

CHAPTER I

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

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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 so as to enable them to function as Institutions of Local Self-Government. In order to fulfill the mandate bestowed on 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 had 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 as the Government had not taken any decision in this regard. 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 was yet to be transferred. In addition to the functions mandated under the Constitution and the State Local Bodies Acts, LSGIs also

undertake agency functions to implement development programmes like World Bank aided projects, Asian Development Bank aided projects, etc., on behalf of both Central and State Governments.

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. All poverty alleviation programmes and welfare pension schemes are implemented through local bodies.

For efficient discharge of functions, the LSGIs require availability of qualified and trained personnel. Against the required number of 1302 posts to be deployed, only 500 posts were deployed (February 2015) indicating lack of efforts on the part of the Government to fill vacant posts.

1.2 Profile of LSGIs

As on 31 March 2014, there were 1209 LSGIs in the State. The details of their area, population, etc., are presented in **Table 1.1**.

Table 1.1: 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 |
| Total | 1209 | 21682 | - | - |

Source: Panchayat Guide-2015 published by Local Self-Government Department

**Population figures- Census 2011*

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.

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

Standing Committees (SC) analyse issues and proposals before they are considered by the Panchayat Committees/Councils. There are four SCs for each GP and BP, five for each DP, six for each Municipality and eight for each Corporation. 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.

1.3.2 Steering Committee

Steering Committee coordinates and monitors the working of SCs. The Steering Committee consists of the President/Chairperson, Vice President/Deputy Chairperson of the LSGIs concerned and Chairpersons of the SCs.

1.4 Plan formulation process by LSGIs

Consequent on 73rd and 74th amendments to the Constitution and enactment of KPR and KM Acts in 1994, LSGIs have assumed an important role in the formulation and implementation of developmental programmes at the grassroots level which involve active participation of all sections of people in the form of Grama/Ward Sabha, Working Groups (WGs) constituted under SCs and Development Seminars for the formulation and implementation of programmes for the overall development of the LSGIs.

The LSGIs are to prepare every year a development plan for the succeeding year following the guidelines issued by the Government and submit to the District Planning Committee (DPC) before the date prescribed. The DPC scrutinizes and approves the plan prepared by the LSGIs.

In the decentralized planning set-up, WGs, Ward Sabhas/Ward Committees, SCs, DPCs, Implementing Officers are the institutions/Groups involved in the plan formulation process and implementation.

Audit examination of the plan formulation process and implementation during 2012-13 and 2013-14 by Kollam Municipal Corporation and Paravur Municipality revealed the following:

1.4.1 Functioning of Working Groups

Working Groups are the most important constituents of the decentralized planning and they have a creative role in the formulation of development plans of LSGIs. The WGs consisting of officials, elected members, experts and activists in specified development sectors are to be constituted by LSGIs every year. The vice-chairperson should be an expert in the concerned sector.

Audit scrutiny revealed that though the LSGIs had constituted the required number of WGs, none of the WGs in Kollam Corporation had an expert in the concerned sector as vice-chairperson. Except the implementing officer, none of the members were professionals in the field.

Though the WGs were required to function as monitoring committee during the implementation of the projects, there was no evidence to show that the WGs had monitored the implementation of the projects in both Kollam Corporation and Paravur Municipality. The WGs met only once in a year at the time of plan formulation.

1.4.2 Ward Committees/Ward Sabhas

Ward Sabhas, in the case of Municipalities where population is less than one lakh, and Ward Committees, where population exceeds one lakh, play an important role in the planning process. They decide the priorities in planning and select beneficiaries for the beneficiary oriented scheme. Ward Committees should comprise of at least 55 to 60 members from residents associations, neighbourhood groups, political parties, heads of educational institutions, professionals and commercial establishments, so as to broadly represent all categories of people in the ward. For Ward Committees, one-fifth of total members and for Ward Sabhas one tenth of total number of voters in the ward is the quorum prescribed for their meetings.

Audit noticed that out of 55 wards in Kollam Corporation, only 25 wards have constituted Ward Committees with members from various groups. The members in Ward Committees ranged between 28 and 50 only. Though the Corporation stated that the Ward Committees were functioning in the remaining 30 wards, Audit noticed that the committees were not constituted as stipulated in KM Act. There was no indication in the records that the members of the Ward Committee were from the Residents associations, neighbourhood groups, political parties, professionals, etc., as required in the KM Act.

In Paravur Municipality, ten Ward Sabha meetings in four wards were conducted without prescribed quorums, thus violating prescribed norms.

