

JANUARY, 2020

TELANGANA MUNICIPALITIES ACT, 2019 - A HEALTHY BLEND OF CITIZEN-CENTRIC GOVERNANCE AND CONTROL



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CENTRE FOR GOOD GOVERNANCE
HYDERABAD

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PREFACE

Rapid urbanisation is taking place in the State, and as per 2011 census, urban population in Telangana is 1.36 crores out of total population of 3.52 crores of the State. The urban population in the State constitutes 38.64% as against 31.16 % in India. Cities have strongly emerged as prime engines of Indian economy and generators of national wealth. It is evident that the future of India is inescapably urban and it is time that the nation perforce invests in the destined social and economic functions of cities and ensures that the cities deliver quality of life that would enable them to become national assets and engines of economic growth.

The 74th Constitution Amendment Act, 1992 recognised municipalities as Institutions of Self Governance and endowed them with enhanced powers and responsibilities enabling them to deliver efficient and effective services to the citizens. To ensure effective and responsive governance of municipalities and municipal corporations and to meet the growing needs of people, Government of Telangana contemplated that the age-old enactments are replaced, and fresh legislation is brought out with new contents as per the felt needs of urban population. This resulted in the present Telangana Municipalities Act, 2019. The Act governs all municipalities and municipal corporations in the State except Greater Hyderabad Municipal Corporation.

Centre for Good Governance with its strong urban management research group led by Shabbeer Shaik, Director and consisting of Vaibhav Purender, H. Eskoni Devi, R. Karunakar Reddy, Senior Knowledge Managers, and DV Rao, Consultant, has developed the book explaining various provisions of the Act. The book is not an analysis or commentary on the Act. It is a simple reference for municipal functionaries and other users and may not be taken as an authority or a basis for litigation or legal action. The support provided by various officers of Municipal Administration and Urban Development Department is acknowledged.

Rajendra Nimje, ex IAS
Director General

Telangana Municipalities Act, 2019

A Healthy Blend of Citizen-Centric Governance and Control

Chapter 1. Historical background

In the erstwhile State of Hyderabad, municipalities were governed under Hyderabad District Municipalities Act, 1956. Later, Andhra Pradesh was formed (1 November 1956) by merging the then Andhra State and the Telugu-speaking districts (Telangana) of the then Hyderabad State. While the municipalities in Andhra area were governed under Andhra District Municipalities Act, 1920, municipalities in Telangana area were governed under Hyderabad District Municipalities Act, 1956.

Though basic structure of both the Acts was similar, there was no uniformity in certain provisions relating to elected representatives, municipal functionaries, functions, powers and responsibilities, etc. It was therefore proposed to legislate a uniform municipal act for the entire State covering the Andhra area as well as Telangana area. This resulted in the passage of Andhra Pradesh Municipalities Act, 1965 and the Act came into effect on 2 April 1965. With coming into force of the Act, the earlier Acts of 1920 and 1956 were repealed. The State of Andhra Pradesh was subsequently bifurcated as State of Andhra Pradesh and State of Telangana on 2 June 2014. The Andhra Pradesh Municipalities Act, 1965 was adapted in the State of Telangana in G.O.Ms. No. 142 MA dated 29-10-2015 and the Act became the Telangana Municipalities Act, 1965.

In the erstwhile Hyderabad State, there were two municipal corporations, one at Hyderabad and the other at Secunderabad and they were governed under the Hyderabad Municipal Corporations (HMC) Act, 1955. The two corporations were merged during 1960 and Hyderabad Municipal Corporation was created. Subsequently, in 2007, 12 municipalities around Hyderabad were merged in the corporation limits and the merged entity was known as Greater Hyderabad Municipal Corporation, and the Hyderabad Municipal Corporations Act, 1955 (HMC Act) has been renamed as Greater Hyderabad Municipal Corporation Act, 1955 (GHMC Act).

During 1994, the then Government of Andhra Pradesh desired to constitute more municipal corporations in the State and the Legislature of the State has passed Andhra Pradesh Municipal Corporations Act, 1994. The Act empowered Government to constitute municipal corporations, whenever it desires and prescribed certain criteria for the purpose. The Act is brief, and it stipulates that all provisions of HMC Act/GHMC Act, 1955 are extended to and shall apply mutatis mutandis to the municipal corporation constituted under the Act.

After the State of Telangana was formed, the Andhra Pradesh Municipal Corporations Act, 1994 was adapted in the State in G.O.Ms. No. 143 MA dated 29-10-2015 and the Act became the Telangana Municipal Corporations, 1994.

Currently, while the municipalities in the State are governed under Telangana Municipalities Act, 1965, the municipal corporations are governed under Telangana Municipal Corporations Act, 1994 (with GHMC Act, 1955 as the mother Act).

As per Art. 243 Q of Constitution of India which has been introduced through 74th Amendment of 1992, Municipalities include Municipal Councils and Municipal Corporations.

The Government of Telangana desired to bring forth an integrated Act, covering municipalities and municipal corporations excluding GHMC. Accordingly, Telangana Municipalities Act, 2019 was introduced in both Houses of Legislature on 18 and 19 July 2019 and the Legislatures have considered and passed the Act. The Act applies to all municipal councils and municipal corporations (other than GHMC) without any reference of GHMC Act. When the Act was sent to Governor for assent, he suggested certain changes in the Act. The suggestions made by the Governor were incorporated and was sent to him. By that time, the Legislature was not in session, and an Ordinance under the title 'Telangana Municipalities Ordinance' was promulgated by the Governor on 21 July 2019 in terms of Art. 213 (1) of Constitution of India and was published in the Telangana Gazette as Ordinance No.6 of 2019. Further, the Ordinance has come into force on 23 July 2019 in accordance

with GO Ms.No.211 dated 23 July 2019 of MA&UD Department and it was published in Telangana Gazette on the same day.

As per Art.213 (2) of the Constitution of India, any ordinance promulgated by Governor has to be translated into an Act within a period of six months. As such, the Telangana Municipalities Act has been introduced in the Legislative Assembly on 17 September 2019. After due deliberations, the Legislative Assembly has passed the Act on 21 September 2019. Later, the Act has been introduced in the Legislative Council on 22 September 2019 and on detailed discussions, the Act has been passed by the Legislative Council also on the same day. The Governor gave his assent to the Act on 8 October 2019 and it has been published in the Telangana Gazette on 9 October 2019 as Act. No. 11 of 2019. Since the Act is replacement of the Ordinance, the Ordinance is repealed. The Act came into effect with effect from 23 July 2019 as per GO Ms. No.258 MA dated 25-10-2019.

Chapter 2. Structure of the Act

The Act consists 301 sections under 7 chapters and 4 schedules. Each chapter again consists certain groups and the groups are not numbered. However, they are shown with separate headings. The details of chapters and sections are:

| Chapters No. | Name | Sections |
|--------------|--|---|
| I | Preliminary and definitions | 1 - 2 |
| II | Constitution and composition of municipalities | 3 - 81 |
| III | Municipal revenue | 82 - 113 A |
| IV | Statutory functions and responsibilities of the municipality | 114- 170 |
| V | Town planning | 171 - 193 |
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| | Schedule I | List of Municipalities |
| | Schedule II | List of Municipal Corporations |
| | Schedule III | Online services and timelines as per Citizens Charter |
| | Schedule IV | Provisions about disqualification of members |

Chapter 3. Brief details of various provisions of the Act

We now consider various provisions of the Act briefly chapter-wise.

3.1 Preliminary and Definitions (Chapter I of Act)

This chapter contains 2 sections. Section 1 consists of the title, application and commencement of the Act. While the title is Telangana Municipalities Act 2019 (hereinafter referred to as Act), the Act applies to municipalities and municipal corporations in the State of Telangana. However, the Act is not applicable to Greater Hyderabad Municipal Corporation (since it is governed under a separate Act). The Act would come into force from a date notified by Government later under Section 1 (4). The Act came into force with effect from 23 July 2019 as per GO Ms. No.258 MA dated 25-10-2019.

Section 2 defines various words and phrases used in the Act for clarity and to avoid confusion. One hundred and seven (107) words and phrases have been defined in the section.

Primarily, definition of 'Municipalities' need to be understood. 'Municipalities' mean institutions of self-governance constituted under article 243Q of the Constitution of India and includes a Municipal Corporation and a Municipal Council as declared and notified as such under the provisions of this Act and the expression 'Municipality' shall be construed as Municipal Council and Municipal Corporation wherever the context so requires and unless provided otherwise under this Act. Municipalities and Municipal Corporations are constituted on the basis of 'smaller urban areas' and 'larger urban areas' and these terms are also defined in the Act. 'Smaller urban area' means a Municipality with reference to various factors as provided in article 243-Q of the Constitution of India; and 'Larger urban area' means a Municipal Corporation with reference to various factors as provided in article 243Q of the Constitution of India.

Another important word is 'Chairperson' and 'Vice-Chairperson'. These words mean (i) in relation to a Municipal Council, the Chairperson and Vice-Chairperson

respectively; and (ii) in relation to a Municipal Corporation, the Mayor and the Deputy Mayor respectively.

3.2 Constitution and composition of municipalities (Chapter II of Act)

It is an important chapter of the Act and consists of sections 3 to 81. Most of the provisions, either (i) require Government approval, or (ii) implemented as prescribed (under rules issued by Government). The constitution of municipalities is covered in sections 3 and 4. The power to constitute municipalities vests with the Legislature of the State. All existing municipalities constituted under Telangana Municipalities Act, 1965 and Municipal Corporations constituted under Telangana Municipal Corporations Act, 1994 are deemed to have been constituted as Municipalities under this Act. The Municipal Councils are listed in Schedule I and the Municipal Corporations are listed in Schedule II of the Act. The State Legislature is empowered by way of amendment to this Act to modify or add or alter schedule I or II of this Act. The Legislature is also authorised to constitute any local area as municipality, include or exclude any area in or from a municipality, or abolish a municipality.

Composition of municipalities is covered in sections 5. In each municipality, there is a Municipal Council or a Municipal Corporation having authority over the municipality. The Council or the Corporation consists (i) elected members, (ii) ex-officio members and (iii) co-opted members.

(i) Elected members

The municipality is divided into wards and voters in each ward elect a member who is called ward member. The number of wards is specified in Schedule I (councils) and II (corporations) of the Act.

(ii) Ex-officio members

- ★ Member of the Legislative Assembly (MLA), representing the constituency of which a municipality or a portion thereof forms part.
- ★ Member of the House of People (MP – Lok Sabha), representing the

constituency of which a municipality or a portion thereof forms part.

If the constituency of MLA and MP consists more than one municipality, he may choose one municipality within 30 days of his election, where he is an ex-officio member, else the District Election Authority will decide the municipality. MLA and MP have voting right in which he is ex-officio member and in other municipalities, he may take part in the proceedings but do not have voting right.

- ★ Member of the Legislative Council (MLC): The MLCs are elected through (i) electorate of local authorities, (ii) electorate consisting of graduates, (iii) electorate consisting of teachers and (iv) members of the Legislative Assembly; and, through (v) nomination by Governor.

The MLC elected through any of the four channels may choose within 30 days any one of the municipalities in his jurisdiction to be an ex-officio member, else the District Election Authority will decide the municipality. Also, the nominated (by the Governor) member may choose to be an ex-officio member of any one of the municipalities in the State, else the District Election Authority will decide the municipality. The MLC has voting right in which he is ex-officio member and in other municipalities, he may take part in the proceedings but do not have voting right.

- ★ Member of the Council of States (MP -Rajya Sabha).

The MP (Rajya Sabha) may choose within 30 days to be an ex-officio member of any one of the municipalities in the State, else the District Election Authority shall decide the municipality. He has voting right in which he is ex-officio member and in other municipalities, he may take part in the proceedings but do not have voting right.

- ★ Co-opted members

The municipality co-opts

(a) two persons in the case of Councils and three persons in the case of Corporations having special knowledge or experience in municipal administration; and

(b) two persons belonging to minority community.

The co-opted members can participate in the meetings of the municipality, but do not have voting right.

Section 6 and 7 cover ward division and reservation of seats (wards) to various categories. Each municipality will be divided into such number of wards as mentioned at Schedule I or II on territorial basis. The Government fixes the number of wards reserved for various categories in each municipality and also determines the wards which are reserved for these categories.

Seats are reserved for Scheduled Tribes (ST), Scheduled Castes (SC), Backward Classes (BC) and Women. Reservation in favour of STs and SCs is made in proportion to their respective population of the municipality, and also in favour of BCs, subject to the condition that the total reservations do not exceed 50 percent of the total number of seats in the municipality.

Regarding women, 50% of the total seats reserved for STs, SCs and BCs have to be reserved for women belonging to these categories and further, 50% of total seats including seats reserved for women belonging to SCs, STs and BCs have to be reserved for women. (this is called horizontal and vertical reservation).

Further, the reservations are made by rotation to different wards and it continues for two consecutive terms commencing from first ordinary elections held under this Act.

As per Section 10, term of office of elected members is five years from the date of first meeting of the municipality after ordinary elections. An ex-officio member holds office so long as he continues to be an MLA, MP (Lok Sabha), MLC or MP (Rajya Sabha).

Then, qualification for candidates standing for elections are covered in Section 11. The basic requirement is that he should be an elector in the municipality and is not less than 21 years of age. Secondly, if he is disqualified for election to the

State Legislature (MLA) under the relevant law, he is not qualified as a candidate for municipal election. Other disqualifications are listed in Schedule IV of the Act (Section 12).

Another important provision here is the appointment of Special Officer (Section 14). Where a municipality is constituted for the first time, Government may appoint a Special Officer to exercise the powers, perform the functions and discharge the duties of the Council until the elected members assume the office and elect the Chairperson. The Special Officer has to report to the State Election Commission (SEC) for conduct of elections to the municipality so that the elected members and the Chairperson come into office on such dates as Government may specify.

Section 17 is a new provision. In every municipality, Ward Committees will be constituted separately representing (i) youth, (ii) women, (iii) senior citizens, and (iv) other eminent people from the ward to consider and advise on the issues referred to them and each of the committees may consist of 15 members.

