

“Inside Puducherry’s Governance: Constitutional Nuances & Administrative Dynamics”

Prasanta Sahoo¹ and Prof. Anil Kumar Mohapatra ²

¹. Lecturer and Head, U.G. and P.G. Department of Political Science, Kendrapara Autonomous College, Kendrapara and Ph.D. Research Scholar, Department of Social Science, Fakir Mohan University, Balasore, Odisha, India

². Professor of Political Science, Department of Social Science, Fakir Mohan University, Balasore, Odisha, India

ABSTRACT: Puducherry with its French colonial legacy is a vibrant coastal Union Territory in the Southern part of India. It has a unique governance framework in India’s Federal Structure / Framework, combining the central oversight with the partial state-like autonomy. The territory is administered by the Lieutenant Governor, appointed by the President of India, who represents the Union Government. It has a Unicameral Legislature and a Council of Ministers headed by a Chief Minister responsible for local governance. This Union Territory is governed as per the provisions of the Government of Union Territories Act, 1963. The paper seeks to highlight the complex interplay between the Central oversight and the regional autonomy, examining the constitutional provisions and administrative mechanisms.

KEYWORDS: Governance of Puducherry, Central Oversight, Regional Autonomy, Constitutional Provisions, Administrative Mechanisms

I. INTRODUCTION

Puducherry (formerly known as Pondicherry-a westernized version of two Tamil words, viz., “Pudhu” meaning new and “Cherry” meaning a village) is a vibrant coastal Union Territory in South India. This Union Territory is renowned for its French colonial legacy, beautiful beaches and spiritual centers. It represents a unique blend of Franco-Tamil culture, history and architecture, making it one of the most distinguished destinations of India for both the domestic as well as international tourists. India’s first Prime Minister Pandit Jawaharlal Nehru has rightly described Pondicherry as “the Window of French Culture”.

Puducherry is the spiritual power house and is very much famous for Sri Aurobindo Ghose. After his active involvement in the Indian freedom struggle, Aurobindo settled in Pondicherry in 1910 and preached his vision and ideals there till his last breath. Being the great seer, poet and prophet of Indian spirituality, he established a spiritual community in Pondicherry which later became Sri Aurobindo Ashram. His Ashram, the renowned center for Integral Yoga and Spiritual living, is still a unique place attracting people from different corner of the world. Moreover, his collaborator, Mirra Alfassa (popularly known as the mother) joined Sri Aurobindo in 1914 and helped further progress the Ashram and the spiritual movement.

Puducherry is located at 162 kms south of Chennai, the capital of the State of Tamil Nadu and 22 kms north of Cuddalore, the capital of South Arcot District of Tamil Nadu. It is surrounded by the Bay of Bengal on the East and on the rest, sides are the South Arcot District of Tamil Nadu. It is spread over 492 Sq. kms (Bhatt and Bhargava, 2006, p.21). As per the 2011 population census it has a population of 12,44,464. It consists of four

small administrative districts like Puducherry, Karaikal, Mahe and Yanam, isolating one another with distances of about 300 to 400 miles.

In fact, all these districts are coastal areas / territories and non-contiguous pockets or enclaves embedded in neighboring States. For example, while Puducherry, the headquarters and the Capital City of the Union Territory, lies 162 km south of Tamil Nadu, Karaikal is about 150 km south of Puducherry on the East coast within Tamil Nadu and Yanam is about 840 km north-east of Puducherry situated in the State of Andhra Pradesh. Mahe, the smallest district among the four districts, lying in the Malabar Coast in the State of Kerala, is almost parallel to Puducherry, 653 km away on the west coast (Bhatt & Bhargava, 2006, p.15).

The city of Puducherry is based on the French grid style and features perpendicular streets. The town has two sections like the French Quarter (Ville Blanche or White Town) and the Indian Quarter (Ville Noir or Black Town). In the former, the buildings are typically of colonial style with long compounds and stately walls, while the later consists of buildings lined with verandas and with large doors and grills. The principal languages of Puducherry include Tamil, Telugu, Malayalam, English and French.

