



# Distance Learning Programme

UPPCS Mains

# Polity & Governance-I







drishti

# **POLITY & GOVERNANCE-I**


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# CONTENTS

1. History and Evolution	1-10
2. Salient Features of Indian Constitution	11-41
3. Citizen-State Relations	42-69
4. Indian Federalism	70-101
5. Union & States	102-166
6. Functioning of the Government	167-183
7. Local Government	184-213
8. Judiciary in India	214-248
9. Constitutional Posts & Bodies	249-288
10. Comparative Study of Indian Constitution	289-302
<b>Practice Questions</b>	<b>303</b>

provisions, objectives and functions of PR bodies, the dynamics of rural society and the growth potential of their areas. Bureaucracy has to become more committed to PRIs; Since political interference and over politicization of PRIs lead to dysfunctional, effort should be made to encourage unanimous election to the PRI bodies without affecting village harmony. This kind of disharmony and politicization affects the legitimacy and spirit of democratic decentralization; Active participation among broad elements of society, involving activities such as voting, campaigning, attending meetings, running for office, lobbying representatives, etc. Fiscal and political support from higher level authorities within government.

## Panchayati Raj Institutions in Uttar Pradesh

In India, Panchayati Raj system is identified as the prime instrument of decentralization through which democracy becomes truly representative and responsive. The Panchayati Raj institutions are considered as local self-government meant for providing basic infrastructure facilities, empowering weaker sections of the society and initiating the development process at the grass-root level of rural India, where the soul of India lives.

Uttar Pradesh brought in Panchayati Raj immediately after independence through the enactment of the UP Panchayat Raj Act, 1947. Following the recommendations of Balwant Rai Mehta Committee, a three-tier system of Panchayats was established through the enactment of the U.P. Kshettra Samitis and Zilla Parishads Act, 1961 (now, renamed as UP Kshetra panchayats and Zilla Panchayats Adhiniyam, 1961). Following the Constitution (73<sup>rd</sup> Amendment) Act, 1992 in order to bring about conformity with the provisions of the Constitution, the Government of U.P. amended the two Acts named above, through the Uttar Pradesh Panchayat Laws (Amendment) Act, 1994.

The 3 levels of Panchayats in U.P are:

Level of Panchayat	Name	Number of Panchayats
District Panchayat	Zilla Panchayat	75
Intermediate Panchayat	Kshettra Panchayat	821
Village Panchayat	Gram Panchayat	59,163

## Effective Devolution of Functions

Section 15 of the U.P Panchayat Raj Act 1947 and sections 32 and 33 of U.P. Kshettra Panchayats and Zilla Panchayats Act 1961, respectively provide for the devolution of functions, in conformity with Article 243-G of Indian constitution. Administrative Reforms and Decentralisation Commission (the Bajaj Ayog) which was appointed by the UP Govt. in the year 1994 gave several recommendations regarding devolution of functions to Panchayats. The report of the Bajaj Ayog was considered by a High Powered Committee, the Bholanath Tiwari Committee, which recommended devolution of 32 subjects to Panchayats, out of which 16 functions have been transferred.

Gram Panchayats have the power of verification of attendance of all village level workers. However, the appointments and transfers of all village level workers continued to be under the control of their parent departments. In 1999, steps were taken to permanently transfer village level functionaries of eight departments to Panchayats.

## Effective Devolution of Finances

The administrative cost of staff of Panchayats is met from the regular departmental budget. Funds may be released to the Panchayats by individual line departments based on the schemes entrusted to them. Funds to run the poverty alleviation program of Rural Development Department, Funds for Scholarships of Social Welfare Department, Funds for mid-day meal of Basic Education Department and Funds to run the schemes of Panchayati Raj Department, Construction of pavement and drainage, Rural Markets and Panchayat Bhawans are being released to the accounts of Gram Panchayats. Funds under various Centrally Sponsored Schemes namely Total Sanitation Campaign, NREGA, Samporna Gramin Rozgar Yojana and Mid-day-Meal are also transferred to Panchayats.

Till 1995-96, the major sources of finances to PRIs have been through Centrally Sponsored Schemes (CSS) and State Grants. After 1996-97 with the recommendations of Tenth Finance Commission (TFC) and the State Finance Commission (SFC) since 1997-98, the financial resources of gram Panchayats have augmented.

On the recommendation of the 14<sup>th</sup> Finance Commission (FFC), funds earmarked are disbursed to village panchayats. Based on FFC's recommendation, there is the target of granting more than Rs. two lakh crore (₹200292.20 crore) in 2015-20 to develop panchayats. The amount is three times more than the 13th Finance Commission's recommendation. There is a standard procedure to allot grants to panchayats. FFC has worked out the total size of the grant that constitutes an assistance of ₹488 per capita per annum at an aggregated level. Gram panchayats will utilize this grant for meeting basic necessities as well as technical and administrative needs.

