

# **CHAPTER I**

## **Section-A**

### **An Overview of Panchayati Raj Institutions**

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### Section-A An Overview of Panchayati Raj Institutions (PRIs)

#### PANCHAYAT AND RURAL DEVELOPMENT DEPARTMENT

##### 1.1 Introduction

The 73<sup>rd</sup> Constitutional Amendment Act, 1992 marked a new era in the federal democratic set up of the country as it conferred Constitutional status to the panchayats and recognised them as the third tier of Government.

In Assam, three tier panchayats at Village level, Block level and District level have been constituted.

The amendment provides for devolution of powers and responsibilities with respect to preparation of plans and programmes for economic development and social justice. It also provides for transferring of 29 subjects listed in Schedule XI of the Constitution of India for PRIs. As a follow up, the State was required to entrust PRIs with such powers, functions and responsibilities as to enable them to function as Local Self Government Institutions (LSGIs). The Constitutional Amendment established a system of uniform structure, conducting of regular election, regular flow of funds etc.

The legislative framework for conduct of business of the PRIs includes:

- Assam Panchayat (AP) Act, 1994,
- Assam Panchayat (Financial) {AP (F)} Rules, 2002,
- The Assam Panchayat (Administrative) {AP (A)} Rules, 2002 and
- Government instructions issued from time to time.

Article 243 of the Constitution of India provides that elections in panchayats shall be held once in every five years. Elections to the PRIs in the State were last conducted during January – February 2013.

The Governor of Assam in pursuance of the provisions of Articles 243(I) and 243(Y) of the Constitution of India, read with Section 2 (1) of the Assam Finance Commission (Miscellaneous Provision) Act, 1995 had so far constituted five State Finance Commissions (SFCs) covering the period 1996-2020 of which four SFCs had submitted their reports to the State Governments. The target date of submission of Fifth SFC report is 30 April 2014.

There are 2407 PRIs in the State as on 31 March 2013. All the 2407 PRIs are in General Areas. The Panchayati Raj system does not exist in the Sixth Schedule Areas where Local governance is vested with the Autonomous District Councils (ADCs).

##### 1.2 State Profile

Assam is the biggest North Eastern State having 27 Districts divided into 56 Sub-divisions and 184 Revenue Circles for convenience of administration and revenue collection. With a geographical area of 78,438 sq.kms. Assam has 219 Blocks, 26395 Villages and 214 Towns (the Census of India, 2011). The demographic and development profile of the State is given in **Table 1.1**.

**Table 1.1: Important statistics of the State**

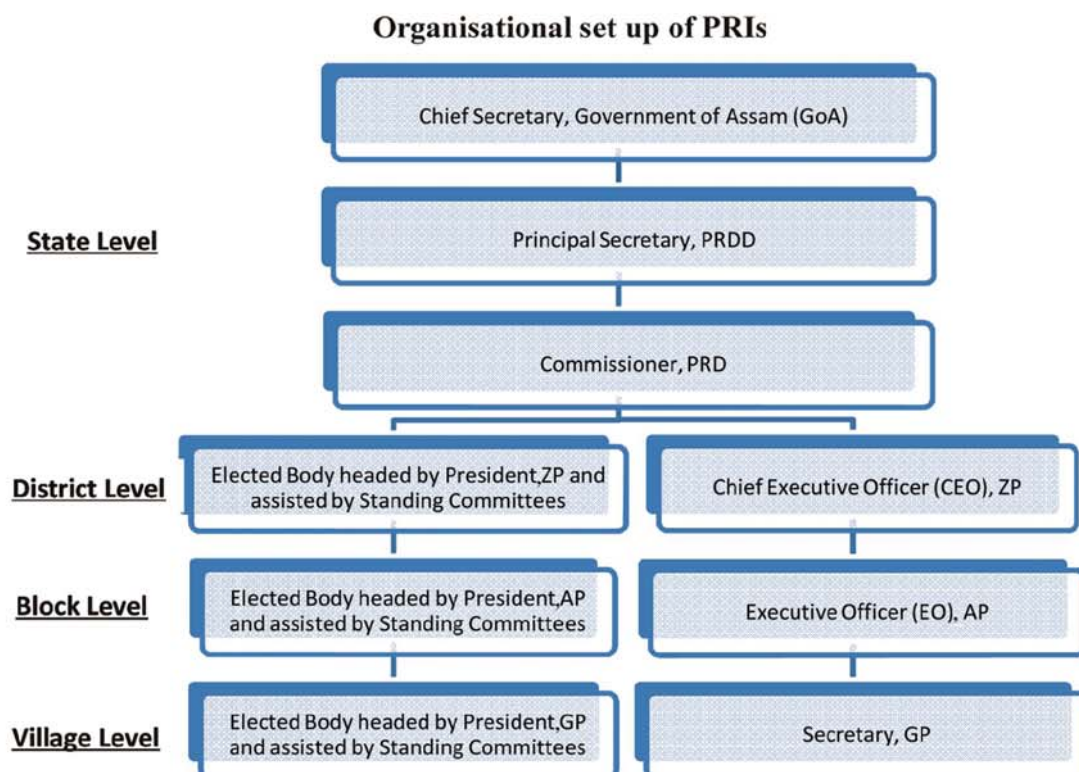
Sl. No.	Indicator	Unit	Value
1	Population	Crore	3.12
2	Population density	Persons / Sq.km.	397
3	Urban population	Per cent	14
4	Rural population	Per cent	86
5	Gender ratio	Female per 1000 male	954
6	Population below poverty line	Per cent	37.9
7	Literacy	Per cent	73.18

Source: Economic Survey, Assam 2012-13.

### 1.3 Organisational Setup in State Government and PRIs

The Principal Secretary, Panchayat and Rural Development Department (PRDD) is the administrative head of PRIs and is assisted by the Commissioner, Panchayat and Rural Development (PRD) in allocation of fund, overall control and supervision of functions and implementation of different schemes at the State level.

Following organogram depicts the organisational set up of PRIs:



## 1.4 Size of PRIs

The position of PRIs in Assam in terms of number, average area and average population is given in **Table 1.2**.

**Table 1.2: Position of PRIs**

Level of LB	No.	Average Area per PRI (Sq Km)	Average population
		<i>As per 2011 census</i>	
Zilla Parishad (ZP)	20	2032.93	1188256
Anchalik Panchayat (AP)	185	219.78	128460
Gaon Panchayat (GP)	2202	18.46	10793

*Source: Assam State Finance Commission's report submitted for 14<sup>th</sup> CFC*

## 1.5 Functioning of PRIs

The Administrative set up of panchayats in the State consists of a three tier system, GP at the village level, AP at the intermediate level co-terminus with Blocks and ZP at the District level. The Constitution enjoins the State Government to make appropriate legislation regarding devolution of powers and functions to the panchayats in such a way as to enable them to function as LSGI.

