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An Analysis of Income and Expenditure of Bikaner Municipal Corporation

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ABSTRACT: A municipal corporation is a type of local government in India that administers urban areas with a population of more than one million. The growing population and urbanization of various Indian cities highlighted the need for a type of local governing body that could provide services such as healthcare, education, housing and transport by collecting property taxes and administering grants from the state government. The Municipal corporation carries out its function through well organized divisions or departments. For example water supply and sewage disposal Undertaking, Housing Board, Education Department and Electricity Department. Each of these Departments are looked after by experienced and qualified persons.

KEYWORDS: municipal corporation, local government, administering, grants, departments, taxes

I. INTRODUCTION

The 74th Amendment Act defined the formations of urban local governments and their activities.^[1] Municipal corporations are referred to by different names in different states (due to regional language variations), all of which are translated to "municipal corporation" in English. These names include Nagar Nigam (in Delhi, Uttar Pradesh, Uttarakhand, Bihar, Jharkhand, Rajasthan, and Haryana), Nagara Nigama (in Punjab), Mahanagar Palika (in Goa and Maharashtra), Mahanagara Palike (in Karnataka), Mahanagar Seva Sadan (in Gujarat), Pouro Nigom (in Assam), Paura Parishada or Paura Nigam (in Odisha), Pouro Nigam (in West Bengal), Pur Porishod (in Tripura), Nagar Palika Nigam (in Chhattisgarh and Madhya Pradesh), Nagara Paalaka Samstha or Mahaanagara Paalaka Samstha (in Andhra Pradesh and Telangana), Nagara Sabha (in Kerala) and Maanagaraatchi (in Tamil Nadu).¹

The Vadodara Municipal Corporation of the city of Vadodara in Gujarat is typically called by the name "Vadodara Mahanagar Seva Sadan" and the Greater Bangalore Municipal Corporation of the city of Bangalore in Karnataka is typically called "Bruhat Bengaluru Mahanagara Palike". The detailed structure of these urban bodies varies from state to state, as per the laws passed by the state legislatures, but the basic structure and function is almost the same. The area administered by a municipal corporation is known as a municipal area. Each municipal area is divided into territorial constituencies known as wards. A municipal corporation is made up of a wards committee. Each ward has one seat in the wards committee. Members are elected to the wards committee on the basis of adult franchise for a term of five years. These members are known as councillors or corporators.² The number of wards in a municipal area is determined by the population of the city. Some seats are reserved for scheduled castes, scheduled tribes, backward classes and women.^[1]

A state can choose to constitute additional committees to carry functions of urban local governance, in addition to the wards committees. In addition to the councillors elected from the wards, the legislature of a state may also choose to make provisions for the representation of persons having special knowledge or experience in municipal administration, the MPs or MLAs representing the constituencies which comprise wholly or partly the municipal area, and/or the commissioners of additional committees that the state may have constituted. If a state legislature

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appoints a person from the first category to a wards committee, that individual will not have the right to vote in the meetings of the municipal corporation, while MPs, MLAs and commissioners do have the right to vote in meetings.^[1] The largest corporations are in the ten major metropolitan cities of India, ³ viz. Mumbai, Delhi, Hyderabad, Kolkata, Chennai, Bangalore, Ahmedabad, Lucknow, Jaipur, Kanpur.

The Brihanmumbai Municipal Corporation (BMC) of the city of Mumbai in Maharashtra is the richest municipal corporation in India.^{[2][3]} Greater Chennai Corporation of the city of Chennai in Tamil Nadu is the oldest municipal corporation in India and second oldest municipal corporation in the world only behind City of London Corporation in United Kingdom.^[4] The Mayor is the head of the municipal corporation, but in most states and territories of India the role is largely ceremonial as executive powers are vested in the Municipal Commissioner. The office of the Mayor combines a functional role of chairing the Corporation meeting as well as ceremonial role associated with being the First Citizen of the city. As per the amended Municipal Corporation Act of 1888, a Deputy Mayor is appointed by the Mayor. The tenure of the Mayor and Deputy Mayor is five years. However, in seven states: Haryana, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Odisha, Uttar Pradesh and Uttarakhand; Mayors are directly elected by the people and thus hold the executive powers of the municipal corporations.⁴

Executive officers monitor the implementation of all the programs related to planning and development of the corporation with the coordination of mayor and councilors.

