

**Chapter-4**  
**Devolution of Functions and  
Institutional Mechanism for  
Empowerment of Urban Local Bodies**



## Chapter-4

### Devolution of Functions and Institutional Mechanism for Empowerment of Urban Local Bodies

#### 4.1 Devolution in Real Terms

For meaningful and real devolution of the functions, local governments should be effectively empowered to frame regulations, take decisions and enforce their will within their legitimate sphere of action. Such empowerment should be clearly and unambiguously defined by State legislature. The staff in the local Governments also needs to be fully and permanently under local Government control. Finally, fiscal devolution to the local Governments must meet two standards: the local government must be able to effectively fulfil its obligation and there must be both opportunity and incentive to mobilise local resources through local taxes, cess and user fees, subject to norms of financial propriety and accountability. Equally important is the building of capacity of local governments to discharge their functions effectively.

#### 4.2 Actual status of devolution of functions

Article 243W of the Constitution of India provides that the legislature of the State may, by law, endow the municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-governance and such law may contain provisions for devolution of powers and responsibilities upon municipalities subject to such conditions as may be specified therein with respect to preparation of plans and performance of functions including those matters listed in 12<sup>th</sup> schedule.

The 74<sup>th</sup> CAA sought to empower the ULBs to perform functions and implement schemes in relation to 18 subjects specified in the 12<sup>th</sup> Schedule.

The devolution of functions/activities by the State Government to the ULBs in the State is shown in **Table-4.1**.

**Table-4.1: Statement showing the actual status of implementation of functions**

Sl. No.	Functions	Activities	Authorities discharging the functions
1	Cattle pounds, prevention of cruelty to animals	Catching and keeping strays	Department of Animal Husbandry and Dairying, ULBs
		Sterilisation and anti-rabies	
		Ensuring animal safety	
2	Vital statistics including birth and death registration	Coordinating with hospitals/crematoriums <i>etc.</i> for obtaining information	Department of Health and Family Welfare, ULBs in concerned district
		Maintaining and updating database	
3	Regulation of slaughter houses and tanneries	Ensuring quality of animals and meat	ULBs, Food Safety Department (No Objection Certificate)
		Disposal of waste	

Sl. No.	Functions	Activities	Authorities discharging the functions
		Operation and Maintenance (O&M) of slaughter houses	ULBs
4	Public amenities including street lighting, parking lots, bus stops and public conveniences	Installation and maintenance of street lights	ULBs in concerned district, Development Authority in concerned district
		Deciding and operating bus routes	Transport Department
		Creation and maintenance of parking lots	Transport Department, ULBs
		Creation and maintenance of public toilets	ULBs
5	Slum improvement and upgradation	Identifying beneficiaries	ULBs, District Administration
		Affordable Housing	ULBs, Mussoorie Dehradun Development Authority (MDDA)
		Upgradation	
6	Burials and burial grounds, cremations, cremation grounds	Construction and O&M of crematoriums and burial grounds and electric crematoriums.	ULBs, Irrigation Department, Private trust, Waqf Board
7	Planning for economic and social development	Program implementation for economic activities	National Urban Livelihood Mission (NULM) and ULBs
		Policies for social development	Social welfare and ULBs
8	Provision of urban amenities and facilities such as parks, gardens and playgrounds	Creation of parks and gardens	Development Authority in concerned district, ULBs
		O&M	
9	Roads and Bridges	Construction and maintenance of roads	National Highways Authority of India (NHAI) Public Works Department (PWD), Municipal Corporation and ULBs in the concerned districts
		Construction and maintenance of bridges, drains, flyovers and footpaths	NHAI, PWD, Irrigation Department and ULBs
10	Public health, sanitation conservancy and solid waste management	Maintaining hospitals and dispensaries	Public Health and Family Welfare Department
		Immunisation/Vaccination	
		Registration of births and deaths	ULBs in concerned District
		Cleaning and disinfection of localities affected by infectious disease	Department of Health and Family welfare, ULBs
		Solid waste management	ULBs
		Control and supervision of public markets	ULBs and Cantonment Board
11	Urban forestry, protection of the environment and promotion of ecological aspects	Afforestation	Compensatory Afforestation Management and Planning Authority (CAMPA), Forest Department
		Greenification	
		Awareness drives	National Environment Awareness Campaign (NEAC) sponsored by Forest Department, Non-Governmental Organizations (NGOs), Community-Based Organizations (CBOs)
		Protection of the environment and promotion of ecological aspects	
		Maintenance of natural resources like water bodies <i>etc.</i>	

Sl. No.	Functions	Activities	Authorities discharging the functions
12	Safeguarding the interests of weaker Sections of society, including the handicapped and mentally retarded	Identifying beneficiaries	Social Welfare Department & ULBs
		Providing tools/benefits such as tricycles	
		Housing programs	ULBs, Development Authority of concerned district
		Scholarships	Social Welfare Department
13	Urban poverty alleviation	Identifying beneficiaries	National Urban Livelihoods Mission (NULM), ULBs
		Livelihood and employment	Ministry of Housing and Urban Affairs (MoHUA)
		Street vendors	ULBs
14	Promotion of cultural, educational and aesthetic aspects.	Schools and Education	Department of School Education
		Fairs and festivals	ULBs, Project Implementation Unit
		Cultural buildings/ institutions	Tourism Department
		Heritage	Tourism Department
		Public space beautification	ULBs, Tourism Department
15	Urban planning including town planning	Master Planning/Development Plans/Zonal Plans, Enforcing master planning regulations	UHUDA, MDDA, Haridwar-Roorkee Development Authority (HRDA), District Level Development Authority (DLDA) Udham Singh Nagar, DLDA Nainital and DLDA Champawat
		Enforcing building bye-laws and licenses	
		Group Housing and Development of Industrial areas	State Industrial Development Corporation of Uttarakhand Limited (SIDCUL), Public Private Partnership Cell (PPP Cell),
16	Regulation of land-use and construction of buildings	Regulating land use	Development authority of concerned district and Revenue Department
		Approving building plans/high rises	Development authority of concerned district
		Demolishing illegal buildings	Development authority of concerned district
17	Water supply for domestic, industrial and commercial purposes	Distribution of water	Peyjal Nigam and Jal Sansthan
		Providing connections	
		O&M	
		Collection of charges	
18	Fire services	Establishing and maintaining fire brigades	Uttarakhand Fire and Emergency Services Department
		Providing fire NOC/ approval certificate in respect of high rise buildings	Fire Department of concerned district and Development Authority