Subject to the provisions of the Act, a Panchayat may make by-laws to carry out its business. The PRIs in general may not be solely responsible for the stalemate in internal revenue mobilisation. The Constitutional Amendment empowered them with powers and authority in this regard and gave them access to such sources as the State Legislature may, by law, confer on them. Accordingly, the AP (F) Rules was framed in 2002 and amended in 2004 and empowers all the three tiers to levy and collect taxes. Through the AP (F) Rules, GPs got the power to levy tax *viz* tax on houses and structures and tax on trades etc., as a result of which framing of bye-laws indicating all details relating to tax base, rates of taxes, exemption limit, manners and time of collection and so on were required by the PRIs. However, the relevant bye-laws are yet to be framed (March 2013).

The post of Chief Accounts Officer (CAO) and Chief Planning Officer (CPO) had been created in each ZP to provide advise on financial matters including the preparation of Annual Accounts and Budget and also advise the ZP on plan formulation. However, no appointment had so far been made (March 2013) by the State Government. In the absence of suitable administrative machinery in the PRIs, a substantial portion of the budgetary outlays under Plan and Non-plan in the revenue accounts earmarked for panchayats against transferred subjects were being spent through the respective line departments.

Unless the required legal framework along with appropriate administrative machinery is put in place, it would be futile to expect PRIs to become pro-active in augmenting internal revenue generation.

### 1.6 Standing Committees

Sections 22, 52 and 81 of AP Act 1994 stipulate that PRIs shall constitute Standing Committees to perform the assigned functions. Details of constitution of the Standing Committees of PRIs are given in **Table 1.3**.

**Table 1.3: Constitution of Standing Committees**

Level of PRIs	Chief Political Executive	Standing Committees	Political executives
(1)	(2)	(3)	(4)
GP	President	i) Development Committee ii) Social Justice Committee iii) Social Welfare Committee	President is the chairman of each of the three committees
AP	President	i) General Standing Committee	President is the chairman of each committee
		ii) Finance, Audit and Planning Committee iii) Social Justice Committee	Vice President is the chairman
ZP	President	i) General Standing Committee ii) Finance, Audit and Planning Committee	President is the chairman of each committee
		iii) Social Justice Committee iv) Planning and Development Committee	Chairman is elected amongst the elected members of each committee

Source: AP Act, 1994

Roles and responsibilities of the standing committees are given in **Appendix-I**.

It was revealed from the Audit of 61 PRIs during 2012-2013 that the roles and responsibilities of the standing committees as envisaged in the AP Act, 1994 was totally ignored by 28<sup>1</sup> PRIs. Information on the remaining PRIs was not available.

### 1.7 Staffing pattern of PRIs

On the matter of staffing pattern fixed by AP (A) Rules 2002, the Third Assam State Finance Commission (TASFC) while observing the acute shortage of staff at all level of PRIs recommended a revised staffing pattern of 30, 20 and 8 for each ZP, AP and GP respectively from 2008-09. It was observed that the revised staffing pattern recommended by TASFC was not implemented by PRDD.

PRDD could not fill up the vacant posts of PRIs inspite of approval given by the Finance Department. Regarding new staffing patterns, PRDD stated (June 2012) that proposed staffing pattern is under consideration for approval of the Government.

PRIs were understaffed and therefore unable to implement/administer the various schemes effectively and efficiently. The TASFC noted (vide para 4.53) that, the present scenario of Panchayat administration in Assam was marked by a deficiency syndrome in manpower deployment and that PRIs at all levels were starved of adequate number of functionaries in respect of competent staff trained in the nitty-gritty of functional and fiscal decentralisation.

<sup>1</sup> Golaghat North AP, Golaghat ZP, Karimganj ZP, Badarpur AP, South Karimganj AP, Amguri AP, Baghan GP, Barua-ali GP, Chhotoguma GP, Chungajan GP, Demow GP, Fekamari AP, Dhubri ZP, Faridkuna Duhalia GP, Amguri GP, Jherjheri GP, Jurbari Dafolala GP, Kaliganj GP, Lowairpoa AP, Patharkandi AP, Pub Misamora GP, South Golaghat AP, Dindinga GP, Kamandanga GP, Tamarhat GP, Sivasagar ZP, Demow AP and Athabari GP.

However, this matter was referred to the Fourth Assam State Finance Commission (FASFC) which has studied the staffing pattern of PRIs and recommended staffing pattern for PRIs in its supplementary Report submitted to GoA in April 2012. Action Taken Memorandum on the recommendation of the Supplementary Report was yet to be published (March 2013). Unless PRIs were properly manned, they would be unable to handle huge funds received from various sources and their accounting in a proper way.

## **1.8 District Planning Committee (DPC)**

As per Article 243ZD of the Constitution of India, the State Government is required to constitute a DPC to consolidate the plans prepared by the panchayats in the District and to undertake integrated development of the District. Accordingly, Section 3 of AP Act, 1994 and AP (F) Rules 2002 framed there under provide that the State Government shall constitute DPC in every District for tenure of one year.

The DPC consists of:

- the members of the House of People who represent the whole or part of the District;
- the members of Assam Legislative Assembly whose major part of the constituencies fall within the District;
- the President of the ZP and
- such number of persons not less than four fifth of the total number of members as may be specified by the Government from amongst the members of the ZP in districts on rotation annually and in proportion to the ratio between the population of the rural areas of the district.

Deputy Commissioner is a permanent invitee to the DPC of the District. The President of the ZP is the Chairman and CEO of ZP is Ex-officio Secretary of the DPC.

### **1.8.1 Role of DPC**

As per AP Act, 1994, DPC is to consolidate the plans prepared by the panchayats in the District and prepare a draft Development Plan for the District as a whole having regard to:

- the matter of common interest of panchayats in the District including sectoral planning, sharing of water and other physical and natural resources, the integrated development of infrastructures and environmental conservation;
- the extent and type of available resources whether financial or otherwise and
- consult such institutions and organisations as the Governor may, by order, specify.

GoA, PRDD in June 2010 framed guidelines for preparation of a draft District Development Plan for PRIs detailing the method of preparation of draft plan at different stages of PRIs and consolidation of a draft Development Plan of the District. Though the guidelines provided a scope for a review of implementation and monitoring of the plan by the DPC, it did not prescribe a mechanism for reporting of progress of implementation of District Plan to the State Government.

