

CHAPTER-I

AN OVERVIEW OF THE ORGANISATION, FINANCES, DEVOLUTION AND ACCOUNTABILITY FRAMEWORK OF URBAN LOCAL BODY

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1.1 Introduction

The Seventy Fourth Constitutional Amendment Act, 1992 paved the way for decentralisation of power and to establish a system of uniform structure, holding of regular elections and regular flow of funds through Finance Commission to Urban Local Bodies (ULBs). As a follow up, the States were required to entrust these bodies with such powers, functions and responsibility in respect of 18 functions listed in the 12th Schedule of the Constitution of India so as to enable them to function as institutions of self-Government. The Constitutional amendments intended to pave the way for fiscal decentralisation to the grass root level. The Mizoram Municipalities (MM) Act, 2007 (as amended in December 2009) which came into force in 2008 was enacted to incorporate the provisions of the Constitutional Amendment Act, 1992.

At present the lone Urban Local Body *viz.* Aizawl Municipal Council (AMC) covers a total area of 129 sq. kms. with a population of 2,91,822 as *per* 2011 Census. Under the AMC, there are 19 Wards comprising of 82 Local Councils. The first general election to the AMC was held in November 2010.

1.2 Organisational Setup in State Government and Urban Local Body

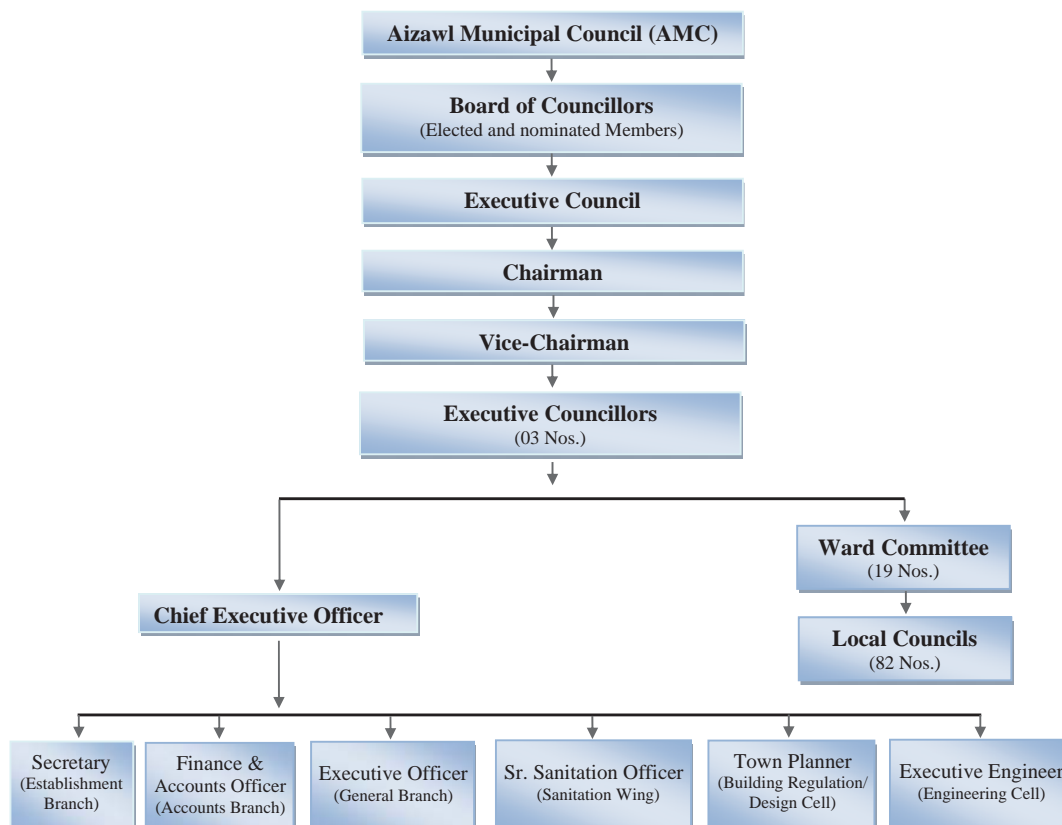
Urban Development & Poverty Alleviation (UD&PA) Department is the Nodal Department for ULBs in the State of Mizoram. The Secretary, UD&PA Department is the Nodal Officer and is assisted by the Director, UD&PA in allocation of funds through Grants-in-Aid.

