

30 years of law to empower municipalities: Why agencies remain ‘toothless’ & mayors ‘weak’

The Constitution (74th Amendment) Act, 1992, came into force on 1 June 1993 and had a list of 18 critical functions for the state governments to transfer to urban local bodies (ULBs).

[RISHA CHITLANGIA](#)

17 July, 2023 09:31 am IST



The Brihanmumbai Municipal Corporation (BMC) building in Mumbai | ANI

New Delhi: June 2023 marked the 30th anniversary of a key constitutional amendment that was enacted to empower “weak” and “ineffective” Indian municipalities and give them more teeth.

The Constitution (Seventy Fourth Amendment) Act of 1992 came into force on 1 June 1993 and had a list of 18 critical functions for the state governments to transfer to urban local bodies (ULBs). Prominent among them were addressing issues related to urban planning, water supply, fire, and land use regulations, slum improvement etc.

Its statement of objects and reasons reads, “In many states local bodies have become weak and ineffective on account of a variety of reasons... As a result, urban local bodies are not able to perform effectively as vibrant democratic units of self-government.”

However, India’s ULBs are nowhere near empowered and, unlike in international cities, such as New York and London, Indian mayors continue to be mere figureheads. There is no

uniformity in their tenure or elections throughout the country — it varies from one to 5 years and the election is direct in some states and indirect in others — and in most cities, mayors have limited functional and financial powers.

States such as Uttar Pradesh, Madhya Pradesh, Chhattisgarh, Jharkhand, Uttarakhand, among others, have direct elections for mayors, where people elect them and the term is for five years.

Urban sector experts blame the patchy implementation of the 74th constitutional amendment Act (CAA) on the state governments and what is described as their unwillingness to part with critical functions and effectively implement the Act.

Currently, not even one state government has transferred all the 18 functions to ULBs, according to the Urban Governance Index 2020 published by Praja Foundation, a non-profit organisation working in the field of municipal governance.

According to a report by Bengaluru-based think tank Janagraaha on municipal finance, ‘A municipal finance blueprint for India’, commissioned by the 15th Finance Commission and published in 2022, states such as Maharashtra have transferred 14 out of 18 functions whereas Gujarat, Karnataka, Telangana and West Bengal have done 10. Bihar and Rajasthan are among states that have transferred just 6-7 functions.

While experts say the 74th CAA needs a revisit, Union Housing and Urban Affairs Ministry officials say it is the municipal corporations that need to streamline the functioning, tax collection and focus on capacity building.

“There is no need for an amendment in the 74th CAA. It is the states that have to devolve powers, the Centre can only nudge them into doing it. Moreover, the ULBs get funds from the Centre and state to carry out projects,” said a senior housing and urban affairs ministry official, requesting anonymity. “Corporations will become self-reliant if they streamline their property tax collection and other revenue streams.”

ThePrint has reached the Ministry of Housing and Urban Affairs for a comment. The report will be updated when a response is received.

Growing clamour to revisit 74th CAA

With fast-paced urbanisation, issues of climate change and pollution, and use of digital technology in decisionmaking, urban governance experts say it is time to revisit the Constitution (74th Amendment) Act, 1992, and update it to address today’s challenges.

Debolina Kundu, professor at the National Institute of Urban Affairs (NIUA), said structures such as state finance commissions (SFCs) have been created, elections of local bodies have been regularised to an extent, and the role for ULBs in scheme planning and delivery has been expanded. However, empowerment in terms of assignment of funds, functions and finances have remained limited, she added.

“In its current form, the 74th CAA does not have the necessary legislative teeth to be responsive to emerging challenges of urban governance for the 21st century, which include issues like unplanned growth of cities, climate change, pollution, and so on,” she said. “With planetary urbanisation becoming more commonly associated with blurring of rural-urban binary and

people adopting urban lifestyles even in rural areas, it becomes important to revisit the 74th CAA.”

According to Srikanth Viswanathan, the chief executive officer of Janaagraha — a Bengaluru-based think tank that has worked extensively on the financial health of municipalities — what’s more important is to amend the state municipal legislations that govern the functioning of urban local governments. “A strong local government is essential to address the challenges of fast-paced urbanisation,” he said.

Stressing on the need to amend the 74th CAA, he added, “The use of the word ‘may’ instead of ‘shall’ in the amendment has left too much discretion with state governments.

“Across states, state governments have formed a variety of parastatal bodies, like development and regional development authorities, water supply boards and transport corporations which report directly to various departments of the state government, besides state departments themselves like police, public works department etc. which are directly involved in important aspects of governance.”

Earlier this month, the Union Housing and Urban Affairs Ministry organised the ‘Urban 20’ summit in Gujarat where mayors of 37 cities participated along with their counterparts from over 40 international cities, to deliberate on these issues and set the urban agenda.

‘Mayors mere figureheads’

Mayors who participated in the summit told ThePrint that their counterparts in global cities such as Paris, London etc. had more financial and functional powers.

Indore Mayor Pushyamitra Bhargav said, “Though the mayor system in MP is more effective than some of the states where mayors don’t have a long enough tenure and limited powers, there is still need to give more powers to mayors.”

He added: “For effective functioning of civic bodies, bureaucracy has to be answerable to elected representatives. A majority of mayors in the country don’t have much financial or functional powers and their tenure is also for 1-2 years. The annual confidential reports of commissioners should be written by mayors. Transfer and postings are still done by commissioners and mayors don’t have direct say in it.”

In cities such as New York, London, and Paris, mayors have a lot of financial and decisionmaking powers.

“In peer economies such as South Africa, Philippines, Mexico, Indonesia, urban local governments are politically and financially more empowered. In India, state governments are effectively treating urban local governments as implementation agencies for their projects,” said Viswanathan.

In India, there are a very few states — Uttar Pradesh, Uttarakhand, Madhya Pradesh, Chhattisgarh, Jharkhand, and Madhya Pradesh — that have direct elections of mayors with a fixed term of five years.

“In most states, mayors are elected by councillors and their terms vary from one to two years. Also, in a majority of states, mayors don’t have adequate financial and decision making powers,” said Milind Mhaske, chief executive officer of Praja Foundation, a Mumbai-based non-profit organisation working in the field of urban governance.

For instance, Mhaske said, in Mumbai, the executive wing (of the Brihanmumbai Municipal Corporation) has the decision making powers and not the mayor. “Only Kerala has a provision for the mayor to write an annual confidential report of the commissioner (a bureaucrat),” he said.

At the All India Council of Mayors meeting held in May at Indore, mayors of Indian cities had demanded uniformity in tenure.

Rajinder Sharma, mayor of Jammu Municipal Corporation (JMC) and general secretary of the All India Council of Mayors, said to The Print, “One-year or two-and-half-year tenure is not enough. It should be five years for effective implementation of policies and plans.” In JMC, the mayor’s tenure was increased from two-and-half years to five years in 2022.

(Edited by Smriti Sinha)

Link: [30 years of law to empower municipalities: Why agencies remain 'toothless' & mayors 'weak' \(theprint.in\)](https://theprint.in/30-years-of-law-to-empower-municipalities-why-agencies-remain-toothless-and-mayors-weak/)