

APPOLO



STUDY CENTRE

PREMANADATORY - 2

Unit - II

Administration of Union	6 TH TERM -3	Local Body
	8 th term 1	Unit - 1How the State Government works
	9 TH BOOK	Unit 5 - Local Self Government
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UNIT 6 - LOCAL BODIES –

The urban local bodies are categorized into City Municipal Corporations, Municipalities and Town Panchayats, while the rural local bodies are categorised into Village Panchayats, Panchayat Unions and District Panchayats. These are together known as local bodies.”

Those areas which have a population of more than one lakh and a high amount of revenue and is found in the level below the City Municipal Corporation is called a **Municipality**.

Town Panchayat has about 10,000 population. A **Town Panchayat** is between a village and a city.

NOTE

Tamil Nadu was the first state to introduce a town Panchayat in the whole of India.

The Government of Tamil Nadu will declare certain municipalities based on population and high revenue.

The List of corporations in Tamil Nadu

1. Chennai
2. Madurai
3. Coimbatore
4. Tiruchirapalli
5. Salem
6. Tirunelveli
7. Erode
8. Thoothukudi
9. Tiruppur
10. Vellore
11. Dindigul
12. Thanjavur

Municipal Corporation

A City Municipal Corporation has a **Commissioner**, who is an Indian Administrative Service (IAS) officer. Government officials are deputed as

Commissioners for the municipalities. The administrative officer of a Municipality is an **Executive Officer (EO)**.

Village Panchayats

Village Panchayats are the local bodies of villages. They act as a link between the people and the government. Villages are divided into wards based on their population. The representatives are elected by the people.

The Elected Representatives

1. Panchayat President
2. Ward members
3. Councillor
4. District Panchayat Ward Councillor

Panchayat Union

Many village Panchayats join to form a **Panchayat Union**. A **Councillor** is elected from each Panchayat. Those councillors will elect a Panchayat Union **Chairperson** among themselves. A **Vice Chairperson** is also elected.

A **Block Development Officer (BDO)** is the administrative head, of a Panchayat Union. The services are provided on the Panchayat Union level.

District Panchayat

A District Panchayat is formed in every district. A district is divided into wards on the basis of 50,000 population. The ward members are elected by the Village Panchayats. The members of the District Panchayat elect the **District Panchayat Committee Chairperson**. They provide essential services and facilities to the rural population and the planning and execution of development programmes for the district.

The local bodies are governed by the representatives elected by the people. The constituencies are called wards. People elect their ward members.

The Mayor of the City Municipal Corporation and the **Municipal Chairperson** are the elected representatives of the people. The people elect them. The Corporation **Deputy Mayor** and the Municipal **Vice Chairperson** are elected by the ward councillors.

Functions of the village Panchayat

Obligatory Functions

- Water supply
- Street lighting
- Cleaning roads
- Drainage & sewage pipes system
- Laying down roads
- Activation of Central and State Government schemes

Discretionary Functions

- Parks
- Libraries
- Playgrounds, etc.

Functions of the City Municipal Corporation

- Drinking water supply
- Street Lighting
- Maintenance of Clean Environment
- Primary Health Facilities
- Laying of Roads
- Building flyovers
- Space for markets
- Drainage System
- Solid waste management
- Corporation schools
- Parks
- Play grounds
- Birth and Death registration, etc.

As per the decisions taken in the city Hall meetings, the commissioner or officers assign these works to their subordinate officers or other servants. Thus, they all work in various levels to get these public works done. The Government directly allots funds for these works. The local bodies also collect revenue.

Revenue of the Village Panchayat

- House tax

- Professional tax
- Tax on shops
- Water charges
- Specific fees for property tax
- Specific fees for transfer of immovable property
- Funds from Central and State Governments, etc.

Revenue of the City Municipal Corporation

- House Tax
- Water Tax
- Tax on shopping complexes
- Professional Tax
- Entertainment Tax
- Vehicle Charges
- Funds by Central and State Government, etc.

Grama Sabha

A Grama Sabha is formed in every Village Panchayat. It is the only permanent unit in the Panchayat Raj System. Grama Sabha meetings are held even in smaller villages. The Grama Sabha is the grass root level democratic institution in a Village Panchayat.

Those who have attained the age of 18 years and whose names are found in the electoral roll of the same Panchayat can take part in a Grama Sabha meeting. The Grama Sabha meetings are conducted four times a year. Officers like the District Collector, the Block Development Officer, teachers etc., also participate in this meeting. The people can freely express their needs and grievances.

NOTE

Meetings convened on **January 26, May 1, August 15 and October 2.**

Apart from these days, the meetings can be convened as per need or during emergency

Mahatma Gandhi advocated Panchayat Raj as the foundation of India's political system, as a form of government, where each village would be

responsible for its own affairs. The Panchayat Raj Act was enacted on April 24, 1992.

Special features of Panchayat Raj

- Grama Sabha
- Three tier local body governance
- Reservations
- Panchayat Elections
- Tenure
- Finance Commission
- Account and Audit, etc

NOTE

1. **April 24** is National Panchayat Raj Day.
2. **Villupuram District** has the highest number of Panchayat Unions (22), while The Nilgiris and Perambalur Districts have the lowest number (4).
3. **Walajahpet Municipality** (Vellore District) is the first Municipality in Tamil Nadu.
4. **Kanchipuram District** has the most number of municipalities.

Role of women in the Local Self Government

All local bodies have a reservation of 33% for women. In the 2011 Local Bodies election, 38% seats were won by women. As per the Tamil Nadu Panchayats (Amendment) Act, 2016, 50% reservation for women is being fixed in Panchayat Raj institutions.

Local Body Election

The tenure for the representatives of local self Government is 5 years. The election to the Local Bodies is held once in five years by the State Election Commission. Every state has a State Election Commission. The Tamil Nadu State Election Commission is situated in Koyambedu, Chennai.

Tamil Nadu

Village Panchayats - 12,524

Panchayat Unions - 385

District Panchayats - 31

Town Panchayats - 561

Municipalities - 125

City Municipal Corporations - 12



8th term 1

UNIT - I: HOW THE STATE GOVERNMENT WORKS?

There are two sets of government in our country - the central government and the state government. There are 29 state governments in our country; every State has a government to run its own administration. The States have their own executive and legislature and Judiciary. The state executive consists of the Governor and the Council of Ministers headed by the Chief Minister. The Governor is an integral part of the State legislature.