The next group of provisions is municipal authorities. There is only one authority in the municipality, i.e., the Municipal Council (Section 19). The elected members, MLA, MP-Lok Sabha and MLC elect one of its elected members to be its Chairperson and another to be its Vice-Chairperson in the case of Municipality; and to be its Mayor and another to be its Deputy Mayor in the case of Municipal Corporation at the first meeting of the municipality, after elections. The election is by show of hands on party whip. The manner of holding elections and other details would be as per rules issued in the matter (Section 20). The duties and responsibilities of Chairperson are listed in Section 23. Besides responsibilities relating to council meetings including convening of meetings once in a month and signing of minutes book within 24 hours, etc., other responsibilities include mandatory service activities, like

- ★ Maintain sanitation, water supply and streetlights

- ★ Ensure door-to-door garbage collection from all residential and commercial establishments; and scientific process and disposal of solid waste and liquid waste
- ★ Constitute green cell and earmark 10% of funds in the budget
- ★ Undertake plantation in his ward and ensure survival of 85% of such plantation
- ★ Development of nurseries and species in the municipality as decided by the District level committee headed by the District Collector
- ★ Development and maintenance of parks and protection of water bodies.

Besides service activities, he is also responsible for certain regulatory activities which include

- ★ Closure of annual accounts and audit of accounts every year
- ★ Removal of encroachments on municipal properties
- ★ Protection of Government land and open spaces
- ★ Reduction of non-revenue water and transmission loss of water
- ★ Reduction of power bores, wherever not required
- ★ Encourage construction of rainwater harvesting structures
- ★ Compliance with energy conservation building code (ECBC) and cool roofing.

Another important provision is municipality-wise "Green Action Plan" (Section 24). District Level Committee headed by the District Collector and consisting of District Forest Officer (Social Forestry) in charge of harithahaaram program and Municipal Commissioners will draw up municipality-wise and ward-wise "green action plan" over a period of five years specifying the species to be developed and number of plants to be planted, keeping in mind the area, topography and

availability of possible species. The Chairperson or the Mayor and the Commissioner are responsible for setting up the nursery and to take care of the requirements of the municipality.

Secondly, the ward member and special officer (municipal employee designated by Commissioner for the purpose of harithaharam) are responsible to ensure 85% survival of plants. The Chairperson or the Mayor and the Commissioner are also responsible for proper upkeep and growth of nursery. The District Collector will engage flying squads and take up regular inspections of ward-wise plantation programme and the maintenance of the nursery. Where the survival is less than 85% and/or there is lack of involvement of the ward member resulting in poor survival of plants, the ward member is disqualified and removed. Similarly, the District Collector may remove the special officer (municipal employee designated for the purpose of harithaharam) from service for his or her failure to ensure 85% survival of plantation.

Section 26 empowers Chairperson with certain emergency powers. He can direct the execution of any work or the doing of any act in anticipation of Council sanction with the approval of District Collector when there is such emergency which is necessary for the service or safety of the public, and direct that the expense of such work be paid from the municipal fund and report the action taken to the Council at its next meeting.

Reservation of office of Chairpersons is covered under section 28 and that of Mayors under section 29. Out of the total number of offices of Chairpersons in the State, 50 percent of the offices will be reserved for Scheduled Tribes (STs), Scheduled Castes (SCs) and Backward Classes (BCs). While reservations for STs and SCs are made in proportion of the population of STs and SCs in all municipalities of the State to total population of all municipalities in the State, reservation to BCs are made to such extent, so that the total reservations shall not exceed 50 percent of the total number of the offices of the Chairpersons. Further, 50 percent of offices reserved for STs, SCs and BCs have to be reserved for women belonging

to these categories. Furthermore, 50 percent of total number of offices, including the number of offices reserved for women belonging to the STs, SCs and BCs have to be reserved for women. These reservations have to be made as per rules to be made by Government. The reservations have to be made by rotation to different municipalities and they remain for two consecutive terms, commencing from the first ordinary elections held under this Act.

The reservation of office of Mayor is covered under Section 29. It is on the same lines as that of chairpersons. Here, the population of all municipal corporations including Greater Hyderabad Municipal Corporation is considered for making reservations instead of population of all municipalities.

Constitution of ward committees and their functions are covered in section 30 and 31. There will be 4 committees for a ward as referred in Section 17 and the functions are detailed in Section 31. These committees take up issues pertaining to each of the groups which the ward committee represents. Further, the committees also discuss about sanitation, solid waste management, tree plantation, harithahaaram, survival of at least 85% plants, water supply, parks, playgrounds, public toilets and marketplaces.

The committees also facilitate collection of taxes, fees and other dues to the municipality, unauthorised constructions, encroachments and demolition, discourage use of plastics and encourage art and cultural activities, sports and games.

The minutes of the meeting of committees are drawn and placed before council meeting for discussion and necessary action.

Resignation of Chairperson, Vice-Chairperson and Member are covered in section 36. Any Chairperson or Vice-Chairperson or Member may resign his office by a letter in writing to the Commissioner. After due enquiry and after three days, Commissioner refers the resignation letter to the District Collector, and it will be accepted by him. The resignation will take effect on expiry of three working days from the date of such resignation, unless the resignation is withdrawn within three

days in writing to the Commissioner.

Section 37 refers to no-confidence motion against Chairperson or Vice-Chairperson. Motion expressing want of confidence in Chairperson and/or Vice-Chairperson may be made by giving a written notice of intention to the District Collector to move the motion, signed by not less than one-half of the total number of members of the municipality having right to vote, together with a copy of the proposed motion. The motion should be carried by two-thirds majority. However, no notice of motion be made within three (3) years of assumption of office by the Chairperson or Vice chairperson. The details would be prescribed in rules.

Section 38 refers to Commissioner. For every municipality, there would be a Commissioner. He is appointed by the Government and will be the Chief Executive of the Municipality. Government will, from the Consolidated Fund of the State, pay salary and all allowances of the Commissioner.

Chairperson's authority over Council meetings is covered in section 40. He presides over the meetings, preserves order during meetings, decides point of order, orders any member whose conduct is not in order to withdraw from meeting, suspends the meeting in grave disorder, refers to council to suspend a member if the member obstructs the meeting, etc. In the absence of Chairperson, the meeting would be presided by Vice-Chairperson. If both are not present, and there is quorum, a member chosen by those present would preside the meeting.

The Chairperson and Vice Chairperson would be paid honorarium and conveyance allowance; and Members would be paid conveyance allowance. (Section 41). All of them undergo training initially and on regular intervals on various municipal matters (Section 42).

The next group of subjects under the chapter is organizational structure of municipality. They are covered in section 43 to 50. Under Section 45, Government have power to (i) appoint officers to assist Commissioner to perform functions relating to engineering, town planning, health, taxation, finance, audit, vigilance

and any other functions under the Act; (ii) appoint any category of employees in the municipality; (iii) sanction posts considered necessary for administration in the municipality, and (iv) fix cadre strength and staffing pattern in the municipalities. Under Section 43, Government may constitute Common Municipal Service for the State for various cadres of officers and employees of Municipalities including Greater Hyderabad Municipal Corporation, Urban Development Authorities and Hyderabad Metropolitan Development Authority. Under Section 44, Government have power to transfer any officer or employee of any municipality including Greater Hyderabad Municipal Corporation and any Urban Development Authority including Hyderabad Metropolitan Development Authority.

Under Section 48, Commissioner specifies duties of the officers and employees of the municipality, exercises supervision and control, and initiates disciplinary action over them. The District Collector is empowered with authority over municipal functionaries. He may suspend Commissioner or any other employee, if in his/her opinion, the said officer has failed to carry out the duties entrusted under this Act or for any other form of impropriety or dereliction of duties. He can also initiate disciplinary action against the said officer.

The next group relates to 'Duties and responsibilities of municipality' and are covered in sections 51 to 58. Under section 51, the administration of municipality vests in Municipal Council. The Council exercise such powers and perform such functions as conferred under this Act. It may be noted in this connection that the Municipal Council alone is competent to exercise the powers and perform the functions. The other authorities, i.e., the Chairperson, Commissioner and Ward Member have only duties and responsibilities.

Functions of municipality, to be exercised through Commissioner are listed in section 52. The list is exhaustive and detailed and includes:

- ★ Developmental activities or urban planning, including town planning
- ★ Regulation of land use and construction of buildings

- ★ Construction and maintenance of roads, drains and bridges
- ★ Water supply for domestic, industrial and commercial purposes
- ★ Public health, sanitation, conservancy and solid waste management
- ★ Urban forestry and urban lung spaces, protection of environment and promotion of ecological aspects
- ★ Slum improvement and up-gradation
- ★ Night shelter for urban homeless
- ★ Urban amenities and facilities such as community halls, sports complexes and bus shelters
- ★ Promotion of cultural, educational and aesthetic aspects
- ★ Development of burial grounds (vaikuntadhamams) and electric crematoriums, and arrange vaikuntarathams
- ★ Vital statistics including registration of births and deaths
- ★ Public amenities, including street lighting, parking spaces, bus stops and public conveniences
- ★ Regulation and scientific management of slaughterhouses and tanneries
- ★ Use of Information Technology in service delivery and citizen centric services
- ★ Census-related functions
- ★ Any other function or responsibility entrusted by State Government from time to time.

The functions listed in the XII Schedule of Constitution of India except Planning for economic and social development, Fire services, Safeguarding the interests of the weaker sections of society, including the physically handicapped and

mentally unsound, Promotion of cultural, educational and aesthetic aspects, Cattle ponds and prevention of cruelty to animals are covered in the list. Additionally, Use of Information Technology in service delivery, Citizen centric services and Census-related functions are covered. The functions are further elaborated under each head.

The duties and responsibilities of Commissioner are detailed in Section 53. The Commissioner is the Chief Executive of the Municipality. Besides performing the functions of Municipality listed in section 52, Commissioner is responsible to keep the municipality clean and take measure for general upkeep of sanitation ensuring human safety. He shall work under overall control and superintendence of District Collector. These functions have to be performed by Commissioner through various officers and employees of the municipality and for this purpose he can initiate action against any of them found neglecting his duties as entrusted (section 54). The Commissioner is also entrusted with concluding the contracts (Section 55).

Duties and responsibilities of ward member are detailed in section 56. The duties of the ward member within his/her jurisdiction are:

- ★ Ensure proper sanitation, water supply, and streetlights
- ★ Ensure door-to-door garbage collection from all residential and commercial establishments
- ★ Ensure in-situ composting for wet waste and processing of dry waste at ward level
- ★ Take up plantation in accordance with the District Action plan and ensure their survival to at least 85%
- ★ Reduce non-revenue water, transmission loss of water, and usage of power bores, wherever not required
- ★ Safeguard and protect water sources, lakes or any other water bodies
- ★ Undergo training on developmental activities in the administration of the municipality
- ★ All functions specifically conferred by this Act or may be assigned by

Government from time to time.

The responsibilities as a member of Council include

- ★ Calling the attention of Chairperson to any grievance
- ★ Moving resolution on any matter relating to municipal administration
- ★ Consideration by Council and taking appropriate resolution on any matter or subject raised or submitted by him/her.

Section 57 and 58 are novel features of the Act relating to municipal functions. The municipality has to strive to transform the town into a model town by preparing a perspective plan and delivering municipal services through online services. For this purpose, the municipality has to

- ★ Adopt e-governance system for citizen services on anytime-anywhere basis for better, speedy, accountable and transparent administration
- ★ Deliver municipal services online for the convenience of citizens in a time bound manner as per the Citizens Charter
- ★ Recover penalty from the person responsible for the delay, if timeline as per Citizen Charter not adhered
- ★ Establish one or more Citizen Services Centres for the purpose of providing online services, and for facilitating redressal of citizen grievances.

Conduct of business (by the Council) is governed under sections 59 and 60. The Council has to make regulations for conduct of business. They however have to be made in consistent with the Act as well as any rules issued in the matter. Some salient features made in the Act are:

- ★ All decisions are taken by simple majority of members present and voting
- ★ Meetings are not open to public
- ★ Minutes of meeting be recorded by Commissioner or any officer authorized

by him

- ★ Minutes of meeting will be drawn by Commissioner and signed by Chairperson or Mayor soon after the meeting and not beyond one day. If he fails to sign, Commissioner signs the minutes the next day
- ★ Minutes of proceedings be placed before Council in next meeting for perusal
- ★ Copy of minutes be sent to District Collector and other authorities as prescribed by Government
- ★ Commissioner is responsible for any delay or deviation in the matter
- ★ No member (including Chairperson) shall vote or take part in discussion on any question in which he has personal or pecuniary interest of his own either directly or indirectly.

The next important provision in this chapter is Direction and Control (by Government). Since municipalities are created by State as per federal character of the Constitution of India and the State Government is answerable to the Legislature for all actions of the municipalities, State Government exercises certain control over municipalities. Further, the Act provides various self-certification/declaration provisions to the citizens with a high sense of confidence and trust. To ensure that citizens do not breach the confidence and trust reposed by Government and to check wrong doers, Government retained few measures of control over citizens as well as administration. Since the District Collector is a representative of Government at the district level, he is also empowered to exercise certain control over municipalities in his jurisdiction. Further, Government appoints officers at State level to inspect and superintend municipalities. All these matters are covered in sections 61 to 81. The controlling powers can be exercised (i) by District Collector, or (ii) either by District Collector and Government, or (iii) exclusively by Government.

The powers exercised by Collector include:

- ★ Suspend a resolution, order, licence or permission, if it is against any provisions of the Act or likely to cause financial loss to municipality, or likely to be dangerous to health or safety to human life or against public interest etc. and report to the Government, who may, either rescind the Collector's order or ratify the same [Section 65 (2) and 80]
- ★ Enforce resolution of Council by Chairperson or Commissioner (Section 76)
- ★ Convene monthly review meeting of municipalities and municipal corporations (Section 77 (4))
- ★ Direct the execution of any work, the immediate execution of which is, in his opinion, necessary for the safety of the public and may direct that expenses incurred for executing such work be paid from municipal fund (Section 78).