II. HISTORICAL BACKGROUND

The historical background of the Union Territory of Puducherry is closely tied with the European Colonial Powers, mainly the French. In, fact, the modern Pondicherry was established by the French in 17th Century and was under their possession for about 280 years. In 1673, the French East India Company established a trading center at Pondicherry, making it into a major French settlement and a port on the southeast coast of India. The French were the last European who came to this land for trade (Bhatt & Bhargava, 2006, p.17).

Pondicherry was developed extensively by the French Governor Francois Martin in 1674. It was captured by the Dutch in 1693 but returned it to the French in 1699. Later Pondicherry was captured by the Britishers four times in 1748, 1760-61, 1778 and 1793. However, according to the Treaty of Paris, 1814, Pondicherry was finally restored to the French in 1816 under the condition that the French Government would not raise any fortifications in the establishment and would have only limited number of troops for the police duties (Report of the Study Team on Administration of the Union Territory and NEFA, ARC, 1968, p.176).

The administrative set-ups of the territory of Pondicherry under the French Rule were (Report of the Study Team on Administration of the Union Territory and NEFA, ARC, 1968, p.178) as under:

- (i) The legislative or constitutional power was vested in:
 - (a) the National Assembly and the Council of the Republic in France exercised legislative powers over the whole of the French empire;
 - (b) the Representative Assembly of the French Establishments in India exercised legislative powers for the colony as a whole; and
 - (c) the Municipal Councils exercised their jurisdiction over the Communes of the five settlements (Pondicherry, Karaikal, Mahe, Yanam and Chandernagore).
- (ii) The executive power was vested in:
 - (a) the President of the Republic for the empire as a whole;
 - (b) the Governor for the colony as a whole; and
 - (c) the mayor for each commune.

However, after the attainment of Independence from the British Rule in August, 1947, a number of questions regarding the continuation of French Settlement on the Indian soil emerged. In this connection, the Indian National Congress (INC) in its Jaipur Session passed a resolution that stated:

“With the establishment of independence in India, the continued existence of any foreign possession in India becomes anomalous and opposed to the conception of India’s unity and freedom. Therefore, it has become necessary for these possessions to be politically incorporated in India, and no other solution can be stable or lasting

or in conformity with the will of the people. The Congress trusts that this change will be brought soon by peaceful methods and the friendly cooperation of the Governments concerned”.

Accordingly prolonged and stormy negotiations between the Indian Government and the French Government took place. In June, 1948, the terms of Agreement between the two governments to settle the future of these French settlements were announced where it was agreed that the future status of these settlements should be left to the decision of the people concerned by means of a separate referendum for each settlement. In June, 1949, a referendum was held in Chandernagore, one of the five French Settlements and the results were overwhelmingly in favour of India. The de facto transfer of this territory happened on May 2, 1950. On February 2, 1951, the Indian Ambassador in Paris and a representative of the French Government signed a treaty (Indo-French Treaty) for the cession of Chandernagore that was subsequently ratified by both Governments. Eventually in 1954 this settlement was amalgamated in the State of West Bengal under the provisions of the Chandernagore (Merger) Act, 1954 (Mishra, 1982, pp.147-148).

Coming to the other four French Settlements of Pondicherry, Yanam, Mahe and Karaikal, negotiations between the Indian Government and the French Government failed to bring about a referendum. However, on October 8, 1954, a Congress of these French Settlements comprising of the Members of the Representative Assembly and the Municipal Councilors of Pondicherry, Yanam, Mahe and Karaikal met at Keijour and they agreed unanimously to transfer these settlements to the Union of India without holding of referendum. Finally, on October 21, 1954, the French Government signed an agreement under which de facto possession of these territories was transferred to India. The agreement came into force on November 1, 1954. Thus, it ended the vestiges of the French Rule / Empire on the soil of the Indian sub-continent in a non-violent way / manner. (Report of the Study Team on Administration of the Union Territory and NEFA, ARC, 1968, p.179, Mishra, 1982, p.151, Bhatt & Bhargava, 2006, p.17).

