

# **CHAPTER I**

**Organisation, Devolution and  
Accountability Framework of  
Local Self-Government Institutions**

# CHAPTER I

## ORGANISATION, DEVOLUTION AND ACCOUNTABILITY FRAMEWORK OF LOCAL SELF-GOVERNMENT INSTITUTIONS

### 1.1 Introduction

The Seventy-third and Seventy-fourth amendments of the Constitution of India giving constitutional status to Local Self-Government Institutions (LSGIs), established a system of uniform structure, regular elections and flow of funds. Consequent to these amendments, the State Legislature passed the Kerala Panchayat Raj Act, 1994 (KPR Act) and the Kerala Municipality Act, 1994 (KM Act) to enable LSGIs to work as third tier of the Government. The Government also identified and amended other related laws to empower LSGIs. As a follow-up, the Government entrusted LSGIs with such powers, functions and responsibilities as to enable them to function as Institutions of Local Self-Government. In order to fulfill the mandate bestowed to them under the Constitution and the laws, LSGIs are required to prepare plans and implement schemes for economic development and social justice, including those included in the Eleventh and Twelfth Schedules of the Constitution.

#### 1.1.1 Status of transfer of functions and functionaries

Under KPR Act and KM Act, it shall be the duty of LSGIs to meet the requirements of the area of their jurisdiction in respect of the matters enumerated in the respective Schedules of the Acts, and LSGIs shall have the exclusive power to administer the matters enumerated in Schedules and to prepare and implement schemes relating thereto for economic development and social justice.

The Acts envisaged transfer of functions of various Departments of the Government to LSGIs together with the staff to carry out the functions transferred. The transfer of functions to different tiers of LSGIs was to be done in such a way that none of the functions transferred to a particular tier overlapped with that of the other.

The Eleventh Schedule of the Constitution contains 29 functions pertaining to the Panchayat Raj Institutions (PRIs). As mandated by KPR Act, the Government transferred (September 1995) 26 of these functions to PRIs. The functions relating to minor forest produce, distribution of electricity and implementation of land reforms are yet to be transferred to PRIs. Likewise, the Twelfth Schedule of the Constitution contains 18 functions pertaining to Urban Local Bodies (ULBs). The Government has transferred 17 functions mandated under KM Act to ULBs and the function relating to fire service is yet to be transferred. In addition to the functions mandated under the Constitution and the State Local Bodies Acts, LSGIs also undertake agency functions like World Bank aided projects, Asian Development Bank aided projects, etc., on behalf of both Central and State Governments to implement development programmes. As part of administrative or functional decentralisation, Government have transferred public service delivery institutions such as schools, dispensaries, public health centres, hospitals, anganwadis, district farms, veterinary institutions, etc., to the LSGIs.

For efficient discharge of functions, the LSGIs require availability of qualified and trained personnel. Against the required number of 1302 posts to be deployed, 601 posts were deployed leaving a balance of 701(February 2014).

### **1.2 Profile of LSGIs**

As on 31 March 2013, there were 1209 LSGIs in the State. The details of the area, population, etc., are presented in **Table 1.2**.

**Table 1.2: Comparative position of LSGIs**

Level of LSGIs	Number	Number of wards/divisions	Average area per LSGI (Sq.km.)	Average population per LSGI
District Panchayats (DPs)	14	332	2651.70	1903357
Block Panchayats (BPs)	152	2095	244.24	175309
Grama Panchayats (GPs)	978	16680	37.16	26674
Municipal Corporations	5	359	95.60	491240
Municipalities	60	2216	23.65	51664
<b>Total</b>	<b>1209</b>	<b>21682</b>	<b>-</b>	<b>-</b>