The DPCs did not call for submission of their annual plan from the PRIs and other stake holders with a view to prepare the Annual District Plan as a whole. Thus, the DPCs failed to perform its primary objective of preparation of District Plan as envisaged in the AP Act, 1994.

## 1.9 SFC Grants

Article 243W of the Constitution had made it mandatory for the State Government to constitute a SFC within a year from the enactment of the Constitutional Amendment Act and to make recommendation on taxes, duties, fees and tolls to be assigned and appropriated by the PRIs.

Accordingly, in respect of sharing of the net proceeds of State Taxes with panchayats a global approach of sharing the net proceeds of all State Taxes excluding Non-Tax revenue and share of Central Taxes is adopted. The rural-urban bifurcation of the divisible pool was determined on the basis of population (80 *per cent*) and density of population (20 *per cent*) based on 2001 census and duties collected by the State Government during 2011-12 with Panchayat at all levels.

Consequent upon merger of District Rural Development Agencies (DRDAs) with ZPs and Blocks with APs, the Commission recommended additional devolution during 2008-11 to PRIs to enable them to meet the salary burden of DRDA and Block staffs. In addition to devolution, the TASFC also recommended *Grant-in-Aid* (GIA) to PRIs for specific purposes involving liquidation of arrears and also creation of capacity in terms of human resources and physical infrastructure.

Details of quantum of devolution recommended by ASFC and fund released by the GoA to PRIs are indicated in **Table 1.4** and **Table 1.5**.

**Table 1.4: Devolution of Fund to PRIs**

(₹ in crore)

Year	Net collection of the State Government	Amount to be devolved	Additional devolution	Total	Actual released under SFC	Short released
(1)	(2)	(3)	(5)	(6)	(7)	(9)
2008-09	4150.21	641.86	79.55	721.41	48.60	672.81
2009-10	4986.72	679.07	85.92	764.99	67.62	697.37
2010-11	5929.84	716.69	92.79	809.48	119.43	690.05
2011-12	7638.23	222.94	-	222.94	191.62	31.32
2012-13	8250.21	243.22	-	243.22	104.42	138.80
<b>Total</b>	<b>30955.21</b>	<b>2503.78</b>	<b>258.26</b>	<b>2762.04</b>	<b>531.69</b>	<b>2230.35</b>

Source: The FASFC Report and information furnished by Director, Finance (Economic Affairs) Department, Assam and Finance Accounts

It can be seen from above that only ₹531.69 crore was released against ₹2762.04 crore recommended by the ASFC during 2008-09 to 2012-13.

**Table 1.5: Allocation and release of GIA to PRIs**

(₹ in crore)

Year	Recommended by ASFC	Grant-in-aid released	Short released
2008-09	177.89	-	177.89
2009-10	131.87	-	131.87
2010-11	141.87	-	141.87
2011-12	120.28	94.53	25.75
2012-13	399.00	-	399.00
<b>Total</b>	<b>970.91</b>	<b>94.53</b>	<b>876.38</b>

Source: The FASFC Report and information furnished by Director, Finance (Economic Affairs) Department, Assam.

As against ₹970.91 crore recommended by the ASFC for the years 2008-09 to 2012-13, only ₹94.53 crore was released in 2011-12 as GIA.

Thus, due to short release of funds the PRIs could not implement various welfare activities for the overall economic development.

### 1.10 Status of Decentralised Governance in respect of PRIs

In June 2007, GoA issued notification regarding ‘Activity Mapping’ for 23 subjects out of 29 as listed in Schedule XI of the Constitution of India for devolution of Funds, Functions and Functionaries (3Fs) to the PRIs. Following the ‘Activity Mapping’ which defined the functions and functionaries that are to be devolved to each tier of PRIs, Government orders were issued for devolution in respect of only seven out of 23 notified subjects till March 2013. Further, ‘Activity Mapping’ in respect of remaining six subjects was yet to be completed (March 2013). Of the activities listed in the document, very little was being done at the ground level.

For meaningful devolution, deployment of functionaries from the line departments to the PRIs at all levels was a pre-requisite condition. However, the approach adopted so far by the State Government was only partial. Apart from this, every year a substantial portion of budgetary outlays under Plan and Non-Plan revenue account was earmarked for PRIs against transferred subjects. Belying the expectation in the activity mapping, devolution of functions at different level of PRIs remained more or less only on paper. Similarly, little progress had been made in the matter of devolution of fund against transferred subjects as envisaged in the activity mapping. Till March 2013, only Central Finance Commission (CFC) and SFC Funds were passed on to the PRIs on a regular basis. Apart from this the PRIs got fund under District Development Plan (DDP). In addition, central funds channelised through Backward Regions Grant Fund (BRGF) were received by PRIs at all levels wherein the funds under other Centrally Sponsored schemes (CSS) viz. Indira Awas Yojana (IAY), Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) etc. were received by the APs and GPs from respective DRDAs of the District.

It is evident from the above that devolution of 3Fs to panchayats in respect of the transferred subjects is far below the desired level. Though, the GoA had created a Panchayat window in the State Budget and every year a substantial portion of budgetary outlays under Plan and Non-Plan in the revenue account is earmarked for panchayats against the transferred subjects, in the absence of suitable administrative machinery under the PRIs the earmarked amount is being spent by the line departments.

### 1.11 Financial profile of PRIs

#### 1.11.1 Fund flow to PRIs

The main source of income of PRIs in the State is funds released by GoI under various Centrally Sponsored Plan Schemes, CFC grants, SFC grants and State Government grants under various schemes. In addition, PRIs were also mobilising revenue from own sources such as taxes, rents, license fee etc. Details of sources of fund, its custody and reporting for each tier are given in **Table 1.6** and flow of fund for CFC grants and CSS are given in **Table 1.7**.



**Table 1.6: Fund flow mechanism in each tier of PRI**

Nature of Fund	ZPs, APs, GPs	
	Source of fund	Custody of fund
Own receipts	Assesses and users	Bank
SFC	State Government	Bank
CFC	GoI	Bank
State Plan Schemes	State Government	Bank
CSS	GoI & State Government	Bank

**Table 1.7: Fund flow arrangements of CFC grants and CSS to PRIs**

Sl. No	Scheme	Fund flow
(1)	(2)	(3)
1	MGNREGS	Central share is released directly to the DRDAs. State share provided in the Budget is released to DRDAs through PRDD. DRDAs disburse the fund (Central and State share) to APs, which in turn, disburse the share of GPs under their jurisdiction.
2	IAY	Central share is released directly to DRDAs. State share provided in the Budget is released to DRDAs through PRDD. DRDA disburses the fund (Central and State share) to APs under its jurisdiction.
3	Swarna-Jayanti Gram Swarozgar Yojana (SGSY)	Central share is released directly to the DRDAs. State share provided in the Budget is released to DRDAs through PRDD. DRDAs disburses the fund (Central and State share) to APs under its jurisdiction.
4	CFC	GoI transfers the fund to the State, which is released through budget allocation to the ZPs. The ZP after drawal of the fund through treasury, disburses the share to APs and GPs under its jurisdiction.
5	BRGF	GoI transfers the fund to the State which is released through budget allocation to the ZPs, which after drawal of fund through treasury, disburse the share to APs & GPs under their jurisdiction.

