

Drafting of a Municipal Law Policy Issues, Options and Their Implications

PART I

PRELIMINARY

I. Area of Application

1. *Having regard to the provisions of clause (1) of article 243Q on Constitution of Municipalities, the policy issue is whether there should be a “Unified Municipal Law” or multiples* thereof*

- (1) In this regard, each State Government would have to take a view on whether :
- one municipal law shall be enacted covering the three levels of Municipalities, namely, Municipal Corporations for the larger urban areas, Municipal Councils for the smaller urban areas and Nagar Panchayats for the transitional areas, or
 - separate laws may be framed for each of the above mentioned levels of Municipalities, or
 - one law may be framed for Municipal Corporations with special provisions for metrocities, and a combined law may be framed for Municipal Councils and Nagar Panchayats
- (2) If a unified law, it would have to be noted that, in different Parts of the municipal law, variations would have to be spelt out for application of the law to the larger urban areas, the smaller urban areas and the areas in transition from rural to urban areas.
- The specific topics under which the variations may be necessary may, *inter-alia*, relate to the following :
- (a) Constitution of Municipal Areas and Classification of Municipalities
 - (b) Municipality and Municipal Councillors
 - (c) Municipal Authorities

* The variations proposed in this para as also those proposed in the paras hereinafter should clearly demonstrate as to how the state-specific “legislative schemes would vary all throughout any state-specific law”.

- (d) Organizational Structure of Municipalities
- (e) Functional Domain of Municipalities
- (f) Municipal Finance and Municipal Fund
- (g) Budget Estimates
- (h) Borrowings
- (i) Sources of Internal Revenue
- (j) Tax on Lands and Buildings and Related Taxes
- (k) Private Sector Participation Agreement and Assignment to Other Agencies
- (l) Local Agenda for Urban Environmental Management
- (m) Development Plans
- (n) Improvement
- (o) Public Streets
- (p) Buildings
- (q) Disaster Management.

Annex 1 herewith identifies some possible variations which may be made in the case of a “unified law” by providing options for the different levels of Municipalities.

- (3) If the option for more than one law is preferred, then considering the State-specific urbanization trends and development of metropolitan centers, the State Government may also decide whether the law governing larger urban areas may have two options, namely :
 - one, for metropolitan cities with a population of one million or more, and another law for other cities falling in the category of larger urban areas, or
 - two, whether the law for larger urban areas may include special provisions with respect to the metropolitan cities.
- (4) Under another formulation, while the legislation may cover the provisions in relation to the “larger urban areas” and the “larger municipal council areas”, enabling provisions may be provided in the law for the “smaller municipal areas” and the “*nagar panchayat* areas”.

In such a case, the State Government may consider whether the municipal law may provide that it may, by notification and for reasons to be recorded in writing,

exempt the specified classes of “smaller municipal areas” or “nagar panchayat areas” from the operation of the provisions of the law considered unsuited thereto.

Choices Made for the Municipal Law

1. *The Municipal Law has opted for a Unified Bill for the 3 levels of the Municipalities, namely, Municipal Corporations for larger urban areas, each to be called a city; Municipal Councils for smaller urban areas, each to be called a town; and Nagar Panchayats for transitional areas, being areas in transition from rural areas to urban areas, each to be called as such.*

2. *Furthermore, under clause 7 of the Municipal Law, the municipal areas have been classified on the following basis having regard to the population as ascertained at the last preceding census of which the relevant figures have been published :*

(a) larger urban areas having population above 3,00,000

(b) smaller urban areas –

Class ‘A’ : municipal areas having population above 1,50,000 but not exceeding 3,00,000

Class ‘B’ : municipal areas having population above 75,000 but not exceeding 1,50,000, and

Class ‘C’ : municipal areas having population above 25,000 but not exceeding 75,000

(c) transitional areas having population not exceeding 25,000.

State Governments may, having regard to their own State’s demographic scenario, specify other State-specific ranges for classification of Municipalities.

3. *As regards the variations which would have to be made in the “Unified Law” in relation to the different classes of Municipalities as referred to above, clause 10 on “Power to exempt municipal area from operation of any provisions of the Act unsuited thereto” contains a comprehensive power for making the variations as aforesaid inasmuch as it states that :*

“10(1) The State Government may, by notification and for reasons to be recorded in writing, exempt class ‘C’ municipal areas or Nagar Panchayats from the operation of

any of the provisions of this Act considered unsuited thereto, and, thereupon, the said provisions shall not apply to such class 'C' municipal areas or Nagar Panchayats, as the case may be, until such provisions are applied thereto by notification.

(2) While a notification under sub-clause (1) remains in force, the State Government may make rules consistent with the provisions of this Act in respect of any matter within the purview of such provisions from the operation of which the class 'C' municipal areas or the Nagar Panchayats as aforesaid are exempted.”

An illustrative list of the other salient variations proposed in the Municipal Law is given in Annex 2. However, it must be underlined that clause 10 contains an omnibus power of the State Government.