From the above table, it is evident that out of 18 functions, 14 functions have been devolved either fully or partially. However, four functions viz. Urban planning including town planning, Regulation of land use and construction of building, Water Supply and Fire services were yet to be devolved by the State Government. Further, audit observed that the State had not transferred the function and institution dealing with supply and maintenance of water (Uttarakhand Jal Sansthan) to the ULBs unlike its predecessor State i.e. Uttar Pradesh where Jal Sansthan had been transferred to the Municipal Corporations

in 2004. The transfer of function and institution relating to water supply would have increased people's participation and accountability of the executive.

After being pointed out, the Government did not furnish any reasons for lack of transfer of water supply and fire services to the ULBs. The Director, UDD on the other hand only stated (September 2022) the factual position in relation to four functions which had not been transferred.

### **4.3 Institutional mechanism for empowerment of Urban Local Bodies**

As discussed above, the State Government transferred 14 functions to the ULBs. The discharge of these functions can be effective only when appropriate institutions are established and adequately empowered. The statutory provisions and institutional mechanism which existed in the State of Uttarakhand *vis-à-vis* effectiveness of such institutional mechanism are discussed in succeeding paragraphs.

#### **4.3.1 State Election Commission**

Under Articles 243ZA (1) of 74<sup>th</sup> CAA the powers of the State Election Commission (SEC) include superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to municipalities. Under the provision of the 74<sup>th</sup> CAA, it is mandatory for the States to hold elections every five years or before expiration of a period of 6 months from the date of dissolution of the ULBs.

After the formation of the State of Uttarakhand on November 9, 2000, the SEC, Uttarakhand was constituted on July 30, 2001 under the provision of Article 243K of the Constitution of India. Under the provisions of Article 243K and 243ZA of the Constitution of India and as per provisions of Section 13B of Municipality Act, 1916 and Section 45 of the Municipal Corporation Act, 1959 of the State, the election of ULBs in Uttarakhand are conducted under the superintendence, direction and control of SEC, Uttarakhand. The electoral rolls are being prepared by the SEC and uploaded on the website.

Elections are not being held in three NPs *viz.* Badrinath, Kedarnath and Gangotri due to their status of temporary settlements. Local interim administration councils administer these three pilgrimage sites for a period of six months during the summers.

The powers of delimitation of wards, reservation of seats for the Councillors/Ward Members and rotation policy of seats for the posts of Mayor/President are vested with the State Government.

#### **4.3.2 Status of Elections**

As per Section 10 A of the Municipalities Act, 1916, every municipality shall, unless sooner dissolved under Section 39, continue for five years from the date appointed for its first meeting.

The State has been formed in the year 2000 and the first general elections of ULBs were conducted by SEC, Uttarakhand in 2003. The status of the elections held in the ULBs from the date of formation of the State upto 2019-20 is shown in the **Table-4.2**.

**Table-4.2: Status of Elections held in the State from the date of inception**

Year	Total No. of ULBs	No. of ULBs in which Election held	No. of ULBs in which Election not held	Due date of Election	Actual Date of Election	Delay	Reason for delay
2003	60	57	03*	March 2002	03 February 2003	Yes	Due to delay in delimitation and reservation by Govt.
2008	60	57	03*	14 February 2008	21 April 2008	Yes	Due to delay in delimitation by Govt.
2013	72	69	03*	04 May 2013	30 April 2013	No	-
2018	91	87	03+ 01**	03 May 2018	20 November 2018	Yes	Due to delay in delimitation and reservation by Govt.

Source: Information provided by State Election Commission.

\* NP Badrinath, NP Kedarnath, NP Gangotri where elections were not held.

\*\* NP Selaqui newly formed where the objections and suggestions from public were invited.

The above table indicates that elections have not been held due to the delay in the delimitation exercise by the State Government. Thus, the SEC is unable to conduct elections in time.

During the exit conference, the Director UDD stated that the observation regarding delimitation has been noted for appropriate action.

### **4.3.3 Reservation of Seats**

Article 243T stipulated reservation of seats for Schedule Castes/Schedule Tribes (SC/ST), women and Other Backward Classes (OBC) for direct election. Section 7 of Municipal Corporation Act, 1959 and Section 9 A of UP Municipalities Act, 1916 stipulates that in every municipality seats shall be reserved for SC, ST and OBC and the number of seats so reserved shall bear as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that municipality as the population of the SC in the Municipal area or of the ST in the Municipal area or of the OBC in the Municipal area bears to the total population of such area and such seats may be allotted by rotation to different wards in a municipality in such order as may be prescribed by rules provided that:

- a) The reservation for the backward classes shall not exceed 27 per cent, of the total number of seats;
- b) Not less than one-third of the total number of seats shall be reserved for the women belonging to the ST, the Scheduled Tribes or the Backward Classes, as the case may be;

- c) Not less than one-third of the total number of seats in a municipality including the number of seats reserved under sub-Section (3) shall be reserved for women and such seats may be allotted by rotation to different wards in a municipality in such order as may be prescribed.

The offices of Mayor/President of the NNs/NPPs and NPs shall be reserved and allotted for the SC, ST, OBC and Women, in the prescribed manner.