The Twelfth Schedule of the Constitution lists the subjects that municipal corporations are responsible for. Corporations may be entrusted to perform functions and implement schemes including those in relation to the matters listed in the Twelfth Schedule.^[1]

- Regulation of land-use and construction of buildings .
- Urban planning including town planning .
- Planning for economic and social development .
- Water supply for domestic, industrial and commercial purposes .
- Public health, sanitation conservancy and solid waste management .
- Fire services .
- Urban forestry, protection of the environment and promotion of ecological aspects.
- Safeguarding the interests of weaker sections of society, including the handicapped and mentally disabled⁵
- Slum improvement and upgradation.
- Repair street lights
- Urban poverty alleviation.
- Provision of urban amenities and facilities such as parks, gardens, playgrounds.⁶
- Promotion of cultural, educational and aesthetic aspects.
- Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
- Cattle pounds; prevention of cruelty to animals.
- Vital statistics including registration of births and deaths.
- Public amenities including street lighting, parking lots, bus stops and public conveniences.
- Regulation of slaughter houses and tanneries^[1]

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II. DISCUSSION

Bikaner Municipal Corporation is the municipal corporation governing Indian city of Bikaner. Municipal Corporation mechanism in India was introduced during British Rule with formation of municipal corporation in Madras (Chennai) in 1688, later followed by municipal corporations in Bombay (Mumbai) and Calcutta (Kolkata) by 1762.^[1] Bikaner Municipal Corporation is headed by Mayor of city and governed by Commissioner.⁷

Bikaner Municipal Corporation was formed to improve the infrastructure of the town as per the needs of local population.^[2] Bikaner Municipal Corporation has been categorised into 80 wards and each ward is headed by councillor for which elections are held every 5 years.

Bikaner Municipal Corporation is governed by mayor Sushila Rajpurohit^[3] and administered by Municipal Commissioner.^[4]

Bikaner Municipal Corporation is created for the following functions:^{[5][6]}

- Planning for the town including its surroundings which are covered under its Department's Urban Planning Authority.⁸
- Approving construction of new buildings and authorising use of land for various purposes.
- Improvement of the town's economic and Social status.
- Arrangements of water supply towards commercial, residential and industrial purposes.
- Planning for fire contingencies through Fire Service Departments.
- Creation of solid waste management, public health system and sanitary services.
- Working for the development of ecological aspect like development of Urban Forestry and making guidelines for environmental protection.
- Working for the development of weaker sections of the society like mentally and physically handicapped, old age and gender biased people.
- Making efforts for improvement of slums and poverty removal in the town.

The following are the Income sources for the Corporation from the Central and State Government.^{[7][8][9]}

Revenue from taxes

Following is the Tax related revenue for the corporation.

- Property tax.
- Profession tax.
- Entertainment tax.

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- Grants from Central and State Government like Goods and Services Tax.
- Advertisement tax.

Revenue from non-tax sources

Following is the Non Tax related revenue for the corporation.⁹

- Water usage charges.
- Fees from Documentation services.
- Rent received from municipal property.
- Funds from municipal bonds.

III. RESULTS

These appeals by Bikaner Municipality arise out of a common judgment of the Rajasthan High Court dated October 10, 1968, by which the suits which were filed by the present appellants were dismissed in pursuance of the earlier judgment of the same court dated November 9, 1964, on the ground that they were governed by Section 179(2) of the Rajasthan Town Municipalities Act, 1951, hereinafter referred to as the Act, and were barred by limitation.¹⁰

2. The facts giving rise to the appeals were different in details, but they were examined in the High Court with reference to the common questions of law which arose in all of them and formed the basis of that Court's decision against the plaintiffs. We have heard these as companion appeals, and will decide them by a common judgment.

