recruiting agency is the hallmark of a merit system. The state level recruitment agency is designated as State Public Service Commission.

* Adapted from BPAE-102, Indian Administration, Block-3, Unit-15.

This Unit aims to describe the nature of civil services at the state level. It discusses the aspects related to classification and recruitment to state services. It highlights the significance of an independent recruitment agency, components of civil service at the state level, and its advisory role. The composition and working of the State Public Service Commission will be discussed in the subsequent sections.

5.2 SIGNIFICANCE OF AN INDEPENDENT RECRUITMENT AGENCY

It is of basic importance that recruitment to any civil service is free from any suggestion of bias. This alone would inspire confidence. To ensure objectivity and impartiality in recruitment, several measures have been evolved since the advent of the merit system. *One*, the executive branch has been divested of the powers of making recruitment to the civil services; and a separate agency created for the purpose. *Two*, the agency, thus, created is an extra-departmental body (i.e., a Commission), which functions outside the normal machinery of the government. *Three*, a Constitutional status has been conferred on this agency. It must be remembered that the Commission is only a recruitment agency, which is not an appointing authority. The authority of making appointments vests in the government. The Commission is an advisory body. Its decisions are not mandatory.

Need for a Commission Type of Organisation

A commission type of organisation as distinct from the customary departmental type — may be employed for undertaking the work of recruitment of civil servants. The commission form is invoked for the performance of a function requiring expert/specialist knowledge. It is a form of organisation designed to facilitate collective deliberation by a group of experts who are able to pool their knowledge and experience to arrive at informed and objective decisions. When decisions are collectively made, such a method of arriving at decisions is described as corporate mode of functioning or decision-making. The body, thus, acting corporately is described as a Board. The Public Service Commission is nothing but a board, which is but styled as a commission (incidentally, it should be remembered that boards may also bear such designations as councils, corporations, companies, authorities, and so on; and, of course, a board may also be styled simply as a board).

When a commission consisting of experts meets to deliberate on issues, professional and technical criteria receive necessary weightage in the resulting decisions. When several heads combine for deliberation, biases are cancelled out and objectivity is ensured. As a commission functions outside the mould of normal governmental machinery, greater flexibility and innovativeness of approach is possible. Bureaucratic rigidities and delays, which characterise government departments, are kept at bay.

Significance of a Constitutional Status for the Commission

This is intended to ensure that it functions without fear or favour. This would be facilitated when its composition, role and delegations, privileges of its members, method of appointment and removal of members, qualifications for appointment and grounds for removal, etc. are constitutionally provided. For, under such a situation, the executive branch of government can no longer exercise any discretion in these matters and as such the commission can function without being influenced by it. Conferment of the Constitutional status is, thus, in the nature of a safeguard against any possible encroachment on its authority and independence. The State Public Service Commission is, thus, an advisory body of experts, which exists under the authority of the Constitution to recruit personnel for the state services.

5.3 COMPONENTS OF CIVIL SERVICE AT THE STATE LEVEL

Let it first be clearly understood that at the state level in India, not one but two distinct sets of civil services operate. One of these is the civil services recruited by the respective state governments to handle a diverse range of governmental activity at the state level. These are known as the state civil services or simply state services. The second set of civil services serving the states is the All India Services. All India Services officers are recruited to perform a varied range of jobs, both at the State level as well as at the Centre. It is this feature of the All India Services, which renders them clearly distinguishable from the state services. Among the best known examples of the All India Services are the Indian Administrative Service (IAS), and Indian Police Service (IPS). Thus, the civil service at the state level is composed of two distinct components, i.e., i) State Services, and ii) All India Services.

All India Services

All India Services were constituted with the crucial purpose of creating an elite corps of officers who would man top positions both in the states as well as the Centre. Officers of the All India Services are recruited by the Union Government through the Union Public Service Commission. Upon recruitment, each officer is allotted to a specific state cadre. It is from the particular state, to which s/he is allotted, that the concerned officer moves to the Central government. The arrangement under which such movement takes place is known as the Tenure System. The officer is moved back and forth between the state (of her/his allotment) and the Centre during the first twenty years of her/his career (after which s/he finally lands up at the Centre). Officers of the All India Services operate under the joint control of the Centre and the state to which they are allotted. The fact that the All India Services officers are centrally recruited (and then allotted to various states) guarantees that all states have a certain minimum and uniform level of talent in their administrative services; and the states' administrative machinery is adequately equipped. The existence of the Tenure System, under which officers of the All India Services move to the Centre periodically, ensures that the incumbents of the policy-making posts at the Centre are backed by rich field experience.

The All India Services have to supply personnel for all superior administrative posts in the states, at the district level and above. Thus, the posts of District Collectors, Divisional Commissioners, members of the Board of Revenue, Secretaries to the Government, Chief Secretary, etc. are filled up by IAS officers. Similarly, the posts of Superintendents of Police (SPs) and above in the Police Department at the state level are reserved for the IPS officers.

State Services

These are recruited by the respective state governments through their public service commissions or other agencies. Members of these services are primarily meant for service in the states; only occasionally may a few members of some of the state services be borrowed by the Centre or some other organisations. States have well-organised services to cater to the needs of different sectors of the governmental activity in non-technical and technical spheres. Typically, a state may have the following services: (i) Administrative Services; (ii) Police Service; (iii) Judicial Service; (iv) Forest Service; (v) Agriculture Service; (vi) Educational Service; (vii) Medical Service; (viii) Fisheries Service; (ix) Engineering Service; (x) Accounts Service; (xi) Prohibition and Excise Service; (xii) Cooperative Service, etc.

Inter-relationship and Inter-linkages

The personnel of the state services operate in subordination to the members of the All India Services. The state services occupy lower positions in the administrative hierarchy than those held by the personnel of the All India Services. They constitute the middle level of the state administrative system.

An attempt has been made to evolve – from out of those two sources of supply — a common stream. This has been achieved in two ways, i.e., by providing opportunities to the State Services' personnel to rise to higher posts, which are normally reserved for the All India Services officers; and inducting a certain percentage of the State Services' personnel into the All India Services.

5.4 CLASSIFICATION OF STATE CIVIL SERVICES

A two-fold system of classification of the State Services is in vogue. Under the *first system*, the Services are classified into Group A, Group B, Group C and Group D (earlier known as Class I, Class II, Class III and Class IV). The Group A is ranked highest in terms of appointment and authority in the Government. However, the Group C & D (merged after the 7th Central Pay Commission) is ranked lowest. The criteria of this classification are related to the: (i) admissible pay scales/pay levels; (ii) degree of responsibility of the work performed; and (iii) corresponding qualifications required. Under the *second system*, the posts in the services are classified into the Gazetted and Non-Gazetted categories.

i) **Classification Based on Pay Scales, etc.**

At the State level, Group A and Group B services constitute the officers' class of the state level services, whereas Group C and Group D consist of the clerical employees and manual workers, respectively.

Group A Services

Group A Services include a number of posts on the basis of basic pay levels. Each departmental service ordinarily has a Group A cadre.

Recruitment to Group A posts is made on the basis of promotions from Group B services as well as through direct recruitment by the State Public Service Commission. The Direct recruitment takes place on the basis of an open competitive examination. Generally, this would include written examination and personality test.

It may be noted that there is no uniform practice as to the number of posts, which may be filled up by promotion or direct recruitment. In fact, there are wide variations on this account from state to state.

Group B Services

These services are generally of a specialised nature, although there are some generalist's services as well in this category. They are subordinate civil services, subordinate police service, and the like. The Group B services are lower in status and responsibility than those in Group A. These are, however, considered important enough to require that the authority for making appointments to them be vested in the state government itself.

The most important among the Group B services is the subordinate civil service (also classed the subordinate executive/administrative service).

Recruitment to the Group B posts is made partly by promotion, and partly by open

competition (direct recruitment). In case of specialised services, direct recruitment is done on the basis of interviews held by the State PSCs. For civil, police, and judicial services (Group B), however, a more comprehensive selection procedure is employed. This includes the written examination and interview.

ii) **Gazetted — Non-Gazetted Classification**

As stated above, the second system of classification employed for the state services places them under the familiar categories of gazetted and non-gazetted.

A Gazetted government servant is one whose appointment, transfer, promotion, retirement, etc. are announced in the Official Gazette in a notification issued by an order of the Governor. A Gazetted officer holds charge of an office, and her/his duties are of a supervisory or directorial nature. The Gazetted posts include All India Services, and Group A and Group B State Services. However, under Group B services, all are not gazetted posts, for example Police Head Constable, Head Clerk/Section Heads, Junior Engineer etc. Non-Gazetted posts are those in Group C and Group D Services.

5.5 FEATURES OF RECRUITMENT TO STATE CIVIL SERVICES

Recruitment involves following three separate but inter-connected steps: i) Attracting eligible candidates to apply for jobs (vacancies are brought to the notice of interested individuals through advertisements). ii) Selecting candidates for jobs through an open competitive examination. iii) Placing selected candidates in appropriate jobs, which also involves issuance of appointment letters to those concerned by a competent authority. The first two steps are carried out by an independent recruiting agency. In a state, it is the State Public Service Commission (SPSC), which performs these functions. The third step constitutes the responsibility of the government. It is, therefore, to be remembered that the SPSC is only recruiting and recommendatory agency; and the power of appointment vests in the Government.

Recruitment is of two types, that is, internal and external. Here, internal recruitment is made by promotion from within, whereas external recruitment is undertaken through an open competitive examination. We shall be dealing with external recruitment alone over here. Also, we shall be concentrating on the recruitment practices only in respect of the Group A and Group B Services. An outline of the chief features of the recruitment of State Civil Services is provided below:

Features

- Recruitment to the State Civil Services is made at the age of 21. In case of Haryana Civil Services (HCS), upper age limit for the unreserved category candidate is 42 years except for Deputy Superintendent of Police posts, that is, 27 years.
- Age relaxation is available for the members of scheduled castes, scheduled tribes, backward communities, unmarried female candidates (including divorced and separated females), physically challenged, and persons with disabilities.
- Recruitment is made through an open competitive examination administered by the SPSC; and higher level posts are filled up by promotion.
- Vacancies to be filled up are advertised by the SPSC every year, and applications are invited from candidates all over the country.

- Minimum qualification required is a Bachelor's Degree from a recognised university.
- The competitive examination through which selections are made, just to quote an example, the Haryana Civil Service examination is conducted in three stages and a candidate has to clear each stage to appear in the next stage. These stages include Preliminary Examination, Main Examination and Personality Test/ Viva-Voce. Candidates obtaining certain minimum marks in the written examination are invited for a personality test, which is an interview of about half an hour's duration.
- Marks secured by each candidate in written examination and personality test are totalled up. Depending upon the number of vacancies, a list of successful candidates is prepared. This list is in order of merit.

This list is then communicated to the government for necessary action, i.e., issuance of appointment letters. The Commission, because it is an advisory body, can only recommend candidates for appointment. The authority to make appointments vests with the government alone. The Commission recruits candidates, and the government appoints them.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) What are the constituents of civil service at the state level?

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2) Discuss the significance of All India Services with reference to the states.

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3) How are the services classified at the state level?

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5.6 STATE PUBLIC SERVICE COMMISSION: CONSTITUTIONAL PROVISIONS

Constitutional provisions governing the Public Service Commissions (PSCs) at the state level are given below:

- Article 315 of the Constitution provides for the establishment of PSCs. It stipulates that there shall be a PSC for the Union as well as a PSC for each state.
- Article 316 prescribes the composition of such Commissions. It also deliberates on the method of appointment of the Chairperson and members as well as their terms of office. While article 316 stipulates what the normal tenure of a Chairperson or member shall be, Article 317 prescribes grounds and procedure for early termination of such tenure.
- We have already explained that with a view to ensuring objectivity and impartiality in recruitment, this task has been entrusted to a Commission and it has been accorded a Constitutional status. In this context, the question of ensuring independence of the Commission assumes particular significance. Articles 318, 319 and 322 provide measures for safeguarding and fostering the independence of the Commission.
- What will be the scope of duties and functions of the PSCs? What will be the overall sweep of their role as recruiting agencies? These matters are dealt with under Articles 320, 321 and 323 of the Constitution.
- Commissions, as previously stated, are advisory bodies. How to ensure that this situation does not work to their disadvantage and render them ineffective? Under Article 323, there is a provision for submission by Commission of annual reports in which *inter alia* the cases where government rejects its advice are recorded, and reasons for non-acceptance stated. There is a further requirement that these reports shall be placed before the appropriate legislature.

5.7 COMPOSITION AND FUNCTIONS OF THE COMMISSION

The number of members, which a state PSC may have, is not fixed. The Constitution stipulates that this shall be determined by the Governor of the concerned state. At least, half of the members of a Commission are persons with a minimum of ten years of experience under the Central or a State Government. The Members are appointed for a term of six years or until the age of sixty two years. The Governor is an appointing authority, but it must be carefully noted that members can be removed only by the President and not by the Governor. The Conditions of service of the members are determined by the Governor but very importantly, the Constitution stipulates that these are not be revised to their disadvantage. Implicit in the foregoing are certain safeguards to ensure the Commission's independence. Later we shall dwell on this aspect.

Functions of the Commission

As recruiting agencies, the principal function of the state PSCs is to conduct examination for appointment to the civil services. However, certain other duties arise from this and Commission is enjoined to discharge them. These include: i) to tender advice to the state government on a matter so referred to it by the Governor; ii) to exercise such additional functions as may be provided for by an act of the Legislature, these may be

with respect to the State Civil Service, or the services of a local authority or other corporate bodies; and iii) to annually present a report regarding the work done by the SPSC to the Governor.

Besides, the Constitution stipulates that a PSC shall be consulted on the following matters:

i) On all matters relating to the methods of recruitment to civil services and civil posts.

ii) On the principles to be followed in making appointments to civil services and posts and making promotions and transfers from one service to another; and on the suitability of candidates for such appointments, promotions or transfers.

iii) On all disciplinary matters, affecting a person serving under the Government of a State in a civil capacity.

5.8 ADVISORY ROLE OF THE COMMISSION

The importance of the Commission's role lies in that its decisions are in the nature of advice to the Government; and the latter has no obligation to act upon such an advice. The reason for according an advisory status to the Commission is clear enough. Under the Parliamentary system of government, responsibility for the proper administration of the country is vested in the Cabinet and for this it is accountable to the Legislature. Therefore, the Cabinet cannot abjure this ultimate responsibility by binding itself to the opinion of any other agency. If the Commission's decisions were made mandatory, it would amount to setting up of two governments. But, at the same time, there is scarcely any doubt that in matters relating to recruitment to civil services, and the like, it would be profitable for the Ministers to take the advice of a body of experts.

This underlines the need for necessary safeguards against a flagrant disregard of the advice of the Commission by the Government. The Constitution does provide for one. Namely, the Commission's annual report, which records cases where its advice has been rejected — must be placed before the State Legislature through the Governor. The government is under obligation, when such report is presented, to give reason as to why in any particular case the recommendation of the Commission has been overridden by it. But the number of such cases has tended to remain very low, almost negligible.

5.9 INDEPENDENCE OF THE COMMISSION

In the introduction, we have explained the significance of maintaining the independence of the recruiting agency *vis-a-vis* the executive government. The Constitution also incorporates well designed safeguards to foster the commission's independence. These are:

i) As a check against a possible abuse of power, the appointing and removing authority is vested in different functionaries. The power to appoint the Chairperson and members of a Commission vests with the Governor, but the power of removal is vested in the President.

ii) Removal can be effected only in the manner and on the grounds prescribed in the Constitution.

iii) Salaries and other conditions of service of a member cannot be revised to her/his disadvantage after her/his appointment.

iv) The expenses of the Commission are charged on the Consolidated Fund of the State.

v) Certain disabilities have been imposed on the Chairperson and members of the Commission with respect to future employment under the Government. On ceasing to hold office, they are not eligible to hold office under government outside the Union and/or state PSCs.

The purpose of the above provisions is to place the Commission and its members well beyond any possibility of being influenced either by a lure of office or by a threat of insecurity or for any other reason.

5.10 COMMISSION'S WORKING

We have so far considered the formal framework within which a state PSC functions. We shall now discuss the actual working. Our comments on the actual working centre around two aspects, i.e., exercise of patronage in civil appointments by the government in spite of the Commission's existence; and the question of the Commission's membership.

Notwithstanding the Constitutional safeguard against the non-acceptance of the Commission's advice, there is criticism that the government is able to have its way in making appointments:

i) Making ad hoc appointments without prior consultation with the Commission: Commission is not consulted for making ad hoc appointments. Through repeated renewals, such persons pick up necessary experience of the job, which puts them at an advantage vis-a-vis the fresh applicants. In such cases, the Commission is faced with a *fait accompli*.

ii) Exclusion of certain categories of posts from the purview of PSC**:** In theory, recruitment to all civil posts in a state is done by the PSC. However, the Constitution provides that the Executive may exclude certain categories of posts from the purview of the PSC. Under this dispensation, Group C and Group D appointments are made without the PSC's intervention. This is understandable in view of the large volume of work.

iii) Drafting of advertisements by the concerned Department**:** Advertisements for filling up vacancies are drafted by the concerned departments. These are sometimes drafted to suit particular candidates, which the departments may have in view. The Commission cannot vary the terms of advertisements.

iv) Delay in issuing appointment letters**:** Occasionally, there are inordinate delays in issuing appointment letters to the selected candidates. This results in the best qualified candidates being lost to other professions.

The above situations affect the operation of the merit system and undermine the Commission's role. The Commission's membership has also drawn flak due to many other reasons:

i) Membership to persons with insufficient credentials: The matter of membership of the state PSCs has attracted adverse notice. The criticism has been that membership in some states have gone to persons with insufficient credentials; that, in fact, some appointments have been made on grounds of party and political affiliations. Such persons naturally feel beholden to their political masters and could not be expected to stand up to their patrons to uphold merit and professionalism in civil services.

This creates apprehensions on the ability of the PSCs to work with objectivity and independence.

ii) Predominance of the Members of the official category: The narrow base of the Commission's membership has also attracted adverse attention. The point at issue has been the predominance of the members of the official category. In terms of Article 316, the expectation was that the official and the non-official components of the Commissions' membership would be roughly equal to each other. Professions like teaching, law, engineering, science, technology and medicine have inadequately represented on the Commissions. It is necessary that professionals receive adequate representation on the PSCs. This would not only help in meeting the Constitutional requirement by evenly balancing the official and non-official components of the Commission's membership, but one would also expect from this a qualitative improvement in their deliberations.

There is an urgent need to introduce methods that will impart greater credibility to the appointments process, which should be impartial and merit based. In this context, selection of administrative officers having unimpeachable conduct, integrity and professional competence is an essential component of good governance. The Second Administrative Reforms Commission had recommended that after enactment of the State Civil Services Law on the lines of the proposed union enactment, the proposed Civil Services Authority should deal with matters regarding appointments and tenure of senior officers in the state government, including the Chief Secretary, Principal Secretaries, Engineer-in-chiefs and Principal etc. (Second Administrative Reforms Commission, 2009, pp. 40-41, https://darpg.gov.in/sites/default/files/sdadmin15.pdf).

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) What is the significance of according a Constitutional status to the State Public Service Commission?

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2) Why has the Public Service Commission been made an advisory body?

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3) Examine the working of State Public Service Commission.

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5.11 CONCLUSION

The performance of multifarious tasks of regulatory and developmental nature at the state level has necessitated that large and well-organised civil services be maintained. These are civil services based on the merit system. These civil services are a career service, whose recruitment is done through an open competitive examination.

The concepts of merit system, career service and open competition emerged during the 19th century to rid civil service administration of political interference. The idea was that recruitment to civil service as well as matters concerned with the salaries, promotions and transfers of civil servants should be based on the technical and professional considerations rather than political. When politicians do not interfere in these matters, civil servants appointed under the merit system provide continuity to the governmental system and work undisturbed even when the Ministers come and go, depending upon the fortunes of the political parties.

To rid civil service administration of politics, it is essential that the task is entrusted to an impartial agency, whose integrity is above board and which can be trusted to withstand any pressure from the political executive. Such desiderata underline the need to establish a commission type of organisation to perform the task. To ensure that it may function without fear or favour and without being influenced by the political executive, a Constitutional status has been conferred on this agency. It is a body, consisting of experts and has an advisory role.

5.12 GLOSSARY

Career Service : It refers to a personnel system based on merit and professional standards. A typical career service contains civil service requirements that include recruitment based on an open competitive examination, classification, performance, evaluation, promotion, and protection against arbitrary dismissal.

Fait Accompli : It is a French phrase, which means something has already taken place and is beyond alteration.

Open Competition : This has certain elements like (i) Adequate publicity so that job openings and requirements are known to citizens seeking jobs, (ii) Opportunity to apply, (iii) Realistic standards: Qualification standards must be related to the job and must be impartially applied to all those who make their interest known through applications, (iv) Absence of discrimination: the standards used must contain factors, which relate only to ability and fitness for employment, (v) Ranking on the

basis of ability and a selection process, which gives effect to this ranking, and(vi) Knowledge of results and opportunity for review.

5.13 REFERENCES

Arora, R.K. & Goyal, R. (2013). *Indian Public Administration: Institutions and Issues.* New Delhi, India: New Age International Publishers.

Basu, D.D. (2019). *Introduction to the Constitution of India* (24th ed.). New Delhi, India: Lexis Nexis.

Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training. Retrieved from http://documents.doptcirculars.nic.in/D2/D02est/11012_10_2016-Estt-A-III-08122017.pdf

Hazarika, Niru (1979). *Public Service Commissions*. Delhi, India: Leeladevi Publications.

Maheshwari, S.R. (1979). *State Governments in India*. Delhi, India: Macmillan.

Sapru, R. (2018). *Indian Administration: A Foundation of Governance*. New Delhi, India: Sage Publications.

Second Administrative Reforms Commission. (2009). *State and District Administration*. Retrieved from https://darpg.gov.in/sites/default/files/sdadmin15.pdf

Stahl O, Glenn. (1975). *Public Personnel Administration.* New Delhi, India: Oxford and IBH.

The Constitution of India. Retrieved from https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text

5.14 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:

- Operation of two distinct sets of civil services at the state level.
- State services, whose personnel are recruited by the respective state governments to handle governmental activity at the state level.
- All India Services, whose officers serve both at the Union as well as the state governments.

2) Your answer should include the following points:

- Constitution and meaning of All India Services.
- Allotment of specific state cadre to the officers of All India Services after recruitment
- Tenure system.
- All India Services ensure availability of uniform level of talent and administrative expertise to the state administration.

- Supply of personnel to all senior administrative posts in the states, at the district level and above.

3) Your answer should include the following points:

- Refer Section 5.4

Check Your Progress 2

1) Your answer should include the following points:

- Ensuring objectivity and impartiality in the functioning of the Commission.
- Functioning of the Commission without any influence of the executive.
- Conferment of Constitutional status, a nature of safeguard against any encroachment on authority and independence of the Commission.

2) Your answer should include the following points:

- Refer Section 5.8

3) Your answer should include the following points:

- Refer Section 5.10

UNIT 6 STATE PLANNING BOARD*

Structure

6.0 OBJECTIVES

After studying this Unit, you should be able to:

- Understand the significance of State Planning Board;
- Discuss the structure of State Planning Board;
- Explain the functions of State Planning Board; and
- Examine the performance of State Planning Board in various States.

6.1 INTRODUCTION

India's commitment to planned socio-economic development is a reflection of the Government's determination to improve the social and economic conditions of citizens through a variety of social, economic and institutional means. After independence, the next important step for the Government was to revive the poor, backward and stagnant economy, inherited from the British rule. As the subject of planning is mentioned in the Concurrent list of the Constitution of India, therefore planned development through systematic formulation, implementation and evaluation of plans is responsibility of the Centre and states. At the state level, it is felt that planning departments require advice and support of eminent subject- experts to introduce an element of specialised competence in the planning process. In view of above, State Planning Boards/State Planning Commissions were setup in most of the states. As per Second Administrative Reforms Commission, the State Planning Boards should ensure that the district plans are integrated with the State plans, which are prepared by them. In this regard, the Commission emphasised on making it mandatory for all the states to prepare their development plans only after consolidating the plans of local bodies. However, the position of Board and its effectiveness varies from state to state. It has been observed that with an increasing open and liberalised economy, we have to rethink about the tools and approaches to conceptualise the development process. As a result, on 1st January 2015, the NITI Aayog was established at the Centre with the aim to achieve

* Contributed by Dr. Biswaranjan Mohanty, Assistant Professor, SGTB Khalsa College, University of Delhi.

sustainable development goals with cooperative federalism by fostering the involvement of state governments of India in the economic policy-making process, using a bottom-up approach. It is hoped that vision, strategy and action agenda will contribute to align the development strategy with the changed socio-economic needs.

In the planning process, following have an important role:

i) NITI Aayog;

ii) State Planning Board/Commission; and

iii) District Planning Committees/Agencies, supported by the institutions of decentralised planning.

As we have already discussed about the NITI Aayog in detail in our Course BPAC-103, therefore this unit focuses on the State Planning Board (SPB)/State Planning Commission (SPC). The state level administrative reforms committees suggested for setting up of Board or Commission like institution at the state level. In this regard, the Planning Commission of the Government of India also emphasised on the requirement for creating a SPB at the state level. The Commission has always favoured to strengthen the state planning machinery for an integrated, pragmatic and efficient planning process. Thus, the Planning Commission had recommended setting up of a SPB in each state in 1967, the First Administrative Reforms Commission (ARC) submitted its report on the significance of Planning. The ARC also recommended the constitution of Planning Board. Thus, majority of states and union territories have setup SPBs/SPCs. However, the position of Board and its effectiveness varies from state to state. In this unit, keeping in view the significance of the State Planning Board, we will explain the composition and functions of the SPB at the state level. In addition, we will suggest necessary measures for strengthening the Planning Board.

6.2 PLANNING SYSTEM

Planning is significant for the socio-economic development of the state. In this regard, the close teamwork between the State and Local Government in development and administration is indispensable and important for a rapid socio-economic development. The task of carrying out effective planned development through systematic formulation, implementation and evaluation of plans is a responsibility of the centre, state and local governments. At the state level, the Planning Department is headed by the Chief Minister (CM) of the state or senior Cabinet Minister. The major issues, in the context of planning are discussed with the Chief Minister of the state or reach to her/him, and through the CM they reach the cabinet for approval. It has been observed that at the administrative level, it is mostly the Chief Secretary, who is Head of the Planning Department. For example, in Rajasthan, this practice continued for nearly three decades. In the year 1992, separate Planning Secretary (now Principal Secretary) was appointed. In most of the states, the Planning Secretary or Principal Planning Secretary looks after the administration of the Planning Department. All urgent and important matters related to state planning are disposed of at the administrative level by the Chief Secretary, who passes them to political level.

On account of multiplicity in administrative organisations in diverse states and union territories, it is not possible to have a single uniform pattern for the planning machinery. In each State, there is a Planning Department, which is accountable for the formulation and monitoring of the plans; and, generally, the evaluation of programmes through its Evaluation Wing. Essentially, the Planning Department is responsible for coordinating

the development efforts in the state. In most of the states, within the administrative umbrella of the State Planning Department, there are departments of Economics and Statistics, Manpower and Evaluation. The Department of Economics and Statistics provides technical personnel at the State and lower levels for planning and monitoring of the programmes. The Manpower Department assesses the requirements and need for manpower in the coming years; and enables the planning process to incorporate action plans for meeting these needs in such a way that the overall manpower requirements for plan's implementation are fulfilled. In addition, the Manpower Department is also sometimes entrusted with the responsibility of planning for in-service training; and orientation of the State officials. The Evaluation Department, as the name suggests, is entrusted with the task of conducting evaluation studies of the various programmes being undertaken on concurrent or ex-post facto basis. Such studies provide feedback to the State Government for enabling corrective actions to be taken regarding the plan schemes.

To understand planning system in a State, in a better way, we will discuss the planning system in Meghalaya. The Planning Administration (in the Secretariat) deals with all matters relating to establishment; Planning Machinery at the Headquarter; and District Planning offices under its control. It also deals with all matters relating to setting up of State Planning Board, District Planning and Development Council, Regional Planning and Development Council, Meghalaya Economic Development Council and Meghalaya Resource and Employment Generation Council.

The Research Wing is the machinery of state planning, which is accountable for the management of all development activities in the state; and acts as an organising and liaising body with the Government of India and other agencies in the matter of planning and development. The Planning Research Wing is an independent body known as – "Meghalaya Planning Service".

At the State level, the Planning Department coordinates all development activities of different Development Departments comprising of the State Plan, the Centrally Sponsored & Central Sector Schemes, the Non-Lapsable Central Pool of Resources, Externally Aided Projects (EAP), Central Government Flagship Programmes etc.

With a view to reinforce better performance of the Planning Machinery at District level, the District Planning Organisation is owned by the District Planning Officer. District Office has been created in all districts under the Deputy Commissioner's office, which is headed by the District Planning Officer (DPO) as the Head of Office.

The Directorate of Economics & Statistics is a Directorate falling under the administrative power of the Planning Department. This Directorate is accountable for all economic and statistical information in the state. It brings out statistical handbooks, economic surveys and estimates. The Directorate is headed by a full-time Director. The officers are the members of Meghalaya Economics and Statistics Service.

A Science & Technology Cell is operating under the control of the Planning Department to direct and maintain the science and technology matters in the State. This manages measures of entities such as the State Council of Science, Technology and Environment, Science Centre, and Bio-Resources Development Centre (BRDC).

This organisation is also concerned with formulation of plan, and review of the implementation of Schemes. At the district level, the District Planning and Development Council (DPDC) prepare the District Plans; and also monitors and reviews the developmental activities in the district.

In view of above, it is felt that a regular bureaucratic organisation needs continuing assistance of eminent subject-experts to introduce an element of specialised competence in the planning process. As a result, on the basis of recommendations of various committees and commissions, in addition to the State Planning Department a State Planning Board/ Commission exists in many states. It comprises the Chief Minister as Chairman, Deputy Chairman, subject-experts, non-officials and officials. In the next section, we will explain the structure and composition, role and functions of the SPB/ SPC.

