



<b>Madhya Pradesh Urban Body</b>
<i>Nagar Panchayat</i> 237
<i>Nagar Palika</i> 87
<i>Nagar Nigam</i> 14

## Municipal Election, Madhya Pradesh Special Issue

### *Review of the Municipal Act of Madhya Pradesh*

(From the perspective of Municipal elections)

The present Madhya Pradesh State was formed on 1 November 1956. The present Municipal Act evolved slowly from various Municipal regulations brought about from time to time in the history of Madhya Bharat. The State now has 370 urban areas, of which 14 are Municipal Corporations, 85 Municipalities, and the rest are Nagar Panchayats, as per the new classification under the Constitution.

The current Municipal act of Madhya Pradesh is organised in 12 parts. The second part is one of the most important part of the Municipal Governance. This section forms the basis of municipal functioning. Part II, dealing with Constitution and Government (of which the Municipal Authorities are a part) is the key to the Act. This part of the Act is dealing with too many complex issues pertaining to Municipal governance including Municipal elections.

#### **Key features (pertaining to elections) and there implication on the Municipal governance**

1. Election is to be held on five yearly bases in each Municipal body. There is reservation for the Seats of the corporation, including that of The Mayor. Very recently, the reservation for the Women has been enhanced in to 50% from the previous 33%. Therefore, there will be large number of women contestants in the poll fray and as elected councillors. The challenge for the party as well as the voters is going to be identification of suitable candidates and there grooming for there role as councillors. In all Likelihood the women candidates will be close relatives of party workers. Therefore, once the elections are over and the elected council is in place, training a capacity building interventions will determine the efficiency of the council.
2. Existing Section 11A provides for reservation of the office of the Mayor. Rules have also been framed on the detailed procedure as to how this should be worked out. Reservation is an accepted public policy in the country. But it creates problems if

such reservation is applied to a particular post. There would be less incentive to perform to that extent; on the other hand, there may be an inclination to be rhetorical. Unfortunately this is true for the Position of Mayor/ Presidents of Municipal Bodies in Madhya Pradesh, including the Mayor of Bhopal

2.1 The Municipalities in Madhya Pradesh follows 'MIC 'system in municipal Governance. The councillors for each ward are elected directly by the electorates of ward. Additionally voters of the city elect the Mayor of the city directly. In the MIC system in general, the underlying principle is one of cabinet system of government. The leader of the largest party elected in the municipal elections becomes the Mayor. He thereafter selects or changes his own team in the MIC from among the elected councillors. The feature in this system is that the Mayor and the MIC are individually and collectively responsible to the Corporation body. However, the situation in Madhya Pradesh is different than the one prevailing in other 'MIC'.

2.2 Existing Section 9(1) (a) provides that a Mayor is directly elected from the municipal area. Direct election of the Mayor is a unique feature in MP. It does not exist elsewhere in India. It is assumed that this gives more independence and authority to the Mayor. The directly elected Mayor selects his team as MIC but he is directly not responsible for general council of the corporation, who play no role in its election. Therefore, in Madhya Pradesh, the directly elected Mayor is not accountable to the body corporate. He transcends the elected body, his constituency is the whole city, and he stands or falls on his own, till he is recalled or removed. There is thus a dysfunction in the functioning of the Mayor. .On one hand, the Mayor can be compared to the Minister of the city as he is elected directly from entire city. He is expected to perform several municipal and development functions. However, he neither has nor draws authority for the same. The underlying issue is: can a directly elected Mayor and a cabinet like MIC (accountable to the Corporation) coexist, and function effectively, as a political system?

Commissioner is appointed by the State Government for a renewable period of not more than five years. The commissioner is the Principal executive officer of the corporation. There are potential for possible conflict between the Mayor and Commissioner, the elected head and executive head. He can participate and speak in any of the corporations meeting but can neither bring any motion, nor can vote in any motion.

3. The Municipal Corporation shall conduct its business as per the section 27 of Part-2 of the ACT. The ward committee and Mohalla committee shall be constituted, in all the municipal corporations. A ward committee has been prescribed to be constituted on a population of one Lakh or more, which means that four or more

wards will join together to form a ward committee; The Ward committees are represented by councillor falling in the particular area and 2 residents from each of the ward covered in the Ward committee. The manner in which Ward committee constitution has been prescribed in the Act, forfeits the very propose pf ward committee. One lakh is very high population and is quite against the objective of the meaningful decentralisation. The Micro and local issues are lost in the process. More importantly, the scope for direct participation of the citizen is also completely lost. The ward committees have poor representation of a particular ward.

