

**CHAPTER - III**

**MUNICIPAL COUNCILLORS:  
POWERS AND FUNCTIONS**

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**M**unicipal councillors together constitute the municipal council. They are the elected representatives of the municipal area, each representing a specific ward. The councillors act both as a collective body and in their individual capacity. Collectively they function as the municipal council. Hence their functions are synonymous with those of the council. Therefore it would not be in appropriate to analyze the powers and functions of the councillors in term of the council. Further it would be more correct because the statutes broadly speak about the functioning of the council rather than the councillors.

Generally the powers and functions of the municipal council can be categorized into three types, namely, Statutory, Civic or Public utility services and welfare functions.

The statutory functions of the council/councillors are those which are derived from the provisions of the Act, rules and regulations. These functions are legislative, executive, electoral, administrative and financial functions. Let us briefly analyze these functions in some detail at this point of our discussion.

The Municipal council is the legislative wing of the urban Government. It is otherwise known as the deliberative branch of the municipality. It can be said

that local self Government is nothing but popularly elected representatives having the authority to make important decisions about priorities in public policy. Obviously, the councillors who together constitute the council exercise varieties of legislative powers. Most important of such powers are passing of resolutions, enacting of bye-laws and regulations, deliberations on local problems etc.

Under the existing Act, generally the aforesaid legislative powers are exercised by the councillors in the floor of the council meetings, which are convened at least once in a month by the chairman.<sup>1</sup> However the councillors by a one third majority can ask for a special meeting of the council in order to discuss an urgent or emergency issues.<sup>2</sup> But for this they have to give a five days notice.<sup>3</sup>

In the council meeting the councillors move resolutions on matter relating to municipal functions.<sup>4</sup> They can move such resolutions by giving a written notice to the chairman within ten days prior to the day fixed for the next meeting.<sup>5</sup> Further they have the right to move the adjournment of the debate or of the meeting in a speech not exceeding five minutes in duration.<sup>6</sup> Even, they can submit a point of order for the decision of the chairman.

The councillors always have a prevailing voice in the council meeting although the chairman presides over it, as no policy resolution can be passed

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1. See Section 63, Orissa Municipal Act, 1950.

2. See Section 64 (1), *Ibid.*

3. See Section 64(2), *Ibid.*

4. See Section 94 (3), *Ibid.*

5. See Rules-4, *Orissa Municipal Rules*, 1953.

6. See Section 35, *Ibid.*

without the approval of the majority councillors.<sup>7</sup> However, in case of a tie, the chairman can cast his vote.<sup>8</sup> So the councillors face no difficulties in formulating any desired policy. At the same time, the councillors also possess an exclusive privilege to give priority treatment to any work which they think necessary in the general interest of the inhabitants of the municipality. For example, if certain proposals are placed before the council for the construction of drains, public urinals or a road, it is the councillors who decide which proposal is to be considered first. The councillors in other words, take policy decisions as well as they enjoy the power of transacting their ideas into action.<sup>9</sup> Because once a resolution is passed in the council no further request for reconsideration seeking amendment of the original motion or amendment there to shall be entertained from any quarter.<sup>10</sup>

Thus, for the smooth conduct of the council meeting and the business of the municipality are concerned, the co-operation of the councillors is necessary.

Passing of regulations and enacting of bye-laws are other important legislative powers which the councillors possess. The councillors are authorised to make rules, regulations and enact bye-laws in regard to the functioning of the municipal government. Through such rules and bye-laws they ensure effective local administration.<sup>11</sup> Without 2/3rd majority support of the councillors such rules

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7. See Section 96 (1), *Orissa Municipal Act., 1950.*

8. See Section 69 (2), *Ibid.*

9. Basiston, A., *Urban Local administration*, B.R. Publishing Corporation, New Delhi, 1986, P-146.

10. See Rule-21, *OP. Cit.*

11. See Sec. 388, *OP. Cit.*

and bye-laws can neither be framed nor can be amended or deleted.<sup>12</sup> However, the enforcement of the aforesaid regulations are subjected to the approval of the state Government.<sup>13</sup> The councillors further, can make provision for punishment in case of breach of any municipal law.

