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Q6(a)

Discuss the major provisions of the 74th Constitutional Amendment Act. Do you think that the Act remains an 'unfulfilled dream'? Argue your case

UPSC Civil Services Mains 2023 · PSIR GS 1 · 20 marks · Federalism

Federalism: Constitutional provisions; changing nature of centre-state relations; integrationist tendencies and regional aspirations; inter-state disputes.

Core demand of the question

- Discuss the major provisions of the 74th **Constitutional Amendment Act**. Do you think that the Act remains an 'unfulfilled dream'? Argue your case. (20 marks)

Revision summary

The 74th Amendment inserted **Part IXA** and the **Twelfth Schedule** of eighteen municipal functions.

It requires regular elections, reservations including for women, a **State Finance Commission**, and district and metropolitan planning committees.

Devolution of functions, funds, and functionaries remains a State choice, so parastatals and commissioners often still run the city.

Constitutional status of municipalities is achieved; self-government in daily urban services is not.

- **The Act is therefore a partially fulfilled design:** constitutional status exists, and a completed third tier of functions and funds does not.

Introduction

The Constitution (Seventy-fourth Amendment) Act, 1992, inserted **Part IXA** and made municipalities a third tier of government. The major provisions are institutional: elections, functions, finance commissions, and district planning. **Whether the Act** is an unfulfilled dream depends on whether States actually transferred functions, funds, and functionaries listed in the **Twelfth Schedule**.

Body

Major provisions

- **Part IXA (Articles 243P to 243ZG) defines municipalities:** Nagar Panchayat, Municipal Council, and Municipal Corporation, according to the size and nature of the urban area.
- Regular elections under a **State Election Commission**, a five-year term, and a bar on prolonged supersession are meant to end administrator rule as the normal form.
- **Article 243T** reserves seats for Scheduled Castes and Scheduled Tribes in proportion to population, and not less than one-third of seats (including offices of chairpersons, as the State provides) for women.

- **Article 243W** read with the **Twelfth Schedule** lists eighteen functions that the State legislature may endow, including urban planning, land use, water, public health, fire services, and slum improvement.
- **Articles 243X and 243Y** provide for municipal taxes, duties, tolls and fees, and for a **State Finance Commission** to review the financial position of municipalities.
- **Article 243ZD** and **243ZE** create **District Planning Committees** and **Metropolitan Planning Committees** to integrate rural and urban plans.
- **Article 243ZG** bars courts from interfering in electoral matters except by election petition, on the model of panchayat elections.

The unfulfilled-dream argument

- The Amendment is a framework. Devolution of the **Twelfth Schedule** is left to State legislatures, so parastatal development authorities, water boards, and State-appointed commissioners still hold the functions the Schedule names.
- Property-tax ceilings, delayed **State Finance Commission** awards, and poor own-revenue keep municipalities grant-dependent.
- Mayor-commissioner splits, delayed elections, and nominated local bodies in practice contradict the five-year elected term.
- **District Planning Committees** often exist on paper, which empties the spatial-planning promise of **Article 243ZD**.
- **Granville Austin's** social-revolution strand of the Constitution is incomplete in cities if elected councils cannot run water, planning, and housing.

The contrary case, and a judgment

- **The dream is not empty:** reserved women councillors, **State Election Commissions**, and the legal duty to constitute municipalities are real.
- The 74th Amendment created a justiciable expectation of local democracy that did not exist as higher law before 1993.
- **Dahl's** polyarchy at the municipal scale still requires contestation plus capacity; India built the first more than the second.
- **The accurate judgment is that the Act is a partially fulfilled design:** constitutional status is achieved, functional and financial self-government is not.
- Fulfilment now depends on State conformity laws that transfer the Schedule, fix a powerful elected executive, and publish devolution data, not on another Union slogan.

Flow diagram

74th Amendment -> Part IXA municipalities
 74th Amendment -> Twelfth Schedule
 74th Amendment -> SFC and SEC
 74th Amendment -> DPC and MPC
 Twelfth Schedule -> Unfulfilled: parastatals and funds

Conclusion

The 74th Amendment's major provisions are **Part IXA**, the **Twelfth Schedule**, reserved councils, **State Finance** and **Election Commissions**, and district and metropolitan planning. It remains an unfulfilled dream in functions and funds, and a fulfilled one in constitutional status. The remaining work is State devolution, not the absence of a text.

Facts & figures

Part IXA

Articles 243P to 243ZG, the municipal chapter inserted with effect from 1 June 1993.

Twelfth Schedule

Eighteen functions that States may endow on municipalities, from urban planning to cattle pounds.

Article 243T

Reservations for SC/ST and not less than one-third of seats for women in municipal bodies.

Article 243ZD

District Planning Committee to consolidate panchayat and municipal plans.

State Finance Commission

Article 243Y applies the panchayat SFC article to municipalities, with a review of municipal finance.

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