

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 gave constitutional status to Local Self-Government Institutions (LSGIs) and 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 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 various 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

As per the provisions of KPR Act and KM Act, it shall be the duty of LSGIs to take care of 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 the 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 (**Appendix I**) 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 were 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 (**Appendix II**) 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. Reason for non transfer of balance functions is awaited from

Government. In addition to the functions mandated under the Constitution and the State Local Bodies Acts, the LSGIs also undertake projects with the funds provided by World Bank, Asian Development Bank, Central and State Governments.

As part of administrative or functional decentralisation, Government has 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 transferred functions, the LSGIs require qualified and trained personnel. Against the required number of personnel to be deployed for 1302 posts, only 652 personnel were deployed (January 2017) indicating lack of efforts on the part of the Government to deploy personnel against the remaining posts.

1.2 Profile of LSGIs

As of 1st January 2017, there were 1200 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	331	2651.70	1903357
Block Panchayats (BPs)	152	2079	244.24	175309
Grama Panchayats (GPs)	941	15962	37.16	26674
Municipal Corporations	6	414	95.60	491240
Municipalities	87	3122	23.65	51664
Total	1200	21908	-	-

Source: Panchayat Guide-2017 published by Local Self-Government Department
**Population figures- Census 2011. In 2015, number of GPs were reduced to 941 from 978, 37 GPs were upgraded as 27 Municipalities and Kannur Municipality was upgraded as Corporation.*

1.3 Organisational set up

LSGIs constituted in rural and urban areas are referred to as PRIs and ULBs respectively. In the three-tier¹ 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

¹ Grama Panchayat, Block Panchayat and District Panchayat

Local Self-Government Department (LSGD) of Government 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 Grama Panchayat/Municipality/Corporation respectively. 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 for taking a decision 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 Accountability Framework

1.4.1 Internal Control in Engineering wing of Urban Local Bodies in Alappuzha District

Execution of Public Works in ULBs is governed by the Kerala Municipality (Execution of Public Works and Purchase of Materials) Rules 1997, the KM Act 1994, Kerala Public Works Account Code, Kerala Public Works Department Manual, Orders, Guidelines etc., issued by Government from time to time. These rules and regulations enable the engineering wing to have good internal control for the smooth functioning of the ULBs.

We conducted (December 2016) a scrutiny of the internal control mechanism in the Engineering wing of the six Municipalities in Alappuzha District viz., Alappuzha, Cherthala, Haripad, Chengannur, Mavelikkara and Kayamkulam covering the period 2014-15 to 2015-16.

The Audit objective was to ascertain whether the Engineering wing in ULBs had complied with the internal control mechanism prescribed in the relevant Acts, Rules and Regulations.

We observed laxity in maintaining registers/records for internal control as detailed below.

1.4.2 Security Deposit

As per Kerala PWD Manual, the selected bidder should produce a Security Deposit (SD) equal to five percentage of the contract amount in the form of Bank Guarantee, Fixed Deposit Receipt (FDR) or National Savings Certificate (NSC) etc., which shall remain valid till 28 days from the completion of the Defect Liability Period. The defect liability period fixed by Government for road work is one year and for building work two years. We noticed following deficiencies in obtaining SDs.

(a) Non pledging of Fixed Deposit Receipt (FDR) and National Savings Certificates (NSC)

As per para 15.2 of KPW Account code, FDRs / NSCs in lieu of SDs submitted by the Contractors are to be pledged with the agreement authority. This will facilitate encashment of the same against the financial liability of the contractor for non fulfillment of contractual obligation. In all the test checked Municipalities, the engineering wing had accepted FDRs without pledging, thereby defeating the purpose of security deposit, in violation of the rules. The Municipalities while admitting the omission, promised to adhere to the provisions in the rule.

