

# Critical Analysis of the Structure of Punjab State Finance Commissions

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**Abstract – There had always been the need to raise the financial position of the local bodies. Various commissions and committees formed by the central as well as state governments like the Rural-Urban Relationship Committee, 1966, the High-Power Committee on Municipal Finances and Financial Administration, Government of Andhra Pradesh, 1971, the Committee on Budgetary Reforms in Municipal Administration, 1974, the Asoka Mehta Committee on Panchayati Raj, 1978, the National Commission on Urbanisation, 1988, etc., have been suggesting the constitution of the State Finance Commissions with a view to take measures to make these institutions of local governance financially strong and viable to cope with the pressures from the various stake holders at local level to perform better and to enhance the quality and the quantity of the services delivered.**

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The Article 243Y of the Constitution of India as inserted by 74th Constitutional Amendment Act 1992 has provided for the appointment of Finance Commission by every State Government to review the financial position of the Municipalities and Panchayats. The Governor of the concerned State shall appoint the Commission within one year from the commencement of the above Amendment Act, and thereafter at the expiration of every fifth year. The Legislature of the State is empowered to provide, by law, for the composition of the Commission, the qualifications required for appointment as members thereof, the manner of the selection of its members and powers in the performance of their functions. The Commission is free to determine their procedure of work.

In the wake of the 74th Constitutional Amendment, State Finance Commissions have been set up by all state governments to spell out the principles for sharing/devolving a part of the revenue of the state government to local governments. The expectation was that State Finance Commissions will follow the worthy example of the Central Finance Commission which performs this task of devolution of funds from the Government of India to state governments, but this has not happened. The state of Punjab very strangely acted swiftly in this direction as it was perhaps, the first state in the country which passed the necessary legislation immediately after 73rd and 74th Constitutional Amendments came into force. It passed the Punjab State Finance Commission for Panchayats and Municipalities Act 1994 on 19th April 1994. According to the State Act the Governor of Punjab should appoint the state finance commission within one year of the commencement of 73rd and

74th Constitutional Amendment Acts, 1992 and thereafter at the expiration of every five years. The Act provides for the appointment of a chairman and four other members with their term, conditions and emoluments for the office and also specifies the terms of reference of the finance commission and its functions. Accordingly with the same swiftness, Punjab was the first State which, under the provisions of this Act, constituted the First State Finance Commission for Panchayats and Municipalities on 25th July 1994 under the chairmanship of Mr. J.P. Gupta, a retired IAS officer. The commission submitted its report on 31st December 1995 and as such Punjab also became one among the first states in the country to have received the commission's report.

The Punjab State Finance Commission has one chairman and four members. The chairman and other members of the Commission are appointed by way of a Gazette Notification by the Governor of the State. The commission actually comes into existence from the date when the chairman and other members assume charge of their office in accordance with the notification issued by the government for this purpose and ceases to exist from the date of submission of its report to the government. The qualifications for the office of chairman and other members are provided in the Act. It has been specifically stated that the person who is to be appointed as chairman of the commission should have vast experience in public affairs. The qualifications in case of other members are that the person to be appointed as member should (a) have special knowledge and experience in economic and financial matters relating to

Panchayats or (b) Municipalities or (c) Finance and Administration or (d) have special knowledge of Economics.

The Governor of the state is required, by the Act, that before the appointment of any person as chairman and other members of the commission he is to satisfy himself that the person being so appointed has no financial or any other interest as is likely to affect prejudicially his functions as chairman and other member of the commission. The Governor is also required to satisfy himself from time to time, after the appointment of chairman and other members, that they do not have any such interest as mentioned above which could prejudicially affect their functioning as chairman and other members of the State Finance Commission and for this purpose the governor can ask the chairman and other members to furnish to him such information which could satisfy him as such.

The chairman and other members of the State Finance Commission hold office for such a period as has been specified in the orders issued by the governor appointing them as such and each of them is eligible for reappointment, provided that he, by a letter addresses to the governor, for resigning from his office, at any time prior to the period specified in his appointment letter. The chairman and other members can be declared disqualified for being appointed or being chairman and other member of the Commission (a) if he is of unsound mind; (b) if he is an undercharged insolvent; (c) if he has been convicted of an offence involving moral turpitude; or (d) if he has such financial or any other interest, as is likely to affect prejudicially his functions as a chairman and other member of the Finance Commission. The governor specifies by notification in case of the chairman and each of the members whether he is to render whole time or part time service to the Commission. The chairman and other members are to be paid such fees or salaries and allowances as prescribed, from time to time, by the state government.