The State Executive

The Governor

The Constitution provides for the post of the Governor as the Head of a State in India. He is appointed by the President of India. He is the constitutional Head of a State. The Governor is appointed for a term of five years. But before the expiry of his full term, the President can dismiss him from office. The Governor may also resign on his own interest. His term of office may be extended and he may be transferred to another State. However, the State Government cannot remove the Governor from his post. To be the Governor, a person must be a citizen of India and should have completed 35 years of age. And he cannot be a member of the Parliament or the State legislature. He should not hold any office of profit.

Powers and functions

- The Governor is the Chief Executive in a State. All the executive powers of the State are **vested upon him and decisions are taken in his name. He appoints the Chief Minister and Council of Ministers.**
- He makes some important appointments of the State Government, such as, the Advocate general, Chairman and members of the State Public Service Commission and others.
- The President imposes emergency in a State under Article 356 on the basis of the report of the Governor. The Governor also acts as the Chancellor of State Universities.
- He summons and prorogues the sessions of the State legislature and he can dissolve the Legislative Assembly.

- Money bills can be introduced in the State Legislative Assembly only with the approval of the Governor. The Governor may promulgate ordinances when the Legislative Assembly or both the Houses of the legislature (when there are two Houses) are not in session.
- The Governor may nominate one member from the Anglo- India Community to the Legislative Assembly if there are Anglo- Indian people in a State and when they are not duly represented in the State legislature. He may also nominate 1/6 members of the Legislature Council from among persons who are experts in the fields of science, literature, arts, social service and co- operative movement.
- The annual budget of the State Government is laid before the legislature with the approval of the Governor. The Governor must give his assent to all the bills passed in the legislature including money bills. The Contingency fund of the State is also placed at the disposal of the Governor.

Position of the Governor

The position of the Governor of a State is compared to the President of India as a nominal executive. But the Governor is not always a nominal executive. He can exercise his powers in the real sense on some occasions. He acts as an agent of the Central Government in a State. Therefore, he is responsible for maintaining relation between the Central Government and the State Government. The Governor may advise the Council of Ministers when faces difficult situations. The President declares emergency in a State on the basis of the report of the Governor regarding the law and order situation in the State. The Governor takes independent decisions while exercising discretionary powers. He may seek information from the Council of Ministers regarding various activities of the Government.

The Chief Minister

The Governor appoints the leader of the majority party in the State Legislative Assembly as the Chief Minister. He is the head of the State Council of Ministers. The Chief Minister has no fixed term of office. He remains in office so long as he gets support of the majority members of the Legislative Assembly. When he loses support in the legislature, he has to resign. The resignation of the Chief Minister means the resignation of the whole Council of Ministers in the State.

The Chief Minister must be a member of the State Legislature. If he is not a member of the State legislature at the time of his taking over charge, he must be so within a period of six months.

Powers and Functions

- The Chief Minister is the chief administrator of the State. All major decisions of the State Government are taken under his leadership.
- The Chief Minister plays an important role in the formation of the Council of Ministers. On the advice of the Chief Minister, the Governor appoints the other Ministers.
- The Chief Minister supervises the activities of different ministries and advises them accordingly. He also coordinates the activities of different ministries.
- The Chief Minister plays an important role in making policies of the State Government. He has to ensure that the policies of the government do not go against public interest. His voice is final in policy decisions of the State Government.
- He plays an important role in making higher appointments of the State Government. The Governor appoints different higher officials of the State Government on the advice of the Chief Minister and his Council of Ministers.

The Legislature

In India, the State Legislature consists of the Governor and one or two houses. The upper house is called the Legislative Council while the lower house is called the Legislative Assembly.

states with bicameral legislature



Legislative Council

The Constitution provides that the total strength of the Legislative Council must not be less than 40 and not more than $\frac{1}{3}$ of the total strength of the Legislative Assembly of the State. The members of the Legislative Council are elected indirectly. One third of its members are elected by the local government bodies like the District Panchayat and Municipalities. Another one third is elected by the members of the Legislative Assembly. One twelfth is elected by the graduates of the constituency and another one twelfth by the teachers of secondary schools, colleges and universities. One sixth of the members of the Legislative Council are nominated by the Governor of the State.

The Legislative Council is a permanent house. One-third of its members retire every two years and elections are held to fill the vacant seats. The members are elected for a term of six years. To be a member of the Legislative Council, one must be a citizen of India and should have completed 30 years of age. He cannot be a member of the Legislative Assembly or either of the houses of the Parliament. The Chairman is the presiding officer of the Legislative Council. In his absence, the Deputy Chairman presides over its meetings. They are elected from among the members of that house.

Legislative Assembly

The people who make the laws of a state government are called 'Members of the Legislative Assembly' (MLA). MLAs are chosen from different constituencies. For the election of MLAs the entire state is divided into different constituencies. These constituencies are called the legislative constituencies. One legislative constituency may have one lakh or even more people. One MLA is chosen from each legislative constituency to represent that legislative assembly.

Election to the Assembly

Different political parties compete in the elections to the legislative assembly. These parties nominate their candidates from each constituency. The candidate is that person who contests for the election and asks people to vote for him. A person has to be at least 25 years old to contest for election to the legislative assembly. One person can stand for election in more than one constituency at the same time. Even if a person does not belong to any political party, he can contest election; such candidate is called an independent candidate. Every party has its own symbol. Independent candidates are also given election symbol. The members of legislative assembly (MLA) are elected directly by the people. All people residing in the

area of a legislative constituency who are 18 years of age can cast a vote in the legislative assembly elections.

According to the Constitution, a Legislative Assembly cannot have more than 500 members and not less than 60 members. Some seats in the Legislative Assembly are reserved for Scheduled Castes and Scheduled Tribes. The Governor can nominate one member from the Anglo-Indian community. The members of the Legislative Assembly are elected for a term of five years. But the Governor can dissolve the house before the expiry of its term and can call for fresh elections. The meetings of the Assembly are presided over by the Speaker who is elected from among the members of the Assembly. In his absence, the Deputy Speaker conducts its meetings.