Audit observed that seats reserved for SC, ST, OBC and Women were as per prescribed norms and the State Government rotates the seats of Mayor/President as per reservation policy for each election.

#### ***4.3.4 Composition of Municipalities***

Article 243R stipulates the composition of Municipalities. Section 9 of UP Municipalities Act, 1916 and Section 6 of the Municipal Corporation Act, 1959 stipulate the composition of Municipalities (NN, NPP and NP). The NN comprises of Mayor, elected corporators/members, members nominated by State Government having special knowledge or experience in Municipal administration, members of the House of People and the State Legislative Assembly representing constituencies comprising the whole or part of city, members of the Council of the State and the State Legislative Council who are registered as electors in the city and Chairperson of the Committees, if any, if they are not members of the Corporation. The NPP and NP comprises of the President, elected councillors/members, the ex-officio members, comprising all members of the House of the People and the State Legislative Assembly representing constituencies which comprise wholly or partly the municipal area, the ex-officio members, comprising all members of the Council of State and the State Legislative Council who are registered as electors within the municipal area and nominated members, who shall be nominated by the State Government, by notification in the Official Gazette, from amongst persons having special knowledge or experience in municipal administration. The executive head of the NN is the Municipal Commissioner (MC) while Executive Officer (EO) is the executive head of NPP and NP.

#### ***4.3.5 Term of Municipality***

As per Section 10 A of the Municipalities Act, 1916, every municipality shall, unless sooner dissolved under Section 39, continue for a period of five years from the date appointed for its first meeting and no longer. The election to constitute a municipality shall be completed before expiry of its term as specified above or before the expiration of a period of six months from the date of dissolution.

#### ***4.3.6 Appointment of Municipal Commissioner/Executive Officer***

As per provision of Section 58 of Municipal Corporation Act, 1959, the State Government shall appoint a Municipal Commissioner provided that no person not already



in the service of State Government may be appointed as Municipal Commissioner unless his appointment has been approved by the State Public Service Commission. The Executive officer is also appointed by the State Government.

#### **4.3.7 Mayor/President**

The Mayor/President is the first person of the ULB. As per Section 6 of MC Act, 1959 and 43(1) of the Municipality Act, 1916 Mayor/President of the ULB shall be elected on the basis of adult suffrage by the electors in the municipal area and the provision of the Act and the rules framed thereunder in relation to election (including disputes relating to election and electoral offences) of a member shall, *mutatis mutandis*, apply in relation to election of the Mayor/President.

Section 15 of Municipal Corporation Act, 1959 and Section 46 of Municipality Act, 1916, provides that the term of office of the Mayor/President shall be co-terminus with the duration of the Municipality.

#### **4.3.8 Constitution and composition of Ward Committee**

Article 243S of the constitution provides for constitution of Wards Committees in all municipalities with a population of three lakh or more. Section 3 B of the Municipalities Act, 1916 and Section 6A of Municipal Corporation Act, 1959 provide for constitution of ward committee for each ward within the territorial area of a Municipal corporation/ Council having a population of three lakhs or more, which shall consist of 10 wards. The territorial area of a Ward Committee shall consist of the territorial area of the concerned ward. Each Ward Committee shall consist of:

- a) the member of the Municipal Council representing the ward;
- b) such other members not exceeding 10 as may be nominated by the Municipal Council, from amongst persons registered as electors within the territorial area of the concerned Ward Committee, office bearers of citizens welfare societies and representatives of NGOs, who have special knowledge or experience of municipal administration.

During audit of sampled units, it was noticed that only NN, Dehradun has a population of more than three lakh but the ward committee was not formed. This defeated the objective of facilitating community participation in local governance. The absence of the community participation would adversely impact prioritisation of development works, monitoring of execution of works, utilisation and maintenance of assets created *etc.*

During the exit conference, the Director, UDD stated that the observation has been noted and the Municipal Commissioner will be directed to take necessary action.

#### **4.3.9 District Planning Committee (DPC)**

Article 243ZD of the 74th CAA mandated the establishment of DPC. As per the provisions contained in Section 127 A of the Municipality Act, 1916, there shall be

constituted in every district a DPC to prepare a draft development proposal for the district as a whole which include the plans prepared by the Municipal Corporations, Municipal Councils and NPs in the district.

Audit observed that the plans were not received from ULBs for incorporation in the annual draft development plan during the period from 2015-16 to 2019-20. Thus, the draft development proposal was being prepared without incorporation of proposals from the ULBs. Further, as these functions are yet to be devolved to ULBs, they play no role either in Urban Planning, regulation of land use or in district planning where public participation and opinion matters.

Further, the election of the members of DPC was held in all the 13 districts by the SEC in the year 2014. The DPCs were framed in all the districts upto the year 2019. However, the election of the members of DPC was not held in the year 2020 due to spread of the Covid-19 Pandemic. The State Government vide letter<sup>1</sup> dated 22.06.2020 directed that in the absence of DPC, the district development proposals shall be submitted by District Magistrate and approved by In-Charge Minister of concerned district for implementation. The election of members of the DPC was yet to be conducted (December, 2021).

During the exit conference, the Director, UDD stated that the observation relating to DPC have been noted and would be forwarded to District Magistrate for taking necessary action. Further, ULBs would be directed to submit the proposals to DPC.