The powers exercised either by Collector or Government include

- ★ Suspend Chairperson, Vice Chairperson or Member, if in his opinion, they misbehaved/ manhandled any other member or officer or employee of the municipality or destroyed property of municipality, etc. leading to a situation under which municipal administration cannot be carried on. An opportunity for explanation be given and the period of suspension not to exceed six months. There is a provision to prefer an appeal to the Municipal Tribunal. (Section 66)
- ★ Give directions to the municipality to enforce implementation of the provisions of the Act [Section 69 and 74 (1)]
- ★ Inspect any immovable property or work-in-progress under the control of municipality, and requisition any information, document, report, return etc. [Section 71 and 77 (1) and (2)]
- ★ Require the municipality to perform a duty and make financial provision for performance of duty, if it is noticed that the duty is not performed, or sufficient financial provision is not made. Before taking action, an opportunity

be given (Section 73)

- ★ Fix a period and direct the Council, or Chairperson or Vice-Chairperson, or member or Committee to perform a duty, if it appears that there is default in performing the duty [Section 74(2)].

Finally, the powers exercised exclusively by Government include:

- ★ Transfer the management and superintendence of charitable endowments and inams and also resume them (Section 62)
- ★ Transfer management of any institution or execution of any work (Section 64)
- ★ Cancel or suspend any resolution, order, licence or permission, if it violates any provision of the Act, likely to cause financial loss to municipality, danger to health or safety to human life or against public interest etc. However, before cancellation, an opportunity be given [Section 65 (1)]
- ★ Remove Chairperson or Vice Chairperson or ward member, if Government is of opinion that the Chairperson or Vice Chairperson wilfully omits or refuses to carry out or disobeys the provisions of this Act, or abuses his position / powers or fails to carry out the functions under sections 24, 56 and 57 of this Act. An opportunity for explanation has to be issued before taking action for removal. Further, he is not eligible for election as a member for a period of six years from the date of removal (Section 67)
- ★ Dissolve the Council, if Government is of opinion that the municipality is not competent to perform, or persistently makes default in performing the duties or exceeds or abuses its position or powers, or a situation exists in which municipal administration cannot be carried on, or financial stability or credit of the municipality is threatened etc. However, before taking action, an opportunity of explanation be given to Council and Chairperson. On the date fixed for dissolution of the municipality, all its members, ex-officio members

and co-opted members along with Chairperson and Vice-Chairperson, will be deemed to have vacated their offices as such (Section 68).

Government have power to appoint officers to inspect and superintend the municipality under Section 72, and these officers are empowered to exercise the following powers

- ★ Inspect municipal office(s) and records, registers or other documents kept therein
- ★ Inspect any immovable property or work-in-progress under the control of municipality
- ★ Enter and inspect any municipal institution
- ★ Make surprise inspections in addition to the programmed ones
- ★ Organise capacity building programmes to municipal functionaries and elected representatives

In addition to the powers relating to direction and control as mentioned above, some more matters are covered in the chapter.

- ★ Municipality need to submit annual administration report to Government (Section 61)
- ★ Municipality may accept donations and trusts for furtherance of any purpose for which the municipality is constituted (Section 63)
- ★ If immediate elections could not be held after dissolution of Council, Government appoints Special Officer to discharge the functions of Council and of Chairperson (Section 70)
- ★ Government establishes State Institute of Urban Excellence and it will be a hub of urban excellence, specializing in the broad domains of urban governance, management, development, finance, poverty and policy reforms; and aims

at quality research, capacity building, training and consultancy services on urban sector issues. (Section 81).

3.3 Municipal revenue (Chapter III of Act)

It is an important chapter of the Act and consists of sections 82 to 113 A. Most of the provisions, either (i) require Government approval, or (ii) implemented as prescribed (under rules issued by Government). The sources of revenue are detailed in section 82. They are

- ★ Taxes or cesses or fees levied by the municipality
- ★ Levy of user charges for civic services
- ★ Reimbursement of any cost or expenditure made by the municipality.

The municipality, under the directions of Government have the power to levy and collect the fees, cess and fines for the following activities. (section 83 and 84).

- ★ Sanction of building plans and issue of occupancy certificates
- ★ Issue of municipal licenses for various non-residential uses of lands and buildings
- ★ Licensing of various categories of professionals such as plumbers and surveyors and of activities such as sinking of tube-wells, sale of meat, fish or poultry, slaughterhouses or hawking of articles and such other activities which require a license or permission under the provisions of this Act
- ★ Issue of birth and death certificates, and
- ★ Development charges on any layouts, residential buildings or non-residential buildings.

Improved and modern system of collection of taxes and fees are provided in

the Act. They include

- ★ Provision of online services for the licenses and other services
- ★ Provision of electronic or other machines, which enables auto updation of collections in online applications and accounting applications
- ★ Arrears towards municipal revenue be recovered through the procedure contemplated for recovery of land revenue under the provisions of Telangana Revenue Recovery Act, 1864
- ★ Property tax is payable by the owner, or by the occupier of the building
- ★ If tax is paid by the occupier on behalf of owner, he is entitled for reimbursement or deduction of such amount from the rent due.

When the municipality determines to levy any tax for the first time or revises the rate of tax, the Commissioner will make a publication of the rate at which, the date from which and the period of levy, if any, for which such tax is levied. The publication will be made in the District Gazette, in one newspaper in the vernacular language of the locality having wide circulation, on the notice board of the municipal office and in such other conspicuous places. The publication of the notification will be made in the manner prescribed (section 89).

It is provided in the Act (Section 90) that disciplinary as well as civil or criminal action would be taken against any officer or employee who is entrusted with collection of any sum due to the municipality caused loss, waste, or misappropriation of any money due to his neglect of duty or misconduct.

The municipality may write-off any tax, fee or other amount, due to it, if, in its opinion, such tax, fee, or other amount is irrecoverable subject to directions issued by the Government (Section 91).

Sections 92 to 105 refer to various matters relating to property tax.

Municipality levies property tax on unit rate basis considering the location and usage on all buildings and lands. Along with property tax, trade license fee also has to be levied and collected on the properties where any trade is being carried (Section 92).

Method of assessment is covered in section 93. Property Tax on buildings is levied on the basis of capital value, or annual rental value, or on such other basis as prescribed. Rules will be made on the method of assessment, complaints, serving of notice, collection and recovery of property tax.

Section 94 refers to 'self-assessment'. The owner of a building for new construction or reconstruction may submit an online self-certification and ensure his property is assessed and tax paid to the municipality. He is responsible for furnishing correct information in the self-assessment. An audit will be undertaken at random for self-assessments made in respect of plot size/plinth area/floors/ usage etc. If any variation is found during audit, Commissioner will correct the assessment and levy actual tax, along with one-time penalty of 25 times for incorrect certification. Penal action can also be initiated in addition to the penalty.

Penalty on unauthorized construction or usage are also covered in this section. Huge penalties are provided in the Act. When a building is constructed or reconstructed unauthorizedly, Commissioner can levy property tax on such building. He can also levy penalty, on unauthorised construction till such unauthorized construction is demolished or regularized and the penalty is also considered as property tax. The penalty ranges from 25 percent of property tax to 100 percent of property tax depending on the quantum of violation in respect of unauthorised construction. If it is violation of usage, 100 percent of property tax is levied as penalty at revised rate based on actual usage.

It is also clarified that the levy and collection of penalty is not construed as regularization of unauthorised construction. When penalty is levied on unauthorized construction / deviation, the information of such properties would be reported to the Town Planning section to take action for demolition or regularization under the

provisions of the Act. All matters relating to levy of penalty and collection etc. will be as per rules to be issued.

To enable regular assessment of lands or buildings, the Revenue staff of the municipality will prepare and submit monthly lists to the Commissioner with all relevant details and bring them into tax record regularly. These lists will also be sent to the Regional Director of Municipal Administration.

There is a provision of vacancy remission under taxation and it is covered in section 95. When any building or land is vacant for more than three months in an half-year period, the building is eligible for vacancy remission of 50% of the property tax for the vacancy period. Certain conditions are prescribed to avail the remission including the payment of property tax for the full half year in advance. The vacancy remission is not granted to a person who is in arrears of property tax. The vacancy remission sanctioned will not be paid in cash and it is treated as property paid in advance.

The levy of property tax on vacant land is covered under section 97. Property tax is levied and collected on vacant land by the municipality, as a one-time payment at the rates prescribed by Government from time to time on capital value of the land at the time of construction or registration. The landowner has to submit no-due certificate with respect to vacant land tax before initiating any construction. The property tax on land is leviable only on such land which is capable of being built upon i.e. where construction is permissible. Property tax on vacant land is not payable in respect of lands belonging to Government.

Under Art. 285 of Constitution of India, Central Government properties are exempt from payment of property tax. Government of India, however permitted municipalities to levy service charges on Central Government properties. This has been brought to the Act through Section 98. The municipality may levy service charge on properties of Union of India and its departments at the rate of 75%, 50% or 33 1/3% of property tax normally leviable, depending on the availability of

municipal services at full, partial or nil respectively and collect accordingly.

Under section 100, property tax will be levied every half-year and be paid by the owner within 30 days after the commencement of the half-year duly ascertaining the tax payable from the website. The tax-payer is entitled for a rebate as prescribed under rules, if he pays the tax for the whole year before 30th April irrespective of service of a bill/demand notice. An additional rebate, as prescribed under rules is also allowed, if the owner undertakes recycling of wastewater, and provides rainwater harvesting structures or installs solar heating and lighting system. If the taxpayer fails to pay the tax by the end of June or by the end of December for the first or second half year respectively, simple interest at the rate of 2% per month is levied. After due notice, essential services to the premises would be disconnected.

For the payment of tax every year, the Commissioner informs the public through multimedia in the beginning of every half-year and also sends SMS alerts through registered mobile numbers and in such cases, issue of notices is dispensed with.

There is a provision for filing a revision petition on the levy of property tax (Section 101). Whenever, tax is levied for the first time or tax is increased, a notice is served on the property owner, giving opportunity to submit grievance petition. Any person aggrieved by the tax fixed under this Act may file a revision petition before the Commissioner within 60 days of notice. The Commissioner may condone the delay, if the petitioner shows satisfactory cause for the delay. The Commissioner has to dispose the revision petition within 30 days.

Against the orders passed by the Commissioner on the revision petition, an appeal lies to the Regional Director of Municipal Administration within 30 days. The Regional Director may condone the delay, if the petitioner shows satisfactory cause for the delay.

There is a provision (section 102) for making rules under property tax by

Government. In particular, the rules would cover (i) exemption of special classes of buildings from tax, (ii) manner of arriving the annual rental value or capital value of buildings and the categories into which they fall for the purposes of taxation, (iii) persons liable for payment of tax, transfer of property, revision petitions, appeal petitions, and (iv) grant of vacancy and other remissions.

There is a provision for change of entries of ownership in municipal records (section 104). Whenever the title of any person is transferred, the person primarily liable for payment of property tax and the person to whom the same is transferred have to remit the amount as prescribed. Then the transfer is instantly made in the name of transferee in the property tax record of the municipality as per the rules.

Whenever the transfer is affected through succession, court decree or any other reason, the person, whose title is transferred and the person to whom the title is transferred, have to give notice of such transfer to the Commissioner and in such cases, the Commissioner will complete the transfer within the time prescribed in Schedule III of this Act.

There is a provision (Section 105) for constitution of Telangana State Property Tax Board by the Government. The Board would provide assistance and technical guidance to the municipalities for proper assessment of property tax on buildings and lands. The constitution of the Board and its powers and functions will be prescribed by the Government.

Levy of duty on transfer of property is covered under Section 105A. It is levied as surcharge on stamp duty imposed under Indian Stamp Act, 1899 and the rate of surcharge on various forms of transfer of property like sale, exchange etc would be fixed by Government.

The next group under this chapter is 'Finance' and it is covered in Section 106. This section deals with Municipal Fund. All moneys received by the municipality constitute a fund, which is called Municipal Fund and it consists of all moneys received by municipality, all proceeds of disposal of municipal property, funds

released by Government or public bodies, grants, donations or gifts by private individuals, interests and profits from banking transactions and loans, bonds, etc., raised by municipality.

All monies (municipal fund) received by the municipality be deposited in a scheduled commercial bank and the funds have to be kept under one single account. No payment be made by the bank out of municipal fund except on a cheque signed by the Commissioner or by way of online fund transfer authorized by Commissioner.

The municipality may consider raising funds through issue of municipal bonds or borrow from other sources, with the approval of Government; and for this purpose, municipality has to take steps to obtain credit rating once in every two years or as specified by Government.

The 'Budget' is covered under sections 107 and 108. The budget of the municipality has to take care of its obligatory requirements and developmental works so as to ensure a balanced overall healthy growth. The District Collector will be part of budget preparation exercise of the municipality, guide the municipality in budget preparation and present in the budget meeting.

The municipality has to prepare budget showing the probable income and expenditure during the ensuing year. While preparing the annual budget, the municipality, in addition to meeting the salary expenses, has to provide for (i) proper upkeep of sanitation, (ii) meet the power bill towards street lights maintenance and water supply, (iii) loan repayments, and (iv) 10% of the annual budget as "Green Budget" to meet the requirements of plantations and nursery. These four are obligatory and should be treated as charged provisions in the budget.

After meeting the obligatory/charged provisions, budget may provide for (i) maintenance of parks, playgrounds and open spaces, (ii) construction and maintenance of vaikuntadhamams (crematorium) and burial grounds, (iii) construction and maintenance of public toilets, (iv) construction and maintenance of model markets, (v) construction and maintenance of modern slaughter houses

and (vi) scientific management of dump yards and scientific solid and liquid waste management.

The municipality has to prioritise for development/upgradation of infrastructure in newly merged areas, underdeveloped areas, localities inhabited predominantly by the weaker sections of society and slum areas.

A copy of the budget has to be furnished to Government atleast a fortnight before the end of the financial year.

As per Section 108, in the course of a financial year, the municipality cannot revise its income and expenditure estimates made in the budget unless consent of Government or any agency specified therefor is obtained.