The States Council of Ministers

The leader of the majority party in the election is chosen as Chief Minister. In Tamil Nadu there are 234 legislative constituencies. The party with more than 118 elected candidates (MLA) are invited by the governor to form the Government. The Chief Minister (who also should be an MLA) chooses his ministers from the MLAs of his party. Ministers for various departments headed by the Chief Minister is called the State Government. So it is said that the party which got majority seats in the election forms the government.

The working of the State Government

After being elected to the legislative assembly the MLAs are expected to regularly participate in its sittings. The legislative assembly meets 2 or 3 times in a year. The main duty of the Legislative Assembly is to make laws for the state. It can make law on the subjects mentioned in the state list and the concurrent list. However, during state emergency, it cannot exercise its legislative power.

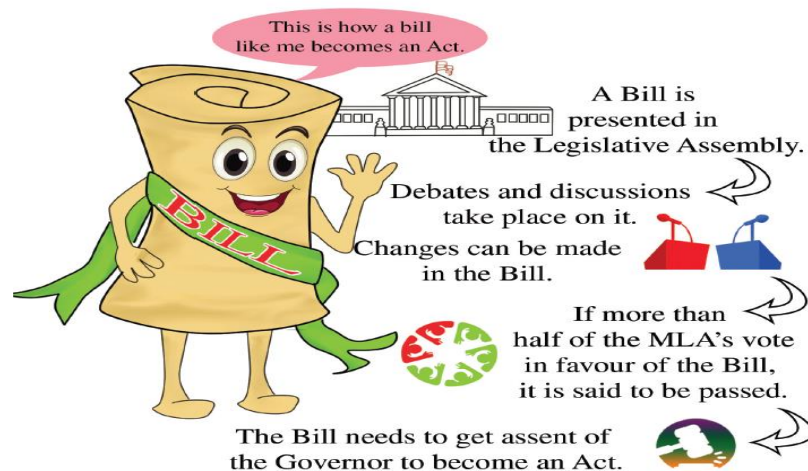
The assembly has control over the State council of Ministers. The State council of ministers are responsible or answerable to the Assembly for its activities. The Assembly may pass a no confidence motion against the council of Ministers and bring its downfall if it is not satisfied with the performance of the council of Ministers. The legislative Assembly has control over the finances of the state. A money bill can be introduced only in the Assembly. The government cannot impose, increase, lower or withdraw any tax without the approval of the Assembly. The elected members of the Legislative Assembly can take part in the election of the president of India and all members can take part in the election of the members of the Rajya Sabha

from the state. The Assembly also takes part in the amendment of the Constitution on certain matters. So the government has three basic functions: making laws, executing laws and ensuring justice.

How laws are made in State Government?

Several kinds of rules and laws have been made for all people of our country. For instance, there is a law that you cannot keep a gun without having a licence for it. Or that woman cannot marry before the age of 18 years old and men cannot marry before the age of 21 years. These rules and laws have not been made just like that. People elected their government who thought carefully before making such laws. A lot of such laws are made by the state and central government.

In the legislative assembly meetings, MLAs discuss a number of topics like public works, education, law and order and various problems faced by the state. The MLAs can ask questions to know the activities of ministries, which the concern ministers have to answer. The legislative assembly makes laws on certain issues. The process of law making as follows:



Executing Laws

It is the job of the state's council of ministers to execute the law. The legislative assembly of Tamilnadu is located at Chennai. The place where a state's legislative assembly is located and where its council of ministers function is called the capital of that state.

The state government has several lakhs of government employees to execute the laws made by the legislative assembly- Collectors, Tahsildars, Block Development Officers, Revenue officers, Village Administrative Officers, Policemen, Teachers and Doctors, etc. All of them are paid salaries by the state government. They have to follow the orders of the state government.

Judiciary of State

High Courts

The High court stands at the apex of the State Judiciary. As per the constitution there shall be a High Court in each state. But there may be a common High Court for two or more states and Union Territories. The State High Court consists of a Chief Justice and such other Judges as the President may appoint from time to time it necessary. The number of judges in the High Court is not uniform and fixed. The President appoints the Chief Justice of High Court in consultation with the Chief Justice of India and the Governor of the state.

A Judge of High Court must have the following qualification:

- He must be a citizen of India
- He must have at least ten years' experience as head of the judicial office in the territory of India.
- He must have at least ten years' experience as an advocate in one or more High Courts.

A Judge of High Court holds the office until he completes the age of 62 years. A Judge of the High Court can be removed from office only for proven misbehaviour or incapacity and only in the same manner in which a Judge of the Supreme Court is removed.

Power and Functions of the High Court

- The High Court has been empowered to issue writs of Habeas corpus, Mandamus, Prohibition, Certiorari and Quo Warranto for the enforcement of the fundamental rights and for other purposes.
- Every High Court has a general power of superintendence over all the lower courts and tribunals within its jurisdiction except military courts and tribunals.

- If a case is pending before a sub - ordinate court and the High Court is satisfied that it involves a substantial question of the constitutional law, it can take up the case and decide it itself.
- The High Court controls all the subordinate courts in the State.
- Like the Supreme Court, the High Court also acts as a Court of Record.

For the purpose of judicial administration, each state is divided into a number of districts, each under the jurisdiction of a district judge. The district court Judges were appointed by the Governor. In the exercise of the above mentioned powers, the High Court enjoys full powers and freedom to act within its jurisdiction. The constitutional safeguards have ensured its independent working.



UNIT 5 - LOCAL SELF GOVERNMENT

Meaning of Local Self Government

- Local Self-Governments are institutions that look after the administration of an area or a small community such as a village, a town or a city. Local Self- Government operates at the lowest level of society. It works at the grassroot level, close to the people, touching their everyday life. Local Self-Government is the management of local affairs by such local bodies which have been elected by the local people. These local bodies provide services to the local community as well as act as an instrument of democratic self-government.