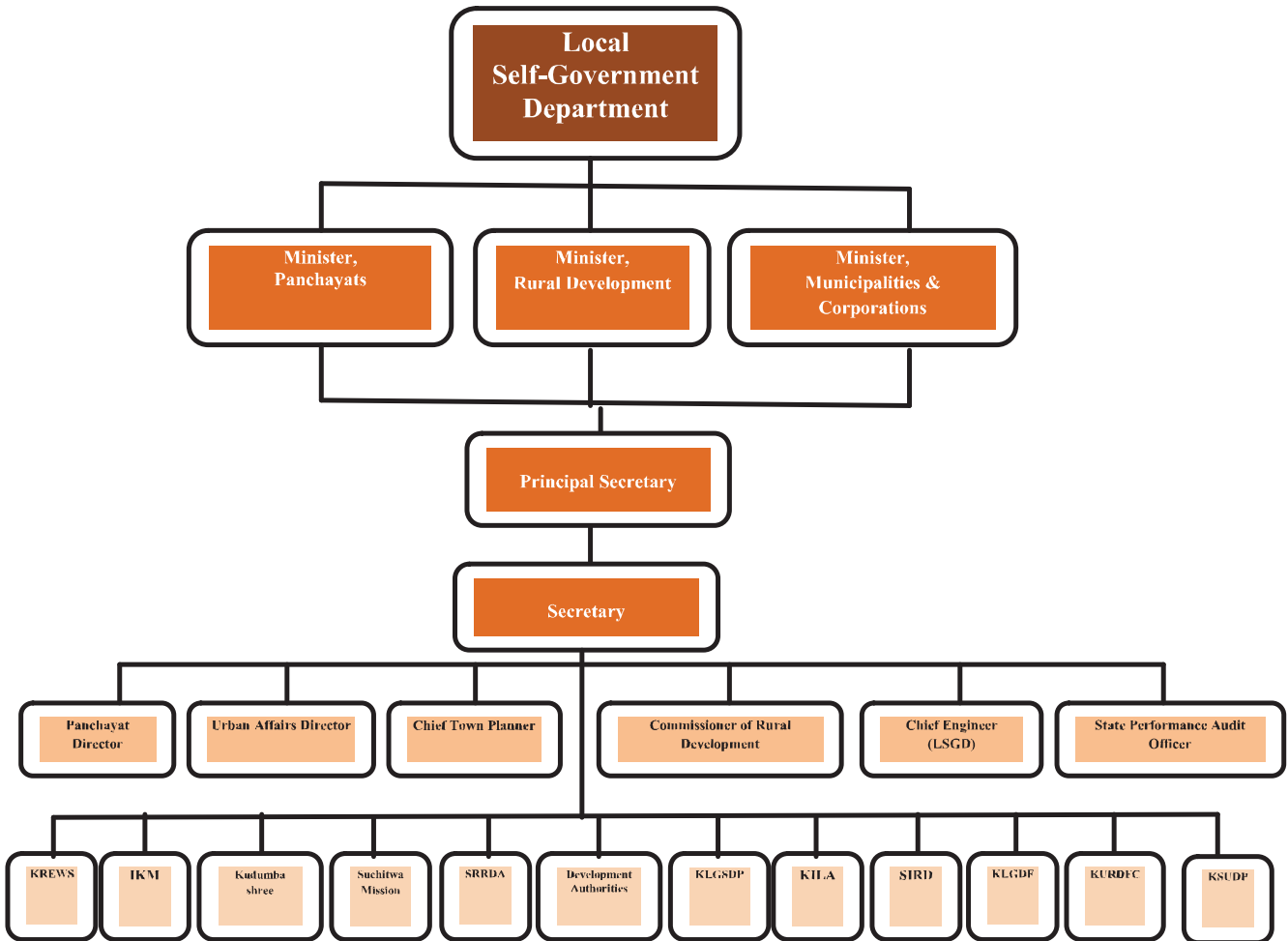
*Source: Panchayat Guide-2014 published by Local Self-Government Department*

### **1.3 Organisational set up**

LSGIs constituted in rural and urban areas are referred to as PRIs and ULBs respectively. In the three-tier Panchayat Raj system in the State, each tier functions independently of the other. While the Constitution and the Acts confer autonomy and independent status to the LSGIs within the functional domain, the Government in Local Self-Government Department (LSGD) is empowered to issue general guidelines to LSGIs in accordance with the National and State policies. **Chart 1.1** depicts the organisational set up (as at the end of March 2013) in LSGD and LSGIs to execute the functions of the Government and that of LSGIs.