Section 109 (1) deals with annual accounts. The Commissioner has to prepare annual accounts under double entry accrual-based accounting system in such form as may be prescribed under the rules and the annual accounts have to be placed before the Council for approval.

The audit of accounts is covered under sub-section (2) of section 109 and Section 110. The annual accounts have to be forwarded to the Director of State Audit and the audit has to be completed within such time as prescribed under the rules. The municipality has to provide for pre-audit and internal audit of the accounts as per the rules, and the Government may take up special audit on specific accounts or whole of the accounts of any period relating to the municipality.

Raising of loans by the municipality is governed under sections 112 and 113. For the loans floated by the municipality for the purposes of the Act, the Government issues guarantee for repayment of the principal and of the interest thereon. Government may increase the maximum amount of guarantee. Similarly, Government may also, after consulting the municipality, by notification, discontinue any guarantee given by them or restrict the maximum amount or modify the conditions subject to which it is given. Further, the Government is entitled to recover

the loans and advances from the municipal funds.

Section 113 A refers to constitution of State Finance Commission. The Commission is constituted once in every five years by Government and consists of a Chairman and four other members including the Member- Secretary. The basic requirement for Chairman and members is specified in the Act and other details like qualifications and disqualifications of members, powers and functions etc. of Commission would be as per the rules prescribed.

3.4 Statutory Functions and Responsibilities of Municipality (Chapter IV of Act)

This chapter details various functions and responsibilities to be attended by the municipalities and are covered under Section 114 to 170. Most of the provisions, either (i) require Government approval, or (ii) implemented as prescribed (under rules issued by Government). The functions covered in this chapter are service-related like water supply, sanitation, public streets, street lighting, markets, etc. They also cover certain regulatory functions like trade licences, control of nuisance, environmental management and disaster management, etc.

The water supply functions are covered in sections 114 to 118. The existing sources of potable drinking water supply in any form including tanks, water reservoirs, pipelines, wells, etc. vest in the municipality (Section 114).

The municipality has to take up water audit (Section 115) and make efforts to

- ★ Reduce non-revenue water (NRW) to its minimum
- ★ Rationalize usage of drinking water
- ★ Ensure availability of re-cycled water for non-potable uses
- ★ Maintain complete survey maps, drawings, water pipelines and connections along with inventory details and improvements carried out.

Government's powers in respect of water supply are (Section 116)

- ★ Make rules governing allocation and classification of water supply for residential and commercial purposes, and to determine the charges for different categories
- ★ Direct the municipality to supply water outside the municipality and determine terms therefor
- ★ Constitute an authority for one or more municipalities or other local authorities, for the construction and maintenance of water works for the supply of water to such municipalities and local authorities.

Powers of municipality in relation to water supply (Section 117) are:

- ★ Lay or carry any water pipe for providing or maintaining water supply on, across, under or over any street or public place
- ★ Take steps necessary for repairing or maintaining any such pipe
- ★ By regulations (i) specify the terms and conditions for provision of water meter (ii) recover charges for supply of water as recorded by such water meter, and (iii) take steps for proper utilization of water and (iv) detection of any fraud in respect of water meters
- ★ Disconnect water supply in non-occupied premises, illegal drawal of water, contamination of water lines, interference in water supply network and for non-payment of dues
- ★ Impose fine and / or initiate penal action against anyone found violating section 118.

Prohibitions of certain acts by individuals in the town in maintenance of water supply are listed in section 118 and they are

- ★ Trespass on any premises connected with water supply
- ★ Allow water to be wasted, or allow pipes or fittings for water supply in his/

her premises to be under repair

- ★ Divert, or take water from any waterworks belonging to the municipality
- ★ Unlawfully break, obstruct or cause any damage to anything connected with water supply.

The next sections 119 to 121 deal with public drainage and sewerage. All public drains alongside public streets and other places, and all sewerage collection works existing in the municipality vest in the municipality (Section 119).

Section 120 details the responsibility of the municipality in respect of drains, storm water drains and such other works. They are

- ★ Provide and maintain a sufficient system of public drains
- ★ Prepare an overall map for drains, storm water drains and sewerage network capturing existing facilities and missing gaps
- ★ Undertake the cleaning and de-silting of drains regularly
- ★ Acquire land for construction of public drains, storm water drains and sewerage network in the municipality
- ★ Impose fine and initiate penal action against any person violating section 121.

Certain acts by individuals are prohibited in respect of drains and sewage lines and they are listed in section 121.

- ★ Unlawfully obstruct the flow of or divert any drain or sewerage belonging to the municipality
- ★ Throw any material including plastic bags and containers, or any waste of animals, into any municipal drain or sewer
- ★ Erect or rebuild any building or fence over any drainage, storm water drain,

or sewerage line in the municipality, and

- ★ Discharge trade effluent into any municipal drain without approval of the municipality.

The next vital activity in the municipality is 'health and sanitation' and it is covered in Sections 122 to 133. The primary responsibility under this activity is that the municipality has to prepare a City Sanitation Plan, which includes ward-wise and town-wise plan for collection, segregation, transfer and processing of waste, so that 100% municipal solid waste is lifted on daily basis (Section 122).

The individual house-owner is made responsible in this activity (Section 123). Every individual household or user, whether domestic or non-domestic has to segregate the solid waste at source, and hand over such segregated waste to the municipality. If he fails to comply with his responsibility, the municipality will get the segregation and collect the cost thereof from him. The responsibilities of the municipality are listed in Section 124 and 125.

- ★ The municipality or any agency authorized by it has to collect the solid waste, in accordance with the plan prepared by the municipality, and collect requisite charges prescribed
- ★ The elected member of the ward as well as the officer concerned has to ensure segregation of waste at source, and collection of waste on regular basis
- ★ The municipality has to make arrangements as per the waste disposal rules and guidelines of the Government for (i) collection of segregated solid waste from all residential and non-residential premises separately, (ii) regular sweeping and cleaning of the streets, and removal of waste therefrom, (iii) removal of filth, and carcasses of animals from all premises, (iv) collection, safe-keep, transportation and disposal of solid waste, and (v) establishment of dry resource collection centres.

Resident Welfare Associations (RWAs) and associations managing gated communities, apartments, other residential and non-residential building complexes are responsible to segregate waste at source, to provide community bins in their premises and any other facilities as prescribed by the municipality and ensure that the waste is lifted daily by paying user charges as prescribed (Section 126).

Management of dump yards is the responsibility of the municipality (Section 127). The municipality has to process the entire municipal solid waste duly adopting scientific management including bio-mining, bio-processing or any other technology as prescribed by Government or any of its agency. Similarly, municipality has to encourage the setting up of compost yards wherever possible and make efforts to have in-situ composting in parks, apartments, function halls, etc (Section 128).

Section 129 deal with bio-medical waste. All nursing homes, hospitals, clinics, laboratories, etc. have to segregate their bio-medical waste and arrange for its collection and transportation to the designated facilities in accordance with Biomedical Waste Rules framed by the State or Central Government or by any agency authorized on their behalf.

The municipality or the agency authorized by it in this behalf has to regulate the management and handling of hazardous waste in accordance with the provisions of Environment (Protection) Act,1986 and rules made by the Central and State Governments in this behalf (Section 130).

The Commissioner in consultation with District Collector can initiate action against any establishment serving food when it does not follow the norms under Food Safety and Standards Act, 2006 (Section 131).

The municipality has to handle the construction and demolition waste and identify suitable places for its disposal and processing. The person who generates the waste is responsible for its disposal and has to pay to the municipality the charges associated with the disposal of the waste (Section 132).

This activity ends with setting up of a specialized body corporate either stand alone or under the superintendence of Commissioner and Director of Municipal Administration to bring in focused institutional attention to scientific waste management including solid and liquid waste and construction and demolition waste, and management of dump sites and to take action in utilizing the services of subject experts, raising of resources, use of appropriate technology, hand-holding the municipalities and take all such actions to achieve the objectives of waste management (Section 133).

The next activity relates to public convenience or restrooms and is covered in Sections 134 to 136. The municipality either directly or indirectly has to provide sufficient public convenience places and facilities like restrooms, urinals, washrooms, child-feeding centres and ensure their regular maintenance and upkeep (Section 134). The municipality also has to ensure that non-residential premises which are accessible to the general public by nature of their trade or activity, would provide public convenience facilities for use by the general public. Any violation of this provision has to be dealt by the municipality in the manner prescribed. This provision may be incorporated while permitting new constructions in these categories of buildings (Section 135).

The next activity is 'public streets' and covered in sections 137 to 143. Section 137 prohibits any wall or fence or obstruction or projection or encroachment in or over any public road. Similarly, any door, gate or extension of any structure is prohibited to be open upon any public road. In such cases, the Commissioner requires the owner or occupier of the building to remove the encroachment or alter the projection or obstruction over any public road.

The Commissioner may grant temporary license, for a period not exceeding 15 days, for erection of temporary shamiana or pandal, or any other structure on the public road or open land vested with the Municipality. He has to ensure that such erection does not cause any public inconvenience and traffic obstructions, and to the public street or the open land (Section 138).

Section 139 relates to upkeep of public roads. Damaging the roads, footpaths and road margins in any manner is prohibited. Planting of trees on any public road or other property belonging to the municipality without the permission of the Commissioner is also prohibited. Similarly, felling, removing, destroying of leaves or fruits, or otherwise damaging any tree belonging to the municipality or the Government, except with the permission of the Commissioner is also prohibited. The Commissioner would take appropriate action, including penal action, if anybody violates these provisions.

Names to public streets, parks, playgrounds or any municipal property can be given by the Municipal Council. However, the Council has to take the approval of Government (Section 140).

The municipality may, either on its own or through any other agency, when required, implement 'traffic engineering schemes' to ensure public safety, convenience and expeditious movement of traffic, including pedestrian traffic (Section 142). The municipality may, either on its own or through any other agency install street infrastructure, like street furniture, rest places, guard-rails, traffic lights, traffic signs, street markings, bus stops etc. and ensure their maintenance. (Section 143).

The next activity 'street lighting' is covered in sections 144 and 145. The municipality has to provide lighting at all public streets, parks, places of public congregation under its control and maintain the lighting (Section 144). The breaking or damaging of any lamp or lamp post or material connected therewith in public street or any public place is prohibited. If any person wilfully or through negligence or accident breaks or causes any damage to any lamp or lamp post or any material, besides penal action, he is liable to reimburse the expenses of repairing the damages so caused by him (Section 145).

The next activity is 'public markets' and it is covered in Section 146 to 148. The municipality has to maintain public markets at various locations in the town with proper conveniences like ventilation, cleanliness, lighting, parking space, water supply, and hygiene etc. The municipality may prohibit by public notice, or regulate

by license, the sale or exposure for sale of any animals or articles in or upon any public road or place (Section 146). Municipal shop rooms are covered under Section 147. The municipality has to allot shops on rental basis through public auction, for a specified period with a provision for renewal and subject to the terms and conditions, as prescribed. Further, the municipality may permit private markets including temporary markets, in the manner prescribed by the Government (Section 148).

The next activity is 'vaikuntadamam (crematorium) and burial grounds' and covered in section 149 to 151. The municipality has to provide, maintain and upgrade the vaikuntadamams (crematorium) or burial grounds, with modern facilities; and arrange atleast one vaikuntaratham (vehicle) for transportation of the deceased, either with municipal fund or with the assistance of others.

Every institution or person, having control of any place used or being used as a place for burying, cremating or otherwise disposing of the dead, has to register such place under this Act, if it was not registered earlier under any law applicable thereto. If there is no institution or person having the control of such place, the municipality has to assume such control and register such place or may close it. No new place for the disposal of the dead, whether private or public, be opened, or used unless a license is obtained in the manner by the municipality (Section 149).

The municipality has to maintain a register with the details of all the places registered, licensed or authorized under this Act and also all such places registered, licensed or authorized before commencement of this Act. The person having control of a place for disposal of the dead has to maintain and provide information of every burial, cremation or other disposal of a corpse to appropriate authority appointed by the municipality (Section 150).

The municipality, if it is satisfied that any registered or licensed place for disposal of the deceased is likely to become dangerous to the health of persons residing nearby, may identify alternative site for the said purpose within a timeframe (Section 151).

The activity 'slaughterhouse' is covered under section 152. The municipality may designate places for use as public slaughterhouses and charge rent and fee for these places. The municipality, in consultation with District Collector and Commissioner and Director of Municipal Administration may make efforts to modernize the existing slaughterhouses in a phased manner. The municipality has to (i) prohibit or regulate the slaughtering at places other than public or licensed slaughterhouses, (ii) license persons to slaughter animals for the purposes of sale to the public, and (iii) cause regular inspection of slaughterhouses and of the meat therein.

Another important activity is prevention and control of infectious diseases and is covered in sections 153 to 157. The municipality has to take measures to prevent and check the spread of any infectious disease in the municipal area and exercise its powers for prevention and spread of infectious diseases in its jurisdiction in the manner prescribed by Government (Section 153). The municipality may take up public health surveillance programs or undertake epidemiological investigations or surveys of the people in the municipal area in coordination with the Medical and Health Department (Section 154).

In the event of the prevalence or threatened outbreak of any infectious disease in the municipal area, or of any unusual mortality therein, the municipality, in coordination with district administration and Medical and Health Department has to provide such staff, medicines, appliances, equipment and other things, as are necessary for the treatment of such infectious disease and preventing it from spreading (Section 155). The municipality has to take adequate measures for control of mosquito growth, and to formulate and execute schemes to prevent mosquito breeding (Section 157).

Trade License for carrying out trade is a regulatory activity of the municipality and is covered in Section 158. The municipality has to grant license for carrying out trade in the municipal area. It has to publish a notification specifying conditions for carrying the trade. The request for licence would be made online and licence

be issued accordingly. A fine of 25 times would be levied if it is found that the self-certification is wrong and malafide.

The management of domestic animals or pets is covered in Sections 159 and 160. For this purpose, the municipality has to (i) promote public education on pet ownership and responsibilities of owners, (ii) register the pet animals, (iii) ensure proper feed to animals kept for dairy purposes, (iv) ensure that the animals do not cause nuisance or danger to any person in the neighbourhood, and (v) take action on the persons who are cruel against animals (Section 159).