#### **4.3.10 State Finance Commission**

Article 243-I of the Constitution of India makes it mandatory for the State Government to constitute a Finance Commission within one year of the commencement of the 74<sup>th</sup> CAA and thereafter on expiry of every five years. The mandate of the State Finance Commission (SFC) is to review the financial position of the local bodies and to make recommendations to the Governor for devolution of funds. State Government through amendments in Municipal legislations has provided for constitution of SFC. On review of the functioning of SFC, Audit observed that there was delay in submission of Action Taken Report, non-acceptance of the SFC recommendations and non-implementation of the accepted recommendations by the State Government as detailed in **Tables-4.3 and Tables-4.4.**

**Table-4.3: Details regarding State Finance Commissions**

SFC Constitution (Order Which SFC)	SFC Report	SFC Action Taken	Recommendations	
			Made	Accepted
1 <sup>st</sup> 2001-2006 (1948/V.san.vibhag(1) dated 31.03.2001	1 <sup>st</sup>	-	-	-
2 <sup>nd</sup> 2006-2011 (617/XXVii(1)/2005 dated 30.04.2005	2 <sup>nd</sup>	-	-	-

<sup>1</sup> No 739/XII (1)/20-92(02)/2020.

SFC Constitution (Order Which SFC)	SFC Report	SFC Action Taken	Recommendations	
			Made	Accepted
3 <sup>rd</sup> 2011-2016 (799/XXVII(1)/2009 dated 02.12.2009)	3 <sup>rd</sup>	1 <sup>st</sup> & 2 <sup>nd</sup> SFCs Action taken reports	<u>1<sup>st</sup></u> 06 <u>2<sup>nd</sup></u> 10	06  10
4 <sup>th</sup> 2016-2021 (No 119/XXVII(1)/ 2015 dated 02.02.2015)	4 <sup>th</sup>	3 <sup>rd</sup> SFC Action taken report	19	19
5 <sup>th</sup> 2021-26 (780/XXVII(1)/2019 dated 04.11.2019)	5 <sup>th</sup>	4 <sup>th</sup> SFC Action taken report	10	10

**Table-4.4: Unimplemented Recommendations of 3<sup>rd</sup> SFC**

Recommendation of 3 <sup>rd</sup> SFC	Decision of Government	Follow up action
Profession tax be levied and assigned to ULBs in their respective jurisdiction	Cognizance taken	Compliance is pending.
Whenever in a master plan area there is a change of land use, ULBs should get the share of conversion charges	Cognizance taken Housing Department shall ensure compliance	No action has been taken so far.
There should be some institutional mechanism at the State level which periodically reviews the situation and advises the State Government in taking decisions regarding constitution of different levels of municipalities	Recommendation accepted	Institutional arrangement has not been made.
The State Government should set up a training and research institute in urban management. To begin with the institutional structure for training and research in urban management, could be housed in the Uttarakhand Academy of Administration as it has necessary infrastructure. Once the institute gets its own premises and infrastructure it could be shifted there.	Recommendation accepted	Training institute has not been established but the training activity has been undertaken by Uttarakhand Academy of Administration, Nainital.

During the exit conference the Director, UDD stated that Profession tax has not been levied by the State Government yet. As such, it could not be assigned to ULBs. The observation regarding periodical review for constitution of different level of municipalities has been noted and action would be taken accordingly. Regarding setting up of training institute, training is being imparted in Uttarakhand Academy of Administration Nainital. It has decided to set up State Institute of Urban Development at Nainital.

#### **4.4 Property Tax Board**

The 13<sup>th</sup> Finance Commission mandated that the State Governments must put in place a State level Property Tax Board, which will assist all Municipalities and Municipal Corporations in the State to put in place an independent and transparent procedure for assessing property tax. The Board shall or cause to enumerate all properties within the jurisdiction of the Municipalities and Corporations, shall review the present property tax system and make suggestions for a suitable basis for assessment and valuation of properties and shall make recommendations on modalities for periodic revisions. Further,

the findings, suggestions and recommendations of the Board will be communicated to the respective ULBs for necessary action.

Audit observed that the Property Tax Board was not constituted. Consequently, ULBs lacked technical guidance for assessment and revision of property tax. The 5<sup>th</sup> SFC also highlighted the sub optimal receipt of Property tax and worsening of the situation as a number of new properties which have come up in the most of the urban areas were not being taxed. The report also highlighted that there has been no worthwhile effort to widen the tax base and effective monitoring of collection.

During the exit conference the Director, UDD stated that the observation has been noted.

#### **4.5 Powers of the State Government over ULBs**

Audit observed that the State Government had overriding powers over ULBs which was against the spirit of the Constitutional Amendment Act. A few provisions are indicated in **Table-4.5**.

**Table-4.5: Statement showing the overriding powers of State Government over ULBs**

<b>Sl. No.</b>	<b>Subject</b>	<b>Provision</b>
<b>1</b>	<b>Power of State Government to dissolve the ULBs</b>	As per Section 538 of MC Act, 1959 and Section 30 of Municipalities Act, 1916, if at any time the State Government is satisfied that a Corporation/ Municipality persistently makes default in the performance of duties imposed upon it by or under this Act or any other law for the time being in force or exceeds or abuses more than once its powers, it may, after having given the municipality a reasonable opportunity to show cause why such order should not be made, by order, published with the reasons therefor in the Official Gazette, dissolve the ULBs.
<b>2</b>	<b>Power of State Government to suspend a resolution or decision taken by ULB</b>	As per Section 537 of MC Act, 1959 and Section 34 of Municipalities Act, 1916, if the State Government is of opinion that the execution of any resolution or order of the Corporation/ Municipality or of any other authority or of any committee or joint committee or sub-committee or of any officer or servant of the Corporation/Municipality or the doing of any act which is about to be done or is being done by or on behalf of the Corporation/Municipality is in contravention of or in excess of the powers conferred by this Act or to cause obstruction, injury or annoyance to the public or to any class or body of persons or danger to human life, health or safety or is prejudicial to public interest, the State Government may, by order in writing, suspend the execution of such resolution or order, or prohibit the doing of any such act.
<b>3</b>	<b>State Government may modify or repeal Bye-laws</b>	As per Section 547 of MC Act, 1959 and Section 301A of Municipalities Act, 1916, If any time it appears to the State Government that any bye-law should be modified or repealed either wholly or in part, it shall cause its reasons for such opinion to be communicated to the Corporation/Municipality and prescribe a reasonable period within which the Corporation may make any representation with regard thereto which it shall think fit. After consideration of such representation, if received, the State Government may at any time, by notification in the Official Gazette, modify or repeal such bye-law either wholly or in part.
<b>4</b>	<b>Power to sanction of borrowing money</b>	As per Section 154 of MC Act, 1959 and Section 114A of Municipalities Act, 1916, for the performance of its duties and functions, whether mandatory or discretionary, a Corporation/ Municipality may with the previous sanction of the State Government, and subject to the rules