Source: Scheme guidelines

### 1.11.2 Public investment in Social Sector and Rural Development

Details of public investment in Social Sector and Rural Development through major CSS during 2008-09 to 2012-13 are shown in **Table 1.8**.

**Table 1.8: Statement showing investment through major CSS**

(₹ in crore)

Sl. No.	Scheme	Year	Fund Released to PRIs	UC Submitted
(1)	(2)	(3)	(4)	(5)
1.	MGNREGS	2008-09	1040.14	Yes
		2009-10	867.12	Yes
		2010-11	690.80	Yes
		2011-12	481.71	Yes
		2012-13	588.46	Partial
2.	IAY	2008-09	816.38	Yes
		2009-10	747.55	Yes
		2010-11	825.63	Yes
		2011-12	867.28	Yes
		2012-13	71.27*	Yes
3.	Integrated Wasteland Development Project (IWDP)	2008-09	41.75	Yes
		2009-10	25.71	Yes
		2010-11	15.27	Yes
		2011-12	8.93	Yes
		2012-13	NA	NA
4.	BRGF	2008-09	Nil	Nil
		2009-10	86.58	Yes
		2010-11	65.29	Yes
		2011-12	140.54	Yes
		2012-13	92.92	No

5.	National Social Assistance Programme (NSAP)	2008-09	173.19	Yes
		2009-10	172.65	Yes
		2010-11	117.18	Yes
		2011-12	168.76	Yes
		2012-13	156.13	No
6.	Swarn-Jayanti Gram Swarojgar Yojana (SGSY) (Merged with NRLM w.e.f 01 April 2012)	2008-09	240.45	Yes
		2009-10	202.10	Yes
		2010-11	224.72	Yes
		2011-12	132.33	Yes
		2012-13	0.79	Yes
7.	National Rural Livelihood Mission (NRLM)	2012-13	16.36	No

Source: Information furnished by Commissioner, PRD, Assam; \* State Share only.

There was an increase in receipt of funds under MGNREGS compared to previous year wherein there was decline in receipt of fund under NSAP and BRGF.

### 1.11.3 Resources: Trends and composition

The trend of resources of PRIs for the period 2008-09 to 2012-13 is shown in **Table 1.9**.

**Table 1.9: Time series data on PRIs resources**

Source	2008-09	2009-10	2010-11	2011-12	2012-13
Own Revenue	14.90	17.03	23.46	87.85	176.16
SFC transfers	48.60	295.68	119.36	227.96	104.42
CFC transfers	52.60	152.71	73.44	196.01	362.05
State Sponsored Schemes	207.82	123.69	341.86	520.73	89.09
Centrally Sponsored Schemes	1184.95	1712.18	1684.81	1323.36	1211.38
<b>Total</b>	<b>1508.87</b>	<b>2301.29</b>	<b>2242.93</b>	<b>2355.91</b>	<b>1943.10</b>

Source: 2008-09 and 2011-12: Commissioner PRD, Assam, 2009-10 and 2010-11. Appropriation & Finance Accounts, 2012-13 information furnished by GoA.

PRIs at all levels had mobilised internal resources from tax and non-tax sources. However, there was a decline in receipts under SFC and CSS in 2012-13 in comparison to the previous years. The decline in CSS was mainly due to deduction of Central Share for less utilisation of funds in previous years by PRIs.

### 1.11.4 Funds transferred to State Implementing Agencies outside State Budget

The Central Government has been transferring sizeable quantity of funds directly to the State implementing agencies for implementation of various schemes/programmes in Social Sectors for the social and economic development of the rural population. During 2012-13, significant amounts released for implementation of major programmes/schemes are detailed in **Table 1.10**.

**Table 1.10: Funds transferred directly to State implementing agencies**

Sl. No.	Programme/scheme	Fund transferred by the GoI during 2012-13	Implementing agencies
1	IWDP	1.11	DRDAs/ State Institute of Rural Development (SIRD)
2	MGNREGS	524.82	
3	IAY	649.47	
4	SGSY	7.16	
5	Rashtriya Gram Swaraj Yojana (RGSY) under capacity building	2.36	
7	BRGF under capacity building	11.00	
<b>Total</b>		<b>1195.92</b>	

Source: Commissioner PRD, Assam and SIRD, Assam.

Table shows that out of ₹1195.92 crore, sizeable quantity of funds were transferred under IAY scheme (54.92 per cent) and MGNREGS (44.38 per cent), during 2012-13.

### 1.12 Revenue resources and expenditure management of PRIs

Revenue resources of PRIs which are known as own fund, are earned from settlement of hat/ghat, fisheries etc. The main component of revenue expenditure of the PRIs is payment of salaries to their employees followed by remuneration and sitting allowances of the elected representatives. In the FASFC Report, it is mentioned that during 2008-09, expenditure on salary, remuneration etc, of PRIs amounted to ₹63.93 crore. In contrast their internal revenue mobilisation during the year was ₹14.90 crore only. In fact their revenue collection was only 23 per cent of their salary expenditure. However, in 2012-13, their salary and remuneration expenditure was ₹169.09 crore against revenue mobilisation of ₹176.16 crore. It is evident that major portion of the revenue of the PRIs is consumed in payment of salary in spite of the fact that full sanctioned strength is not in position. If the vacant position as per existing norm is filled up or the staffing norm proposed is revised, it will further distort the ratio of own income and salary expenditure.

It is apparent that even though actual receipt or generation of own fund has increased during the last five years major portion of the revenue is consumed on salary and remuneration. As such there is a little scope for meeting any other exigencies. Thus, PRIs at all levels are required to be more proactive in augmenting and mobilizing internal revenues by working out periodical action plans after identifying the potential areas.

### 1.13 Thirteenth Finance Commission (13<sup>th</sup> FC) Grant

The weights adopted by the 13<sup>th</sup> FC Commission for inter distribution of funds among the States were 50 per cent population, 10 per cent area and 10 per cent distance from highest per capita income for PRIs, 15 per cent index of devolution, 10 per cent SC/ST population for PRIs and five per cent CFC grant utilisation index. Based on the above principles, the share of PRIs and ULBs for the periods 2010-15 in Assam including sixth Schedule areas amounted to ₹1892.90 crore. The amount so recommended has two components viz, General Basic grants and Performance Grants. According to the 13<sup>th</sup> FC for the periods 2010-15, States will be eligible to draw their Basic grants subject to submission of UCs in time and Performance grants from the second year of the award period subject to fulfillment of conditions as laid down in the 13<sup>th</sup> FC recommendations.