3.1 If the ULBs were to function in a decentralised manner through the Wards Committees and the Mohalla Committees, the street-level and neighbourhood level environmental problems would be exposed even more and therefore, there will be rise in the expectation of people. At the same time it will promote, greater accountability and transparency in the functioning of the municipal corporation. Thus, enhancing the level of citizen participation have challenges of various kind. On the other hand, non-fulfilment of the hopes and desires of the citizens might lead to exasperation, indifference and lack of motivation, which could destroy the process of civic engagement in municipal matters. On the other hand, increased transparency and accountability in system may just halt a system, so used to working in darkness. Besides, it may also frustrate municipal body, which has very high public interface compared to other departments doing infrastructure development but has little control on there funds to meet the aspiration of people. Therefore, there is need to review and revise the system of urban governance. At the same time it is critical to integrate Municipal Governance in the broader universe of Urban governance

3.2 The municipal act in section 48-B prescribes the Mohalla Committee formation within the three months of its notification. Each Mohalla committee is to be headed by councillor of the ward. The tragic mis-happening is the extremely delayed notification. The Municipal act has been prepared in compliance with the 74<sup>th</sup> Amendment of the constitution that has made specific mention of the community participation in Mohalla committees. The state government has finalised some Mohalla committee rule, which is l notified, but the functional procedures for registration and functioning are yet to be clarified..

Despite all the prevailing incongruence, the Municipal elections are contested more fiercely than ever before. However, these unresolved election conflicts will be growing challenge in the functioning of the elected body after the elections.

## The cloud of uncertainties around Social Security (Benefits)....

Unlike a tree, which may be said to be collection of leaves, a city is, rather like a ladder, with different needs appearing for different steps. In the squabble over issues around the ward, many macro issues concerning the interests of the entire city say lakes or land and several important city dwellers like those living in the slum get diluted. However, civic body elections scheduled in the state in early December provides a chance to for all such issues to surface and get recognition. One such issue is social security pensioners and potential beneficiaries. They are greatly influenced by efficiency and commitment of the Municipal Corporation. Projections suggest that the urban poor shall double in just 5 years. So undoubtedly issues pertaining to urban poor can not be ignored by any democratic government particularly the local bodies. However, the manifestoes of Civic body elections, the speeches of Mayoral candidate usually not go beyond the regular issues of water and road. Hopefully this election will bring some hope to this constituency.

Social Security Benefits is expedited by BMC through its ward and Zonal offices and the cell dealing with schemes. Social security benefits are provided under the Madhya Pradesh Act for providing welfare measures for the poorest and the destitute, and include widow's pension, old age pension and financial-aid for disabled persons of BPL families. The pensions were instituted under a state act on destitute and the poorest in 1970. The qualifying criteria for eligibility as destitute were then defined as persons earning less than Rs. one hundred in a month. The job of verifying the 'suitability' of applicant for qualifying for 'Social security pensions' is entrusted on ward officers. A look at the conditions prescribed for identifying a destitute, which obviously tries to match to the criteria of a monthly income of Rs. hundred as was stated in the Act in 1970. Obviously poverty and destitution of this order will be difficult even in slums and will be possible only with homeless poor spending their lives on Railway Platform or other such places. Since having a address, A voter ID card and a bank account is a primary condition for Social Security Pension Holders, It rules out the homeless destitute and brings in the discretion of Municipal corporation, particularly the ward offices and Zonal committees in identification of 'suitable applicant'. Besides the discretion, the efficiency exercised by these offices is equally appalling.

The access of application forms in the ward offices is itself rare. Usually the response of the ward clerk or ward officer is that they are in print, or consumed or locked to prevent 'misuse'. Potential Beneficiaries have to visit several municipal offices several times to collect the form, submitting them afterwards is even more challenging. However, the biggest challenge is to get the application processed. The ward officer is supposed to verify each case and subsequently forward it to zone committee for their meeting, unfortunately both rarely takes place .Since there is computerized data on those who apply, and whose applications have been not processed, the corporation can easily deny of their responsibility. Unfortunately applicants beg and bribe to just get the counter

receipt of submission of forms, obviously, the inefficient officers do not want any proofs of inefficiency. It is common that applications take years for processing that too after active interventions. Ward officers simply state that they do not have the time to survey and zonal committee is too busy to bother to meet regularly. There are several applicants on records who died before their case could be processed and most applications take months to get their applications on table. More importantly the cases are rejected for whimsical reason. Like, the age on voter card and Ration card do not match, irrespective of the fact that both the mentioned age's qualify, or the spelling of the name is different in the two documents submitted by the beneficiary, on which an illiterate and poor applicant had little knowledge and no control. In fact it is difficult for any body in Bhopal to ensure that he /she get the Voter Id card and with absolutely correct details.

