

## PART II

### CONSTITUTION AND GOVERNMENT

#### II. Criteria of Municipalization

2. *Having regard to the provisions of clause (2) of article 243Q of the 74th Constitution Amendment Act, 1992, which specifies that a “transitional area”, a “smaller urban area” or a “larger urban area” means such area, as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, the question is as to what should be the criteria for municipalization.*

- (1) In this regard, it is to be noted that while all the aforesaid factors for determining a transitional area, a smaller urban area or a larger urban area are quite relevant, the most relevant factor would be the “population” of the area concerned. The population would have to be specified in ranges rather than as a single point mention. It may further be noted that considering the demographic characteristics of various States, there would be different population ranges as may be specified by different States.

For instance, under the 1991 Census, there was a Municipal Corporation in Simla with a population of 81,463 versus a population of 99,09,547 in the case of Greater Bombay Municipal Corporation. Similarly, in the case of Municipal Councils also, there were wide variations, from 2,731 in the case of Sangat Municipal Council, in Punjab, to 14,54,678 in Jaipur. Thus, the population ranges would have to be State-specific.

- (2) Moreover, it is to be noted that there would be administrative difficulties if both “population” and “population density” are specified together. In some Municipalities, one criterion may be satisfied, but not the other.
- (3) As regards the “revenues generated for local administration”, while there would be Statewise variations, even within any given State, considering the dynamic nature of the revenues and absence of per capita norms for receipts and expenditures on various services, the provisions in the law, at best, can be on an arbitrary basis.

- (4) Also, it would be difficult to precisely define or quantify the parameters for specifying the “economic importance” of any municipal area.
- (5) As to the “other factors,” these may vary from State to State such as the access to water supply, the terrain of a local area, or the environment protection or security considerations.
- (6) *Annex 3* presents the pre-and-post 74th Constitution Amendment provisions of some State enactments on this subject. It would be noticed that as regards the “revenue generated”, while the Tamil Nadu Urban Local Bodies Act, 1998, has assigned some figures for different classes of Municipalities, the Punjab Bill, 1999, has provided that these would be specified by the State Government, by notification, from time to time. Amending Acts of the other States have remained silent in this regard.
- (7) In order to satisfy the constitutional mandate, a workable strategy may be to specify all the criteria as mentioned in clause (2) of article 243Q in a general manner so as to enable any State Government to apply its mind and, thereafter, quantitatively specify the population ranges, and the percentage of non-agricultural employment in any given municipal area.

#### **Choice Made for the Municipal Law**

4. *The Municipal Law has, in clause 3, provided that the State Governments may specify the population ranges for the larger urban areas, the smaller urban areas and the transitional areas having regard to their demographic characteristics and also specify the percentage of the non-agricultural population therein.*