6.3 STATE PLANNING BOARD

At the State level, the SPB/SPC in certain states have contributed effectively. The major functions of the State Planning Board are to monitor and prepare plans, and long- term perspective plans in the state; activate the financial resources and adopt different mechanisms for development; determine plan priorities of the state within the framework of the priorities of the national plan; assist the district authorities in formulating their development plans, within the spheres in which such planning is considered to be useful and feasible; formulate a plan for the most effective and balanced utilisation of the state's resources; determine priorities, define the stages in which the plan should be carried out, and propose the allocation of resources for due completion of each stage; indicate the factors, which tend to retard economic development, and determine the conditions, which in view of the current social and political situation should be created for successful execution of the plan; determine the nature of the machinery, which will be necessary for securing the successful implementation of each stage of the plan in all its aspects; and to appraise, from time to time, the progress achieved in the execution of each stage of the plan, and recommend the adjustments of policy and measures that may be necessary. In this regard, for better and clear understanding about the role and functions of SPB we will discuss the structure and composition, functions and role of the Kerala State Planning Board (KSPB).

Kerala State Planning Board

The KSPB was formed with a view to enable the State Government to formulate development plans based on a scientific assessment of the available resources, and the growth priorities. It is to be noted that the Board was also entrusted with the task of bringing out a comprehensive economic review report of the state every year. The term of the KSPB is five years. It is worth mentioning that since 1967 the KSPB has been reconstituted fifteen times. Thus, the Planning Board through its expertise facilitates effective planning and better implementation of development schemes/ projects.

A) STRUCTURE AND COMPOSITION OF STATE PLANNING BOARD

The Chief Minister of state is the Chairman and a non-official is part time Vice- Chairman of the SPB.The structure and composition of the KSPB, which was reconstituted in 2016, is as follows:

i) **Chairman** - *Chief Minister*

ii) **Vice Chairman**

iii) **Members**

- *Minister for Revenue & Housing*
- *Minister for Water Resources*

- *Minister for Transport*
- *Minister for Ports, Museum, Archaeology & Archives*
- *Minister for Finance*

Non- Ministerial Members (seven experts)

iv) **Member Secretary**

v) **Permanent Invitees**

- *Chief Secretary, Government of Kerala*
- *Additional Chief Secretary, Finance Department, Government of Kerala.*

Members

The Board members are nominated by the Government and they facilitate discussions on various issues and problems regarding plan formulation, implementation, and other policy matters.

Member Secretary

The Member Secretary, who is head of the institution, also acts as official Member of the KSPB. S/he is responsible for convening Board meetings, and carrying out the implementation of the Board decisions, through the concerned departments and agencies. The Chiefs of the Technical Divisions provide her/him support in technical matters. Besides, Administrative Officer assists the Member Secretary in administrative matters.

Chief Economic Adviser

S/he has been appointed by the Kerala Government to advice the Board on policy matters and other subjects, which are considered by the Planning Board.

Director, Project Financing Cell

A Project Financing Cell has been constituted in the Planning Board in 2012 to examine the feasibility of outside funding, including Public - Private Participation for all projects of the Kerala State.

Kerala State Planning Board : Administrative Structure

The KSPB comprises of:

i) Technical Divisions;

ii) Administrative Wing;

iii) District Planning Offices; and

iv) Library.

In addition, Project Financing Cell is also part of the administrative structure of the Planning Board. The functions of the SPB are carried out through its Technical Divisions. The Chief of Division is an expert on developmental issues. In each Division, Joint Directors, Deputy Directors, Assistant Directors, Research Officers and Research Assistants assist the Chief. However in administrative matters, an Administrative Officer assists the Member Secretary. Now, briefly we will discuss the structure of following constituents of KSPB units:

i) **Technical Divisions**

Following Divisions in the SPB, carry out the technical functions of the Board:

- Agriculture Division
- Industry and Infrastructure Division
- Social Service Division
- Decentralised Planning Division
- Perspective Planning Division
- Plan Co-ordination Division
- Evaluation Division

ii) **Administrative Wing**

The Senior Administrative Officer is Head of an Administrative Wing. It consists of Establishment, Accounts, Computer, Publication, and Plan Publicity Sections. In this Wing, Administrative Assistant and Finance Officer are in charge of Establishment and Accounts Sections; Senior Superintendents are in charge of Fair Copy and Computer Sections; and Publication Officer and Plan Publicity Officer manage respectively Publication and Plan Publicity Sections.

iii) **District Planning Offices**

The District Planning units were established for decentralised participatory planning. These District Planning Offices (DPOs) function under the guidance of Planning Board; and they are under the control of District Collector. The District Planning Officers of DPOs have been designated as Ex-Officio Personal Assistant to the District Collector, and Secretary to the District Development Council. The DPOs play an important role in formulation of District Plan schemes; and monitoring the implementation.

iv) **Kerala State Planning Board Library**

The KSPB Library is one of the best Libraries managed by Government Institutions in Kerala. It is a special library with large number of books/reports in economic development, planning, Indian economics, finance, management, Industry, national / world development reports, World Bank reports etc. There are more than 20,000 books.

In addition, there is IT Wing, which was formed, in 1999, to enhance the modernisation of SPB and induce Information Technology. The Chief of Plan Co-ordination Division is in charge of this Wing. In day to day functions, the Programmer, Technical Consultant and an IT Nodal Officer support the in charge.

B) **KERALA STATE PLANNING BOARD: MAJOR FUNCTIONS**

i) **Assessment of Economic Progress and Necessary Efforts**

The KSPB is involved in continuous assessment of the progress of economy and finding out its prospects and problems; and suggest necessary reforms and changes in the policies, priorities and programmes, which include:

- Formulation, monitoring and evaluation of plans;
- Suggest necessary measures for improving performance of public enterprises with

focus on augmenting quality of service to citizens, productivity and generation of surplus for development;

- Effective decentralised planning and development, and enhancing local peoples' participation in the projects; and
- Undertaking studies, surveys and researches that are necessary for proper discharge of functions through task forces, expert committees and working groups.

ii) **Preparation of Economic Review**

The KSPB was assigned the task of preparing Annual Economic Review, which is being prepared and published by the Board. In this regard, 50 earlier issues of the Economic Review (1959 to 2009) have been digitised and published in 2010. As it provides an overall view of the state economy, macro-economic performance, development initiatives taken by various departments during that particular year, progress in the plan implementation etc., therefore it is considered as a valuable reference text.

iii) **Formulation of Plan**

The Board is responsible for the formulation of the plans. In this regard, available resources are assessed to fix the size of the plan. The KSPB issues circular/ instructions to all the Secretaries and Heads of Departments for submission of plan proposals to the Board. Hence, it is the responsibility of the Administrative Departments in the Secretariat to obtain the approval of the concerned Minister for the plan proposals.

The schematic proposals are appraised in the KSPB and tentative selection priorities are allowed on the basis of detailed discussion on the proposal of each department. The Planning Board then prepares the draft plan proposals that are placed before the Board/ Cabinet for approval. As an effective planning is necessary to achieve the desired goals, therefore a well-established plan monitoring mechanism has been established from the State to District level.

Thus, it is evident from the study that the KSPB has contributed effectively as an advisory board. The Planning Board has assisted the Kerala government in designing the development plans on the basis of scientific assessment of the available resources in the state. In addition, the Board members and staff prepared a comprehensive Annual Economic Review Report, which proved necessary base for future planning and development of Kerala.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Discuss the planning system at State level in India.

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2) Explain the structure and composition of Kerala State Planning Board.

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3) What are the major functions of Kerala State Planning Board?

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6.4 PERFORMANCE OF STATE PLANNING BOARDS IN SELECTED STATES

In this section, we will examine the role of SPBs/SPCs; and suggest necessary measures to improve their performance in planning and sustainable development in selected states. Among the selected states, we have already discussed the role of KSPB in the previous Section (6.3) of this unit and found that the Board is working effectively in Kerala. Now, we will focus on the *Tamil Nadu State Planning Commission* (it is named like that in the state). The SPC in Tamil Nadu (TNSPC) was constituted on 25th May 1971.The Commission has conducted special studies for formulation and implementation of plan projects and programmes; evaluated major plan schemes through Department of Evaluation and Applied Research; monitored development indicators that influence the Human Development Index, Gender Development Index, etc., at a disaggregated level; monitored the State economy and sent reports to the Government; implemented and monitored State Balanced Growth Fund (SBGF) to address the regional disparities in the Tamil Nadu state; coordinated the functions of District Planning Cells and initiated planning process at District / Block / Village level. In addition, the TNSPC has been involved in establishment of Tamil Nadu Innovation Initiatives (TANII) and setting up of State Innovation Fund. Thus, the SPC in Tamil Nadu state is also contributing effectively.

Now, our next State is Meghalaya, which follows a specific development and planning approach in formulation of plans. The development planning structure consists of mainly the Planning Board at the State level; and the District Planning and Development Council (DPDC) at the district level. In 2004, another level of planning organisation was added namely the Regional Planning and Development Councils (RPDCs), which are largely non-functional. Here, the State Planning Board and the DPDC are more broad based and significant. The *Meghalaya State Planning Board* is top most planning advisory body in the State. It is a consultative Board, which provides advice to the Government regarding formulation of plans. Experts have also been included in the Board, as per the requirement. The meetings of the Board are fixed from time to time, with the Government departments to advise them in plan formulation and implementation of plan Schemes, including review of different plan proposals. For smooth functioning, there is also a

Commissioner and Secretary, the Special Officer & Ex-Officio under Secretary, Research Officer etc.

The Major functions of Board are to:

- arrange an inventory of obtainable and potential resources of the State Capital;
- arrange a perspective plan for the State for the most favourable and balanced utilisation of the State's resources, and point out the plan priorities;
- advise the Government regarding the formulation of plans;
- appraise the growth in the implementation of the schemes to identify the factors, which have been tending to retard economic development of the State, and to determine the circumstances to be formed for flourishing execution of the plans; and
- take up such other studies and functions as may be assigned to it, from time to time, and to make appropriate recommendations.

On the basis of above discussion, it can be stated that the Meghalaya SPB is not only top advisory body but also contributing effectively in planning process.

It has been observed that in Kerala, Tamil Nadu and Meghalaya states, the State Planning Boards/Commission are working effectively. In addition, the *Punjab State Planning Board* has been making suggestions regarding approach to various plans, drafting them, balancing the resources and socio-economic needs of the Punjab State, evaluating plans and projects, and suggesting suitable measures for resource mobilisation; and providing a vision for the long-term development. In this regard, Arora and Goyal have opined, "Though an advisory board, it functions as the Department of Planning at the Secretariat level and issues advice to other administrative departments of the state government. It has played a major role in asking for and obtaining increased Central assistance for numerous projects at the state level." However, necessary efforts are required to improve the working of SPBs in Rajasthan, Bihar, Uttar Pradesh, Karnataka and Odisha. In Rajasthan, right from the very beginning, bureaucratic support to the working of the State Planning Board has been half-hearted and lack-luster. The main reason is the complacency of the political leaders and the bureaucrats with the existing governmental machinery in the form of the Planning Department. Over a long period of time, rigorous procedures and methods have been evolved, involving inter-departmental and inter-level discussions during the formulation of plans. There is a feeling that a few part-time outside experts would not be able to bring realistic vision into the planning process. In short, lack of support to the State Planning Board emerges from the view that such a Board, in the absence of the required level of resources, would be unable to bring positive difference to the quality of the planning process at the state level. For example, the Odisha State Planning Board has framed strategy papers for various sectors; and has also drafted an approach paper to the 12th Five Year Plan. In the approach paper, substantial emphasis was on improving human development indicators and stepping up investment in social sectors, specially health, education and other social safety nets (Arora, 2013). Though Deputy Chairpersons and members have been appointed from time to time, the meeting of the Board has not been held even once in the more than 10 years. In this regard, the Government of Odisha has started making efforts to ensure that Board functions effectively.

As we have observed that the SPBs are contributing effectively in the selected states, therefore their role in other states should be increased substantially; and they should be strengthened and developed as true counterparts of the NITI Aayog at the State level

in all states of India. It has been observed that if the State Planning Board functions properly with the backing of the State government, it can contribute effectively in drawing up perspective plans in various sectors for the state; and design priority patterns for a holistic development of the state. An effective monitoring and evaluation process through a State Planning Board can help in resource mobilisation and effective resource utilisation. The need of the hour is to give genuine accountability and status to the State Planning Boards. The specialisation and proficiency that they can bring to their roles can help the state governments to increase rationality in their developmental process and strengthen their capacity to bargain for additional resources. It may be further found that the real purpose for which they were created has not been achieved in some states. The joint efforts of political leaders, administrators and citizens can facilitate to match the desired goals of sustainable development through effective planning and efficient State Planning Boards.

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Analyse the performance of State Planning Boards in any two states of India.

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2) What are the major functions of the Meghalaya State Planning Board?

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3) Discuss the major findings on the basis of performance of State Planning Boards in selected states.

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6.5 CONCLUSION

The State Planning Boards are mainly concerned with broad economic policies, perspective planning, plan formulation, and plan evaluation. The functions of SPB differ

from State to State. It has been observed that if the State Planning Board functions properly with the backing of the State government, it can contribute effectively in drawing up perspective plans in various sectors for the state; and design priority patterns for a holistic development of the state. An effective monitoring and evaluation process through a State Planning Board can help in resource mobilisation and effective resource utilisation. The need of the hour is to give genuine accountability and status to the State Planning Boards. The specialisation and proficiency that they can bring to their roles can help the state governments to increase rationality in their developmental process and strengthen their capacity to bargain for additional resources. It may be further found that the real purpose for which they were created has not been achieved in some states. In this regard, study has explored and highlighted successful examples also, which will pave the way for other states to strengthen the State Planning Board in their states. In this Unit, we have focused on the significance, composition, functions and process of State Planning Board at the state level in view of the current perspectives of the states. It may be concluded that planning is not a result of physical and financial targets. It is a tool in providing a direction to the development effort at large. It has stood the test of time to reach different sections of society, especially the marginalised ones. The joint efforts of political leaders, administrators and citizens can facilitate to match the desired goals through effective planning and efficient role of the State Planning Board.

6.6 GLOSSARY

Approach Paper : Approach paper refers to the paper of a document, which will reflect the prime objectives and goals for the forthcoming plans.

Plan : It is a document showing detailed scheme, programme and strategy, which is worked out in advance for fulfilling an objective.

Planning : It is the fundamental function that involves deciding beforehand, what is to be done, when it is to be done, how it is to be done and who is going to do it. Thus, planning is a process, which clearly lays down the objectives of an organisation and develops various courses of action, by which an organisation achieves desired objectives.

6.7 REFERENCES

Arora, R. K. & Goyal, R. (2013*).Indian Administration: Institutions and Issues.* New Delhi: New Age International Publishers.

Chakravarty, S. (1987). *Development Planning: The Indian Experience*. New Delhi: Oxford University Press.

Government of Tamil Nadu, State Planning Commission. Retrieved from http://www.spc.tn.gov.in/

Kerala State Planning Board. Retrieved from http://spb.kerala.gov.in/

Khandelwal, R.M. (1988). *State Level Plan Administration in India.* Jaipur: RBSA Publisher.

Khera, S.S. (1963). *District Administration in India.* New Delhi: Sage.

Maheswari, S.R. (2002). *Administrative Reforms Commission in India*. New Delhi, India: MacMillan.

Meghalaya State Planning Board. Retrieved from http://megspb.gov.in/

Padhi, A.P. (1988). *State Administration in India*. New Delhi: Uppal Publishing House.

Pathak, K.K. (2011). *Planning Development for Metropolitan Regions*. New Delhi: IIPA.

Planning Commission. (2008). *Report on Manual on Integrated District Planning*. New Delhi: Government of India.

Planning Commission (24th February 1997). *"A Background Note on Gadgil Formula for distribution of Central Assistance for State Plan*". New Delhi: Government of India.

Punjab State Planning Board. Retrieved from http://www.pbplanning.gov.in/aboutus.html

Ram, D.S. (1996). *Dynamics of District Administration: New Perspective*. New Delhi: Kanishka.

Sarkaria Commission. *Report on Centre-State Relations, Part-1*.New Delhi: Government of India

Sen, S.R. (April-June1961). Planning Machinery in India. *Indian Journal of Public Administration*. Volume: VII . New Delhi: IIPA.

Sinha, A. (1993). *State Level Planning System*: *Need for a Change*. Jaipur: Rawat Publication.

6.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your Answer should include the following points:
   - Refer Section 6.2.

2) Your Answer should include the following points:
   - A Board is headed by the Chief Minister with a few senior ministers, including the Planning Minister and the Finance Minister as its members.
   - The Chief Secretary and a few senior secretaries are members of the Board.
   - The boards have several expert members full-time as well as part-time.

3) Your Answer should include the following points:
   - Assessment of Economic Progress and Necessary Efforts
   - Preparation of Economic Review
   - Formulation of Plan

Check Your Progress 2

1) Your Answer should include the following points:
   - Tamil Nadu
   - Punjab

2) Your Answer should include the following points:

- Arrange an inventory of obtainable and potential resources of the State Capital;
- Arrange a perspective plan for the State for the most favourable and balanced utilisation of the State's resources, and point out the plan priorities;
- Advise the Government regarding the formulation of plans;
- Appraise the growth in the implementation of the schemes to establish the factors, which have been tending to retard economic development of the State, and to determine the circumstances to be formed for flourishing execution of the plans; and
- Take up such other studies and functions as may be assigned to it, from time to time, and to make appropriate recommendations.

3) Your Answer should include the following points:

- Refer Section 6.4.

UNIT 7 STATE FINANCE COMMISION*

Structures

7.0 OBJECTIVES

After studying this Unit, you should be able to:

- Understand the origin and significance of State Finance Commission;
- Explain the composition of State Finance Commission;
- Describe the powers and functions of State Finance Commission; and
- Examine the role of State Finance Commission.

7.1 INTRODUCTION

In a federal setup, along with the balancing of functions and powers, there is a crucial issue of distribution of financial resources between the Union and other units of government. As the local bodies have meagre resources of their own, therefore they have to depend on devolution of funds from the central and state governments. It has been observed that they rely more on fiscal transfers from the state government in the form of shared taxes and grants. These taxes are, generally, shared on the basis of recommendations of the State Finance Commission (SFC) of the state. In addition to the tax sharing, the SFC is assigned the task of reviewing the financial position of local bodies; and recommending the assignment of various taxes, duties, fees, and grants in-aid to be given to local bodies from the Consolidated Fund of the states. The constitution of SFC at a regular interval of five years is mandatory requirement for all states in India. As a SFC has functions similar to that of the Central Finance Commission, therefore for better understanding we will briefly discuss the origin and functions of the Finance Commission in the following Section.

It is to be noted that despite the elaborate and detailed constitutional provisions for the division of financial resources between the Union and States, Indian states faced the problem of a continuous gap between their own resources and the expenditure pattern.

* Contributed by Prof. Swinder Singh, Department of Public Administration, USOL, Panjab University, Chandigarh.

With this view, our Constitutional makers were quite cautious on this account and provided for a Finance Commission (FC) under Article 280 to recommend mainly the financial transfers from the Union to states to reduce vertical as well as horizontal federal fiscal imbalance. The FC is required to be constituted after the expiry of every five years. The responsibilities assigned to the Commission, under the Constitution are originally provided in Article 280 (3).The Finance Commission makes the following recommendations to the President regarding:

- the distribution between the Union and the States of the net proceeds of taxes that are to be divided between them, and allocation between the states of the respective shares of such proceeds;
- the principles that should govern the quantum of grants-in-aid to states out of the Consolidated Fund of India; and
- any other matter, that is, referred to the Commission by the President in the interest of sound finance.

However, a similar sort of arrangement was desired since long in the sphere of State-local relations. In this context, basic reforms in the sphere of decentralised governance and empowering people through an effective local government assumed significance in early 1990s. Besides other measures and reforms, devolution of financial resources to these bodies was ensured through periodic constitution of the SFC under the 73rd and 74th Constitutional Amendments. After the passage of the 73rd and 74th Constitutional Amendment Acts, the second function was changed in the following manner: To make recommendations to the President as to the measures needed to augment the Fund of a State to supplement the resources of the Panchayats and Municipalities in the state on the basis of the recommendations made by the Finance Commission of the State. In view of above, now we will discuss about the origin and significance of the SFC.

7.2 STATE FINANCE COMMISSION: ORIGIN AND SIGNIFICANCE

Local bodies, rural as well as urban, have been accepted for having a great role in the social, economic and political development. However, on account of various reasons such as rapid population growth, urbanisation, poverty, and lack of proper devolution of financial resources, the local governments have been subjected to heavy financial strains. The Local bodies heavily depend on the state governments in matter of grants. In this context, sources of revenue assigned to the local bodies are generally insufficient. In order to rectify these shortcomings; and check the financial imbalance, a number of suggestions have been put forward by various commissions and committees. One of the important suggestions has been to setup a Finance Commission for every state on the pattern of Central Finance Commission. It was suggested that on the pattern at the national level there should be a system of appointment of State Finance Commission, which should recommend a pattern of distribution of sources of income between the state government and local bodies.

The Seventy Fourth Constitutional Amendment Act in the statement of its objectives observed, "In many States, local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersession and inadequate devolution of powers and functions. As a result, Urban Local Bodies are not able to perform effectively as the vibrant democratic units of self-government". It further added that it is considered necessary that provisions relating to local bodies are incorporated in the Constitution of India, particularly in regard to

functions and financial (taxation) powers; and arrangement for revenue sharing. Accordingly, the necessary provisions were added and the long standing demand was accepted in early 1990s and became a part of the Constitutional Amendments in 1992. The passage of 73rd and 74th Constitutional Amendments is a big milestone development in the history of independent India. These amendments have incorporated wide ranging provisions for dealing with electoral processes, finances, planning mechanisms besides the broader composition and powers of the local bodies. An important aspect of these amendments pertains to the finances of local bodies. The Amendment Acts provided for setting up of State Finance Commission in each State. In order to meet the constitutional requirements under Article 243 I and 243 Y inserted by the 73rd and 74th constitutional Amendments to the Constitution, the states passed the legislation to setup the State Finance Commission. Since 1993, the states have been setting up their respective Finance Commissions for local bodies at the expiry of every five years.

7.3 COMPOSITION OF STATE FINANCE COMMISSION

Most of the states have setup four to five Finance Commissions till the year 2019. As noted above, a State Finance Commission is appointed at the expiry of every five years. However, there is no fixed term of its working; and it ceases to exist as soon as it submits its report. The experience of most of states indicates that a State Finance Commission generally works for a period of one year to one and a half years.

In every state the appointment of State Finance Commission takes place on the basis of its announcement made by the Governor; and it comes into existence from the date of assuming of charge by its Chairman and members.

As far as composition of the Finance Commission is concerned, there is no uniformity and not much variation too. It consists of a Chairman and a few members. In some states their strength is specified by the state legislation. For instance in Punjab, the Finance Commission consists of a Chairman and four other members. Similarly in Tamil Nadu it consists of one Chairman and four members. In Haryana, the third Finance Commission comprised of one Chairman and three members, whereas the fifth Finance Commission consisted of seven members including one Chairman and one Member Secretary.

Qualifications for Chairman/Members: Some of the states have clearly specified the qualifications/conditions for the appointment of Chairman and members, while in other states there is no such specification. In Punjab, the person to be appointed as Chairman of the Finance Commission is required to have an experience in public affairs; and the persons to be appointed as Members thereof are required to have:

- special knowledge and experience in economic and financial matters regarding Panchayats; or
- special knowledge and experience in economic and financial matters regarding Municipalities; or
- wide experience in financial matters, and administration; or
- special knowledge of economics.

Before appointing a person as a Chairman or Member of the State Finance Commission, the Governor has to satisfy herself/himself that the person to be appointed has no financial or any other interest as is likely to affect prejudicially her/his functions as Chairman or

Member of the Finance Commission. After the appointment of Chairman and Members of the State Finance Commission, the Governor also has to satisfy herself/himself from time to time with respect to the Chairman and Members of the Finance Commission that they may have no financial or any other interests as it is likely to affect prejudicially their functions as Chairman or Members of the Finance Commission and for that purpose the Governor may require Chairman and the Members to furnish to her/him such information as s/he considers necessary with a view to satisfy herself/himself as to whether the Chairman or the Members have any such interests.

Disqualification: A person may be disqualified for being appointed as Member or for being a Member of the Finance Commission, if:

- s/he is of unsound mind;
- s/he is an undercharged insolvent;
- s/he has been convicted of an offence, which involves moral turpitude; or
- s/he has such financial or any other interest, as is likely to affect prejudicially her/his functions as a Member of the State Finance Commission.

Term of Members: Every member of the State Finance Commission holds office for such period as may be specified in order of the Governor appointing her/him as such but shall be eligible for reappointment, provided that s/he may, by a letter addressed to the Governor, resign her/his office, at any time prior to the period specified in her/his appointment letter.

Conditions of Service: The Chairman and Members of the Finance Commission may render whole time or part time service to the State Finance Commission as the Governor may in each case specify; and they shall be paid fees or salaries and such allowances as the State Government may prescribe from time to time. (The Punjab Finance Commission for Panchayats and Municipalities Act, 1994, https://www.latestlaws.com/index.php/bare-acts/state-acts-rules/punjab-state-laws/punjab-finance-commission-for-panchayats-and-municipalities-act-1994/)

7.4 STATE FINANCE COMMISSION: POWERS AND FUNCTIONS

As noted earlier, the Finance Commission at the state level are being constituted to review the financial position of the Panchayats and Municipalities; and make recommendations. In every state, a notification is issued every time for appointment of the State Finance Commission and generally carries terms of reference. In this regard, as per the Finance (Finance Commission-IV) Department, G.O.No.584 dated 14th December 2004 Government of Tamil Nadu, the State Finance Commission shall study and review the financial position of the rural and urban local bodies namely village panchayats, panchayat union councils, district panchayats, municipalities and municipal corporations; and make recommendations as to the matters mentioned below:

- The principles that should govern:
  - the distribution between the state and local bodies of the net proceeds of the taxes and duties levied and collected by the state;
  - the determination of taxes, duties, tolls and fees, which may be assigned to, or appropriated by the local bodies; and
  - the grants-in-aid to the local bodies from the Consolidated Fund of the State.

- The measures needed to improve the financial position of the panchayats and municipalities.
- Any other matter referred to the Finance Commission by the Governor in the interest of sound financial position of the local bodies.

In some states, their notification carries some more details regarding the functions and duties assigned to the State Finance Commission. For instance, the third Finance Commission in Tamil Nadu and the subsequent commissions were asked to go further in addition to the tasks listed above. The commission was asked to suggest the:

- measures, which are required to improve the financial position of the local bodies taking into account inter-alia, their level of debt, pension and interest payment liabilities, possibilities of regulating the borrowing power and containing the debt liabilities of local bodies depending on their resource position and their ability to service the debt;
- measures required to bring about greater efficiency in functioning of local bodies in the mobilisation and use of their resources as Local Self-Government, and suggestions on demarcation of functions of the State Government vis-a-vis local bodies taking into account the prevailing levels of delegation of administrative, functional and financial powers to local bodies with reference to the functions enumerated in the Constitution of India and the concomitant State Legislations;
- draw a monitorable fiscal reforms programme, which will be aimed at reduction of revenue deficit of the local bodies, and a scheme for providing an incentive to local bodies within the ambit of devolution mechanism, that is, linked to progress in implementing the programme, taking into account the measures and the extent to which the local bodies have implemented such measures to exploit the available and potential sources of the revenue, and the State Finance Commission and Central Finance Commission grants;
- possible new avenues for tapping resources in rural and urban local bodies, keeping in view the local body tax structure in other states;
- measures, after review of the present system for assessing the accountability of the local bodies in utilising the resources raised or received from the State and Central Governments and other agencies, and also the maintenance of local body accounts and database on the basis of recommendations of the Central Finance Commission, for an effective operation of these recommendations;
- measures to improve the administrative arrangements already made by the Government consequent on the reclassification of Town Panchayats;
- The Commission shall also suggest reclassification of other local bodies also keeping in view their present status and the re-organisation exercise, which is already undertaken for the town Panchayats; and
- in making its recommendation, the Commission shall keep in view the resources of the State Government, demands thereon, expenditure of the State on person and debt servicing, including the debt servicing on behalf of the local bodies/other committed expenditure or liabilities of the State Government and the need to generate adequate surplus on revenue account for State's Commitments on Capital account and commitments of the State Government (Tamil Nadu Fiscal Responsibility Act-2003, http://www.tnbudget.tn.gov.in/tnweb_files/FRBM/FRA%20Act.pdf).

The State Finance Commission shall also focus and recommend regarding:

- the classification of rural and urban local bodies as per the guidelines of Government of India and consequences;
- existing level of devolution and other resource transfer from the State and Central Governments, and other agencies that include the award and recommendations of the Finance Commission to the local bodies and their adequacy;
- the requirement of local bodies for meeting revenue expenditure (including maintenance of capital assets) in view of the need for generating surplus for capital investment;
- the revenue resources of the local bodies for the next financial years;
- the scope for better fiscal management in major components of recurring and non-recurring items of expenditure; and
- the status of implementation of the recommendations of the Finance Commission and State Finance Commission, and utilisation of resources by the local bodies.

The State Finance Commission shall also review the functions of Gram Sabha, its linkages with Non-Governmental Organisations, line agencies/departments on par with other states and suggest necessary measures to strengthen the grassroots democracy.

The first SFC in Punjab kept the following objectives before it, while making the recommendations:

- To provide adequate funds to the local bodies;
- To enable the local bodies to maintain essential services at a desirable level;
- To create a financial surplus;
- To correct the vertical and horizontal imbalances among the local bodies; and
- To encourage fiscal responsibility and autonomy.

Procedures and Powers of SFCs

In order to charge its functions in a time bound-manner; and make observations and recommendations on the basis of authentic facts, figures and appropriate information. The Finance Commissions are generally empowered for this in most of the states. For instance, as per the government notification in Punjab, the State Finance Commission may determine its procedure in the performance of its functions; and has all the powers of a Civil Court under the code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:

- Summoning and enforcing the attendance of witnesses;
- Requiring the production of any document; and
- Requisitioning any public record from any court or office.