Last few years have witnessed unprecedented lollypops before election for the organized sector in terms of 6<sup>th</sup> Pay Commission benefits; pension revision of the retired employees, enhanced benefits to elected MP and MLA's but little benefits to the poorest of the city population is yet to get its due

### **Atleast a Hundred Hawker Zones needed immediately**

The elections are scheduled and parties are working over time to finalise the Mayoral candidate and election agenda. The civic elections have a special place for the common citizens; reason is the proximity of the institution to the public. Be it water logged streets or little water in the taps, clogged drain or failed power supply, community expects the councilors to rectify the problem. Madhya Pradesh is unique in some sense that it has direct election for Mayor, making Mayor more powerful in the council and in a way more accountable to common public. Yet the 'Municipal Corporation as a body, the Mayor and the Mayor in Council' the powerful decision makers with resources and authority are yet out of the reach for the large city constituencies that have issues bigger than wards. Their voices have had little impact on the Municipal Corporation. One such constituency is of more than twenty five thousand hawkers and small traders of the Bhopal city.

The city of Bhopal employs nearly thirty percent population in the informal sector and has extremely high proportion of BPL population. By a rough estimate, there are more than Twenty five thousand hawkers operating in the Bhopal city. Roadside food vendors, tea stall, automobile repair, vegetable and fruit vendors, ready made garments and many other small knickknacks are bought and sold regularly in the city by these hawkers. Some of them are selling their goods and items for more than thirty years on the land supposedly encroached from the Municipal corporation. They exist, they sell, and they make their livelihood but as illegal occupants and encroachers, as Municipal Corporation have constantly over the years, derecognized their existence.

There are extremely inadequate Hawker zone in the city catering to not more than 500 hawkers in the city, Leaving more than ninety percent or twenty four thousand on roads-as encroachers. It leaves both the community and the hawker in a mess. Absence of proper hawking places forces these hawkers to park themselves at roads, crossings or any open space available to them, irrespective to the inconvenience caused by them to the city. The entire Footpath in MP Nagar is filled food vendors and florists. Durga das Chouraha between 11 number and 10 number is bigger chaos, owing to the erection of temporary sheds of hawkers. It is difficult to even walk at certain points near Jhinsi or near Bhopal Talkies due to hundreds of hawkers vending variety of stuff on the road. Traffic near Manisha Market moves at snails pace when, several hawkers light up the place in the evening.

But Municipal corporation , has over the years, had a stoned response towards these hawkers .Only solution they offered from time to time is flying squads confiscating the goods and items of these hawkers ,only to release at a later stage after collecting fines besides assuring 'Chai-Pani' for the prized staff.

A usual Hawker is seen as encroacher by the corporation, illegal by the police and nuisance by the commuter .A vendor selling Hot Paranthas at a junction near Arera colony claimed that he shells out three to four thousand to ' various inspectors', every month, making it clear 'who is more illegal'. All the food vendors at six number market claim that they are saving more than two thousand every month on bribes besides a lot of hassles, ever since they been provided the spaces in hawker zones.

Interestingly a large percentage of regular hawkers pay 'Tehbazari' a daily tax collected by the contractors allotted the license for collecting fees for commercial activity in a marked area, something on the lines of Parking place contracting. A vegetable vendor at Jhinsi has been paying a Tehbazari fees everyday for the past thirty years. Some times he has to cough up the fees even twice a day, but paying for thirty years has not entitled him any 'Right' what so ever. In all he has paid more money as 'tehbazari' than, what could have been the cost of shop, provided he had money all in one go.