After the de facto transfer of the French settlements to India in November, 1956, next step was de-jure transfer of the same to India that took place on May 28, 1956 under the Treaty of Cession of French Establishments drawn up by the Indian Government and the French Government and signed in New Delhi. The Treaty was to come into effect on the day of its ratification by both Governments. Though the Government of India ratified the treaty almost immediately, “the Instruments of Ratifications” could not be exchanged until the French did likewise. Because of several reasons, including position by some reactionary elements in the Parliament of France, and the recurrent changes in the French Government, the process of the ratification was only completed in the year 1962. The Instruments of Ratifications was eventually exchanged on August 16, 1962. In this way, the formal process of transfer ended and India was in de-jure possession of the French Settlements.

As regards the legal and the constitutional formalities of integrating these settlements, it began with the introduction of the Constitutional (Fourteenth Amendment) Bill in 1962. Finally, by the 14th Constitutional Amendment Act of 1962 Pondicherry was made a Union Territory retrospectively from August 16, 1962, including it in the First Schedule of the Constitution of India. At the same time, provision under Article 239-A was made for giving a responsible government to Pondicherry and the regulation making powers of the President of India were also extended to this Union Territory under Article 240 of the Constitution. Subsequently, provision was made for the administration of Pondicherry through the Pondicherry (Administration) Ordinance issued by the President of India on November 6, 1962, which was further replaced by the Pondicherry (Administration) Act, 1962 (with effect from December 5, 1962). However, this Act was given retrospective effect from August 16, 1962, i.e., the day on which de-jure integration took place (Report of the Study Team on Administration of the Union Territory and NEFA, ARC, 1968, p.180).

III. GOVERNMENT AND ADMINISTRATION

The government and administration of the Union Territory of Puducherry falls directly under the federal / national authority. Puducherry represents a unique / peculiar administrative set-up within the Constitutional Structure of

India. The administrative framework of the Union Territory of Puducherry derives its authority from the Constitution itself under two important Articles 239 and 239-A. Article 239 provides for presidential administration through an appointed administrator i.e., the Lieutenant Governor, while Article 239-A specially empowers the Union Parliament to create a Legislature and a Council of Ministers for this Union Territory (Kumar, 1991, p. 100). These constitutional arrangements place Puducherry in a distinct category along with the NCT of Delhi, thereby conveying a partial / semi-autonomous statehood with the legislative powers over the items / subjects of the State List and the Concurrent List.

The Government of Union Territories Act of 1963 operationalizes the above-mentioned constitutional provisions by creating a Legislative Assembly and defining its powers. The Union Territory of Puducherry can enact laws on the matters / items enumerated in the List II i.e., the State List and the List III i.e., the Concurrent List of the 7th Schedule of the Constitution of India, with exception certain subjects / items specially reserved for the Union Parliament. In fact, this legislative power of Puducherry is substantially broader than that of the NCT of Delhi, which faces explicit restrictions under Article 239-AA.

At the apex of the of the administrative hierarchy of the Union Territory of Puducherry is the Lieutenant Governor, who serves as the constitutional head and represents the President of India. The Lieutenant Governor is appointed by the President of India for a term of five years and conferred with the constitutional and discretion powers. The Lieutenant Governor has the power to summon the Legislative Assembly at least once in six months. He is also empowered to prorogue or dissolve the Legislative Assembly and could address and also send messages to the Assembly with respect to a Bill pending in the Assembly or otherwise. In case, the President of India is satisfied that a situation has arisen in which the administration of the Union Territory cannot be carried or that for the proper administration of the territory, it is necessary or expedient to do so, he may suspend the operation of all or any of the provisions of the Act for such period as he thinks fit and make such consequential provisions necessary for administering the Union Territory under Art. 239 of the Indian Constitution. The President of India could act thus either receipt of a report from the Administrator or otherwise.