To enable the State Finance Commission perform its functions effectively, it has been authorized to determine its own procedure, approach and methodology while preparing its report. It has been given all the powers of a Civil Court under the Code of Civil Procedures, 1908, in respect of the matters like: (a) summoning and enforcing the attendance of the witnesses; (b) requiring the production of any document; and (c) requisitioning any public record from any court or office.

## APPOINTMENT OF PUNJAB STATE FINANCE COMMISSIONS

The Government of Punjab has, during the last around nineteen years, appointed four State Finance commissions, which have submitted their reports also, as shown in the table No.1 below, in

accordance with the provisions of The Punjab State Finance Commission for Panchayats and Municipalities Act 1994, while fulfilling the requirements of the provisions of the Constitution of India as follows:

1. The First Punjab State Finance Commission was constituted under the chairmanship of Mr. J.P. Gupta, a retired IAS officer, on 25th July 1994. Being a pioneer commission, in the arena, its commissioners worked very hard to make recommendations covering all the major areas as specified in its terms of reference and rather it made some innovative suggestions, with a view to augment the resources of the local bodies, like levy of user charges for urban services, involving private sector in the provision of municipal services, etc. The commission submitted its report on 31st December 1995.
2. The Second Finance Commission was constituted on 21-09-2000 under the chairmanship of Shri B.B. Mahajan, IAS (Retd) and it submitted its report, within a period of less than seventeen months, on 15-02-2002.

**Table No. 1: Constitution of Punjab State Finance Commissions**

Name of the State Finance Commission	Name of the Chairman of the Commission	Date of Constitution of the commission	Date of Submission of Report by Commission	Period for Which the Report was submitted
First State Finance Commission	Sh. J.P. Gupta, IAS (Retd.)	22-04-1994	31-12-1995	1996-97 to 2000-01
Second State Finance Commission	Sh. B.B. Mahajan, IAS (Retd.)	21-09-2000	15-02-2002	2001-02 to 2005-06
Third State Finance Commission	Sh. A.S. Chatha, IAS (Retd.)	17-09-2004	28-12-2006	2006-07 to 2010-11
Fourth State Finance Commission	Sh. R.S. Mann, IAS (Retd.)	05-11-2008	30-05-2011	2011-12 to 2015-16

Source: Government of Punjab, Department of Finance, 'Punjab State Finance Commissions' Records.

3. The Third state Finance Commission constituted under the Shri A. S. Chatha, IAS (Retd) as its Chairman on 17-09-2004 and this commission submitted its report on 28-12-2006, and took two years and three months to submit the report.
4. Fourth State Finance Commission constituted under Shri R. S. Mann, IAS (Retd) as its Chairman on 05-11-2008 and this commission submitted its report on 30-05-2011 after a gap of almost two years and six months, the longest period any state commission took to submit the report.

## CRITICAL ANALYSIS OF STRUCTURAL PATTERN AND SUGGESTIONS

The constitution of the State Finance Commissions by the Government of Punjab since 1994 has proved one fact that the state government has

been very consistent on this front. The government appointed consecutive finance commissions and tried that there is no time gap between the completion of the period of the previous commission and the formation of next commission and the report of the new commission is accepted and implemented immediately at the start of the term of latter's report except that of the latest (Fourth) commission which submitted its report on 30-05-2011 but it is yet to be accepted and implemented by the state government. Some of the structural aspects of these Punjab Finance Commissions have been examined as follows:

- i) One Chairman and Four Members - The First to third state finance commissions had one chairman, three members and a member secretary but the constitution of fourth state finance commission differed from this practice and it had three members which is a deviation from the provision of four members. It is suggested that the state government should not repeat this deviation in future and form the subsequent commissions in accordance with the provisions of the Act.
- ii) Retired IAS Officers as Chairmen- Only the retired IAS Officers were appointed as the chairmen of all the Punjab Finance Commissions. This practice, though, suits to the government and the incumbents but does not go with the spirit of the statute regarding the person having vast experience in public affairs as well as knowledge of economic and financial matters relating to Panchayats or Municipalities or Finance and Administration or have special knowledge of Economics. The main objective behind this phenomenon seems to be providing re-employment to the retired bureaucrats instead of the public good. The government should stop this practice and also appoint the eminent public figures from other walks of life as chairmen to discern the notion that only bureaucrats occupy the public institutions and bring to these institutions the public approach in place of the bureaucratic one.
- iii) Expert Member on First Three Commissions - Each of the first three commissions had an expert among its members. On the First and Second Finance Commissions Expert Member was Shri O.P. Mathur, Professor, National Institute of Public Finance & Policy, New Delhi while Third Finance Commission had Dr. Tapas Kumar Sen, Senior Fellow, National Institute of Public Finance & Policy, New Delhi as Expert Member. This aspect of Expert Member in the structure of the commission has been proving to be beneficial to the commission itself in

understanding and applying the financial and economic parameters while writing the report. The government should continue to appoint expert member on the subsequent commissions.