The municipality may take measures to reduce stray animal population in the manner prescribed, and make arrangements that the unlicensed pigs or dogs or any other domestic animal left unattended and straying within the municipal area are handed over to the Animal Protection Committees or any other such agency (Section 160).

Prohibition of nuisance is covered in Section 161. The municipality has to take steps to remove, put down and abate all forms of nuisance affecting public peace, tranquillity, public safety, public health, morals and decency within its jurisdiction, and take action against any person committing any such nuisance for abatement as well as for damages.

Different instances of nuisance measures that are prohibited are illustrated and these include

- ★ Unauthorizedly affix upon or deface or write upon any building, wall, or other public place, any bill, notice or document
- ★ Litter the public places, streets, roads, parks, playgrounds or public places
- ★ Carry rubbish, filth or other polluted and obnoxious matter in contravention of any prohibitory order
- ★ Disturb public peace or order in violation of sound pollution control rules

- ★ Pollute air in violation of air pollution control rules
- ★ Cause obstruction to the movement of vehicular or pedestrian traffic
- ★ Affix indecent or obscene pictures or printed matter upon any street, building, wall or as an advertisement
- ★ Unauthorised quarrying or blasting and causing danger to persons passing by or dwelling or working in the neighbourhood.

The 'environmental management' is covered in section 162. Subject to the provisions of any law relating to air, water or noise pollution, and in accordance with any notification issued by the State Government in this behalf, the municipality may function as a competent authority for the enforcement of such law. Charges and penalties are levied as prescribed by Government on those persons who are directly responsible for causing pollution.

The 'disaster management' is covered in sections 163 and 164. The municipality may, in collaboration with the Central Government or the State Government, prepare environmental base maps on emergency and disaster management and collect other relevant data and take necessary steps for erecting installations and other accessories required to mitigate the effects of any disaster.

Secondly, the municipality also prepares a Fire-hazard Response and Mitigation Plan every year as prescribed by the State Government. A fire and safety audit be carried in places of public congregations like religious places, schools, cinema halls and give directions to the concerned to carry out rectifications wherever necessary.

Another important activity is 'vital statistics' and is covered in Section 165 to 170. All births and deaths are registered in the municipality in accordance with the Registration of Births and Deaths Act, 1969. The registration is compulsory, and it is the responsibility of the municipality to ensure cent percent registration. The information has to be reported to the Government. The municipality will appoint such number of persons to be Registrars of Births and Deaths as deems necessary

and specific areas would be defined for them for registration. Details of all births and deaths have to be made available in public domain and required certificate can be obtained in the manner prescribed (Section 165). The naming or change of name of a child can be effected in the register, when the parent or the guardian of such child giving the name or proposing to change the name may, within the timeframe and in the manner specified gives a declaration to that effect (Section 166).

Correction of errors in registers of births or deaths is covered in Section 167.

- ★ Any clerical error may be corrected by any person authorized in this behalf by the Commissioner
- ★ An error of fact or substance which is occurred due to typing or clerical mistake may be corrected by any person authorized by the Commissioner by entry in the margin, without any alteration of the original entry
- ★ Correction or change of details from the original entry requires a declaration setting forth the nature of error and fact of the case on oath made before a Magistrate, by the person who gave the original information or, by a person having knowledge of the case.

Information as to registration of birth of a child is covered under Section 168. It is the responsibility of the father or the mother of every child born in the municipal area and, in default of the father or the mother, of any relative, and, in default of such relative, of the person having charge of the child, to give, to the best of his or her knowledge and belief, to the registrar of the area concerned within eight days after such birth, information containing such particulars as may be prescribed in this behalf.

Information as to registration of death is covered under section 169. It is the responsibility of the nearest relative present at the time of the death of a person, and in default of such relative, the occupier of the premises in which the death took place, and in default of such occupier, the caretaker of the place where the dead

body is disposed of, to give to the registrar of the area the information as may be prescribed within twenty-four hours of such death. If the death of any person occurs in a hospital or a nursing home or a maternity home, it is the responsibility of the medical officer or other officer-in-charge thereof to forward forthwith a report of such death in such form as may be prescribed.

It is the responsibility of the police department to convey every unclaimed corpse to a registered burial or burning ground for disposal of the dead or to a duly appointed mortuary and, thereafter, to inform the registrar within whose jurisdiction such corpse was found (Section 170).

3.5 Town Planning (Chapter V OF Act)

The chapter consists sections 171 to 193. Most of the provisions, either (i) require Government approval, or (ii) implemented as prescribed (under rules issued by Government). While section 171 relates to planned development, Sections 172 to 193 relate to development of land and construction of buildings.

As per Section 171, every municipality, within a defined time limit has to prepare a Master Plan. The plan has to comprise detailed planning scheme, land pooling scheme and local area plan. The local area plan has to cover various components like water supply, drainage and sewerage, sanitation, urban green space, and traffic & transport. The master plan would be the guiding principle for overall development of the town.

Further, for securing planned development of various areas, a detailed planning scheme or local area plan for specific identified area has to be prepared. The detailed planning scheme has to be prepared in conformity with master plan and cover detailed road network, urban green space, drainage, water trunk lines, rainwater harvesting structures and solid waste management aspects in the area.

Development of land and making of layout is covered under Section 172. The whole process of development of land and making of layout has to be undertaken

in the manner prescribed by Government. The person or developer who intends to develop a layout (layout owner) has to pay the layout fee, development charges and other fees and make an application to the municipality along with required documents for its approval. On its approval, the layout owner has to provide necessary infrastructure and other amenities within the timeframe.

The application for layout has to be made online. It will be processed through self-certification system in accordance with the layout rules, and as per the provisions of master plan and detailed planning scheme or local area plan. If all required documents are furnished and required fee is paid through a web-based online system, a tentative layout plan would be approved within 21 days and communicated online to enable the layout owner to carry out the infrastructure and other amenities within the timeframe.

Government may constitute a Layout Approval Committee for every district with the District Collector as Chairman and Superintendent Engineers or Executive Engineers of Roads and Buildings Department, Panchayati Raj Department and Irrigation Department as members to process the application for approval of layout plan and release the final layout plan after actual development of the area in conformity with the tentative layout. The whole process of approval of final layout plan is detailed below and it has to be carried out in the manner prescribed by Government.

- ★ The layout proposal has to comply and conform to the master plan and detailed planning scheme or local area plan regarding land use, road network and reservation of land for public purposes, etc.
- ★ Besides road network, certain percentage of land is to be reserved towards open space, i.e., parks, playgrounds, common parking place and social infrastructure for solid waste management, etc. in the layout.
- ★ The layout owner has to complete the infrastructure and other amenities within two years from the date of approval of tentative layout plan.

- ★ Certain percentage of plotted area for an amount equivalent for carrying out the infrastructure has to be mortgaged with the municipality and it would be released only upon completion of all infrastructure and other works.
- ★ If the layout owner fails to execute the required works within the said time period, the Commissioner will get the left-over works executed within an year, and meet the expenditure by selling the mortgaged plots for an equivalent value. Further, the owner and developer are blacklisted and are not allowed to undertake further layouts in the State either individually or in partnership.
- ★ After completion of infrastructure and other works in the layout plan, all roads and open spaces, such as parks, playgrounds, and common parking area as earmarked in the layout, have to be registered, free of cost and free from all encumbrances, in the name of municipality, when they vest with the municipality. The Commissioner has to make a record of them in the register of roads and register of open spaces.
- ★ Upon completion of the infrastructure and other works as per the layout plan, the layout owner has to submit online application along with a self-certification duly attested by a licensed technical person, declaring that the layout has been developed as per norms and tentative layout plan, and all roads and open spaces in the layout have been handed over in favour of municipality through a registered gift deed. Based on the self-certification, the approval of layout plan would be processed and the district level layout approval committee issues final layout plan online to the layout owner.
- ★ The development and implementation of layout would be verified by the Committee.
- ★ After the issue of final layout plan, Commissioner would release the area mortgaged with the municipality to the layout owner within 21 days

- ★ On release of final layout plan, the landowner can dispose the house plots. Any transaction involving the land which is part of earmarked road or open space is illegal, and the owner or developer who sells or claims such land for any use is penalized and punished, including imprisonment for a period not exceeding three (3) years.
- ★ No new plot or sub-division be registered by the registration authority unless it is approved by the authority as per the provisions of this Act
- ★ In case, the layout is obtained by making false statement or misrepresentation of material facts, it would be revoked.
- ★ Any person or developer who takes up unauthorized development of land without obtaining necessary permission is liable for punishment with imprisonment for a term which may extend to three (3) years, or with fine which may extend to twenty five percent (25%) of the value of land in question at the time of using the land as fixed by the Registration Department.
- ★ The developers or occupiers of all unapproved or unauthorized layouts, as on the date of commencement of this Act, have to apply to the Commissioner within a year and cause or carry out necessary developments or amenities. If they fail to do so, the Commissioner will carry out the developments and amenities, and expenses thereof would be recovered from them.
- ★ The official who fails to take timely action is liable for disciplinary action.

Section 173 refers to 'integrated townships'. The municipality may undertake systematic development to encourage self-contained townships based on 'walk to work' concept. This would minimize the distance between the workplace and residence, bring down pressure on roads and make available more productive time with people. The integrated townships act as a hub containing residential, office space, commercial, entertainment and services with planned infrastructure in place. The Government also promotes comprehensive integrated townships prescribing

minimum threshold area and provide appropriate incentives aimed at encouraging builders and developers to develop such integrated townships.

Section 174 refers to approval of building permissions. The approval of building permissions is subject to the provisions made by the Government in the matter. Government may exempt certain buildings from taking building permissions under this section.

The first requirement is land use certification. No piece of land is used as a site for construction of a building, and no building be constructed or reconstructed without the self-certification based declaration relating to the land use of building site or construction or reconstruction of building. Further, building permissions would be considered upon submission of required documents and as to whether the plans are in accordance with the master plan or detailed planning scheme or local area plan and the building rules.

For approval of building permissions, the plot size is a basic criterion. The plot sizes are categorised into three (3).

- ★ Buildings on plot size upto 75 square yards (63 square meters) and construction of Ground or Ground plus one (G+1) floor
 - ★ These buildings do not require any permission. However, the applicant has to register online with token amount of one rupee and duly self-certifying the plot size and floors. The building does not require completion certification or occupation certification. Nobody should misuse the provision by splitting the plot or by taking up construction in government, disputed or prohibited land. Action would be taken, if anybody violates the provision.
2. Building in a plot size upto 500 square meters and building height of 10 meters
- ★ The application would be processed through an online based self-certification system in accordance with the master plan or detailed planning scheme or local area plan and the building rules and also upon furnishing the required

information, when instant online approval released.

- ★ The onus of authenticity of self-certification lies with the applicant, and he is held personally accountable and liable in case of false declaration. The District level committee would verify the documents submitted by applicant and if any misrepresentation or false statement is noticed, action would be taken against the applicant.

Further, the owner or developer along with the building application has also to furnish an undertaking that in case of any construction made by him in violation of sanctioned plan, the Government or the Commissioner or the agency authorized by him would take action to demolish the construction without issue of any notice.

3. Buildings in a plot above 500 square meters and height above 10 meters

- ★ In respect of such buildings, and also of commercial buildings, high rise buildings, group development schemes, group housing schemes, apartment complexes, multiplexes, non-residential buildings and such other constructions, which require multiple NOCs, one common application form would be developed.
- ★ Such applications have to be submitted through web based online system and they will be processed under single window system by a single window committee set up for the purpose. The online application has to be submitted with all requisite documents. The shortfalls or incompleteness or instances where further information or clarification is needed would be communicated to the applicant within 10 days from the date of application. The building application accompanied by all valid and required documents will be considered and sanctioned within 21 days.

The applicant is required to hand over 10% of built up area in any of the floors to the municipality by way of mortgage, before release of permission to ensure that the building would be built according to the sanctioned plan. The individual

residential building in plots upto 200 square meters and building height upto 7 meters are exempt from this provision. The area so mortgaged will be released on submission of completion certificate and occupancy certificate (referred in Section 175).

While examining the prima facie title, the Commissioner may consult District Collector or revenue authorities to ascertain whether any Government interest is involved.

If no order is issued on the building application within the time prescribed, the approval will be deemed to have been issued. If there has been a delay in arriving at a decision within the timeframe, the official concerned will be liable for disciplinary action.

If it is found that the deemed approval has been obtained by misrepresentation of facts or false statements, and/or against the building rules and master plan provisions, the permission issued under the deemed clause would be revoked by the Commissioner.

The building permission fee and other charges would be prescribed by Government from time to time and they have to be paid by the applicant along with the application on online mode.

The applicant has to commence the work within 6 months and complete the construction within 3 years from the date of issue of building permission in case of non-high rise buildings and within 5 years in case of high-rise buildings. He shall also upload the pictures of commencement of construction in the online tool within 6 months. If the construction of the building is not complete within the specified period, the permission stands lapsed and fresh application has to be made, duly paying the required fees and charges.

The residents may be encouraged to bring instances of unauthorized constructions or constructions in violation of or in excess of permissions to the

notice of the municipality or the District Collector. The identity of such informer will be kept confidential. All such instances have to be examined within a week from such information and appropriate action will be initiated. The informer will be incentivized, if the information furnished by him is found correct.

Section 175 refers to 'occupancy certificate'. In case of non-high rise buildings constructed in plots above 200 square meters and below 500 square meters, the owner or builder in a prescribed form duly attested by the licensed technical personnel, has to furnish a self-certification stating that the building has been constructed as per the sanctioned plan and as per rules and regulations in force. Basing on this, occupancy certificate will be issued online. The onus to ensure authenticity of self-declaration and compliance with the self-certification lies on the owner, the builder and the licensed technical personnel, and they are held responsible and accountable in case of false declaration and are liable for punishment.