Sl. No.	Subject	Provision
		prescribed in this behalf, raise loans in the open market or from any financial institution by use of debentures or against any other security.
5	<b>Power in respect of taxation</b>	(1) As per Section 205 of MC Act, 1959 and Section 137 of Municipalities Act, 1916, whenever it appears, on complaint made or otherwise, to the State Government that the levy of any tax is contrary to the public interest or that any tax is unfair in its incidence, the State Government may, after considering the explanation of Corporation/Municipality concerned, by order require such Corporation/Municipality to take measures, within a time to be specified in the order, for the removal of any defect which it considers to exist in the tax or in the method of assessing of collecting tax. (2) Upon the failure or inability to comply, the State Government may by notification suspend the levy of the tax or of any portion thereof until the defect is removed, or may abolish or reduce the tax.

*Source: Municipal Corporation Act, 1959 and Municipality Act, 1916.*

During the exit conference the Director, UDD stated that the observation has been noted.

#### **4.6 Performance of Centrally Sponsored Schemes executed by ULBs**

Some of the Centrally Sponsored Schemes executed by the ULBs and their performance is discussed below:

##### **4.6.1 Swachh Bharat Mission**

Under Swachh Bharat Mission (SBM)<sup>2</sup>, Individual Household Latrines (IHHL) were to be constructed by the households who do not have IHHL. As per para 4.4 of SBM guidelines 2014 read with State Government Letter No. 204 dated 07.05.2015, the beneficiary shall be paid an incentive of ₹ 5,333 (Central share ₹ 4,000 + State share ₹ 1,333) for construction of IHHL. The incentive was enhanced to ₹ 12,000 from the date of implementation of the scheme<sup>3</sup>. The differential amount of ₹ 6,667 was to be paid to all the beneficiaries. Further, as per para 4.4.5 of the guidelines all financial incentives were to be deposited directly into the bank account of the beneficiary and no cash/cheque disbursals were to take place.

To avail the above incentive, the application for construction of IHHL was to be submitted by the beneficiary either in the concerned ULB or online on the portal of the Ministry of Housing and Urban Affairs, Government of India. After receipt of the application, physical verification of proposed site of construction of IHHL was to be carried out by concerned ULB to ensure eligibility of the beneficiary. The photograph of the constructed IHHL along with beneficiary was to be Geo tagged<sup>4</sup> and uploaded on the portal.

<sup>2</sup> A scheme of Government of India under the sanitation, aims to ensure that no household engage in the practice of open defecation, no new insanitary toilets are constructed and pit latrines are converted to sanitary latrines.

<sup>3</sup> letter no 1275 dated 02.07.2019.

<sup>4</sup> The geo tagging is the process wherein the photo captured with GPS of the constructed IHHL is uploaded on the spot through an application.

During scrutiny of the records relating to SBM (IHHL) in sampled units, it was noticed that:

- a) In NNs Dehradun and Haldwani, a target of construction of 2,000 IHHL for each ULB was set by the State Government and funds to the tune of ₹ 2.40 crore (@ 12,000/- per IHHL) to each ULB was allotted between the period from 2015-16 to 2019-20 at various intervals. Scrutiny of the records revealed that only 1,128 beneficiaries in Dehradun and 1,153 beneficiaries in Haldwani were found eligible. Thus, the actual amount required by the NNs as incentive for IHHL was ₹ 1.35 crore and ₹ 1.38 crore respectively. The additional amount of ₹ 1.05 crore and ₹ 1.02 crore respectively was not surrendered by the NNs even after lapse of more than one year. Thus, allotment of funds by the Directorate was on presumptive basis and not surrendering of savings by the NNs resulted in blockade of ₹ 2.07 crore (43 *per cent*).
- b) In 12 units<sup>5</sup>, a portion of incentive to the beneficiaries was paid by cheque which was in contravention to the guidelines.
- c) In seven units<sup>6</sup>, the differential amount to the tune of ₹ 1.01 crore was received by the ULBs but remained unpaid for more than one year.
- d) In NPP Doiwala, it was noticed that an amount of ₹ 36,000 was unpaid for nearly two years as the unit could not identify the beneficiaries in whose favour the amount was allotted. No action in this regard was taken. Thus, the amount was blocked for more than two years.

As can be seen from the above, the unrealistic approach of the State Government to set forth the target of IHHL led to 43 *per cent* of allotted amount as unspent/unutilized with the ULBs. Had the State Government set forth the targets on the basis of survey/estimation, the funds would have not been parked/blocked. The lackadaisical approach of ULBs as discussed above resulted in delay/non-payment of the incentive to the beneficiaries.

During exit conference, the Department stated that the observation has been noted and the ULBs will be directed to return the parked funds.

#### **4.6.2 Pradhan Mantri Awas Yojna**

Pradhan Mantri Awas Yojna (PMAY) aims at providing affordable housing solutions to the weaker Sections of the society and lower income group people. The objective is to render housing for all. The scheme was effective from 17.06.2015 and was to be

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<sup>5</sup> NPP Herbertpur, NP Bhagwanpur, NPP Manglore, NPP Mussoorie, NPP Narender Nagar, NPP Muni-ki-Reti, NPP Doiwala, NP Jhabreda, NP Landaura, NP Jaspur, NP Gadarpur and NPP Gularbhoj.

