EXAMINING THE EFFICACY OF THE DIRECT MAYORAL ELECTIONS AND ITS EFFECT ON THE PROCESS OF GOVERNANCE: A CASE STUDY OF MUMBAI

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Abstract: India is a diverse country. Cities are at the heart of urban governance. They act as the first point of reference for its citizens. There are many challenges to urban governance in India, especially in a city like Mumbai. Taking some initiatives toward reforming this sector is a need of the hour. Municipal leadership needs to be stronger and more efficient enough to tackle the issues of governing the city. The 74th Constitutional Amendment Act took some measures to reform the urban local self-governing institutions in India. The constitution has provided a broad framework to establish urban local bodies in each state. It has not been mentioned the details of the structure of urban governance to be followed by each state, the tenure of the mayor, qualifications, the election method to be followed to choose the mayor of a city, and the like. Therefore, these characteristics differ from state to state. The recent debate regarding municipal leadership was whether to have the direct or indirect election of a mayor. This article focuses on the analysis of the election method for a mayor in the city of Mumbai. It talks about the merits and demerits of both methods. This article tries to assess whether the direct election method has any effect on the working pattern of a mayor and whether it is constitutional to adopt it in India.

Index Terms - Urban Local Bodies, 74th Constitutional Amendment Act, Municipal Corporation of Greater Mumbai, Election of a Mayor, Direct Election, Indirect Election, Devolution of Powers, urban reforms.

Introduction

India is known as a nation with unity in diversity. Some states of India are as large as many European countries. Cities act as delivery agents of various services to their citizens. Urban governance faces a lot of issues across India. Such as the devolution of functions to the urban local bodies, fiscal empowerment of these self-governing institutions, and the like.

Moreover, India faces a huge level of migration from rural to urban areas. People are migrating mainly in search of better living conditions and good employment opportunities. As a consequence, the level of urbanization is on the rise. However, there is a lack of adequate planning which is required to cater to the increasing urbanization. This has ultimately led to the creation of unsustainable situations due to which the urban environment has deteriorated. This particular phenomenon is not new to India. Today, urbanization has become a tool to promote development. However, inadequate city infrastructure is not supporting such transition in the economies. The well-to-do citizens in India are finding privatized solutions for the inefficient delivery of public services. These substitute alternatives are not affordable to poor people. This has deepened the existing social challenges. The growth of slums has become an even more challenging issue. For instance, nearly half of Mumbai's population lives in slums. These settlements lack the basic amenities required for living. The demand for good governance is evident. Only politically empowered governance can address the challenges associated with urban areas. On this account, both the political class and the citizens need to be empowered to tackle these challenges. Hence, the significance of the role of municipal leadership stands very critical in terms of urban governance (Ahluwalia, 2014).

The Mayoral office originated in the Norman Period in England. During that time, the mayor was positioned to aid the monarch in England. Over the years, the position of Mayor became even more important. The mayor began to be considered as the first citizen of the city. Today, Some Mayors are also attending important international conferences on development. International agencies such as United Cities and Local Governments work directly with the mayors (Urbanization, 2009). The Strong Mayor model in city governance has been followed by many European nations. They have started accepting the Mayor as a Chief Executive. This was followed by the adoption of the Direct Election method of the mayor as a chief Executive in many European countries. In such countries, urban local bodies perform a critical role in the functioning of city governance.

The Mayor in India heads the Municipal Corporations of their respective cities. The Britishers formally introduced the mechanism of Municipal Governance in India in 1688 by establishing the Municipal Corporation in Madras followed by Bombay and Calcutta in 1762. In 1870 Lord Mayo's Resolution was passed. It was a turning point in urban governance in India. Since then, the ongoing structure of urban local bodies has been followed.

The question of Municipal Leadership has remained a point of contention in India. Major reforms were made to the urban administration with the passage of the 74th Constitutional Amendment Act of 1992. This amendment has provided constitutional status to the urban local self-governing institutions in India. It is considered to be a turning point in the process of urban governance in India. However, this amendment was a broad framework within which the states needed to establish the Urban Local Bodies in their respective states.

It did not specify the governance model for the cities, how the mayor was elected, the tenure and qualification required for the mayor, etc. All this was left to the states to decide. The 'local Governance' as a subject was added to the state list of the constitution of India. This was in contrast with the federal and state level governance in India, as both the federal and state level governance structures have been specified in the constitution. So, basically, in some states, Mayors are directly elected and, in some states, they are indirectly elected. The tenure of the mayors also varies from state to state. In some states, the tenure of a mayor is equal to the tenure of a municipal body whereas in some states it ranges from one to five years.