However, it would not be out of place to mention here that in 2019 an important verdict of the Madras High Court clarified that the Lieutenant Governor has got limited administrative powers and must generally act on the advice of the Council of Ministers, refraining from interference in day-to-day administrative affairs. In fact, this judicial interpretation reinforces the democratic character of the governance of the Union Territory of Puducherry by limiting the interferences by the Centre Government in routine matters.

The Government of Union Territories Act of 1963 provides for a Council of Ministers with a Chief Minister at the head to aid and advice the Administrator in the exercise of his function in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is required by or under this Act to act in his discretion or by or under any law to exercise any judicial / quasi-judicial function (Kumar , 1991 , p.108) . The Chief Minister is the de-facto head of the government of Puducherry and wields the most executive powers. However, he holds office during the pleasure of the President. While the Chief Minister is appointed by the President, the other ministers are also appointed by the President but only on the advice of the Chief Minister. The Council of Ministers is collectively responsible to the legislature of the Union Territory. When there would arise any differences of opinion between the Administrator and his ministers, the former shall refer the matter to the President. In matters that are urgent, the Administrator may take immediate action or give such direction without reference to the President of India.

As regards the legislature of Puducherry, the Government of Union Territories Act of 1963 makes provision for a Legislative Assembly and a Council of Ministers for this territory (Report of the Study Team on Administration of the Union Territory and NEFA, ARC, 1968, p.181, Kumar, 1991, p. 101). The legislature of Puducherry is unicameral and consists of 33 members: 30 members (of which 5 seats are reserved for the “Scheduled Caste” Candidates) are chosen by direct elections by the people on the basis of the adult franchise / suffrage. and 3 members are nominated by the Union Government. Both elected and nominated members enjoy

same powers. The elected constituencies are distributed across the four districts for example 21 members from Puducherry, 6 from Karaikal, 2 from Mahe and 1 from Yanam. The first elections to fill up the Legislative Assembly were held in August, 1964. Presently, there is 15th Legislative Assembly in Puducherry (since 2021).

Moreover, subject to the provisions of the 1963 Government of Union Territories Act, the Legislative Assembly of Puducherry is empowered to enact laws for the all or any part of the Union Territory concerning any of the matters enumerated in the List II or the List III in the 7th Schedule to the Constitution without derogation from the legislative powers conferred on the Union Legislature in respect of the Union Territories.

IV. CONCLUSION

In conclusion, the governance of the Union Territory of Puducherry reflects a unique hybrid model that blends the central oversight with the regional autonomy. While the Union Territory enjoys a Legislative Assembly and a Council of Ministers same to States, the Lieutenant Governor who is appointed by the President of India, has significant discretionary powers. This unique dual governance system is grounded in the Constitutional provisions that are further operationalized by the Government of Union Territories Act of 1963, embodying the historical and political complexities of the UT of Puducherry as the erstwhile French colony integrated into the Union of India. Moreover, the interplay between the Central Government's control and the elected Government of Puducherry continues to shape the political landscape of the territory.

REFERENCES:

- [1] Bhatt, S.C., & Bhargava, G.K. (Ed.). (2006) *Land and People of Indian States and Union Territories*. Pondicherry. (p.15). Kalpaz Publications.
- [2] *Ibid.*, p.17.
- [3] *Ibid.*, p.21.
- [4] Kumar, S. (1991). *political and Administrative Setup of Union Territories in India*. New Delhi: Mital Publication, p. 100.
- [5] *Ibid.*, p.101.
- [6] *Ibid.*, 108.
- [7] Mishra, Y.N. (1982). *Constitutional Growth of the Union Territories in India*. (Doctoral dissertation, University of Lucknow). pp.147-148. Available from: <https://shodhganga.inflibnet.ac.in>
- [8] The Report of the Study Team on the Administration of Union Territories and NEFA, 1968, p.176.
- [9] *Ibid.*, p.178.
- [10] *Ibid.*, p.179.
- [11] *Ibid.*, p.180.
- [12] *Ibid.*, p.181.