1.4.3 Prioritisation

The Plan formulation guidelines issued by the Government stipulate preparation of a Development Vision Document depicting the developing requirements of the area to facilitate advance planning. The guidelines further stipulated that every LSGI shall prepare a five year plan document comprising a shelf of projects. Audit noticed that though the two test-checked ULBs prepared development documents for the period 2012-17, plan documents containing shelf of projects were not prepared. Due to non-preparation of shelf of projects, various projects formulated in annual plan may not reflect felt needs at grassroots level visualized in Development Vision Document.

As per the above guidelines, LSGIs were required to designate a Plan Co-ordinator to help them in co-ordinating the planning activities, preparation of documents, timely completion of the planning process, etc. Audit noticed that the two ULBs test-checked had not appointed Plan Co-ordinators as stipulated in the guidelines. ULBs did not offer any specific reasons for not appointing Plan Co-ordinators. However, they replied that Plan Co-ordinators will be appointed in future.

1.4.4 Implementation of projects

1.4.4.1 Implementation of projects under Productive Sector

The LSGIs were required to formulate projects under three sectors *viz.*, Productive sector, Service sector and Infrastructure sector. Audit noticed that implementation of the projects formulated under productive sector was not encouraging as 75 *per cent* and 40 *per cent* of the projects formulated under Productive sector during 2012-13 in Kollam Corporation and Paravur Municipality respectively were not implemented. Further, Audit noticed that expenditure on projects under Productive sector was very low. It constituted less than five *per cent* of total development expenditure in the two ULBs test-checked.

The delay in finalisation of beneficiary lists by the ULBs was the main reason attributed to the poor implementation of projects under Productive sector. The beneficiary lists were prepared by the Ward Sabhas/Ward Committees in meetings held at the fag end of the financial year and then approved by council. Since the final beneficiary lists were delayed, the Implementing Officers were provided with lesser time for implementation of the projects.

1.4.4.2 Implementation of Women component plan

Under women component plan, ten *per cent* of development fund was to be provided for enhancing employment and income, housing for families headed by women, construction of toilets for girls in schools and for women in public places, etc.

Though Kollam Corporation earmarked 27 *per cent* of the Development Fund for implementation of 11 projects for women during 2012-13, only two projects were implemented, spending 0.37 *per cent* of Development Fund.

The ULB stated that the remaining projects were not implemented during 2012-13 as there was delay in finalization of beneficiary list.

In Paravur municipality, out of 13 *per cent* of development fund allotted for seven projects, only seven *per cent* of development fund was spent. Delay in finalization of beneficiary list was the main reason for non/partial implementation of projects.

1.4.4.3 Implementation of projects for Scheduled Castes

There was slackness in the implementation of projects for Scheduled Castes. Out of 170 projects formulated by Kollam Corporation during 2012-13 and 2013-14 for

the welfare of Scheduled Castes, only 103 projects were implemented spending 30 *per cent* of total outlay.

In Paravur Municipality, out of 62 projects formulated, 50 projects only were implemented spending 60 *per cent* of the total outlay.

Lack of beneficiaries and delay in finalisation of beneficiary list were the reasons stated for non/partial implementation of projects for providing houses, drinking water, toilets, etc. In respect of other components in renovation of Scheduled Caste colonies, the reasons attributed for poor implementation of projects were shortage of contractors, litigation on land, delayed plan formulation, etc.

1.4.4.4 Projects for palliative care

It was a mandatory requirement for the LSGIs to provide five *per cent* of the Development fund for palliative care including projects for children, differently abled and senior citizens. Though the projects for palliative care were to be taken up from 2009-10 onwards, Kollam Corporation had not allocated any amount during 2012-13 for the purpose and amount allocated in 2013-14 was not spent.

For the implementation of palliative care projects, a survey was to be conducted to ascertain the requirements of bedridden or chronically ill patients and list of such patients was to be prepared for effective home care. Appointment of nurses for this purpose on honorarium basis was also envisaged. In Kollam Corporation, only one nurse was appointed in 2014-15 and survey for preparation of list was not completed till January 2015.

1.5 Vigilance mechanism

1.5.1 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. 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 motu* if instances of the above kind come to his notice. During the period 2013-14, out of 3555 cases (including 1413 old cases), 2221 cases (62 *per cent*) were disposed of by the Ombudsman.

1.5.2 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, consisting of one judicial officer having the rank of a District Judge. 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 licences, grant of permits, etc. During 2009 to 2014, 6224 cases (appeal & revision) were filed before the Tribunal, out of which 1118 cases were pending disposal. Of the pending cases, 1097 cases related to the years 2013 and 2014 (up to March 2014).