

#### **XIV. Duration of Municipalities, Dissolution and Control**

16. *Article 243U on “Duration of Municipalities etc., inter-alia, provides that every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution, the issue for consideration is what provisions may be made in the law for this purpose.*

- (1) Each State Government may like to take a view in this regard based on an analysis of the provisions of seven erstwhile laws\* as presented in volume 1 of TRF’s Policy Issues, Options and Legislative Intentions Papers which revealed that prior to the 74th Amendment, in some laws, -
  - (a) the Municipalities could be superseded;
  - (b) the total period of supersession could be fixed or could not be fixed;
  - (c) the period of supersession could be extended beyond the duration of the Municipalities;
  - (d) the period of supersession could be curtailed;
  - (e) the supersession could be followed by reconstitution of the Municipality;
  - (f) after the expiry of the supersession, or if the period of supersession was curtailed, the Municipal Council could be revived;
  - (g) a Municipality could be suspended, to be followed by supersession; and
  - (h) no sharp distinction was made in the meaning of the words “supersession” and “dissolution” which appeared to have been used loosely.

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\* The Bombay Municipal Corporations Act, 1888; the Bombay Provincial Municipal Corporations Act, 1949; the Maharashtra Municipalities Act, 1965; the Hyderabad Municipal Corporation Act, 1956; the Andhra Pradesh Municipalities Act, 1965; the Karnataka Municipal Corporations Act, 1976 and the Karnataka Municipalities Act, 1964.

- (2) As per the post 74th amendment provisions of various Acts, being a constitutional requirement, all the State enactments have been duly amended to provide for dissolution of Municipalities and holding elections within the specified time schedule of six months.

### **Provisions Made in the Municipal Law**

- 19.** *Besides the powers of the State Government, under clauses 67 to 70, to call for records, to depute officers to make inspection or examination and report, to require municipal authorities to take action, and to provide for enforcement of order, clause 71 specifies the “power to dissolve any Municipality”.*

*Under this power, under sub-clause (1), if in the opinion of the State Government, the Municipality has shown its incompetence, or has persistently made default in the performance of the duties, or in the exercise of the functions imposed on it by or under this Act or any other law for the time being in force, or has exceeded or abused its powers, the State Government may, subject to the provisions of sub-section (2), by an order published in the Official Gazette, and stating the reasons thereof, declare the Municipality to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and dissolve it for such period not exceeding six months as may be specified in the order.*

*The law further provides that before making any order under sub-section (1), a notice shall be given by the State Government to the Municipality calling upon it to submit representation, if any, against the proposed order within such period as may be specified in the notice.*

*On receipt of such representation, if any, the State Government shall constitute a committee consisting of five persons, nominated by the State Government, of whom (i) one shall be a member of the State Higher Judicial Service who shall be the Chairperson of the committee, (ii) one shall be the Chief Councillor of any other Municipality of the same class, (iii) one shall be a Chartered Accountant or a person having experience in financial matters, (iv) one shall be an Engineer, and (v) one shall be an officer of the State Government, not below the rank of a Sub-*

*divisional Officer, and shall forward the representation to this Committee for its consideration and report.*

*The State Government shall consider the report received from the Committee and act accordingly.*