In short, the issue of municipal leadership remains unresolved. If we see today the level of urbanization is also increasing rapidly, which is ultimately creating a lot of pressure on city governance. Therefore, it is very important to take certain measures to reform urban governance. This article focuses on the municipal leadership in the city of Mumbai, its powers, and its functions. It tries to assess the pattern of the election of Mayors and its effect on their working pattern. Lastly, the article suggests some measures to improve the efficiency in the functioning of Mayors to strengthen urban governance.

Position of a Mayor in the City of Mumbai:

The Mumbai Municipal Corporation Act, of 1888 constituted the Municipal Corporation of Greater Mumbai. There is a total of 227 municipal councillors which directly elected during the BMC election. The term of the Municipal Corporation of Greater Mumbai is five years. The term of Municipal Councillors is equal to the term of Corporation (Mumbai., 2022).

The majority of Urban Local Bodies in India follow the pattern of "Commissioner as a chief executive". The City of Mumbai is not an exception to this. The Mayor of Mumbai is indirectly elected and acts as a chief of the Municipal Corporation of Greater Mumbai. Earlier Mayor was called 'The President'. In 1931, the name of the elected president was changed to that of 'Mayor'. The mayor is from the party that wins the majority of seats in the election to the Municipal Corporation of Greater Mumbai. The mayor is recognized as the first citizen of the city of Mumbai. The role played by the mayor is largely ceremonial in nature. The real power is vested in the Municipal commissioner who is generally a career bureaucrat. The mayor represents the city and upholds its dignity. When dignitaries from foreign countries visit the city of Mumbai, the mayor by the invitation of the government of Maharashtra receives the guest of honour on behalf of all the citizens of Mumbai city. The mayor also performs a functional role by chairing the meetings of the Municipal Corporation. Wherever the mayor is absent, the deputy mayor presides over the meetings of the corporation. The tenure of the mayor is two and half years as far as the city of Mumbai is concerned (Times, 2017).

The major power lies with the Municipal commissioner who runs the city of Mumbai. So, a lot of discussions have been going around whether the mayor should be elected directly or not, whether should we give more powers to the mayor as the pressure on urban governance is increasing, and the like. Let's first understand the different types of election and their merits and demerits to assess whether it has any effect on the working of Mayors.

Election of the Mayor: Direct Vs Indirect:

The 74th Constitutional Amendment Act has not specified the election method to be adopted for the position of Mayor. As a consequence, it varies from state to state. Some states have adopted a direct method for electing the mayor of a city whereas some states have adopted an indirect method. States such as Odisha, Uttarakhand, Chhattisgarh, Uttar Pradesh, Jharkhand, Madhya Pradesh, and Haryana have adopted a direct election method for a mayor of their respective cities by creating special provisions in their respective Municipal Acts. Both methods have their share of advantages and disadvantages. Let's try to understand them one by one.

Direct Election of a Mayor: In this system, the mayor is elected directly by the people. It provides strong leadership to the cities. The Second Administrative Reforms Commission has also advocated for the direct election of a mayor. Many scholars have also been in favour of adopting this method for the election of a mayor. They argue that the decision-making process should be smooth to reduce the inefficiency and the delay in the functioning of the government. A directly elected mayor can ensure a powerful and politically accountable leadership to the city. Also, such a method of election enhances the visibility of the elected representatives and can bring stability to the process of governance (Colin Copus, 2016).

Here, Mayors can take the initiative to introduce creative policies as per the requirements of a city. Mayors can appoint their cabinet and can represent the corporation more confidently. International cities such as London, Barcelona, and New York follow such a pattern. The mayors in these cities have been successful in providing a proper structure to the city. This Model makes a mayor more responsible for ensuring good governance in a city (Jha, 2018). Slovenia is another such country where the direct election model of a mayor has been fully implemented. Here, Mayors are directly accountable to the people. They act as a master of their municipality. Citizens are also aware of their leader and the decisions taken by them for the welfare of the people (Colin Copus, 2016).

Indirect Election of a Mayor: In this system, the mayor is indirectly elected. The mayor is generally from the party that wins the majority of seats in the election of a Municipal Corporation. This system replicates the parliamentary system which is in place at the state and federal levels. Broader consultation can be taken into consideration in such a system. It allows for a more democratic decision-making process. Here, all the elected representatives play an important role in city governance and the role played by the mayor seems to be ceremonial in nature.

Direct vs. Indirect Election Model in the Context of Mumbai City:

According to the World Urbanization Prospect Report 2018, 55% of the world's population lives in urban areas and 34% of India's population lives in cities (Department of Economic and Social Affairs, 2019). It suggests that the level of urbanization has been increasing tremendously. This has led to the emergence of multiple problems such as unplanned cities, increasing pressure on the existing infrastructure, depletion of community resources, etc. Therefore, the standard of living in the cities is a matter of concern. Indian Cities need to take major urban reforms to better delivery of services. The two characteristics that have been suggested by the Organization of Economic Co-operation and Development to make urban governance more efficient are Solidarity and Subsidiarity. This can help make urban governance more competitive in Nature (Kumar, 2019).