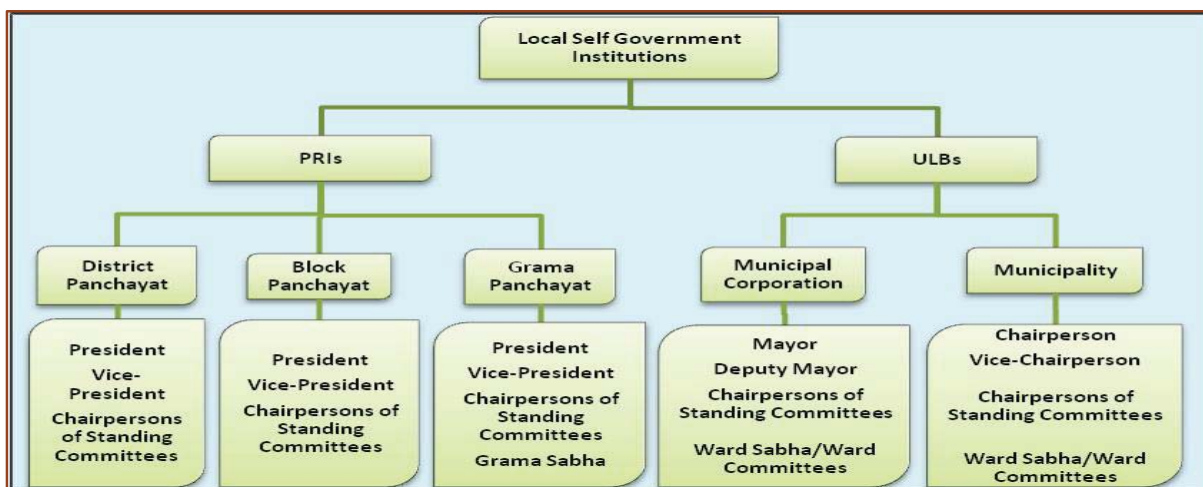
Chart 1.1: Organisation chart of LSGD and LSGIs

State Level



**KREWS**- Kerala Rural Employment and Welfare Society, **IKM**- Information Kerala Mission, **SRRDA**-State Rural Road Development Agency, **KLGSDP**-Kerala Local Government Service Delivery Project, **KILA**-Kerala Institute of Local Administration, **SIRD**- State Institute of Rural Development, **KLGDF**- Kerala Local Government Development Fund, **KURDFC**- Kerala Urban and Rural Development Finance Corporation, **KSUDP** - Kerala Sustainable Urban Development Project

## LSGIs Level



The President/Chairperson/Mayor is the Chief Executive Head of LSGIs. Each LSGI has a Secretary who is the Chief Executive Officer. The members of each tier of PRIs elect the President, Vice-President and Chairpersons of the Standing Committees. Similarly, Councillors of the Municipality/Municipal Corporation elect the Chairperson/Mayor, Vice-Chairperson/Deputy Mayor and Chairpersons of the Standing Committees.

### 1.3.1 Standing Committees

KPR and KM Acts envisage a system of Standing Committees (SC) to provide an analysis of issues and proposals before they are considered by the Panchayat Committees/Councils. Accordingly, SCs have been constituted. There are four SCs for each GP and BP, five for each DP, six for each Municipality and eight for each Corporation. The details are given in **Appendix I**.

In terms of KPR Act, 1994 and KM Act, 1994, the SCs have the power to make resolutions in respect of their subjects. Every resolution passed by the SCs needs to be placed in the next meeting of the Panchayat Committee/Municipal Council of the LSGIs. The Committee/Council can modify resolutions, if considered necessary. Audit examination of the functioning of 123 SCs of 29 LSGIs in Ernakulam District during 2012-13 revealed the following:

- (i) Each SC is required to prepare budget proposals and submit it to the SC for Finance. The SC for Finance, after considering the proposals, has to prepare the budget of the LSGI for the ensuing year and present it before the Panchayat Committee/Municipal Council before the second week of March. Audit noticed that the SCs of none of the LSGIs test-checked submitted budget proposals relating to their subject to the SC for Finance, for preparation of Annual Budget for the year 2012-13. As a result, the budget proposals of the LSGIs lacked in-depth analysis of issues and proposals of other SCs by the SC for Finance, before they were considered by the Panchayat Committee/Council.
- (ii) Even though the SC for Finance prepared the budget for 2012-13, they did not adhere to the time schedule (before the second week of March 2012) for its presentation in the Panchayat Committee/Municipal Council meeting. Audit further noticed that 27 out of the 29 LSGIs test-checked passed the budget on the

day of presentation itself, indicating inadequate deliberation on the budget as an effective instrument of financial control and decision making.

(iii) There was no regular system of reporting the resolutions of the SCs to the Panchayat Committee/ Municipal Council. In its absence, the latter could not make suggestions/modifications on the resolutions of the SCs.

(iv) Even if the resolutions were reported, the SCs did not have a regular system to receive feedbacks from the Panchayat Committee/Municipal Council. The importance of SCs, therefore, as an independent mechanism capable of analysing various critical issues gets ignored/seriously diluted.

Thus, the SCs constituted with clear functional roles could not discharge their functions effectively in the LSGIs test-checked, as envisaged in the KPR and KM Acts.