The council is a deliberative house in which the councillors deliberate questions of important local problems as well as reflect public opinion. The councillors make discussion on various local issues and pass resolutions accordingly. They can ask for clarification on different issues from the chairman which the latter is bound to answer.<sup>14</sup> As such the councillors not only participate in the formulation of local government policies, but also articulate public opinion and serve as protector and defender of city dweller's interests in the municipal council.

Roderick Church, Observes; councillors are essentially intermediaries between the public and the municipality in routine administrative matters. Although city councillors and legislators everywhere spend some of their time doing these things, virtually the entire job of the Indian city councillor revolves around administration. In describing their jobs councillors usually show little concern with policy, general issues or matters that do concern the immediate allocation of municipal services. Instead, they are output oriented and concerned with administrative demands and the outcomes of administrative decisions.<sup>15</sup>

As an integral part of the council, a councillor shares a good deal of executive powers of the municipal Government. The councillors appoint the

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12. See Sec. 72, *OP. Cit.*

13. See Sec. 390, *OP. Cit.*

14. See Rules-14(a), *Orissa Municipal Rules*, 1953.

15. Davies, Morton, R. *The Representative's role in Indian Municipal Bodies.*  
IIPA (Jan-March), 1975, PP-74-84.

members of various committees that the O.M. Act prescribes. It may be noted that 1/3rd of the total members of a committee can be nominated by the council from outside. In such case, the councillors certify that those outsiders possess required qualifications to become member of such committee.<sup>16</sup>

Further, the councillors collectively determine, with the previous sanction of the state Government, the officers and servants required to be employed in the municipality.<sup>17</sup> Being a member of the selection committee appointed for the said purpose<sup>18</sup> the councillor involves himself in the recruitment of municipal employees belonging to Class-III and Class-IV. As such, a councillor stands in a good position to exercise his own influence in appointing an employee of the municipality.

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Besides the power of appointment, the councillors also discharge certain functions as members of different municipal committees. As a member of any such committees he takes active part in the detailed deliberations. On the issues referred to that committee. Particularly, he reflects the aspirations and desires of the people in regard to the problems under consideration of the committee. He tries to influence the committee members to take a favourable decision on the matter as per the desire of the people and hence becomes instrumental in the decision making process of the municipality.

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16. See Sec. 59(1) *Orissa Municipal Act*, 1950. The committee consists of members not less than three or more than six who are elected, as well as ex-officio members 1/3rd members are nominated and the rest members are elected by the council. And the President or the Vice-President shall act as the ex-officio members.

17. See Section 73, *Ibid*.

18. See Section 75 (1), *Ibid*.

The municipal councillors enjoy a good deal of administrative power. The statutes authorize them to supervise, control and superintend different municipal functions as well as the working of the personnel of municipal Government<sup>19</sup>.

Collectively and individually, the councillors supervise services relating to public health and sanitation, public works, public and private markets and registration of births and deaths and marriages etc.

While supervising functions in regard to public health and sanitation the councillors are expected to ensure about the facilities for providing purified drinking water to the city dwellers. Individually a councillor is supposed to enquire into the perfection in the pipe connection, filtration system and adequacy in the supply of drinking water. In case he finds any leakage, damage or pollution of water within his ward, he immediately brings it to the notice of the council and initiates discussion on the issue. He becomes instrumental in taking disciplinary actions against persons who are found to be accountable.

In accordance with the provisions of the Act, the councillor is also authorized to prohibit the cleansing of dirt from the animals, washing of clothes and other things, fishing in public springs, ponds and tanks which are within the jurisdiction of the municipal Government.<sup>20</sup>

Supervision of sanitary system is another important duty of the councillors. They have to inspect that the inhabitants of the municipal areas are provided with better sanitary facilities. For this purpose, they look into the regular and proper

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19. See Section 94 (1) Orissa Municipal Act 1950.

20. See Section 208 and 282 Ibid.

cleansing of public latrines, urinals, drains, streets as well as the removal of garbage from the roadsides.<sup>21</sup> Keeping in view of prevention of water and air pollution they stress much importance on the maintenance of sanitary system in municipal localities, thereby making themselves vigilant to enquire any sorts of irregularities and get the things done in time through the council.