The AMC (ULB) consists of 19 elected and 12 nominated Councillors. The executive head of the AMC is the Chairperson, who is elected by the majority of Councillors. The Chairperson presides over the meetings of the Municipal Council and is responsible for the governance of the body.

The State Government appointed a Chief Executive Officer for administrative control of the AMC. Other officers *viz.* Secretary, Executive Officer, Finance and Accounts Officer, Executive Engineer, Senior Sanitation Officer, Town Planner were also appointed by the State Government to discharge specific functions of the body.

The organogram of the AMC is shown below in Chart-1.1:

Chart-1.1



1.3 Devolution of Powers and Functions

The Seventy-fourth Constitutional amendment provides scope for devolution of funds, functions and functionaries to Urban Local Bodies by the State Government with respect to preparation of plans and programmes for economic development and social justice relating to 18 subjects listed in the 12th Schedule of the Constitution of India. The Government of Mizoram has enacted the “Mizoram Municipalities Act, 2007” (amended in December 2009) to establish municipalities in towns, transitional areas and urban areas in Mizoram to enable the municipalities in the State to function as local Self-Government institutions.

As per Section 59 (2) of the Act, the State Government may transfer to the Municipality such functions and duties as are performed by the Department of the State Government on any of the following matter:

1. Town and country planning;
2. Urban development;

3. Water supply and sanitation;
4. Transport system including regulation of traffic terminus;
5. Employment schemes and programmes;
6. Health and family welfare;
7. Relief and social welfare including social security schemes and programmes;
8. Public works including road construction and housing;
9. Cottage and small scale industries, business and services including programme for skill development;
10. Education including primary education, adult education, vocational education, social education, non-formal education, audio-visual education and library services;
11. Food and supplies including rationing and distribution;
12. Civil defence;
13. Fire protection and fire fighting;
14. Sports and youth services;
15. Welfare of the Scheduled Caste and Scheduled Tribes;
16. Environmental safety and improvement; and
17. Social forestry and plantation programme.

It was, however, noticed that out of 17 functions to be transferred to the Municipality Council, the State Government has partially transferred the following functions as of March 2013 to the AMC as follows:

- i. Management of transportation terminals *w.e.f.* May 2009;
- ii. Regulation on land use and construction of buildings *w.e.f.* September 2011;
- iii. Solid waste Management *w.e.f.* September 2011;
- iv. Management of parking lots *w.e.f.* May 2012;
- v. Providing of civic services & street vending *w.e.f.* September 2012;
- vi. Management of market sheds *w.e.f.* October 2012; and
- vii. Collecting of property tax in October 2012 with retrospective effect from August 2011.

Thus, the function of the AMC as a vibrant institution of local Self-Government with enhanced peoples' participation in management of their own affairs remain unachieved, due to non-devolution of powers and functions to the AMC by the State Government even after a lapse of five years since the enactment of the Municipalities Act. However, the position of transfer of functionaries and funds related to the transferred functions to AMC is not available.

1.4 Accounting Manual

The need for municipal reforms has assumed urgency as proper financial reporting by ULBs would be an important instrument to achieve the objective of accountability. Considering the importance of maintenance of accounts, the Eleventh Finance Commission in its recommendation has entrusted the responsibility for exercising control and supervision over the proper maintenance of accounts and the audit of ULB to the Comptroller and Auditor General of India (C&AG). Accordingly, the Ministry of Urban Development, GoI in consultation with the C&AG developed the National Municipal Accounts Manual (NMAM) (December 2004) which is based on accrual based double entry accounting system for greater transparency and control over finances. The ULBs were required to prepare their budget and maintain their accounts in the formats as prescribed in NMAM with appropriate codifications and classifications.