The position of grants released during 2012-13 by the GoI and GoA to PRIs is shown in Table 1.11

**Table 1.11: Award of 13<sup>th</sup> FC to PRIs** ₹ in crore)

Programme year	Installment No	Scheme components	Fund received/released		Penal interest for late release of fund
			Received from GoI	Released to PRIs	
2011-2012	1 <sup>st</sup>	General Performance Grant	NIL	NIL	0.13
	2 <sup>nd</sup>	General Basic Grant	92.95	92.95	1.21
		General Performance Grant	32.03	32.03	
		Special Area Basic Grant	3.40	3.40	
		General Performance Grant Forfeited by non performance State	21.98	21.98	
2012-2013	1 <sup>st</sup>	General Basic Grant	99.54	99.54	0.11
		General Performance Grant	68.31	68.31	NIL
		Special Area Basic Grant	3.40	3.40	NIL
		Special Area Performance Grant	3.65	3.65	NIL
	2 <sup>nd</sup>	General Basic Grant	109.62	104.62	NIL
<b>TOTAL</b>			<b>434.88</b>	<b>429.88</b>	<b>1.48</b>

Source: Director, Finance (Economic Affairs) Department, Assam

It was observed that State Government released 13<sup>th</sup> FC grants to PRIs with a interest liability of ₹1.48 crore due to tardy transfer of fund. Further, it was also noticed that there was a short release of ₹5.00 crore out of General Basic Grant of 2012-13. Delay in release of funds hampered the timely implementation of the projects in the field because time factor played an important role in Assam in view of season specific limitations in execution of works.

#### **1.14 Creation of Database**

Based on the recommendations of 11<sup>th</sup> FC, CAG had prescribed database formats for capturing the finances of PRIs. The database formats were prescribed with a view to have a consolidated position of sector wise resource and application of funds by PRIs, details of works executed by PRIs and their physical progress, etc.

The 11<sup>th</sup> FC had earmarked funds for creation of database for PRIs in their awards covering the period 2000-05. The 12<sup>th</sup> FC had also recommended that States may assess the requirement of each PRI in this regard and earmark funds accordingly out of the total allocation of 12<sup>th</sup> FC grants. Despite the dedicated fund allocation, little improvement had been made in development of database though ₹55.61 crore incurred on creation of database during the years 2008-2013. The 13<sup>th</sup> FC in its report had also expressed similar dissatisfaction. Even after several persuasions by audit, a reliable data base on finances of PRIs was yet to develop. Moreover, computerisation of PRIs in Assam suffered due to non-electrification of GP offices.

The entire matter of implementation of the program of database on finances needed to be evaluated and effective steps were required to be taken to develop the database without further loss of time.

#### **1.15 Accountability framework**

##### **1.15.1 Power of State Government over PRIs**

The Constitution of India empowers States to legislate on panchayats. Further, in exercise of relevant Acts and Rules, the State Government exercises its powers in relation to PRIs. Details of the powers of the State Government over the PRIs in decentralised setup are detailed in **Appendix-II**.

The AP Act also gives the State Government the following powers for ensuring proper functioning of PRIs:

- Call for any Panchayat to furnish information or report, plan, estimate, statement, accounts or statistics;
- Inspect any office or any record or any document of PRIs;
- Inspect the works and development schemes implemented by PRIs and
- Take action for default of Panchayat President/Secretary.

Lapses/defects noticed in audit relating to formulation and implementation of schemes, matters relating to finance, etc., are mentioned in Chapter II of this Report.

## **1.16 Vigilance mechanism**

### **1.16.1 Ombudsman**

The Ombudsman conducts investigation and enquires into instances of maladministration, corruption, favoritism, nepotism, lack of integrity, excessive action, inaction, abuse of position etc, on the part of officials and elected representatives of PRIs. He can even register cases, *suo moto*, if the instances of the above kind come to his notice. State Government appointed 10 Ombudsmen and two Deputy Ombudsmen in 12 out of 27 districts in the State in November 2011 for a tenure of two years for conducting above investigation and enquires on the part of officials and elected representatives of LBs under section 27 (1) of the MGNREG Act, 2005. However, one Ombudsman (Nalbari district) was cancelled in January 2012. The process of selection of Ombudsmen and Deputy Ombudsmen in the remaining 16 districts is yet to be done (March 2013).

There was, however, no provision in the AP Act regarding setting up of Ombudsman for PRIs.

### **1.16.2 Social Audit**

The primary objective of social audit is to bring the activities of PRIs under close surveillance of people to enable them to access the records and documents of PRIs. Such immediate access to information would facilitate transparency and accountability in day-to-day functioning of PRIs. The State Finance Department issued guidelines (May 2009) for social audit which, *inter alia*, included the following:

- Use of Gaon Sabhas as important vehicles for spread of awareness about social audit;
- Appointment of nodal officer at the level of Gaon Sabhas who would register complaints and fix the date for social auditing;
- Wide publication of the date of social audit through local newspapers, hand bills, leaflets and notice boards etc;
- Presentation by the GP Secretaries of the relevant data on revenue and expenditure of their organisations including bills, vouchers, muster rolls, measurement books, copies of sanction orders and other books of accounts and papers necessary for the purpose of social auditing.

Except for a provision made under the Assam Rural Employment Guarantee (AREG) Scheme under MGNREGA, the State Government was yet to amend the relevant Panchayat Act by including a statutory provision for social auditing.

The Commissioner, PRD stated (August 2012) that process for constitution of independent Directorate of Social Audit had been initiated. A Committee had been formed for selection of Directorate of Social Audit and Dimoria Development Block, Kamrup (Metro) had been selected as the pilot block for operationalising of the Social Audit. However, Directorate of Social Audit is yet to be formed (March 2013).

### **1.16.3 Lokayukta**

The Assam Lokayukta and Upa-Lokayukta Act, 1985 (Assam Act XX of 1985) was introduced to improve the standard of Public Administration through investigation of complaint against ministers, legislators and public functionaries including those of PRIs. The institution was headed by Upa-Lokayukta from March 2001 as the post of Lokayukta had been lying vacant for the last 18 years (since March 1995).