In order to have a proper supervision of the sanitation, the councillor personally visits his ward. He can issue directions to the sweepers to keep the public latrines, urinals drains etc. in proper order, failing which he may recommend measures against them.

The ward councillors take adequate care towards street cleansing and maintenance of public roads. They decide the spots where the dustbins are to be placed so that the city dwellers would not create unhealthy situations by throwing the garbages on the road.<sup>22</sup> To ensure good health for the public they supervise immunization programmes as preventive measures to check communicable diseases.

Execution of public works and public safety functions in a particular ward are done under the active supervision of the councillors. The councillor investigates into the constructions of roads, streets, lanes, buildings of the municipality and looks after the street lighting of the ward in which he represents.<sup>23</sup>

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21. See Section 210, 221(a) and 228 *Ibid.*

22. See Section 223 *Ibid.*

23. See Section 121(a)(e), 209, *Ibid.*



It is a fundamental duty on the part of a councillor to ensure that the aforesaid works are performed as per the specification approved by the council, if in any case, a contractor deviates from the specifications and carry on the work on his own, the councillor can bring it to the notice of the council and recommend for non-payment of bills submitted by the said contractor. On the other hand, he also demands for immediate actions when any of the streets of his area left out from the supply of electricity. Further any damage or decay which might occur to the public works and public safety arrangements are also taken care of by the councillor. In such circumstances he takes immediate steps to repair the damages with the help of the council decisions. Moreover, whenever necessary he can demand upon the council to provide funds for the construction of new roads and expansion of street lighting within his ward.

The councillors also supervise the public and private markets operating within the municipal area. He can even cause to the closer of a shop in worst case. They ensure the rules governing such markets, while inspecting the market functioning. An individual councillor is authorised to recommend for disciplinary measures, in case any one disregards the market rules.<sup>24</sup> He can even cause to the closer of a shop in worst case.<sup>25</sup>

On the other hand, they have been empowered to verify the registration of births, marriages and deaths. If anyone's birth or death is not entered correctly in

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24. See Section 296, 297 (3). Ibid.

25. See Section 295 (3), 303, Ibid.

the Register, he can bring it to the notice of the municipal authorities, and sees that the record is appropriately maintained.<sup>26</sup>

Further, the councillors are expected to exercise an overall supervision over the functioning of all municipal officials, while exercising the power, they look after the proper execution of the council's decisions in their respective wards. When any officer is found to be incapable or insincere in discharging his functions, the councillors can suggest for the transfer of such officer. Philip Oldenburg rightly said, "The basis of the councillors power over the officers as three fold: the councillor's expertise, his influence over transfer and promotions of officers and his ability to expose or slander the officer".<sup>27</sup> If any officer becomes irrespective to public complaints and acts on his own, the councillor can advocate for disciplinary measures against him.<sup>28</sup>

The councillors also perform certain financial functions. In this regard, the most important work of the councillors is to deliberate on the budget proposal and finally to approve the annual budget of the municipality.

The chairman of a municipality places the budget before the council for its consideration then only the councillors get scope to make a detailed analysis of the budget. In the process of deliberation, they have the power to suggest changes in the budget proposal. They can move to impose any new taxes or fees, and suggest for expenditure on new heads. However, the budget is to be approved by majority vote of the councillors.<sup>29</sup> Once the budget is approved it is sent to the state government for its approval.

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26. See Section 94 (4), *Ibid*.

27. Oldenburg, Phillip-*Big city Government in India*, Monohar Publication, New Delhi, 1973, P-73.

28. Bhattacharya, Mohit, Role of Municipal Councillors in Urban Development, *Nagarlok*, 4(3), July-Sept., 1982, P-62.

29. Sec. 107(1), O.P.Cit.

An analysis of the municipal budget reveals that the councillors have the right to impose taxes<sup>30</sup>, rates and fees<sup>31</sup> and fines in order to get revenues for the municipality. However, in case of octroi tax, fees for services rendered for health, safety and convenience and levy of education tax, they have to obtain prior permission of the state government.<sup>32</sup>

Further, the councillors are authorized to make revenue from the non-tax resources<sup>33</sup> such as : (a) Rent of lands, buildings, serais, Dharmasalas, Choultries, Dakbunglow etc; (b) State proceeds of lands and produce of lands; (c) sale proceeds of unserviceable articles; (d) interest on investments; (i) for depreciation fund, (ii) for sinking fund (iii) other purposes and (e) Remunerative schemes, like pisciculture, markets, transport service etc.