3. It is not necessary to give the detailed facts of all the cases as it will be enough to refer to the suit which was filed by M/s. Surajmal Banshidhar and the developments connected with it, in order to appreciate the controversy in Bikaner.¹¹

4. The plaintiff firm referred to above carried on business in "pakka arat" and exported goods of various kinds from Bikaner. The Municipal Board of Bikaner realised "export duty", by way of terminal tax, on the exported goods. The plaintiff therefore raised a suit on October 19, 1957, challenging the Board's right to "impose or to realise" any export duty during the period June 5, 1954 to March 10, 1957, amounting to Rs. 10,729/-. It however confined the suit to the recovery of Rs. 10,000/- alongwith interest and gave up the balance. The Board denied the claim in the suit and pleaded, inter alia, that the levy of the terminal tax was in accordance with the law and the suit was barred by limitation. The trial court rejected the defence and decreed the suit, and its decree was upheld by the District Judge on appeal. Similar decrees were passed in the other suits, for various sums of money. The Board took the matter to the High Court in second appeals. The appeals were heard by a Single Judge who, while deciding that the suits were governed by Section 179(2) of the Act, referred the question of the legality of the levy to a larger Bench. A Full Bench of the High Court held that the levy of the terminal tax was illegal, and sent the cases back to the Single Judge who allowed the appeals only for those amounts which were found to be within limitation u/s 179(2) of the Act and dismissed the other suits. The plaintiffs obtained special leave and have come up to this Court in these circumstances in Bikaner.¹²

5. The question which arises for consideration is whether the suits fall within the purview of Section 179(2) of the Act. The first two Sub-section of Section 179 which bear on the controversy read as follows,-

179. Limitation of suits, etc.-(1) No suit shall be instituted against any municipal board, president, member, officer, servant or any person acting under the direction of such municipal board, chairman, member, officer or servant for anything done or purporting to be done under this Act, until the expiration of two months next after notice in

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writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a municipal board, delivered or left at its office, and, in case of a chairman, member, officer, or servant, or person as aforesaid, delivered to him or left at his office or usual place of abode; and the plaint shall contain a statement that such notice has been so delivered or left, in Bikaner¹³

(2) Every such suit shall, unless it is a suit for the recovery of immovable property or for a declaration of title thereto, be dismissed if it is not instituted within six months after the accrual of the alleged cause of action, in Bikaner⁸

The question therefore is whether the illegal levy of terminal tax (assuming that it was illegal as held by the High Court) could be said to be a thing "done or purporting to be done" under the Act. A similar question arose for the consideration of this Court in *Poona City Municipal Corporation v. Dattatraya Nagesh Deodhar* [1964] 8 S.C.R. 178 with reference to the provision in Section 127(4) of the Bombay Provincial Municipal Corporation Act, 1949, and it was held that if the levy of a tax was prohibited by the Act concerned and was not in pursuance of it, it "could not be said to be "purported to be done in pursuance of execution or intended execution of the Act"." It was observed that what was plainly prohibited by the Act could not be "claimed to be purported to be done in pursuance or intended execution of the Act." It was therefore held that the suit was outside the purview of the Section 127(4) and was not barred by limitation. We are in respectful agreement with that view, and we have no hesitation in holding, in the circumstances of the present cases, which are governed by a provision similar to Section 127(4) of the Bikaner Municipal Corporation Act, that the suits did not fall within the purview of Section 179 of the Act and were not barred by limitation. It may be mentioned that it has not been argued before us, and is nobody's case, that the suits would be barred by limitation even if they did not fall within the purview of Section 179(2) of the Act. The decision of the High Court to the contrary is not correct and will have to be set aside.⁹

6. It has however been argued on behalf of the respondents that the High Court erred in taking the view that the levy of the terminal tax was illegal, and our attention has been invited to the relevant provisions of the law including the Bikaner State Municipal Act, 1923, Article 277 of the Constitution and Section 2 of the Act.