The State Government had taken various initiatives by publishing advertisement in local newspaper in Assam and launched a website and approved setting up of cells in all Districts and Sub-divisional headquarters to receive complaints of this forum to increase the awareness among the people regarding Lokayukta and Upa-Lokayukta Act. The Upa-Lokayukta had received only 32 complaints during the year 2012-2013 but none of the cases were related to PRIs.

Thus, there was a need to increase awareness among the people about the existence and functioning of anti-corruption mechanism to make it more effective and useful to the public.

## 1.17 Audit Mandate

### 1.17.1 Primary Auditor of PRIs

Director of Audit, Local Fund (DALF), Assam established under Assam Local Funds (Accounts & Audit) Act, 1930 is the Primary Auditor of all tiers of PRIs in the State. The Local Fund Audit organisation in the State of Assam under DALF had 20 circle offices each of which was headed by an Assistant Director to perform audit functions at the District level. There are 131 audit parties comprising of one Audit Officer and one or more Assistant Audit Officers. Training to Officers of DALF for capacity building and to improve local body audit was imparted by Assam Administrative Staff College in May 2012, by the O/o the Accountant General (Audit), Assam in April 2013 and by RTI Kolkata in December 2013.

### 1.17.2 Staff strength of DALF

Details of sanctioned strength and persons in position in the organisation as of 31 March 2013 are shown in **Table 1.12**

**Table 1.12: Sanctioned strength and persons in position in DALF**

Sl. No.	Post	Sanctioned	Men-in-position	Vacant	Percentage of vacancy
1	Director	1	1	Nil	Nil
2	Joint Director	2	2	Nil	Nil
3	Deputy Director	3	1	2	66.6
4	Assistant Director	23	20	3	13.04
5	Registrar	1	1	Nil	Nil
6	Superintendent	1	1	Nil	Nil
7	Personal Assistant	1	1	Nil	Nil
8	Audit officer	159	141	18	11.32
9	Assistant Audit Officer	220	115	105	47.72
10	Other ancillary staffs	270	225	45	16.66
<b>Overall</b>		<b>681</b>	<b>508</b>	<b>173</b>	<b>25.40</b>

Source: DALF, Assam.

The organisation is functioning with an overall 25 *per cent* shortage of personnel within which the shortage in the cadre of Audit Officers (11 *per cent*) and Assistant Audit Officers (48 *per cent*) adversely affected the mandated functions of the organisation.

### 1.17.3 Audit by CAG of India

CAG of India conducts audit of substantially financed PRIs under Section 14(1) of CAG's (DPC) Act, 1971 and audit of specific grants to PRIs under Section 15 of the Act *ibid*. The audit of PRIs is also conducted by CAG under Section 20(1) of the Act as per Technical Guidance and Support (TGS) module as entrusted by the State Government in

May 2002 followed by acceptance of standard terms and conditions of TGS (May 2011) pursuant to the 13<sup>th</sup> FC recommendations.

During April 2012 to March 2013 accounts of 61 PRIs (seven ZPs, 17 APs and 37 GPs), were audited.

### **1.18 Conclusion**

Consequent upon the 73<sup>rd</sup> Constitutional Amendments, there had been considerable progress in empowerment of panchayats. By and large, such empowerments remained confined to setting up of State Election Commission, conducting regular election to PRIs, constituting SFCs periodically and devolution of funds as per award of CFCs & SFCs. However, little had been done so far to augment the capacity building of PRIs and to upgrade their weak administrative set up. In regard to transferred subject to PRIs, activity mapping was reported to have been completed way back in June 2007 for 23 subjects out of 29 subjects listed in the XI Schedule of the Constitution of India. However, ground realities did not confirm operationalisation of the activity mapping done so far. Activity mapping in respect of remaining six subjects was yet to be done. The DPCs did not visualise a comprehensive plan for district development. A significant portion of the funds escaped ZPs control due to direct transfer of GoI funds/State Government funds to implementing agencies without routing through ZPs. The functioning of PRIs had been greatly hampered by the non-availability of adequate data relating to the physical and fiscal indicators of performance of PRIs. The limited data that was available was not only inadequate but it also suffered from lack of credibility. Audited and authentic database was not available. Despite dedicated fund allocation by the 11<sup>th</sup> FC and 12<sup>th</sup> FC in their award periods covering 2000-2005 and 2005-2010 respectively, little progress had been made in the situation. Even after constant persuasion by audit a reliable database on PRIs finance was yet to come up. State Government had appointed 9 Ombudsmen and two Deputy Ombudsmen in 12 out of 27 districts in the State. State Government was yet to amend the Panchayat Act by including the statutory provision for Social audit. There was a need to increase the awareness among the people about the existence and functioning of Lokayukta and Upa-Lokayukta to make it more effective and useful.

# **CHAPTER I**

## **Section-B**

### **Financial reporting of PRIs**



## **Section-B**

### **FINANCIAL REPORTING OF PRIs**

#### **1.19 Financial reporting issues**

Financial reporting in the PRIs is a key element of accountability. Therefore, a sound internal control system significantly contributes to efficient and effective governance of the PRIs by the State Government. The present system of accounting suffers from lot of deficiencies in regard to maintenance of accounts to be followed based on accounting format already approved by the Ministry of Panchayati Raj in consultation with the CAG of India. Some of the discrepancies relating to financial reporting noticed during test check are enumerated below:

##### **1.19.1 Improper maintenance of records**

Rule 8, sub rule 4 (a), (b) and (c) of AP (F) Rules 2002 stipulate that all moneys received and payments made should be entered in the Cash Book which should be closed every day. Monthly closing of Cash Book with physical verification of cash and reconciliation of Cash Book balance with bank balance under proper authentication are to be done. Sub-rule 4 (e) further stipulates that at the close of each month, the bank balance as reflected in the Cash Book shall be reconciled with balances as per bank account.

However, during test check it was seen that Cash Book balances were not reconciled with bank balances in some PRIs. Instances of un-reconciled balances with differences ranging from ₹0.03 lakh to ₹8.66 crore in nine PRIs were noticed as given in **Appendix –III**. Failure in maintenance of Cash Book as per provision of financial rules pointed towards gross irregularity. Besides, the possibility of occurrence of fraud and embezzlement of Government money could not be ruled out.

##### **1.19.2 Asset Register**

All properties vested in the ZPs, APs and GPs shall be entered in the Register of properties and assets in the Form 6 of Rule 19 of AP (F) Rules, 2002. The entries shall be attested by the officer concerned. However, audit noticed that the Asset Registers were not maintained by 25<sup>2</sup> test-checked PRIs and the State Government also did not call for any return on the nature of asset, year of creation and monetary value of the assets.

