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13th May 2020

Sri B.S. Yediyurappa

Hon’ble Chief Minister &

Bengaluru In-Charge Minister

Govt. of Karnataka

Vidhana Soudha

Bengaluru 560001

Dear Sir,

**Subject: Our comments on the New BBMP Bill**

Greetings from CIVIC Bangalore! Please find below our comments and suggestions on the new BBMP Bill drafted by the State government:

1. **No suo motu disclosure under RTI Act:** The Bill was placed before the Legislative Assembly during the March 2020 session without any suo motu disclosure as per Sections 4(1)(c) and (d) of the Right to Information Act which require proactive disclosure 'while' framing a new law, policy, etc., to the affected public along with the rationale for the proposed move. Even now, the Bill is not available on either the UDD or BBMP website. Hopefully, it will be available on these websites and the Joint Select Committee to whom the Bill has been sent will publicise the Bill and hold consultations with all stakeholders on the Bill.
2. **‘Cut and paste’ of provisions from KMC Act poses disadvantages:** The Bill is a 111 page document with about 197 Sections whereas the Karnataka Municipal Corporations (KMC) Act is far more detailed with 300 pages and 500 Sections. Hence a lot of dilution and wholesale elimination of several Chapters has taken place. There are also several blanks and other errors. But it is also largely a ‘cut-and-paste job’ from the already existing KMC Act.

For instance, the entire chapter on elections and provisions related to the Metropolitan Planning Committee (MPC) are carried ‘as-is-where-is’ from the KMC Act, despite the many deficiencies in those provisions. The delimitation of wards, the fixing of reservations and the issuing of notification for elections are still in the hands of the State government when these should have been handed over to the State Election Commission (SEC). This would have spared the mortification of the SEC, which has to approach the High Court to direct the State government to do the above tasks in a timely manner, so that the SEC can conduct the elections on time. The CM and all MLAs representing Bengaluru are there in the MPC making it a body controlled by the state government rather than being a body of the third tier.

1. **Amend KMC Act itself instead of exclusive BBMP Bill:** The major changes from the KMC Act that one can see are a few fresh provisions enabling greater decentralization of functions and accountability in the framing of the budget. There is no reason why several of these positive changes envisioned in the Bill should be only Bengaluru-specific. These are equally necessary for all other municipal corporations in the State. Hence, all proposed changes need to be made through amendments to the existing KMC Act itself so that all municipal corporations benefit from the changes.
2. **What about other parallel Bills drafted?:** The new BBMP Bill is an enigma as just a few years ago the Directorate of Municipal Administration assigned to the National Law School of India University (NLSIU) the task of merging the KMC Act with the Karnataka Municipalities Act so that all small and big municipalities come under a single Act. What is to be done now with the single Act produced by NLSIU? Will it apply to all other ULBs except Bengaluru? There was also one more committee set up to suggest changes to the Karnataka Municipalities Act. Will there be any coherence and commonality of purpose between all these different Bills regarding urban governance?
3. **Will new Bill solve Bengaluru’s problems?:** Even assuming that a special Act for Bengaluru is necessary, do the proposed changes help to solve Bengaluru’s current problems, namely:
4. increasing inequality with mushrooming flyovers and high-rise apartments next to squalid slums;
5. ecologically unsustainable development which has destroyed the air, water, soil, flora and fauna of the once-famed garden city;
6. control and interference by the State government and MLAs and MPs in local governance;
7. a Metropolitan Planning Committee kept deliberately dysfunctional and unable to prepare a Comprehensive Development Plan for Bengaluru;
8. non-devolution of functions necessary to ensure “Planning for Economic Development & Social Justice” which is the chief function of municipalities as per the Nagarapalika Act;
9. lack of coordination between the BBMP and multiple parastatals/agencies which are answerable to the State government, such as BWSSB, BMTC, BESCOM and BDA;
10. multiple agencies handling same functions, like those for preservation of lakes;
11. lack of umbrella bodies such as an Integrated Water Management Authority and Urban Mass Transport Authority overseeing functions of several agencies;
12. corruption being the accepted, ‘daily mode of governance’ with real estate, garbage, high-end infrastructure and other lobbies ruling the roost; and
13. last but not least, the problems of the citizen who runs from pillar to post to get his
14. entitlements and his grievances resolved.

But one does not see any solutions to most of these problems in the proposed Bill. So why the Bill if it is not going to solve Bengaluru’s problems?

