

**CHAPTER – I**  
**Profile of Urban Local Bodies**



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### Profile of Urban Local Bodies

#### 1.1 Introduction

Under Article 243W of the Constitution of India, the State Government may, by law, endow the municipalities with such powers and authority as may be necessary to enable them to function as institutions of Self Government and such law may contain provisions for devolution of powers and responsibilities upon municipalities.

The 74<sup>th</sup> Amendment to the Constitution (1992) was enacted to decentralize powers and functions to the Urban Local Bodies (ULBs) and envisaged a three tier system (a) Nagar Panchayats (b) Municipal Councils and (c) Municipal Corporations. Under the said amendment, the 12<sup>th</sup> Schedule was incorporated in the Constitution whereby 18 functions were to be transferred to the ULBs.

Though the Government of Jammu and Kashmir has not adopted the 74<sup>th</sup> Amendment as it is, it enacted the Jammu and Kashmir Municipal Corporation Act, 2000 and Jammu and Kashmir Municipal Act, 2000. The aforesaid two Acts created three tiers of ULBs viz; Municipal Corporations, Municipal Councils and Municipal Committees with powers, functions, resources and responsibilities for making them viable and vibrant local Self-Government institutions.

The term of the elected representatives of the ULBs in the State expired in March 2010 and no fresh elections had been held as of December 2015.

#### 1.2 Organizational structure

As per the J&K Municipal Corporation Act, 2000 and J&K Municipal Act, 2000, Municipal Corporations are formed in a city having population of more than four lakh, Municipal Councils for medium town and Municipal Committee for small town. At present, there are 80 ULBs which include two Municipal Corporations (one each at Jammu and Srinagar), six Municipal Councils<sup>1</sup> and 72 Municipal Committees<sup>2</sup> as detailed in *Appendix-I*.

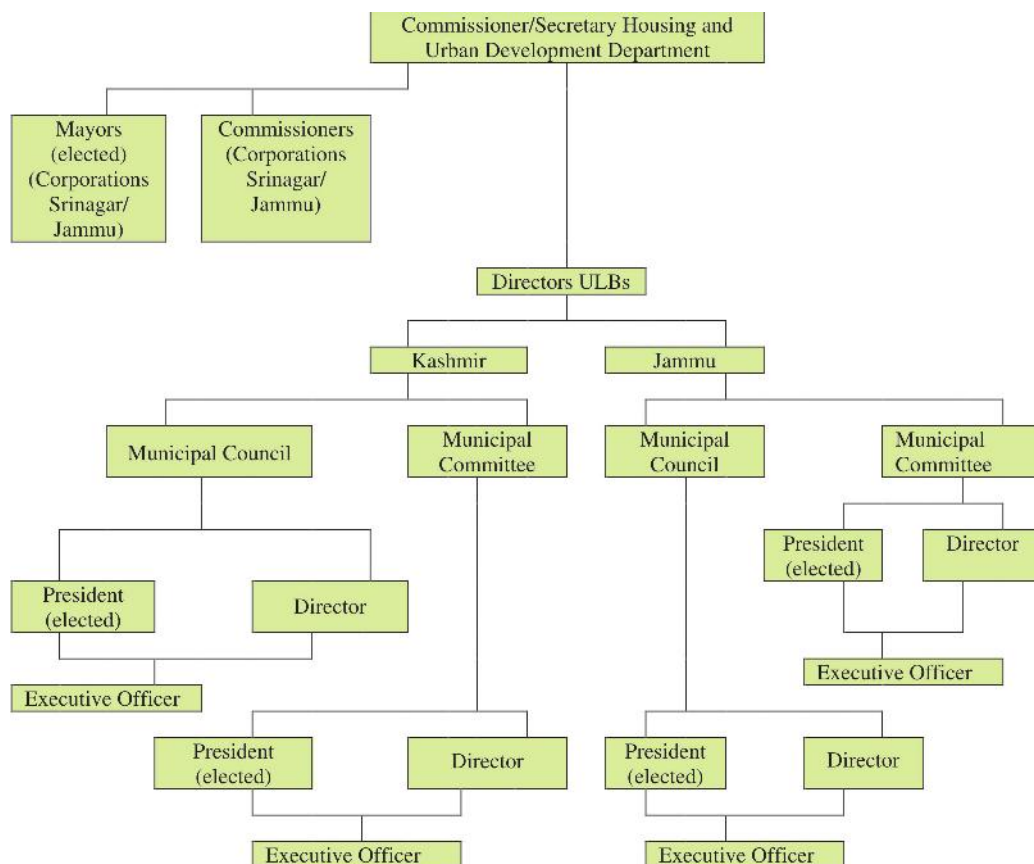
The overall administrative control of the ULBs vests with Secretary, Housing and Urban Development Department (HUDD) at Government level. The organizational structure is as follows:

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<sup>1</sup> Udampur, Kathua, Poonch, Anantnag, Sopore and Baramulla

<sup>2</sup> Two ULBs of Tangmarg and Pahalgam were de-notified (May 2015) by the Government but are still operating as per a stay order of the court over the de-notification orders

**Chart - I**



### 1.3 Powers and functions

The State Government, under the provisions of the J&K Municipal Corporation Act, 2000 and J&K Municipal Act, 2000, notified (April 2013) 18 mandatory functions and powers (as detailed in *Appendix-II*) to ULBs which are similar to those included in the 12<sup>th</sup> Schedule of the Constitution of India. Out of these 18 functions, only eight<sup>3</sup> functions were carried out by the ULBs as of December 2015.

In order to oversee the process of transfer of functions, functionaries and funds, a committee, headed by the Chief Secretary of the Jammu and Kashmir Government, was constituted (April 2013) by the State Government. The committee had not submitted its report. As a result, transfer of remaining ten functions to ULBs was awaited (December 2015).

<sup>3</sup> (i) Public Health Sanitation Conservancy and Solid Waste Management (ii) Cattle Ponds and prevention of cruelty to animals (iii) Vital Statistics (iv) Regulation of slaughter houses and tanneries (v) Slum improvement and up gradation (vi) Burials and burial grounds, cremations and cremations grounds and electric crematoriums (vii) Public Amenities including street lighting, parking lots, bus stops and public convenience (partly) (viii) Regulation of land use and construction of building (partly).

#### 1.4 Accounting arrangement

Government of India (GoI) along with the Comptroller and Auditor General of India (CAG) took an initiative to develop a model 'National Municipal Accounting Manual' (NMAM) which State Governments could adopt to their specific requirements. Accordingly, Jammu and Kashmir Government prepared the J&K Municipal Accounting Manual, 2011 which *inter alia* provides for preparation of annual financial statements viz. Receipt and Payment Account and Income and Expenditure Statement on the transactions of ULB and a balance sheet depicting the status of assets and liabilities of the ULB at the end of the financial year. However, the manual was not fully adopted by all the ULBs and hence not fully implemented. Although, Srinagar Municipal Corporation (SMC) and Jammu Municipal Corporation (JMC) had prepared annual accounts on accrual basis, yet primary records were being maintained on single entry system by these corporations. Other ULBs, except Municipal Council Kathua, had not prepared annual accounts.

Two Examiners/ Chief Accounts Officers, one each at Jammu and Srinagar, functioning under the control of Director, Local Fund, Audit and Pensions, (LFA&P) compile the monthly accounts rendered by the ULBs.

#### 1.5 Audit arrangement

Section 161 of J&K Municipal Corporation Act, 2000 and Section 256 of J&K Municipal Act, 2000 provides for audit of ULBs by a separate and independent audit agency under the control of a Director. The Director (LFA&P) was authorised (October 2012) by the State Government to conduct audit of the ULBs and PRIs. The State Government also entrusted (October 2012) the audit to the CAG of India under Section 20(1) of CAG's (DPC) Act, 1971 in respect of accounts of all the three tiers of PRIs and all categories of ULBs together with providing suitable Technical Guidance and Supervision (TGS) to the Director LFA&P or any other such designated statutory agency for the purpose of strengthening public financial management and accountability in PRIs/ ULBs.

The entrustment of audit *inter alia* authorizes CAG to conduct test-check of the accounts, comment thereon, supplement the report of the statutory auditor and communicate results thereof to the ULB/ PRI concerned and the State Government. The entrustment of audit also authorises the CAG to report results of audit to the State Legislature at his discretion.

As per the accepted recommendations (July 2006) of the sixth report of the Second Administrative Reforms Commission of the GoI on Local Bodies, the arrangement between the CAG and the State Governments with regard to providing TGS over maintenance of accounts and audit of ULBs and PRIs was to be institutionalized by making provisions in the State Laws governing local bodies. Although the State Government entrusted audit of PRIs and ULBs to the

CAG, yet the amendments to J&K Municipal Corporation Act, 2000 and Jammu and Kashmir Municipal Act, 2000 had not been made by the State Government (December 2015).

### 1.6 State Finance Commission recommendations

The State Finance Commission in its report (January 2004) had suggested 69 administrative and finance related recommendations for consideration by the Government. Records showed that 33 recommendations were implemented, seven were partly implemented and five were not accepted. Further, 21 recommendations were under examination by the Department, one was submitted to the Government and no action was taken in respect of two recommendations (February 2016).