(b) Time barred Demand Draft / Cheque received as Security Deposit / Earnest Money Deposits

Of the six test checked Municipalities, five Municipalities were holding Demand Draft/Bankers cheque worth ₹2.24 lakh received during the period 2009 to 2015 towards security deposit. As per negotiable instrument Act, the period of validity of Demand Draft/Cheque is six months from the date of issue. As the Demand Draft/Cheque were not encashed/renewed within the period of validity, these securities have become invalid.

(c) Acceptance of FDRs from Co-operative Banks as SDs

As per the PWD Manual and Government Order dated 5 January 2015, at least 50 *per cent* of the Security Deposit shall be collected in the form of Treasury Fixed Deposit and the rest in the form of Bank Guarantee or FDRs of Nationalised Bank and Scheduled Bank. However, we noticed that FDRs of Co-operative Banks were accepted as SD in violation of the Government order/Manual in all the Municipalities test checked.

(d) Non-transferring of amounts from Current Account to Municipality's own funds

In September 2013, Government had introduced e-tender system in LSGD for all tenders worth ₹five lakh and above to enhance transparency and efficiency in

public procurement activities and also to ensure complete confidentiality and anonymity in tendering activities. Payment towards Earnest Money Deposit (EMD) and cost of tender forms shall be collected online using the payment gateway of State Bank of Travancore. The amount so collected shall be deposited in a current account for this purpose maintained by the Municipal Engineer. This amount should be transferred to the Municipal Fund the next day after opening the bid.

On a scrutiny, it was noticed that none of the six test checked Municipalities conducted e-tendering during 2014-15. In 2015-16, even though five Municipalities² conducted e-tendering, the amount collected towards cost of tender form and EMD etc. had not been transferred to the Municipal account. Haripad Municipality had opened the Bank account only in July 2016 and Kayamkulam Municipality did not open the account at all. Due to delay in opening the specified bank account for e-tendering, the amount collected online during 2015-16 was credited to the current account of Executive Engineer of Alappuzha District Panchayat. The amount collected had not been transferred to the respective Municipal accounts (March 2017). Non-transferring of the above amount from current account to Municipality's own fund (Savings Bank Account) had resulted in loss of interest.

(e) Non-recording of the date of completion of work in the agreement

As per Kerala PWD Manual, the selected bidder should enter into an agreement with the Municipal Engineer before commencing the work. In the Municipalities test checked, though the agreement was executed with the contractor, the stipulated date of completion of the work was not recorded. Hence, omission to levy penalty due to delay in completion of work could not be ascertained by audit.

1.4.3 Non preparation of Road Map and Road Connectivity plan

Government directed (April 2007) that each Grama Panchayat should prepare a Centralized road map connecting highways and major district roads for submission to Block Panchayat to facilitate preparation of Block Level Road Map. The District Panchayat has to combine the Block Level Maps and prepare a road connectivity plan for the district integrating with the Road Maps of Municipalities and Pradhan Mantri Gram Sadak Yojana (PMGSY). However, no road map and road connectivity plan was prepared in any of the Municipalities test checked.

1.5.1 Maintenance of Registers

1.5.1 Improper maintenance of Cash Book

Guidelines issued (April 2006) by Government for the allocation and drawal of funds stipulated that implementing officers who are drawing and disbursing cash

² Alappuzha, Haripad, Kayamkulam, Mavelikkara and Cherthala

are required to maintain a Cash Book in Form TR 7A. Though the Engineers of the engineering wing drew money from Treasury based on the allotment made by the Secretary of LSGIs for implementation of Public Works, Cash books in proper form were not being maintained in all the six Municipalities test checked. Thus, the Engineers did not account for monetary transactions properly in violation of Government directions and Treasury Rules.

1.5.2 Improper maintenance of Asset Register

Scrutiny of asset registers maintained by the six Municipalities test checked, revealed that complete information of assets such as year of purchase/construction, cost of purchase/construction, date of last maintenance etc., were not recorded. There was no system of recording of complete information of assets to facilitate periodical physical verification, assessment of periodical maintenance, disposal of unserviceable assets etc. Omissions were noticed at the data entry levels which were not yet rectified. Regular updation of recently acquired movable assets and maintenance of asset registers were not ensured by controlling officers.