As per State Finance Commission (SFC), gram panchayat can spend 10% of the grant on maintenance, accounting and administrative expenses. The share of each gram panchayat as specified by 14<sup>th</sup> finance commission is to be distributed across the entities using 2011 population with a weight of 90 per cent and area with a weight of 10 per cent. Central government will release the allotted grant to State governments and the latter will deposit the amount on each panchayat's account within 15 days of the release. States delaying this will have to pay at bank's interest rate. Village panchayats of 26 States will no more depend on State governments for financial resources. In this way, while the 14<sup>th</sup> Finance Commission showed the path for panchayats, Central government displayed its intent to walk the talk and proceed on this path.

The functional domains of the three tiers of PRIs, as also the nature of interlinkages between them, should be clearly defined and detailed in law, rules, and executive orders. The Government should issue clear operational guidelines in this respect.

## Suggestions to Augment Financial Resources

- Management of Common Property Resources (CPRs) in rural areas has been neglected. Development of CPRs should form an essential part of Gram Panchayats and District Plans. Mass campaigns may be undertaken to increase peoples awareness about the importance of CPRs. Gram Panchayats (GPs) may impose a reasonable charge on users of CPRs.
- Own resources of Zilla Panchayats (ZPs) are very narrow and shallow. Even their existing own tax potential has not been properly exploited. There is need for deepening and widening their tax/non-tax bases.

- Property tax, which is levied in rural areas in many States, should be introduced in the rural areas of U.P. on all private, commercial and Government properties as an obligatory tax for GPs, subject to specified exemptions. Necessary legal provisions are made in this regard. Even at very moderate rates, this tax can yield large amounts.
- GPs should be empowered to impose a graded levy on sale of water by private tube wells or pump set owner for irrigation purposes.
- Penalty at the rate of 2% per month be imposed for delayed payments. This should be specified in law itself.
- An effective system of positive and negative incentives for own revenue efforts by GP must be put in place. Those not imposing obligatory taxes/non-taxes should not receive full devolution share.
- Although Kshettra Panchayats (KPs) have tax and non-tax powers, their functional domain is not yet clearly demarcated. KPs are functioning largely as agencies for carrying out Government schemes. They are not raising any revenue from own sources at present.
- C&P tax is at present imposed only in 47 districts. Till this tax is replaced by a comprehensive profession tax. It should be made mandatory for all districts in the State. Model rules be framed by the Government to maintain uniformity in its application.
- Objective norms for levying C & P tax should be laid down and more professions and establishments including section of salaried class should be brought under the ambit of this tax. Assesses identification, procedure of assessment and recovery machinery should be specified in detail.
- Government should fix rates and range of rates for different types of license fees, which should be revised at yearly intervals. Scope of such fees be expanded to cover new activities.
- At ZP level, Rural Infrastructure Development Fund should be created in each district for development and maintenance of rural infrastructure. The fund should be non-lapsable and administered by ZPs themselves. Its funding sources would, inter-alia, be additional stamp duty share, surcharge on trade tax petroleum products, development fee charged by Mandi Samitis, etc.
- The existing accounting and audit systems for PRIs in the State are unsatisfactory and characterized by incomplete coverage and delays. The systems need to be thoroughly reviewed and rationalized.
- A separate independent organization for audit of PRIs in the State should be created, delinked from the audit of co-operative societies. This set-up should be located within the Finance Department and should function under the overall supervision and guidance of C&AG; ZPs should move to a modified accrual system of accounting.
- Specific arrangements for training of elected representatives, staff deployed with PRIs as well as staff of audit agencies should be made with special focus on maintenance of accounts and their audit. Capsules on financial management should also form part of the general training programmes.
- Creation for databases for PRIs needs to be accorded high priority. In addition to financial data, information on other programmes and activities of PRIs and also needs to be collected and maintained on a regular basis for proper planning.
- For making PRIs more accountable, transparent and efficient, a networked information system needs to be put on the ground. This would need skills, training, equipment and connectivity. Equipment like computers, photocopiers, fax machines etc., have to be provided for the purpose.

- Monitoring system for Panchayats should be strengthened at the Panchayati Raj Directorate and District Panchayati Raj Officer levels. Loops for corrective action must be created at various levels.
- There is need for regular evaluation of the functioning of PRIs. Apart from government agencies, it would be desirable to earmark some funds for sponsoring such evaluation studies.