1. **MLAs, MLCs, MPs in BBMP council violates self-governance of BBMP:** For the first time, one finds in this Bill an acknowledgement of the third tier of government, the Municipal Corporation, as “an institution of self-government” which shall have full powers on the matters entrusted to it. If the intent expressed in the above statement is genuine, then why MLAs, MLCs and MPs representing Bengaluru are there in the apex BBMP Council in the proposed Bill with voting rights to boot?
2. **Parastatals not brought under BBMP:** The Bill says, the Municipal Corporation shall have the power and responsibility to prepare and implement schemes for “urban development and social justice” in relation to the matters enumerated in the First Schedule. But where in the Bill is the actual devolution happening of ‘urban planning’, ‘water supply’, etc., as there is no mention of BDA, BWSSB and other parastatals coming under the BBMP in the Bill?
3. **Functionaries needed along with funds and functions:** One finds also the commitment that the corporation is willing to undertake tasks of “primary education, curative health, urban transport, etc.,” if the funds for these tasks are devolved to it.But there is no mention of the functionaries currently performing these tasks, also being brought under the BBMP. The Nagarapalika envisions the devolution of 3Fs – funds, functions and functionaries – to local bodies, if the devolved functions are to be fulfilled satisfactorily.
4. **Confusion between Core and Sector-wise functions:**  There is a commitment that the core functions of the corporation will be given “the first charge on the municipal fund” and that only when the core functions are satisfactorily performed will moneys, if available, be spent on other general functions *and sector-wise functions*. This is a welcome departure from usual practice. But there is also much overlap and confusion in the listing of functions under the ‘core’ and ‘sector-wise’ categories as several similar functions are listed under both. So there is confusion about whether or not these functions will get any funds.
5. **KLFAFR Act desirable for all municipal corporations:** We welcome the inclusion of theprovision that BBMP should adhere to the Karnataka Local Fund Authorities Fiscal Responsibility Act (KLFAFRA), which spells out several principles that ULBs should adhere to while framing budgets. BBMP has never been following this Act. As a result, BBMP’s budgets have always been unrealistic
6. Most of the above provisions, such as the provisions for framing budgets under the KLFAFR Act, preparing a Medium-Term Fiscal Plan, making the first charge on the budget for core functions, are provisions desirable for all municipal corporations and not just Bengaluru.
7. **Limiting number of wards to 225 is a hurdle:** A maximum number of 225 wards has been fixed for the BBMP area. (1.2 crore population in 225 wards equals about 57,000 population per ward). Instead, maximum limits for the area, (say 2 to 3 sq.kms.), and for the population of a ward (say 35,000) need to be fixed, so that wards can be delimited again to maintain this norm after the decennial census figures are out, and the number of wards increased as necessary. So if the decennial census shows a huge growth in population in each ward, the limitation of 225 wards may prove a hurdle to achieving an optimal population in every ward.
8. **Colonial powers of Chief Commissioner continue:** Strangely, the functions of the Mayor are given in just a single sentence, namely, that “The Mayor shall discharge all functions as has been assigned to him by the Corporation and this Act”. But nowhere is there a listing of what these functions are. Will he just set the policy directions like the Lord Mayor of London, and the Zonal Commissioners implement the policies like in the Boroughs of London, or does the Mayor also have his own executive functions?

But there is no clear enunciation of the role of the Mayor as the executive head, and the Chief Commissioner as only the implementer of the council’s resolutions, which would have been a desirable change, given that the KMC Act currently reproduces the colonial heritage of giving the Commissioner executive powers and reducing the mayor to a figurehead.

A strange anomaly in this regard in the Bill is that while the Chief Commissioner may sell any immovable property of the corporation with prior approval of the state Government, without needing the approval of the mayor, he may seek to acquire immovable property only with the approval of the mayor.

The powers of the Commissioner are much more detailed and specific in the KMC Act but the Bill gives the Commissioner just four unspecific powers, namely, to supervise and direct the Zonal Commissioners; coordinate between the Mayor, Deputy Mayor, Council and the Zonal Committee; decide on certain inter-zonal matters; and perform any other task assigned by mayor, etc.

1. **Elected representative should head Zonal Committees:** The single most favourable change from the KMC Act that one can see in the Bill is that an intermediate tier of ‘Zonal Committees’ is foreseen between the BBMP Council and the Ward Committees giving BBMP a three-tier structure.The setting up of this intermediate layer was a suggestion made by CIVIC to the BBMP Restructuring Committee (B.S. Patil Committee). However, the idea of Zonal Committees would be desirable in all municipal corporations with a population of, say, ten lakhs and above, and not just in Bengaluru. Mysuru and Hubballi-Dharwad would qualify for them.

However, while CIVIC had suggested that one of the councillors should be chosen as the Chairperson of the Zonal Council, the BBMP Bill makes the Zonal Commissioner the chairperson of the Zonal Committee.  This is a questionable provision as it reverts to the colonial mind-set of giving greater powers to the bureaucrats than the elected representatives.

Also, only a single engineer who is in charge of the particular zone is a member of the zonal committee. We suggest that the chief zonal officers of all departments, revenue, health, horticulture, etc., need to be ex-officio members of the zonal committee, but without voting rights.

The Bill says officers of the BDA and BWSSB are to be ex-officio members of the Ward Committees, and Police Officers and BESCOM officials shall attend the meetings of the Ward Committees as may be required. But the officials of these bodies are not ex-officio members or invitees of the Zonal Committees or the BBMP Council. They need to be included in the Zonal Committees.

1. **Guidelines for constitution of Ward Committees needed:** There is confusion about the composition of the Ward Committee. At one point it says it shall have twenty members to be nominated by the Corporation. Further down it says there shall be 10 members.

