

Chapter III

Compliance with Provisions of 74th CAA

3.1 Comparison of State Level Legislations with 74th CAA

The 74th CAA introduced certain provisions relating to municipalities vide Articles 243Q to 243ZG. The State Government enacted Rajasthan Municipalities Act 2009 (RMA) and repealed the then existing Rajasthan Municipalities Act 1959. The provisions corresponding to the CAA provisions are indicated in **Table 3.1**.

Table 3.1: Comparison of State level legislations with the provisions of 74th CAA

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of RMA
Article 243Q	Constitution of Municipalities: It provides for constitution of three types of municipalities namely a Municipal Board for transitional area, a Municipal Council for a smaller urban town and a Municipal Corporation for larger urban area.	Section 5 of RMA
Article 243R	Composition of Municipalities: All the seats in a Municipality shall be filled by direct elections and by persons with special knowledge in municipal administration. The Legislature of a State may by law, provide for representation to the Municipality Member of Legislative Assembly, Parliament of the constituencies lie within the municipal area and members of the Council of State and State Legislative Council who are registered as electors within the city.	Section 6 of RMA
Article 243S	Constitution and composition of Wards Committee: This provides for constitution of Wards Committees in all municipalities with a population of 3 lakh or more	Section 54 of RMA
Article 243T	Reservation of seats: The seats to be reserved for Scheduled Caste (SC)/Scheduled Tribe (ST), Women and Backward classes for direct election.	Section 6 (3-5,8) 21 and 43 of RMA
Article 243U	Duration of Municipalities: The municipality has a fixed tenure of 5 years from the date of its first meeting and re-election to be held within the six months of end of tenure.	Section 7 of RMA
Article 243V	Disqualifications for membership: A person shall be disqualified for a member of a Municipality: <ul style="list-style-type: none"> • If he/she is so disqualified by or under any law for the time being in force for the purposes of elections of the Legislature of the State concerned. • If he/she is so disqualified by or under any law made by the Legislature of the State. 	Section 24 and 35 of RMA
Article 243W	Powers, authority and responsibilities of municipalities: All municipalities would be empowered with such powers as may be necessary to enable them to	Section 89, 103, 104

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of RMA
	function as effective institutions of self- government. The State Government shall entrust them with such powers and authority to enable them to carry out the responsibilities in relation to the 12 th Schedule.	257 of RMA
Article 243X	<p>Power to impose taxes by, and funds of the Municipalities:</p> <ul style="list-style-type: none"> • Municipalities would be empowered to levy and collect the taxes, fees, duties etc. • Grant-in-aid would be given to the Municipalities from the State • Constitution of funds for crediting and withdrawal of moneys by the Municipality 	Section 101 to 106 of RMA
Article 243Y read with Article 243I	<p>Finance Commission: State Government shall constitute Finance Commission for</p> <ul style="list-style-type: none"> • Reviewing the financial position of the Municipalities and taking such steps that help in boosting the financial condition of the Municipal bodies • Distributing between the State and the Municipalities the net proceeds of the taxes, fess, tolls and duties that are charged by the State Government. • Allotting the funds to the municipal bodies in the state from the consolidated fund of the State. 	Section 76 and 77 of RMA
Article 243Z	<p>Audit of accounts of Municipalities: This provides for maintenance of accounts by the Municipalities and the auditing of such accounts.</p>	Section 90 and 94 of RMA
Article 243ZA read with Article 243K	<p>Elections to the Municipalities: The Superintendence, direction and control of all procedure of election of the Municipalities shall be vested in the State Election Commission (SEC)</p>	Section 11 of RMA
Article 243 ZD	<p>Committee for District Planning:</p> <ul style="list-style-type: none"> • Constitution of District Planning Committee at district level. • Composition of District Planning Committee. • Preparation of draft development plan and submission to the government 	Section 158 of RMA
Article 243ZE	<p>Committee for Metropolitan Planning: Provision for constitution of Metropolitan Planning Committee (MPC) in every Metropolitan area with a population of 10 lakhs or more to prepare a draft development plan for the metropolitan area as a whole.</p>	Section 157 of RMA

Source: Rajasthan Municipalities Act, 2009 & 74th CAA

The State Government had complied with the provisions of the 74th CAA and made legal provisions in Rajasthan Municipalities Act 2009. However, the implementation did not result in effective decentralization at the ground level. These legal provisions were not supported by conclusive actions as per essence of the 74th CAA. The shortcomings pertaining to the devolution of functions and creation of appropriate institutional mechanisms for effective decentralization are discussed in the subsequent chapter.