### **1.3.2 Steering Committee**

Section 162B of KPR Act and Section 23 of KM Act envisage constitution of a Steering Committee in each LSGI for coordinating as well as monitoring the working of SCs. The Steering Committee consisted of the President/ Chairperson, Vice President/ Deputy Chairperson of the LSGIs concerned and Chairpersons of the SCs. Audit noticed that functioning of Steering Committees was not effective as evidenced from the less number of meetings held by the Committee. In the 29 LSGIs test-checked, the Steering Committees of eight LSGIs did not convene any meeting during 2012-13, seven met only once or twice and one met thrice. In the remaining LSGIs, the number of meetings of the Committee was four and above.

In the absence of periodical meetings of the Steering Committee, there is possibility of duplication/overlapping/conflict of decisions of SCs which would adversely affect the functioning of the LSGIs.

## **1.4 Decentralised Planning**

The decentralised planning to be carried out by LSGIs has been designed envisaging active participation of all sections of people in the form of Grama/Ward Sabha, working groups and development seminars. The guidelines issued by the Government prescribed the following steps in formulation of annual plan 2012-13 by LSGIs.

<b>Step</b>	<b>Committee/Group responsible</b>
Appointment of Plan Coordinator, Constitution of Working Groups under Standing Committees	Committee/Council of LSGIs
Preparation of Status Report and draft project proposal to be discussed in Grama /Ward Sabha, Discussion with stakeholders	Standing Committees, Working Groups
Discussion of Status Report and project proposals, Proposing projects	Grama/Ward Sabha
Finalisation of Status report and Project proposals	Standing Committees, Working Groups
Preparation of Draft Development Plan for five years and Draft Annual Plan	Standing Committee for Development, Working Groups
Development Seminar to discuss Draft Development Plan and Draft Annual Plan	Committee/Council of LSGIs, Development SC

<b>Step</b>	<b>Committee/Group responsible</b>
Finalisation of Annual Plan	Committee/Council of LSGIs
Earmarking of funds for Plan/Projects	Committee/Council of LSGIs, Standing Committee for Finance
Preparation of Projects	Working Groups
Approval of Projects	Standing Committees
Approval of Project/Plan	Committee/Council of LSGIs

#### **1.4.1 Delay in issue of guidelines 2012-13**

Section 175 of the KPR Act and Section 51(2) of the KM Act prescribe preparation of a Development Plan every year by PRIs and ULBs, for the succeeding year. The LSGIs prepare Annual Plan every year following the guidelines issued by Government. The Government issued guidelines for the Five Year Plan 2012-17 as well as the Annual Plan for 2012-13 on 15 June 2012, i.e., two and half months after commencement of the financial year. These guidelines were revised on 18 August 2012, i.e., four and half months after the commencement of 2012-13. As a result the approval of Annual plans by the LSGIs was also delayed, providing them with lesser time for implementation of the projects.

#### **1.4.2 Working Groups**

Plan formulation guidelines prescribed constitution of Working Groups (WGs). Each WG functions under the control and supervision of the SC dealing with the respective subject. The Chairperson of a WG is a member of the related SC. The WGs comprising officials, elected members, experts and activists in specified development sectors have a creative role in the development plans of LSGIs.

As per the Plan formulation guidelines issued (August 2012) by the Government, an evaluation report on the ongoing projects, development vision, policy approach and priorities with reference to 12<sup>th</sup> Five Year Plan programmes was to be presented in the first general meeting of the WG. Further, discussion on the preparation of status report and draft project proposals was to be held in the first meeting of the WG. The WG was to prepare data and information for distribution in the Grama/Ward Sabhas and for inclusion in the plan proposals, etc., and monitor the implementation of projects. Audit noticed the following shortcomings in the functioning of 336 test-checked WGs.

(i) Discussions on Development Vision and Status Report were held only by four WGs. None of the WGs held discussion on preparation of data and information to be presented in the Grama/Ward Sabhas. In the absence of active involvement of WGs, the plan proposals made by the LSGIs were without adequate study of the sector concerned and lacked technical expertise, which the WGs were supposed to bring. As the WGs were working under the supervision of the SCs, the shortcomings in the functioning of WGs could be attributed to lack of supervision on the part of the SCs.

(ii) The WGs were also required to function as monitoring committees during the implementation stage of the projects. However, there was no evidence to show that the WGs had monitored the implementation of the projects.