One salutary provision is that the Zonal Commissioner or an officer authorized by the Zonal Commissioner shall nominate members to the wards committee. However, we suggest that guidelines should be specified for the manner in which the Zonal Commissioner makes the nominations.

Further, no fixed day for the WC meeting has been spelt out. Instead, the problematic formulation that the “meeting of the Ward Committee shall be convened by the Secretary of the Ward Committee *in consultation with Chairperson”* has been retained*.* So, the current problem of the chairperson never giving a date convenient to him/her to the Secretary for holding the meeting will continue and meetings will not be held regularly. Getting the first Saturday of every month fixed for the monthly Ward committee meeting was a significant achievement of civil society in Bengaluru.

1. **Recommendations of Ward Committees cannot be merely advisory:** The existing “Functions of the ward committee” in the KMC Act have been cut and pasted into the new Bill and they say that the ward committee “shall” perform several functions, among them, “prepare and submit Ward Development Scheme to the corporation for allotment of funds” and “ensure proper utilization of the funds allotted under ward development scheme in the ward”. But the dubious provision that “the recommendations of the ward committee shall be advisory in nature” has been added. Is this not a contradiction in terms? If the ward committee finds that proper utilization of funds has not taken place in the ward and reports these to the zonal commissioner, can s/he treat the report as merely recommendatory and not take action on the findings?
2. **Exclusive secretary for Ward Committee needed:** The current provision of appointing an existing official as secretary of ward committee is being continued which means that this official will have a myriad other functions to perform in addition to that of the ward committee secretary. Also s/he will be unable to give directions to officials of other departments. We suggest that there should be an exclusive post of Ward Committee Secretary, on the lines of the Secretary of the Grama Panchayats.
3. **Every Polling Booth Area should be notified as ‘Area’ for Area Sabha:**  The Bill says the State Government shall determine the ‘Areas’ and not exceeding five contiguous ‘Polling Stations’ may be determined as an ‘Area’. Every Polling Booth Area (PBA) in Bengaluru has a minimum of about 1,000 to 1,200 voters and voters of three to four PBAs, or about a minimum of 4000 voters, vote in one ‘Polling Station’. So if an ‘Area’ is going to encompass the maximum limit of five ‘Polling Stations’, it will mean that one Area may have 20,000 voters! It will be impossible to have an Area Sabha meeting with 20,000 voters. This is definitely not a solution to solve a Bengaluru-specific problem. In the case of Bengaluru, declaring every PBA with 1,000 to 1,200 voters as an ‘Area’ is the minimum requirement if Area Sabha meetings are to be feasible. This was the recommendation of the Model Nagararaj Bill.
4. **Area Sabha Representative to be given voting rights on Ward Committees:** The second suggestion of CIVIC which has found acceptance is that the Area Sabha Representatives should sit on Ward Committees.  But they are now being made mere invitees of the ward committee. They need to be made formal members of the ward committee with voting rights.
5. **Street Vendors’ Act ignored:** The Bill says that the Zonal Commissioner may summarily evict encroachments on roads and footpaths. But this provision makes no reference to and completely ignores the Street Vendors’ (Protection of Livelihood and Regulation of Street Vending) Act and 2014 and Rules. This is violative of Karnataka High Court’s Ruling which has ordered the strict implementation of the Street Vendors’ Act.
6. **Special provisions relating to Solid Waste Management:** Despite an SC judgement and two Cabinet decisions on not outsourcing sanitation work, agents (contractors) for SWM are foreseen in the Bill. There is also no inclusion of the several directions of the HC on SWM. There is no commitment to have local processing of wet waste as ordered by the HC and on making Zero Waste Wards as the Corporation is being given powers to carry garbage outside the city.
7. **Useful additions that can be made:**
8. The Ward Committees should be asked to prepare a 5-year ward vision plan as per a Performance Management System (PMS) **based on human development and social infrastructure outcomes at ward level. T**argets need to be set and outcome indicators developed for measuring these. Monitoring and review need to be based on performance on those indicators. The Area Sabhas need to be involved in setting targets, reviewing municipal performance and conducting social audits.
9. There shall be a Ward information and Statistics Committee which shall be formed for various developmental and planning works
10. A draft law for regulating urban governance prepared by the National Law School of India University (NLSIU), Bengaluru, has proposed, among other things, the setting up of a State Municipal Regulatory Commission (SMRC) and a State Municipal Vigilance Authority (SMVA) by the state government. The SMRC is supposed to set standards for municipal services. The SMRC has been given the powers to penalise and punish those who do not follow its directions.
11. The State Municipal Vigilance Authority (SMVA) is to inquire into complaints of corruption, misconduct and other kinds of malpractices on the part of officers and employees of the municipality. These two provisions are worth being included in the new Bill to improve the poor quality of services being provided by BBMP and to curb the corruption by vested interests.

We hope you will consider our above suggestions favourably. We are attaching 100 suggestions that we had made earlier when the earlier Rules on ward committees were being framed, which are still valid. We would be happy to come and discuss our suggestions further if given an opportunity.

Yours truly,

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