Historical Background

- The idea of local self government is a very old concept in India. It was at its peak under the later Cholas or the Imperial Cholas of Tanjore. There are historical records of references to local self government under Mauryan administration. Local self government existed throughout the country with its own diverse characteristics of ancient India. During the medieval period, local self governments had somewhat declined due to the onslaught of feudalism. It was revived during the British period in the last quarter of the 19th century, with Western orientation of training in democracy with Lord Ripon's Resolution in 1882. Lord Ripon was known as the 'Father of Local Government for laying the foundations of local self governments in modern times.
- Under the Government of India Act, 1935 provincial autonomy was introduced. This Act came into force in 1937. In the provinces where the Congress formed its Government, rural development received special attention. It was an essential part of Gandhi's programme that PanchayatRaj institutions would be built from villages to the highest level.
- After Independence, the Gandhian ideal of GramaSwraj (Village Republic) greatly influenced the constitution makers. India being the land of villages, the creation of village panchayats became a social movement. Restoration of panchayats has become an article of faith during our

freedom struggle. Hence with the dawn of independence and framing of the constitution of India, Article 40 was incorporated in the constitution which reads as: “the State should take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as the units of self Governments.”

Lord Ripon

- Lord Ripon was the one who gave Indians the first taste of freedom by introducing the Local Self Government in 1882. Ripon took some steps towards liberalizing the administration in India. He formulated the local self government and made it clear that he was advocating for the decentralization of administration.
- He tried to remove obstacles in the sphere of Local Self government by his resolution of 1882. He led a series of enactments in which larger powers of the local self-government were given to the rural and urban bodies and the elected people received wider rights.

Local Self Governments since Independence

- The conceptualization of the system of local self-government in India took place through the formation and effort of four important committees from the year 1957 to 1986. The Community Development Programme (1952) and National Extension Service (1953) became a basis for 'The Great Charter on Panchayat Raj' in 1957.

Salient Features of the 73rd and 74th Constitution Amendment Acts (1992)

- Panchayats and Municipalities will be 'institutions of self-government'.
- Basic Units of Democratic System – GramaSabhas (Villages) and Ward Committees (Municipalities) comprising all the adult members registered as voters.
 - Three-tier system of panchayats at village, intermediate block/taluk/mandal and district levels. Two-tier for smaller states with population below 2 million.
 - Seats at all levels filled by direct elections.

- Seats reserved for Scheduled Castes (SCs) and chairpersons of the Panchayats at all levels also shall be reserved for SCs and STs in proportion to their population.
- One-third of the total number of seats reserved for women. One-third of the seats reserved for SCs and STs also reserved for women. One-third offices of chairpersons at all levels reserved for women.
- Uniform five year term and elections to constitute new bodies to be completed before the expiry of the term. In the event of dissolution, elections must be held compulsorily within six months.

Salient Features of the Tamil Nadu Panchayati Raj Act, 1994

- The New PanchayatRaj System came into being in Tamil Nadu after the enactment of a new law for local body institutions in the year 1994. The salient features of the new Act are as follows:
 1. A three-tier system
 2. Gram Sabha
 3. Establishment of Election Commission
 4. Constitution of Finance Commission
 5. Reservation of seats for SC/ST's proportionate to their population One third reservation of seats for women and
 6. Constitution of District Planning Committees.

Village Panchayat

- Local governments which are function in villages are called Village Panchayats. The President and ward members are directly elected by the people. (Those who have attained the age above 18) and their term of office is five years. District Collector act as the Inspector of Village Panchayat. Village Panchayats are constituted in each and every village wherever the population is above 500.

Functions of the Village Panchayat

- Supply of drinking water
- Maintenance of street lights
- Maintenance of roads
- Maintenance of village libraries
- Maintenance of small bridges

- Granting permission to the housing plots
- Maintenance of drainage
- Construction of group houses
- Cleaning of streets
- Maintenance of burial grounds
- Maintenance of common lavatory facilities

Voluntary Functions.

- According to the Tamil Nadu Local Government Act passed in 1994, the following functions to be performed as voluntary functions by the local governments.
 - Maintenance of street lights in the villages
 - Maintenance of markets and fairs
 - Implantation of trees
 - Maintenance of play grounds
 - Maintenance of parking vehicles, slaughter houses and cattle sheds
 - Control over places of exhibition

Revenue

Village Panchayat was the only local government which was empowered to levy taxes in the three-tier system of Village Panchayat.

Taxes

- Property Tax
- Professional Tax
- House Tax
- Taxes for connection of drinking water
- Land Tax
- Taxes levied on shops

Meeting of Gram Sabha

- In each and every village, the people living within its jurisdiction will be the members of Panchayat. The President of the Panchayat will preside over its meetings. In the meeting of the GramaSabha, the income and

expenditure and the beneficiary of the schemes in the village are discussed.

Meetings of the GramaSabha are conducted four times a year

1. January 26 - Republic Day
2. May 1 - Labourer Day
3. August 15 - Independent Day
4. October 2 - Gandhi Jayanthi

Panchayat Union

- Panchayat Union is formed by grouping of villages. Members of the Panchayat Union are directly elected by the people. The Chairman of the Panchayat Union is chosen from among the members.

Functions of the Panchayat Union

- Supply of drinking water
- Maintenance of Village Health Centres
- Maintenance of roads
- Establishment of Maternity Homes
- Establishment of Public fairs
- Establishment of Veterinary hospitals
- Maintenance of Social forests
- Repairing of Primary School buildings

District Panchayat

- A District Panchayat is constituted in each district. One district Panchayat is constituted for every 50,000 people and the ward members are directly elected by the people. The Chairman is elected from one among its members and their term is 5 years.

Functions of District Panchayat

- Advising the government about the developmental schemes of the Village Panchayat and Panchayat Union.
- Supervising the functions of District Planning Commission.

Urban Local Government

- Town Panchayat
- Municipality
- Corporation

Gandhi's Concept of Gram Swaraj

- Gandhi really wanted 'Swaraj', the self rule by the people of India who represent the rural mass. He observed 'India's soul lives in the village'. He dreamt of village republics in terms of Panchayat in free India. Mahatma Gandhi advocated Panchayat Raj, a decentralized form of government, where each village is responsible for its own affairs, as the foundation of India's political system. In simpler words, Gandhi's ideal village should be basically self-reliant, making provision for all necessities of life-food clothing, clean water, sanitation, housing, education, and other requirements, including government and self-defense.

Town Panchayat

- The area where more than 10,000 people live is called a Town Panchayat. Members and President of the town Panchayat are directly elected by the people. There is an Executive Officer to look after the administration of the Town Panchayat and their term of office is 5 years.

Municipality

- The area where more than 1,00,000 people live is called a Municipality. The Members and the Chairman of the Municipalities are directly elected by the people and their term of office is five years. A Municipal Commissioner is appointed by the government to administer the Municipality.