1.5.3 Deposit Register

The LSGIs implement a number of projects through the executing agencies viz, Kerala Water Authority(KWA), Kerala State Electricity Board(KSEB) and Ground Water Department(GWD) etc., as deposit works. The works are entrusted to these agencies after making payment in advance. None of the test checked Municipalities maintained registers showing details of deposit works, amount advanced, number of works completed, amount pending for adjustment etc.

Alappuzha Municipality, in the years 2013-14 to 2015-16, deposited in advance an amount of ₹468.50 lakh to KSEB for line extension, LED street light (12 works) and ₹14.55 lakh to KWA for pipe line extension and water connections (3 works). We observed that though huge amounts were deposited with KSEB, the details of it were not recorded in a Deposit register as stipulated in the PWD manual.

Chengannur Municipality in the year 2015-16 deposited in advance an amount of ₹5.68 lakh to KSEB for seven works and in the year 2014-15 an amount of ₹2.54 lakh to KWA for one work. The works had not been completed so far (December 2016). We observed that the details of the amounts deposited with KSEB, were not recorded in a Deposit register as stipulated in the PWD manual.

As proper records were not maintained by the above Municipalities, the exact amount pending adjustment could not be ascertained and excess payment, if any, made to the executing agencies could not be ruled out.

1.5.4 Non maintenance of Advance Register

The Kerala Municipal Rules, 1965 and various Government Orders issued from time to time stipulate maintenance of Advance Registers in ULBs for watching

payments and adjustment of advances paid to conveners, contractors, accredited agencies, implementing officers etc. The register was not maintained in any of the test checked Municipalities.

1.5.5 Non-disposal of unserviceable vehicles

When the vehicles become unserviceable/obsolete and cannot be put to use any more, they have to be disposed of without delay to fetch maximum value and to avoid risk of storage and security. We noticed laxity in prompt disposal of unserviceable vehicles.

In Alappuzha Municipality, 29 out of the 44 vehicles, in Cherthala Municipality, four out of 10 vehicles and in Kayamkulam Municipality, seven out of 11 vehicles were unserviceable. The date from which these vehicles became unserviceable was not available in the records produced to audit.

1.6 Lapses in making deductions from work bills

(a) Government, vide notification dated 3 September 2014 promulgated an ordinance amending the Kerala Value Added Tax Act, 2003. According to the amendment of Section 8 (sub clause ii) of the Act, existing three *per cent* Value Added Tax (VAT) had been enhanced to four *per cent*. However, on a scrutiny of payments registers, it was noticed that tax recovered was not at the enhanced rate of four *per cent* in four Municipalities (Kayamkulam, Alappuzha, Cherthala and Chengannur) out of six Municipalities test checked. This had resulted in short levy of VAT amounting to ₹7.56 lakh.

(b) Statutory deductions such as VAT, Income Tax (IT), Kerala Construction Workers Welfare Fund (KCWWF) etc., were to be deducted from the total value of work done by the Contractors. Test check of files related to road work of Kayamkulam Municipality revealed that the above deductions were made on the net value of work after deducting cost of bitumen used in the work, which resulted in short deduction of ₹0.23 lakh towards VAT, IT, KCWWF in three cases.

(c) Test check of files related to road work of Mavelikkara Municipality, revealed that the cost of ₹0.89 lakh for 1805.10 kg bitumen supplied to the contractor on 8 January 2014 for the work “Re-tarring of KSRTC Bus stand road” was not recovered from the contractor’s final payment.

1.7 Conclusion

The review of internal control system in Engineering wing in ULBs revealed that the control system was very weak and inadequate. Rules, Regulations and orders of Government were not complied with properly.

The matter was referred to Government in January 2017; reply had not been received (March 2017).