7. It is not in controversy before us that the Bikaner State Municipal Act, 1923, authorised the levy of terminal tax and such a tax was levied by the Ganganagar Municipal Board under the authority of that law upto January 26, 1950, when the Constitution came into force. On and from that date, the power to levy export duty vested in the Parliament but Article 277 saved that and some other taxes as follows,-

277. Any taxes, duties, cesses or fees which, immediately before the commencement of this Constitution, were being lawfully levied by the Government of any State or by any municipality or other local authority or body for the purposes of the State, municipality, district or other local area may, notwithstanding that those taxes, duties, cesses or fees are mentioned in the Union list, continue to be levied and to be applied to the same purposes until provision to the contrary is made by Parliament by law.¹⁰

It was therefore permissible for the Municipal Board to continue to levy the terminal tax until provision to the contrary was made by Parliament by law. But it so happened that the Bikaner Municipal Act, 1923 was repealed and the Act was brought into force with effect from December 22, 1951. Section 2(b) of the Act, which dealt with the repeal of the Bikaner Act and the saving of some of its provision"s, expressly provided that on the coming into force of the Act, the laws and enactments specified in the First Schedule of the Act shall be repealed in so far as they relate to the Town Municipalities covered by the Act. So as the Bikaner State Municipal Act, 1923, was included in the First Schedule, it was repealed by the aforesaid Section 2. That section however contained a proviso, Clause (b) whereof was to the following effect,-

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(b) all town municipalities constituted under the said laws or enactments, and members appointed or elected, committees established, limits defined, appointments, rules, order"s and bye-laws made, notifications and notices issued, taxes imposed, contracts entered into, and suits and other proceedings instituted, under the said laws or enactment"s or under and laws or enactments thereby repealed shall, so far as may be and so far as they relate to town municipalities be deemed, unless the Government directs otherwise, to have been respectively constituted, appointed, elected, established, defined, made, issued, imposed, entered into and instituted under this Act.¹¹

8. The repeal did not therefore affect the validity of those taxes which had already been imposed and which could be "deemed" to have been imposed under the Act, unless there was a direction to the contrary by the State Government. It is quite clear from the provisions of the Act, and is in fact not disputed before us, that the terminal tax in question could not be imposed under any of the provisions of the Act. It could not therefore be saved by Clause (b) of the proviso to Section 2 of the Act. On the other hand, it could be said with justification the State Legislature had decided to discontinue the levy from the purview of the saving clause. The further levy of the tax therefore became illegal and it was not permissible to continue it any longer under Article 277 which merely gave the authority concerned the option to continue the levy if it so desired.

9. So as the levy of the tax after 22nd December 1951 was illegal and there is nothing wrong with the view taken by the High Court that the amounts paid by the plaintiffs by way of terminal tax were recoverable by the suits which have given rise to these appeals, and there is no force in the argument to the contrary.

10. The appeals are allowed with costs, the decrees of the High Court are set aside and those of the lower appellate court restored.¹²

IV. CONCLUSIONS

The city of Bikaner is one of the famous cities of state Rajasthan. The first department of government started working in the city Bikaner Municipal Corporation in the year 1882. The duties and functions of Bikaner Municipal Corporation were passed according to the Municipal Corporation Act, 1923. In the year 1928, there is an amendment to this act are required. The Bikaner Municipal Corporation had been receiving the status of Municipal Corporation under the Adiniya.

The first president of Bikaner Municipal Corporation was Louis Patrick Lejwa. The present building of Bikaner Municipal Corporation was established in 1931 and the total residents of the city according to census 560618. Those who want to file self-assessment of property tax need to visit the official web portal of Bikaner Municipal Corporation or to the office of the corporation to file return personally. At the time of filing property tax, you require service number. The service number is granted to all taxpayer at the time of registration. After payment of tax collect receipt which is used in case of any legal consequences.¹³

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