A city like Mumbai faces a lot of pressure to deliver quality welfare services to its citizens. The city is continuously expanding in its area and population. Therefore, many scholars argue that the direct election method for a mayor is vital to ensure accountability and transparency in the process of governance. Mumbai city has a huge responsibility to cater to the demands of the diverse population. It requires a smooth decision-making process. Scholars opined that responsibilities get blurred and the decision-making process is very slow in the indirectly elected mayor model of urban local governance. It leads to inefficiency and a lack of accountability. A city like Mumbai requires powerful leadership which can act as action-oriented. In the indirectly elected model, every issue or policy needs the approval of various committees and the entire process gets delayed. It ultimately damages the efficiency of providing services to the citizens.

A model where the mayor gets elected directly provides quality and stable leadership for governing a city. The international scenario shows that when the mayor gets elected directly and when they have a mandate of the citizens of the city then it is beneficial for the development of the city. International cities such as New York, Barcelona, London, Tokyo, and Shanghai have benefited tremendously. The mayors in these cities have provided a proper structure and strength for the city. In this model, the mayor has special respect among the citizens (Jha, 2018). For example, the then Mayor of Barcelona started an initiative "Smart City Barcelona". It has helped the city to achieve the status of one of the best smart cities in the world. The Mayor of Brazil has successfully introduced the first bus rapid transit system in the world. Many other countries have benefitted due to the strong mayor model at the city level (Kumar, 2019). Scholars argue that in the indirectly elected mayor model, people are generally not aware of who their mayor is. The position of a mayor remains faceless. The directly elected model gives direct decision-making powers to the mayor and instills a sense of responsibility in the mayor about decision-making.

Janaagraha has released the annual survey of India's city system. In its report, they have suggested having a direct election of a mayor with a five-year term. According to them, less than a five-year term for the mayor is of no use as it only makes their position largely ceremonial. They observed that only three megacities in India i.e. Chennai, Hyderabad, and Kolkata provide five-year terms for the mayor of their respective municipal corporations. It has led to the disempowerment of the mayoral position in India (V R Vachana, 2023).

Initially, it may be perceived that the directly elected mayor could solve the issues of good governance. But it leads to the individualization of local power and it does not take into consideration the broader consultation, which is harmful to a healthy democracy. Most importantly, the Council of Ministers with the collective responsibility types of governance has been followed in India both at the federal and state levels. Indian constitution does not provide for the direct election method both for the Prime Minister and Chief Minister. Therefore, the third-tier system of governance i.e. the local self-governing institutions should also follow the same pattern. India follows the Parliamentary system of governance which encourages the collective decision-making process and deliberative method in the process of governance. Hence, it is wrong to make the mayoral leadership more like a president. It does not fit into the constitutional mandate of our country. The directly elected mayor model does not allow for the inflow of diverse ideas in governance. If we take the example of a city like Mumbai which is so diverse in its nature, the collective leadership or the collective decision-making

makes it more imperative to adopt. Giving power to a single individual who may not be capable of handling the complexities of governing the city of Mumbai can prove to be harmful.

The directly elected mayor model gives more power to one individual. This negates the idea of deepening democracy. In this model, the burden of major work would be on a mayor. This can affect the decision-making process in larger urban local self-governing institutions like Mumbai. In such a scenario, the mayor might need to make a lot of decisions daily. It will lead to the overburdening of work on a single individual. Also, other elected representatives would be reluctant to share the powers with the directly elected mayor. It is advisable to have a shared responsibility when the task involves complex decision-making.

This model wherein the mayor gets directly elected undermines the role of other elected representatives. They would be left with the task of asking questions in the house and giving speeches during the general body meeting of a municipal corporation. This is against the collective decision-making process, as the influential nature of all the elected representatives would be dependent on the directly elected mayor. Also, the differences of opinion can prove to be a major hindrance in the decision-making process when the mayor is not in a position to win the confidence of the council.

To sum up this discussion, we can say that both arguments are valid. A directly elected mayor would be able to provide proper guidance in governing the city of Mumbai. The mayor can establish his cabinet later to further the goals of good governance. But it may go in the wrong direction if the power is vested in the wrong person. Moreover, there are no stipulated guidelines in the Indian constitution concerning the qualification and tenure of the mayor. This directly elected model is not conducive to the parliamentary form of government that was adopted in India at the time of independence. Therefore, the question arises as to which model to be adopted for Mumbai City. Before we address this question, we must analyze the previous experiences of both the direct and indirect election method models in India.