### **Main Issues with PRIs in Uttar Pradesh**

- Although the political decentralization can be clearly seen in the regular Panchayat elections with good participation of people, the administrative and fiscal decentralization have remained rather limited. The State Government have failed to give up their control on matters of local administration and finance.
- Panchayats have not been granted enough powers for revenue generation. As a result, they only have limited functional autonomy.
- Recommendations of State Finance Commissions (SFCs) are generally not taken seriously.
- Powers given to the State Election Commissions are not adequate. It should have been given powers to deal with all matter relating to Panchayat elections, namely delimitation of constituencies, rotation of reserved seats in Panchayats, finalization of electoral rolls, etc.
- Gram Sabhas have not been empowered and strengthened to ensure greater people's participation and transparency in functioning of Panchayats as envisaged in the Panchayat Act.

### **Municipalities**

The concept of local government varies from country to country in terms of its characteristics relating mainly to decentralization of decision-making process and the powers of local taxation. In India, 'Urban Local Government' signifies the governance of an urban area by the people through their elected representatives. Their jurisdiction is limited to a specific urban area which is demarcated by the State government for this purpose.

The 74<sup>th</sup> Constitutional Amendment Act came into effect on 1<sup>st</sup> June 1993. This Act constitutionalised the urban local government in India. At the Central level, the subject of urban local government is dealt with by the Ministry of Urban Development (created as a separate ministry in 1985), Ministry of Home Affairs (in case of Union Territories), and Ministry of Defence (in case of Cantonment Boards)

### **Evolution of Urban Local Bodies in India**

The Indus Valley Civilization was a highly sophisticated and a well structured urban culture throughout the primeval period in India. During the Mughal era, responsibility of administering a city was entrusted on the 'Kotwal'. The urban administration had collapsed during the later part of Mughal rule. The Britishers were never interested in revitalising the urban administration in India. However, in the year 1688, they introduced for the first time a municipal corporation in the city of Madras by a Charter granted in 1687.

- **Tier-3:** The focus of tier 3 is rapid and even more transformational reforms along three main avenues: governance, planning and finance. The emphasis is on (1) deepening decentralization and strengthening urban local bodies through greater devolution of funds, functions and functionaries, (2) own source revenue mobilization for self-reliance and (3) flexibility in urban planning, particularly aligning master plans to changing socio-economic conditions in cities. These involve reforms that can be pushed for enhancing downstream accountability mechanisms, like making local ward committees responsible for operation and maintenance of projects, etc. States and cities compete against each other and the incentive is given based on competition.

### Central Council of Local Government

The Central Council of Local Government was set up in 1954 under Article 263 of the Constitution by an order of the President of India. Originally, it was known as Central Council of Local Self-Government. In 1980s 'self-government' was replaced by the term 'government'. Till 1958, it dealt with both urban as well as rural local governments. After 1958, it has been dealing with matters of urban local government only. The Council is an advisory body. It consists of the Minister for Urban Development in the Government of India and the Ministers for local self government in States. The Union Minister acts as the Chairman of the Council.

#### Functions

- Making proposals for legislation.
- Considering and recommending the policy matters.
- Examining the possibility of cooperation between the Centre and the States.
- Drawing up a common programme of action.
- Recommending central financial assistance.
- Reviewing the work done by the local bodies with the central financial assistance.

### Urban Local Governance in Uttar Pradesh

Government implemented the system of democratic governance down to grassroot level in Urban Local Bodies (ULBs) before the 74<sup>th</sup> Constitutional Amendment Act, through Uttar Pradesh Municipal Corporation Act, 1959 and Uttar Pradesh Nagar Palika Act, 1916.

After the amendment of the Constitution, the Uttar Pradesh Local Self Government Laws (Amendment) Act, 1994 was passed by the state legislature, which came into force with effect from May 1994. The United Provinces Municipalities Act, 1916, and the Uttar Pradesh Municipal Corporation Act, 1959 have been renamed as UP/Uttar Pradesh Nagarpalika Act, 1916 and UP Nagar Nigam Act, 1959 while the United Provinces Town Area Act, 1914, has been replaced.

The objective was to make the ULBs self reliant and to provide better civic facilities to the people of the areas under their jurisdiction. Further, the Seventy-Fourth Constitutional Amendment (1992) paved the way for decentralization of powers, transfer and devolution of more functions and funds to the ULBs. Consequently, more diversified responsibilities were devolved through a three tier structure namely Nagar Nigams (NNs), Nagar Palika Parishads (NPPs) and Nagar Panchayat (NPs). To incorporate the provisions of the Seventy-