The State Government enacted (April 2011) the Jammu and Kashmir State Finance Commission for Panchayats and Municipalities Act 2011. As per the Act, the State Government, at the commencement of the Act and thereafter at the expiration of every fifth year, was required to constitute a State Finance Commission for Panchayats and Municipalities to review the financial position of Panchayats and Municipalities and to exercise the powers conferred upon and to perform the functions assigned to it under the Act. The Commission had not been constituted so far (December 2015) despite lapse of almost four years.

### 1.7 Resources of ULBs

The finances of the ULBs comprise receipts from own sources, grants and assistance from the GoI, State Government etc. The own revenue sources of ULBs include tax and non-tax revenue. The non-tax revenue comprises mainly rental income from municipal properties, fees and user charges. The position of receipt of funds by ULBs in the State during the period 2011-15 furnished by Director (Finance), Housing and Urban Development Department (H&UDD) was as follows:

**Table-1**  
**Resources of ULBs**

(₹ in crore)

Year	Funds released to ULBs			Own re-sources	Total Availability
	Plan	Non-Plan	Total		
2011-12	66.05	289.28	355.33	57.29	412.62
2012-13	60.85	306.45	367.30	64.84	432.14
2013-14	57.10	306.45	363.55	68.78	432.33
2014-15	60.15	514.68	574.83	56.75	631.58
<b>Total</b>	<b>244.15</b>	<b>1416.86</b>	<b>1661.01</b>	<b>247.66</b>	<b>1908.67</b>

As is evident from above table, the funds released under Non-Plan had increased by 78 per cent during the period 2011-15 from ₹289.28 crore in 2011-12 to ₹514.68 crore in 2014-15. The generation of own resources by the ULBs had also

shown an increasing trend during the same period except for the year 2014-15 during which it declined by 17 per cent.

Further, 85 per cent funds were allocated under Non-Plan and 15 per cent under Plan during the period 2011-15. This clearly indicates that adequate attention had not been given towards developmental activities.

### 1.7.1 Expenditure out of resources

The Administrative Department had not maintained any data of expenditure incurred by the ULBs. However, the position of receipt and expenditure for 2012-15, as communicated by Director LFA&P, who is vested with the responsibility of compilation/consolidation of monthly accounts of ULBs, was as under:

**Table-2**  
**Expenditure out of Resources**

(₹ in crore)						
Year	Opening balance	Own resource	Grant-in-aid and others	Total	Expenditure	Closing balance
2012-13	152.44	53.78	285.59	491.81	374.37	117.44
2013-14	152.17*	63.68	334.57	550.42	413.87	136.55
2014-15	137.47*	103.56	421.75	662.78	441.46	221.32

\*Unexplained variation

Audit noticed that the figures of receipts under various heads for the period 2012-15 furnished by the Director LFA&P were at variance with the figures communicated by the Administrative Department.

On being pointed out, it was stated (January 2016) by the Director LFA&P that the variation is due to the fact that the figures are updated on an ongoing basis as and when the accounts for the earlier years are submitted by the ULBs. In absence of complete information available with the Director, LFA&P and Administrative Department the correct financial position of the ULBs could not be ascertained in audit.

### 1.7.2 Under utilisation of funds

The ULBs had not been able to utilise funds fully during 2012-15 which resulted in piling up of unspent balance which accumulated from ₹117.44 lakh ending March 2013 to ₹221.32 lakh ending March 2015 which constituted an increase of 88 per cent.

### 1.7.3 Non-refund of unspent funds of ₹1.20 crore

During the period between July 2011 and August 2014, five ULBs<sup>4</sup> were de-notified by the Government but the unspent balance of ₹120.02 lakh

<sup>4</sup> Shangus, Qoimoh, Ashmuji, Arwani and Mohmadpora

(MC Qoimoh: ₹65.50 lakh; MC Shangus: ₹8.04 lakh; MC Mohmadpora: ₹27.70 lakh; MC Ashmuji: ₹18.69 lakh and MC Arwani: ₹0.09 lakh) lying in their accounts had not been refunded to the Government.

#### 1.7.4 Non-submission of accounts by ULBs

The ULBs were required to furnish monthly accounts to the Director, LFA&P for examination, compilation and consolidation for its publication in the Government Gazette. Records showed that 732 monthly accounts pertaining to 44 ULBs had not been furnished to the Director, LFA&P and remained pending for 01 to 111 months during January 2006 to March 2015 as detailed in *Appendix-III*.