Further, in terms of Paragraph 10.116 of the Thirteenth Finance Commission's (ThFC) guidelines, the State should implement an accounting framework consistent with the accounting format and codification pattern suggested in the NMAM. Accordingly, State Government had Notified (March 2011) that the AMC is required to prepare its budget and maintain accounts in the formats prescribed by the NMAM with appropriate codifications and classifications.

It was, however, noticed that the preparation of Annual Budget and maintenance of accounts of the AMC were not in accordance with the prescribed formats in NMAM. The AMC is maintaining the accounts in cash based single entry system.

Thus, the objective of accountability through proper financial reporting was not achieved by the AMC.

1.5 Creation of data base on Finances & Maintenance of Accounts

Based on the recommendations of the Eleventh Finance Commission, the C&AG had prescribed database formats for capturing the data related to finances of all ULBs. The database formats were prescribed with a view to have a consolidated position of resource and application of funds by ULBs, details of works executed by ULBs and their physical progress *etc.*

It was, however, noticed that the creation of database was not started as of March 2014.

The CEO, AMC stated (March 2014) that capturing of finances of ULBs in prescribed database format is under process.

1.6 Recommendations of State Finance Commission

In pursuance of the Sub-Section (1) of Section 3 of the Mizoram Finance Commission Act, 2010 (Act No. 17 of 2010), the State Government, constituted (30 September 2011)

Mizoram Finance Commission under the Chairmanship of the Chief Secretary of the State.

The Commission was constituted to make recommendations as to the following matters:

- (i) The principles which *inter alia* should govern –
 - a) The distribution between the State and the Village Councils, Aizawl Municipal Council and the Autonomous District Councils of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them to enable these bodies to perform the functions assigned, and which may be assigned to it under any laws in force or orders, and the allocation between the Village Councils, Aizawl Municipal Council and the Autonomous District Councils at all levels of their respective shares of such proceeds;
 - b) The determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by, the Village Councils, Aizawl Municipal Council and the Autonomous District Councils; and
 - c) The Grants-in-Aid to the Aizawl Municipal Council from the Consolidated Fund of Mizoram.
- (ii) The measures needed to improve the financial position of the Village Councils, Aizawl Municipal Council and the Autonomous District Councils.

The Report of the Mizoram Finance Commission for the coming period of five years starting from 1 April 2013 to 31 March 2018 was scheduled to be available by 30 November 2012. However, it was noticed in audit that the same has not been submitted by the Commission as of March 2014, as a result no effective steps were taken by the Government towards improvement of the financial position of the Local Bodies.

1.7 Formation of Ward Committees

Section 23 of the Mizoram Municipalities Act, 2007 (as amended in December 2009) provides that every Municipality shall, at its first meeting after the election of Councillors thereto or as soon as may be thereafter form a Ward Committee for every ward. Further, the municipality shall form a Local Council in every locality within the ward for matters of local internal nature according to the Mizo traditions, customs and practices and such other matters necessary for effective functioning of the Local Councils.

It was noticed that the first election to form 82 Local Councils was held in February 2012 and subsequently 19 Ward Committees were formed on 24 May 2012 to oversee the matters of local internal nature according to the Mizo traditions, customs and practices and such other matters necessary for effective functioning of the Local Councils.

1.8 Financial Profile of the ULB

The resource base of AMC comprises of Own Source of Revenue (OSR), Central Finance Commission grants and State Government grants for maintenance and development purposes.

Under Section 210 of the Mizoram Municipalities Act, 2007 (as amended in December 2009), the AMC may levy taxes such as property tax, market fees and rents, profession tax, tax on carriages and animals, tax on carts and advertisement tax other than advertisements published in newspapers. However, the AMC was authorised to collect parking fees from May 2012 and property tax in October 2012 with retrospective effect from 7 August 2011. Property tax, market fees and rents, building regulation, Ch. Chunga Bus Terminal fees, Ch. Saprawnga Truck Terminal fees, parking fees constituted the main sources of revenue of the AMC.

