

EXECUTIVE SUMMARY

The Constitution (Seventy-Fourth Amendment) Act, 1992 (74th CAA) inserted Part IX A (The Municipalities) consisting of Articles 243P to 243ZG, thereby imparting constitutional status to Urban Local Bodies (ULBs). Article 243W authorized the State Legislatures to enact laws to endow local bodies with powers and authority as may be necessary to enable them to function as institutions of self-government and make provisions for devolution of powers and responsibilities. A Performance Audit on 'Efficacy of Implementation of the 74th Constitution Amendment Act' was conducted to assess the extent of effectiveness of implementation of the Amendment Act. The major findings of the Performance Audit are presented below:

Empowerment through Institutional Mechanism

Though 17 of the 18 matters enumerated in the Twelfth Schedule of the Constitution have been transferred, there was no documented mapping correlating the items listed under General, Mandatory and Sector-wise functions in the First Schedule of KM Act with the Twelfth Schedule of the Constitution. Urban Local Bodies had full responsibility of only seven out of 17 functions transferred. As regards the remaining 10, the State Government still had a significant role in the execution of schemes, etc., either directly or through parastatal agencies.

(Paragraph 2.3)

Parallel implementation of schemes by Government resulted in beneficiary selection by departmental officers for departmental schemes implemented in ULBs. These beneficiary lists prepared by departmental officers were not subject to scrutiny by Ward Sabhas and for that reason, such selection was vulnerable to the risk of inclusion of ineligible beneficiaries/duplication of beneficiaries.

(Paragraph 2.4.2)

Though Government constituted Delimitation Commission in the State in 2015 and 2020 and issued Delimitation guidelines, delimitation was not conducted in the State. Consequently, the fixing of number of seats for councillors and number of wards for the elections to ULBs held in 2015 and 2020 was done on the basis of population figures of 2001 census, except for 29 Municipalities and two Municipal Corporations. As the number of seats for councillors was based on census figure of 2001, there was an overall shortage of 60 Councillors as on date in the State (Corporations: 01, Municipalities: 59)

(Paragraph 2.5.1)

Of the 406 recommendations offered by the five State Finance Commissions constituted in the State, 325 recommendations were accepted by Government. Out of these, 200 recommendations (61.54 *per cent*) were yet to be implemented.

(Paragraph 2.5.3)

Though the DPC is to prepare the draft development plan for the whole district for the next financial year before 30 September of every year, and the Chairman of the Committee is to forward the same to the Government for approval, the District Plan was prepared only once in 2017-18 during the audit period.

(Paragraph 2.7)

Efficacy in Devolution of functions

Kerala Municipality Act provides that Government, from the date specified by notification in the Gazette, transfer all assets, all water supply and sewerage service, execution of works, conduct of water supply, distribution, fixing water charge, collection etc., to the Municipality. However, such a notification has not been issued by Government. Consequently, the assets, liabilities, etc., with regard to water supply and sewerage services continue to be vested in the parastatal, KWA which is indicative of non-devolution of even basic core functions required as per the Act.

(Paragraph 3.1.1)

The KWA had not furnished Utilisation Certificates for deposit works amounting to ₹33.94 crore to the test-checked ULBs.

(Paragraph 3.1.1)

Despite being the parastatal playing key role in discharging the function of water supply in ULBs, Kerala Water Authority (KWA) neither adopted the performance measurement of benchmarking nor reported the details of assessment of Service Level Benchmarks (SLB) relating to Water supply to ULBs. Consequently, ULBs had to prepare the SLBs in the absence of specific data relating to the actual implementation of the function from KWA.

(Paragraph 3.1.2)

Revision of water charges was last effected by KWA in October 2014. The water charges as fixed by KWA to be paid by ULBs for each public tap was ₹7884 per year. The test checked ULBs paid ₹9.66 crore to KWA for public taps during the audit period.

(Paragraph 3.1.3)

The Municipalities were not fully equipped to handle the wastes being generated in their jurisdiction, raising concerns about the efficacy of implementation of the devolved function of Solid Waste Management. Of the 21 test-checked ULBs, the capacity to handle wastes was not in conformity with the quantum of wastes generated, in nine ULBs in the case of Bio-wastes and nine and eleven ULBs in the case of non-bio-recyclable and non-bio-non-recyclable wastes respectively.

(Paragraph 3.2.1)

The percentage of expenditure incurred on solid waste management by test-checked ULBs out of the allotted funds varied from 1.58 to 45.16 only, during the audit period (2015-2020).

(Paragraph 3.2.1)

Though the Kerala Public Health Ordinance 2021 was promulgated to endow the health functionaries of the State, District and Local Self Government Institutions with necessary powers and authority for the enhancement of the administration of public health in the State, it has not been enacted till date thus depriving the State of a unified Health Act for over half a century.

(Paragraph 3.3.1)

The opinion of Council of ULB which was against availing loan facility due to difficulty in repayment, was not considered while sanctioning projects under AMRUT. Though a selected ULB (Kannur Corporation) with annual plan fund allocation of ₹30 crore had expressed inability to set aside ₹33 crore for

AMRUT as it would result in non-implementation of developmental projects, the opinion of the Municipality was overridden by the State.