Corporation

- Municipal corporations are established in big cities where the city has many lakhs of population. The Municipal Commissioner is the Administrative Officer. The Mayor is the Chairman of the corporation. The term of office of the Mayor and other members is five years. In Tamil Nadu, there are 12 Corporations. They are in Chennai, Kovai, Madurai,

Trichy, Tirunelveli, Salem, Erode, Vellore, Tuticorin, Tirupur, Tanjore, Dindigul. The Municipal Commissioner will be a person from the Indian Administrative Service (IAS). All the decisions of the Corporation Council will be implemented by him. He will be assisted by the office of the corporation.

Important functions of the Mayor

- He acts as a bridge between the members of the corporation and the government
- He presides over the meetings of the Corporation Council
- He receives the dignitaries from foreign countries

Types of other Urban Panchayats

- Notified Area Committee
- Town Area Committee
- Cantonment Board
- Township
- Port Trust
- Special Purpose Agency

Elections to the local government in Tamil Nadu

- The State Election Commission conducts the elections to the local government like general elections. The electoral roll is prepared ward wise. Seats are reserved for the SC & ST and also for the women in proportion to the population by rotation basis.

Problems and Challenges facing the Local Self Governments

- Local self governments are the crucial basis for our democracy. The Constitutional status of local self governments adds more significance to their functioning. There are, however, a few critical concerns in the working of local self governments in India. Major problems and challenges may be mentioned as below:
 - Lack of clear demarcation of powers and functions of local bodies
 - Allocation of funds and needs assessment are not matched

- Role of caste, class and religion in decision-making at the local self governments
- Poor accountability of elected members and officials at the grassroots levels of democracy

Piped water supply scheme in Erode Municipality:-

- Periyar E.V.Ramasamy became the Chairman of Erode Municipality in 1917. During his tenure in Erode Municipality, Periyar worked effectively for Providing piped drinking water supply and health facilities to the people. Piped water supply scheme was implemented in 1919 by Periyar. This scheme was said to be first of kind in the history of Indian Municipal administration.



10th Volume I

Unit 3 – State Government

Introduction

- The Constitution of India envisages for a federal government, having separate systems of administration for the union and the states. There are 29 states, 6 union territories and one national capital territory known as Delhi in India. The constitution contains provisions for the governance of both the union and the states. It lays down a uniform structure for the State Government, in part VI of the constitution from Article 152 to 237, which is applicable to all the states, save only the state of Jammu and Kashmir which has a separate constitution for its government under Article 370. The structure of the State Government, as formed in the Centre, consists of three branches. These are the Executive, the Legislature and the Judiciary.

The Executive The Governor

- The Governor is the constitutional head of the state executive. The administration of a State is carried on in the name of the Governor. Generally, there is a separate Governor in each State but if the situation warrants so, the same person may be appointed as the Governor of two or more States.
- Article 154 vests the executive power of the State in the Governor. Article 154(1) holds that the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinates to him in accordance with this Constitution.

Appointment

- The Governor of a State shall be appointed by the President. His usual term of office is five years but he holds office during the pleasure of the President. Generally, the Governor does not belong to the State where he is

appointed. He can also be transferred from one state to another by the President. He can also resign any time by addressing his resignation to the President.

- The Legislature of a State or a High Court has no role in the removal of a Governor. A person may be appointed as a Governor for any number of terms. Two conventions have been set up in the matter of appointing a person as Governor of a State. He should not be a resident of the State concerned and, the State Government concerned is consulted and its views are sought regarding the proposed choice.
- According to Article 158 (3A), where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine.

Qualification

- Article 157 and Article 158 of the Constitution of India specify eligibility requirements for the post of governor. They are as follows:
 - He should be a citizen of India.
 - He must have completed 35 years of age.
 - He should not be a member of Parliament or of any State Legislature. If he is a member of any of Legislature, he automatically vacates his seat on assuming the office.
 - He should not hold any other profitable occupation.

Powers and Functions of the Governor

- The Governor is the head of the state executive and he has enormous powers. In the exercise of functions and powers, the Governor, except in certain cases, is to be guided by the aid and advice of the Council of Ministers headed by the Chief Minister (under Article 163). As the executive head in the state level, the Governor has following functions and powers.

Executive Powers

- The Constitution vests all executive powers of the State Government in the Governor. He may exercise this power either directly or through officers subordinate to him. He is the constitutional head of the State. All the administration is carried on in his name.

The executive powers and functions of the Governor are:

- He appoints the leader of the majority party in the State Legislative Assembly as the Chief Minister of the State.
- He appoints other members of the Council of Ministers on the recommendation of the Chief Minister.
- He appoints the Advocate - General of the state and determines his remuneration.
- The Advocate General holds office during the pleasure of the Governor.
- He appoints the Chairman and Members of the State Public Service Commission. However, they can be removed only by the president and not by a governor.
- He appoints the state election commissioner and determines his conditions of service and tenure of office.
- However, the state election commissioner can be removed only in like manner and on the like grounds as a judge of a high court.
- He acts as the chancellor of universities in the state. He also appoints the Vice Chancellors of universities in the state.
- He directly rules a State when there is the imposition of the President's rule in the State.

Legislative Powers

- The Governor is an integral part of the state legislature. But, he is not a member in the either house of the legislature. In this capacity, he enjoys the following legislative powers and functions:
 - He has the right to summon, prorogue the state legislature and dissolve the State Legislative Assembly.

- He can address the state legislature at the commencement of the first session after each general election and the first session of each year.
- He can send messages to the houses of the state legislature relating to a bill pending in the legislature.
- He can appoint any member of the Legislative Assembly to preside over its proceedings when the offices of both the Speaker and the Deputy Speaker fall vacant.
- He can nominate one member to the state legislature assembly from the Anglo- Indian Community.
- He nominates 1/6 of the members of the State Legislative Council from amongst the persons having special knowledge or practical experience in literature, science, art, cooperative movement and social service.
- He decides on the question of disqualification of members of the state legislature in consultation with the Election Commission.
- Every bill passed by the state legislature will become law only after his signature.
- But, when a bill is sent to the Governor after it is passed by the legislature, he has the options to give his assent to the bill or withhold his assent to the bill or return the bill for the reconsideration of the legislature.
- He has to reserve any bill passed by the state legislature which endangers the position of the state High Court, for the consideration of the President.
- He can promulgate ordinances when the state legislature is not in session under Article 213. But, these ordinances must be approved by the legislature within six months. He can also withdraw an ordinance at anytime.
- He has to lay the annual reports of the State Finance Commission, the State Public Service Commission and the Comptroller and Auditor General relating to the accounts of the state, before the state legislature.