<sup>6</sup> NN Dehradun, NPP Herbertpur, NP Bhagwanpur, NPP Mussoorie, NPP Narender Nagar, NPP Doiwala and NPP Jaspur.

implemented upto March 2022. The target<sup>7</sup> of PMAY was to provide housing to all those beneficiaries<sup>8</sup> who fulfil eligibility criteria under the scheme by 2022, when the Nation completes 75 years of its independence. The mission seeks to address the urban poor's housing requirements through the following programme verticals:



For Performance Audit, one activity of the scheme “**Beneficiary Led Individual House Construction or Enhancement**” was scrutinised in the sampled units. As per guidelines an amount of ₹ two lakh was to be sanctioned to the beneficiary in four instalments<sup>9</sup>.

The details of approval and completion of the houses in the sampled units under the scheme for the period from 2015-16 to 2019-20 is shown in the **Table-4.6** below.

**Table-4.6: Details of approval and completion of houses in sampled units**

Name of ULB	Year of DPR	Total sanctioned beneficiaries	Drop out	Actual beneficiaries	Total Completed	Incomplete
NN Dehradun	2015-16	51	38	13	10	03
	2018-19	98	87	11	8	11
NN Haridwar	2017-18	44	23	21	0	21
NN Haldwani	2015-16	244	199	45	40	5
	2016-17	37	24	13	12	1
	2018-19	27	16	11	10	1
NPP Harbartpur	2017-18	59	14	45	0	45
	2017-18	38	12	26	0	26
	2019-20	47			DPR pending for approval	

<sup>7</sup> This scheme aims to build two crore houses for the urban poor including the Economically Weaker Sections (EWS), Low Income Groups (LIG) and Middle-Income Groups (MIGs) by the year 2022 through financial assistance from the Union Government.

<sup>8</sup> Indian women of all religions and caste, people who come from low income and EWS of society, SCs and STs.

<sup>9</sup> (i) Before commencing the construction- ₹ 20,000 (ii) On completion upto plinth level-₹ 1,00,000. (iii) After construction upto lintel/roof-₹ 60,000 (iv) After completion of construction-₹ 20,000.

Name of ULB	Year of DPR	Total sanctioned beneficiaries	Drop out	Actual beneficiaries	Total Completed	Incomplete
NPP Doiwala	2018-19	48	08	40	0	40
NPP Mussoorie	2015-16	40	03	37	0	37
NPP Narender Nagar	There were no beneficiaries					
NPP Manglore	2017-18	351	50	301	0	301
	2018-19	14	05	09	0	09
NPP, Muni- ki-Reti	DPR pending for approval					
NPP Jaspur	2015-16	240	61	179	-	179
	2016-17	601	125	476	-	476
	2017-18	505	419	86	-	86
NPP Gadarpur	2015-16	242	19	223	-	223
	2017-18	225	119	106	-	106
	2017-18	29	19	10	-	10
	2019-20	24	0	24	-	24
NPP Sitarganj	2015-16	56	29	27	9	18
	2016-17	68	25	43	12	31
	2017-18	52	18	34	5	29
NP Jhabreda	2015-16	72	06	66	1	65
	2016-17	247	44	203	0	203
	2017-18	550	246	304	0	304
NP Landaura	2015-16	157	06	151	109	42
	2017-18	258	44	214	0	214
	2017-18	69	10	59	0	59
NP Bhagwanpur	2019-20	251	DPR sent to UDD in 2019-20, Pending for approval			
NP Pirankaliyar	2018-19	83	DPR sent to UDD in 2018-19, Pending for approval			
NP Gularbhoj	2017-18	309	07	302	0	302
NP Shaktigarh	2017-18	29	14	15	2	13
NP Bhimtal	DPR was not prepared till 2019-20					
<b>Total</b>				<b>3,094</b>	<b>210</b> <i>(7 Per cent)</i>	<b>2,884</b> <i>(93 Per cent)</i>

Audit noticed that:

- In NP Bhimtal, the DPR was not prepared upto 2019-20.
- In four units<sup>10</sup> DPR was pending at Directorate level for approval.
- In NP Shaktigarh, the construction was pending from the year 2017-18 due to non-availability of funds.
- In sampled units, the construction is pending at various stages for years and the completion percentage being just seven *per cent*. Audit noticed that no efforts were made at the level of ULBs to get the construction completed.

Thus, the implementation of the scheme was at a slow pace as the construction was pending at various stages for years and the completion percentage was miniscule. Further, delay in preparation of DPR, pending approval of DPRs, unavailability of funds and pending completion of construction defeated the objective of the scheme.

<sup>10</sup> NP Bhagwanpur, NP Pirankaliyar, NPP Muni-ki-Reti and NNP Harbertpur.



During exit conference the Department stated that the observation has been noted. Necessary action would be taken.

#### 4.6.2.1 Irregular Benefit of the scheme

The guidelines provide that the beneficiary will submit a copy of the land ownership which should be verified by the concerned ULB.

During scrutiny of the records, it was noticed that in seven ULBs<sup>11</sup>, 529 out of 911 beneficiaries does not have the land ownership but were given the benefit of the scheme on production of no objection certificate from family member. This was in contravention of the condition laid in the guideline.

#### 4.6.2.2 Irregular payments

During the scrutiny of record of six ULBs, it was noticed that 32 out of 1,164 beneficiaries were found ineligible after verification or denied to take benefit of the scheme. The recovery to the tune of ₹ 8.40 lakh was pending till the date of Audit. The details are given in the **Table-4.7**.