The Governor passes every recommendation made by the State Finance Commission under the Act together with explanatory memorandum as to the action taken thereon to be laid before the legislature of the State.

In the report of Fifteenth Finance Commission: "The total grants to local bodies for 2020-21 has been fixed at Rs 90,000 crore, of which Rs 60,750 crore is recommended

for rural local bodies (67.5%) and Rs 29,250 crore for urban local bodies (32.5%). This allocation is 4.31% of the divisible pool. This is an increase over the grants for local bodies in 2019-20, which amounted to 3.54% of the divisible pool (Rs 87,352 crore). The grants will be divided between states based on population and area in the ratio 90:10. The grants will be made available to all three tiers of Panchayat- village, block, and district". In this regard, joint efforts of political leaders, administrators and citizens will pave the way for timely implementation of the recommendations of the SFC in the state, which is necessary for local bodies to perform effectively (Report of the 15th Finance Commission for FY 2020-21, https://www.prsindia.org/report-summaries/report-15th-finance-commission-fy-2020-21).

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) What are the basic functions of a State Finance Commission?

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2) Discuss the objectives of first Punjab Finance Commission.

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3) Explain the procedures and powers of State Finance Commission.

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7.5 WORKING OF STATE FINANCE COMMISSION: AN OVERVIEW

As we have noted above that the State Finance Commissions are appointed in the states, after the expiry of every five years. The Commissions are required to recommend the principles that should govern the distribution of financial resources between state government and local bodies – Panchayati Raj Institutions as well as the Urban Local

Bodies. These commissions are also required to suggest necessary measures to improve the financial position of panchayats and municipalities. Since 1993-94, most of the states have constituted four to five commissions keeping in line with the constitutional requirement. As far as the functions or a term of reference for the State Finance Commission is concerned, it has been observed that there is basic similarity in most of the states. However, some of the states have been assigning additional duties to their commissions. The Uttar Pradesh and Tamil Nadu have been asking for added tasks and responsibilities to their SFCs.

It has also been observed in their reports that the State Finance Commissions have been adding valuable suggestions relating to other aspects too, besides the finances and resources. An analysis of the various reports of SFCs reveals that they have been making a variety of recommendations regarding the overall working of local bodies, their system of conduct of meetings, maintenance of records, ensuring transparency in their working, fixing of accountability, suggesting ways and means to tap new resources; and various administrative measures to improve the efficiency and effectiveness of local bodies. The SFCs need to energise the scheme of fiscal de-centralisation while determining the effective allocation of resources for rural and urban local bodies. It has been observed that some reports of the SFCs have been analytically weak. In this context, the main reasons are inadequately staffed SFCs; and weak data base. In addition, their recommendations have also been ignored by the state government, thus denying the rural local bodies their rightful share of state resources, which affect their functioning. Emphasising on the special measures to increase the resources of local bodies, the SFCs have been enumerating tax reforms and other measures for this purpose. The Tamil Nadu SFC, for instance, suggested a number of new taxes for local bodies such as betting tax, lighting tax, surcharge on sales tax, income from minor minerals, taxes on hotels and guest houses, library tax, etc. On the similar lines in Uttar Pradesh and in some other states a range of new taxes and other measures were suggested by the SFCs, which were also implemented by the governments. The Property Tax was introduced by Zila Parishad, whereas village panchayats of Tamil Nadu levied House Tax in its place. The PRIs of UP have gone step further by levying surcharge on various taxes such as property tax, land revenue, sales tax, construction fee and so on.

In Punjab, the First SFC observed that the financial condition of the local bodies is far from satisfactory as the actual funds available to these institutions are far below to what are necessary to discharge even the obligatory functions of these bodies. "It is essential that for their growth and stability, the Municipalities should have growing resources in their domain. Apart from the tax, non-tax revenues and the transfer from higher levels of Government, the Municipalities should also rely on the institutional loans to promote the development and revenue yielding projects." The Commission looked in the need for financial discipline, which means economy in expenditure and optimisation of revenue effort.

The Commission, in its analysis of finances of Municipalities, in particular, examined the major problems arising from:

- imbalance between revenue and expenditure;
- imbalance amongst similarly placed classes of the Municipalities;
- dependence of Municipalities on higher levels of the Government; and
- Inadequacy of tax base and inadequate resource mobilisation by the Municipal Committees.

The Third SFC of Punjab indicated a whopping shortage of Rs. 664 crores that should have been transferred to PRIs. The Third Finance Commission added that essential funds are shown to have been released to Gram Panchayats for the implementation of centrally sponsored schemes such as Swarnajyanti Gram Swarozgar Yojana, Sampoorna Grameen Rozgar Yojana, Indira Awaas Yojana, Pradhan Mantri Gramodaya Yojana, etc. Since the role of Gram Panchayats in the implementation of these programmes is marginal as such these funds are not utilised by them as their own funds.

The Commission also observed that major portion of PRI's expenditure is on traditional civic functions only; and the expenditure on development and related activities is only marginal. The commission made a happy note that the government has initiated the process of decentralisation, transferring many wider functions relating to other departments, such as, rural water supply, health, education, uplift the poor women and child welfare etc. to PRIs, an initiative that will have far reaching implications.

In order to assure that the recommendations of SFCs are taken seriously and are actually implemented, the Third Finance Commission recommended that an Action Taken Report must be submitted by the Government before the state legislature; and an Implementation Committee must be constituted by the government.

In fact in most of the states, the SFC reports also carry a chapter/part on "Action Taken on Report", which indicates the seriousness of respective governments towards the implementation of the recommendations of SFCs.

It has also been observed that the SFCs face a number of constraints in their working and also towards the implementation of their recommendations. This is mainly due to political administrative and financial reasons. Along with this, the negative attitude of political and administrative leadership; and the lack of clarity about the role and functions of local bodies create the dismal scene. Moreover, the SFCs face dearth of reliable data, and lack of cooperation on the part of officials and functionaries.

It is also not an encouraging fact that most of the valuable recommendations of SFCs are either not implemented or are implemented partially.

A Study conducted under the Reserve Bank of India (RBI) in 2009 made certain observations and recommendations towards strengthening the SFCs. It recommended, providing a uniform template to the SFCs so that they are not constituted in a casual manner. Incentive wise the State Governments have to setup a data warehouse for the local bodies. Regarding the composition of SFCs, it has been a general tendency in most of the states to appoint the bureaucrats, working or retired, as members of the SFCs. In this context, study suggested to setup a central pool of fiscal experts, from which the state government may select at least one member of the SFC.

Major Concerns:

- States have not been setting up their SFCs regularly, as mandated.
- They are not submitting the reports in time, lacking the proficiency.
- They have huge task of considering large number of local governments.
- They face a crucial problem of reliable data.
- The SFCs and local governments are seen to be of inferior constitutional status from the Union Finance Commission.

The Eleventh Finance Commission, in its report, noted the following features of various State Finance Commissions reports:

- Lack of synchronicity in the periods covered by the reports as well as the Finance Commissions;
- Extreme diversity in the approach, the period covered as well as quality of the reports of the different SFCs; and
- Delay on the part of State Governments in finalising the Action Taken Reports and placing them in the state legislatures.

A Study of 20 states revealed, "… as far as the recommendations regarding devolution is concerned it was more or less accepted by a large number of States without any modifications. However, the recommendations of the 3rd SFC of Manipur, 4th SFC of Rajasthan, 5th SFC of Sikkim, 4th SFC of Uttar Pradesh and 4th SFC of West Bengal were accepted with some modifications while the action taken report of the Gujarat government for its 2nd SFC is strangely silent on the issue. The recommendations of the 5th SFC of Kerala and 4th SFC of Maharashtra were totally rejected by the state government". In this context, strengthening the SFCs for empowering Rural and Urban local bodies is necessary. The Fourteenth Finance Commission analysed the recommendations of the SFCs, and felt that there is an urgent need for States to facilitate the effective working of the SFCs. Keeping above in view, it recommended that the State Governments should focus on strengthening the SFCs. The State government has to make necessary arrangements for timely constitution, proper administrative support and adequate resources for smooth functioning; and timely placement of the SFC report before the State legislature, along with action taken report. The States are also expected to act promptly on the recommendations of the SFCs by placing the Action Taken Reports before the State legislature in a timely manner (Chakraborty, October 2018, pp.4-5 https://fincomindia.nic.in/writereaddata/html_en_files/fincom15/StudyReports/Overview%20of%20SFC%20reports.pdf).

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Discuss the composition of a State Finance Commission.

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2) Highlight the working of State Finance Commissions.

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3) Enumerate the major problems related to finances of Municipalities.

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7.6 CONCLUSION

Finance is the fuel for the engine of administrative machinery. It has been correctly pointed out that governance is quite close to financial management. This is also quite relevant to local government. The efficiency of local institutions greatly depends upon its finances. Although there is a long list of financial resources to these institutions, these significant institutions suffer from the malaise of paucity of funds. In this unit, we have discussed that there has been a long standing demand to make some permanent arrangement to strengthen the financial position of the local bodies, which appeared to have been fulfilled through the amendments in 1992. As per provisions of the 73rd and 74th Constitutional Amendment Acts, states have appointed the State Finance Commissions. These commissions recommend to the state government regarding devolution of resources, grants-in-aid to local bodies; and suggest measures to improve the financial conditions of the local bodies.

In this unit, we have focused on origin, significance, composition, powers, functions and working of the State Finance Commission. It was a historic step, and the state governments started the process of setting up the SFCs every five years. Over the years, through their reports the SFCs have made a series of valuable recommendations in most of the states. These are quite significant recommendations, which can go a long way to strengthen the financial health of the local bodies, provided these are substantially implemented by the state governments.

7.7 GLOSSARY

Consolidated Fund of State : It is the most important of all Government accounts, which was constituted under Article 266(1) of the Constitution of India. Revenues received by the Government and expenses made by it, excluding the exceptional items, are part of the Consolidated Fund A Consolidated Fund of State (separate fund for each state) has been established for all revenues received by the state.

Obligatory Functions : These functions are compulsory in nature. In case of Municipal Corporation, it undertakes supply of pure drinking water and construction and maintenance of waterworks, taking preventive measures for the checking of contagious diseases, registration of births and deaths etc.

7.8 REFERENCES

A Comparative Study of State Finance Commissions in India. Retrieved from https://shodhganga.inflibnet.ac.in/bitstream/10603/52824/2/02_abstract.pdf

Arora, R.K. & Goyal, R. (2013). *Indian Public Administration: Institutions and Issues.* New Delhi, India: New Age International Publishers.

Bohra, O.P. (1998). *Emerging Trends in State Local Fiscal Relations in India*. Hyderabad, India: National Institute of Rural Development.

Chakraborty, P., Gupta M. & Singh, R.K.(October 2018). *Overview of State Finance Commission Reports.* Retrieved from https://fincomindia.nic.in/writereaddata/html_en_files/fincom15/StudyReports/Overview%20of%20SFC%20reports.pdf

Ghosh,T.K. (2017). *Local Self-Government in India. Finances, Functions and Functionaries.* Lambert Academic Publishing.

Pethe, A., Misra, B.M. & P.B., Rakhe. *Strengthening Decentralisation – Augmenting the Consolidated Fund of the States by the Thirteenth Finance Commission: A Normative Approach*. Retrieved from https://www.rbi.org.in/scripts/PublicationsView.aspx?id=

Rao, P.N.S. (2006). *Urban Governance and Management.* New Delhi, India: Indian Institute of Public Administration

Rao, P.N.S. & Srivstava, G.C. (2003). *Municipal Finance in India*. New Delhi, India: Indian Institute of Public Administration.

Report of the 15th Finance Commission for FY 2020-21. Retrieved from https://www.prsindia.org/report-summaries/report-15th-finance-commission-fy-2020-21

Singh, S. & Singh, S. (1985). *Local Government in India*. Jalandhar, India: New Academic Publishing Co.

Tamil Nadu Fiscal Responsibility Act- 2003. Retrieved from http://www.tnbudget.tn.gov.in/tnweb_files/FRBM/FRA%20Act.pdf

The Constitution of India. Retrieved from https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text

The Punjab Finance Commission for Panchayats and Municipalities Act, 1994, https://www.latestlaws.com/index.php/bare-acts/state-acts-rules/punjab-state-laws/punjab-finance-commission-for-panchayats-and-municipalities-act-1994/

7.9 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:

- SFCs are required to recommend the Principles that should govern the distribution of resources between the State and Local Bodies, such as taxes and grants.
- Suggest necessary measures to improve the financial position of local bodies (rural and urban).

2) Your answer should include the following points:

- To provide adequate funds to local bodies;
- To enable the local bodies maintain the essential services at a desirable level;
- To create a financial surplus;
- To correct the vertical and horizontal imbalances among the local bodies; and
- To encourage fiscal responsibility and autonomy.

3) Your answer should include the following points:

- Refer Section 7.4

Check Your Progress 2

1) Your answer should include the following points:

- There is no uniformity.
- A SFC is generally comprises of One Chairman and three to six members.

2) Your answer should include the following points:

- SFCs are appointed in all the States, after the expiry of every five years.
- The Commissions are recommending the principles that should govern the distribution of financial resources between the State government and Local bodies.
- Some of the states, such as Uttar Pradesh and Tamil Nadu have been assigning additional duties to their commissions. As a result, those commissions have been adding valuable suggestions regarding other aspects also besides finances and resources.
- SFCs have been making a variety of recommendation to improve the efficiency and effectiveness of the local bodies.
- Tamil Nadu SFC has suggested new taxes for local bodies.
- Examines the major problems.
- Most of the Valuable recommendation of SFCs is either partially implemented or not implemented.
- Action Taken Report is recommended to ensure the seriousness of the government towards the implementation of the SFCs recommendation.

3) Your answer should include the following points:

- Imbalance between revenue and expenditure;
- Imbalance amongst similarly placed classes of the Municipalities;
- Dependence of Municipalities on higher levels of the Government; and
- Inadequacy of tax base, and inadequate resource mobilisation by the Municipal Committees.

UNIT 8 STATE ELECTION COMMISSION*

Structure

8.0 OBJECTIVES

After studying this Unit, you should be able to:

- Describe the significance of an Election Commission;
- Discuss the Composition of State Election Commission;
- Explain the powers and functions of State Election Commission;
- Highlight the role of State Election Commission; and
- Examine the impact of State Election Commission in democratic governance at the grass roots level.

8.1 INTRODUCTION

For a democratic polity, conduct of free, fair and impartial elections is considered to be the most essential feature. India has the distinction of being the world's largest democracy. As you know, the Constitution of India under Article 324 has specifically provided for an independent Election Commission to conduct elections of the President and Vice-President of India; and elections for the Lok Sabha, Rajya Sabha, Vidhan Sabha and Vidhan Parishad. After the 73rd and 74th Constitutional Amendments, a provision was made to setup a State Election Commission (SEC), to carry out activities related to supervision, direction and control of elections to the local bodies-Panchayats and Municipalities. In this unit, we will be focusing on the significance, composition, powers, functions and role of the SEC.

* Contributed by Prof. Swinder Singh, Department of Public Administration, USOL, Panjab University, Chandigarh.

8.2 STATE ELECTION COMMISSION: SIGNIFICANCE

The crux of political development in any country lies in the cultivation of institutions and processes conducive to people's participation. The institutions of local government provide a way of reconciling people's desires, their enthusiasm and active participation in governance. In other words, the institutions of local government fulfil the democratic needs of people; and serve as the channels of expression of political consciousness. The local government can contribute in strengthening the democratic institutions, which require sincere efforts. For a long time, this has been a serious problem in India. Since independence, most of the state governments in India have been showing lukewarm attitude towards the development of self-governing local bodies. There has been widespread arbitrariness in superseding these institutions; and elections were not held in many states for years. An example on this count is that of Himachal Pradesh, where elections to Shimla Municipal Corporation along with 15 towns were held in 1986 after a gap of 26 years. Similar other examples can be found in various other states too. In Punjab, three Municipal Corporations were established in 1977, but these remained as undemocratic bodies for a long period.

In order to remove this problem, there has been a repeated demand from various corners to devise a mechanism for regular and fair elections to the local bodies. It was fulfilled as a part of 73rd and 74th Constitutional Amendment Acts, which carried the provision of establishing a SEC to be appointed by the Governor to supervise, direct and control the elections to the Panchayat and Municipal bodies. In this regard, Article 243 ZA with Article 243 K provides that superintendence, direction, control relating to conduct of all elections of Panchayats and Municipalities is to be the responsibility of the SEC. The Article 243 U, incorporated through the Constitutional amendment, provides for fixing the tenure of all local bodies at five years; and in case of dissolution before the expiry of five years, the local bodies would go for re-election within a period of six months of dissolution. This highlights the role of a SEC to conduct regular elections after the expiry of every five years, and whenever these are required in between for the residue term only.

Ever since the adoption of the Constitutional provisions, the states passed their own legislations for the Panchayats and Municipalities, and incorporated the provision for setting up of a State Election Commission. However, some states, such as Punjab has passed a separate Act for setting up of the SEC. Most of the states constituted State Election Commissions, which have been entrusted with the functions of conducting regular, free, fair and impartial elections to the local bodies in the state. It may be added that the Commissions, would determine to what extent people's involvement could ultimately be secured to establish linkage between local leadership and government to translate policies of the government.

8.3 STATE ELECTION COMMISSION: COMPOSITION AND SETUP

In all the states, the State Election Commissions are headed by a State Election Commissioner appointed by the Governor. However in some states like Punjab, there is a provision for the appointment of a Deputy Election Commissioner. In most of the states, a retired Civil servant or a Retired Judge is appointed as the Election Commissioner. We may here take up the case of Punjab.

i) **Election Commissioner**

The Governor by notification in the Official Gazette, appoints, a) an officer of the State Government not below the age of fifty-five years, and of the rank of Financial Commissioner, or the Principal Secretary to the State Government having service as such for a minimum period of two years or b) a serving or retired Judge of the High Court as State Election Commissioner.

Provided that no officer, who has attained such age of superannuation, as may from time to time be fixed by the State Government, shall be appointed as Election Commissioner. On ceasing to hold office of Election Commissioner, s/he becomes ineligible for any further appointment under the State Government.

ii) **Deputy Election Commissioner**

The State Government appoints one or more than one Deputy Election Commissioners to assist the State Election Commissioner in the discharge of her/his duties under this Act and the rules made there under, and also appoints Secretary to the SEC.

iii) **Other Election Officers**

a) ***District Electoral Officer:*** There is a District Electoral Officer for each district, subject to the superintendence, direction and control of the SEC. At the district level, District Electoral Officer mainly supervises the preparation, revision and correction of electoral rolls. The officer also performs such other functions, as entrusted to her/him by the SEC.

b) ***Electoral Registration Officer:*** The electoral rolls for each Panchayat or Municipality are prepared, and revised by an Electoral Registration Officer. An Electoral Registration officer employs persons for the preparation and revision of the electoral rolls for the Panchayats or Municipalities.

c) ***Returning Officer***: For every constituency, for every election to fill a seat or seats in a Panchayat or Municipality, the SEC in consultation with the State Government, designates or nominates an officer of the State Government or of a local authority as a Returning Officer, and one or more Assistant Returning Officers.

d) ***Polling Stations and Presiding Officers***: District Electoral Officer, provides a sufficient number of polling stations for every constituency, within her/his jurisdiction, and publishes a list showing the polling stations and the polling areas or groups of voters.

The District Electoral Officer appoints a Presiding Officer for each polling station and Polling Officer(s) as s/he thinks necessary. In this regard, a Polling Officer, as per the direction of Presiding Officer, performs the functions.

Duties of Presiding Officer: At a polling station, the Presiding Officer ensures order and fair conduct of polls; and the Polling Officer assists her/him in the performance of her/his functions.

In another state, that is, Tamil Nadu, the SEC is headed by an Election Commissioner who is assisted by a Secretary. The Secretary is assisted by a large number of administrative and technical staff, such as Chief Administrative Officer, Financial Advisor and Chief Accounts Officer, Principal Election Officer (Panchayats), Principal Election Officer (Municipalities), Legal Advisor, Public Relations Officer (PRO), Computer Programmer, etc.

8.4 STATE ELECTION COMMISSION: POWERS

Besides the above stated functions of a SEC, it is generally enabled to exercise certain powers in order to smooth discharge of its duties. The Punjab State Election Commission, for instance, provides for the following set of powers (Punjab State Election Commission, http://www.pbsec.gov.in/).

8.4.1 Power of Election Commission as a Civil Court

The Election Commission has the power of a Civil Court for an inquiry, in the following matters:

i) Summons and enforces the attendance of any person, and examining her/him on oath.

ii) Requires the discovery and production of documents or other material object producible as evidence.

iii) Requisitions of public record or a copy thereof from any court or office.

iv) Receives evidence on affidavits.

v) Issues orders for the examination of witness or documents.

In addition, the SEC has the power to inquire any person subject to any privilege, which may be claimed by her/him to furnish information on such points or matter as in its opinion may be useful for the subject matter of inquiry.

The SEC is deemed to be a Civil Court and when any such offence (section 175, section 178, section 179, section 180 or 228 of the Indian Penal Code 1860) is committed in the view or presence of the Commission, it forwards the recorded facts constituting the offence and the statement of the accused to a Magistrate having jurisdiction.

8.4.2 Power to Make Rules

The State Government, after due consultation with the SEC, by notification in the Official Gazette, makes rules for carrying out the purposes, for following matters:

i) The duties of the Presiding Officers and Polling Officers.

ii) The checking of voters with reference to the electoral roll.

iii) The manner in which votes are to be given in the constituency.

iv) The procedure to be followed in case of tendering a vote by a person representing herself/himself to be an elector.

v) The manner of giving and recording of votes by means of voting machines, and the procedure as to be followed at polling station where such machines will be used.

vi) The security and counting of votes before the declaration of result of election.

vii) The procedure for counting of votes recorded by means of voting machine.

viii) The safe custody of ballot boxes, voting machines, ballot papers and other necessary papers for the specific period for which such papers shall be preserved; and inspection and production of such papers.

ix) The place, date and time at which claims or objections shall be heard; and the manner in which such claims or objections shall be heard and disposed of.

x) The final publication of electoral rolls for the constituencies.

xi) Election agents, election expenses and so on.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) What is the basic purpose of setting up of a State Election Commission?

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2) Discuss the composition and setup of State Election Commission in a state.

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3) What are the major powers of a State Election Commission?

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Before we interpret the functions of State Election Commission, it would be appropriate to have a brief look on the functions of the Election Commission at the Centre. These functions are outlined in Article 324-329 of the constitution.

i) The Election Commission supervises, directs, control and conducts the elections in the country. It is charged with the responsibility to conduct free and fair elections.

ii) It prepares the electoral rolls of each constituency of Lok Sabha as also of the state Vidhan Sabha. The electoral rolls are revised and updated after every census operation and before every election.

iii) It conducts the elections to the Lok Sabha and state Vidhan Sabhas whenever the elections fall due. It also holds the bye-elections. It is responsible for conducting elections to the Vidhan Parishads (upper house of the state legislature) wherever

they exist. It also conducts elections to the Rajya Sabha /after every two years since 1/3rd members of the Rajya Sabha retire after every two years.

iv) It conducts the elections of the President of India and the Vice-President whenever they fall due. It prepares the voters list and works out the quota of votes needed to win the election along with the weightage and the value of each voter of Electoral College.

v) In order to conduct the election, the Election Commission can demand the services of required persons from the centre as well as the states. Out of these officials, the Commission appoints the Returning Officers, the Presiding Officers and other polling officers.

vi) After the General Election, the Election Commission grants recognition to the political parties - whether the party is a National level or a State level.

vii) In order to conduct the elections in a fair and impartial manner, the Election Commission determines and announces the code of conduct for the election.

viii) The Commission also grants symbols for the election to the "Independent" candidates.

After a clear understanding of the role and functions of the Finance Commission at the Centre, in the subsequent section, we will explain the functions of SEC.

8.5 STATE ELECTION COMMISSION: FUNCTIONS

As noted earlier, the State Election Commission in each state has been constituted to conduct free and fair elections to the local bodies. For this purpose, the Commission is required to undertake a large number of functions and related activities. For instance in Gujarat, the SEC carries out activities related to preparation of wards/election division as per local body's rules, decision of boundaries, and distribution of seats along with preparation of voters list for the local bodies like Gram Panchayat, Taluka and District Panchayat/Municipality and Municipal Corporation of the state; and conducting general/ mid-term/bye-elections, and supervising them. For all these functions, the authority is vested in the SEC under Article 243K under which it has been empowered with superintendence, direction and control of elections of local bodies. We can, now, elaborate a bit on the following functions of SEC being undertaken in most of the States:

i) **Preparation of Electoral Rolls:** For every Panchayat and Municipality there is an electoral roll, which is prepared under the superintendence, direction and control of the SEC. The electoral roll for each constituency is prepared in the prescribed manner and comes into force in accordance with the rules made under the Act.

The Electoral Rolls for every Constituency is revised:

a) before every general election; and

b) before every bye-election to fill a casual vacancy.

ii) **Appointment of Dates for Nominations, etc.:** As soon as the notification calling upon a constituency to elect a member is issued, the SEC appoints:

a) last date for making nominations, which is the seventh day after the date of publication of the first mentioned notification; and in case of public holiday, the next succeeding day, that is, not a public holiday;

b) date for the scrutiny of nominations for election;

c) last date for the withdrawal of candidature by the candidate;

d) date when a poll has to be taken; and

e) last date, before which the election is to be completed.

iii) **Public Notice of Election:** On issuance of a notification, the Returning Officer gives public notice of the intended election, inviting nominations of candidates for election; and specifying the place at which the nomination papers will be delivered.

iv) **Nomination of Candidates for Election**: Any citizen may be nominated as a candidate for election to fill a seat, if s/he is qualified.

v) **Publication of List of Contesting Candidates:** After the expiry of period within which candidatures are withdrawn, the Returning Officer prepares and publishes a list of contesting candidates, that is, the list of validly nominated candidates; who have not withdrawn their candidatures within the laid period. The list contains the names in alphabetical order and the addresses of the contesting candidates as given in the nomination papers, which were together with other particulars.

vi) **Fixing Time for Poll:** The SEC fixes the hours during which the poll will be conducted, and the fixed hours are published. The period allotted for polling at an election cannot be less than eight hours a day.

vii) **Adjournment of Poll in Emergencies:** If the proceedings at any polling station are interrupted or obstructed, the Presiding Officer may announce an adjournment of the poll under her/his jurisdiction.

viii) **Counting of Votes:** After every election of Panchayat or Municipality, votes are counted under the supervision and direction of the Returning Officer.

8.6 ELECTION TRIBUNAL

Some of the states have provided for a provision to setup an Election Tribunal at the State level to take up election related disputes. In this regard, in Punjab, an Election Tribunal is constituted by the State Government in consultation with the SEC for each district or part thereof, at the District or Sub-Divisional Headquarters. The State Government by Notification in the official gazette appoints an IAS or PCS Class I/ Group A Officer of the State Government having adequate administrative, legal or magisterial experience, as the Presiding Officer of an Election Tribunal.

It is to be noted that no election is called in question, except by an Election Petition presented in accordance with the provision of the Act. In this regard, only the Election Tribunal, having jurisdiction, has the power to adjudicate upon the Election Petitions. However, the Election Tribunal in its discretion may, in the interest of justice or convenience try an Election Petition wholly or partly, at a place other than its specified headquarters.

Procedure before the Election Tribunal

Subject to the provision of the Act, every Election Petition is tried by the Election Tribunal, as nearly as may be in accordance with the procedure contained in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) to the trial of suits. "The Election Tribunal shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses, if it is of the opinion that the evidence of such witness

or witnesses is not material for the decision of the election petition or that the party tendering such witness or witnesses is doing so on frivolous grounds or with a view to delay the proceedings of the election petition." (Punjab State Election Commission Act, 1994, Chapter XII (81)). The provisions of the Indian Evidence Act, 1872 (Central Act 1 of 1872) subject to the provisions of the Act, apply in all respects to the trial of an Election Petition. First of all, we will discuss the corrupt practices and electoral offences, which can be observed during the elections.

Corrupt Practices and Electoral Offences

Here it would also be appropriate, if we have a look into the general corrupt practices during the elections.

The following are deemed to be corrupt practices under the SEC Act (Punjab):

I) Bribery

i) Any gift offer or promise by a candidate or her/his election agent of any gratification to any person directly or indirectly inducing:

a) A person to stand or not to stand as a candidate at an election; or

b) An elector to vote or refrain from voting, especially at an election or as a reward to:

– a citizen for having so stood or not stood as a candidate, or for having withdrawn, or not having withdrawn her/his candidature, or

– an elector for voting or refrained from voting.

ii) The receipt/agreement to receive, any gratification, whether as a native or reward:

a) by a person for standing as a candidate or withdrawing from being a candidate; or

b) by a person for herself/himself for voting or refraining from voting, or inducing any elector to vote or refrain from voting, or any candidate to withdraw her/his candidature.

II) Undue influence, that is, any interference or attempt to interfere on the part of the candidate or her/his election agent, with the free exercise of any electoral right. In this context, the Act provides that:

i) Without prejudice to the generality of the provisions of this clause, any such person who:

a) threatens any candidate or any elector, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

b) induces or attempts to induce a candidate or an elector to believe that s/he will be considered as an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of an electoral right of a candidate or elector.

ii) A declaration of public policy or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be an interference.

III) The appeal by a candidate or her/his agent with the consent of a candidate to vote or refrain from voting for any person on the basis of her/his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of national symbols, like the national flag for the furtherance of the prospects of the election of that candidate.

IV) The promotion of feeling of enmity or hatred between different classes of the citizens of India on basis of religion, race, caste, community, or language, by a candidate or her/his agent with the consent of a candidate for the furtherance of the prospects of the election of that candidate.