Financial Powers

- The Constitution confers on the Governor, the duty to get prepared and introduced to the State Legislature, the annual budget and also the supplementary budgets, if necessary.
- He causes the Annual Financial Statement (Budget) of the State to be presented in the Legislative Assembly.

- He presents through the Minister of Finance of the State the Supplementary Budget of the State to the Legislative Assembly if there be such a need.
- Money Bills can be introduced in the State Legislature only with his the prior recommendation.
- No demand for any grant can be made except on his recommendation.
- He can make advances out of the state Contingency Fund to meet any unforeseen expenditure.
- He constitutes a Finance Commission after every five years to review the financial position of the panchayats and the municipalities.

Judicial Powers

- He appoints the Advocate-General of the State.
- He appoints Judges to the Subordinate Courts in the State.
- He makes appointment, postings and promotions of the District Judges in consultation with the State High Court.
- The Chief Justice of the High Court in the State is appointed by the President in consultation with him.
- He can pardon, commute or reprieve punishment on receipt of appeals for mercy.

Discretionary Powers

- The Governor can reserve a bill for the consideration of the president.
- He recommends for the imposition of the President's rule in the state.
- He seeks information from the Chief Minister relating to the administrative and legislative matters of the state.
- He can call the leader of any party to form ministry in the state when there is no clear-cut majority to any party in the Legislative Assembly after the general elections.
- He can dismiss the Council of Ministers when it is unable to prove the confidence of the Legislative Assembly; and
- He can dissolve the Legislative Assembly if the Council of Ministers has lost its majority.

Emergency Powers

- If the Governor is satisfied that the government of the state is not carried on in accordance with the provisions of the Constitution, he may, under Article 356, recommend to the President to impose President Rule in that State. As soon as the President Rule is imposed, the administration of the State is carried on by the Governor as the representative of the President.

Privileges of the Governor

Article 361(1) provides for the following privileges for the Governor;

- The Governor of a State, is not be answerable to any court for the exercise and performance of the powers and duties of his office or for any act done or purporting to be done by him in the exercise and performance of those powers and duties.
- No criminal proceedings whatsoever shall be instituted or continued against the Governor of a State, in any court during his term of office.
- No process for the arrest or imprisonment of the Governor of a State, shall issue from any court during his term of office.
- No civil proceedings in which relief is claimed against the Governor of a State.

Chief Minister

- In the scheme of Parliamentary system of government provided by the constitution, the governor is the nominal executive authority and the Chief Minister is the real executive authority. In other words, the governor is the head of the State while the Chief Minister is the head of the government.

The appointment of the Chief Minister

- The Chief Minister is appointed by the Governor of the State. The leader of the majority party or majority group in the State Legislative Assembly is appointed as the Chief Minister. In case no party commands absolute majority, in the Legislative Assembly or the majority fails to elect its leader,

the Governor can use his power and invite the leader of the other largest party to form the ministry. He has to prove the confidence (majority support) in the Legislative Assembly within the period stipulated by the Governor. The term of the Chief Minister is not fixed. He may remain as the Chief Minister as long as he enjoys the support of the majority of the members of the Legislative Assembly. He has to resign when he loses confidence of the majority in the assembly. It is 'understood that normally he completes 5 years term like other members in the Legislative Assembly.

Chief Ministers of Tamil Nadu from 1947

Thiru O.P. Ramaswamy	1947-1949
Thiru P.S. Kumaraswamy Raja	1949-1952
Thiru C. Rajagopalachari	1952-1954
Thiru K. Kamaraj	1954 - 1963
Thiru M. Bakthavatsalam	1963 - 1967
Thiru C.N. Annadurai	1967-1969
Thiru M. Karunanidhi	1969-1976
Thiru M. G. Ramachandran	1977-1987
Tmt. Janaki Ramachandran	January 1988
Thiru M. Karunanidhi	1989 -1991
Selvi J. Jayalalithaa	1991 - 1996
Thiru M. Karunanidhi	1996-2001
Selvi J. Jayalalithaa	2001
Thiru O. Panneerselvam	2001 -2002
Selvi J. Jayalalithaa	2002-2006
Thiru M. Karunanidhi	2006-2011
Selvi J. Jayalalithaa	2011-2014
Thiru O. Panneerselvam	2014 - 2015
Selvi J. Jayalalithaa	2015-2016
Thiru O. Panneerselvam	2016-2017
Thiru Edappadi K. Palaniswami	2017- till now

Powers and functions of the Chief Minister

The Chief Minister is the real executive head of the State administration. He has the following powers and functions.

- Relating to the council of ministers

- Relating to the Governor
- Relating to the State Legislature Other functions and powers.

Relating to the Council of Ministers

As the head of the Council of Ministers, the Chief Minister enjoys the following functions and powers.

- The Chief Minister recommends the persons who can be appointed as ministers by Governor.
- He allocates the portfolios among the ministers.
- He shuffles and reshuffles his ministry.
- He can ask a minister to resign or to advise the Governor to dismiss him in case of difference of opinion.
- He presides over the meetings of the Council of Ministers and influences its decisions.
- He can bring about the collapse of the council of ministers by resigning from office.
- He guides, directs, controls and coordinates the activities of all the ministers.

Relating to the Governor

- The Chief Minister is the principal channel of communication between the Governor and the Council of Ministers, and he advises the Governor in relation to the appointment of the following officials:
 - Advocate General of the State.
 - State Election Commissioner.
 - Chairman and Members of the State Public Service Commission.
 - Chairman and Members of the State Planning Commission.
 - Chairman and Members of the State Finance Commission.

Relating to State Legislature

- The Chief Minister advises the Governor with regard to the summoning and proroguing the sessions of the state legislature.
- He announces the government policies on the floor of the house.
- He can introduce the bills in the Legislative Assembly.

- He can recommend for the dissolution of the Legislative Assembly to the Governor anytime.