### 1.8 13<sup>th</sup> Finance Commission award

The position of funds allocated and released by the GoI under the 13<sup>th</sup> Finance Commission for ULBs during the years 2010-11 to 2014-15 was as follows:

**Table-3**  
**Funding Status under 13<sup>th</sup> Finance Commission**

(₹ in crore)

Year	General Basic Grant (GBG)			General Performance Grant (GPG)		
	Allocation of funds	Funds released	Funds not released	Allocation of funds	Funds released	Funds not released
2010-11	19.00	18.79	0.21	0.00	0.00	0.00
2011-12	22.05	11.90	10.15	7.53	1.46	6.07
2012-13	25.77	0.00	25.77	17.68	2.75	14.93
2013-14	30.54	0.00	30.54	20.86	0.00	20.86
2014-15	36.14	0.00	36.14	24.61	0.00	24.61
<b>Total</b>	<b>133.50</b>	<b>30.69</b>	<b>102.81</b>	<b>70.68</b>	<b>4.21</b>	<b>66.47</b>

(Source: Director Finance H&UDD)

#### 1.8.1 Loss of financial assistance ₹169.28 crore due to non holding of Municipal elections

Against the sanctioned grant of ₹204.18 crore for the period 2010-15, (GBG: ₹133.50 crore and GPG: ₹70.68 crore) under 13<sup>th</sup> Finance Commission for ULBs, funds amounting to ₹34.90 crore (GBG: ₹30.69 crore and GPG: ₹4.21 crore) were released by GoI during the period 2010-13. No funds were released during 2013-14 and 2014-15 due to not conducting elections to the ULBs after 2010. As a result State Government lost the financial assistance of ₹169.28 crore which resulted in not taking up of developmental activities envisaged under the scheme.

#### 1.8.2 Furnishing of UCs under the 13<sup>th</sup> Finance Commission Award

As per the standard procedure, utilization certificates (UCs) are to be furnished by the implementing departments to the grants sanctioning authority against funds



received under various schemes/ programme. The UCs should indicate the funds received, funds utilized and the unspent balance, if any lying with them.

Audit noticed that out of ₹34.90 crore released by GoI during 2010-13 under 13<sup>th</sup> Finance Commission ₹4.56 crore had remained unutilized with SMC at the end of March 2015. However as per information made available by Administrative Department these funds had been fully utilized. This resulted in furnishing of incorrect UCs to the grants sanctioning authority.

### 1.9 Outstanding audit paras/ Objection Book items

The position of audit paras outstanding in the books of Director, LFA&P on account of audit conducted by his office as of 31<sup>st</sup> March 2015 was as under:

**Table-4**

Name of the Division	Outstanding paras (1.4.2014)	Additions (2014-15)	Clearance (2014-15)	Outstanding paras (31.3.15)
Kashmir	1465	338	83	1720
Jammu	752	303	-	1055
<b>Total</b>	<b>2217</b>	<b>641</b>	<b>83</b>	<b>2775</b>

Out of 2,217 audit paras outstanding as on 1<sup>st</sup> April 2014, 83 paras had been settled during the year indicating inadequate action by the concerned ULBs for settlement of the outstanding paras. No audit para pertaining to ULBs of Jammu division had been settled during the period 2014-15. No serious efforts were made by the ULBs to furnish replies/ documents for settlement of paras held under objection.

The position of outstanding Audit Inspection Reports and audit paras in the books of Accountant General (AG) Audit as of 31<sup>st</sup> March 2015 was as under.

**Table-5**

Outstanding as on 01.04.2014		Additions (2014-15)		Total		Clearance (2014-15)		Outstanding (31.03.2015)	
AIRs	Paras	AIRs	Paras	AIRs	Paras	AIRs	Paras	AIRs	Paras
16	196	45	159	61	355	01	54	60	301

As can be seen from above table 301 audit paras of 60 AIRs out of 355 audit paras of 61 AIRs were outstanding as of March 2015 in the books of the AG (Audit).

### 1.10 Issue of Annual Report

An Annual Report on the audit of Municipal Corporations and other local bodies is required to be prepared by the Director, LFA&P for its subsequent publication in the Government Gazette. The Report, though prepared had not been published for want of suggestions and comments of the Administrative Department.

### **1.11 Internal control mechanism**

Internal control mechanism is an integral function of an organization which helps it to govern its activities effectively. It is intended to provide reasonable assurance for proper enforcement of Acts, Rules and Bye-laws and minimize the risk of errors and irregularities while discharging its duties. J&K Municipal Accounting Manual 2011 also envisages for creation of an internal audit wing for efficient conduct of business in the ULBs. Test-check of records of selected ULBs<sup>5</sup> by the AG (Audit) revealed that internal control mechanism was very weak in the ULBs as neither audit wing nor monitoring wings existed in any ULB.

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<sup>5</sup> Srinagar Municipal Corporation, Municipal Council Udhampur and Municipal Committees at Rajouri, Kfour, Reasi, Batote, Budgam, Pulwama, Tangmarg and Kulgam