V) The propagation of the practice or the commission of Sati or its glorification by a candidate or her/his agent with the consent of the candidate for furtherance of the prospects of election of that candidate. Explanation for the purposes of this clause, "sati" and "glorification" in relation to sati shall have the meaning respectively assigned to her in the commission of Sati (prevention) Act, 1987.

VI) The publication by a candidate or her/his agent with the consent of a candidate, of any statement of fact, which is false, and which s/he believes to be false regarding the personal character or conduct of candidate, in relation to the candidature, or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

VII) The hiring or procuring, any vehicle by a candidate or her/his agent with the consent of a candidate or the use of such vehicle for the free conveyance of any elector other than the candidate herself/himself, the members of her/his family or an agent, to or from any polling station: a) The hiring of a vehicle or vessel by an elector or by several electors at their joint costs for conveying her/him or them to and from any polling station or place fixed for the poll is not deemed to be a corrupt practice, if the vehicle so hired is a vehicle or vessel not propelled by mechanical power. b) The use of any public transport vehicle or vessel or any trencher or railway carriage by any elector at her/his own cost for going to or coming from any polling station or place fixed for the poll is not deemed to be corrupt practice.

VIII) The obtaining or, procuring or abetting or attempting to obtain or procure by a candidate or her/his agent with the consent of a candidate any assistance other than giving of vote for the furtherance of the prospects of that candidate's election, from any person in the Government service.

IX) Booth capturing

In case of booth capturing by a candidate or her/his agent, the expression "agent" includes an election agent, a polling agent who is held to have acted as an agent in connection with the election with the consent of the candidate. A person is deemed to assist in furtherance of the prospects of a candidate's election, if s/he acts as an election agent of that candidate.

Promoting Enmity between Classes

A person who has connection with an election, promotes and attempts on the basis of religion, race, caste, language etc., feelings of enmity between different classes of the citizens, is punishable with imprisonment for a term that may extend to three years or with fine or with both.

Appeal to High Court

In case, the decision of Election Tribunal is not withstanding anything contained in any

other law for the time being in force, an appeal can be made to the High Court on any question whether it pertains to law or fact from every order made by an Election Tribunal.

8.7 ROLE OF STATE ELECTION COMMISSION

As mandated by the 73rd and 74th Constitutional Amendment Acts, the State Election Commissions were established and are playing an important role of strengthening the grassroots democracy in the country. These are working on the similar pattern of the central Election Commission, and are enjoying more or less, similar powers towards the conduct of free and fair elections to the local bodies. To this effect, the SECs are performing a variety of functions and role. Their role may be categorised as Regulatory, Administrative, and Quasi-Judicial.

The State Finance Commission's regulatory role is clearly reflected from its functions listed earlier. Its power to control and regulate the delimitation of wards or territorial constituencies, election symbols, electoral rolls, election expenses, etc. are the significant regulatory tasks, which are essential for the smooth conduct of any election. Towards the conduct of elections, a large number of preparatory tasks are required to be performed with the help of its own staff; and staff of other departments at the local level. This involves a variety of administrative and routine functions to be undertaken by the SEC. At the same time, the SEC has to undertake some quasi-judicial functions during the election process. In fact, in any election process some disputes are likely to be raised by one or the other party. The SECs are empowered to dispose of such election petitions or appeals, etc. in order to declare the election results in a time bound manner. As per the provisions of Article 243 (O) the interference by the courts have been barred, however, appeal against the decision of the SEC may be made in the court, if there is an error or dispute of jurisdiction or there is a violation of any Constitutional provision. To this effect, earlier common complaints of irregular elections are now negligible; and wherever such incidents are reported, these are generally resolved by the Commission.

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Discuss the major functions of State Election Commission?

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2) Enlist any four corrupt practices and electoral offences during the elections.

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3) Highlight the role of State Election Commission.

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8.8 CONCLUSION

India is one of the vibrant democratic country in the world. The faithful discharge of its duties by the State Election Commission has put democracy on the firm footing. The Commission over the years has enhanced its credibility by fair, fearless and impartial exercise of its constitutional authority in cleansing the Indian electoral system. With the enactment of 73rd and 74th Constitutional Amendments to the Constitution a big milestone has been added in the process of establishing and strengthening the system of democratic decentralisation. In this unit, we have described the significance, composition, powers, functions and role of the State Election Commission. It has been observed that the SECs are playing important role in conducting free, fair and timely elections in order to strengthen the roots of democracy in India.

8.9 GLOSSARY

Electoral College : It means a body of electors empowered to elect someone to a particular office.

Electoral Roll : It is a list of eligible voters in a particular electoral district area, and who are registered to vote.

Nomination : It is a part of the process of selecting a candidate for election to a public office.

Petition : A written document, signed by many people, that asks a government to do or change something at the local level.

Polling Officer : S/he is an official responsible for the proper and orderly voting at polling stations.

Returning Officer : The returning officer is responsible for the conduct of elections in the Constituency. S/he ensues that elections are conducted in accordance with the law.

8.10 REFERENCES

Arora, R.K. & Goyal, R. (2013). *Indian Public Administration: Institutions and Issues.* New Delhi, India: New Age International Publishers.

Punjab State Election Commission. Retrieved from http://www.pbsec.gov.in/

Singh, S. & Singh, S. (1985). *Local Government in India*. Jalandhar, India: New Academic Publishing Co.

Tamil Nadu State Election Commission. Retrieved from http://www.tnsec.tn.nic/tnsee/about_ur

The Punjab State Election Commission Act. (1994). Retrieved from https://www.indiacode.nic.in/bitstream/123456789/13034/1/the_punjab_state_election_commission_act_1994.pdf

The Constitution of India. Retrieved from https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text

8.11 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:
   - To conduct free and fair elections to the local bodies-Panchayats and Municipalities.
   - To conduct regular elections.
2) Your answer should include the following points:
   - Refer Section 8.3
3) Your answer should include the following points:
   - Summoning of any person, documents; receiving evidence/affidavits; and requisitioning of any public document; and
   - Power to make various rules.

Check Your Progress 2

1) Your answer should include the following points:
   - Preparation of Electoral Roll;
   - Nomination of Candidates for Elections;
   - Publication of lists of candidates; and
   - Conducting polls and counting of votes.
2) Your answer should include the following points:
   - Bribery;
   - Receipt of reward;
   - Undue influence; and
   - Promotion of feeling of enmity or hatred between different classes of citizens of India.
3) Your answer should include the following points:
   - Refer Section 8.7

UNIT 9 LOKAYUKTA*

Structure

9.0 OBJECTIVES

After studying this Unit, you should be able to:

- Understand the evolution, need and significance of Lokayukta at the state level;
- Discuss the organisational structure of Lokayukta;
- Highlight the appointment system of Lokayukta;
- Explain the powers and functions of Lokayukta; and
- Examine the role of Lokayukta in redressal of public grievances.

9.1 INTRODUCTION

Lokayukta is an anti-corruption ombudsman organisation in the states of India. In this context, the Lokpal and Lokayuktas Act, 2013 paved the way for establishment of the institution of Lokpal at the centre; and Lokayuktas at the state levels to inquire into allegations of corruption against public functionaries, and for related matters. It is known fact that corruption is a major problem, which endangers stability and security of the nation; threatens socio-economic and political development; and undermines the values of democracy and morality. An inefficient administrative mechanism; inept handling through archaic methods of governance; lack of transparency, responsiveness and accountability in the functioning of governmental institutions; and ineffective public service delivery system affected the ultimate outcome of the governmental initiatives. It has a detrimental effect in terms of corrupt practices in administration; and becomes a natural outcome of any such system, where objectivity and rule of law are replaced by subjectivity and rule of thumb. The phenomenon of corruption has become one of the major causes for tardy progress in implementing ambitious projects and policies of the

* Contributed by Dr. Sangita Dhal, Assistant Professor, Kalindi College, University of Delhi, New Delhi.

government, resulting in huge loss of revenue to the exchequer. The existence of corruption has become ubiquitous with corrupt practices percolating to all levels of the economy, polity and society. Thus, the First Administrative Reforms Commission (ARC) of India recommended the setting up of two special authorities as "Lokpal" and "Lokayukta" for the redressal of Citizens' grievances.

The Lokpal and Lokayuktas Act (2013) contains a mandate for setting up of the institution of Lokayukta through enactment of a law by the State Legislature within a specified period of 365 days, from the date of commencement of Act. In this regard, the Act provides opportunity and freedom to the states to decide upon the contours of the Lokayukta mechanism in their own states.

Even much before the enactment of the Act itself, many states in India had already setup the institutions of Lokayuktas. In this unit, we will focus on the need and significance of the Lokayuktas in states. It has been observed that the structure of Lokayuktas varies from one state to other state. Thus, keeping in view the status of the Lokayuktas in states, we will discuss the appointment system, tenure, jurisdiction, organisational structure of the Lokayukta; and analyse their working.

9.2 LOKAYUKTA: EVOLUTION, NEED AND SIGNIFICANCE

The origin of Lokayukta can be traced to the Ombudsmen in Scandinavian countries. An Ombudsman is generally regarded as a person who is appointed to protect citizens against any form of maladministration. Sweden was the first country to have the institution of Ombudsman in the year 1809. The Indian government's initiatives towards making the administrative system free from corruption and malpractices resulted in government's creation of two anti-corruption watchdogs, that is, Lokpal and Lokayukta. In this context, it is pertinent to trace the historical journey through which these institutions have been evolved.

The first ARC recommended the setting up of two special authorities designated as "Lokpal" and "Lokayukta" for the redressal of citizens' grievances. The two significant institutions were to be setup on the pattern of the institution of Ombudsman in Scandinavian countries, and the Parliamentary Commissioner for Investigation in New Zealand.

The Lokayukta is created as a statutory authority with a fixed tenure to enable it to discharge its functions independently and impartially as per the recommendations of the ARC. The person appointed is usually a former High Court Chief Justice or former Supreme Court Judge. The state of Maharashtra created the institution of lokayukta in 1972, followed by Rajasthan (1973), Uttar Pradesh (1975), Madhya Pradesh etc. In few states, there is a provision for Lokayukta and Up-Lokayukta (for instance in Maharashtra and Rajasthan).

The Second Administrative Reforms Commission (SARC) in its report, entitled 'Ethics in Governance' has recommended that the Lokayukta should be a multi-member body consisting of a Judicial Member as the Chairperson, an eminent jurist or eminent administrator with credentials as member and the Head of the State Vigilance Commission as an ex-officio member. The Chairperson of the Lokayukta should be selected from a panel of the retired Supreme Court Judges or retired Chief Justice of the High Court, by a committee consisting of the Chief Minister, Chief Justice of the High Court and Leader of the Opposition in the Legislative Assembly of the State. The same Committee

should also select the second member from amongst eminent jurists/administrators. The SARC however, does not favour the appointment of any Up-Lokayukta in the state. Further, the SARC underscores the point that the jurisdiction of the Lokayukta would extend to only those cases, which involve corruption, while the matters of general public grievances will be left outside its purview. The Lokayukta should have its own independent machinery for investigation of cases (Second Administrative Reforms Commission, 2007 https://darpg.gov.in/sites/default/files/ethics4.pdf).

Even if the Governor is constitutionally correct, the problem might crop up before the Lokayukta of soliciting and receiving the active cooperation of the state government, especially in obtaining the required information and records for deciding on cases referred to it. Likewise, the action to be taken on the Lokayukta's recommendations would also require the state government's cooperation and support.

An amendment to the Constitution has been proposed to implement the Lokayukta uniformly across Indian states, on the lines suggested by the first ARC, to deal with the pertinent problems of maladministration and administrative injustice. After many sincere efforts, the Lokpal and Lokayuktas Act, 2013 had received presidential assent on January 1, 2014 and came into force from January16, 2014.

The Lokpal and Lokayuktas Act, 2013

The Lokpal and Lokayukta Act, 2013 commonly referred as the Lokpal Act, seeks to provide for the establishment of Lokpal for the Union; and Lokayukta for state to inquire into allegations of maladministration or corruption against government officers. The Act extends to whole of India, and is applicable to "public servants" within and outside India.

The Lokayukta, along with the Income Tax Department and the Anti -Corruption Bureau will act as a safeguard in our democratic framework; and help people to highlight corruption cases. There is a discernible divergence in the patterns of the structure; and role of Lokayuktas in various states. In the early part of the first decade of the twenty first century, it appeared that a proposal is to adopt a common pattern for all Lokayuktas on the pattern of model legislation. The initiative, however, was blocked by the state governments. Unless the Central Government takes the lead and wins over the consent of the states, such uniformity is unlikely to materialise. Nevertheless, following suggestions given by experts in the field require serious attention:

- Former ministers and civil servants should also be covered in the legislations.
- The Chief Minister should invariably come within the jurisdiction of the Lokayukta.
- Lokayuktas should have power to start inquiries, suo moto.
- Lokayuktas should have their own independent investigation agencies or when they entrust investigations to other agencies, these should be conducted expeditiously.
- References made by the Lokayukta to the government should be accorded top priority by government officials. Those who deliberately delay in providing the required information should be punished under the law.
- A committee on the Lokayukta's should be setup to monitor the follow up of the proper implementation of the recommendation(s).

However, the Lokpal and Lokayuktas Act, 2013 was amended to include certain enabling provisions in 2016. One of the provisions states that in case of the absence of leader of the opposition party, the leader of the single largest party of the opposition in the Lok

Sabha/ Legislative Assembly would be the member of the selection committee so constituted to select the Lokpal/Lokayukta. To further ensure transparency, the public servants will have to make declaration of their assets and liabilities.

9.3 ORGANISATIONAL STRUCTURE OF LOKAYUKTA

The structure of Lokayukta does not follow a uniform pattern in all the states. Some states such as Rajasthan, Karnataka, Andhra Pradesh and Maharashtra have created the Lokayukta as well as Up-Lokayukta, while some others like Uttar Pradesh and Himachal Pradesh have created only the Lokayukta. There is no Lokayukta or Up-Lokayukta, in Jammu and Kashmir.

To assist the Lokayukta and the Up-Lokayukta, the organisation in Madhya Pradesh is divided into following four functional wings:

i) **Administrative and Enquiry Section**

The section is headed by Secretary, who is a senior IAS officer and functions as Head of the Department for entire organisation. S/he is assisted by one Deputy Secretary, Under Secretary, Accounts Officer, Section Officers and subordinate staff.

ii) **Legal Section**

To assist the Lokayukta and the Up-Lokayukta in dealing with legal matters and conducting enquiries, officers of the rank of District Judge are posted as Legal Advisors and an officer of Chief Judicial Magistrate rank is posted as Dy. Legal Advisor. They are on deputation from the High Court.

iii) **Special Police Establishment (SPE)**

The SPE is constituted for the investigation of certain offences, which affect the public administration and those falling under provisions of prevention of corruption Act that is a Central Act. It is headed by the Director General, who is in the rank of Director General or Additional Director General of Police Madhya Pradesh. S/he is assisted by the Inspector General of Police, Deputy Inspector Generals of Police, Superintendents of Police, Deputy Superintendents of Police, Inspectors and men of the other ranks. It is to be noted that the superintendence of investigation by Madhya Pradesh SPE vests with the Lokayukta.

iv) **Technical Cell**

The Technical Cell deals with inquiries of technical nature. It is headed by the Chief Engineer, under whom there are Executive Engineers, Assistant Engineers and Technical Assistants.

District Vigilance Committees

There are seven Divisional Committees in Madhya Pradesh, which enquire into the complaints referred to them by the Lokayukta or the Up-Lokayukta; and submit a report to the concerned authority.

9.4 APPOINTMENT OF LOKAYUKTA

Lokayukta and Up-Lokayukta are two independent and impartial functionaries created to investigate the actions and decisions of public servants. These functionaries are held at par with the Judges of the Supreme Court and High Court; and independent of the legislature and executive.

In states, the Lokayukta and Up-Lokayukta are appointed by the Governor. At the time of appointment, the Governor, generally, consults the Chief Justice of the State High Court, and Leader of Opposition in the State Legislative Assembly.

Qualification and Term of Office

For the Lokayukta, judicial qualifications are prescribed in the States of Uttar Pradesh, Himachal Pradesh, Andhra Pradesh, Gujarat, Odisha and Karnataka. However, no specific qualifications are prescribed in the states of Bihar, Maharashtra and Rajasthan. The term of office fixed for Lokayukta in majority of states, is of five years duration or 70 years (Himachal Pradesh) of age, whichever is earlier; and the Lokayukta is not eligible for reappointment for a second term.

Jurisdiction

At the state level, there is no uniformity in case of the jurisdiction of Lokayukta. In this regard:

i) The Chief Minister is included within the jurisdiction of Lokayukta in Himachal Pradesh, Andhra Pradesh, Madhya Pradesh and Gujarat, while s/he is excluded from the purview of Lokayukta in the states of Maharashtra, Uttar Pradesh, Rajasthan and Bihar.

ii) Ministers and higher civil servants are included in the purview of Lokayukta in majority of states. However, the Maharashtra has also included former ministers and civil servants.

iii) Members of the state legislatures are included in the purview of Lokayukta in Andhra Pradesh, Himachal Pradesh, Gujarat and Uttar Pradesh.

iv) The authorities of the corporations, companies and societies are included in the jurisdiction of the Lokayukta in majority of the states for example, Himachal Pradesh.

The Lokayukta of a state is usually responsible to the state legislature. Its annual report is presented in the legislature; and conventionally its recommendations are accepted by the House.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Discuss the need and significance of Lokayukta.

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2) Explain the organisational structure of Lokayukta in any state of India.

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3) Examine the jurisdiction of Lokayuktas in states of India.

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9.5 LOKAYUKTA: POWERS AND FUNCTIONS

The institution of the Lokayukta is considered as an anti-corruption agency, which is responsible for addressing citizens' grievances pertaining to corruption, nepotism, favouritism arising out of maladministration. In this context, the Lokayukta has:

- Supervisory powers, that is, powers of superintendence over and to give direction regarding matters referred for preliminary inquiry or investigation;
- Power of Search and seizure;
- Power of civil court in certain cases;
- Power to utilise services of officers of the State Government;
- Power of provisional attachment of assets;
- Power regarding confirmation of attachment of assets;
- Power related to confiscation of assets, proceeds, receipts and benefits arisen or procured by means of corruption, in special circumstances;
- Power to recommend transfer or suspension of public servant connected with allegation of corruption;
- Power to give directions to prevent destruction of records during preliminary inquiry; and
- Power to delegate. In this context, the Lokayukta may direct that any administrative or financial power conferred on it, may also be exercised or discharged by its officer (Himachal Pradesh Lokayukta Act, 2014, http://www.bareactslive.com/HP/hp142.htm).

On the basis of above mentioned powers, the Lokayukta undertakes following functions to improve the standards of Public Administration:

- Accepts complaint against administration from any citizen.
- Accepts grievance against the accused person or body of persons, the Lokayukta provides the chance to the complainant for defending, after duly informing her/him/them.
- The Lokayukta carry out fair and impartial investigations, based on facts against the accused person by taking the assistance of special investigating agencies.

- If the Lokayukta is satisfied with the validity of the complaint, s/he can recommend her/his proposal through written request to the competent authority.

The Lokayukta has a separate office, staff and budget, which is essential for conducting an impartial inquiry. Sometimes s/he takes the assistance of the state investigating agencies for conducting inquiries; and getting access to relevant files and documents necessary for the investigation. S/he also enjoys the power to inspect and visit government orgnisations, which are being investigated. However, it is significant to note that the Lokayuktas in many states except Himachal Pradesh and Uttar Pradesh (just examples) have been empowered to start the investigations based on their own initiatives.

The Lokayukta can consider the cases of grievances and allegations, just to quote examples, in Maharashtra, Uttar Pradesh, Bihar and Karnataka. However, in Himachal Pradesh, Rajasthan and Gujarat, the job of Lokayuktas is confined to investigating allegations regarding corruption; and not grievances in case of maladministration. "The Maharashtra Lokayukta Institution came into being from 25th October, 1972 and has been successful in redressing the grievances in about 60-70% of the complaints" (Lokayukta Maharashtra, http://lokayukta.maharashtra.gov.in).

The Karnataka Lokayukta Act gives powers to investigate; and report on allegations or grievances related to the conduct of public servants. The Lokayukta has police and prosecution wings. On receiving a complaint, the Lokayukta has powers to initiate investigation against any public servant, ranging from Group D employees to the office of the Chief Minister. In case of officials, s/he can take up cases suo moto as well. In most of the states, the Lokayukta can initiate investigations either on the basis of a complaint received from the citizen against unfair administrative action or suo moto. In case of initiation of Prosecution "If after investigation, the Lokayukta is satisfied that the public servant has committed any criminal offence, he may initiate prosecution without reference to any other authority. Any prior sanction required under any law for such prosecution shall be deemed to have been granted" (Karnataka Lokayukta, Karnataka Lokayukta Act, 1984 http://lokayukta.kar.nic.in).

The Karnataka Act empowers the Lokayukta and Up-Lokayukta with judicial and investigative powers and functions to investigate the decisions of the bureaucratic officials. However, certain government functionaries do not fall within the ambit of the Lokayukta and Up-Lokayukta. They are the Judges, Speaker of the Assembly, Chief Election Commissioner, Chairman and Members of the Karnataka Public Service Commission.

The Lokayukta presents consolidated report on performance, annually, to the Governor. S/he places this report with an explanatory memorandum before the State Legislature. Hence, the Lokayukta is responsible to the State legislature. "Indeed, the organization functions as an instrument of control over the executive by the legislature as its annual reports are submitted to the Governor to be laid and discussed in the State Legislative Assembly". It is worth mentioning that from 14th February to 31st March 2018 on the basis of 2952 cases, of 2017 (Gazetted) and 2533 (Non- Gazetted) public servants were punished on the recommendations (Madhya Pradesh Lokayukta, Statistical Reports, Table 8 http://mplokayukt.nic.in/Org-back.htm).

For conducting inquiries, s/he takes the help of the state investigating agencies. In this process, the Lokayukta can call for relevant files and documents from state government departmetnts. It is to be noted that its recommendations are only advisory and not binding on the government.

9.6 ROLE OF LOKAYUKTA: A CRITICAL ANALYSIS

The Reports of the Lokayuktas show that the largest number of complaints have been regarding the departments of public works, health, irrigation, civil supplies, municipalities and cooperative societies. In this regard, sometimes genuine complaints by affected citizens made to the state Lokayuktas are rejected for want of jurisdiction, anonymity and triviality. On the other hand, Lokayuktas complain that they do not get sufficient information from the government departments, and State investigating agencies. As a result, complaints filed with Lokayuktas are not cleared expeditiously; and thus, citizens do not get speedy justice.

A close look at the performance of Lokayuktas in Indian states does not create a very positive impression. In fact, in some states, the overall performance has been far from being satisfactory. One of the pertinent problems relating to its function is hindered by the single institution of Lokayukta looking after the complaints of corruption as well as dealing with maladministration issues, which negatively impacts its efficient functioning. There is so much that could have been done, and much more that should have been avoided.

The present times have witnessed the growing popularity of the institution of Lokayukta. This could be due to massive expansion of government activities; and corrupt practices. Further corruption is anti-economic growth, which affects the development; and even some corrupt government officials endanger the security of the nation. Thus, additional measures were suggested to ensure greater transparency, and probity in public dealings. In November 2012, after conclusion of the 11th All India Lokayukta Conference, as many as sixteen Lokayuktas sent following recommendations to the Government of India:

- Make Lokayukta the nodal agency for receiving all corruption complaints;
- Accord Lokayukta jurisdiction over State-level probe agencies;
- Bring bureaucrats under the ambit of the Lokayuktas;
- Accord powers of search and seizure, and powers to initiate contempt proceedings;
- Provide administrative and financial autonomy to the Lokayukta for better functioning; and
- Bring Non-Governmental Organisations (NGOs), funded by the government, under the Lokayukta's jurisdiction.

The Lokpal and Lokayuktas Act, 2013 is perhaps the only legislation in the history of independent India, which has been so widely discussed, both inside and outside Parliament and has, thus generated so much awareness in the public about the need to have an effective institution of Lokayukta to tackle corruption. However, the Act passed hitherto has many loose ends, which needs to be addressed and has numerous cross references. There are few enabling features that are missing in this law:

- No protection to whistleblowers: This was one of the main demands in the Jan Lokpal Bill. The Act has no provision for whistleblower protection. We have to have a separate law for that.
- There is only one section on Lokayukta in the Act, which states that within one year, the states shall enact the Lokayukta Act. However, there is nothing regarding

their composition, powers etc. In fact, states are free to define how their own Lokayuktas would be appointed, how they would work and under what circumstances they would serve.

- There are no provisions related to Citizen's charter.
- There are no adequate provisions to appeal against the Lokayukta, as it cannot conduct inquiry against itself.

In the earlier sections, we have analysed the performance of Lokayuktas in various states, which has been uneven. The Lokayuktas of various states have not shown similar orientation towards their respective roles. Some have been more enthusiastic and assertive than others, while a few others have been over-cautious and conservative in interpreting their roles. A few Lokayuktas could make a mark during certain periods due to support of the state political leadership, while most have suffered on account of the apathy of state governments. It proves that the success of the Lokayukta depends upon the neutrality and personal charisma of the Lokayukta.

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Discuss the powers of Lokayukta.

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2) Analyse the role of Lokayukta in a State.

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3) Suggest the necessary measures to strengthen Lokayukta.

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9.7 CONCLUSION

The scope of democracy and development depends, to a greater extent, on the efficiency of the government machinery. In a democracy, people should have opportunities to ventilate their grievances through an efficient and effective system of redressal. Democratic aspirations of the people and authoritarian attitude of administration produced tension between them. In this regard, common grievances of citizens against administration are identified on the basis of corruption, favouritism, nepotism, neglect of duty, discrimination, delay, and maladministration.

The entire debate on setting up a strong and robust Lokayukta is based on the touchstone of transparency and probity in public life. Best practices in public administration will be realised, only when the integrity in public services is maintained. The pertinent issue of corruption in the developing countries retards the development; thereby this unit has focused on the need for concerted efforts to remove corruption. In this unit, we have observed that the Lokpal and Lokayuktas Act, 2013 paved the way for establishment of the institution of Lokayukta at the state level. In addition, we have discussed the evolution, need, and significance of the Lokayukta. The study has highlighted on the structure, appointment, jurisdiction, functions, and role of the Lokayukta.

9.8 GLOSSARY

Corruption : It is a form of dishonesty or criminal activity undertaken by a person or an organisation entrusted with a position of authority, often to acquire illicit benefit.

Maladministration : It is an action of the government or bureaucratic apparatus, which can be seen as causing injustice due to administrative delay, incorrect action or failure to take any action.

Citizens' Grievances : It refers to the complaints of the citizens due to lack of citizen's satisfaction. While the term "Grievance Redressal" primarily covers the receipt and processing of complaints from citizens. In this context, wider definition includes actions taken on any issue raised by them to avail services more effectively.

9.9 REFERENCES

Arora, R.K. & Goyal, R. (2013). *Indian Public Administration: Institutions and Issues.* New Delhi, India: New Age International Publishers.

Chakrabarty, B. (2007). *Reinventing Public Administration : The Indian Experience.* India: Orient Longman.

Chaturvedi, T.N. (Ed.). (1978). *Secrecy in Government*. New Delhi, India: IIPA.

Dhal, S. (2015). Indian Ombudsman. In Tapan Biswal (Ed.) *Governance and Citizenship*. New Delhi, India: Viva Publishers.

Dwivedi, O.P. & Englebert, E. A.(1983). Education and Training for Values and Ethics in Public Service: An International Perspective. In Kenneth Kernaghan and O.P.

Dwivedi, *Ethics in the Public Service, Comparative Perspectives* (Eds.). Brussels: International Institute of Administrative Sciences.

Godbole, M. (2003). *Public Accountability and Transparency: The Imperatives of Good Governance*. New Delhi, India: Orient Blackswan.

Government of India. (2007). *Second Administrative Reforms Commission (4th Report), Ethics in Governance*. Retrieved from https://darpg.gov.in/sites/default/files/ethics4.pdf

Government of India. (2009). *Second Administrative Reforms Commission (15th Report), State and District Administration*. Retrieved from https://www.darpg.gov.in/sites/default/files/sdadmin15.pdf

Gupta, S.C. (1995). *Ombudsman: An Indian Perspective*. Delhi, India: Manak Publishers.

Himachal Pradesh Lokayukta Act, 2014. Retrieved from http://www.bareactslive.com/HP/hp142.htm

Karnataka Lokayukta. Retrieved from http://lokayukta.kar.nic.in

Laxmikanth, M. (2020). *Indian Polity*. Chennai, India: McGraw Hill Education (India) Private Limited.

Lokayukta Maharashtra. Retrieved from http://lokayukta.maharashtra.gov.in

Lokayukta- Rajasthan. Retrieved from http://lokayukta.rajasthan.gov.in

Madhya Pradesh Lokayukta. Retrieved from http://mplokayukt.nic.in/Org-back.htm

Pohekar, P.D. (2010). *A Study of Ombudsman System in India with Special Reference to Lokayukta in Maharashtra*. Delhi, India: Gyan Publishing House.

Rao, N.B. (2013). *Good Governance: Delivering Corruption-Free Public Services*. New Delhi, India: Sage Publishers.

Rao, P.P. (2001). *Control of Corruption in Public Functionaries*. Paper presented at the Sixth All India Seminar of Lok Ayuktas, 22-23 January 2001 (unpublished).

Sarkar, S. (2010). *Public Administration in India*. New Delhi, India: PHI Learning.

Singh, H. & Singh P. (2011). *Indian Administration*. New Delhi, India: Pearson.

