

Chapter I

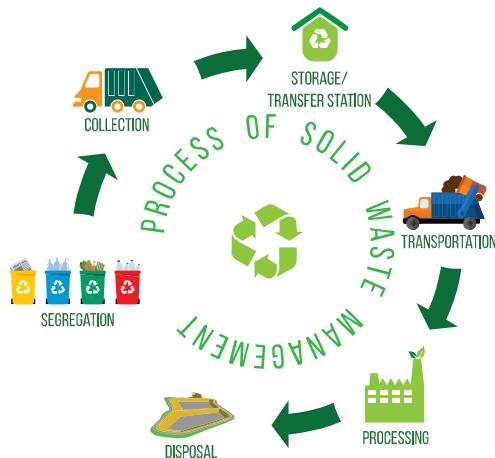
Introduction

1.1 Definition and classification of waste

Wastes are materials that are not prime products (that is products produced for the market) for which the generator has no further use in terms of his/her own purposes of production, transformation or consumption, and of which he/she wants to dispose¹. Wastes are generally classified into municipal solid waste (MSW), bio-medical waste (BMW), construction and demolition (C&D) waste, e-waste, plastic waste, slaughterhouse waste, industrial waste and hazardous waste by virtue of their nature. They are also classified as biodegradable, non-biodegradable, combustible, dry and inert based on their characteristics. Municipal Solid Waste Management (MSWM) in urban areas has emerged as one of the biggest challenges that our country faces today. The situation is aggravated by rapid urbanisation. Inadequate management of waste has significant negative externalities in terms of public health and environmental outcomes. Besides, it has an adverse impact on the aesthetic appearance of the surroundings.

1.2 Process of waste management

The process of waste management is depicted below:



1.3 Regulatory framework governing management of waste

The Central Government, has the power to take measures necessary for protecting and improving the quality of the environment, subject to the provisions of the Environment (Protection) Act, 1986. Judicial interventions² have had a significant impact on Solid Waste Management (SWM).

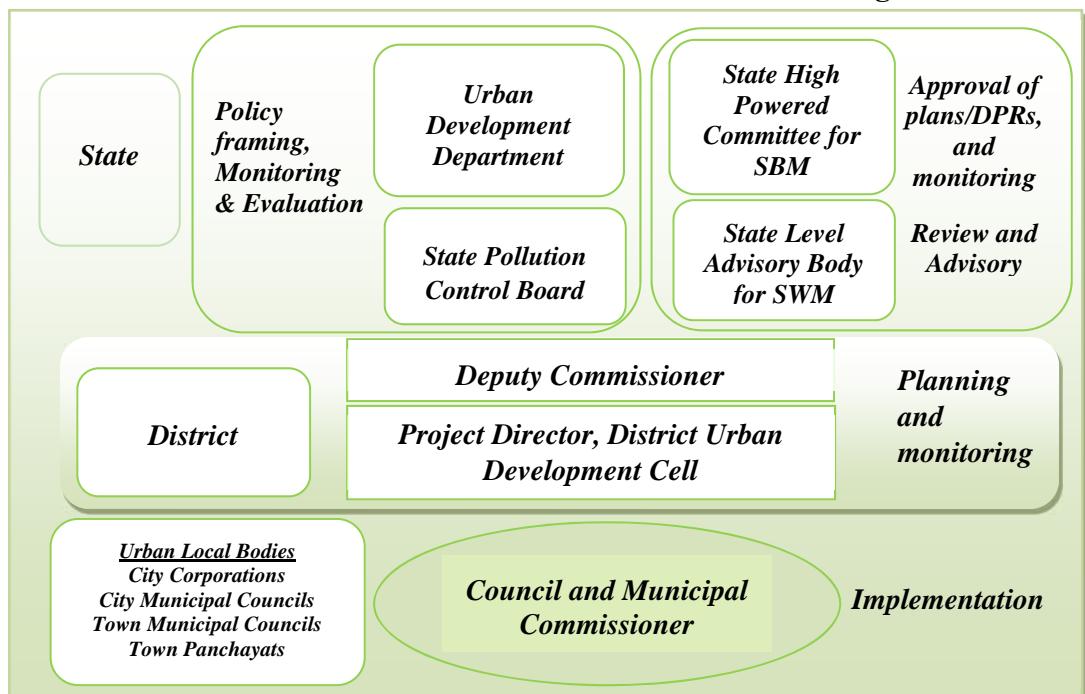
¹ According to United Nations Statistics Division (UNSD).

² (a) Municipal Council, Ratlam vs. Shri Vardichand and others (1980) – Supreme Court opined that lack of finances cannot be the reasons for not discharging statutory duties.
(b) B.L. Wadhera vs. Union of India (1994) – Supreme Court issued directives to Delhi Municipal Corporation regarding the collection, transportation and disposal of garbage and hospital waste.
(c) Ms. Almitra Patel vs. Union of India (1996) - Supreme Court constituted a committee to look into SWM in Class I cities i.e. cities with a population of over one lakh.