Effect of Election Method on the working of a mayor:

The state of Maharashtra has passed a bill for conducting a direct election to choose the head of local bodies. This bill has amended the Maharashtra Municipal Council, Nagar Panchayats, and Township Act. It has allowed the direct election for the heads of Nagar Parishad or Municipal Council. This move has received vehement opposition saying that it is against the spirit of democracy (news, 2022).

The states such as Rajasthan and Himachal Pradesh have experimented with the direct election of a mayor. The direct election method of a mayor posed some difficulties in these states. It was found that the directly elected mayor was ignoring the other elected representatives in the state of Rajasthan. It affected the development work there tremendously. Therefore, they had to reverse their decision to conduct a direct election of a mayor (India, 2019). So, there is no practical evidence where we can firmly say that the direct election of a mayor improves the administration of a municipal corporation in the Indian scenario.

Recently, Mr. Shashi Tharoor introduced a private member bill to amend the constitution of India. The bill aims at increasing the efficiency of local governments and giving more power to them in India. The bill has mentioned the direct election method to be adopted for choosing a mayor of a city. It also mentioned several other reforms in the sphere of urban governance in the form of the compulsory establishment of ward

committees and area sabhas, greater devolution of functions to the local self-governing institutions, and the like. Here, the concern is about the adoption of a compulsory direct election to the post of mayor across all the states (Idiculla, 2016).

The mayor need not be directly elected to be held democratically accountable. In India, Prime Ministers and Chief Ministers do not get directly elected. Still, they enjoy substantial powers. On the other hand, Mayors are not that powerful only because the state government has control over the urban local self-governing institutions in India. States do not want to devolve administrative, political, and financial powers to these urban local bodies. The aim should be to have a strong leader or a representative at the local level. The direct or indirect election with the help of a mayor-in-council system would be very similar to the cabinet system at the central and state levels in a parliamentary form of government (Idiculla, 2016). So, an indirect election having a strong leader plus greater devolution of powers to the urban local bodies by the state government is required.

Conclusion

Urban Governance is an important subject to deal with in recent times. It has posed many challenges. In such cases, a strong leader who can deal with the complexities of governing large cities is required. The city of Mumbai is called the commercial hub of India. To administer such a large city is a task in itself. A strong efficient leader can prove to be an important aspect in this scenario. Mumbai city follows the Pattern of 'Commissioner-in-charge'. It means that the Commissioner has the real executive power to run the city. On the other hand, the position of the mayor is ceremonial in nature.

On this background, a debate has started on whether we should give more powers to the mayor through the direct election method. Both the forms of election i.e. the direct and indirect methods have their share of merits and demerits which we have already analyzed. Direct election methods may seem to be a good alternative to solve many issues of urban governance, it can provide strong leadership to the city which is necessary for its smooth functioning. But, the adoption of this method leads to the individualization of power. It is against the basic principles of democracy that are followed in India. On the other hand, the Indirect election method is based on the principle of collective decision-making which is at the root of the parliamentary form of government. Historically speaking, there is no proper evidence in the Indian Context to show that the direct election method has improved the governance of that particular city. The states of Rajasthan and Himachal Pradesh have reversed their decisions and again started conducting indirect modes of election to the mayor due to the challenges imposed by the direct election method. Most importantly, adopting a direct election method to choose a mayor is not a constitutional move. Because we follow a parliamentary form of government.

The question should not be whether to conduct direct elections of a mayor or indirect. The goal should be to devolve more function to the local self-governing institutions and give more power to the mayor which can also be possible by conducting an indirect election method. Another measure that we can adopt is increasing the tenure of the mayor. It should be equal to the tenure of a corporation. The state government should take certain initiatives to strengthen urban governance in Mumbai. Proper devolution of functions along with strong leadership can solve many problems in governing a city. It will surely lead to good governance.

Hence, to sum up, the direct election of a mayor is often given as a suggestion for good governance. However, such a system poses many challenges in a parliamentary country like India. The council of locally elected representatives can be controlled by one political party and a directly elected mayor can be from another political party. Here, decision-making becomes very difficult. The election method is not so important, now the discussion point should be the powers of the urban local self-governing institutions concerning the state government. 74th Constitutional Amendment Act has devolved many powers to the urban local bodies. Many states have devolved such powers to the local governments. But, still, some important powers like town or city planning, law, and order remain with the state government. Moreover, local bodies lack financial autonomy, hence unable to deliver services efficiently. The point of the matter is that if we need to resolve the issues about urban governance, the election method of the mayor does not matter. We need to devolve more powers to the urban local governing institutions. Also, elected representatives must have a performance-oriented approach. State government plays a crucial role in ensuring the success of democratic decentralization and the urban bodies will have to rise to the occasion.

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