The Constitution of India. Retrieved from https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text

The Lokpal and Lokayuktas Act, 2013. Retrieved from *https://en.wikipedia.org/wiki/The_Lokpal_and_Lokayuktas_Act,_2013*

9.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:

- See section 9.2

2) Your answer should include the following points:

- Refer Section 9.3

3) Your answer should include the following points:

- The Chief Minister is included within the jurisdiction of Lokayukta in Himachal Pradesh, Andhra Pradesh, Madhya Pradesh and Gujarat, while s/he is excluded from the purview of Lokayukta in the states of Maharashtra, Uttar Pradesh, Rajasthan and Bihar.
- Ministers and higher civil servants are included in the purview of Lokayukta in majority of states. However, the Maharashtra has also included former ministers and civil servants.
- Members of the state legislatures are included in the purview of Lokayukta in Andhra Pradesh, Himachal Pradesh, Gujarat and Uttar Pradesh.
- The authorities of the corporations, companies and societies are included in the jurisdiction of the Lokayukta in majority of the states for example, Himachal Pradesh.

Check Your Progress 2

1) Your answer should include the following points:

- Refer Section 9.5

2) Your answer should include the following points:

- Refer Section 9.6

3) Your answer should include the following points:

- Make Lokayukta the nodal agency for receiving all corruption complaints.
- Accord Lokayukta jurisdiction over state level probe agencies.
- Bring bureaucrats under the ambit of the Lokayuktas.
- Accord powers of search and seizure, and powers to initiate contempt proceedings.
- Provide administrative and financial autonomy to the Lokayukta for better functioning.
- Bring Non-Governmental Organisations (NGOs), funded by the government, under the Lokayukta's jurisdiction.

UNIT 10 JUDICIAL ADMINISTRATION*

Structure

10.0 OBJECTIVES

After studying this unit, you should be able to:

- Discuss the judicial system in India;
- Explain the scope and the methods of judicial control over administration; and
- Analyse the limitations of judicial control over administration.

10.1 INTRODUCTION

In India, the judiciary occupies an important place. The constitution visualises an independent judiciary to safeguard the rights of citizens. In a democratic polity, an independent judiciary is a *sine qua non* to the effective functioning of the system. Administration has to function according to the law and Constitution. The judiciary has an important role to play in protecting the citizens against the arbitrary exercise of power by administration. In this unit, we shall be discussing the features of judicial system in India, the scope and methods of judicial control over administration and limitations of judicial administration.

* Contributed by Dr. Biswaranjan Mohanty, Assistant Professor, SGTB Khalsa College, University of Delhi; and adapted from BPAE-102, Indian Administration, Block-5, Unit-24.

10.2 JUDICIAL SYSTEM IN INDIA

As mentioned in the introduction of this unit, Indian Constitution envisages an independent judiciary. There is a separation of powers between the executive and judiciary. The judiciary, which interprets the constitutional meaning of law and legality of executive actions, must have a separate existence. Lord Bryce has said that there is no better test of the excellence of a government than the efficiency and independence of its judicial system. Here, judicial administration means the dispensing of justice according to law especially through the functioning of a system of courts (merriam-webster, https://www.merriam-webster.com/).

Indian Constitution incorporated many provisions to ensure the independence of judiciary. Though the Executive appoints the judges of the highest courts, that is, the Supreme Court and High Courts, their tenure is kept beyond the purview of the Executive. Even in appointing the judges, the executive has to follow certain guidelines. Once they are appointed they are not subject to any executive control in the discharge of their functions. This is done to ensure that the judgements of courts are impartial and fair. In Indian federation, the courts also have an important role to play in adjudicating the disputes between the Centre and States. Thus, the independence of the judiciary is one of the important features of the judicial system in India.

Another important feature of judicial system in India is the single unified judicial system prevailing in the country. The whole system of courts taken together is called the judiciary. Indian federation has a unified judicial system. If we compare legislative and executive system in our federation with the structure of judicial system, we find a difference. We have separate legislative and executive authorities for the Centre and states; and their functions are divided by the Constitution. But our judicial system is different. It runs like a pyramid from the subordinate courts and district courts at local level to High Courts for every state to the Supreme Court of India.

The Supreme Court occupies the highest position in the judicial hierarchy in India. It comprises of the Chief Justice and other judges appointed by the President of India. The Supreme Court has three areas of jurisdiction, namely, original, appellate and advisory. The original jurisdiction extends to: a) disputes between Government of India and one or more states, and b) claims of infringement of constitutionally guaranteed fundamental rights. The Court's appellate jurisdiction extends to four types of cases, that is, constitutional, civil, criminal and special leave. In these types of cases, under certain conditions appeals may be made from any State High Court to the Supreme Court. The Court's advisory jurisdiction pertains to matters referred for the purpose of seeking advice. The President of India may refer a question of public importance for the advice of the Supreme Court.

The High Courts are in the second level of judiciary. Ordinarily every state has a High Court, but two or more states may also have one High Court. The High Court consists of a Chief Justice and some other judges appointed by the President of India. The High Court of the states has three types of jurisdictions, that is, original, appellate and administrative. It has, among its original jurisdiction, the power to issue warrants regarding the fundamental rights of citizens. It also has original jurisdiction to try civil and criminal cases. Its appellate jurisdiction includes the authority to try appeals about civil and criminal cases from the lower courts. The administrative jurisdiction of High Courts relate to superintendence over the subordinate courts.

High Court: Administrative Control over the Subordinate Judiciary

The High court has an administrative control over the subordinate judiciary in the respective state, in certain matters, besides its appellate and supervisory jurisdiction

over them. In this regard, the High Court controls over the Judges of the Subordinate Courts, which include District Judges, Judges of the city civil courts as well as the Metropolitan Magistrates and Members of the Judicial Service of the State. The High Court exercises control over the Judges of the Subordinate Courts in the following manner:

i) The High Court is to be consulted by the Governor in the matter of appointment, posting and promotion of District Judges;

ii) The High Court is consulted, along with the State Public Service Commission, by the Governor in appointment of persons (other than District Judges) to the judicial service of the state;

iii) The control over the district courts and courts subordinate thereto, which includes the posting and promotion of, the grant of leave to, persons who belong to the judicial service and hold any post inferior to the post of a District Judge is vested in the High Court; and

iv) The High Court has power of superintendence over all courts and tribunals throughout its territory in relation to which it exercises jurisdiction, except over a court or tribunal constituted by or under any law relating to the armed forces.

Thus, control over the subordinate courts in a State is the collective and individual responsibility of the High Court (Basu, 2020).

The subordinate judiciaries, that is, courts at the district level and below come into intimate contact with the people in the judicial field. The Governor in consultation with the High Court appoints the judges of the district courts. The Public Service Commission conducts competitive examinations for the selection of candidates for appointment in the State Judicial Service.

The above discussion on judicial system in India clearly shows that the whole judicial system is based on two important features namely independent judiciary; and single unified judicial system.

10.3 SCOPE OF JUDICIAL CONTROL OVER ADMINISTRATION

In the context of ever-expanding activities of government and discretionary powers vested in the various administrative agencies and public officials, the need to protect and safeguard the citizen's rights assumes significance and priority. In developing societies where the state is playing an important role in development, judiciary has a special responsibility to ensure social justice to the underprivileged sections of the community. However, it must be admitted that the courts cannot interfere in the administrative activities on their own accord even if such activities are arbitrary. They act only when their intervention is sought. Judicial intervention is restrictive in nature and limited in its scope. Generally, judicial intervention in administrative activities is confined to the following cases:

i) **Lack of Jurisdiction**: If any public official or administrative agency acts without or beyond her/his or its authority or jurisdiction the courts can declare such acts as ultra-vires. For instance, according to administrative rules and procedures, in all organisations, the competent authority is identified for taking decisions and actions. If any authority or person other than the competent authority takes action, the court's intervention can be sought under the provisions of lack of jurisdiction.

ii) **Error of Law**: This category of cases arises when the official misconstrues the law and imposes upon the citizen obligations, which are absent in law. This is called misfeasance in legal terminology. The courts are empowered to set right such cases.

iii) **Error of Fact**: This category of cases is a result of error in discovering cases and actions taken on the basis of wrong assumptions. Any citizen adversely affected by error of judgment of public official can approach courts for redressal.

iv) **Error of Procedure**: In such cases, "due procedure" is the basis of governmental action in a democracy. Responsible government means a government by procedure. Procedure in administration ensures accountability, openness and justice. Public officials must act in accordance with the procedure laid down by law in the performance of administrative activities. If the prescribed procedure is not followed, the intervention of the courts can be sought and legality of administrative actions can be questioned.

v) **Abuse of authority**: if a public official exercises her/his authority vindictively to harm a person or use authority for personal gain, court's intervention can be sought. In legal terms, it is called malfeasance. The courts can intervene to correct the malfeasance of administrative acts.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Explain the main features of judicial system in India.

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2) How does the single unified system of judiciary function in India?

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3) Discuss the scope of judicial control over administration.

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10.4 FORMS OF JUDICIAL CONTROL OVER ADMINISTRATION

The forms and methods of judicial control over administration vary from country to country, depending upon the type of the constitution and the system of law. Broadly speaking, there are two systems of legal remedies against administrative encroachments on the rights of citizens. One is called the Rule of Law system, and the other is called the Administrative Law system. The Rule of Law means that everybody, irrespective of social and cultural differences, whether an official citizen is subject to the same law and the ordinary law of the land. The official cannot take shelter behind state sovereignty in committing mistakes in her/his official capacity. A.V. Dicey, the main exponent of Law system stated that the Rule of Law assumes equality of Rule of all before law and application of the same law to all. The rule of law system prevails in England and other Commonwealth countries including India.

In the following paragraphs, we shall discuss some of the forms of judicial control over administration in India, under the Rule of Law system.

10.4.1 Judicial Review

The judicial review implies the power of the courts to examine the legality and constitutionality of administrative acts of officials and also the executive orders and the legislative enactments. This is very important method of judicial control. This doctrine prevails in countries where Constitution is held supreme, for example, in the United States of America, India, Australia, etc.

In India, judicial review is restricted by certain provisions of the constitution as well as of Act declaring finality of administrative decisions in particular matters. However, it can be stated that the Legislature in India, being non-sovereign body cannot exclude judicial review in certain cases unless there is a provision to that effect in the Constitution. Generally, the courts do not interfere with purely administrative action unless it is ultra vires as regards its scope or form.

10.4.2 Statutory Appeal

The statutes made by Parliament and State Assemblies itself provide that in a particular type of administrative action, the aggrieved party will have a right of appeal to the courts or to a higher administrative tribunal. Sometimes, legislative enactment itself may provide for judicial intervention in certain matters.

10.4.3 Suits against the Government

There are several limitations, varying from country to country, as regards filing suits against the government for its contractual liability. The contractual liability of the Union and the state governments is the same as that of an individual citizen under the ordinary law of contracts, subject however, to any statutory conditions of limits, which the Parliament can regulate under the constitution. The State is liable for the tortuous acts of its officials in respect of the non-sovereign functions only.

10.4.4 Criminal and Civil Suits against Public Officials

In India, civil proceedings can be instituted against a public official for anything done in her/his official capacity after giving two months' notice. When criminal proceedings are to be instituted against an official for the acts done in her/his official capacity, previous sanctions of the Head of the State, i.e., the President or the Governor is required.

10.4.5 Extraordinary Remedies

Apart from the methods of judicial control already discussed, there are the extraordinary remedies in the nature of writs of Habeas Corpus, Mandamus, Prohibition, Certiorari and Quo Warranto. These are called extraordinary remedies because the courts grant these writs except the writ of Habeas Corpus, in their discretion and as a matter of right and that too when no other adequate remedy is available. A writ is an order of the court enforcing compliance on the part of those against whom the writ is issued. In India, these writs are available under the provisions of the Constitution. While the Supreme Court is empowered to issue these writs or orders or directives only for the enforcement of Fundamental Rights, the High Courts are empowered to issue these writs not only for the enforcement of Fundamental Rights but also for other rights.

We will discuss writs now.

i) ***Habeas Corpus*:** This writ is an order issued by the court against a person who has detained another to produce the latter before the court and submit to its orders. If it is found that the person is unlawfully or illegally detained, s/he will be set free. A friend or a relation of the detained person may also apply for this writ on her/his behalf. This writ is a great bulwark of individual freedom and can be described as the cornerstone of personal liberty. This writ is granted as a matter of a right of prima facie, if it is established that the person is unlawfully detained. Its utility is, however restricted in India in view of the provision of Preventive Detention Act.

ii) ***Mandamus*:** Mandamus literally means command. If a public official fails to perform an act, which is a part of her/his public duty and thereby violates the right of an individual, s/he will be commanded to perform the act through this writ. From the standpoint of judicial control over administrative lapses, it is an effective writ. In India, this can also be issued to compel a court or judicial tribunal to exercise its jurisdiction.

iii) ***Prohibition*:** It is a judicial writ issued by a superior court to an inferior court, preventing it from usurping jurisdiction, which is not vested with it. While Mandamus commands activity, Prohibition commands inactivity. This writ can be issued only against judicial or quasi-judicial authorities to prevent exercise of excess of jurisdiction by a subordinate court. As such, its significance as a method of judicial control over administration is limited.

iv) ***Certiorari*:** While Prohibition is preventive, Certiorari is both preventive and curative. It is a writ issued by a superior court for transferring the records of proceedings of a case from an inferior court or quasi-judicial authority to the superior court for determining the legality of the proceedings.

v) ***Quo Warranto*:** Literally, Quo Warranto means "on what authority". When any person acts in a "public office" in which s/he is not entitled to act, the court by the issue of this writ will enquire into the legality of the claim of the person to that office. If the said claim is not well founded, s/he will be ousted from that office. It is, thus, a powerful instrument against the usurpation of "public offices".

Besides these writs, there is one more writ, namely the *writ of Injuction.* It is of two kinds, mandatory and preventive. The Mandatory Injunction resembles the writ of Mandamus, while Preventive Injunction resembles the writ of Prohibition. Through this writ, a public official can be restrained from doing a thing which, if done would cause irreparable damage to the rights of individuals. While Prohibition is a writ available against judicial authorities, Injunction is a writ, which is issued against executive officials.

10.5 LIMITATIONS OF JUDICIAL CONTROL OVER ADMINISTRATION

The effectiveness of judicial control over administration is limited by many factors. Some of these limitations are:

i) **Unmanageable volume of work**: the judiciary is not able to cope with the volume of work. In a year the courts are able to deal with only a fraction of cases brought before it. As on 1st July 2020, 60,444 matters (Monthly Pending Cases- Types of matters pending in Supreme Court of India https://www.main.sci.gov.in/statistics) have been pending in Supreme Court. As per National Judicial Data Grid (NJDG https://www.njdg.ecourts.gov.in/njdgnow/?p=main/pend_dashboard), in August 2020, approximately 45.41 lakh cases in High Courts (except Bombay and Delhi); and approximately 3.36 crore cases were pending in the District and Taluka Courts of India (NJDG). There is an increase in the cases of litigation without a commensurate expansion of judicial mechanism. The old adage of "justice delayed is justice denied" still holds good. This excessive delay in the delivery of justice discourages many to approach the court. The feeling of helplessness results in denial of justice to many.

ii) **Post-mortem nature of judicial control**: In most of the cases the judicial intervention comes only after enough damage is done by the administrative actions. Even if the courts set right the wrong done, there is no mechanism to redress the trouble the citizen has undergone in the process.

iii) **Prohibitive Costs**: the judicial process is costly and only rich can afford it. There is some truth in the criticism of pro-rich bias of judicial system in India. As a result, only rich are able to seek the protection of courts from the administrative abuses. The poor are, in most cases, the helpless victims of the administrative arbitrariness and judicial inaction.

iv) **Cumbersome procedure**: Many legal procedures are beyond the comprehension of common man. The procedural tyranny frightens many from approaching the courts. Even though the procedures have a positive dimension of ensuring fair play, too much of it negatives the whole process.

v) **Statutory limitations**: the courts may be statutorily prevented from exercising jurisdiction in certain spheres. There are several administrative acts, which cannot be reviewed by courts.

vi) **Specialised nature of administrative actions**: The highly technical nature of some administrative actions act as a further limitation on judicial control. The judges, who are only legal experts, may not be able to sufficiently appreciate the technical implications of administrative actions. As a result, their judgments may not be authentic.

vii) **Lack of awareness**: In developing societies, most of the people who are poor and illiterate are not aware of judicial remedies and the role of courts. As a result they may not even approach the court to redress their grievances. The courts, which can intervene only when it is sought, may be helpless in this situation. The general deprivation of people also results in deprivation of justice to them.

viii) **Erosion of autonomy of judiciary**: There is executive interference in the working of judiciary. The quality of judiciary mostly depends on the quality of the judges. The Law Commission made many recommendations to ensure the judicial standards

of the bench. There are many allegations of corruption against judges. It undermines the prestige and the effectiveness of the judiciary.

Many steps have been initiated to overcome some of the limitations mentioned above. In the succeeding paragraphs, we shall discuss some of these measures, in particular, Public Interest Litigation, Legal Aid and Gram Nyayalayas.

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Explain the meaning and importance of judicial review?

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2) Discuss the different writs available under the provision of the Constitution of India?

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3) Describe the limitations of judicial control over administration.

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10.6 PUBLIC INTEREST LITIGATION

Public Interest Litigation (PIL) refers to a system of intervention of social action groups in making courts accessible to the deprived, poor and the victims of social oppression. Earlier the "rule of standing" that means only the aggrieved or affected person can seek the help of courts, came in the way of judiciary reaching the poor. The poor who are not aware and capable do not exist for the court purposes. The imaginative interpretation of judicial process by creative and socially conscious judges led to the system of PIL, which facilitated the social action groups and conscious individuals to enable the courts take cognisance of various forms of injustices done to the poor. In the Asiad Workers Case, Justice Bhagwati of Supreme Court who championed the PIL observed, "now

for the first time the portals of the court are being thrown open to the poor and the downtrodden. The courts must shed their character as upholders of the established order and the status quo. The time has now come when the courts must become the courts for the poor and struggling masses of this country". Some of the PILs relate to environment conservation, under trials languishing in jails, atrocities on scheduled castes, scheduled tribes, women and other weaker sections, violation of civil liberties, police atrocities, etc. The courts have intervened in such cases on the initiatives of social activists and civil liberties groups. Thus, judicial activism has, thus, certainly facilitated more access to justice to the poor.

10.7 LEGAL AID

The Constitution of India clearly envisages that opportunities for securing justice are not denied to any citizen by reason of economic or other liabilities. The fundamental entitlement of legal aid is concomitant right that arises out of Article 14 of the Constitution, which enjoins the state not to deny to any person equality before law or equal protection of law. Many commissions made suggestions to provide legal aid to poor to eliminate the implicit bias towards the rich in our legal system. Under the Legal Services Authorities Act, 1987, "Authorities" have been setup at national, state and sub-state levels. Under the Act there is a model scheme, for those citizens whose annual income from all sources does not exceed a certain limit are eligible for free legal aid. The limitation as to income is not applicable in case of disputes where one of the parties belongs to scheduled castes, scheduled tribes, nomadic tribes or is a woman or a child.

The Legal Services Authorities have been setup in accordance with the provisions of the national law and respective State Regulations in most of the states. The Legal Services Authorities have been setup at the High Court and district levels and in most of the places at taluka levels also. The Supreme Court Legal Aid Committee has been setup for dispensing legal aid in cases coming before the Supreme Court of India.

Under the Legal Services Authorities Act 1987, the institution of Lok Adalat is provided at all levels (State, District and Taluk) for resolution of disputes through conciliatory methods. Such Adalats are proving a successful alternative forum for resolution of disputes through conciliatory methods outside the regular courts, and very near to the clients or the people who need legal support, aid and speedy resolution of disputes.

10.8 GRAM NYAYALAYAS

Gram Nyayalayas are mobile courts, which are established under the Gram Nyayalayas Act, 2008 for speedy and easy access to justice system in rural areas. This Act came into force from 2nd October 2009. The major aim is to provide inexpensive justice to rural people at their doorsteps. There are 221 functional Gram Nyayalayas (Government of India, Ministry of Law and Justice, Annual Report 2019-20). The Gram Nyayalayas try criminal cases, civil suits, claims or disputes that are specified in the First Schedule and Second Schedule of the Act. The District Court or the Court of Session may transfer all the civil or criminal cases, which are pending before the courts to the Gram Nyayalaya. The Gram Nyayalaya has its discretion to retry the cases or proceed from the stage at which it was transferred to it.

The scope of cases can be amended by the central as well as the State Governments as per their respective legislative competence. The judgement and order passed by the Nyayalaya are deemed to be a decree. In this regard, summary procedure can be followed to avoid delay in its execution. The Gram Nyayalayas are presided over by a Nyayadhikari.

A Gram Nyayalaya has jurisdiction over an area that is, specified by a notification by the State Government in consultation with the respective High Court. These Nyayalayas are expected to be guided by the principles of natural justice and subject to any rule made by the High Court. They shall not be bound by the rules of evidence provided under Indian Evidence Act, 1872.

A person accused of an offence files an application for plea bargaining. The Gram Nyayalaya has the powers of Criminal and Civil Courts.

i) Criminal Cases: Appeal lies to the Court of Session that shall be heard and disposed of within a period of six months from the date of filing of this appeal.

ii) Civil Cases: Appeal lies to the District Court that shall be heard and disposed of within a period of six months from the date of filing of such appeal.

The Gram Nyayalayas follow special procedures as provided in the act and can exercise the powers of a civil court with certain modifications. These Nyayalayas settle the disputes by bringing about conciliations between the parties. For this purpose they can use conciliators. The judgement and order passed by the Nyayalayas are deemed to be a decree. In this regard, to avoid delay in its execution the Gram Nyayalayas follow summary procedure.

Thus, setting up of Gram Nyayalayas in rural areas is an important measure to reduce arrears of pending cases; and is a part of the judicial reforms in India. As it is expected that the Gram Nyayalayas will not only reduce the burden of pending cases in subordinate courts but also dispose of new cases within six months, therefore there is an urgent need to strengthen the Gram Nyayalayas for effective functioning. In this context, joint efforts and cooperation of political leaders, administrators and citizens are required, which will contribute in enhancing judicial will so that easy access to justice can be provided to the poorest of poor.

Check Your Progress 3

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) What is meant by the Public Interest Litigation?

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2) Write a note on Gram Nyayalayas.

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10.9 CONCLUSION

In a democracy, the primary objective of judicial system is to ensure citizen's rights. The judicial system in India is based on the principles of independence of judiciary from executive; and the single unified system of judiciary. The main purpose of judicial control over administration is to ensure the legality of administrative actions. The judiciary has an important role to play in the application of rule of law. In this unit, we have discussed the main features of the judicial system; and the methods of judicial control over the administration and their effectiveness. Some selected trends in judicial system like Public Interest Litigation, Gram Nyayalayas and Legal Aids Systems have also been highlighted.

10.10 GLOSSARY

Malfeasance : This is a legal term, which implies abuse of authority by a public official for personal gains.

Misfeasance : When the public official misinterprets the law and imposes upon the citizens' obligations, which are absent in law.

Prima-facie : It is used to describe something, which seems to be true when you consider it for the first time.

Special Leave : The power of the Supreme Court to grant special leave to appeal to the Supreme Court against any judgment, decree etc. by any court or tribunal in India.

Tort : A tort is something that one does or fails to do, which harms someone else and for which one can be sued for damages.

Ultra vires : Violation of constitutional provisions.

10.11 REFERENCES

Arora, R.K. & Goyal, R. (2013). *Indian Public Administration: Institutions and Issues.* New Delhi, India: New Age International Publishers.

Basu, D.D. (2020). *Introduction to the Constitution of India* (24th ed.). Gurugram, Haryana: Lexis Nexis.

Government of India, Ministry of Law and Justice, *Annual Report 2019-20.* Retrieved from https://doj.gov.in/sites/default/files/Final%20Annual%20Report%202019-20%20for%20net.pdf

Jha, S.N. (1999). *Decentralisation and Local Politics.* Delhi, India: Sage Publications.

Mathew, G. (2000). *Status of Panchayati Raj: The States of India*. New Delhi, India: Concept Publishing House.

Merriam-webster. Retrieved from https://www.merriam-webster.com/

Monthly Pending Cases- Types of matters pending in Supreme Court of India. Retrieved from https://www.main.sci.gov.in/statistics

NJDG, Pending Dashboard. Retrieved from https://www.njdg.ecourts.gov.in/njdgnow/?p=main/pend_dashboard

The Gram Nyayalayas Act, 2008. Retrieved from https://www.indiacode.nic.in/bitstream/123456789/2060/1/200904.pdf

Tyagi A.R. (1989). *Public Administration*. New Delhi, India: Atma Ram and Sons.

10.12 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer must include the following points:

- Separation of powers between executive and judiciary.
- India has a single unified judicial system.
- The Supreme Court occupies the highest position in the judicial hierarchy in India.

2) Your answer must include the following points:

- Judicial system in India runs like a pyramid from the subordinate courts at the lower levels to High Courts for every state to Supreme Court of India at the national level.
- The Supreme Court is at the highest level of judicial hierarchy, High Court at the second level and subordinate courts at the district level and below.
- The Supreme Court has three areas of jurisdiction, namely, original, appellate and advisory; and High Courts have the original, appellate and administrative jurisdiction.

3) Your answer must include the following points:

- Lack of jurisdiction,
- Error of law,
- Error of fact,
- Error of procedure, and
- Abuse of authority.

Check Your Progress 2

1) Your answer must include the following points:

- The judicial review implies the power of the courts to examine the legality and constitutionality of administrative acts of officials and also the executive orders and the legislative enactments.
- This is very important method of judicial control.
- This doctrine prevails in countries where Constitution is held supreme.

2) Your answer must include the following points:

- Habeas Corpus
- Mandamus
- Prohibition
- Certiorari
- Quo Warranto
- Injuction.

3) Your answer must include the following points:

- Unmanageable volume of work
- Post-mortem nature of judicial control
- Prohibitive costs
- Cumbersome procedure
- Specialised nature of administrative actions
- Lack of awareness
- Erosion of autonomy of judiciary.

Check Your Progress 3

1) Your answer must include the following points:

- It refers to a system of intervention of social action groups in making courts accessible to the deprived, submerged and invisible millions of poor and victims of social oppression.
- It facilitates the social action groups and conscious people to enable courts to provide justice to the poor.
- It has enabled more access of justice to the poor.

2) Your answer must include the following points:

- Refer to section 10.8

UNIT 11 DISTRICT COLLECTOR*

Structure

11.0 OBJECTIVES

After studying this Unit, you should be able to:

- Explain the importance of the office of Collector in District Administration;
- Describe traditional and developmental functions of the Collector;
- Discuss constraints within which the Collector has to function in the District Administration; and
- Examine the role of District Collector in district administration.

11.1 INTRODUCTION

The institution of Collector, created more than 200 years ago, is one of the most significant institutions transmitted by the colonial rulers to independent India's public administration system. S/he is the highest functionary of the District Administration in the country. Several epithets are used to describe this institution. In this regard, "Annadata", "captain of the team", "eyes and ears of Government" are some of the common descriptions. S/he is also described as the kingpin of administration, and more recently in more benevolent terms, as "friend, philosopher and guide", "adviser, educator and helper", "the fulcrum of grassroots democracy", "the mainspring of development" and so on. Even after independence, the Collector continues to occupy a pre-eminent position at the district level, and is the key functionary of the State Government. Keeping in view the importance of Collector/District Collector/Deputy Commissioner, this unit highlights the role of District Collector in district administration; and constraints, which inhibit the performance of her/his functions.

* Contributed by Prof. Durgesh Nandini; and adapted from BPAE-102, Indian Administration, Block-4, Unit-17.

11.2 FUNCTIONS OF THE COLLECTOR

The office of Collector is an important institution transmitted by the British rulers to the Indian administrative system. S/he performs traditional revenue function as well as development functions. Throughout the country, the power and functions of the Collector, more or less, remain the same. Broadly, the Collector performs the following functions:

i) The Collector started as a revenue functionary and s/he continues to be the principal Revenue Officer and Head of the Revenue Administration in the district. After independence, the importance of revenue administration has become secondary. The emphasis has shifted to Development Administration, though the revenue functions still remain with the District Collector. Besides collection of revenue, the Collector handles matters related to land reforms and revenue administration (including custody of government lands). In the discharge of her/his revenue functions, many officers like Additional Collector / Joint Collector assist the Collector. S/he is the officer-in charge of the district under the State Excise Act.

ii) The Collector is the Chairman of the District Disaster Management Committee, which is responsible for making plans to mitigate the effect of disaster and for providing immediate as well as long-term assistance to the affected victims/people in the affected areas. S/he is the Kingpin of relief operations in the district. In emergency situation like floods, the Collector plays a crucial role in relief operations. The Government takes decision regarding the quantum of relief and manner of distribution, mostly, on the basis of assessment made by the Collector.

iii) District Collector also functions as District Magistrate and is responsible for the maintenance of law and order in the district. After the separation of judiciary from the executive, the Collector is concerned with the preventive sections of the Criminal Procedure Code. S/he is the authority to issue custody/detention warrants under special anti-crime/security enactments such as National Security Agency. The superintendent of Police who is the Head of police force in the district helps the Collector in discharge of her/his police functions. In all important matters, the Superintendent of Police takes orders from the Collector. Under Bihar Police Act 2007, the Collector is the Chairman of the District Accountability Authority that monitors issues concerning departmental inquiries and complaints of misconduct against junior policemen. There have been many instances of strained relations between the Collector and the Superintendent of Police. In certain situations, lack of understanding between the two affects the entire District Administration.

iv) The Collector continues to be the Head of the District Administration. As District Magistrate, s/he is responsible for the maintenance of law and order. As Chief Revenue Officer, s/he handles matters related to land reforms and revenue administration. S/he is also closely associated with several other Departments like Rural Development and Panchayati Raj, Social Welfare, etc. In respect of Panchayati Raj, in several States, s/he has a very important relationship with the Panchayati Raj bodies. As a Head of the district administration, s/he plays a coordinating role between different Departments like Revenue, Police and other Departments. S/he has power to suspend the resolutions of local bodies, if they constitute a threat to public peace. S/he also Heads a number of official and non-official bodies in the district. The Collector exercises superintendence over the District National Informatics Centre (NIC). The amount of time s/he spends on these activities depends on her/his personal interest.

v) S/he is looked upon as a representative of the Government at the district level. The District Collector hoists the national flag on Independence and Republic days.