Various vendors that sell different type of commodities ranging from readymade garments, utensils, plastic wares alongside other vegetable vendors on the 'vegetable market' days in different 'marked weekly Haats' spend nearly five thousand on 'Hammals' that carry their mobile shops to the different 'Haats', They are not allowed to operate from one place and have to move along the weekly 'Haats'. If they remain stationery and continue their sale from abandoned 'Haat ground', it is illegal and there goods can be confiscated. Most such vendors spend substantial time and money in moving from one weekly 'Haat' to other. Dinanath, a plastic vendor, contests that these mobile shop owners never sleep before three in the night as their goods need to be transferred to

other place every day. Most of these hawkers are ready to pay a reasonable rental, if they are provided minimum security for vending.

However, Municipal corporation has taken little notice of nearly 15% of the population and twenty five thousand voters, that too from the poorest sector. City is alive and has to respond to the need of the citizens. Vendors and hawkers are not only the livelihood for the people engaged in it, but are extremely important for the common citizens living in the city as cheaper shopping options. Also, where are shopping complexes in the city to replace all the hawkers. Hawkers and vendors ease the pressure on the need for large shopping complexes or the pressure of commercial activity in residential areas. Imagine a city, where we have to walk to a mall to buy vegetables. How will these malls ever feed the need of nearly 50% of the poor population of the capital? Bhopal is not California, where all shopping takes place in shopping complexes. It is neither possible nor aspired for. There is no point abandoning the reality and live in bliss of not looking at the glaring problem. Hawker zones are the 'minimum cost' commercial centers that can work as vital centers for city. Also they can ease the congestion on the roads. The twenty five thousand vendors and hawkers expect that creation of adequate number of hawker zones will be agenda for mayor and will also make it to the election manifesto of the political parties in this round of Municipal elections.

### **Do children have a voice in the elections?**

Children are not voters and, therefore, their needs are not even relevant in elections, a game necessarily played by adults. Elections come and go, but such large constituency is not even talked about in manifestoes, speeches and even voting public. This Civic election is not likely to be any different either, after all! what role children can possibly have in civic elections. However, children, do not feel the same. They are constant victims of unorganized development, poor planning and bad roads of the city. Group discussions were held in several eminent schools of Bhopal on City Development Plan of Bhopal and children pointed accusingly that Municipal Corporation has overlooked their small needs.

Last few years has seen a rapid rise in number of vehicle and traffic chaos. School going children have been easy victims of this predatory chaos. Many school children have lost their lives and suffered serious accidents while cycling back home as even in the peak school traffic hours sees the roads packed with buses, cars and autos. The New wave of cycling promoted by the Green Bikers association and celebrity cyclist has not brought even an iota of change in making Bhopal a more cycling friendly city.

The result is growing number of school children, as victims of poor road management. This can be easily handled through a little bit of planning and management by the Municipal Corporation, if only they consider it worth their attention. Most children want that the roads around schools, especially around the large schools to be well

constructed, broad and, without potholes. Which, they state results into accidents frequently. Besides road dividers are frequently missing even in busy and vulnerable spots around schools. Lack of pedestrian pathways even around large school is serious concern for teachers and students alike.

Interestingly, not even 5 % of the students use cycle as primary source of commuting. The reason stated by parents and students is that, it is extremely unsafe. The children are frequently hurt if they are cycling. A survey of cyclists and student cyclist revealed that, forty two percent of the students cycling to school are hurt on roads. Obviously, only thirteen percent used bike for commuting to schools and tuitions, this, despite a serious problem faced by all parents in managing the travel of children.

Obviously the situation is even more appalling for the core cyclists of the city. The majority of bicycle users (51%) fall in the employment category of daily wagers, while, 26% are small shop keepers. They commute averagely, 10 to 15 kilometers every day mostly to reach the place of work. The majority of the remaining cyclist are usually the fourth class employees. Nearly all of them face problems with the speeding traffic and are frequently injured on the road. The cyclist survey in Bhopal on 500 cyclist revealed that forty percent of such injury requires medical attention and 25% of all such injury leads to permanent disability. Worst, 65% of the entire bicyclist reported theft of the Bicycles or part of the cycle like Ring bell, Carrier, Basket, seats etc. as no safe cycle parking are available.

There is peak commuting time for the cyclist and the school children, between 7 to 9. Can't the little think and management of separate cycle tracks, atleast in the peak hour brings tremendous relief to poor cyclists and vulnerable children. Can thousand of students and cyclist expect some hope in the current election? Is there a possibility that next Lady Mayor of the city will look into the plight of children.



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**Engaging people in governance**

**Samarthan is a voluntary organization working on the issue of local governance in Madhya Pradesh and Chhattisgarh for the last 11 years**