The Thirteenth Finance Commission (ThFC) grants released by the GoI, fund from State Government and the amount released to the AMC besides their OSR during 2012-13 are shown in Table-1.1:

Table-1.1

(₹ in crore)

Source of fund		Amount released to UD&PA Department	Amount released to AMC by UD&PA Department/OSR
		2012-13	2012-13
(A) Grants from GoI & State Government:			
GoI	Grants under ThFC	12.20	12.20
State Government	Salary, OE & OC	3.09	3.09
Sub-Total (A)		15.29	15.29
(B) Own Source of Revenue (OSR):			
Own Source of Revenue (OSR)	Property tax & building regulation		2.44
	Fees		0.63
	Others (including interest <i>etc.</i>)		0.20
Sub-Total (B)			3.27
Grand Total (A) + (B)			18.56

Source: Departmental records

It can be seen from the Table-1.1 that the bulk of fund (₹ 15.29 crore) constituting 82 per cent of the total fund (₹ 18.56 crore) was received by the AMC from the Central (₹ 12.20 crore) as well as from the State (₹ 3.09 crore) Governments for execution of developmental works, allowances to Councillors *etc.* and to meet the administrative expenses respectively, while the Own Source of Revenue (₹ 3.27 crore) constituted only 18 per cent of the total available fund during the year 2012-13.

1.9 Audit Mandate

As *per* provision under Section 90 (1) of the Mizoram Municipalities Act, 2007 (as amended in December 2009), the municipal accounts as contained in the Annual Financial Statement shall be examined and audited by an auditor appointed by the State Government.

Further, Para 6.4.4 of ThFC's guidelines stipulated that the State Government must put in place an audit system for ULB and the Annual Report of the DLFA must be placed before the State Legislature.

Accordingly, the State Government appointed (June 2011), Examiner of Local Funds Accounts (ELFA), renamed (August 2012) as Director of Local Fund Audit (DLFA) Mizoram as auditor of the AMC with the responsibility of certification of accounts and statutory audit of the local bodies under the administrative control of the Finance Department.

It was noticed in audit that the audit report of the DLFA for the period 2011-12 was not laid in the State Legislative Assembly as of March 2014.

Besides, in pursuance of the recommendations of the ThFC, State Government entrusted (June 2011) the Technical Guidance & Support (TGS) over the accounts and audit of local bodies to the Comptroller & Auditor General (C&AG) of India under Section 20(1) of the C&AG's DPC Act, 1971. Accordingly, the audit on the accounts of the AMC is conducted under TGS arrangement. The audit findings are being featured in Annual Technical Inspection Report (ATIR) and submitted to the State Government for necessary action. The ATIR on ULB (AMC) for the year 2011-12 has been placed in the State Legislative Assembly on 24 July 2013. The audit of AMC was conducted during November – December 2013.

As per Para 3.8.6 (b) of the Recommendations of the Second Administrative Reforms Commission the State Government is required to form a separate Standing Committee of the State Legislature for the Local Bodies in the manner of Public Accounts Committee. The Secretary of Mizoram Legislative Assembly intimated (November 2013) that the formation of a Separate Standing Committee of the State Legislature would be taken up. However, further development on formation of the committee is awaited (April 2014).

1.10 Conclusion

- As against 17 statutory functions, the State Government had partially transferred seven functions to the AMC as of March 2013. Thus, even after a lapse of five years since the enactment of the Act, in the absence of full devolution of powers and functions, the AMC is not able to function as a vibrant institution of local Self-Government with greater peoples' participation in management of their own affairs.
- The AMC had not maintained its accounts in the formats prescribed in NMAM even after two years of the State Government's notification.
- Annual Audit Report of the Director of Local Fund Audit on the accounts of the AMC for the year 2011-12 was not placed before the State Legislature.

1.11 Recommendations

- The process of full devolution of powers and functions to AMC listed under Section 59 (2) of the AMC Act should be expedited by the State Government.
- The accounts of the AMC should be maintained as prescribed in NMAM for greater transparency and control over finances.
- The Annual Audit Report on the accounts of the AMC should be placed in the State Assembly without delay.