S/he has several protocol functions like meeting the Ministers and other important dignitaries. In emergencies like floods s/he can call upon any branch of the District Administration to undertake any specific work to provide assistance. Census operations and conduct of elections to various democratic bodies from the Parliament to the Gram Panchayat is another important function. The Collector is also an agent of the Governor in respect of scheduled tribes' areas in some of the districts. There are other functions also with which the Collector is intimately associated like social security, pensions, grant of licenses etc. The public distribution system has become an important part of district administration, due to scarcity and rising prices. S/he is directly responsible for the distribution and control of all essential commodities and goods. In most of the states, the Collector has a direct role to play in the functioning of the Food and Civil Supplies Department in her/his jurisdiction. The Collector oversees the implementation of the Public Distribution System and has powers to enforce provisions of the Essential Commodities Act and related Rules and Orders to ensure timely and equitable distribution of scarce commodities.

The Collector presides over a large number of meetings like meetings of various Committees of Agriculture, Animal Husbandry, Veterinary, Handlooms, Irrigation and Industries departments. These are excellent forums for the Collector to know the way policies are translated into action; and to understand the problems of local people.

In this context, more details on the basis of functional area, role of the District Collector/ Deputy Commissioner and variances across states have been depicted in the following table 11.1

Table 11.1: Major Functions of the District Collector/Deputy Commissioner

Sl. No.	Functional Area	Role of District Collector/ Deputy Commissioner (DC)	Variances across States
1	Revenue Administration	The Collector handles all matters related with land reforms and revenue administration (including custody of government lands). S/he is assisted by an Additional Collector / Joint Collector. Collector is the officer-in charge of the district under the State Excise Act.	Similar across different States
2	Executive Magistracy and Maintenance of law and order	As the Magistrate of the District, exercises functions and powers under various provisions of the Cr.PC. is the Officer in overall charge of Law and Order and internal security in the district. S/he is the authority to issue custody/detention warrants under special anti-crime/security enactments e.g. NSA. Retains importance in Police matters also e.g. under Bihar Police Act 2007, the Collector is the Chairman of the District Accountability Authority, which monitors issues concerning departmental inquiries and complaints of misconduct against junior policemen.	Varies from State to State, though Cr.P.C. functions are broadly similar.

3	Licensing and Regulatory Authority	The Collector is the licensing and regulatory authority under various special laws such as Arms and Cinematography Acts etc. in the district.	Similar across different States
4	Disaster Management	The Relief /Disaster Management branch of the Collector's office deals directly with these functions.	Similar across different States
5	Elections	The Collector is the District Election Officer for Parliament, State Legislature and Local Bodies.	Similar across different States
6	Food and Civil Supplies	In most of the states, the Collector has a direct role to play in the functioning of the Food and Civil Supplies Department at the district level. S/he oversees the implementation of the Public Distribution System and has powers to enforce provisions of the Essential Commodities Act and related Rules and Orders.	Similar across different States
7	Welfare	The Collector plays a very critical role in the execution of welfare programmes such as those relating to disability, old age pension etc. either through direct superintendence or through oversight.	Varies from State to State depending on the role envisaged in this regard for local bodies. In Maharashtra, Zila Parishad (ZP) has a stronger role in welfare activities unlike in Andhra Pradesh or Rajasthan.
8	Census	The Collector is the principal Census Officer.	Similar across different States
9	Coordination	One of the most important roles of the Collector is to coordinate activities of other agencies/departments at the district level.	Similar across different States
10	Economic Development (Agriculture, Irrigation, Industry, etc.)	Though, many activities/functions of these sectors stand transferred to PRIs and local bodies, the Collector still has some role in many of these programmes. S/he chairs meetings of various Committees of Agriculture, Animal Husbandry, Veterinary, Sericulture, Handlooms, Textiles, Irrigation and Industries departments. Also reviews their activities in monthly/bimonthly meetings and coordinates among the departments.	Varies from State to State depending on the role envisaged in this regard for local bodies. In Maharashtra and Himachal Pradesh, the Zila Parishad has a stronger role in primary economic development activities unlike that in Andhra Pradesh or Rajasthan.
11	Human Resource Development	Though, a major part of this subject (primary education) stands transferred to the PRIs, the District Collector/Deputy Commissioner has been retained as Chairman/Co-Chairman in some of the district level committees.	Varies from State to State depending on the role envisaged in this regard for local bodies. In Maharashtra and Himachal Pradesh, powers have been given to PRIs in matters relating to health & primary education.

12	Rural Development	Though major activities of this department stand transferred to the PRIs/ULBs, in some states, the Collector still continues to be the nodal authority for some programmes. Under the National Rural Employment Guarantee Act, the Collector has been designated as the District Programme Coordinator in some of the States.	In Andhra Pradesh, the DC is the Executive Director of District Rural Development Agency. In Maharashtra and Himachal Pradesh, DRDA is under the ZP. In Himachal Pradesh, the ZPs have been empowered to appoint Assistant Engineers in DRDA.
13	Local Self Government (PRIs / ULBs)	The role of the District Collector/ Deputy Commissioner with regard to local self-governing institutions varies across different States. Mostly these relate to the powers of the State Government vis-à-vis the PRIs. (Powers of suspension, resolution, supersession etc.)	In Andhra Pradesh, the DC exercises direct control over the Gram Panchayats; in Orissa, the DC is the CEO of the ZP; in Maharashtra, the DC has a limited role to play.
14	Preparation of Development Plan	Though under Articles 243-ZD and 243-ZE, the planning functions in a district have been given to DPC/MPC, the Collector coordinates with departments/agencies involved in execution of various works.	Similar across different States.
15	Information Technology	The Collector exercises superintendence over the District NIC Centre.	Similar across different States.

Source: Government of India, (2009) *Second Administrative Reforms Commission (15th Report), State and District Administration*, pp. 65-68, https://www.darpg.gov.in/sites/default/files/sdadmin15.pdf

The functions of District Collector, mentioned above, are of crucial importance for effective functioning of the government; and the workload involved in domain of these activities demands considerable time and attention of the collector and her/his subordinates. Keeping above in view, the SARC opined that the State Government should ensure that the responsibility of the District Collector is neither diluted nor diverted from these activities.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Explain the importance of Collector in District Administration.

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2) Describe the Collector's role as a head of district administration.

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3) Discuss the major functions of District Collector.

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11.3 COLLECTOR AND PANCHAYATI RAJ INSTITUTIONS

After independence, the Collector has become responsible for the implementation of the development programmes in the district. As an administrator, s/he is expected to coordinate all the development programmes being implemented in the district. The Collector's role in development administration is more visible in case of Panchayati Raj Institutions (PRIs). S/he is closely associated with these institutions either from within or outside. The advent of PRIs in India has brought about several changes in the setup of district administration. This is particularly so in case of the role and functions of the District Collector. In practice, different types of linkages were established between the Collector and the PRIs in different States. In Rajasthan, for example, the Collector was made an associate member of Zila Parishad without the right to vote. In Andhra Pradesh, s/he was made a full-time member of Zila Parishad and Chairman of all the standing committees. Later, however in Andhra Pradesh, the Collector was disassociated from Zila Parishad. In Maharashtra, the Collector was kept out of Zila Parishad. But, generally it is felt that the Collectors should have a large share of responsibility in facilitating the success of PRIs. The relationship between Collector and PRIs can be studied under different heads, namely, control over staff, power to suspend resolutions, power to remove officers, and power to suspend and dissolve Panchayati Raj Institutions. In these areas, the role of Collector varies from state and state. Some aspects of this would be discussed later in the Unit 12 on Panchayati Raj. The Collector has power to write confidential report and has authority to inflict various punishments. Such power varies from state to state. Similarly, the Collector can suspend the resolutions of Panchayats. An association with these bodies brings the Collector in intimate relationship with the people's representatives. This provides an opportunity to understand the dynamics of Development Administration at the district level.

After the 73rd Constitutional Amendment, the relationship of District Collector with PRIs has changed immensely. The Constitutional amendment and the enactment of Panchayati Raj laws by various states in 1993 have reduced the burden of the District Collector on development activities. This Act has given scope to the State Government to set forth the yardstick of the relationship of the PRIs and Collector. In this context, some states have created the post of Chief Executive Officer and some states have opted for District Development Officer or Deputy Commissioner. The unique feature about the controlling authority assigned to the Collector in Tamil Nadu is that the District

Collector has the overall controlling authority as the Inspectors of Panchayats in the district. The Project Director of the District Rural Development Agency (DRDA) assists her/him in implementing development programmes. In Haryana, the District Collector known as Deputy Commissioner, in Gurugram is the Chairperson of DRDA. In Kerala, Madhya Pradesh and Maharashtra s/he is Secretary of the District Planning Committee. The study conducted by the Task Force on Panchayati Raj reveals that except a few States like Kerala and West Bengal, bureaucracy is a dominant partner in decentralised governance. In Andhra Pradesh, the Collector exercises direct control over the Gram Panchayats; in Orissa, s/he is the Chief Executive Officer of the Zila Parishad; and in Maharashtra, s/he has a limited role to play. Thus, even after implementation of the 73rd Constitutional Amendment Act, there is no uniform pattern regarding the position of District Collector in relation to the PRIs.

11.4 ADMINISTRATIVE SUPPORT

The Collector is assisted in her/his duties by a number of officers at various levels. Generally, there are two or three senior officers of Joint or Additional Collector rank. These officers look after the revenue, law and order, and developmental functions. The Collector in the Collectorate is assisted by Deputy Collectors. These officers look after different functions like revenue, law, relief, establishment and other duties. District technical officers like District Agricultural Officer, District Educational Officer, and District Cooperative Officer etc. function directly under supervision of the Collector except in a few States where they work with the Zila Parishad. The District is divided into Sub-Divisions. The Sub-Divisional Officers Head each Sub-Division. In some States, they are called the Revenue Divisional Officers. The Collector provides guidance and leadership to the Joint Collectors and Sub-Divisional Officers. At the taluka and block level, there are Tahsildars and Block Development Officers undertaking revenue and development functions respectively. They have regular contacts with the people and are real executors of all government programmes. A large number of subject matter specialists function at the block level, initiating and implementing specific programmes.

The Collector exercises control over the field officers through visits, inspections and review meetings. Through these techniques, s/he monitors the programme implementation; and provides guidance to the field officers. Her/his inspection not only gives a bird's eye view to the Collector, but also enables the field officers to clarify their doubts about policies and priorities from the Collector. During her/his visits to the villages, s/he hears people's complaints about the problem of drinking water, water for irrigation, bad roads, poor housing, shortage of essential commodities, and inputs for agricultural operations, corruption and insensitivity of officers, etc. Based on these inspections and visits the Collector can assess the problems affecting the district and take the initiative to overcome them. This gives the Collector a clear understanding about the problems, apart from providing a personal touch to the administrative system.

An important role of the Collector is to bring about coordination between different Departments in the district. S/he acts as a catalyst for development. In some states, all the district level officers are brought under the control of the Collector, and in some they are outside. As highest functionary in the district, the Government looks towards her/him for providing the needed guidance and direction to the officers.

11.5 COLLECTOR'S WORK: SOME CONSTRAINTS

The Collector has become an increasingly important functionary in district administration.

Both in the regulatory and development functions, s/he has a very important role to play. In the performance of her/his functions, s/he faces a number of problems and constraints, which inhibit her/his work. In this regard, problems like frequent transfers, increasing workload, political pressures, crisis situations, and individual orientation of Collectors are a few, which need to be examined in this context.

The Civil Servants need to: have a tenure, which is long enough to understand the environment; and establish constructive, cooperative and cordial relationships with political leaders and administrators for smooth functioning, and to implement the development programmes. A well-accepted policy is to retain an officer in a particular place for a period of three to five years. Unfortunately, this policy does not seem to be the practice in case of the Collectors. A few studies, conducted on this issue indicate that there are too frequent transfers inhibiting the performance of the Collector's functions. This indicates that they are dislocated before they acquaint themselves with the problems of the district. Some of the Collectors have tenure of less than four months, and there are very few Collectors who enjoy three years of tenure. This type of frequent transfers apart from having a negative influence on the Collector would adversely affect district development administration.

Political interference and pressure is another area affecting work of the Collectors. Such pressures are generally brought to restrain the District Administration in cases of land acquisition by the Government or use of judicial support for their followers or issue of licenses or permits for scarce commodities, etc. If the District Collectors concede the request, they are accused of partisanship; and if they resist the pressure, they are accused of being insensitive to the requests of the people's representatives. Quite often, resistance to pressures leads to politicisation of issues. This may even lead to transfer of the Collectors. This has an adverse effect on performance of the Collector as an agent of change. It also adversely affects their job performance.

The visiting dignitaries like the Minister frequently interrupt the Collector's work. Protocol requires that the Collector must receive; and be available to have discussions with the visiting dignitaries. Thus, protocol duty is another area, which affects the Collector's work to some extent. One complaint often made is that the Collector is over-worked. Though, studies are few in this area.

In the district, the Collector is responsible for the maintenance of law and order. In practice Superintendent of Police, who is the Head of the Police force, in the district looks after this function under the overall supervision of the Collector. Quite often, the people come to the Collector with the complaints about the partisan attitude of the police and their failures. The Collector's association is indirect and minimal after the separation of functions, that is, judicial and executive. The relations with the police have always been very delicate and sensitive to the Collector. In some areas, police began to resent the control of the Collector in the maintenance of law and order. There have been cases of strained relations between the two. With increasing unrest in the rural areas, the role of Collector is becoming increasingly important in the maintenance of peace and tranquility.

Crisis administration is another important and a necessary function of the Collector. The crises may include communal disturbances, floods, dacoity, terrorism, accidents and campus disturbances. These types of crises demand the Collector's immediate intervention. This affects their normal functions, and the immediate casualty is neglect of development functions.

Finally the Collector, who is committed to change in development process, chooses

her/his own area and preference for work. Some officers focus their attention on welfare of weaker sections; others on health activities; and some of the Collectors concentrate on special programmes and activities of their choice. Thereby, secondary importance to the remaining functions. This also constricts their role and performance in general.

The District Collectors should try to overcome these pressures through cordial relations with the politicians; proper time management; and delegation of work to their subordinates. Some officers make use of the political executives at the district and state levels to iron out the problems in development administration; and make positive use of their interactions with the politicians. There are others, who view the intervention as an unwelcome interference in their work and feel disgusted.

11.6 ROLE OF DISTRICT COLLECTOR: WAY FORWARD

District Government can be empowered while fully utilising the institutional strength of the District Collector. Further, it has been observed that the 73rd and 74th Constitutional Amendments (1992) have empowered the rural and urban local bodies to function effectively. As per the new administrative and development environment, the PRIs/ ULBs are the third- tier of government; they do not totally remove the Collector's responsibility in matters of local development. Even, declining significance of land revenue has also not lessened the importance of the District Collector in management of land records, maintenance of law and order and general administration; and as an effective grievance redressal authority. The Second Administrative Reforms Commission has expressed, "These have remained and will remain central and core areas of State activities at the district level even when there is full fructification of local self-government." Thus, it is evident that the District Collector will continue to be responsible for a multiplicity of tasks at the district level like improving human capabilities, improving economic opportunities for marginalised sections of society, creating physical infrastructure and facing challenges posed by disasters in her/his jurisdiction. S/he will have a new role in the District Administration, that is, role of a coordinator, facilitator and a person who is responsible for inter-sectoral coordination of various activities of the grassroots administration. S/he would provide overall leadership in the district in the task of nation building. Hence, it is evident that the Collector would remain a key figure in the scheme of administration at the field level (Second Administrative Reforms Commission, 2009, pp. 63-64, https://www.darpg.gov.in/sites/default/files/sdadmin15.pdf).

The performance of Collector depends upon her/his own inclination and orientation towards the development goals. It also depends on her/his capacity to make use of the environment in the district positively and constructively to undertake her/his functions. To overcome constraints and perform effectively, just to quote an example, Lakhina experiment has presented best solution, which is still relevant.

Need for administrative efficiency and also responsiveness to the community led Mr. Anil Kumar Lakhina, a District Collector, to undertake an exercise to reform district administration. The exercise was done in the Collectorate of Ahmednagar in Satara district of Maharashtra. Some of the changes brought about in the District Administration includes regulation of visitors to the Collectorate; designing the office as per task sequence, making documents available to those who handle them; preparation of desk manuals, weeding out documents, which had outlived their usefulness, provision of dust proof and fire fighting equipment; motivation and training etc. This experiment revolved around the assumption that attitudinal changes in the administrator can result in effective administration. It sought to link attitudinal changes with physical work environment.

The experiment was undertaken in only one district and possibility of its adoption elsewhere will also bring positive results. But the Lakhina experiment is a pointer that structural changes coupled with attitudinal changes and the "will" to adopt reforms can bring efficiency in district administration. What is true of the Collectorate is equally true of other administrative organs at the district level. The way forward has been shown by the Government of Himachal Pradesh, that is, by devising the "District Good Governance Index" (DDGI) to rank the performance of districts on 7 vital themes, 18 focus subjects and 45 indicators to identify and plug performance gaps in vital areas (Essential Infrastructure; Support to Human Development; Social Protection; Women and Children; Crime, Law and Order; Environment; and Transparency & Accountability). In this context, Bilaspur district ranked first in 2019. It is a best practice that needs to be followed by other states to add immense value to decision – making especially in allocation of resources; and in design of policies and programmes for development and balanced growth, equity and sustainability.

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Explain the role of Collector in Panchayati Raj Institutions.

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2) Describe the significance of Lakhina experiment.

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3) Discuss the problems that Collectors face in the performance of their duties.

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11.7 CONCLUSION

Earlier, the Collector was in charge of land revenue, maintenance of law and order and other regulatory functions. In independent India, with the adoption of socialistic pattern of society and focus on development, the Collectors in most of the states became development functionaries and change agents. In this Unit, we have discussed the

evolution of the Office of District Collector. The role and functions of District Collector as the Head of Revenue Administration, Police Administration, and District Administration and as a representative of the Government have been described. Her/his associations with development institutions like Panchayati Raj are very close and intimate. However after 73rd and 74th Constitutional Amendments, the role of Collector in development administration has changed. But the District Collector appears to be the kingpin of District Administration. Lastly, the problems and constraints, which impinge on the performance of the Collector like workload, frequent transfers, political interference etc., have been described. The Collectors should try to overcome these problems by improving their relations with various functionaries, political leaders and citizens; and work environment. In the next unit, we will discuss on the Panchayati Raj Institutions.

11.8 GLOSSARY

Appellate Jurisdiction	:	Authority to hear and decide appeals from the decision of lower court.
Catalyst	:	A person responsible for hastening necessary changes in the system.
Epithet	:	A descriptive word or phrase expressing some ideal or implied quality of a person or thing. It is often used to designate the person or thing in place of the name.
Protocol	:	Certain code of behaviour, etiquette to be observed or as practiced in diplomatic missions.

11.9 REFERENCES

Arora, R.K. & Goyal, R. (2013). *Indian Public Administration: Institutions and Issues.* New Delhi, India: New Age International Publishers.

Bava, N. (2000). *Development Policies and Administration in India.* New Delhi, India: Uppal Publishing House.

Government of India. (2009). *Second Administrative Reforms Commission (15th Report), State and District Administration.* Retrieved from https://www.darpg.gov.in/sites/default/files/sdadmin15.pdf

Jain, R.B. (Ed.). (1980). *District Administration*. New Delhi, India: Indian Institute of Public Administration.

Lakhina, A. K. (1984). Reforms in the Collectorate of Ahmadnagar (Maharashtra - A Report). *The Indian Journal of Public Administration*, 30(2).

Mathew, C. K., Kannan, D. & Dutta U. (2018). *7 Themes/18 Focus Subjects/45 Indicators* ***Districts Good Governance Index*** *Governance in the Districts of Himachal Pradesh/ 2018.* Retrieved from https://himachal.nic.in/WriteReadData/l892s/25_l892s/1551172400.pdf

Maheshwari, S.R. (2001). *Indian Administration*. New Delhi, India: Orient Blackswan Private Limited.

Mishra, S. (2003). District Administration and Panchayati Raj Institutions Interface. In S.N. Mishra, A.D. Mishra & S. Mishra (Eds.). *Public Governance and Decentralisation (Essays in Honour of T.N. Chaturvedi)*. New Delhi, India: Mittal Publications.

The Constitution of India. Retrieved from https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text.

11.10 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:
   - The Collector is the highest functionary in the district administration.
   - The Collector is the Head of the revenue administration at the district level.
   - The maintenance of law and order in the district is the responsibility of the Collector.
   - As the Head of district administration, the Collector plays a coordinating role between different departments like revenue, police, etc.

2) Your answer should include the following points:
   - Refer to Section 11.2

3) Your answer should include the following points:
   - Revenue Administration
   - Disaster Management
   - Law and Order
   - District Administration
   - A representative of the Government at district level.

Check Your Progress 2

1) Your answer should include the following points:
   - Refer to Section 11.3

2) Your answer should include the following points:
   - Efforts made by the District Collector of Satara district of Maharashtra to bring about both structural reforms at the district level, and attitudinal changes in dealing with organisation.
   - Need was felt for bringing about administrative efficiency as well as responsiveness to the public.
   - Certain reforms were brought about in the district administration. Also improvements in physical work environment were made.
   - This experiment established that structural reforms coupled with attitudinal changes and the necessary "will" to adopt reforms can bring efficiency in district administration.

3) Your answer should include the following points:
   - Frequent transfers of the Collectors, which inhibit the proper performance of their functions.
   - Political interference and pressures have an adverse effect on the performance of their duties.
   - Protocol duties of the Collector, which interrupt their work.
   - Increasing workload.
   - Strained relations between the Police and Collector.
   - Crisis administration demands the Collector's immediate intervention that affects her/his normal functions, especially development functions.

UNIT 12 PANCHAYATI RAJ*

Structure

12.0 OBJECTIVES

After studying this Unit, you should be able to:

- Trace the background of Panchayati Raj;
- Describe the changing role of Panchayati Raj Institutions owing to Seventy-third Constitutional Amendment;
- Explain the structure, power and functions of Panchayati Raj Institutions; and
- Discuss the administrative structure of Panchayati Raj Institutions; and
- Examine the adequacy of financial resources of Panchayati Raj Institutions.

12.1 INTRODUCTION

Introduction of Panchayati Raj was hailed as one of the most important political innovations in independent India. It was also considered as a revolutionary step. The Panchayati Raj is a system of Local Self-Government, wherein the people take upon themselves the responsibility for development. It is also a system of institutional arrangement for achieving rural development through people's initiative and participation. Administration of development programmes aimed at social, economic and cultural development is entrusted to these Local Self-Governing institutions. The Panchayati Raj involves a three-tier structure of democratic institutions at village, block and district levels, namely, Gram Panchayat, Panchayat Samiti, and Zila Parishad respectively. These institutions are considered as training ground of democracy and political education.

* Adapted from BPAE-102, Indian Administration, Block-4, Unit-20.

Rural development programmes are implemented at this level so that fruits of development can accrue to the community directly. There are 2,76,718 PRIs in India, of which include 2,69,347 Gram Panchayats, 6,717 Block Panchayats/ Panchayat Samitis and 654 District Panchayats/ Zila Parishads. In this context, 30.45 lakh elected members of the PRIs are contributing in rural local governance. It is to be noted that 13.79 lakh (45%) are elected women representatives (Ministry of Panchayati Raj, Annual Report 2019-2020, p.9). These institutions were established in 1959 based on the philosophy of decentralisation and gram swaraj. In this Unit, we will discuss background, structure, power and functions of the Panchayati Raj Institutions (PRIs). In addition we will explain the role of bureaucracy, financial resources, and Seventy-third/73rd Constitutional Amendment.

12.2 BACKGROUND OF PANCHAYATI RAJ

Some form of rural institutions has been in existence in the country, since the ancient period. Village formed the centre of Rural Self-Government in the early ages. They flourished during the ancient, medieval, and Mughal period as well. During the nationalist movement, establishment of self-governing institutions at the grass roots level formed a part of the nationalist ideology. Mahatma Gandhi, who led non-violent struggle for independence observed, "My idea of village swaraj is that it is a complete republic independent of its neighbours for its own vital wants and yet, interdependent for many others in which dependence is a necessity". Gandhi's ideas had pervading effect, which was reflected in the Constituent Assembly debates. The draft of Constitution did not make any reference to village as unit of self-Government. But there were many in the Constituent Assembly who felt that villages should play an important role in economic and social development. After considerable debate and discussions, Article 40 was incorporated in the chapter on the Directive Principles of State Policy. This Article calls upon the State, "…to take steps to organise village Panchayats and endow them with such power and authority as may be necessary to enable them to function as units of self-Government". The adoption of planning as a strategy for development required securing cooperation of the people in rural areas to implement development programmes.

Community Development Programme was initiated in the country in October 1952. Development Blocks were established with limited staff and funds. The aim was coordinated development of the area with the help of an extension organisation consisting of technical specialists working under the leadership of Block Development Officer. At the grass roots level, there were multipurpose workers. The finances were made available on the basis of matching contribution from the community. The intention was to use limited Government funds to stimulate action for self-help.

Advisory committees were constituted for every block for advice on the allocation of funds for development programmes. To review the working of the Community Development Programme, the Committee on Plan Projects constituted a team to study the programme and report on the content and priorities of the programme to ensure greater efficiency in their execution. The Panchayati Raj in India is broadly based upon the recommendations of a committee popularly known as Balwantrai Mehta Committee named after its Chairman. The Committee, which went into detail, felt that the Community Development Programme could not make appreciable progress, as the bodies neither had durable strength nor necessary leadership. They felt that these institutions should have representative character if they have to make any progress. The Committee believed, "…so long as we do not discover or create representative and democratic institutions and endow them with adequate power and finance, it is difficult to evoke local interest and excite local initiative in the field of development". With this basic

premise, the team made a large number of recommendations, which formed the basis for the establishment of three-tier structure of Panchayati Raj in the country.

The team felt that the district was too large and the village too small to be a unit of planning and development. For development work, a new local body with the territorial jurisdiction larger than the village and smaller than the district should be created. It opted in favour of a block, which came into existence in 1952, in preference to district. The experience of community development blocks influenced the team to favour the block. The block offered an area, "…large enough for functions which the village panchayat could not perform and yet small enough to attract the interest and service of the residents". It recommended the establishment of statutory bodies called Panchayat Samitis for each block. Below the Samiti, a Village Panchayat at the village level and above the Samiti a Zila Parishad for each district was recommended.

The team felt that the Village Panchayat should be constituted with directly elected representatives. Whereas, Samitis and Zila Parishads should be constituted with indirectly elected members. It is accepted in principle that the executive and deliberative functions should be separated. In its view, Samiti should be responsible for developmental functions; and Zila Parishad for coordination and supervisory functions. It recommended a three-tier structure. It made several recommendations about the constitution, internal organisation, functions, finances, staffing pattern as well as the arrangements for control over these institutions.

Most of the state governments had accepted the recommendations of the Balwantrai Mehta Committee, and PRIs were established. Andhra Pradesh and Rajasthan were the first to establish them in the country. The structure of Panchayati Raj that emerged in the states was substantially in tune with recommendations of Balwantrai Mehta team, though there are distinguishing differences from state to state. The Government of Maharashtra, however, appointed a separate committee with V.P. Naik as Chairman. Based on the recommendations of the Naik Committee, a three-tier structure of the Panchayati Raj was established in Maharashtra and Gujarat. In these two states, district instead of block, was considered a suitable unit for development. Therefore, districts were established as units of planning and development and Samitis were to function as the extended arms of Zila Parishad to implement development programmes. However, village continued to be the basic unit of the Panchayati Raj.

In the country, thus, two distinct patterns of the Panchayati Raj have emerged. The first was the Andhra-Rajasthan pattern, wherein block was the unit of planning and development. The development functions were entrusted to it. In second Maharashtra pattern, in the district, there was the unit of planning and development. Between these two patterns, there was variation in the structure of the PRIs in different states regarding their constitution, power, functions, nature and size of different tiers.

Both the Central and State Governments have appointed several committees and commissions for reviewing and recommending reforms to strengthen the Panchayati Raj. The Committee of Panchayati Raj appointed by the Central Government under the chairmanship of Shri Asoka Mehta in 1978, is very important as it reviewed the system of Panchayati Raj in different states. This committee, after carefully examining the factors responsible for the weakening of PRIs recommended the constitution of Mandal Panchayats in between the village and district. This, in its view, should be made the hub of development activities. The committee felt that a Mandal Panchayat with a population of 15,000 to 20,000 would facilitate forging necessary links. It made several recommendations in terms of constitution, committee system, functions, finance, etc. It recognised the utility of the direct participation of political parties in the Panchayati Raj.

Its recommendations include the measures for human resource development, training of officials and non-officials, role of voluntary agencies, strengthening rural-urban relations, etc. The states like Andhra Pradesh, Karnataka and West Bengal, made some efforts to implement the reforms suggested by the Asoka Mehta Committee. Thus, Balwantrai Mehta Committee introduced the three-tier Panchayat system and Asoka Mehta Committee made an attempt to revitalise the system.

The Janata Party, which was in power for a short period, did not find time to implement Asoka Mehta Committee Report. Indira Government did not take much interest. Rajiv Government, however, intended to revitalise the Panchayat system, and therefore introduced the 64th Constitution Amendment Bill in the Parliament in 1989. The Bill intended to accord constitutional sanction to the units of rural local self-Government. The Lok Sabha approved the Bill but it failed to get the approval of the Rajya Sabha. The Narasimha Rao Government took up the matter with the same motive, and introduced the 72nd Constitution Amendment Bill in the Parliament, and it became the 73rd Constitutional Amendment Act in 1992.

By this Amendment Act a new chapter known as Part IX has been added to the Constitution. The main provisions are: three-tier system of Panchayati Raj at village, intermediate and district level shall be introduced; Gram Sabha consisting of all voters in the Panchayat area shall be constituted; seats at all levels in the panchayats shall be filled by direct election; Members of Parliament (MPs), Members of Legislative Assembly (MLAs) and Members of Legislative Council (MLCs) will be members of the Panchayats at the intermediate or district level; and seats have been reserved for scheduled castes and tribes as well as women. In the light of this Amendment, Panchayat Acts in all states and Union Territories have been changed. The Provisions of the 73rd Constitutional Amendment have been discussed in detail in the subsequent section.