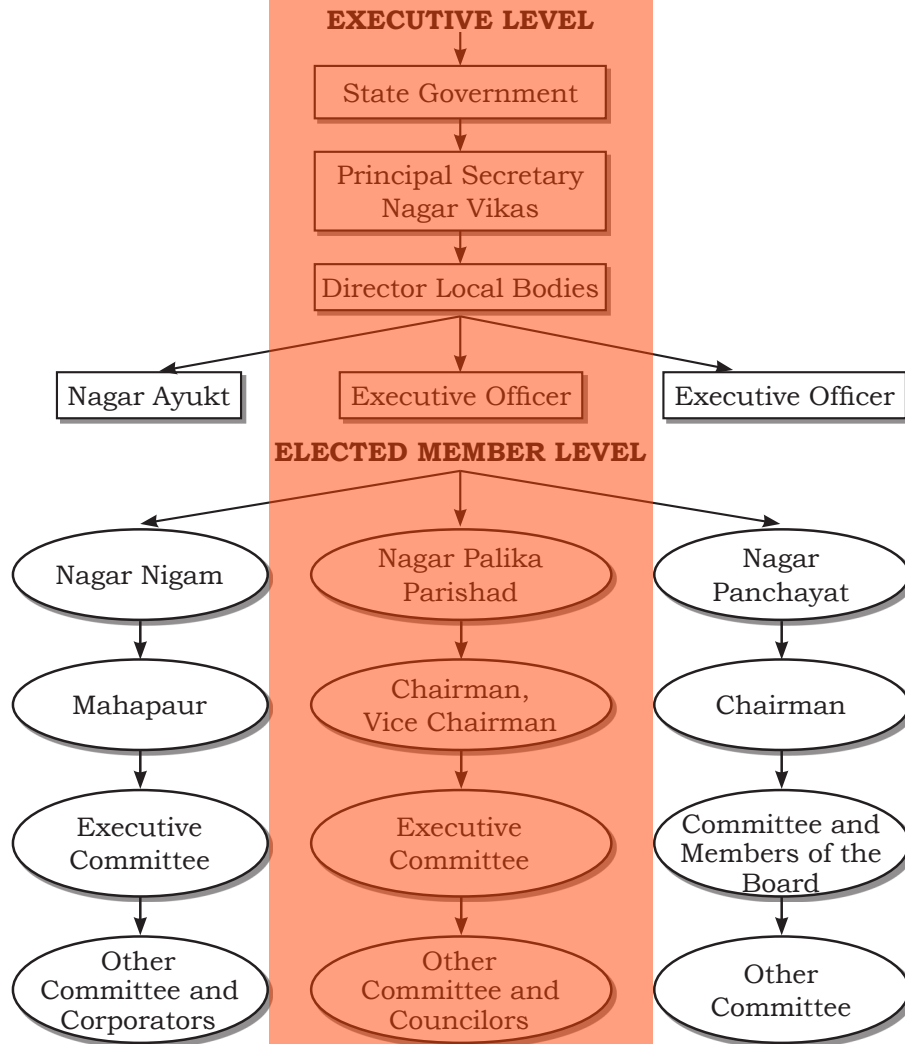
Fourth Constitutional Amendment, the legislature of Uttar Pradesh enacted the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994.

### Administrative Organisation of Urban Local Bodies

Uttar Pradesh is the most populated state of the country comprising of 75 Districts with 18 Divisional Headquarters, and an urban populations of 4.44 crores. It has 653 Urban Local Bodies.

- 16 Municipal Corporations commonly referred to as Nagar Nigams
- 199 Municipal Councils commonly known as Nagar Palika Parishads
- 438 Nagar Panchayats commonly known as Town Areas.

While a Mahapaur heads the Nagar Nigam, a Adhyaksha heads both Nagar Palika Parishads and Nagar Panchayats. The elected representatives exercise their powers and discharge the duties through the committees of elected members. Nagar Ayukt in case of Nagar Nigam and Executive Officers in case of Nagar Palika Parishads and Nagar Panchayats are the administrative heads.



## Transfer of Functions

In follow up to the Constitution (Seventy-Fourth) Amendment Act, 1992, the Legislature of the State enacted laws for devolving 13 functions out of 18 (enshrined in Twelfth Schedule of the Constitution) on the ULBs leaving 5 functions yet to be devolved. In addition, one function namely parking places for vehicles (beyond Twelfth Schedule of the Constitution) was also devolved.

However, neither activities nor functionaries and funds in respect of six functions out of 14 thus devolved were transferred to the ULBs as of March 2008. Thus, partial devolution of the activities/ functions and funds restricted the activities of the ULBs.

## Recommendations

- Government should take effective steps to develop database on finances of the ULBs for making need based assessment of their requirements at the Government level.
- The Government should adopt the norms prescribed by the Second Finance Commission for devolution of funds to the ULBs.
- Government should ensure that the Comptroller & Auditor General of India's standard Budget/Account formats are adopted by the ULBs.
- The ULBs should be made accountable towards the primary audit by the Director, Local Fund Audit and responsive to the Audit Inspection Reports prepared under the technical guidance and supervision of the Comptroller and Auditor General of India.