In the case of high rise buildings and buildings constructed in plots of 500 square meters and above, the owner or builder would furnish online a self-certification in a prescribed form duly attested by the licensed technical personnel that the building has been constructed as per the sanctioned plan and as per rules and regulations in force; and based on the self-certification, occupancy certificate would be issued within 15 days from the date of application. Along with the occupancy certificate, the mortgage furnished by him would also be released.

In additions to the specific conditions referred above, some general conditions for building permissions are also detailed in Section 176. These conditions are subject to the provisions made by Government.

- ★ If the proposal for building permission is affected by any reservation of land for public purpose like road, park, nala widening, recreation, etc. as per sanctioned master plan or detailed town planning scheme or local area plan, the said portion of the land has to be surrendered to municipality free of cost and the applicant will be compensated by equivalent built up area in

the remaining portion of the land by way of transferable development rights.

- ★ Buildings of all sizes have to make arrangements of on-site treatment systems like septic tank with soak away, twin leach pit, decentralized treatment system, faecal sludge and septage; or connected to sewerage system, wastewater treatment and recycling system.
- ★ Energy Conservation Building Code or Green Building Code or any other energy and water conservation measures as deemed appropriate by the Government, will be made applicable to buildings on plots and/or built-up area of certain extent.
- ★ Certain number of trees as prescribed have to be planted in the open area of the plot where building is being constructed
- ★ Requisite parking place and public conveniences have to be provided depending upon the use of building, like commercial complexes, cinema halls and such other public places free of charge to the users
- ★ The parking places except individual independent and residential buildings have to be provided with electric vehicle charging facility
- ★ The external roof, veranda and wall of a building should not have grass, leaves, mats or other inflammable material.

It was also mentioned that the Commissioner may revoke the building permission, whenever it is found that it was obtained by making false statement or misrepresentation of material facts or violation of rules. In addition to the revocation, penalty is also proposed in such cases and it is detailed in Section 177. The owner, applicant and the licensed technical personnel connected with the building would be liable for punishment which includes imprisonment upto three years, levy of penalty, demolition or taking over or sealing of the property without any notice besides cancelling the licenses of technical personnel and forfeiture of the mortgaged plots in case of layouts or built up area in case of flats/buildings.

A detailed enforcement mechanism has been provided in Section 178. The Government may constitute special task force at the district level to detect and monitor unauthorized constructions and take timely enforcement action. If it is noticed that any person has commenced construction or reconstruction of a building without obtaining the permission or carried out or completed otherwise than in accordance with the sanctioned master plan or detailed town planning scheme or local area plan or in breach of any provisions of this Act, or any rules or bye laws, the Commissioner or the agency authorized by him will demolish the unlawful construction and recover the cost incurred for doing so from him.

The registration authority will not register any building or structure without production of sanctioned plan approved by the municipality. The electricity and water supply connections will be given only for the buildings which have obtained necessary permission.

During the construction phase of building, the owner or builder would upload the photographs at different stages of construction.

Whenever a complaint is made by any resident regarding unauthorized construction or construction in deviation of sanctioned plan, it has to be examined within a week from its receipt and necessary action should be initiated.

The Commissioner may stop the construction or reconstruction of any building that endangers human life, after obtaining safety report from the appropriate authorities. The Commissioner has to take action on unlawful building, as well as issue order to vacate or demolish building in the circumstances prescribed.

Town Planning Building Tribunal is contemplated in Section 179. The Government will appoint municipal building tribunal or tribunals to hear and decide appeals arising out of matters referred to them and to adjudicate the offences contravening the provisions of the Act in respect of land development and building regulations in accordance with such procedure and to realize such fees or fines in connection therewith. Each Tribunal will have jurisdiction over such area as the Government may determine.

The Tribunal shall consist of a chairperson and other members not exceeding five as the Government determines. The members consist of judicial members and technical members. The Chairperson or a judicial member has to be a person who is or has been a District Judge; and the technical member has to be a person who is working in the cadre of Director of Town and Country Planning in Telangana Town Planning Service.

The Chairperson and other members of the Tribunal are appointed by the Government for such period and on such terms and conditions and the expenses are paid from the revenue of the Government. The Tribunal will have an establishment consisting of such officers and employees appointed on such terms and conditions and the expenses are also paid from the revenue of the Government.

No court has jurisdiction in any matter for which provision is made in the Act for appeal to the Tribunal. The Tribunal will have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908.

The Tribunal may, with the previous sanction of Government appoint such officers and staff as it considers necessary for carrying on its business and determine the remuneration and other conditions of service of such officers and staff.

Penalty for unlawful buildings has been specified in Section 180. Any person who undertakes or carries out development of any land or construction of any building in contravention of master plan or without permission, or in contravention of any conditions in the permission is punished with imprisonment for a term which may extend to three (3) years, or with fine which may extend to twenty five percent (25%) of the value of land or building in question as fixed by the Registration Department or with both. Besides the penal action, the building would be demolished, and the demolition cost would be recovered from the owner of the building.

When earmarked parking place in a building is put to any other use, the municipality would levy a penalty on the owner or developer, which may extend to twenty five percent (25%) of the value of land or building as fixed by the Registration

Department.

The municipality has been empowered to seal the premises or building if they are unauthorizedly developed or constructed (Section 181). The Commissioner may at any time, before or after making an order for removal or discontinuance of any unauthorized development or construction, make an order directing the sealing of such premises or building. He may take the assistance of the police for carrying out the order.

If the owner or developer assures rectification of development or construction and if the Commissioner is satisfied, the Commissioner may, for the purpose of rectification of development or construction, order to remove the seal.

No person shall remove such seal except (i) under an order made by the Commissioner, or (ii) under an order of the Tribunal on an appeal made in this behalf.

Precautions in the case of dangerous structures are covered in Section 182. If any structure appears to the Commissioner to be in a ruinous state and dangerous to the passers-by, he may by notice, order the owner or occupier of the structure to arrange fencing, pull down or repair such structures so as to prevent any danger therefrom. If immediate action is necessary, the Commissioner may before giving such notice may arrange fencing pull down or repair such structure or take such temporary measures to prevent danger and recover the cost of doing so from the owner or occupier.

Construction of buildings for public worship is covered in Section 183. No site would be used for the construction of a building intended for public worship, if the construction hurts the religious feelings of any class of persons or is likely to disturb law and order situation.

Building permission for industries and factories is covered in Section 184. The building applications for construction of factories, workshops and workplaces have to be disposed as per the provisions of Telangana State Industrial Project Approval and Self Certification System (TS- iPASS) Act, 2014, through online mode.

Under Section 185, all streets and roads vested in the municipality are open to all persons and they have to be free from encroachment. To make the roads free from encroachments, certain measures have been contemplated.

- ★ The door, gate, ground floor window, etc. are not permitted to project towards any street or obstruct anything on the street.
- ★ If it is done, it would be removed or altered, and it cannot be called in question before a civil court in any suit and no injunction be granted by any court.
- ★ The municipality may take the assistance of police in eviction of persons from municipal properties
- ★ The municipality may remove unauthorized advertisements and hoardings upon any land, street, building, wall, or structure
- ★ If any obstruction is caused in any street by fall of trees, structures or fences, the owner or occupier of the premises concerned has to remove within 12 hours of the occurrence of such obstruction.

Water bodies and green spaces located within the municipal area have to be protected. Similarly, heritage structures or areas or precincts notified under Telangana Heritage (Protection, Preservation, Conservation and Maintenance) Act, 2017 have also to be protected, conserved and maintained (Section 186).

Restaurants, hotels, hospitals, shopping complexes, and other places of public congregation have to allow usage of toilet facilities to general public, especially women, aged people and children (Section 187).

The licensed technical personnel (LTP) have been given a greater responsibility under the Act and therefore a code of conduct has been prescribed for them (Section 188). The Commissioner has to regulate certified Architects or Engineers and Licensed Technical Personnel. The licenses of LTPs would be cancelled and their names will be blacklisted in case of any misrepresentation or false statement or false

certification of drawings for land development or building construction in violation of master plan and building rules.

Provision of bus bays and safety of pedestrians are covered in Sections 189 and 190. The municipality has to provide for bus bays and waiting arenas without causing any traffic obstruction. Similarly, the municipality has to take steps for due convenience for pedestrians like construction of footpaths, street furniture, road markings, resting places, etc. and also safety measures for crossing the roads.

It is the responsibility of existing commercial or institutional structures or places of public congregation to ensure the safety of their buildings, self-certify their fire-safety and emergency exit plans within an year from the commencement of this Act, and if necessary take such measures to comply with the safety standard during this period. Any building not so certified or failed to install fire safety or exit plans would be declared unsafe and the municipality has right to take such measures, as deems appropriate, including closure or sealing and demolition to ensure public safety (Section 191).

Naming of streets and numbering of buildings is covered in Section 192 and this exercise has to be undertaken as per the procedure prescribed. The municipality may name or alter the name of public street with the approval of Government. The Commissioner has to give a number to the building and get it affixed or painted at a conspicuous place of the building. Further, the Commissioner has to take up naming of streets and numbering of houses by introducing digital unique property numbering system.

The informal sector and slum development are covered in Section 193. The Commissioner has to regulate street vending activity by earmarking convenient places for informal sector for public convenience. He has to identify all non-notified slums for notification for the purpose of development and improvement; and also notified slums for the purpose of denotification as per the procedure prescribed by the Government.

3.6 State Election Commission and Conduct of Elections (Chapter VI of Act)

This is an exhaustive chapter covering all aspects of municipal elections and covered in sections 194 to 237. Most of the provisions, either (i) require Government approval, or (ii) implemented as prescribed (under rules issued by Government).

The preparation of electoral rolls and conduct of elections to the municipalities are under the superintendence, direction and control of the State Election Commission (SEC). The SEC has power to give directions as are necessary to Commissioner and Director of Municipal Administration, District Collector, Municipal Commissioner or any officer or employee of the Government and of the Municipalities to ensure efficient conduct of elections. The SEC may also delegate his powers to such officers, as necessary.

For the purposes of elections, Government have to provide the SEC with such staff as is necessary. On the request of SEC, Government has to place at the disposal of the SEC such staff of the Government and of municipalities for preparation of electoral rolls and conduct of elections (Section 194).

Under Section 195, the SEC issues the notification and schedule for ordinary and casual elections. The schedule will be decided by the SEC in concurrence with State Government.

The notification for elections to fill the ordinary or casual vacancies has also specify the time schedule for various stages of the elections. Various stages of election and the time gap among the stages are also detailed.

In respect of ward members, the Returning Officer appointed for the purpose of conducting elections in the municipality would issue the election notice for election of the ward members as per the time schedule notified by the SEC

In respect of election of the Chairperson and Vice-Chairperson or of Mayor and Deputy Mayor, the election notification including the time schedule would be issued by the SEC.

The electoral roll for the municipality has to be prepared and published by the person authorised by SEC. The electoral roll for a municipality will consists such part of the electoral roll of the Assembly constituency published under Representation of People Act as revised upto the qualifying date as relates to the municipality. Further, the electoral roll has to be divided into separate lists for each ward. (Section 195A).

The SEC may, having regard to the circumstances of each case, in any ward or seat, adopt the giving and recording of votes by voting machines (Section 196). Under Section 197, the SEC has to notify the symbols that may be chosen by the candidates contesting the elections and the restrictions for choosing the symbols. Every elector has to produce before the Presiding Officer of a polling station his identity card before he takes delivery of a ballot paper or ballot papers. (Section 198).

Protection in election proceedings is made in Section 199. No proceeding which is being or about to be taken for the preparation or publication of electoral roll or for the conduct of election be called in question in any Court, and no injunction be granted by any Court restraining any action in this regard.

Under Section 200, the SEC may in connection with any election requisition (i) any premises for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken; or (ii) any vehicle for the purpose of transport of personnel or ballot boxes to or from any polling station, or transport of police force for maintaining law and order, and also take such measures in connection with the requisitioning.

Whenever, the SEC requisition any premises or any vehicle, compensation would be paid to the person interested in respect of the premises and to the owner in respect of the vehicle. The manner under which compensation is paid is also detailed. In case, there is any dispute as to the quantum of compensation or the person entitled for compensation, the SEC would refer the matter to an arbitrator appointed by him, and it would be decided by the arbitrator (Section 201). Any

person contravening any order made in connection with the requisition is punishable with imprisonment for a term, which may extend to one year or with fine or with both (Section 204).

Section 205 to 226 refer to corrupt practices, electoral offences and punishments for electoral offences. Section 205 has identified certain corrupt practices relating to elections and they have been elaborated. They are,

- ★ Bribery
- ★ Receipt of gratification, whether as a motive or a reward
- ★ Undue influence, i.e., interference with free exercise of electoral right
- ★ Appeal by a candidate to vote or refrain from voting for any person
- ★ Promotion of feelings of enmity or hatred between different classes of citizens
- ★ Publication of statement relating to the personal character or conduct of a candidate which is false
- ★ Hiring or procuring vehicle by a candidate for free conveyance of elector
- ★ Incurring or authorizing of expenses in contravention of the provisions of the Act
- ★ Obtaining any assistance (other than giving of vote) by a candidate for furtherance of his prospects from any person in the service of Government or local authority or quasi government authority
- ★ Booth capturing by candidate.

The other offences and punishments follow hereafter. Whoever votes in the name of any other person, or who having voted once applies again for a ballot paper (impersonation) is punishable with imprisonment for a term which may extend to five years and with fine which may extend to five thousand rupees (Section 206).

Offences made by companies are covered in Section 207. Where an offence has been committed by a company, every person who was in charge at the time of offence and was responsible to the company for its business as well as the company itself are deemed to be guilty of the election offence and are punished accordingly.

Any person who, in connection with an election, promotes or attempts to promote feelings of enmity or hatred between different classes of the citizens is punishable with imprisonment for a term which may extend to three years and with fine which may extend to three thousand rupees or with both (Section 208).

Holding of public meetings, musical concerts, theatrical performance or entertainment or amusement in any polling area during the period of forty-eight hours prior to the hour fixed for the conclusion of the poll is prohibited and if any person contravenes this provision, is punishable with imprisonment for a term which may extend to two years or with fine or with both (Section 209).