(Paragraph 3.4.2)

Devolution of financial resources

On scrutiny of financial data for the year 2019-20, it was observed that out of the 21 test-checked ULBs, only in one ULB the ratio of own revenue to total revenue was higher than 40 *per cent*. In two ULBs the ratio was in the range of 30-40 *per cent*. This is indicative of the urgent need to effectively tap the potential sources of revenue to ULBs, to facilitate self-reliance in local finances.

(Paragraph 4.1.3)

The percentage of own revenue to total revenue of ULBs ranged from 17.42 to 26.65 *per cent* during the period 2015-16 to 2019-20. This shows the need for effective tapping of potential sources for enhancing own revenue.

(Paragraph 4.2.1)

As per the system of drawal from Consolidated fund through contingent bills, the bills presented to treasuries at the end of March every year were to be shifted to treasury queue and cleared in the subsequent financial year. However, bills presented as early as in the month of June in previous year, were also kept in queue at treasury. Consequently, the test checked ULBs could not utilise ₹447.74 crore out of SFC grants during the period 2017-18 to 2019-20.

(Paragraph 4.2.3)

There was no mechanism to monitor timely collection and transfer of pension contribution by ULBs to the Central Pension Fund (CPF) maintained by the Director of Urban Affairs (DUA). As a result, the payment of pension to the retiring employees of ULBs could not be assured from the CPF. Information furnished by 14 out of 21 test checked ULBs revealed that the funds for Death-cum-retirement-benefits were sourced from the Own fund/ General Purpose Fund of ULBs during the audit period. As of March 2020, ₹542.81 crore remained to be paid out of CPF to 75 ULBs in the whole State.

(Paragraph 4.2.4)

As per Kerala Municipality (Property Tax, Service Cess and Surcharge) Rules, 2011, assessment of property tax on Plinth area basis was to be made applicable for new buildings from 14 January 2011 and for existing buildings (assessed on annual value basis) from 01 April 2011. The date of coming into effect of plinth area method of assessment for existing buildings was extended by Government initially upto 01 April 2013 (in March 2013), and further till 01 April 2016 (in March 2019). Consequently, the existing method and rate of assessment for existing buildings on 14 January 2011 continued to be in force.

(Paragraph 4.2.5.1)

Though plinth area based tax rates came into force on 14 January 2011 for new assessees, and the rates of taxes had to be revised after five years in 2016, rate revision did not happen even after a period of ten years (March 2021). Since Government failed to revise the maximum and minimum rates of basic property tax, the ULBs could not revise the rates of property tax.

(Paragraph 4.2.5.1)

The Property Tax Board was to take action to ensure collection and imposition of property tax on all taxable properties, by enumerating all properties within the jurisdiction of ULBs and offer suggestions for a suitable basis for assessment and valuation of properties and periodic revisions. The Board was not constituted in the State till date.

(Paragraph 4.2.5.1)

Due to the absence of a proper database of all categories of professionals, traders and businessmen, employees and workers in the unorganized sector and self-employed persons, and failure to conduct a survey on professionals practising within the jurisdiction of Local Governments concerned with the help of Ward Members/Councillors so as to bring them into the net of profession tax, the tax base of profession tax w.r.t ULBs could not be widened.

(Paragraph 4.2.5.2)

Entertainment tax was not collected as revenue by ULBs in the State during the period from 01 July 2017 to 10 June 2019. For compensating the loss in this regard, though Government paid compensation to ULBs for the period 2017-18, no compensation was paid for the period April 2018 to May 2019 which resulted in loss of revenue to ULBs.

(Paragraph 4.2.5.4)

The time period for implementing the Kerala Municipality (Issue of Licence to Dangerous and Offensive Trades, other Trades and Factories) Rules, 2011 was continually extended through a series of Government orders issued during the period from 2011 till January 2017. Thus, the licence fees continued to be levied at rates which prevailed before the commencement of the Rules, thereby depriving the ULBs of a potential source of revenue during the period 2011 to 2018.

(Paragraph 4.2.5.6)

Human Resources

Though the Municipalities were graded in 2014 as I, II and III, based on revenue and population, no such categorization of Municipal Corporations was attempted and no new posts created in existing ULBs consequent upon the grading exercise, except for the newly created 27 Municipalities and Kannur Corporation, and two Corporations. Even among Municipalities belonging to the same grade, there was wide variation in the number of staff in various posts such as Junior Health Inspector Grade II, Senior Clerk, Office Assistant, etc.

(Paragraph 5.1.1)

Analysis of working strength in 21 test-checked ULBs in terms of the number of employees per 1000 population as per the projected population for 2020 showed that it ranged between 0.3 and 2.74. While Aluva Municipality had a working strength of 2.74 employees per 1000 population, 17 ULBs had less than one employee for every 1000 population. Only three ULBs had employees between one and two per 1000 population.

(Paragraph 5.1.1)

As on 31 March 2021, of the 6619 posts (excluding the posts in Engineering wing) in the ULBs in the State, 859 posts remained vacant, revealing insufficiency in recruitment. There were only 994 men in position as against the sanctioned strength of 1117 in the Engineering wing of ULBs.

(Paragraph 5.1.2.1)