12.3 SEVENTY-THIRD CONSTITUTIONAL AMENDMENT

The constitutional status of "self-Government" has been accorded to the Panchayats under the Constitution (Seventy-third Amendment) Act, 1992. With the enactment and enforcement of the Act from 24th April 1993, the states were asked to amend this respective legislation pertaining to Panchayats to bring them in conformity with the Act by 24th April 1994. The main features of the Act are discussed below.

The Constitution of India provides for uniform system of three-tier Panchayats at the village, intermediate and district levels. But the Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs. The Panchayati Raj system exists in all states in India except Nagaland, Meghalaya and Mizoram; and in Union Territories except Delhi.

All the seats in a Panchayat are filled by persons chosen by direct elections from territorial constituencies in the Panchayat area. The Legislature of a State may, by law, provide for the representation of the MPs, MLAs and MLCs in the Panchayats at the intermediate and district level. The State may also provides for the representation of the Chairpersons of the village panchayats at the intermediate level and district levels. This will create an organic link among the three-tier panchayats.

One of the major reasons, which hampered the development of the PRI, has been the absence of regular and periodic elections within a time-frame. Hence, these institutions had unstable tenures. That is why the Act has provided for a uniform term of five years; and the elections are mandatory before the expiry of the term. In the event of dissolution,

it has been made obligatory for the State to conduct the election within six months for the constitution of a new body. This will provide continuity and strength to these institutions; and they will be able to establish themselves as an effective and strong people's institutions.

In order to ensure a genuine and meaningful participation of weaker sections of the society, the Act provides reservation for scheduled castes and scheduled tribes in the membership to these bodies at all the three levels in proportion to their population. Mere participation at the membership level may not prove to be meaningful. Therefore, the Act provides for reservation in the offices of the Chairpersons also for these categories in proportion to their population in the States. It is a unique provision and would go a long way in according a proper voice to these weaker sections in decision-making at all levels.

Women constitute half of our population. In order to give them an opportunity of participation in the local offices, not less than one-third of, the posts of Chairpersons have been reserved in their favour. These provisions would make women and weaker sections equal partners in rural development.

The Amendment has assigned an important role to the Gram Sabha. All the voters in a village panchayat area are its members. It will exercise such power, and perform such functions at the village level as the legislature of a State, may, by law, provides. The Gram Sabhas existed in all states even before the 73rd Constitutional Amendment, but they existed on paper and their role was insignificant. The institution of Gram Sabha should be revitalised to involve the people to evolve the programme from the base.

The PRIs can grow and develop, if they are provided with a strong financial base. It is for this purpose the Act provides for a system of financial transfers on a mandatory basis. A State Finance Commission (SFC) has been setup in every State, once in every five years, to review the financial position of the Panchayats and make appropriate recommendations for strengthening the resource base of these institutions. Free and fair elections in a democracy constitute the most important step in securing trust and respect from the people for any institution. Therefore, the Act provides for a State Election Commission (SEC) for superintendence, direction and conduct of all panchayat elections.

The 11th Schedule containing 29 items, e.g. agriculture, minor irrigation, fisheries, rural housing etc. is to serve as a guide to the State Government for delegating functions to the PRIs. The Panchayats have to prepare plans for economic development and social justice. The plans prepared by the Panchayats are to be consolidated by the District Planning Committee.

Another important provision of the Amendment Act is the constitution of the District Planning Committee (DPC) to consolidate the plans prepared by the Panchayats and Municipalities in the district.

The net effect of the 73rd Constitutional Amendment Act, 1992 is: a) constitutional status of Panchayati Raj Institutions; b) widening of the social base of these institutions; c) making Panchayats the foundation stone of planning; d) provision for constitutionally allocated funds for development work to be undertaken by the Panchayati Raj Institutions; and e) provision for regular and periodic elections within a time frame.

Panchayats (Extension to the Scheduled Areas) Act, 1996

The provisions of the 73rd Constitutional Amendment Act did not apply to the Scheduled Areas located in — Andhra Pradesh, Madhya Pradesh, Rajasthan, Gujarat, Maharashtra,

Himachal Pradesh, Orissa and Bihar-vide Clause (i) of Article 244 of the Constitution. The Parliament extended the Seventy-third Constitutional Amendment Act to these areas on December 24, 1996 by legislating the Panchayats (Extension to the Scheduled Areas) Act, 1996. The basic premise of the provisions of the Panchayats was to facilitate participative democracy in tribal areas by empowering the Gram Sabha, restore the power to community to manage natural resources like land, water, forest and minerals; and evolve an effective delivery system for development within its territorial jurisdiction. However, the disturbing trend is widespread apathy on the part of State Government as the number of States diluted the intent of the Act by assigning more power to the Gram Panchayat over the Gram Sabha.

12.4 PANCHAYATI RAJ INSTITUTIONS

After the 73rd Constitutional Amendment, we have in every State a three-tier Panchayati Raj structure at the village, block and district level.

Gram Sabha

An important feature of the structure of panchayats at the village level is Gram Sabha (GS). It is the supreme village assembly and sole of the PRIs, having a legal status under the law. It consists of all the adult persons registered as voters in the electoral roll of a village comprised within the area of Gram Panchayat. It has been made obligatory for the Gram Sabha to hold two to four general meetings in each year. A Gram Sabha may exercise such power and perform such functions as the Legislature of a State may by law provides. In most of the states, the Gram Sabhas are constituted as an instrument of popular participation at the cutting edge level. They are vested with the power to consider the accounts and administration of the panchayat, and approve proposals for taxation and plans for development and identifying beneficiaries under various schemes.

Gram Panchayat

Throughout the country village panchayat is the basic unit in the structure of Panchayati Raj. As Village Panchayats have been in existence in the country since ancient times, almost all states have recognised their importance. It is also felt that as panchayats are nearer to the community, they would ensure more direct participation of the people in the implementation of development programmes. All the seats in a Gram Panchayat (GP) are filled by persons chosen by direct elections from the territorial constituencies in the Panchayat area. Seats have been reserved for scheduled castes and tribes as well as women.

Panchayat Samiti

Panchayat Samiti (PS) is the next important body in the structure of Panchayati Raj. In almost all the states, Samitis have been given important role. The voters in the area directly elect their representatives in a Samiti. The State may provide representation of the Chairperson of the Village Panchayats, MPs, MLAs and MLCs. Thus, the structure of the Panchayat Samitis varies from State to State. The seats are, however, reserved for scheduled castes, tribes and women.

Zila Parishad

Zila Parishad (ZP) as the third-tier has been established at the district level in all the states. The structural pattern of the Zila Parishad is the same as in the Panchayat Samiti. The voters directly elect their representatives from their constituencies. These seats have also been reserved for scheduled castes, tribes and women. The State Legislature may provide by law representation of the Chairpersons of the Panchayat Samitis, MPs, MLAs, and MLCs.

Andhra Pradesh, Bihar, Chhattisgarh, Himachal Pradesh, Jharkhand, Kerala, Karnataka, Madhya Pradesh, Maharashtra, Odisha, Rajasthan etc. have implemented 50 percent reservation for Women.

12.5 POWER AND FUNCTIONS

Gram Panchayat

At the village level, the Panchayats are responsible for planning and implementation of the subjects mentioned in the Eleventh Schedule. These bodies have been assigned variety of functions within the limits of the funds at their disposal, to make arrangements for carrying out the requirement of sabha area. General functions of the GP include maintenance of essential statistics of the village under its jurisdiction, preparation of annual plans for the development of the GP area, preparation of annual budget, power for mobilising relief works during disaster, removal of encroachments on public places, and organising voluntary labour and contribution for community works. Other important functions are related to the development and improvement of agriculture, animal husbandry, fisheries, rural housing, drinking water, rural electrification, non-conventional energy sources, education including primary and secondary schools, adult education including primary and secondary schools, libraries, cultural activities, markets and fairs, rural sanitation, public health and family welfare, women and child development, welfare of the weaker sections, public distribution system, maintenance of community assets, construction and maintenance of dharmashalas, cattle sheds, slaughter houses, public parks, etc. The Gram Panchayats have been entrusted with both obligatory and discretionary functions. These are both civic and developmental. The main emphasis is on development activities such as agriculture, primary education, health and sanitation, and local amenities. It is generally felt that they are charged with too many functions without adequate resources.

Panchayat Samiti

The Panchayat Samiti performs necessary functions for formulation and execution of the plans. The power and main functions of PS are as follows:

i) Preparation of the annual plans in respect of the schemes entrusted to it and their submission to the Chief Executive Officer within a period of two months of its receipt for the consideration of the District Planning Committee.

ii) Consideration and consolidation of the annual plans of all GPs in the block and their submission to the ZP.

iii) Preparation of annual budget of the blocks and its submission, within time limits of the ZP.

iv) Providing relief in natural calamities or disaster.

v) Performing such functions and executing such works as entrusted to it by the Government or the ZP.

In addition, PS have been entrusted with a large number of power and functions such as land improvement and watershed development, minor irrigation, animal husbandry, fisheries, dairying and poultry, village and cottage industries, drinking water, rural electrification, khadi, etc.

Zila Parishad

The ZP is mainly an advisory, supervisory and coordinating agency of the Panchayat system. It gives advice to PS on the requirement of the Government or at the request of a Panchayat Samiti or of its own motion; coordinates and consolidates development plans in respect of PS; secures the execution of plans, project schemes etc. common to two or more Panchayat Samitis in the district; advises the Government on all matters concerning development activities and maintenance of services in the district; advises the Government on allocation of work among Gram Panchayats and Panchayat Samitis and coordinate their work; advises the Government on matters referred by the Government concerning the implementation of any statutory or executive order; and examines and approves the budget of Panchayat Samitis in the manner laid down in the Act (for example, Section 102 of the Haryana Panchayati Raj Act 1994). The Zila Parishad, under written order of the Government exercises such supervision and control over the performance of all or any of the administrative functions of the Gram Panchayat and Panchayat Samiti within the district or any part thereof.

There are two views regarding the constitutional position in respect of devolution of functions to the Panchayats. It is generally held that the Panchayats can be entrusted with the developmental responsibilities only and such responsibilities are limited by the 11th Schedule. There is another view that relies on the substantive part of Article 243 G that suggests the endowment of "…such power and authority as may be necessary to enable them to function as an institution of Local Self-Government" (The Constitution of India, pp. 133-134 https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text). This view comes to the conclusion that the 11th Schedule is not the ceiling and it is for the State legislatures to decide what power and responsibilities the Panchayats should have in order to enable them to function as an institution of self-Government.

The Ministry of Panchayati Raj through e-Gram Swaraj Portal & Mobile App will offer the Gram Panchayats a single interface to prepare and implement their Gram Panchayat Development Plan. Now, it will be convenient and easy to collect information on decentralised planning, progress reporting and work-based accounting.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) What are the major recommendations of the Balwantrai Mehta Team?

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2) Describe the three-tier structure of Panchayati Raj.

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3) Discuss the powers and functions of Panchayati Raj Institutions.

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12.6 ADMINISTRATIVE STRUCTURE

The need for efficient and competent personnel in PRIs has been recognised from the beginning. The Local Self-Government agencies have to perform several functions. They are fully involved in planning, execution, monitoring of schemes at the field level in states like Haryana, which require technical and administrative personnel. They provide continuity in the policies and programmes of these bodies because the political executives change periodically. Competent personnel are also essential to ensure non-partisan and objective decision-making.

There are two categories of personnel in PRIs, one is the State cadre officials placed under the control of PRIs viz. Block Development Officers (BDOs) and other technical officers from State Departments. Their recruitment, transfers, promotions and discipline rest with the State Government. The second is the constitution of separate Panchayati Raj cadre. It is found in Maharashtra, Andhra Pradesh and Rajasthan. Broadly in Panchayati Raj, two types of officers can be identified viz., generalist and technical officers. The Chief Executive Officer, BDOs, Village Level Workers (VLWs) come under generalist category. In addition, the District technical officers constitute the technical category. Another classification is State Cadre official and Local Cadre officials. The Chief Executive Officer, BDOs, Technical Officers, etc. belong to the State Cadre. They belong to one of the State level Departments. The State Government regulates their conditions of service. The Pragati Prasar adhikari, Panchayat Extension Officer, Clerk, VLWs etc. broadly constitute local cadre officials. They are appointed at the district level, and are considered as employees of the PRIs.

There is a large measure of uniformity in the staffing pattern in the PRIs in the country. At the village level there is a Secretary or an Executive Officer looking after the administrative work of the Panchayat. The VLW is appointed for a group of villages. S/he is mainly a multi-purpose functionary concerned with development programmes in the villages under her/his jurisdiction. At the block level, BDO acts as a Chief Executive officer and coordinates the work of officers under her/him. The Extension officers for each development activity are posted at the block level. They work under the administrative control of the BDO as well as the technical control of district level officers. This dual control has led to several problems at the block level. In the Zila Parishads, the Chief Executive Officer or District Development Officer is the Head of the ZP. The District Technical Officer assist her/him in the development work.

There are number of personnel problems as different categories of functionaries work in Panchayati Raj. They are selected by different agencies, and their conditions of service and channels of promotion are different. Often their compatibility to the Panchayati Raj

system is questioned. A number of State level officers are on deputation, they function as birds of passage without any commitment with the PRIs. Frequent transfer of officers, increasing volume of paper work, inadequate opportunities for growth and advancement are some of the problems, which are effecting the functioning of Panchayati Raj Institutions. The Panchayati Raj staff exhibit a lack of unified pattern, unsatisfactory conditions of service and lack of effective training programmes.

12.7 FINANCE

The financial resources of Panchayati Raj Institutions can broadly be divided into four categories, viz. taxes, grants and public contributions, income through productive enterprises, and loans. Taxes levied by Panchayat are both compulsory and discretionary. The Panchayats in some states collect vehicle tax, profession tax, etc. Unfortunately there has been a general reluctance on the part of Panchayats to levy and collect the taxes. Here, the Government grant is another source of income to Panchayat. In most of the states, Panchayats survive only on the Government grants. There is, however, no uniformity in the nature and quantum of grants. The Panchayats derive income from productive enterprises like Cinema halls, flour mills, etc.

The Panchayat Samitis, in many states, also have power of taxation. They can levy house tax, irrigation tax, education tax, etc. But, rarely this power of taxation is exercised. These Samitis also receive grants from the Government and there are variations between State to State in the nature and quantum of grants. In some states, where functions like education have been transferred to Samitis, they are given grants to undertake these functions. The Zila Parishads undertake coordinating functions. Therefore, their finances mostly, consist of grants received form the State Government and the assigned revenues. The funds of the Parishad come mainly from the share of the land revenue and other taxes assigned to them by the Government.

A serious problem with PRIs is that they have always been starved of finances. Inadequacy of finances is one of the basic reasons for their inability to undertake the development functions. Though, they are considered as principal agencies of rural development, they are not given adequate resources. In almost all the states, there has been heavy dependence of the PRIs on the State Grants. The quantum of grants is mostly determined by the State Government.

The taxes, duties and fees to be levied by the Panchayats are assigned to them and the grants-in-aid to be given to them have been left to the discretion of the State Governments. But after the 73rd Constitutional Amendment, we have a Finance Commission in every State, and it is constituted once in every five years. The State Finance Commission is to make recommendations regarding the principles to govern the distribution of the taxes, duties, tolls and fees between the State and Panchayats, and also its distribution between the Panchayats at all levels. The Commission also suggests the principles for determination of the taxes, duties, tolls and fees to be assigned to them; and the grants-in-aid to be given from the Consolidated Fund of the State. It also has the mandate to suggest ways and means of improving the financial position of the Panchayati Raj Institution.

The Panchayats mainly rely on fiscal transfers from the State government in the form of shared taxes and grants. As taxes are shared according to the recommendations of the State Finance Commission (SFC), therefore constitution of the SFC (*for more details, study Unit 7on State Finance Commission*) at a regular interval of the five years is a mandatory requirement. In this regard, most critical function of the Commission is to determine the fiscal transfer from the state to local government in the form of revenue sharing and grants-in-aid. It is to be noted that the Fourteenth Finance Commission

(2015-20) had allocated grant of Rs. 2,00,292 crore to the Panchayats. Thus, there is an increase in the share of untied resources for Gram Panchayat. As far as states are concerned, in Tamil Nadu, Fourth Finance Commission (2012-17) had recommended Rs. 10,337.58 crores for Village Panchayats, Rs. 5,620.04 for Panchayat Unions and Rs. 1,405.02 for District Panchayats, that is, total Rs. 17,362.64 crores (Panchayati Raj: Funds Release to Rural Local Bodies, https://tnrd.gov.in/fundsrelease.htm). With increased devolution to local governments, the Gram Panchayats have used the funds judiciously.

12.8 AN APPRAISAL

Panchayati Raj Institutions in India have completed six decades of their existence. Its introduction was considered as a social revolution and an answer to several problems afflicting the rural society. A question that is often raised is whether Panchayati Raj is successful or not? There are two viewpoints on this: Protagonists of Panchayati Raj argue that it is successful and has achieved its objectives. On the other hand, critics argue that it has failed to realise its objectives. The Panchayati Raj had its ups and downs. It has passed through the phases of ascendance, stagnation and decline. Protagonists argue that Panchayati Raj has become a democratic seed drilling by making the people conscious of their rights. It has bridged the gap between the bureaucracy and the people. It has also generated a new leadership, which is young, forward looking and modern. It has even cultivated a development psyche among the people. It has played a positive role in initiating and implementing the development programmes. At many places, political base has been used to provide the needed impetus to implement development programmes. It has opened a new type of leadership in the rural areas. These leaders trained in the art of democratic institutions have climbed the ladder and have become political executives at the higher echelons of democratic institutions.

A question often raised is whether there has been sufficient transfer of power to the local bodies or not? The Panchayati Raj Act has no doubt specified the power and functions of each of the tiers of Panchayati Raj. They were expected to formulate plans based on local needs and implement them. But unfortunately, local bodies began formulating plans in a mechanical and routine way without taking into consideration the local requirements. One reason attributed to this is the narrow resource base of the Panchayati Raj Institutions, which does not enable them to take all the local needs, and plan for their fulfilment. In addition, a major criticism is that the leadership is drawn from a narrow social base. It is alleged that the majority of them come from dominant land owning castes and classes and dominate. Thus, in some areas, the economically and socially privileged section of the society is enjoying benefits and yielding no benefits to weaker sections.

Coordination is sine-qua-non for efficient administration of development programmes. Unfortunately, it appears to be one of the serious problems facing Panchayati Raj. The dual control over extension officers, inadequate integration of development departments and Panchayati Raj Institutions are some of the reasons attributed for the failure of coordination. Emphasis is on cumbersome administrative procedures, which affect the initiative and hamper the process of implementation. There appears to be more emphasis on rule mindedness than on roles to be performed. This has resulted in delays in the execution of development programmes. Red tape is dampening the initiative of people's representatives as well.

The PRIs, particularly, at the grass roots level, concentrated on civic amenities. There appears to be enthusiasm in the construction of school buildings than running the schools effectively. Though civic amenities and infrastructure are important, extension cannot

be totally ignored. Another problem area is that the welfare or weaker sections, which either for want of commitment or for wants of resources, does not seem to have received proper attention by the PRIs.

Panchayati Raj notwithstanding these limitations has provided the needed impetus in democratising rural-local institutions. It has generated interest and enthusiasm among the rural people. This enthusiasm unfortunately is not matched by support from the higher levels and is not supplemented by matching resources.

A study has been conducted to assess the enabling environment that the states had created for the Panchayats to function as institutions of self-government. The analysis began with a test whether states/union territories have fulfilled the selected mandatory provisions of the constitution, which are mentioned below:

i) Holding regular elections of panchayats in states;

ii) Establishment of State Election Commission in states;

iii) Setting up of District Planning Committees in states;

iv) Establishment of State Finance Commission at regular intervals in the states; and

v) Reservation of seats for SCs/STs and women at all levels of PRIs in states.

When the enabling environment created by a state is compared with that of other states in terms of monitorable indicators it has been observed, "Maharashtra is ranked first with a value of about 69.65 followed by Kerala(60.87), Karnataka(60.82), and Tamil Nadu (56.05). Maharashtra is well ahead of the rest with score close to 70, whereas, Kerala and Karnataka are extremely close to each other with a score of about 61. Tamil Nadu has scored about 55. Further, Chhattisgarh, West Bengal and Rajasthan are ranked sixth, seventh and eighth with scores near 53. It may be noted that Tripura is the only north eastern state that has secured scores close to 45 which is above the national average of 43.36" (Alok, Kurukshetra, pp. 45-46). Thus, it is evident from the above study that none of the states had achieved complete devolution from states to panchayats even after more than two and a half decades of the enactment of the 73rd constitutional amendment.

If we are committed to the cannons of democracy, there is a need for effective self-governing institutions at the local level. Success of Panchayati Raj would strengthen the democracy in the country and their failure will weaken it. Democracy cannot stop at National and State level. If democracy is to survive, strengthening of democratic institutions and their proper functioning at the grassroots level is an imperative necessity. To ensure efficient and effective service delivery, accessibility and reach, there is an urgent need for improving the responsiveness of the local bodies to the citizens, which could be enhanced through:

- Proper delegation of functions;
- In-house mechanism for redressal of public grievances;
- More transparency in administrative system; and
- An effective system of social audit at all levels of local self-government to ensure accountability and transparency in the PRIs.

In this regard, setting up of effective Common Service Centre at each Gram Panchayat level will contribute in creation of sustainable rural entrepreneurship and redefining governance; and transforming India into digitally and socially empowered society. The

efforts of Ministry of Panchayati Raj will bring result on the basis of joint efforts of State Government, Panchayati Raj Institutions and citizens in empowering rural masses digitally. Thus, continuous efforts are required to make people digital friendly and Panchayats technologically savvy to promote effective planning , and governance at the grassroots level; and strengthening the PRIs as institutions of self-governance.

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Explain the administrative structure of Panchayati Raj Institutions.

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2) What are the different financial resources of Panchayati Raj Institutions? Are they sufficient for them to undertake their functions?

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3) Evaluate the performance of Panchayati Raj system.

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12.9 CONCLUSION

Panchayati Raj has been heralded as a social revolution in the country. It was established in the country on the basis of the Balwantrai Mehta Committee's recommendations. In this Unit, the recommendations of Balwantrai Mehta Committee, Asoka Mehta Committee and 73rd Constitutional Amendment have been emphasised. These Institutions were in a moribund stage for years together. By the 73rd Constitutional Amendment Act, 1992 Panchayats have been given a constitutional status. In addition, the role of Panchayati Raj Institutions (PRIs), administrative structure and financial resources have been described. What is heartening is that there has been a realisation on the need and significance of Panchayati Raj to strengthen the democracy and governance at the grassroots level. It can be stated that though none of the states had achieved complete

devolution from states to Panchayats, but the 73rd Constitutional Amendment has provided continuity and space for vulnerable groups and women in these institutions. The studies revealed that these institutions could not perform effectively in most of the states. Even states have not performed their duties as expected to strengthen the Panchayats as rural self- government. In this context, the Union Government and state governments must contribute effectively to conscientise the citizens, administrators, political leaders and civil society to strengthen the institutions of self- government through joint efforts. In addition, proper devolution of funds will bring effectiveness, responsiveness and efficiency in delivery of public services. The trust of State Government on Village Panchayat and Gram Sabha; and flexibility to utilise funds will result in achieving Sustainable Development Goals and all round development.

12.10 GLOSSARY

Directive Principles of State Policy : Part IV of the Indian Constitution consists of these principles. They are obligations of the State towards its citizens. Though, these are not enforceable by the courts. The State is expected to apply these principles while making laws.

Gram Sabha : It is the lowest administrative body at the village level, consisting of adult members residing in that area.

Periodic Audit : Examination of the accounts of the Panchayati Raj bodies at regular intervals to ensure that the money has been spent in a proper manner to fulfill the purpose for which it was asked.

12.11 REFERENCES

Alok, V.N. (July 2018). "Strengthening of Panchayats through Devolution". *Kurukshetra: A Journal of Rural Development*, 66 (9), pp. 45-46.

Arora, R.K. & Goyal, R. (2013). *Indian Public Administration: Institutions and Issues.* New Delhi, India: New Age International Publishers.

Arora, R.K. (1999). *Indian Administration: Perceptions and Perspectives*. Jaipur, India: Aalekh Publishers.

Bhattacharya, M. (2000). *Indian Administration.* Kolkata, India: World Press.

Choudhury, R.C. & Rajakutty, S. (1998). *Fifty Years of Rural Development in India: Retrospect and Prospect* (Vol. I & II). Hyderabad, India: National Institute of Rural Development.

Government of India, Second Administrative Reforms Commission (Sixth Report). *Local Governance: An inspiring journey into the future*. Retrieved from https://darpg.gov.in/sites/default/files/local_governance6.pdf

Government of Tamil Nadu, Rural Development & Panchayat Raj Department. Panchayati Raj: Funds Release to Rural Local Bodies. Retrieved from https://tnrd.gov.in/fundsrelease.htm

Jha, S.N. & Mathur, P.C. (1999). *Decentralization and Local Politics*. New Delhi, India: Sage Publications.

Maheshwari, S.R. (2001). *Indian Administration*. New Delhi, India: Orient Blackswan Private Limited.

Mishra, S.N, Mishra, A.D. & Mishra, S. (2003). *Public Governance and Decentralisation*. New Delhi, India: Mittal Publications.

Nandini, D. (2005). *Relationship between Political Leaders and Administrators*. New Delhi, India: Uppal Publishing House.

The Constitution of India. Retrieved from https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text

12.12 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:

- Recommendations of the Balwantrai Mehta Team formed the basis of three-tier structure of Panchayati Raj in India.
- Creation of a new local body with the territorial jurisdiction larger than the village and smaller than the district.
- The committee favoured the creation of block, which would undertake functions that the Gram Panchayat cannot perform and would attract the interest and service of residents. It recommended establishment of Panchayat Samiti for each block.
- There should be a Gram Panchayat, Panchayat Samiti and Zila Parishad.
- Separation of executive from deliberative functions.

2) Your answer should include the following points:

- Gram Panchayat is the basic unit in the structure of Panchayati Raj. It is entrusted in most of the states, with both civic and developmental functions. The Gram Panchayat is Headed by a Sarpanch. It is representative and elective body consisting of directly elected members.
- Panchayat Samiti, at the block level, is an important unit vested with planning and development functions. The members of the Samiti are elected both directly and indirectly.
- Zila Parishad is established at the district level and is entrusted with supervisory and co-ordination functions.

3) Your answer should include the following points:

- Refer Section 12.5

Check Your Progress 2

1) Your answer should include the following points:

- Presence of two categories of personnel in the Panchayati Raj Institutions.
- The first category comprising State Cadre officials placed under the control of Panchayati Raj. These include generalist officers like BDOs and other technical officers from State level departments.

- The second category of personnel system is the constitution of separate Panchayati Raj cadre. This has local officials such as village level workers and school teachers who are appointed at the district level.

2) Your answer should include the following points:

- Refer Section 12.7

3) Your answer should include the following points:

- Refer Section 12.8

UNIT 13 MUNICIPAL ADMINISTRATION*

Structure

13.0 OBJECTIVES

After studying this Unit, you should be able to:

- Describe the trends in urbanisation in India;
- Discuss the constitution and composition of Municipalities in India;
- Explain the role of Political Executives and Commissioner;
- Highlight the status of municipal personnel; and
- Examine the adequacy of financial resources and working of Municipal Administration.

13.1 INTRODUCTION

In the developing countries, the Colonial Governments during the period of their domination established several statutory institutions. Among them Urban Local Self-Government institutions are most prominent. Ever since the establishment of Madras (Chennai Municipal Corporation) four centuries ago, there has been a proliferation of municipal bodies to manage the town and city. Lord Rippon's resolution in 1882 sought to place these Urban Local Government institutions on a sound organisational footing. They have been working with different degrees of success in administering the city. In this Unit, we shall discuss the nature of urbanisation in India, different types of urban local bodies, administrative structure, municipal finance and impact of the 74th Constitutional Amendment on efficiency and effectiveness of municipalities in service delivery.

* Adapted from BPAE-102, Indian Administration, Block-4, Unit-19.

13.2 URBANISATION IN INDIA

An Urban area is one, which is formally so declared through the statutory establishment in that area of a municipal body, a notified area or a cantonment by a definite legislation. Thus, there are Municipal Acts in different States under which municipal bodies are set-up by the State Governments in specific areas. Cantonment areas are governed by the Central legislation. There can be other areas also that can be declared as "urban" by the census authorities.

The urban population, which was around 3 per cent at the beginning of the 19th Century rose to about 10 per cent by the beginning of the 20th century. Between 1901 and 1921 urban population grew very slowly, that is, it rose from 25.6 million to 27.6 million and between 1921 and 1941 population rose to 43.5 million. But after 1941, the growth rate gained greater momentum adding to its urban population. From 1961 onwards there has been a dramatic increase in the urban population of the country. In 1961 the urban population stood at 77.5 million and by 1981 it had more than doubled to make it 109.6 million constituting about 23.7 per cent of India's total population. On the basis of census calculation it can be said that India's urban population has been rising steadily. In 1971 total urban population in India stood at 109.11 million, which rose to 159.46 million in 1981, and 218 million in 1991. During 1971-81 decade India's urban population increased approximately 5 million per annum, or at an average annual growth rate of 3.87 per cent compared to the growth rate of 1.78 per cent for the rural population. In 1991 census, country's total urban population stood at 217.18 million and the average annual growth rate during 1981-91 was 3.09 per cent. Between 1988 and 2001 the projections estimate India's urban population to become almost double and from 2001 to 2021 it is expected to double again taking the urban population to more than 600 million.