Further one finds that the municipal government have mostly suffered from inadequacy of funds. The taxes imposed by the municipalities are in elastic. And the tax resources provided to these bodies do not match with their obligations.<sup>34</sup> Therefore, the municipalities have depend upon the state government grants and loans which is of course, a discretionary power of the later. As such, the state

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30. It may be noted that the Municipal taxes can be categorised as direct and indirect tax, Octroi and terminal tax constitute the indirect tax and all other taxes like holding tax, profession tax, Education tax etc. are direct tax of a Municipal Govt. in Orissa.

31. Rates (service charge) chiefly imposed on services like water, light and drainage, fees on the otherhand, are collected for market, slaughter, dog registration, vessels industries, factories, offensive and dangerous trades etc.

32. See Sec. 131, *Ibid*.

33. The non-tax resources of the Municipality is those which derives from its own assets and properties.

34. See Government of Orissa, *Report of the State Finance Commission*, Vol. I, 1975, P-68.

government can use his discretion while granting aids and loans to the municipalities. In this respect, it is the councillors who play an important role in getting more aids or loans from the government by requesting the later.

The councillors are also expected to render certain civic and welfare services to the city dwellers. The principal function of the councillor under civic and welfare services is to formulate as well as implement policies in respect to obligatory and optional functions of the municipality. The councillors are bound by the statute to discharge the obligatory functions and failure to perform any of these functions are public health and sanitation, public works, education, public safety etc. All these functions are also known as the public utility services of the municipality.<sup>35</sup>

On the other hand, the councillors undertake certain functions which are optional in nature. Because the councillors cannot be compelled to provide these services. However, in order to promote welfare of city dwellers, the municipal council generally adopt these services. Such services include housing for the poor slum, development, public parks, public libraries and reading rooms, transportation etc.

We have already discussed in detail about the obligatory functions in the preceding paragraphs. Hence, it is pertinent to make some detail analysis on the welfare services which are rendered by the councillors.

The welfare functions of a municipality are generally adopted with the finances provided either by the state Government, or by the central Government.

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35. Mishra, A. - Urban Government and Administration in India, Annu Books, Meerut, 1986, P-45.

In other words, these services form a part of the central Government or state Governments. The councillor of a municipality together take decisions on the areas in which such schemes are to be operated. Thereafter each councillor takes initiative for the implementation of particular developmental schemes within his ward and regulates its execution. Programmes like the urban basic services for the poor are implemented under the supervision of the individual councillors for the concerned wards.

It should be noted that the effective functioning of a municipal government primarily depends upon the ability and efficiency of the councillors. The public utility or civic services as well as the welfare services can be well implemented, if councillors take keen interest in these municipal functions. On the other hand, the ability or efficiency of a councillor greatly depends on the socio-economic, cultural and political background which he possesses. We, therefore, would like to make a probe into the socio-economic and political profile of the councillors in our succeeding chapters.

## **SUMMARY :**

The chapter-III deals with the power and functions of the councillors in a municipality. The councillors exercised a good deal of powers and functions in their municipal areas. These consisted of legislative, executive, electoral, administrative, financial as well as the public utility services. The councillors as the deliberative wing of the council had exercised important legislative powers

which covered the moving of resolution, and its approval, enactment of public policy and fulfilment of public demands through the council.

The councillors also shared the power of appointment in exercising their executive powers. As such, they had played a key role in the appointment of members of the various committees and the appointment of municipal employees.

The councillors had exercised the power of supervision and control on different municipal functions. These supervisory power of the councillors covered some important aspects of municipal functions such as public health and sanitation, public works, public and private markets, registration of births and deaths.

The financial powers of the councillors related to the preparation and approval of annual budget. The councillors, had also took initiative for the implementation of different developmental work within their municipal areas. However, the execution of such developmental programme were generally adopted subject to the availability of funds provided by the state Government.

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