

Historical Background of Municipal Regulations of Bihar

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ABSTRACT

This is an article about History of Municipal Regulations of Bihar. As we know Bihar along with Orissa was part of Bengal which was governed under Bengal LSG Government Act, 1885. After first separation, Bihar and Orissa Municipal Act, 1922 was formulated. After second separation, Orissa formulated its own Act in due course. The state of Bihar decided to upgrade Patna city Municipality into Municipal Corporation, as such separate Patna Municipal Corporation Act, 1951 was formulated. Thus, two Acts came into operation, one for Municipal Corporation and another for Municipalities of Bihar. The amendments in both Acts were made as per provisions of 74th Constitutional Amendments in 1994. Later on a draft Municipal Act was circulated by the Government of India with the advice to incorporate the provisions of draft model in the existing municipal Acts or make separate Act as per draft. Instead of incorporating the provisions of draft in the existing municipal Acts, Bihar repealed its both municipal Acts and formulated a new Bihar Municipal Act, 2007, which is full of contradictions and totally against the spirit of 74th Amendment of the Constitution. So far about 250 amendments have been made in this Act and at least same number of amendments are further required for making this Act smoothly workable.

Keywords: *Municipal Regulations, Bihar Municipal Act, 74th Constitutional Amendment.*

The history of Municipal regulations of Bihar is quite old. As we know Bihar was previously a part of Bengal and first time in the year 1810, the provision for municipal services and realisation of "Town Duty" for the said services came into existence through Regulation-X, which was made applicable in the towns of Patna, Purnea, Muzaffarpur, Bhagalpur, Chapra, Arrah and Gaya – a total of seven towns. Again in

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1813, under Regulation XIII, the provision for imposition of "Local Tax" according to the need of local services was made. Further, in 1814, under Regulation XIII, a provision was made for imposition of tax to meet the expenses to be incurred on "*Town Chowkidars*" in Patna town and all other towns of Patna Commissionary where the residences of District Magistrates were located. This Tax was fixed at a maximum rate of two *annas* per house owner per month, and to ensure its implementation, the provision for a group of five house owners under the control of the District Magistrate was made responsible. But, there was no relation of this "Town Duty" or "*Town Chowkidari*" with any organized Town Services. However, in 1837, through Act XV, it was made sure that a portion of collected amount will be spent on sanitation and repairs works in the town. The upper limit of imposition of this tax was raised from one *anna* to Rs. 2/- per month. It is to be mentioned here that under Regulation X of 1810, provision to spend some portion of the amount received under "Town Duty" for small (minor) development work was made but in 1829 development works from this "Town Duty" were totally abandoned due to economic hardship.

In real sense, the provision for establishing Municipal administration was made in 1842 under Act X, keeping in view services like repairs of roads, arrangement for sanitation and lighting as well as looking after drainage system, lanes, ponds, etc. The decision to implement these provisions was left on the sweet will of two-third residents of the towns, but unfortunately this Act remained unimplemented. As a result, in 1856, for all the towns and markets, "Town Police Act" was brought and responsibility of collection to taxes vested in the Panchayats which were to be appointed by the magistrate. These Panchayats were authorised to collect the said taxes through the said *Jamadar*.

In bigger towns, for rendering Municipal services, the provision for constitution of 'Municipal Body' was made through the "District Municipal Improvement Act, 1864". The provision for constituting a 10-member Municipal Body consisting of the Divisional Commissioner, Magistrate, Executive Engineer and seven local persons as its members was made in the Act. The main income of this "Municipal Body" used to be "Holding Tax". But it was also empowered to impose taxes on, elephants, horses, animal carts, and manually hand driven carts. In this Act, there was provision for general cleanliness, conservancy and sanitation as well as exercising control over "Public Sanitation" and granting the Licenses for offensive and dangerous trade.