Any person acts or incites others to act in a disorderly manner in a public meeting of a political character held in the municipality is punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both.

If any police officer suspects any person of committing the offence may require that person to declare his name and address and, if that person refuses or fails to declare his name, or gives a false name or address, the police officer may arrest him without warrant (Section 210).

Under section 211, there are certain restrictions on the printer and publisher of pamphlets and posters relating to elections. No person shall print or publish any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher. The printer shall not take up the printing of any election pamphlet or poster unless the publisher gives him a signed declaration attested by two individuals. After completing the printing work, the printer has to send a copy of the declaration and a copy of the printed document to the Election

Authority, if the document is printed in Hyderabad or to the District Magistrate if the document is printed in other places. If the printer or publisher contravene the provisions, they are punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

Every officer or other person performing any duty in connection with recording or counting of votes at an election has to maintain secrecy of voting and do not communicate any information to any person violating the secrecy; and if he contravenes the provision, he is punishable with imprisonment for a term which may extend to three months or with fine or with both (Section 212).

The officers associated with election work and the police officers do not act for the furtherance of prospects of election of a candidate or in any way influence voting; and if any person contravenes these provisions is punishable with imprisonment which may extend to six months or with fine or with both (sec 213).

Canvassing in any manner at or near the polling station when a poll is taken is strictly prohibited and any person who contravenes these provisions is punishable with fine which may extend to two hundred and fifty rupees (Section 214).

No person shall, on the polling day commit any nuisance, shout or act in a disorderly manner at the entrance of the polling station or in any place in the neighbourhood and cause annoyance to the polling officers or the voters; and any person who contravenes these provisions is punishable with imprisonment which may extend to three months or with fine or with both. If the Presiding Officer of a polling station believes any person is committing an offence punishable hereunder, he may direct the police officer to arrest such person, and the police officer has to arrest him (Section 215).

No person shall misconduct himself or disobeys the instructions of the Presiding Officer during poll at a polling station and if he does so, he may be removed from the polling station. If he re-enters the polling station without the permission of the Presiding Officer, he may be punishable with imprisonment for a term which

may extend to three months or with fine or with both (Section 216).

The elector to whom a ballot paper is issued has to follow the procedure prescribed for voting. If he refuses to follow the procedure, the ballot paper issued to him is liable for cancellation (Section 217).

If any person is guilty of illegal hiring or procuring of conveyance at elections, he is punishable with imprisonment which may extend to three months and with fine, which may extend to three thousand rupees (Section 218).

If any officer and person appointed to perform any duty in connection with elections is found guilty of an act or omission in breach of his official duty, he is punishable with fine which may extend to two thousand rupees; and no suit or other legal proceedings lie against such officer or person for damages in respect of any such act or omission (Section 219).

A Government servant is prohibited from acting as election agent, polling agent or counting agent in respect of elections. If he does so, he is punishable with imprisonment for a term which may extend to three months or with fine or with both (Section 220).

Going armed to or near a polling station on polling day by any person is prohibited. If he does so, he is punishable with imprisonment which may extend to two years or with fine or with both. This provision is not applicable to police personnel. (Section 221).

Any person who fraudulently takes away a ballot paper or ballot box out of polling station is punishable with imprisonment which may extend to five years and with fine which may extend upto five thousand rupees or with both. If the Presiding Officer of a polling station believes that any person is taking away a ballot paper or ballot box, he may arrest or direct a police officer to arrest such person and search him. Any ballot paper found upon such search has to be kept in safe custody (Section 222).

Whoever commits an offence of booth capturing is punishable with imprisonment which is not less than one year but extendable to three years and with fine; and where such offence is committed by a Government servant, he shall be punishable with imprisonment for a term which is not less than three years but extendable to five years and with fine (Section 223).

No liquor shall be sold, given or distributed at any place within a polling area during forty-eight hours prior to the conclusion of the poll; and any person contravening the provision is punishable with imprisonment which may extend to six months or with fine which may extend to two thousand rupees or with both. The liquor found in the possession of the person convicted is liable for confiscation and would be disposed off in such manner as may be prescribed (Section 224).

Under Section 225, certain other acts are considered as election offences and they include:

- ★ Fraudulently defaces or destroys any nomination paper
- ★ Fraudulently defaces or destroys or removes any list, notice or other document affixed under the authority of a Returning Officer
- ★ Fraudulently defaces or destroys any ballot paper or any declaration or identity or envelope used in connection with postal ballot
- ★ Without due authority supplies or receives or in possession of any ballot paper
- ★ Fraudulently puts into any ballot box anything other than the ballot paper
- ★ Without due authority destroys, opens or otherwise interferes with any ballot box or ballot papers
- ★ Fraudulently or without due authority, attempts to do or wilfully aids or abets the doing of any acts referred above.

Any person who is guilty of an electoral offence referred above:

- ★ If he is an officer or clerk employed on official duty in connection with the election, is punishable with imprisonment which may extend to two years or with fine or with both; and
- ★ If he is any other person, is punishable with imprisonment which may extend to six months or with fine or with both.

Under Section 226, whoever does any act in contravention of the provisions of this Act or of any rule, notification, etc., he is, if there is no other provision, on conviction, punishable with imprisonment which may extend to two years and with fine which may extend to two thousand rupees.

Miscellaneous election matters are covered in sections 227 to 232. Adjournment of poll in emergencies is covered in Section 227. When the proceedings at any polling station are interrupted or obstructed on any sufficient cause, the Presiding Officer for such polling station may adjourn the poll to a date to be notified later and report the matter to Returning Officer.

The Returning Officer reports the matter to the District Election Authority and the State Election Commission. As soon as possible, the Returning Officer with the approval of State Election Commission, notify the day and time on which poll will recommence. The counting of votes of the polling station will not be taken until the adjourned poll is complete.

Fresh poll in the case of destruction of ballot boxes is covered in Section 228. When (i) any ballot box or electronic voting machine used at a polling station is unlawfully taken out or is accidentally or intentionally destroyed or lost so that the result of the poll cannot be ascertained; or (ii) any voting machine develops a mechanical failure during recording of votes; or (iii) on any other reason which vitiates the poll at a polling station, the Returning Officer reports the matter to the State Election Commission. The State Election Commission after due enquiry, either

(i) declare the poll at that polling station to be void and notify a day and time for fresh poll; or (ii) if satisfied otherwise, issue such directions to the Returning Officer for proper conduct and completion of the election.

Adjournment of poll or countermanding of election on the ground of booth capturing is covered in Section 229. When (i) booth capturing has taken place at a polling station or at a place for counting of votes, the Returning Officer has to report the matter to the State Election Commission. The State Election Commission after due enquiry, either, (i) declare that the poll at that polling station is void, and notify a day and time for taking fresh poll at that polling station, or (ii) if satisfied that the booth capturing affected the result of the election, countermand the election in that ward.

Destruction or loss of ballot papers at the time of counting is covered in Section 230. When any ballot papers used at a polling are unlawfully taken out of the custody of the Returning Officer or are destroyed or lost or damaged, etc. at any time before counting of votes is complete, and that the result of the poll at that polling station cannot be ascertained, the Returning Officer has to report the matter to the State Election Commission. The State Election Commission on due enquiry, either, (i) direct that the counting of votes be stopped, declare the poll at that polling station as void, and notify a day and time for fresh poll at that polling station; or (ii) direct the Returning Officer for resumption and completion of the counting.

All officers and staff employed in connection with preparation of electoral rolls and conduct of elections are deemed to be on deputation to the State Election Commission, and are subject to the control, superintendence and discipline of the State Election Commission. All officers appointed and police officers designated by Government for the conduct of elections are deemed to be on deputation to the State Election Commission from the date of notification of elections to the date of declaration of results; and during that period, they are subject to the control, superintendence and discipline of the State Election Commission (Section 231). The

State Election Commission may delegate any of his powers under this Act to any officer or authority subordinate to him (Section 232).

Section 233 relates to election petitions. Any election held under this Act cannot be called in question except by an election petition presented to the Election Tribunal. The Government may specify a court of District Judge to be an Election Tribunal to try the election petitions under this Act and the Tribunal would deal with such petitions and proceedings in the manner prescribed.

Matters relating to election expenses are covered in section 235 and 236. Every candidate at an election held under this Act has to keep a separate account of all expenditure (election expenses) incurred in connection with the election between the date of his nomination and the date of declaration of the result. 'Election expenses' in this context mean all expenses (i) incurred or authorized by the candidate or his election agent, (ii) incurred by any association, or body of persons, or by any individual aimed at promoting the election of the candidate, and (iii) incurred by any political party by which the candidate is set up to promote his election (other than general propaganda of the party). The election expenses have to contain such particulars and do not exceed such amount as may be specified by the State Election Commission (Section 235).

Within forty five days from the date of declaration of the result of the election, every contesting candidate has to lodge an account of his election expenses to the District Election Authority, and the District Election Authority in turn has to submit copies of these accounts to the State Election Commission (Section 236).

Section 237 refers to appointment of Observers. The State Election Commission may nominate an officer of the Government as Observer to watch the conduct of election(s) for such specified area(s) in a district and to perform such other functions as may be entrusted to him.

The Observer has got powers to direct the Returning Officer to stop counting of votes at any time before the declaration of the result, or not to declare the result,

if in his opinion, booth capturing has taken place at polling stations or at counting centres or any ballot papers used at a polling station are unlawfully taken out of the custody of the Returning Officer or are accidentally or intentionally destroyed or lost or damaged or tampered, etc. so that the result of the poll at that polling station cannot be ascertained.

The Observer after directing the Returning Officer to stop counting of votes or not to declare the result, has to report the matter to the State Election Commission. The State Election Commission, on due enquiry may issue instructions either to adjourn the poll, or countermand the election, or stop counting of votes, or declare the poll at that polling station as void, or notify a day and time for fresh poll at that polling station, or resume and complete the counting.

The State Election Commission may also appoint an Election Expenditure Observer for a group of seats or a municipality or group of municipalities so as to ensure that the provisions relating to election expenses are strictly adhered to. The State Election Commission may also issue such instructions as deemed necessary to such Observers.

3.7 Subsidiary Legislation - Rules, Byelaws and Regulations (Chapter VII of Act)

This chapter consists Section 238 to 301; and besides subsidiary legislation related provisions, the chapter contains some other miscellaneous provisions. Most of the provisions, either (i) require Government approval, or (ii) implemented as prescribed (under rules issued by Government).

Section 238 refers to rule-making power of the Government. The Government may make rules for carrying out the purposes of the Act. In the rules made by Government, it should include that breach of any rule shall be a punishable offence with fine. Further, every rule has to be laid before the Legislature of the State. The Legislature may agree, modify or annul the rule. However, the modification and annulment will have prospective effect.

Under Section 239, the State Legislature may add, modify or cancel any Schedule in the Act through a notification. The draft copy of the notification has to be laid before the Legislature and the Legislature has to approve, modify or alter it within a period of 30 days. If no communication is received from the Legislature within the timeframe, it would be deemed that the proposed notification stands approved and Government would proceed further to issue the notification.

Making of byelaws by the Council are covered in sections 240 and 243. Under Section 240, the Council may make bye-laws, consistent with this Act to provide for all matters, which are expressly required by this Act. Under Section 243, the Council, before making or altering bye-laws, has to publish a draft of the proposed byelaws or alterations and call for objections or suggestions within a specified period, and consider the objections or suggestions received.

In particular, the byelaws

- ★ With regard to drainage, water supply, water-closets, privies, cesspools, etc. in connection with the buildings, have to be made with retrospective effect (Section 242)
- ★ Have to provide that a breach of the byelaws is punishable with fine (Section 244).

If, the municipality has failed to make any bye-laws, or if the bye-laws made by it are not, in the opinion of the Government, adequate, the Government may make rules providing for such matters, as they may think fit. These rules may add to, alter, or cancel any bye-laws made by the municipality. If any provision of bye-laws made by the municipality is repugnant to any provision of the rule, the rule made by Government prevails (Section 241).

Copies of the Act, rules and byelaws framed by the Government and the municipality are made available online in English or in the main language of the district (Section 245).

General provisions regarding penalties are covered in sections 246 to 250. If a person having known that he is not a member or ceased to be a member of the municipality, acts as a member, he is punishable with fine of not less than ten thousand rupees or as prescribed. Similarly, any person having known that he is not entitled, or has ceased to be entitled to hold the office of the Chairperson or of the Vice-Chairperson of a Municipal Council acts as or exercises the functions of the Chairperson or of the Vice-Chairperson, he is punishable with fine of not less than ten thousand rupees or as prescribed. Further, if the Chairperson or Vice-Chairperson fails to hand over any documents of, or any properties belonging to the council to his successor or other authority, such Chairperson or Vice-Chairperson is punishable with fine of not less than ten thousand rupees or as prescribed (Section 246).

An officer or employee of the municipality shall not acquire by himself or by a near relative or by a benamidar, any share or interest in any contract or work of the Municipal Council. If he does so, it is considered an offence under section 168 of the Indian Penal Code (Section 247).

No person should wilfully prevent distraint of property taking place for realisation of tax due from any person. If he does so, he is liable to a fine, not exceeding ten times the amount of the tax due (Section 248). No person should prevent a municipal officer or employee to enter into any land or building and to exercise his lawful power or function. If he does so, he is deemed to have committed an offence under section 341 of the Indian Penal Code (Section 249). When it is required under this Act to furnish any information, no person should (i) omit to furnish it, or (ii) furnish false information. If he does so, he is liable to pay fine of two thousand rupees (Section 250).

General provisions regarding licenses and permissions are covered in Section 251. Every license or permission granted under this Act or any rule or byelaw has to specify the period, and the conditions subject to which, it is granted, and be signed by the Commissioner. Every order granting or refusing a license or permission has to

be communicated to the person concerned and any order refusing or suspending or cancelling a license or permission has to contain the grounds on which it is refused or suspended or cancelled. Further, for every license or permission, the amount of fee fixed at such rates be collected by the Municipal Council.