The Ministry of Environment, Forests and Climate Change (MoEFCC) notified (September 2000) the Municipal Solid Waste (Management and Handling) Rules, 2000 (MSW Rules, 2000). Subsequently, MoEFCC amended the MSW Rules, 2000 and introduced rules for management of biomedical, plastic, hazardous, C&D and e-waste. The regulatory framework governing the management of different types of waste is indicated in **Appendix 1.1**.

The Solid Waste Management Rules, 2016 superseded (April 2016) MSW Rules, 2000. **Chart 1.1** depicts the role of various authorities at all levels in planning, execution and monitoring of MSW management.

Chart 1.1: Role of various authorities in MSW management



Source: SWM Rules and Manuals

The organisational structure with respect to functioning of Urban Local Bodies (ULBs) in the State is given in **Appendix 1.2**.

1.4 Status of devolution in urban governance

The 74th Constitutional Amendment Act, 1992 made provisions for the establishment of ULBs as the third tier of governance in urban areas. The amendment sought to empower the ULBs to perform functions and implement schemes in relation to 18 subjects specified in the 12th Schedule, which *inter alia* included urban planning, regulation of land use, public health, sanitation, conservancy and solid waste management. It also made provisions for enabling ULBs by acceding them power to impose taxes, duties, tolls and fees and prescribing assignment of resources by the State Government to the ULBs. It prescribed that all Municipalities would be empowered with such powers and responsibilities as may be necessary to enable them to function as effective institutions of self-government. Each state was expected to enact a legislation to implement the amendment.

The State Government amended (i) Karnataka Town and Country Planning Act, 1961, (ii) Karnataka Municipalities Act, 1964 (KM Act, 1964) and

(iii) Karnataka Municipal Corporations Act, 1976 (KMC Act, 1976), in order to give effect to the above amendment.

Out of the 18 functions, all except Fire Services have been transferred to ULBs. Further, of the 17 functions transferred, six functions which included Urban poverty alleviation, slum improvement and upgradation were assigned to ULBs as discretionary functions and not as obligatory functions.

The ULBs are empowered to levy and collect various taxes and non-tax revenues such as property tax, advertisement tax, trade license, town planning and building fee, various cess, etc. In addition to generating their own revenue, ULBs receive grants from the Central and State Governments. As per the recommendations of the Third State Finance Commission (SFC), the ULBs were to receive 10 *per cent* of Non-Loan Net Own Revenue Receipts (including salary expenditure) and the Panchayat Raj Institutions (PRIs) were to receive 23 *per cent*. However, the State Government in partial modification of this recommendation took a decision to devolve 32 *per cent* of Non-Loan Net Own Revenue Receipts to PRIs and 8.5 *per cent* to 10 *per cent* to ULBs as given in **Table 1.1**.

Table 1.1: Status of devolution of funds to ULBs and PRIs

| Year | Percentage to be devolved | | Percentage actually devolved | |
|---------|---------------------------|------|------------------------------|------|
| | ULBs | PRIs | ULBs | PRIs |
| 2011-12 | 8.5 | 32 | 8.59 | 30 |
| 2012-13 | 9.0 | 32 | 6.96 | 32 |
| 2013-14 | 9.5 | 32 | 7.53 | 31 |
| 2014-15 | 10 | 32 | 8.02 | 33 |
| 2015-16 | 10 | 32 | 7.51 | 33 |
| 2016-17 | 10 | 32 | 6.41 | 33 |

Source: Finance Accounts

It is evident from the table above that the actual amount devolved to ULBs was less than that prescribed in all the years except 2011-12. With effect from the 10th Central Finance Commission (CFC) period, the Central Government made recommendations for fiscal transfers to urban and rural local bodies. Subsequent FCs have enhanced the quantum of fiscal transfers.

Further, as per the Acts governing ULBs, the State Government has the powers to regulate classification, method of recruitment, conditions of service, pay and allowances, discipline and conduct of the staff and officers of ULBs. The Karnataka Municipalities (Recruitment of Officers and Employees) Rules, 2010 and the Karnataka Municipal Corporations (Common Recruitment of Officers and Employees) Rules, 2010, list out the Appointing Authorities for various categories of posts as indicated below:

- Group A – State Government
- Group B and C – Director of Municipal Administration (DMA) or Officer empowered by Government
- Group D – Deputy Commissioner (DC) for City Municipal Councils (CMCs), Town Municipal Councils (TMCs) and Town Panchayats (TPs) and Municipal Commissioner for City Corporations (CCs).

Thus, the authority to appoint/depute personnel to ULBs vests mainly with the State Government.

1.5 Role of urban local bodies in solid waste management

SWM was one of the eighteen subjects devolved to the ULBs under Article 243 (12th Schedule) of the Constitution of India. Section 87 of the KM Act, 1964 and Section 58 of the KMC Act, 1976 mandate management of solid waste as an obligatory function of the ULBs. The 13th and 14th FCs identified SWM as one of the core sectors besides water supply, sewerage and storm water drainage.