Again, keeping in view the provision of municipal services in

smaller towns, the District Town Act was enforced in 1866 under which formation of a 5-member Committee with one-third of its members being government officials and a Magistrate as its Chairman, was made. In this Act, a maximum of Rs. 7/- was to be realised as tax from one individual. Now the responsibility for collection of tax was given to an officer appointed by the Magistrate.

The District Municipal Improvement Act 1864 which was made for providing services in bigger towns was amended in the year 1867 and the municipal bodies were empowered to incur expenditure on vaccination. Also, a sum of Rs. 250/- per month was authorised to be spent in hospital existing in a town. This Act was enforced in the large and developed towns, which numbered 25 only at that moment.

Thus, till 1872, four Acts were enforced in the 'United Bengal' of which 'Bihar and Orissa' formed a part:

- (i) The only town Jamalpur was administrated through the Bengal Act XXVI of 1850.
- (ii) The administration of 68 towns was under the Bengal Act XX of 1856.
- (iii) The administration of 91 towns was put under the Bengal Act VI of 1868 and
- (iv) The administration of remaining 24 towns was under the Bengal Act, 1864.

A number of difficulties were being faced due to existence of these four separate Acts. As such all the above four separate Acts were repealed through an Act of 1876 and the Municipalities were divided in to two categories according to its population and density. But, this Act was also repealed and the Bengal Municipal Act, 1884 came into existence. Later on, the Bengal Local Self Government Act 1885 (Bengal Act III of 1885) was also enforced. In fact, this was a full Act in true sense which remained enforced for 40 years.

It was recognised as far back as in 1905 that the Bengal Municipal Act of 1884 required amendments. Amendments were drafted but in accordance with the views of the Government of India, the Government of Bengal decided that it would be preferable to have a new Act instead of amending the existing Act. Little was, however done till the separation of Bihar and Orissa from Bengal.

After separation of Bihar and Orissa from Bengal on April 1, 1912, the Legislative Council of Bihar and Orissa prepared the draft of Municipal Bill and submitted to the Imperial Council for its approval.

Later on Imperial Council got it examined through various committees and directed wide ranging amendments in this draft Bill. In August 1919, opinion of the non-official members of the Legislative Council was taken as to whether the Local Self Government and Municipal Bill should be proceeded with or not and the members who were present at the informal meeting held for the purpose, were unanimously of opinion that the Bill should not be proceeded with but should be dealt with by the Minister and Reform Committee. In August 1920, a further committee was appointed to advice on certain questions arising out of the Report of the Committee appointed to examine the system of Local Government in England and to make recommendation. Accordingly Memorandum of the Bihar and Orissa Municipal Bill was published by government in the Ministry of Local Self Government in the Bihar and Orissa Gazette of July 13, 1921 Part-V.

The bill was the result of mature deliberations of officials and non-officials extending over several years. In deference to the public opinion, the government decided to leave the work to the present Council. The Municipal Bill was published in the Bihar and Orissa Gazette, dated 18th November, 1921 and circulated for public opinion and after receipt of the public opinion, it was referred to a Select Committee. The Select Committee's report was then presented to the council for consideration which approved and passed the Bill on November 2, 1922. Thus the Bihar and Orissa Municipal Act, 1922 (Bihar and Orissa Act VII of 1922) came into existence on November 2, 1922 which came into operation on January 1, 1923. The Orissa was separated from Bihar in the year 1935 but this Bihar and Orissa Municipal Act, 1922 was in operation in Orissa as before. Later on Orissa made its own Municipal Act.

In the meantime, in 1943, the Patna City Municipality was superseded which remained as such till attainment of Independence. After Independence in 1947, the State Government decided to establish a 'Nagar Nigam' (Municipal Corporation) in Patna. With this aim, a Bill which was called "The Patna Municipal Corporation Act, 1951" (Bihar Act XIII, 1952) was placed before His Excellency President of India. His Excellency who had earlier held the post of Chairman of Patna City Municipality thankfully accorded his approval to the Bill. Accordingly, the Patna Municipal Corporation Act, 1951 (Bihar Act XIII, 1952) came into existence on July 30, 1951. The superseded 'Patna City Municipality' was changed as Patna Municipal Corporation. Later when action for formation of Ranchi Municipal Corporation started, on September 19, 1979 this Patna Municipal Corporation, Act 1951 was made applicable to all the Municipal Corporation to be formed including the Ranchi Municipal Corporation. In this way, in this State, two Acts i.e. the Bihar and Orissa Municipal Act, 1922 and the Patna