Other function and powers

- As the leader of the ruling party, the Chief Minister has to control the party and develop the disciplines.
- As the leader of the state, he has to keenly consider the demands of the different sections of the people.
- As the political head of the various services, he has to supervise, control and co-ordinate the secretaries of various departments in the state level.
- For smooth functioning of the state and for good centre-state relations, he has to develop a rapport with the union government.

Council of Ministers

- The Council of Ministers are collectively responsible to the State Legislature. All the members of the Council of Ministers must be the members of the State Legislature. Those who are not the members at the time of their appointment must secure their seats in the Legislature within a period of 6 months. All the ministers work as a team under the Chief Minister. As long as the Chief Minister is in office, the Council of Ministers will also be in power. If a no-confidence motion is passed by the Legislative Assembly, the State Ministry shall resign.
- Article 163 provides for a Council of Ministers to aid and advise the Governor. According to Article 163(1) there shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.

Other Provisions relating to Ministers

- Article 164(1) holds that the Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor: Article 164(1A) states that the total number of Ministers, including the Chief Minister, in the

Council of Ministers in a State shall not exceed fifteen percent of the total number of members of the Legislative Assembly.

The functions and powers of the Council of Ministers

- It formulates and decides the policies of the state and implements them effectively.
- It decides the legislative programmes of the Legislative Assembly and sponsors all important bills.
- It controls the financial policy and decides the tax structure for the public welfare of the state.
- It chalks out programmes and schemes for the socio-economic changes so that the state makes headway in various interrelated fields.
- It makes the important appointments of the Heads of Departments.
- It discusses and takes efforts on the dispute with other states
- It advises the Governor on the appointment of Judges of the subordinate courts.
- It frames the proposal for incurring expenditure out of state reserves.
- It decides all the bills whether ordinary bills or money bills to be introduced in the Legislative Assembly.
- Each minister of the Council of Ministers supervises, controls and coordinates the department concerned.
- Annual Financial Statement called as the Budget is finalised by the Council of Ministers.

The State Legislature

- The Constitution provides a legislature for every state. Most of the States have only unicameral legislature i.e., Legislative assembly. Some State has bicameral legislatures (example Bihar, Karnataka, Maharashtra, Uttar Pradesh, Andhra Pradesh, Telangana and Jammu-Kashmir). The lower house, legislative assembly represents the people of the state the upper house; Legislative Council represents special interests like teachers, graduates and local governments.

The Legislative Assembly (Lower House)

- The Legislative Assembly is a popular house. It is the real centre of power in the State. It consists of members directly elected by the people on the basis of adult franchise. The strength of the Assembly varies from State to State depending on the population. However the maximum strength of the Assembly must not exceed 500 or its minimum strength not below 60. The term of office of the legislative assembly is 5 years. It can be dissolved even before the expiry of its term.
- The size of the Legislative Council cannot be more than one-third the membership of the Legislative Assembly (lower house) of that state. But its size cannot be less than 40, except in Jammu and Kashmir where there are 36 by an act of Parliament. The members draw the salary and allowances passed by the State legislature from time to time.

Composition

- The Legislative Assembly of Tamil Nadu consists of 235 members out of which 234 members are directly elected by the people from the constituencies on the basis of adult franchise and one member is nominated by the Governor from the Anglo-Indian community.
- However, seats shall be reserved in the house for the scheduled castes and scheduled tribes.

Cabinet and Cabinet Committees

- A smaller body called Cabinet is the nucleus of the council of minister. It consists of only the cabinet ministers. It is the real centre of authority in the state government. The cabinet works through various committees called cabinet committees. They are of two types - standing and ad hoc. The former are of a permanent nature while the latter are of a temporary nature.

The Speaker

- The Legislative Assembly elects two of its members as the Speaker and Deputy Speaker. The Speaker vacates his office, if he cannot continue to be a member of the Assembly. He may also resign his office at any time. The speaker may be removed from office by a resolution of the Assembly after giving a 14 days' notice. Such a resolution must be passed by a majority of the members present at the time of voting. The speaker does not vacate his office, when the Assembly is dissolved. He continues to be the Speaker until the first sitting of the new Assembly. While the office of the speaker is vacant, the Deputy Speaker performs his functions.

The Legislative Council (Upper House)

- The legislative Council is the upper House of the State Legislature. It is constituted as a permanent House. Article 171(1) provides that the total number of members in the Legislative Council of a State shall not exceed one-third of the total number of members in the Legislative Assembly of that State, but not less than 40 members in any case.
- The Vidhan Parishads (Legislative Council) forms a part of the state legislatures of India. In seven of India's 29 states (Bihar, Karnataka, Maharashtra, Uttar Pradesh, Andhra Pradesh, Telangana and Jammu - Kashmir) the Legislative Council serves as the indirectly elected upper house of a bicameral legislature. It is also a permanent house because it cannot be dissolved. Every Member of Legislative Council (MLC) serves for a six-year term, with terms staggered so that the terms of one-third of members expire every two years. MLCs must be citizens of India not under 30 years of age, mentally sound and not bankrupt, and his name should be in the voter's list of the state from which he or she is contesting the election.

Election to Legislative Council

- 1/3 of the members are elected by local bodies.
- 1/12 of the members are elected by Graduates of the universities in the State.
- 1/12 of the members are elected by Graduate teachers.

- 1/3 of the members are elected by the members of the Legislative Assembly.
- 1/6 is nominated by the Governor who is eminent in the field of literary excellence, art, social services or Co-operation.

The Chairman

- The Chairman (chair person he / she) is the Presiding Officer of the Upper house. The Members elect a Chairman and a deputy chairman from among themselves. In the absence of the chairman, the deputy chairman officiate the functions of the Legislative Council.

Abolition or Creation of Legislative Councils

- Article 169 deals with the creation or abolition of Legislative Council in a State. Article 169 holds that if the state Legislative Assembly passes a resolution by a majority of not less than 2/3rd of the members present and voting and by the majority of total strength of the House, requesting the Parliament to create or abolish the state Legislative Council then the Parliament may by law provide for the abolition and creation of the Legislative Council.

Functions of the State Legislature

- The powers and functions of the State Legislature are almost the same as that of Parliament.