##### **1.19.3 Non preparation/un-realistic preparation of budget**

Rule 32, 33, and 34 of AP (F) Rules, 2002 stated that every GP, AP and ZP shall prepare Budget before the beginning of Panchayat financial year in the respective format by indicating minor heads. However, it was noticed that 25 PRIs (two ZP, nine APs, 14 GPs) out of 61 test checked PRIs had not prepared BEs. During 2008-09 to 2011-12 an expenditure of ₹2.97 crore was incurred by seven PRIs without preparation of budget as detailed in **Appendix–IV**. Funds were released by the Government in a routine manner, thereby defeating the purpose of planning and without taking into account the requirements of the people at grass root level. On the other hand, one PRI (Golaghat ZP)

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<sup>2</sup> Golaghat North AP, Golaghat ZP, Karimganj ZP, Badarpur AP, South Karimganj AP, Amguri AP, Baghan GP, Barua Ali GP, Chotoguma GP, Chunganjan GP, Demow GP, Fekamari AP, Dhubri ZP, Faridkuna Duhalia GP, Amguri GP, Jherjheri GP, Kaliganj GP, Pub Misamara GP, South Golaghat AP, Dingdinga GP, Kamdonga GP, Tamarhat GP, Sivsagar ZP, Demow AP and Athabari GP.

as detailed in **Appendix-V(A)** had prepared the budget un-realistically having little regard to past trend of receipt and expenditure. As a result, estimated receipts were unduly inflated and estimate of expenditure were based on such inflated receipts.

#### **1.19.4 Non Adjustment of Advance paid to JE/Contractor**

State financial rules stipulate that advances paid should be adjusted without any delay and DDO concerned should watch their adjustment. Though CEO of ZP, EO of AP and Secretary of GP are custodians of Panchayat funds, it was noticed that in three PRIs advance given to JEs/Contractor for implementation of schemes was not adjusted as detailed in **Appendix-VI (A)**.

#### **1.19.5 Non deduction of VAT**

According to Income Tax (IT) Act and State Value Added Tax (VAT) Act, IT & VAT will be deducted from the payment of contractor/suppliers. Test check of records revealed that in Machkhowa AP and, Bahari GP amounts of ₹0.80 lakh, and ₹ 0.15 lakh of VAT/IT respectively were not deducted.

Due to non-deduction of taxes, Government suffered a loss of revenue to that extent.

#### **1.19.6 Short collection of Kist Money**

Sub-Rule 14 and 15 of Rule 47 of the Assam Panchayat (Financial) Rule 2002, stipulates that panchayats are required to recover the *kist*<sup>3</sup> money from the lessees in due time. During test check of records it was noticed that there was short collection of *kist* money of ₹124.77 lakhs in eight PRIs and as shown in **Appendix VII (A)**. Thus due to short collection of *kist* money, revenue could not be augmented to that extent.

#### **1.19.7 Non-furnishing of Utilisation Certificates (UCs)**

Scheme guidelines of CSS stipulate that UCs should be obtained by departmental officers from the grantees and after verification should be forwarded to GoI. As per information furnished by Commissioner, PRD, Assam, UCs amounting to ₹927.35 crore from different implementing agencies were pending as detailed in **Appendix-VIII**. Non furnishing of UCs indicates poor monitoring of the utilisation of scheme funds by the DDOs and the Head of the Department (HOD).

#### **1.19.8 Maintenance of Annual Accounts**

The Monthly and Annual Accounts as per prescribed formats showing the details of income and expenditure during the year duly supported by the necessary documents should be prepared by all three tiers of PRIs. However, annual accounts were not prepared by any of the 20<sup>4</sup> test checked PRIs, reflecting poor internal controls and inadequate accounting arrangements in PRIs. These records are important as they are included to constitute evidence of proper receipt and utilisation of funds.

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<sup>3</sup> *Kist*: Installment

<sup>4</sup> Amguri GP ,Baghan GP,Barua-ali GP ,Chhotoguma GP,Chungajan GP ,Demow GP ,Dingdinga GP ,Jherjheri GP,Jurbari Dafolala GP ,No.60 Kandhbari Dagapara GP ,Kakamari GP ,Kamandanga GP ,Kathalbari GP ,Pramila GP, Pub Missamora GP,Salmara GP ,Tamarhat GP ,Lowairpoa AP ,Patharkandi AP and South Golaghat AP

Though, non maintenance of Annual Accounts by PRIs have been brought to the notice of State Government on several occasions through Inspection Reports and ATIRs, no effective action has so far been taken by the Government.

#### **1.19.9 Fiscal reform path in PRIs**

The State Government had enacted the Assam Fiscal Responsibility and Budget Management (AFRBM) Act, 2005 to ensure best practices of financial management of the departments. However, Principal Secretary, Finance, Assam observed that LBs being the third tier of Government at the local levels in a federal structure of Indian Union as per 73<sup>rd</sup> amendment of the Constitution of India, this AFRBM Act would not be applicable for LBs and instructed the Finance (Economic Affairs) Department to expedite the process of finalisation of separate FRBM Act for LBs for streamlining fiscal activities and bringing fiscal discipline of LSGIs (April 2011).

Audit observed that State Legislative Assembly had passed (9 July 2011) the Local Self Government Fiscal Responsibility Act 2011, and the State Government notified the Act (September 2011) in the State Gazette. However, preparation and submission of medium term Fiscal Plan as envisaged in the Act was not carried out by any PRIs because date of effect of the Act was not specified, defeating the purpose of the Act of ensuring fiscal stability and sustainability and greater transparency in fiscal operations.

#### **1.19.10 Reporting of misappropriation cases**

State Financial Rules stipulate that any defalcation or loss of public money or other property discovered in Government treasury or office or department, should immediately be reported to the Accountant General, even when such loss had been made good by the person responsible for it. However, no specific provision exists in AP (F) Rules 2002 for DDO or head of the PRI to report any case of loss, theft or fraud to the Accountant General and the State Government which is a systemic deficiency at the level of State Government.

#### **1.19.11 Panchayat Financial Year**

In contrast to the financial year of Central and State Governments which commences on the 1<sup>st</sup> day of April every year, the Panchayat financial year commences on the 1<sup>st</sup> day of July. The difference of financial year between the Government and the PRIs create a lot of difficulties in maintenance of accounts, audit of accounts and devolution of funds from higher levels of Governments. The uniformity of financial year between Government and PRIs was recommended by the second SFC way back in 2003 which was again recommended by the fourth SFC in 2012. However, the same has not yet been implemented (March 2013).

