

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 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 did not take 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 transferred 17 functions mandated under KM Act to ULBs and the function relating to fire service was yet to be transferred. Reasons for non-transfer of balance functions were 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 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 539 posts, only 187 personnel were deployed¹ (September 2017) indicating lack of efforts on the part of the Government to deploy personnel against the remaining posts.

Government of Kerala stated (March 2018) that since it was decided to fill up the vacancies in LSGIs through direct recruitment, the deployment of personnel from other departments was temporarily stopped.

The reply of the GoK is not acceptable as 352 out of 539 posts are still vacant which would adversely affect efficient discharge of transferred functions.

1.2 Profile of LSGIs

As on 1 November 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.

1.3 Organisational set up

Local Self-Government Institutions constituted in rural and urban areas are referred to as PRIs and ULBs respectively. In the three-tier² 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 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

¹ Details of Agriculture and Irrigation Departments were not made available to Audit.

² Grama Panchayat, Block Panchayat and District Panchayat.

President, Vice-President and Chairpersons of the Standing Committees. Similarly, Councilors 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 Committees³ (SC) analyse issues and proposals before these are considered for taking a decision by the Panchayat Committees/Municipal Councils. There are four SCs for each Grama Panchayat and Block Panchayat, five for each District Panchayat, 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 Vigilance Mechanism

1.4.1 Ombudsman for LSGIs

As envisaged in KPR Act and KM Act, Government set up an Ombudsman for LSGIs in the State in the year 2001. The Ombudsman is a high powered quasi judicial authority which can conduct investigation and enquiries in respect of charges of any action involving corruption, maladministration or irregularities in discharge of administrative function by LSGIs, officials and elected representatives of the LSGIs. Ombudsman could even register cases *suo motu* if instances of the above kind were noticed. During the period 2016-17, out of 2,638 cases (including 1,245 old cases), 1,917 cases (73 per cent) were disposed of by the Ombudsman.

1.4.2 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 in 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 2010 to 2017, 3,084 cases (appeal & revision) were filed before the Tribunal, out of which 1,640 cases were pending for disposal. Of the pending cases, 1,322 cases related to the years 2013 to 2016 (March 2017).

The matter was brought to the notice of the Government (January 2018). Reply was not received (March 2018).

³ Standing committee consist of members elected by the elected members of the LSGIs from among themselves.