**Table-4.7: Details of Irregular payment to beneficiaries**

Name of ULBs	Year of DPR	Beneficiaries	Ineligible beneficiaries	Ist Instalment	IInd Instalment
NN Haldwani	2016-17	13	01	20,000	-
NPP Doiwala	2018-19	40	04	80,000	-
NPP Jaspur	2015-16	179	03	60,000	2,00,000
NPP Gadarpur	2015-16	223	07	1,40,000	-
	2017-18	106	02	40,000	-
NPP Manglore	2015-16	301	14	2,80,000	-
NP Gularbhoj	2017-18	302	01	20,000	-
<b>Total</b>		<b>1,164</b>	<b>32</b>	<b>6,40,000</b>	<b>2,00,000</b>

Thus, the negligence in verifying the entitlement prior to payment resulted in irregular payments which were yet to be recovered from the beneficiaries.

During exit conference the Department stated that the ULBs will be directed to recover the amount paid to ineligible beneficiaries.

<sup>11</sup>

Particulars	NN Haridwar	NPP Herbertpur	NPP Doiwala	NPP Mussoorie	NPP Manglore	NP, Landhaura	NPP Gadarpur
Actual Beneficiaries	22	118	40	37	301	151	242
Actual Beneficiaries without Land	16	106	12	08	137	21	229

#### **4.7 Parastatals and their functions and impact on Urban Local Bodies**

The objective of the 74<sup>th</sup> CAA was to entrust delivery of major civic functions to ULBs. On one hand, the various Departments of the State Government are delivering core civic functions and while on the other hand, functions such as development of urban infrastructure/amenities, urban planning, maintenance and supply of water and smart city activities are being delivered by parastatals constituted before and after the 74<sup>th</sup> CAA.

A parastatal is a company, agency, or inter-governmental organisation, that possesses political clout and is separate from the Government, but whose activities serve the State, either directly or indirectly. In addition to ULBs, the UDD has key parastatal agencies that deliver or facilitate urban infrastructure and services. The parastatal agencies function totally independent from the local governments and these agencies are directly accountable to the State Government. This precludes effective participation of citizens in the management of these services. The 5<sup>th</sup> SFC also pointed out that various functions having been taken away from the jurisdiction of ULBs and assigned to parastatals bodies like Development Authorities, Water supply organisation, Urban Planning Bodies *etc.* made the ULBs much weaker than they were in the past.

The detail of parastatals and services delivered by these parastatals are discussed in subsequent paragraphs.

##### **4.7.1 Uttarakhand Housing and Urban Development Authority**

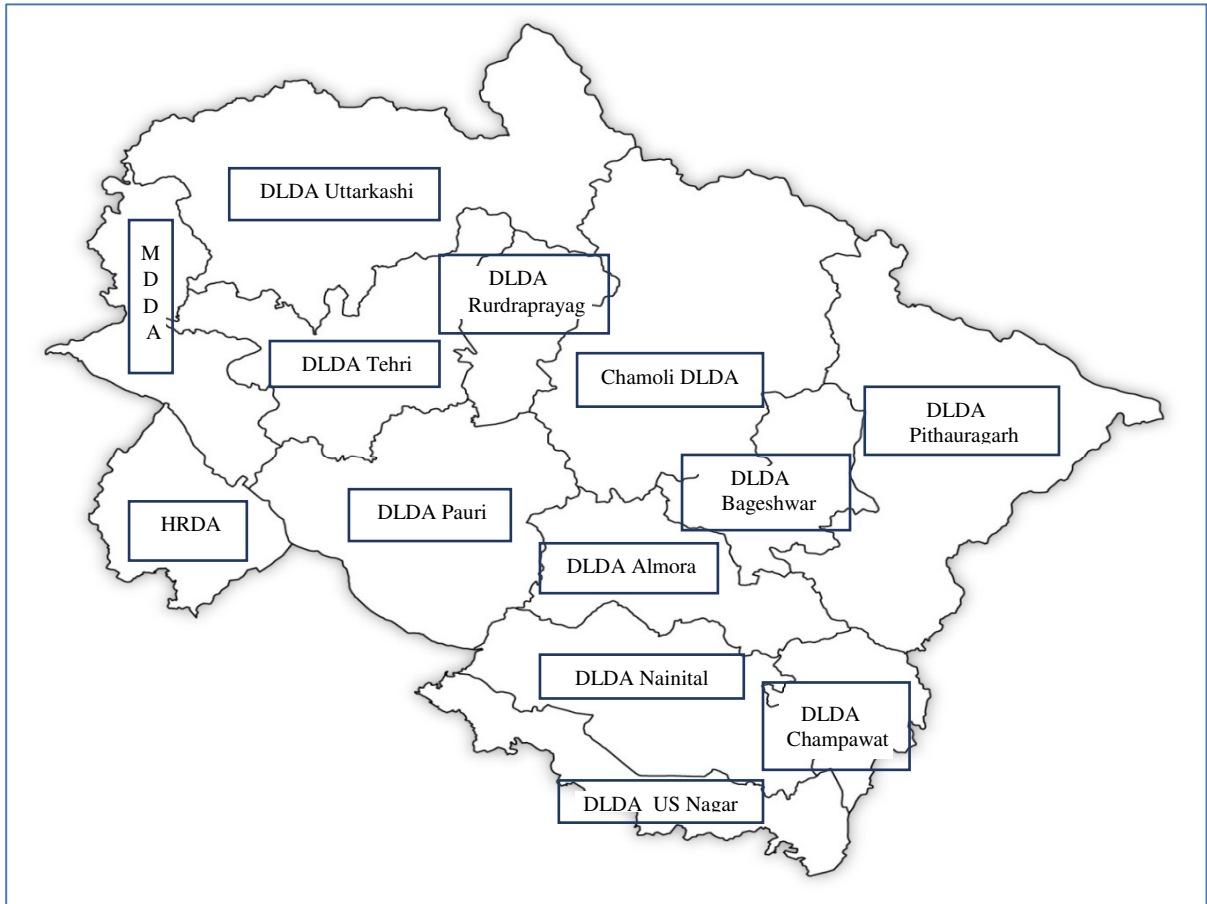
The UHUDA is the State level development authority under which DLDA function in each district. The details of the DLDA in the State are given in the **Map-4.1** below. The authority is governed by the “The UP Urban and Country Planning and Development Act, 1973 (as applicable to Uttarakhand). As per Section 4b (1-A) of the Act the State Government may by notification in the Gazette declare the ULB as local development authority for the purpose of development. The State Government by notification may also define the powers of such local authorities and define the designations of the persons/officers to exercise the powers under this Act.