#### **1.20 Reporting arrangements**

Findings of audit on accounts of PRIs conducted by the CAG are presented in the form of Annual Technical Inspection Reports (ATIRs). ATIRs on PRIs for the years ended 31 March 2005 to 2012 have been submitted to the State Government. On 19 December 2011, ATIR for the year ended 31 March 2010 was laid before the State Legislature for the first time. Subsequent two ATIRs i.e. ATIR for the year ended 31 March 2011 and 2012 were also been laid before the State Legislature on 04 April 2013 and 19 July 2013 respectively.

State Legislature has constituted (October 2012) a Local Fund Accounts Committee (LFAC) for the first time to discuss the Audit Report on PRIs. ATIR for the year ended 31 March 2010 was discussed by the Committee. However, Action Taken Report (ATR) on the ATIRs submitted to Government was awaited (March 2013).

### **1.21 Internal control system in PRIs**

Internal control mechanism is an integral function of an organisation which helps it to govern its activities effectively and achieve the objectives of the organisation. It is intended to provide reasonable assurance of proper enforcement of Acts, Rules and Bye-laws. Various internal control measures would minimise the risk of errors and irregularities. It also provides reasonable assurance that the following general objectives are achieved in fulfilling accountability obligations; compliance of applicable rules and regulations and implementation of programmes is carried out in an orderly, economical, efficient and effective manner.

#### **1.21.1 Deficiencies in internal control mechanism in PRIs**

The internal control system at the level of each PRIs had been designed by GoA through AP Act, 1994, AP (F) Rules, 2002, besides application of State Government's own rules and policies relating to finance, budget and personnel matters. Significant provisions of internal control mechanism in PRIs are given in **Appendix-IX**.

The deficiencies contributed to weakness in the internal control of PRIs are discussed earlier in Para 1.21 (Financial Reporting).

Though the shortcomings were pointed out in previous ATIRs also no corrective action was initiated either by the PRIs or the State Government to ensure proper maintenance of records and to put an internal control mechanism in place.

#### **1.21.2 Internal Audit**

Internal Audit is an important instrument to examine and evaluate the level of compliance with rules and procedures as envisaged in the relevant Acts as well as in the Financial/Accounting Rules so as to provide independent assurance to management on the adequacy of the risk management and internal control frame work in the PRIs.

Rule 18 of AP (A) Rules, 2002 provided for utilisation of internal auditors of PRDD for proper and correct maintenance of accounts of PRIs. An internal audit wing with internal auditors was in place in the Commissionerate of PRD, Assam. However, no internal audit of PRIs had so far been conducted (March 2013). The Department had no Audit Manual of its own and its main function was limited to assisting the Commissioner, PRD, Assam in settling the outstanding audit paras and inspection reports relating to departmental units.

This affected the sense of accountability to ensure proper compliance of rules and procedure as envisaged in the relevant Acts/Rules.

### **1.22 Audit of accounts of PRIs**

#### **1.22.1 Audit coverage by Director of Audit, Local Fund (DALF)**

DALF is the primary auditor to conduct the audit of PRIs of Assam. Based on information furnished by DALF (May 2013), the arrears in audit of PRIs during the

period 2009-13 ranged between 45 and 82 *per cent*. The year-wise position of units to be audited and those actually audited are detailed in **Table 1.13**.

**Table 1.13: Shortfall in covering the units planned for audit by DALF**

Year	No. of units planned for audit	No. of units audited	Shortfall	Percentage of shortfall
2009-10	1969	356	1613	82
2010-11	1297	418	879	68
2011-12	877	492	385	44
2012-13	1423	788	635	45

Source: Information furnished by DALF, Assam.

Apart from this, there was also arrear in issue of 355 audit reports as of March 2013. The reasons for shortfall in audit coverage and arrear in issue of audit reports were attributed to non-production of records and engagement of Audit Officer in Panchayat Elections. Moreover, no provision had been made in this Act so far for placement of Audit Report of DALF before the State Legislature.

### 1.22.2 Presentation of Annual Audit Report

As per para 101 (i) of Assam Audit Manual, DALF is required to send an Annual Audit Report to the Finance Department by 30 September each year incorporating major outstanding audit objections relating to PRIs which were pending settlement for further action by the Finance Department. DALF prepared its first consolidated Audit Report for the year 2010-12 and submitted to Finance Department which was also laid before the Legislature on 10 February 2014.

### 1.22.3 Response to Audit Observations

Inspection Reports (IRs) were issued to audited PRIs authorities with a copy of each to the State Government. PRIs authorities were required to comply with the observations contained in the IRs and rectify the defects and omissions and report their compliance within three months from the date of issue of IRs. Important audit findings are processed for inclusion in the ATIR.

The details of outstanding paragraphs in respect of PRIs, as of March 2013 are shown in **Table 1.14**.

**Table 1.14: The details of outstanding IRs and paragraphs**

Year of issue	No. of Inspection Reports	No. of outstanding Paras	Money value (₹ in crore)
Up to 2006-07	25	317	21.67
2007-08	26	344	62.07
2008-09	71	576	39.83
2009-10	262	1337	119.70
2010-11	74	508	154.32
2011-12	52	515	188.98
2012-13	25	211	103.38
<b>Total</b>	<b>535</b>	<b>3808</b>	<b>689.95</b>

Source: Progress Register

Thus, 3808 paragraphs with monetary value of ₹689.95 crore were pending settlement (March 2013) for want of replies from concerned PRIs. Increasing trend of outstanding paragraph was indicative of non-compliance of audit observations which showed low

level of accountability. The Administrative Heads of the Departments concerned also did not ensure that the concerned officers of the PRIs took prompt and timely action in furnishing replies to IRs and thereby weakening the accountability mechanism of PRIs in Government.

### **1.23 Administrative Reports**

Sub-sections (1) and (2) under Section 128 of the AP Act, 1994, provides for submission of Annual Administrative Report of the preceding year of ZP and AP to the Government by 30 September every year. Report of the ZP together with a memorandum by the Government reviewing the working of the ZP should be laid before the State Legislature as per sub-section (3) of the section *ibid*. However, neither the PRIs prepared their Annual Administrative Reports nor the State Government (PRDD) called for Annual Administrative Reports from PRIs for consolidation and submission to the State Legislature.

### **1.24 Conclusion**

The PRIs were not maintaining their accounts as per format prescribed by MoPR. Cash Book balances were not reconciled with bank balances in some PRIs. Asset Registers were not maintained by PRIs. Expenditures were incurred either by preparing unrealistic budget or without preparing any budget. There were instances of non-deduction of VAT and short realisation of *kist* money causing significant loss to the Government. Internal audit had never been carried out in compliance with rules and procedures as envisaged in the relevant Acts/Rules. Increasing trend of outstanding paragraphs was indicative of non-compliance of audit observations which showed low level of accountability.