Municipal Corporation Act, 1951 – became effective w.e.f. November 2, 1922 and July 30, 1951, respectively. In other words, the administration of Municipalities in this State started being run under the Bihar and Orissa Municipal Act, 1922 (Bihar and Orissa Act, VII, 1922) and that of Municipal Corporation under Patna Municipal Corporation Act, 1951 (Bihar and Orissa Act, XV, 1952).

Besides this, keeping in view the development of city areas, the Bihar Town planning and Improvement Trust Act, 1951 (Bihar Act 35 of 1951) came into effect. Repealing this Act, the Bihar Regional Development Authority Ordinance was promulgated in the year 1977, which later on became “Bihar Regional Development Authority Act 1981”.

In the meantime, keeping in view of necessity, several amendments were made in the Bihar and Orissa Municipal Act, 1922 as well as in the Patna Municipal Corporation Act, 1951. The most important amendment was made in the year 1994, keeping in view of the 74th amendment of the Constitution. The wide-ranging amendments were made in the Bihar and Orissa Municipal Act, 1922 and the Patna Municipal Corporation Act, 1951.

At the national level also, serious consideration was being given to bring about uniformity in the Municipal administration. The Government of India, with the assistance of the “Time Research Foundation” and Co-operation of experts of United State Agency for International Development and on advice of “Financial Institutions Reforms and Expansion Project”, United Nations Development Programme (UNDP) and National Institute of Urban Affairs (NIUA) prepared a draft of “Model Municipal Law” in two parts and sent the same to the State Government in the year 2002 with a view to facilitate and assist them in amending/enacting their own state level municipal statutes, *mutatis mutandis*.

The Government of Bihar did not take any action for amending its municipal statutes as per “Model Municipal Law” till 2006. Meanwhile Jawaharlal Nehru Urban Renewal Mission was initiated by the Government of India. But this state was unable to receive assistance from Government of India under this mission, without amending its Acts in accordance with the Model Municipal Law. As such after keeping this Model Municipal Law pending for four years, the Government of Bihar instead of amending its two Municipal Acts, promulgated in hurry an Ordinance in the name of Bihar Municipal Ordinance, 2007 after repealing Bihar Municipal Act, 1922, Patna Municipal Act, 1951, Bihar Restrictions of Uses of Land Act, 1948, Bihar Town Planning and Improvement Trust Act, 1951 and Bihar Regional Development

Authority Act, 1981. This Ordinance was converted into Bihar Municipal Act, 2007 on April 5, 2007.

It is to be stated that this new Act enacted by the Government of Bihar is not representing the spirit of 74th Amendment of Constitution. Instead of decentralisation of power and autonomy to the municipal body all the powers have been centralised in the hand of state government. Autonomy of Urban Local Bodies had been taken away. The Urban Local Bodies can't take any decision without approval of the state government. Even the state government has taken away power of Urban Local Bodies to make rules, which was previously vested to Urban Local Bodies in the Bihar Municipal Act, 1922 as well as in the Patna Municipal Corporation Act, 1951.

It is also to be stated that due to this centralised act several problems are erupting regularly and ultimately intervention of Hon'ble High Court has become common in Bihar. Having received a number of objections from different corners of the society and reputed Institutions of Urban Governance, more than 250 of amendments have been made in the Act till now and further at least same number of amendments are urgently required to facilitate smooth functioning of Urban Local Bodies in Bihar. But due to these enormous patch work, this Act has taken a most ugly face.

As such it is most essential to give a second look to this Act and thoroughly amend it to give autonomy to Urban Local Bodies and decentralise the power which has been centralised by the state government.

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