Audit noticed that the role and responsibility of the Development Authorities are planning and execution of development works, construction, approval of Maps and the works related to State and Central Sponsored Schemes. The development authorities also construct the Affordable Housing in Partnership under the PMAY scheme. The State Government, by exercising the powers under the provision *ibid*, did not declare any of the ULBs as local development authority and the parastatals continued to work as development authorities. Further, the ULBs were engaged in preparation of local development plan but the civic services delivered by special agencies like water supply and sewerage management were yet to be transferred to ULBs.

As per Section 383 of MC Act, 1959 and Section 8 (aa) of Municipality Act, 1916 the ULB may, and if so, required by the State Government shall, prepare in the manner and subject to the conditions prescribed by rules made in this behalf a Master Plan for its area. Audit observed that the State Government did not entrust the preparation of Master Plan to ULBs even after a lapse of 29 years of introduction of 74<sup>th</sup> CAA.

During exit conference the Director, UDD stated that the observation has been noted for appropriate action.

**Map-4.1: District Level Development Authorities in the State**



#### ***4.7.2 Uttarakhand Peyjal Sansadhan Vikas evam Nirmaan Nigam and Uttarakhand Jal Sansthan***

Uttarakhand Peyjal Sansadhan Vikas evam Nirmaan Nigam works as a parastatal in the State. The Nigam was created under Section 3 of the “The Uttarakhand (The Uttar Pradesh Water Supply and Sewerage Act, 1975) Adaptation and Modification Order, 2002”. The Nigam is primarily engaged in construction of drinking water and sewerage schemes in urban areas. After construction the schemes are handed over to Uttarakhand Jal Sansthan which is responsible for maintenance of these schemes. Thus, ULBs have no role either in construction or the operation and maintenance of these schemes/assets. The

activities of water supply (basic distribution, connection metering, collection of revenue) which are essentially civic services of local nature continue to be in the domain of the parastatal even after 22 years of the formation of the State. As water supply is the major source of revenue, the revenue from this source could play an important role in enhancing own revenue of the ULBs.

#### ***4.7.3 Mussoorie Dehradun Development Authority***

MDDA was established in 1984 with objective of planning and development of the city. Mussoorie Dehradun Development area includes Dehradun Urban Agglomeration, Mussoorie Municipal area and its surrounding revenue villages of Dehradun District. MDDA is a local decision-making agency. The MDDA works under the provisions of U.P. Urban Planning and Development Act, 1973.

To make the city meet modern urban standards, it undertakes the following:

- Implementation of the Master Plan.
- Acquisition of land to implement the various schemes.
- Enforcement of plans and development schemes.
- Adaptation of measures for protection of natural environment in the development area.

#### ***4.7.4 Uttarakhand Urban Sector Development Agency (newly created parastatal)***

The Uttarakhand Urban Sector Development Agency (UUSDA) created under Societies Registration Act of India (Reg. No 27/2008-09) is the Implementation Agency for all sub-project components of the Externally Aided Projects and State funded projects under UDD.

#### ***4.7.5 Dehradun Smart City Limited (newly created parastatal)***

Dehradun Smart City Limited (DSCL) was incorporated on 15 September 2017 under the Companies Act, 2013. It is a special purpose vehicle formed under Smart City Mission of the Government of India for implementation of smart city project in Dehradun. The core objectives of Dehradun Smart City Mission are to provide core infrastructure, decent quality of life to the citizens of Dehradun with clean and sustainable environment and application of Smart Solutions. DSCL receives funds from Government of India and Government of Uttarakhand for the development of Dehradun as a smart city.

## ***4.8 Conclusion***

The State Government had not devolved all the activities/functions and responsibilities to the Urban Local Bodies even after 29 years of introduction of 74<sup>th</sup> Constitutional Amendment Act. The functions/activities viz. fire service and water supply, which would have increased people's participation and accountability of the executive, were yet to be

devolved. The State Election Commission could not conduct elections in time in municipalities due to delay in delimitation exercise by the State Government. This deprived the public of a direct say in day-to-day civic services of local nature. The development plans were not received from Urban Local Bodies for incorporation in the draft development proposal of the district. Due to this they were not involved in the development of their own area. The Property Tax Board was not constituted. Consequently, Urban Local Bodies lacked technical guidance for assessment and revision of property tax. The State Government has overriding powers over Urban Local Bodies which goes against the spirit of the 74<sup>th</sup> Constitutional Amendment Act.

#### **4.9 Recommendations**

1. The State Government may take necessary steps to devolve all the activities/ functions and responsibilities to the Urban Local Bodies as envisaged in the 12<sup>th</sup> schedule.
2. Urban Local Bodies should be involved in day to day running and administration of general functions with adequate revenue generating powers. The State Government may devolve the functions *viz.* fire Services and water supply to Urban Local Bodies and sufficient availability of funds should be ensured to them. The function could be initially devolved on pilot basis to Nagar Nigams, if not to all the Urban Local Bodies.
3. The State Government may take proactive steps for timely delimitation of wards and reservation of seats so that State Election Commission can hold timely elections to the Urban Local Bodies.
4. The State Government may constitute Property Tax Board which will extend technical guidance to the Urban Local Bodies on all matters relating to the assessment and collection of Property tax.