- iv) Structure of Fourth State Finance Commission-IAS Specific- The composition of Fourth State Finance Commission was different from the previous three commissions. One chairman, two members and a member secretary were appointed on this commission. The chairman and all the members were Retired or Serving IAS officers. And there was a significant deviation, from the earlier convention of extending expert support to the commission, this time. It is worth mentioning here that this commission did not have any expert member which the earlier commissions used to have and it is perhaps due to this reason (absence of Expert Member) that this commission took a longer time in preparing its report. It is suggested that an expert member is must and some other members of the state finance commission should also be appointed from amongst the people having worked in local government bodies as presiding officers or in other capacities.
- v) Departmental Secretaries as Ex-officio Members- Right from the first to fourth finance commission senior IAS officers working on the post of Principal Secretary/Secretary of Local Government and Rural Development Departments of the State Government used to have been appointed ex-officio members. This convention though had been resulting into temporary-ism in the commissions as these officers used to be transferred by the government off and on and newly appointed officers used to take some time to come to terms with their new assignment in the commission. One more negative aspect of this system had been that these officers had been over burdened with the departmental functions which created problem for their role in the commission. While at the same time their presence on the commission had proved to be a blessing as they had been helpful to provide a firsthand view of the working of the departments, easily providing necessary information and data regarding the urban as well as rural local bodies. The Third Finance Commission opined that in Punjab, the fact that Secretaries of the Departments of Local Government and of Panchayats are ex-officio members of the Commission imbues the Commission's recommendations with a built-in reality

check. The recommendations of the State Finance Commissions, therefore, represent a collective understanding of the optimal ways of promoting people's participation in their own governance.

- vi) Time Taken for Submission of Reports- To complete and submit their reports different finance commissions took a time between seventeen months and thirty one months. While the Second Finance Commission headed by Shri B.B. Mahajan, IAS (Retd) submitted its report within shortest period of less than seventeen months, the Fourth State Finance Commission headed by Shri R. S. Mann, IAS (Retd) took almost two years and seven months, the longest period any state commission took to submit the report. Though the Act has not provided for any time limit for the submission of the commission's report it is suggested that commission should not take too longer a period for this purpose so that its report remains relevant and implementable.
- vii) Need for Permanent Cell in Finance Department- All the commissions felt the need for and recommended for the setting up of a permanent cell in the state Finance Department to maintain the reports and records of the research and other material of the previous finance commissions as also to follow up the implementation of their recommendations, but the state government has still not established such a mechanism and it has been observed that even the Fourth Finance Commission was not provided with any records or backup information on the methods and procedures adopted by previous commissions and had to fish in the dark waters. It is high time the government should set up such a permanent cell to preserve the reports and the relevant material as also to oversee the implementation.

The above analysis makes it clear that the structure of State Finance Commissions of Punjab had both positive and negative aspects. The presence of experienced retired IAS officers as chairmen, secretaries of concerned departments as ex-officio members, expert members, etc., can be counted as positives while the appointment of only IAS officers as chairmen and members ignoring the qualifications prescribed in the state Act, absence of representation of other public personalities as well as of person having worked in local bodies or local administration, usual transfers of the members working in ex-officio capacity, absence of the expert member in the fourth commission, consecutively increasing time span of submission of report, absence of a permanent cell to maintain the reports and records as also to follow up the implementation of recommendations, etc., had been the negative

aspects. It is expected out of the State Government to correct such negative aspects of the structure of these commissions so that they could be able to do justice to their assigned task.

The state finance commissions have a very crucial role to play by finding out the ways and means of the just and effective devolution of the state finances to the urban local bodies and panchayats, with a view to strengthen them financially. Due to the constitutional provisions most of the states have evolved a system of the constitution of State Finance Commission. Though with some problems like that of the timing of their constitution, lesser number of members on the commission, transfer of the members in between, qualification of the chairmen and members, access to good databases, timely submission of the reports, etc., are present in this system but on the whole these commissions have devised very good, effective and workable methods and procedures to assess the financial position of the state and the local bodies, projections for the period of their reports and have come out with good series of recommendations. The responsibility to provide credence to and make a just use of the recommendations of the state finance commissions lies on the State Governments. The State Governments need to effectively and positively utilize the services of this institution for the overall benefit and development of the urban and rural local bodies and of the local inhabitants as well as of the state as a whole.

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