India recorded a population of 1,382,271,004 (as on 1st September 2020). The data indicates that 65 per cent persons were recorded in rural areas and remaining 35 per cent in urban areas. (India Population, live, *worldometers.info*).Urban population growth is supposed to be an indicator of general economic development. Delhi is the most urbanised state in India with over 97 per cent of its population being Urban (top 10 Urbanised states of India, *Cesus2011.co.in*). Amongst the other major States, the most urbanised is Tamil Nadu with 48.4 per cent urban population. Maharashtra has the maximum urban population but is the third most urbanised State with 45.2 per cent Urban Population. Kerala is second most urbanised State having 47.7 per cent urban population. The Himachal Pradesh is least urbanised (most Rural) State having 10 per cent followed by Bihar (11.3 per cent), Assam(14.1 per cent) and Odisha earlier known as Orissa (16.7 per cent) (Ministry of Housing and Urban Affairs, Level of Urbanisation, 45.2%, *mohua.gov.in*).

In India, lack of employment opportunities in the rural areas has led to city-ward migration of large rural population, which is commonly known as the "push" factor of urbanisation. The migrants generally choose to settle in large cities where, as a consequence, population increase is not matched by planned infrastructure development. Roads, water supply, housing, drainage and sewerage, transportation facilities- all suffer from short supply in the face of mounting population pressure. Our large cities like Kolkata, Mumbai, Delhi etc. are all having large slum population and there is chronic shortage of essential civic services and facilities in these cities.

There has been a notion that India is an over-urbanised State, because of their substantial increase in population over the years. This thesis is advanced on the ground that there is a mismatch between the levels of industrialisation and urbanisation. The process of

urbanisation is costly and impinges upon the economic growth. The State of infrastructure is poor and is not in a position to take the growing urban pressure.

13.3 SEVENTY-FOURTH CONSTITUTIONAL AMENDMENT

Far reaching changes have been brought about for both municipal Government and Panchayati Raj Institutions through the two Constitutional Amendments: the Seventy-third (73rd) Constitutional Amendment Act, 1992 for Panchayati Raj, and the seventy-fourth (74th) Constitutional Amendment Act, 1992 for Municipal Bodies.

The Constitution of India provides for the constitution of three types of institutions of Urban Local Self-Government. These are Municipal Corporations in larger urban areas, Municipal Councils in urban settlements, and Nagar Panchayats in "transitional" areas, which are neither fully urban nor fully rural. In addition, it provides for decentralisation of municipal administration by constituting Ward Committees in territorial areas of such municipalities, which has more than three-lakh population.

Composition

The Municipal authorities are to be constituted of:

- The elected representatives, who are to be elected from different electoral wards;
- The Members of the House of the People and the Legislative Assembly of the state representing Constituencies, which are wholly or partly under the municipal area; the members of the Council of State and the State Legislative Council who are registered as electors within the municipal area;
- Chairpersons of the Committees of the municipal authorities; and
- Persons having special knowledge or experience in municipal administration (without right to vote).

The Ward Committees are to be composed of members of the Municipal Council representing the wards within the jurisdiction and one of the elected representatives from within the wards is to be appointed as its Chairperson. But the constitution gives discretion to the State Government to decide the composition.

Another important provision of the Constitutional Amendment pertains to the municipal authorities, right to exist. It gives a term of five years, to the municipalities and if at all they have to be dissolved, they must be given an opportunity of being heard. Even if they have to be dissolved because of any irregularity, fresh elections are to be held within six months. This prevents the phenomenon of prolonged supersession or years together.

Empowerment of weaker sections of society and women is one of the substantive provisions of the Constitution Amendment. With a view to empowering the scheduled castes and tribes as well women, it provides for the reservation of seats in the Council. Besides such reservations, the most important provision of the Constitution Amendment is empowerment of women for which one-third of the total seats are to be reserved.

To keep the municipal elections out of the direct control of the State Government, and to ensure free and fair elections to the municipal bodies, the Constitutional Amendment has provided for an independent State Election Commission (SEC) consisting of an Election Commissioner to be appointed by the Governor.

The most important feature of the Seventy-Fourth Constitutional Amendment, in financial sphere, is the mandatory constitution of Finance Commission by the State Government once in every five years. The State Finance Commission is to make recommendations regarding the principles to govern sharing of the State taxes, fees etc. between the State Government and the Municipalities; and also its distribution among the municipalities. The Commission also has to suggest the principles for determination of taxes and fees to be assigned to them and the grants-in-aid to be given to the municipal authorities out of the Consolidated Fund of the State. It also has the mandate to suggest ways and means of improving the financial position of the municipal authorities.

Moreover, the need for non-plan funds of the Municipalities is now to be looked by the Union Finance Commission as well. Federal transfers will now be available also for the municipal authorities. This is an amendment of far reaching importance.

The Constitutional Amendment provides for setting up of the District Planning Committee to consolidate the plans prepared by the Municipalities and the Panchayats within the district; and to prepare a draft development plan for the district as a whole. The municipalities are to be represented on it. Plans so prepared are to be forwarded by the Chairperson of the Planning Committees to the State Government. Similarly, Metropolitan Planning Committees are to be setup in the metropolitan areas on which the municipal authorities are to be represented.

The 74th Constitutional Amendment is a landmark legislation that, for the first time, accords constitutional status to the Municipal Government and provides for broader social participation in local councils, people's involvement in civic development, and enlargement of functional domain by inserting the Twelfth Schedule, continuity through regular elections and regular funds flow from the higher level Governments. The other important dimension is constitutional recognition of micro-level planning coordinated by the District Planning Committee. These are the brighter aspects of the Amendment.

There are, however, the grayer areas as well. It has missed a valuable opportunity to specify the functions and also the sources of local revenues. This would have prevented the State encroachment into these spheres.

13.4 URBAN LOCAL SELF-GOVERNMENT

Following the 74th Constitutional Amendment Act, 1992 Urban Local Self-Government in India has been classified into three types-Municipal Corporations, Municipalities and Nagar Panchayats. We are familiar with the names of the-Kolkata Municipal Corporation, Delhi Municipal Corporation and similar other Corporation in our big cities. In the small and medium towns, there are Municipalities that are sometimes called Municipal Boards or Municipal Committees. Where a place is neither fully rural or fully urban, and it is going through a process of urbanisation because of industrialisation or location of big development projects, a notified area committee or a town committee used to be setup as an interim measure. Under the 74th Constitutional Amendment a Nagar Panchayat shall be setup on such "transitional areas". Indeed, an urban area, irrespective of its size, needs a local Government for the provision of civic services and facilities such as water supply, garbage clearance, construction and maintenance or roads. These are some of the important services that an Urban Government has to provide to sustain civic life in an area. The Municipal Corporation, Municipal Council and Municipal Committee/Nagar Panchayat as per the size of the area provide these services.

i) MUNICIPAL CORPORATION

The administration of civic affairs in a city is a challenge. The distinct characteristic of a

city is the huge concentration of population within a limited area. The management of civil services therefore, requires an effective organisational structure, adequate finance and efficient personnel. The Municipal Corporation as a form of City Government occupies the top position among the local authorities in India. Normally, the Corporation form of urban Government is found in major cities like Mumbai, Delhi, Kolkata, Chennai, Hyderabad, etc.

Municipal Corporation is established through a special statute, which is passed by the State legislature. In case of Union Territories, they are established through Acts passed by the Parliament. Such legislation may be enacted especially for a particular Corporation or for all Corporations in a State, for example the Mumbai and Kolkata Corporations were established through separate legislation. Whereas in Uttar Pradesh and Madhya Pradesh, State level legislation governs the working of the Corporation. The Municipal Corporation generally enjoys a greater measure of autonomy than other forms of local government. In almost all the states, the Municipal Corporations have been assigned numerous functions such as supply of drinking water, electricity, road, transport services, public health, education, registration of births and deaths, drainage, construction of public parks, gardens, libraries, etc. These functions are normally divided as obligatory and discretionary.

In Haryana, there are 10 Municipal Corporations (MCs). The MC is constituted for governing the area. It has both elected and nominated (ex-officio) members. Under the amended municipal law of the State, election to the municipal bodies must take place every five years, unless a municipal body is dissolved earlier. Earlier, the Mayor was elected by the members of the Corporation from amongst themselves in Haryana. Now, voters elect the mayors directly. For the first time, in December 2018, the Mayors were directly elected by voters in Hisar, Rohtak, Yamuna Nagar, Panipat and Karnal.

Mayor

In view of the importance of the city, the Mayor who is first citizen of the city is a Political Head. S/he presides over the meetings of the Corporation and generally exercises limited administrative control over the working of the Municipal Corporation. General pattern in India was that the Council elects the Mayor. The Mayor of Mumbai Municipal Corporation is elected by the Corporation from amongst the Councilors for 2.5 years from the date of election. Normally, the Mayors are ceremonial Heads. The rural-urban relationship committee, which went into the problem of power for the Mayor did not favor any substantial increase. If the Mayor is to be elected by the votes of the entire city enjoying five years term as in Andhra Pradesh, there is a need to reconsider the age-old practice of keeping the mayor only as a figure Head with ceremonial functions. However, in Bihar, Jharkhand, Madhya Pradesh, Odisha, Uttarakhand etc. the Mayors are directly elected by voters and, thus, hold the executive powers of the Municipal Corporation, degree of power varies from State to State.

Commissioner

The institution of Commissioner was created for the first time in 1888, based on the philosophy that the policy-making and policy implementation functions in cities need to be separated. This was later recommended by the Decentralisation Commission in 1909. Municipal Commissioner is the Chief Executive Officer of the Corporation. S/he has responsibilities for the administration of the city and implementation of policies and programmes decided by the Council. The State Government appoints the Commissioner. Normally, s/he is a senior officer who belongs to the Indian Administrative Service. The Commissioner exercises wide functions in administrative and financial areas. S/he participates in the meeting of the Corporation and Committees and answers the questions

raised by the Councillors. S/he acts as a link between the Government and Corporation. S/he has wide power of appointment and discipline; and also supervision and control over the personnel. S/he also exercises financial discretionary and emergency power. In all these areas, there are variations from Corporation to Corporation.

ii) MUNICIPAL COUNCIL

Every State in the country has enacted legislation for the constitution of the Municipalities in the State specifying their functions, structure, resource and their role in civic administration.

Smaller urban areas are governed by elected municipal bodies known as Municipal Councils. Any municipal areas with 3,00,000 population must form Ward Committees to ensure true people's participation in the governance of the area.

Ward Committees

Ward Committees provide citizens' participation in the urban governance and bring the municipal governance closer to the people. In this regard, Article 243 S(1) provides for the constitution of Ward Committees in all Municipalities, which have a population of 3 lakhs. It provides that two or more wards could be combined for the purpose of constitution a Ward Committee. The composition, territorial jurisdiction and the manner in which the seats of Ward Committees have to be filled, has been left to the hands of State Legislature.

iii) NAGAR PANCHAYAT

Those urban areas, which are undergoing transition from the rural area to urban area are governed by Nagar Panchayat, the members of which are elected by the resident citizens of the area concerned.

COMPOSITION OF MUNICIPALITIES

The membership of Municipalities consists of two categories of Councilors, viz., directly elected Councilors and nominated ones. The number of elected Councilors varies according to the size of the population of the territorial area of the Municipal Corporation, Municipal Council or Municipal Committee. In the case of nominated members, the State law needed to specify the conditions and procedures for nomination of such representative. The nominated members include the Member of the House of People (Lok Sabha) that of the Legislative Assembly of the State representing constituencies, which are wholly or partly under the municipal area; Member of the Council of the States (Rajya Sabha) and of the Legislative Council of the State who are registered as electors within the municipal area; Chairpersons of committees of the municipal authorities; and persons having special knowledge or experience in municipal administration but do not have the right to vote in the meetings of Council. In the subsequent Section, we will explain the Mayor-in-council System in West Bengal.

Mayor-in-council System

When the Left Government came to power in West Bengal in 1977, the task of municipal reform was taken up seriously. A new Bill for the Kolkata Municipal Corporation was introduced in 1979 in the legislature. It provided for, among other things, a Mayor-in-Council as the political executive in the new corporation. The new Act known as the Kolkata Municipal Corporation Act (1980) has since been enforced.

In a way, the new Act seeks to resume the old thread of supremacy of the political wing in Corporation Government, which was what Surendranath Banerjee called "Swaraj" in 1923. The new legislation for the Municipal Government of Kolkata marks a turning point in the history of Municipal Government in India. It reflects a political mood to keep with in step with the form of change. Again, the chief functionaries of the Corporation of Kolkata like the Mayor, Deputy Mayor or members of the Standing Committees so long elected for a year at a time could hardly ensure a continuity of administration and left matters mostly to bureaucratic machineries. This also needs to be turned to the trend of democratisation of self-Government institutions.

The Kolkata Municipal Corporation

Under the Kolkata Municipal Corporation Act, 1980, three Municipal authorities have been provided for, viz., (a) the Corporation, (b) the Mayor-in-Council and (c) the Mayor.

The Corporation is a body consisting of elected Councilors, some alderman and a few ex-officio members. The Mayor is elected for five years from among the elected members of the Corporation. S/he may be removed from the office by the same body under special circumstances. S/he will continue in office till her/his successor takes over.

The Act creates a Cabinet like Mayor-in-Council consisting of the Mayor, the Deputy Mayor and not more than ten other elected members of the Corporation. The Mayor from among the elected members of the Corporation nominates the Deputy Mayor and other members of the Council. The Mayor may also remove them. The Mayor-in-Council is collectively responsible to the Corporation.

There is also a Chairman of the Corporation. The elected members of the Corporation, from among the members elect her/him for five years. S/he convenes the meetings of the Corporation, and presides over them like a Speaker of the Legislature.

There is also a single statutory committee, the Municipal Accounts Committee. The essential function of this Committee is like the Public Accounts Committee of the legislature to examine the accounts of the Corporation scrutinize the reports on the accounts by the auditor and to submit report to the Corporation every year.

Borough Committee

Another important feature of the new Act is the provision for a second tier administration in the form of Borough Committees. The design is moved by the desire to create local administrative units that would be easily accessible to the citizens for their day to day requirements.

Ward Committee

In conformity with the requirements of the 74th Constitutional Amendment Act, the Corporation of administration has been further decentralised by creating a third tier below the Borough Committee, that is, a ward committee in every Ward or electoral constituency.

Now, the Commissioner is the principal executive officer of the Corporation. S/he has to function under the supervision and control of the Mayor.

The Mayor-in-Council form of Government has been introduced in all the Municipal Corporations in West Bengal.

Check Your Progress 1

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Describe the trends of urbanisation in India.

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2) Discuss the important features of the 74th Constitutional Amendment.

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3) Explain the structure of Urban Local self-Government in India.

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13.5 URBAN DEVELOPMENT AUTHORITIES

Urban Development is very complex and accordingly the strategies for developing urban areas are multi-faced. One of the problems of urban areas today is to prevent haphazard and unplanned physical growth in and around them. When the municipal areas at many places cross their boundaries due to unplanned development of peri-urban area, the improvement of living conditions in these areas and their vicinity becomes imperative. But the municipal agencies are unable to solve this problem due to jurisdictional, legal and financial limitations. There are only two ways of controlling it, either to extend the municipal boundaries and strengthen them administratively and financially, or to have a separate agency with more power and finance. The Estimates Committee of the Fifth Lok Sabha recommended the setting up of development authorities for the rapidly growing cities and major town to achieve a planned development. The Planning Commission also indicated the desirability of structural innovations in urban local Governments during the Fifth Plan. This led to the constitution of urban development authorities for various metropolitan and other cities. The Delhi Development Authority was the first to be setup in 1957. The urban development authorities are expected to plan, control, and coordinate development programmes in

and around metropolitan and other big cities. The following are the major objectives of the authorities:

- To prepare and implement plans for development of the area.
- To prepare zonal development plans for the zones into which the development area may be divided.
- To Control the use of land for various purposes.
- To carry out development work and provide infrastructural facilities.

Broadly speaking, the urban development authorities have regulatory planning and promotional functions. They have to regulate and check the unplanned growth of cities and towns. They have to ensure orderly and planned utilisation of land in accordance with the master and zonal plans. They supplement the development activities of the Municipalities and Corporations. These urban development authorities face several bottlenecks in the discharge of their functions. These include problem of coordinating between the development authority and the Corporation or Municipality, inadequate resources and lack of sufficient and competent technical staff.

13.6 ADMINISTRATIVE STRUCTURE

Competent personnel are essential for the efficient management of civic services. Failure to recruit suitable personnel was attributed as one of the reasons for inefficient and poor image of the Municipalities in the country. Three broad types of personnel systems prevail in India. Sometimes they are adopted in combination. Firstly, the Integrated Service in which personnel is interchangeable between the State Government and Municipalities. In this, the officers of the State Government and Municipalities form a part of the same service and are transferable between them. Secondly, there is a Unified Local Government Service in which all or same categories of personnel of Municipalities constitute a career service for the entire state. The personnel of this service are transferable from one municipality to another. It is administered and controlled by State level agencies. Thirdly, separate personnel system in which Municipality appoints and administers the personnel. They are not automatically transferable to other Municipalities. This practice is prevalent in most of the western countries.

Personnel system in which Municipalities may belong to any one or all the three categories, have certain distinct advantages as well as disadvantages. The chief merit of the integrated service system is that there is no distinction between State and local services. Therefore, Municipalities can draw upon the services of suitable officers from the State Government. As they belong to the State cadres, these officers feel that they are independent of the local body and do not develop any identity with the Municipality. Under the Unified System there is scope for specialisation in municipal offices as recruitment is made specifically for the local bodies, they are transferable from Municipality to Municipality. Therefore, they gain experience. This system is criticised on the ground that it weakens the control over the officers working under it.

The separate Personnel System, viewed from the point of view of autonomy of local bodies is ideal. In this system, Municipality can exercise total control over the officers. Under this system there is no scope for divided loyalties, which strengthened the identity between officers and the Municipality. The Municipal Acts generally prescribe the source of recruitment of various categories of personnel. The State Governments are not only creating cadres of municipal services but are also laying down the service conditions. In the urban local bodies, there are two different categories of officials. Firstly, the

administrative component consists of the Commissioner, Officers, and general administrative staff. Second category is of the technical officials like Engineers, Health Officers, Town Planners, Finance Officers, etc. depending upon the categorisation of Municipality, its resource base and the requirements, the number as well as the level of specialisation of officers is determined. To support the administrative and technical officers, there is a large body of operational staff like sanitary inspectors, tax inspectors, assistants, conservancy staff, etc. Local bodies are unable to attract competent people because of the poor resource base. The officials coming on deputation from other State level Departments consider it a punishment rather than a pleasure. Another problem is that of relations between administrative officials and the Chairman and the Councillors. Unless cordial relationship exists between them, the administration will suffer badly.

13.7 FINANCE

Urban local bodies require adequate resources to undertake their obligatory and discretionary functions stipulated in the Act. The Municipal Authorities get their income primarily from their own sources, that is, the tax and non-tax sources, which have been assigned by the State Government and are mentioned in the Municipal Statutes.

Receipts of Municipalities can be broadly classified as follows:

- "Tax Revenue - property tax, advertisement tax etc;
- Non-Tax Revenue - income in terms of rent, royalty, interest, fees and profits/ dividends, user charges for public utilities such as water, sewage etc;
- Devolution of funds from the State Government;
- Grants from Union and State Governments for development schemes; and
- Borrowings" (Government of India, Second Administrative Reforms Commission (Sixth Report) *Local Governance: An inspiring journey into the future*. https://darpg.gov.in/sites/default/files/local_governance6.pdf).

Thus, the resources of local bodies come from both internal and external sources. To understand it in detail, we will discuss the resources of ULBs in Bihar, which are primarily based on their own revenue, Union Finance Commission/State Finance Commission transfers, and scheme transfers for the agency functions. Own revenue of the ULBs is well below the All India Average (i.e. 13.2% vs. 32% in the total revenue). A State Finance Commission recommends upon revenue sharing between the State and LSGs as well as other related fiscal and governance issues. In this regard, just to quote an example, the 4th SFC of Bihar has submitted its report for the period 2010-2015 in June, 2010. The salient recommendations of the 4th SFC included: i) 7.5 per cent of the State's own tax revenue to be devolved to the LBs; ii) Devolved amount has to be shared 70:30 between the PRIs and the ULBs; iii) 30 percent devolution to the ULBs has to be distributed among the ULBs on the criteria of: *a)* 60 per cent weight to the population, *b)* 20 per cent weight to the area and (c) 20 per cent weight to the number of BPL families; iv) Consolidated grant of Rs. 5 crore p.a. to the PMC, Rs.1.00 crore p.a. to Municipal Corporations, Rs. 0.50 crore p.a. to Municipal Councils and Rs. 0.20 crore p.a. to Nagar Panchayats; v) First charge on the grants has to be on filling the gaps in the cost of priority activities: water supply, sanitation, abolition of manual scavenging, parking places etc. The second charge has to be on the purposes consistent with the functions given in the Local Bodies Acts; vi) ULBs have to become financially self-reliant by raising their own resources, putting their assets to profitable use and adopting Public-Private Partnership; vii) State Government has to notify maximum limit of taxes; and viii) Accounting format and accounting manuals prescribed by CAG has

to be used. The State Government has accepted the recommendations of the 4th SFC but only in December, 2011, which was too late to be implemented properly. As a result, timely implementation of the recommendations was not possible and, as per 5th SFC, implementation of items IX to XI Para 1.5.1 is pending. (Final Report for 2015-20 of the Fifth Sate Finance Commission, Volume 1, pp.3-4 http://finance.bih.nic.in/Documents/5th-SFC-Volume-I.pdf).The 5th State Finance Commission (5th SFC) of Bihar was constituted in December, 2013.

The Municipal administration maintains accounts in the form and manner as prescribed by the State Government and follow the Accounts Code. Generally, accounting reflects the sources of revenue, arrears and expenditure. Audit of the Municipal bodies has been conducted in the form of either pre-audit or post- audit.

13.8 AN APPRAISAL

Urban local bodies are institutions of decentralisation created by the State Government through the Municipal Act. In this context, the 74th Constitutional Amendment is a landmark in evolution and development of the Urban Local Governance. In a federal structure, fiscal relationship between the Centre, State and Local Self-Governments has always been a contentious issue. As we have already discussed in this unit that the basic objective of this amendment is to empower the ULBs through functional and financial devolution but studies have proved that the LBs couldn't receive the desired results, which affected the performance of Local Self-Government to function as vibrant unit. The above analysis indicates unfinished agenda of empowerment initiated by 73rd and 74th CAA. The sound resource base is one of the major requirements of the urban Local- Self Government for sustainable development. In this regard, various National and State level committees and commissions have recommended both short-term and long-term measures. However, serious efforts are not being made to correct this imbalance between functions and finances of the Urban Local Bodies in many states. Therefore for bridging the resource gap, remaining even after UFC/SFC transfers, the ULBs must make all efforts to raise their own revenues (tax & non-tax). Even, the 14th UFC has imposed the condition of improvement in their own revenues for performance grants, which will also enhance their autonomy and accountability. In case of States like Bihar, for meeting the All India level of services, the Bihar ULBs would need huge amounts, which cannot be met through the State budget, UFC/SFC transfers or own revenue. Here, leveraging Public – Private Partnership in a big way for creation of infrastructure and services in the State will be necessary step. In addition, even possibility of market borrowing has to be explored by the ULBs. The impact of GST can be observed on the income of Local Bodies as a loss in their income due to exclusion of Octroi. In this regard, their losses can be compensated adequately either in the form of piggy back tax or compensation based on an objective formula. It is to be noted that the revenue assignments and expenditure responsibilities of the State and Local Governments are inherently asymmetrical. The funds and functions have a mismatch along with inadequate deployment of functionaries with due accountability to a common man. Thus, to achieve "equalisation" and strengthening the third tier of government, every State Government has to monitor timely submission of the Report by the SFC; and ensure its implementation for adequate revenue sharing between the State and LSGs as well as other related fiscal and governance issues. The Capacity building of Commissioners through training programmes, proper financial management and time-bound preparation of financial statements are necessary for enhancing efficiency in Municipal Administration.

The provisions of the Act govern the relations between the State and ULBs. In this regard, critics have criticised excessive control of the State Government over Local

Bodies, which are theoretically autonomous. There are four reasons as to why State exercises control. Firstly, the State Government creates local bodies through the Municipal Act. Secondly, there is a need for homogeneous development of all areas in a State, this can be ensured by the State. Thirdly, personnel with technical skills and experience required in nation-building activities are provided by the State. Finally the State Government provides financial assistance to the local bodies, which implies control to ensure that the money is properly utilised. Whatever is the rationale, the major objective of the control and supervision by the State Government is to ensure efficiency in the performance of functions by the units of Local Self-Government. But what is important is that guidance and control should not be negative. It should strengthen their confidence and enable them to assume more responsibilities.

There is a feeling that the stronghold of the State Government over the local bodies is too extensive, which cuts at the roots of the local autonomy. Two arguments are advanced in this connection. Firstly, the resource base of the local bodies is shrinking and State Governments have been doing precious little. Secondly, the power of supersession and dissolution are being indiscriminately used against local bodies. For example, in 1989, out of 73 Municipal Corporations in the country 39 were superseded at different points of time. This is indicative of the extent of control exercised in the State over the Local bodies. But now, the state legislatures will not have the power to make amendments in any law, which can result in supersession of any municipality, before the expiration of its normal term of five years. This can be stated as a security against arbitrary action by the state government, which will strengthen the relationship between the State Government and Local Bodies. It is to be noted that the 74th Constitutional Amendment gives a term of five years to the Municipalities. The Government may dissolve the local bodies but fresh elections are to be held within a period of six months**.** It means that the Municipal Body can remain dissolved for a period of only six months, which will strengthen the democracy at the grass roots level. Many committees, fourteenth Finance Commission and State Finance Commissions have recommended measures to strengthen the resource base and also the capacity of Urban Local Bodies. Acceptance and implementation of these recommendations would ensure cooperative relations between the State and Local Government for efficient Municipal administration, effective service delivery and sustainable development.

Check Your Progress 2

Note : i) Use the space given below for your answers.

ii) Check your answer with those given at the end of the Unit.

1) Explain the role of urban development authorities.

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2) Describe the various types of sources of income of the Urban Local Self-Government.

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3) "74th Constitutional Amendment is a landmark in evolution and development of the Urban Local Governance". Examine.

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13.9 CONCLUSION

Urbanisation is an important and complex process in the country, which needs due attention. Various strategies and structure to deal with the emerging problems of urban development so far have been ad hoc. There are wide variations in the power and functions, resource base, pattern of personnel and effectiveness of Urban Local Bodies in the country. In recent years, efforts are being made to provide strong resource base according to the functions of Municipalities. In this Unit, we have discussed the important aspects of local self-Government, urbanisation, 74th Constitutional Amendment, Municipal Corporation, Municipal Council, and Municipal Committee/Nagar Panchayat. In addition, urban development authorities, municipal personnel, finance and recent developments have been explained. It is evident that cooperative and cordial relations between the state and Municipalities are necessary for smooth functioning of the Urban Local Self-government. Therefore, in the next Unit we will discuss their relationship.

13.10 GLOSSARY

Leveraging : In financial matters, it's the use of borrowed funds with a contractually determined return to increase the ability of a business to invest and earn an expected higher return, but at high risk. It is great, until something goes wrong with investments and one has to pay debts.

Pre-audit : In this type of audit, auditors examine whether the expenditure, that is, going to take place in terms of payment is valid or not.

Post-audit : It refers to an analysis of the outcome of a capital budgeting investment. It is conducted after the expenditure has been incurred.

Spatial Planning : It takes into account the circumstances, time and space so that the areas beyond periphery are not neglected.

13.11 REFERENCES

Arora, R. K. & Goyal R., (2013). *Indian Public Administration: Institutions and Issues*, New Delhi, India: New Age International Publishers.

Final Report for 2015-20 of the Fifth State Finance Commission Bihar, Volume 1 (January, 2016). Retrieved from http://finance.bih.nic.in/Documents/5th-SFC-Volume-I.pdf

Government of India, (2007) Second Administrative Reforms Commission (Sixth Report). *Local Governance: An inspiring journey into the future*. Retrieved from https://darpg.gov.in/sites/default/files/local_governance6.pdf

India Population (Live). Retrieved from https://www.worldometers.info/world-population/india-population

Jha, S.N. & Mathur, P.C. (Eds.). (1999). *Decentralization and Local Politics*. New Delhi: Sage Publications.

Maheshwari, S.R. (2001). *Indian Administration*. New Delhi: Orient Blackswan Private Ltd.

Ministry of Housing and Urban Affairs, Level of Urbanisation. Retrieved from http://mohua.gov.in/cms/level-of-urbanisation

Mishra, S.N, Mishra, A.D. & Mishra, S. (Eds.). (2003). *Public Governance and Decentralisation*. New Delhi: Mittal Publications.

Nandini, D. (2005). Relationship between Political Leaders and Administrators. New Delhi: Uppal Publishing House.

The Constitution of India. Retrieved from https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text

13.12 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1) Your answer should include the following points:

- Changing trends in growth of urban population.
- Rise in the growth rate of the urban population from 1941 onwards.
- The urban population doubled in 1981 (compared to 1961) constituted about 23.7 per cent of India's total population.
- High concentration of population in a few cities.

2) Your answer should include the following points:

- Constitutional Status to Municipal Government.
- Municipal Corporation, Municipal Council and Municipal Committee/ Nagar Panchayat.
- Five year term.

- Empowerment of weaker sections of society.
- State Election Commission.
- State Finance Committee.
- District Planning Committee.

3) Your answer should include the following points:

- Municipal Corporation.
- Municipal Council.
- Nagar Panchayat.

Check Your Progress 2

1) Your answer include the following points:

- Need for improvement of living conditions in urban areas, necessitates the setting up of a separate agency with more power and finances.
- They prepare master plan for the development of the area and zonal development plan for the zones into which development area is divided.
- They have to ensure orderly and planned utilisation of land in accordance with plans.
- The development activities of the authorities.

2) Your answer should include the following points:

- Own Revenue
  - Tax
  - Non-tax
- Grants and borrowings
- Devolution of funds from Government.

3) Your answer should include the following point:

- Refer Section 13.8

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