### **1.4.3 District Planning Committees**

In pursuance of Article 243ZD of the Constitution of India and Section 53 of KM Act, the Government constituted District Planning Committee (DPC) in each district. The procedure to be followed in the meeting of the Committee is governed by Kerala District Planning Committee (Election of Members and Proceedings of Meeting) Rules, 1995. The tenure of DPC is five years. The Committee consists of 15 members:

- President of DP in that district (Chairman of DPC)
- District Collector (Member Secretary of DPC)
- one person having considerable experience in administration and planning, nominated by the Government and
- twelve members from among the elected members of Panchayats at district level and of Municipalities in the district in proportion to the ratio between the population of rural areas and of urban areas in the district

The members of the House of the People and members of the Legislative Assembly, representing the district are permanent invitees to the respective DPCs. A member of the Council of States (Rajya Sabha) representing the State is a permanent invitee to the DPC of the district in which he is registered as elector in the electoral roll of any Municipality or Panchayat.

As per the Twelfth Five Year Plan - LSGI Plan formulation Guidelines, DPC of each district has to approve a district level perspective document highlighting the development vision and priorities, considering the plans prepared by LSGIs. None of the DPCs prepared the District Plan and the District level Perspective Document.

The Fourth State Finance Commission, in its report, pointed out that the DPCs functioned only as Committees emphasising clearance of projects of local governments. The Commission felt that the DPCs have not matured into planning institutions functioning with the prime objective of ensuring quality of planning, through provision of support services and effective co-ordination.

Though the Commission had made a number of recommendations for the effective functioning of the DPCs, which were accepted by the Government, the Government did not furnish the details of action taken to implement those recommendations.

## **1.5 Accountability Framework**

### **1.5.1 Authority and Responsibility of the Government with regard to LSGIs**

The Government exercises its powers in relation to LSGIs in accordance with KPR Act and KM Act. The above Acts entrust the Government with the following powers so that it can monitor the proper functioning of LSGIs:

- Call for any record, register, plan, estimate, information from LSGIs;
- Inspect any office or any record or any document of LSGIs;
- Arrange periodical performance audit of the administration of LSGIs;
- Inspect the works and development schemes implemented by LSGIs; and



- Take action for default by an LSGI President or Secretary.

In addition, the KPR Act and KM Act, *inter alia*, empower the Secretary, LSGD who is the State Performance Audit Authority at the State level with powers to rectify defects and point out mistakes in accounts, money transactions, etc., give necessary instructions to LSGIs to take follow up actions on the performance audit report and to ensure that the performance audit teams are conducting tri-monthly performance audit in all LSGIs.

Further, the Secretary of an LSGI may assist the Government in preventing passing of resolutions which are not in conformity with the Act.

Despite the above mentioned duties and powers vested in the Government for the enhancement of quality of public service and governance, Audit noticed numerous deficiencies in the implementation of schemes, matters relating to finance, selection of beneficiaries, etc., as mentioned in Chapters II, III and IV of this Report.

### **1.5.2 Citizens Charter**

As per Sections 272 A of KPR Act and 563 A of KM Act, every LSGI should publish a Citizens Charter showing the services available to citizens from the LSGI, the conditions and the time limit prescribed for obtaining each service. The Citizens Charter has to be updated every year. Data collected from LSGIs revealed that only 15 of the 29 selected LSGIs published Citizens Charter during 2012-13.

## **1.6 Vigilance mechanism**

### **1.6.1 Ombudsman for LSGIs**

As envisaged in KPR Act and KM Act, Government set up an Ombudsman for LSGIs in the State in the year 2000. A former Judge of High Court only can be appointed as Ombudsman. The Ombudsman is a high powered quasi-judicial body which can conduct investigation and enquiries in respect of charges on any action involving corruption, maladministration or irregularities in discharge of administrative functions by LSGIs, officials and elected representatives of the LSGIs. Ombudsman can even register cases *suo moto* if instances of the above kind come to his notice. During the period 2012-13, out of 4005 cases (including 1961 old cases), 2592 cases (65 *per cent*) were disposed of by the Ombudsman.

### **1.6.2 Tribunal for LSGIs**

As envisaged in Section 271 S of KPR Act and Section 509 of KM Act, a judicial tribunal for LSGIs was set up in the State in February 2004, with a District Judge as the Tribunal. The duty of the Tribunal is to consider and settle appeals and revisions by the citizens against decisions of LSGIs taken in exercise of their functions like assessment, demand and collection of taxes or fees or cess, issue of licenses, grant of permits, etc. During 2008 to 2013, 5739 cases (appeal & revision) were filed before the Tribunal, out of which 657 cases were pending disposal. Of the pending cases, 645 cases related to the years 2012 and 2013 (up to March 2013).