Legislative powers

- The State Legislature can pass laws on all subjects mentioned in the State List as per the constitution. It can also pass laws on concurrent subjects. The State made law in a concurrent subject will become inoperative when the centre also passes a law on the same subject. The passing of Bill into law follows the same procedure, as in the union parliament. Every bill passes through three readings. Then it becomes an Act with the Governor's assent.

Financial Powers

- The Legislature controls the finances of the State. The Lower House enjoys greater power than the Upper House in money matters. Money bills can be introduced only in the Lower House or the Assembly. No new tax can be levied without the sanction and permission of the Assembly.

Controls over the Executive

- The Legislature controls the Executive. The Council of Ministers is responsible to the Assembly. The Ministers have to answer questions asked by the members of the Legislature. They can be removed from office if the Assembly passes a vote of "no confidence motion" against the Ministry.

Wide powers

- In State having two Houses, the Legislative Assembly enjoys more powers than the Legislative Council. The Assembly has complete control over the state finance. The Council cannot vote for grants. The Council of Ministers is responsible only to the Assembly.

JUDICIARY OF STATE

High Courts

- The institution of high court originated in India in 1862 when the high courts were set up at Calcutta, Bombay and Madras. In the course of time, each province in British India came to have its own high court. After 1950, a high court existing in a province became the high court for the corresponding state. The High Courts are the highest courts at State level, but being part of integrated Indian judiciary they work under the superintendence, direction and control of the Supreme Court. The Constitution of India provides for a high court for each state, but the Seventh Amendment Act of 1956 authorised the Parliament to establish a common high court for two or more states or for two or more states and a union territory. For example, the States of Punjab and Haryana and the Union Territory of Chandigarh have a common High Court situated at Chandigarh. Similarly, the High Court of Guwahati is common for seven northeastern States of Assam, Nagaland, Manipur, Meghalaya, Mizoram, Tripura and Arunachal Pradesh. Delhi, though not a State, has its

own separate High Court. Every High Court has a Chief Justice and a number of judges. The number of judges varies from State to State. The number of judges of each High Court is determined by the President. At present there are 25 High Courts for 29 States (including new Andhra Pradesh High Court established in 1st January 2019 at principal seat in Amravati) and seven Union Territories.

Appointment of the Judges

- Every High Court consists of a Chief Justice and such other Judges as appointed by the President from time to time (Article 216).

Jurisdiction and Powers of High Court

- At present, a high court enjoys the following jurisdiction and powers:

Original Jurisdiction

- In their judicial capacity, the High Courts of the Presidency towns (Bombay, Calcutta and Madras) have both original and appellate jurisdictions, while other High Courts have mostly appellate jurisdiction. Only in matters of admiralty, probate, matrimonial and contempt of Court, they have original jurisdiction. The Presidency High Courts have original jurisdiction in which the amount involved is more than ₹2000 and in criminal cases which are committed to them by the Presidency Magistrates.

Appellate Jurisdiction

- As Courts of appeal, all High Courts entertain appeals in civil and criminal cases from their subordinate Courts as well as on their own. They have, however, no jurisdiction over tribunals established under the laws relating to the Armed Forces of the Country.

Writ Jurisdiction

- Under Article 226 of the constitution, the High Courts are given powers of issuing writs not only for the enforcement of the Fundamental Rights, but also for other purposes. In exercise of this power, a Court may issue the

same type of writs, orders or directions which the Supreme Court is empowered to issue under Article 32. The jurisdiction to issue writs under this Article is larger in the case of High Courts, for which the Supreme Court can issue them only where a Fundamental Right has been infringed, a High Court can issue them not only in such cases, but also where an ordinary legal right has been infringed.

Habeas Corpus

- The writ of habeas corpus is issued to a detaining authority, ordering the detainer to produce the detained person in the issuing court, along with the cause of his or her detention, if the detention is found to be illegal, the court issues an order to set the person free.

Mandamus

- The writ of mandamus is issued to a subordinate court, an officer of government, or a corporation or other institution commanding the performance of certain acts or duties.

Prohibition

- The writ of prohibition is issued by a higher court to a lower court prohibiting it from taking up a case because it falls outside the jurisdiction of the lower court. Thus, the higher court transfers the case to it.

Quo Warranto

- The writ of quo Warranto is issued against a person who claims or usurps a public office. Through this writ the court inquires 'by what authority' the person supports his or her claim.

Certiorari

- The writ of certiorari is issued to a lower court directing that the record of a case be sent up for review, together with all supporting files, evidence and documents, usually with the intention of overruling the judgment of the lower court. It is one of the mechanisms by which the fundamental rights of the citizens are upheld.

Supervisory Jurisdiction

- High court has the power of superintendence over all courts and tribunals functioning in its territorial jurisdiction (except military courts or tribunals)
Thus, it may
 - a) Call for returns from them;
 - b) Make an issue, general rules and prescribe forms for regulating the practice and proceedings of them.
 - c) Prescribe forms in which books, entries and accounts are to be kept by them; and
 - d) Settle the fees payable to the sheriff, clerks, officers and legal practitioners of them.

Control over Subordinate Courts

A high court has an administrative control and other powers over them

- a) It is consulted by the governor in the matters of appointment, posting and promotion of district judges and in the appointments of persons to the judicial service of the state (other than district judges).
- b) It deals with the matters of posting, promotion, grant of leave, transfers and discipline of the members of the judicial service of the state (other than district judges).
- c) It can withdraw a case pending in a subordinate court if it involves a substantial question of law that requires the interpretation of the Constitution. It can then either dispose of the case itself or determine the question of law and return the case to the subordinate court with its judgment.
- d) Its law is binding on all subordinate courts functioning within its territorial jurisdiction in the same sense as the law declared by the Supreme Court is binding on all courts in India.

Court of Record

- All the decisions and decrees issued by the High Court are printed and are kept as a record for future references by the Court as well as by the lawyers, in such a need arises. Thus, it also acts as a Court of Record.

Power of Judicial Review

- Judicial review is the power of a high court to examine the constitutionality of legislative enactments and executive orders of both the Central and state governments. Though the phrase judicial review has nowhere been used in the Constitution, the provisions of Articles 226 and 227 explicitly confer the power of judicial review on a high court. The 42nd Amendment Act of 1976 curtailed the judicial review power of high court. It debarred the high courts from considering the constitutional validity of any central law. However, the 43rd Amendment Act of 1977 restored the original position.

APPOLO STUDY CENTRE CHENNAI