Provision of 'appeal' and 'review' are covered in Section 252. Any person aggrieved by any notice issued by the municipality under this Act may file an appeal before the Regional Director of Municipal Administration within 60 days from the date of receipt of such notice. He may condone the delay, if sufficient cause is shown to his satisfaction. The Regional Director has to dispose the appeal within 30 days from the date of receipt of the appeal. Against any orders passed by the Regional Director, a 'review' lies to the Government and the review petition to the Government has to be submitted within 30 days from the date of receipt of the order from the Regional Director. The Government may condone the delay in filing the review petition if sufficient cause is shown to their satisfaction.

Under Section 253, all persons authorised by the Act or the rules to conduct enquiries relating to elections, and all inspecting or superintending officers holding any enquiries have power to issue summons for the attendance of witnesses and the production of documents, as enumerated under the Civil Procedure Code, 1908.

In particular, the Commissioner, the Municipal Engineer or the Town Planning Officer may summon any person to appear before him, and give evidence or produce documents in respect of any question relating to taxation, or inspection or registration, or grant of any licence or permission under the provisions of this Act (Section 254).

Some miscellaneous provisions are covered in the following couple of sections. All notices and permissions issued or granted, under this Act have to be in writing, either in print or electronic format, and in such form as may be prescribed (Section 255). Every license, permission, notice, bill, or any other document of the municipality shall have the signature of the Commissioner or of the

authorised officer either in writing or in electronic form, and may bear a facsimile of the signature of the Commissioner or of such officer, as the case may be, stamped thereon. However, a cheque drawn upon the municipal fund or any deed of contract entered into by the municipality should necessarily be signed (Section 256).

Every byelaw, order, notice or any other document which needs to be published under this Act has to be written in, or translated into, the main language of the district and kept at the municipal office. Copy of such document has to be made known to public by publication in the municipal office and at such other places as the municipality may propose. It shall also be published through web-based formats. A public announcement may also be made throughout the municipality by beat of drum or other audio-means that a copy of the document has been so posted up and that the original is open to inspection at the municipal office (Section 257). Whenever any notice, or other documents is required to be served on any person, the service of the document has to be affected in the manner prescribed (Section 259).

Relationship between occupier and owner of lands and buildings is covered in sections 260 to 262. If the occupier of any land or building makes any payment to the municipality on behalf of the owner, such occupier is entitled to recover the same from the owner, and may deduct the same from the rent due by him to the owner (Section 260). If the occupier of any land or building prevents the owner from executing any work or carrying into effect any provisions of this Act, the Commissioner may by an order, require the said occupier to permit the owner, within eight (8) days, to execute the works or carry into effect the provisions of the Act (Section 261). Further, if the owner of any land or building fails to execute any work, which he is required to execute under this Act, the occupier of such land or building, with the approval of the Commissioner may execute the said work and deduct the amount thereof from the rent due by him to the owner (Section 262).

Under Section 263, the Commissioner, or any person authorized by him, may enter any building or land, to make any enquiry, inspection, survey, or valuation,

etc., or for the purpose of executing any work, which is authorized by the Act.

If any person does any act without license or permission or registration, which is required under this Act; or in a manner not consistent with the terms of such license or permission or registration, action would be taken against him in the manner prescribed (Section 264).

Payment of compensation by the municipality towards damages is covered under Section 265. If any person sustains any damage by reason of exercise of any power by any municipal authority, officer or employee, the Commissioner may, with the approval of the Government pay suitable compensation to that person.

Recovery of any sum due to the municipality is considered as due of tax amount (Section 266). All amounts due to the municipality in the form of fees, rents, contributions, damages, penalties, compensation charges, etc. or under any contract shall be deemed as tax payable to the municipality and be recovered by service of a bill and as per the rules prescribed.

Limitation of time for recovery of dues is covered in Section 267. No distraint be made, no suit be instituted, and no prosecution be commenced in respect of any sum due to the municipality after expiration of seven years from the date on which distraint might first have been made.

Provision of prosecution by the municipality is covered in Section 268. No person be tried for any offence against the provisions of this Act, unless the complaint is made by the Commissioner or by a person expressly authorized in this behalf by the municipality. The complaint has to be made before the Judicial First-Class Magistrate who has jurisdiction over the municipality and provisions of Code of Criminal Procedure, 1973 are applicable in the matter.

Under Section 269, any fine, costs, tax or other sum imposed or assessed by a Magistrate under this Act is recoverable by such Magistrate under the provisions of Code of Criminal Procedure, 1973, as if it were a fine and the same has to be paid to

the municipality. In case the fine or costs imposed or assessed are not paid by the defaulter or offender, the Magistrate may order the offender to be imprisoned for a period of six months in default of such payment.

If, on account of any act or omission, any person has been convicted of an offence by the Magistrate; and also by reason of the same act or omission, any damage has been caused to any property owned by the municipality, the said person shall pay compensation for such damage, in addition to the punishment he has been sentenced. The amount of compensation payable by the said person would be determined by the same Magistrate within three (3) months from the date of conviction. If the amount of compensation is not paid, it would be recovered under a warrant from the said Magistrate, as if it were a fine imposed on the person (Section 270).

Institution of suits against municipal authorities, officers and employees is covered in Section 271. Suit for damages or compensation shall not be instituted against the municipality, or any officer or employee or person acting on the direction of such municipality, in respect of any act done in pursuance of this Act or in respect of any alleged neglect or default in the execution of this Act, until the expiration of three (3) months after a notice has been delivered, stating the name and place of the plaintiff, cause of action and the relief sought. Where the defendant, in any such suit, is the Chairperson, the Commissioner or a municipal officer or employee, the costs, charges, expenses and compensation, etc. consequent of the suit would be met from the municipal fund.

Under Section 272, the Commissioner is empowered to institute civil and criminal actions and obtain legal advice. In particular, the Commissioner may

- ★ Take or withdraw from proceedings against any person who commits any offence against this Act, any offence which affects any property or interest of the municipality or any nuisance whatsoever.
- ★ Compound any offence against this Act;

- ★ Take, withdraw or compromise for recovery of expenses or compensation due to the municipality;
- ★ Withdraw or compromise any claim in respect of penalty;
- ★ Defend any suit or other legal proceedings brought against the municipality;
- ★ Compromise any claim, suit or legal proceedings brought against the municipality;
- ★ Institute and prosecute any suit, or withdraw from or compromise any suit or claim; and
- ★ Obtain such legal advice and assistance.

The election authority may defend himself, in any proceeding relating to the preparation or publication of electoral rolls or the conduct of elections, and the expenses incurred therefor have to be paid from the municipal fund (Section 273).

Under Section 274, no court shall grant any temporary injunction, or make any interim order, restraining any proceeding, which is being or about to be taken for the preparation or publication of electoral rolls or for the conduct of elections.

No suit is maintainable against the Government, the District Collector, the Revenue Divisional Officer or the Chairperson, or municipal authority, or officer or employee, or any person acting under the direction of the Chairperson or the municipal authority, or a Magistrate, in respect of anything done in good faith under this Act (Section 275).

The Chairperson, Member, Commissioner, Municipal Engineer, Town Planning Officer, Bill Collector or any employee of the municipality, entrusted with the collection of sums due to the municipality is liable for the loss, waste or misappropriation of any money or property, owned by the municipality, if such loss, waste or misappropriation is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him by the municipality, or by the Government within three (3) years of the cause of action (Section 276).

When the Chairperson, Member, Commissioner or any other officer is accused of any offence, alleged to have been committed by him, while acting in the discharge of his official duty, no court shall take cognizance of such offence, except with the previous sanction of the Government (Section 277).

The assessment or demand made cannot be questioned in any Court by reason of any clerical error or any mistake in respect of the name, residence, etc. of a person, or the description of property or the amount assessed, provided the provisions of this Act have been, in substance and effect, complied with. Similarly, any Court cannot quash the proceedings merely for defect in its form. (Section 278). Similarly, any Court cannot grant any interim injunction or make any interim order restraining any proceeding, which is about to be taken for revision or amendment of the assessment books (Section 279).

The role of police officers is covered in sections 280 to 282. Under Section 280, it is the duty of every police officer to (i) communicate to the proper municipal officer, any information which he receives of the design to commit any offence under this Act, and (ii) assist the Chairperson, the Commissioner or any municipal officer or employee reasonably demanding his aid for lawful exercise of any power vested in him. If the police officer omits or refuses to perform any duty, he is liable to disciplinary proceedings under the service rules applicable to the police department.

Power of police officer to arrest persons is covered in Section 281. If any police officer sees any person committing an offence against any of the provisions of this Act, and if the name and address of such person are not known or if the said person declines to give his name and address or gives false name and address, he may arrest such person. The person arrested shall not be detained in custody after his true name and address are ascertained, or for more than 24 hours without the order of a Magistrate.

Under Section 282, Government may empower any municipal officer or employee to exercise the powers of police officer for the purposes of this Act and of the Telangana Towns Nuisances Act, 1889.

Some miscellaneous provisions have been referred post section 283. Under Section 283, every municipal officer or employee, every contractor or agent for collection of any sum due to the municipality, and every person employed by such contractor or agent for the collection of such sum, is deemed to be a 'public servant' within the meaning of section 21 of the Indian Penal Code, 1860.

Any mark set up by the municipality for the purpose of indicating any level or direction incidental to execution of any work authorised by this Act cannot be removed by any person (Section 284). Any notice exhibited under the orders of the municipality cannot be removed or destroyed by any person without authority (Section 285).

No earth, sand or other material be removed from any land, or no encroachment be made on any land vested in the municipality, or no public water course be obstructed by any person without authority in that behalf (Section 286).

Section 287 refers to delegation of powers by the Government. The Government may delegate to any person or authority any of the powers vested in them, except the power to make rules; and may in like manner, withdraw any power so delegated. The exercise of powers delegated are however subject to such restrictions and conditions, and also to such control and revision by the Government.

Under Section 288, the Government or the District Collector may give such directions to a municipality, as it may consider necessary for carrying out the purposes of this Act.

Adjudication of disputes between local authorities is covered in Section 289. When a dispute arises between a municipality and one or more local authorities in regard to any matter arising under the provisions of this Act or any other enactment; and when the Government are of the opinion that the local authorities are not able to settle it amicably among themselves, they may take cognizance of the dispute and issue appropriate orders. The decision of Government is binding on the local authorities and cannot be questioned in any court of law.

Government may, by notification, declare any local area to be a notified area or a township or an integrated township, for the purpose of application of all or any of the provisions of this Act in the said notified area or township or integrated township in the manner prescribed (Section 290).

Government may, in consultation with any municipality or notified area committee, and Telangana State Industrial Infrastructure Corporation (TSIIC), and subject to such restrictions, conditions, control and revision, by notification, direct that any power or function vested in the municipality or the notified area committee be transferred to and exercised and performed by the TSIIC (Section 291).

The municipality has to maintain and publish all its records at quarterly, half-yearly and yearly intervals, duly categorized and indexed in a manner and form which facilitates disclosure of such information to the public in such manner as prescribed (Section 292).

Government may, at the request of the Mines Board of Health constituted under Telangana Mining Settlements Act, 1956, by notification, declare that any provisions of this Act are extended to and be in force in the mining settlement or in any specified area. The provisions so notified shall be so construed to adapt them in the mining settlement or any special area (Section 293).

All public streets including sewers, drains, tunnels and culverts, and water bodies, etc. belonging to the municipality whether made at the cost of the municipal fund or otherwise and other than those managed by Central and State Governments vest in the municipality. The Government may however, after consulting the municipality, by notification, withdraw any such street, sewer, drain, tunnel or culvert, etc. from the control of the municipality and place at the control of any other department of Government (Section 294).

Duty of the municipality in respect of the public streets withdrawn from its control are detailed in Section 295. In such cases, it is the responsibility of the municipality to provide the amenities as directed by Government from the municipal

funds. Secondly, from the date of commencement of this Act, all vacant lands belonging to or under the control of the Government vest in the possession or control of the municipality. The municipality has to keep all such vacant lands free from encumbrances and restore the possession, free of cost, to Government for public purpose or for the purpose of alienation to any other authority. The municipality shall not (i) construct any building on such vacant land, or, (ii) use such vacant land for any permanent purpose, or (iii) alienate such vacant land to any third party, without permission of the Government.

All garbage, filth, sewage, construction and demolition waste and other material collected by or on behalf of the municipality, belong to it (Section 296).

Procedure for acquisition of immovable property required by the municipality is referred in Section 297. The municipality may acquire an immovable property subject to the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and any subsequent Act or notification thereupon as applicable in the Telangana.

Government, if it considers necessary, in the interest of the functioning of municipal corporations and councils, may make special provisions with respect to one or more corporations or councils (Section 298).

Under Section 299, the existing Telangana Municipalities Act, 1965 and the Telangana Municipal Corporations Act, 1994 are repealed on the commencement of this Act. However, the appointment, notification, order, scheme, form, notice, rule, or bye-law made or issued, and license or permission granted under repealed Acts, in so far as it is not inconsistent with the provisions of this Act, will continue, unless it is lapsed or superseded by any appointment, notification, order, scheme, form, notice, rule or bye-law made or issued, and any license or permission granted under this Act.

If any difficulty arises in giving effect to the provisions of the Act or as to first constitution or reconstitution of council or corporation, Government may by an

order do anything to remove the difficulty (Section 300).

Section 301 is a routine provision. Since the Act replaces the Ordinance, this section repeals the Telangana Municipalities Ordinance, 2019.

Chapter 4. Schedules

After the main provisions, four (4) schedules are attached to the Act. If the schedule needs addition, or modification or cancellation, it has to be made by the State Legislature under Section 239 of the Act.

In schedule I, the municipalities constituted under the Act are listed and they are 128 in number.

In schedule II, the municipal corporations constituted under the Act are listed and they are 12 in number.

In schedule III, the municipal services and the timelines for their delivery are listed. Some of the services have to be delivered online. The officers responsible for delivery of services are also identified.

Schedule IV contained provisions with regard to disqualification of ward members of the municipality. The schedule covered the qualification and disqualification of candidates (contesting as members) as well as members (after elected as members). Disqualification for failure to lodge the account of election expenses is also included in the schedule.